

CHAPTER 90

STREETS AND SIDEWALKS

- Section 9001. Obstructions, Dumpsters and Large Storage Bins Prohibited; Prohibited; Permits.
- Section 9002. Construction and Use Permits.
- Section 9003 Wireless Telecommunications Facilities in Public Rights-Of-Way.
- Section 9003.1 Scope.
- Section 9003.2 Definitions.
- Section 9003.3 General Standards for Wireless Telecommunications Facilities in the Rights-of-Way.
- Section 9003.4 Application Submission Requirements and Final Inspection.
- Section 9003.5 Termination of Permit/Breach.
- Section 9003.6 Infrastructure Owned or Controlled by the Town.
- Section 9003.7 Insurance.
- Section 9003.8 Make-ready Work.
- Section 9003.9 Right-of-Way Repair.
- Section 9003.10 Facilities No Longer Needed.
- Section 9003.11 Surety Bonds.
- Section 9003.12 Fees.
- Section 9003.13 Violations.

\*\*\*\*\*

Section 9001 Obstructions Dumpsters and Large Storage Bins Prohibited:  
Permits[amended by O-07-01 2-20-07]

(A) It shall be unlawful for any person to place or leave any merchandise, trash or debris or other article upon any street or sidewalk in the Town so as to interfere with the full and free use of any part of the such street or sidewalk by the public, except temporarily during the course of completing a delivery or removal of goods or where a permit has been issued permitting the temporary deposit of building material for construction purposes.

(B) No Dumpster or other Receptacle for the Storage or Transport of Construction or other Debris, or for the storage of household or other items, including storage bins and large storage bins as defined in Section 7406 of the Code shall be installed or placed on any streets, alleys, rights-of-way or other public property including sidewalks or driveway aprons, without a permit issued by the Town pursuant to Section 7406 of this Code. Permits shall be subject to such further conditions as the Town Manager may require. No permit may be issued for a dumpster or storage receptacle on any public right-of-way if it does not qualify as a vehicle pursuant to state law.

(C) The Town shall have the right, upon five days' notice to the property owner, to remove any such improper installation or placement. Any apparatus so removed may be disposed of by the Town after 30 days' notice to any known property owner. The property owner shall be charged for such removal and disposal work and services and the Town may collect payment thereof in the same manner as Town taxes.

Section 9002 Construction & Use Permits [amended by 0-01-01 2-20-01]

(A) Definitions. For the purposes of this Chapter the following terms and phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

(1) *Town* is the Town of Landover Hills, Maryland.

(2) *Town Manager* is the Town Manager of the Town of Landover Hills or his or her designee.

(3) *Person* is any person, firm, partnership, association, corporation, company or organization of any kind.

(4) *Use Permit* is the license issued by the Town for structures in the public rights-of-way. Use permits may be revoked at any time by the Town.

(5) *Construction Permit* is the permit issued before any work can commence on the roads or public rights-of-way within the Town.

(B) Permits Required.

(1) Construction Permit. No person shall begin to construct, reconstruct, repair, alter or grade any sidewalk, curb, curb-cut, driveway or structure of any sort on the public streets or on any area within any public right-of-way without first obtaining a construction permit from the Town Manager as provided by this Chapter.

(2) Use Permit. Any structure or construct (for example fence, recreation equipment) in or on any sidewalk, curb, public street or any area within any public right-of-way is hereby forbidden unless a use permit for such has been issued by the Town to the owner (or owner's agent) of the land contiguous to the public land on which the structure or construct exists.

(3) Driveways. Driveways and driveway aprons existing at the time of the enactment of this Ordinance (O-01-01) shall be deemed to have a use permit, as long as they conform to the Town Code in all other respects. All replacements, repairs to such shall require a construction permit. Any driveways and driveway aprons constructed pursuant to B(1) of this Section shall not further require a use permit.

(4) A construction permittee shall be issued a use permit upon completion, satisfactory to the Town, of the work constructed pursuant to B (1) of Section 9002.

(C) Application. An applicant for any use permit or construction permit hereunder shall file with the Town Manager an application with: (1) the name and address of the owner or agent in charge of the property adjacent to the subject public land; (2) the name and address of the party doing the work, if applicable; (3) the location of the public area or structure; (4) attached plans showing details of the proposed alteration or of the existing structure; (5) the estimated costs of any alteration if such is required; (6) such other information as the Town Manager shall find reasonably necessary to the determination of whether a permit should issue hereunder.

