

**Town of Southborough
Board of Selectmen
POLICY FOR GRANT OF LOCATION**

I. Purpose

The purpose of the Grant of Location Policy (“Policy”) is to set forth the application and procedural requirements relative to Utility Installations and Small Wireless Facilities within the layout of public ways located within the Town of Southborough in accordance with the Federal Communications Commission Declaratory Ruling and Third Report and Order, Docket No. 18-133, and to preserve the aesthetic character of the Town; to safeguard public safety, health and welfare; to protect against intangible public harm resulting from unsightly or out-of-character deployments; and to protect public infrastructure investments.

II. Applicability

This Policy applies to the placement, permitting, aesthetics, construction, and modification of all Small Wireless Facility and Utility Installations located upon, along, under and across public ways within the jurisdiction, custody and control of the Town, including installations subject to a Grant of Location from the Board of Selectmen pursuant to G.L. c.166, §22.

III. Definitions

The following words and phrases shall have the meanings set forth below. Any words and phrases not defined herein shall be construed according to their generally accepted meaning as noted in a dictionary of general usage.

Small Wireless Facility: A wireless telecommunications facility that meets the following requirement:

- (i) mounted on structures 50 feet or less in height including their antennas, or
- (ii) mounted on structures no more than 10 percent taller than other adjacent structures, or
- (iii) does not extend existing structures on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and
- (iv) where each antenna is no more than three cubic feet in volume; and
- (v) where all antenna equipment (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and

(vi) that does not result in human exposure to radiofrequency radiation in excess of federal safety standards.

Utility Installation: A line for transmission of intelligence by electricity or by telephone, or television, whether by electricity or otherwise, including the poles, piers, abutments, conduits, wires, cables and similar equipment.

IV. Grant of Location Required

(A) No person or entity shall install, place, construct, substantially modify or operate a Utility Installation or Small Wireless Facility in, upon, under, above, along, across or over a public right-of way in the Town without obtaining a Grant of Location, or Amended Grant of Location, from the Board of Selectmen.

(B) If a Utility Installation or Small Wireless Facility is not operated in compliance with a Grant of Location or the Policy for a continuous period of ninety days, it shall be considered abandoned, and the Town may, following written notice, order that such Installation be removed within thirty days after such notice.

(C) If a Utility Installation or Small Wireless Facility is abandoned and ordered removed within thirty days, and the applicant refuses to do so, the Town may, through all available legal means, have that Installation or Facility removed, and the applicant shall be responsible for reimbursing the Town for its related expenses.

(D) If a Utility Installation or Small Wireless Facility is abandoned and removed, its Grant of Location shall be considered terminated.

(E) In the event that a Utility Installation or Small Wireless Facility is sold, leased or otherwise assigned to another entity, written notice of such sale, lease, or assignment shall be provided to the Town, and all successors, lessees, or assignees shall be bound by the terms of the original Grant of Location.

V. Application and Approval Process

(A) Three (3) hard copies and one (1) electronic copy of the completed Application for a Grant of Location (“Application”), in the form required by the Town, along with the required filing fee shall be filed by mail or in person with the Town Clerk who shall note thereon the date and time of filing and forthwith deliver a copy of the application to the Board of Selectmen and Town Administrator.

(B) If filed by mail, the date of filing shall be the date the completed Application and filing fee is received by the Town Clerk.

(C) No incomplete Application or Application submitted without the required filing fee will be accepted for review. The required filing fee shall be indicated on the Town's Application Form.

(D) Within seven (7) days of the receipt of the Application by the Town Clerk, the Town Administrator should forward the Application to the DPW Superintendent or their designee who should review the Application and make a determination of completeness. If the Application is incomplete, the Town may, within ten (10) days of the receipt of the Application, provide written notice to the Applicant including the specific details that render the Application incomplete.

(E) Upon confirmation that the Application is complete, the Town Administrator shall circulate a copy of the Application to the following departments for comment and review: Building, Public Works, Planning, Board of Health, Police, Fire, Conversation Commission and any other necessary department in the discretion of the Town Administrator. Written comments from such departments shall be submitted to the Town Administrator within twenty (20) days of the date the Application is circulated for review and comment.

(F) In reviewing any Application filed under this Policy the Board of Selectmen shall consider and apply the Town's Grant of Location Design and Aesthetic Criteria ("Guidelines"), which are attached hereto and incorporated herein by reference. The Guidelines may be amended and revised from time to time in the discretion of the Board of Selectmen.

(G) Consistent with G.L. c. 166, §22 and subject to the requirements of the Open Meeting Law, the Board of Selectmen may, without a public hearing, approve an Application for a Utility Installation or Small Wireless Facility to be attached to an existing pole or structure within a public way. The Board of Selectmen may, in its sole and exclusive discretion, elect to schedule a public hearing on any such Application pursuant to paragraphs H-J below, which paragraphs apply to Applications for new poles in public rights of way.

(H) Within 10 (ten) days of the date of the Town's receipt of a completed Application requiring the installation of a new pole in a public right of way, the Board of Selectmen shall schedule a public hearing on the Application, to be held within 45 (forty-five) days after the receipt thereof.

(I) The Applicant shall be responsible for publishing in a local newspaper and mailing to abutters' within 300 feet of each Utility Installation or Small Wireless Facility included in the application, legal notice of the public hearing on the Application, which notice must be published and mailed at least seven (7) days before the public hearing. The Applicant is responsible for obtaining the necessary certified abutters' list from the Assessor's Office for each Utility Installation or Small Wireless Facility included within the application. The Applicant must provide proof of such mailing and publication to the Town Administrator.

(J) Following close of the public hearing on the Application, the Board of Selectmen shall render a decision, based on a majority vote and may:

- (i) approve the Application on the terms and conditions set forth therein;
- (ii) approve the Application on conditions deemed necessary by the Board of Selectmen; or
- (iii) deny the grant of location in the event of the following:
 - a. the Application is incomplete and the Town has notified Applicant in writing of the missing information;
 - b. the proposed Utility Installation or Small Wireless Facility proposed for the pole exceeds the height, dimension or other parameters for that Installation or Facility under applicable law or the Policy;
 - c. the pole's design documents attached to the Application do not comply with the Town's pole attachment laws for traffic light poles, if any, or show that the Utility Installation or Small Wireless Facility will create interference with the Town's public safety radio system, traffic signal light system, or other communications components; or
 - d. the Application does not include a load bearing study indicating that a pole has sufficient capacity for the Utility Installation or Small Wireless Facility.

(K) The decision of the Board of Selectmen on an Application relative to a Small Wireless Facility on an existing pole or wireless support structure shall be made within sixty (60) days from the date the Application is filed, and for a new pole or wireless support structure, the decision shall be made within ninety (90) days from the date the Application is filed. In the event an Applicant was timely notified of an incomplete application, the above decision deadlines shall be measured from the date the Application is deemed complete. Nothing in this paragraph shall prohibit a greater approval period if mutually agreed to by the Town and Applicant.

(L) Any material change to an Application made hereunder, as determined in the sole discretion of the Board of Selectmen or their designee, shall constitute a new application for the purposes of the time standards set forth herein. Where an Application is materially modified, the original Application shall be deemed withdrawn.

VI. Right-of-Way License and Recurring Fee- Small Wireless Facilities

(A) An Applicant receiving a Grant of Location for a Small Wireless Facility under the Policy shall, prior to installing any such facility in a right of way, execute a mutually agreeable license agreement with the Town, which license agreement shall include at least the following:

- (i) That by January 10 each year, the applicant shall provide to Town a current map and list of the location(s) of Small Wireless Facilities installed by the Applicant in the Town and report as to the operational status of such indicating, among other things,

continuity of operations of such Facilities, signed under the pains and penalties of perjury.

- (ii) Payment to the Town by the Applicant of an annual recurring license fee for each Small Wireless Facility in an amount not to exceed the rate permitted by the Federal Communication Commission or federal law;
- (iii) That if the annual recurring fee remains unpaid for a period of ninety (90) days, the Small Wireless Facility, shall upon written notice by the Town to the Applicant, be considered abandoned, and may be ordered to be removed within thirty (30) days after such notice.
- (iv) That if a Small Wireless Facility is not operated in compliance with an approved Application for a continuous period of ninety (90) days, it shall be considered abandoned, and the Town may, by written notice, order that such Facility be removed within thirty (30) days after such notice.
- (v) That if a Small Wireless Facility is abandoned and ordered removed within thirty (30) days, and the licensee refuses to do so, the Town may through all available legal means have the Small Wireless Facility removed, and the Applicant, or its successor, shall be responsible for reimbursing the Town for its expenses in doing so.
- (vi) That if a Small Wireless Facility is abandoned and removed, its grant of location shall be considered terminated.
- (vii) That upon the sale, lease or assignment of a Small Wireless Facility to another entity, written notice thereof shall be provided to the Town, and all successors, lessees, or assignees shall be bound by the terms of the original grant of location.
- (viii) That the Applicant shall take all commercially reasonable steps to correct and eliminate interference with public safety communications caused by or associated with the Small Wireless Facility. If that interference cannot be cured within 24 hours of notice thereof, the Town may require Licensee to discontinue use of or relocate the Small Wireless Facility at issue.
- (ix) That the Applicant shall provide to the Town a performance bond or other financial security for the timely removal of Small Wireless Facility and poles, if any, installed in the public right of way at the end of the term or earlier termination of the grant of location in such amount determined by the Town, not to exceed 125% of the removal costs, and adjusted for inflation.

VIII. Severability

Any finding of the invalidity of any section, provision, paragraph, sentence, or clause of this Policy shall not invalidate any other section, provision, sentence, or clause thereof, nor shall it

invalidate any grant of location, license, permit or determination that has been previously issued under this Policy.