(D) Fees. The following fees shall accompany the application for a permit hereunder:

(1) Filing Fee.

(a) The filing fee for a construction permit shall be five dollars (\$5.00) for the first ten lineal feet or less of sidewalk, curb, curb cut, driveway area or street to be altered and three dollars (\$3.00) for each additional lineal foot or fraction thereof.

(b) There shall be no filing fee for a use permit.

(2) Inspection and Engineering Fees. The Town shall charge a fee of fifty dollars (\$50.00) for all inspections done on behalf of an applicant or permittee hereunder. For a use permit the inspection and engineering fees shall be waived unless the Town reasonably shall require the assistance of an inspector or engineer.

(E) Bonds. Unless waived for a good cause by the Town Manager, the following bonds shall accompany an application for a construction permit hereunder:

(1) Construction and Maintenance. In cases where the estimated cost of the entire project shall exceed five thousand dollars (\$5,000.00), the Town Manager shall require a maintenance and construction bond to be filed with the application for a permit hereunder in an amount equal to the estimated cost of the project and conditioned that such work shall be done in accordance with the Prince George's County standard specifications and guaranteeing the same for a reasonable period of time. The Town Manager may also require a restoration bond regarding damage to all public and private property.

(a) Failure of compliance by permittee. In any case where a construction permit applicant or construction permittee hereunder shall be in default or shall fail to comply with the requirements of the Town Code and regulations, the Town Manager may order the completion of the work and shall recover the cost from permittee as allowed by law.

(2) Indemnity. The Town Manager shall have the authority to require an applicant for a construction permit hereunder to file a bond conditioned to protect and save

harmless the Town from all claims for damages or injury to other persons by reason of such alteration work.

(F) Standards for issuance of any permit. The Town Manager shall issue a permit hereunder when he or she finds:

(1) That the health, welfare, safety or interest of the public will not be unreasonably impaired by the granting of the permit.

(2) The work shall be done or has been done according to the standard specifications of Prince George's County for public work or for private work of like character.

(3) In the event of proposed construction and if the complexity of the project so requires, the plans must be approved by an engineer of the Town's choice.

(4) In the event of proposed construction, the construction will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces and the means of egress to and from the property affected and adjacent properties.

(G) Supervision of Town Manager. All operations for which a construction permit is granted hereunder shall be under the direction and supervision of the Town Manager.

(H) Order to alter curb-cut. Where the use, convenience and necessity of the public require, the Town Manager shall have the authority to order the owners, or agents in charge of property adjacent to which curb-cuts are maintained, to alter the curb-cut in such a manner as he or she shall find reasonably necessary under the circumstances.

(I) Any notice given pursuant to this Subsection 9002 shall:

(a) Require compliance by permittee within a reasonable time of said notice

(b) Be in writing and

(c) Be served upon permittee or posted on the subject property.

(J) Penalties.

(a) Unless otherwise provided, any person who shall violate any provision of this Section 9002 shall be guilty of a municipal infraction and shall pay a penalty of four hundred dollars (\$400.00). Each day that a violation exists shall be a separate infraction.

(b) The Town Manager may issue a stop work order for work being done in violation of this Chapter, provided proper notice is given by posting the stop work order at the site and if possible giving a copy to any person at the site. Any person who causes to continue or continues the work in violation of a stop work order shall be guilty of a misdemeanor subject to a fine of \$500.00 or imprisonment for up to six months or both fine and imprisonment.

(c). After notice granting the contiguous property owner an opportunity for a hearing, the Town Manager may cause to be removed or modified any construct or structure on the public right of way that has no use permit. The cost of such removal or modification may be

assessed against the real property taxes of the property receiving the purported benefit of the structure or construct.

(K) Separability. If any provision of this subsection or the application thereof to any person or circumstances is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of this ordinance which can be given effect without the invalid provision or applications and to this end, all the provisions of this ordinance are hereby declared to be severable.

(O-01-01)

Section 9003 Wireless Telecommunications Facilities in Public Rights-of-Way.

A. Findings and Purpose.

(1) The Town of Landover Hills, Maryland (the “Town”) finds that the further development of wireless communications may result in great benefits for the people of the Town. However, it is projected that development of wireless telecommunications networks may require placement of more and different facilities in the rights-of-way than have been placed in the rights-of-way previously, and those facilities can vary dramatically in size and form, and may have significant impacts on the Town of Landover Hills.

(2) The Town finds that minimization of clutter and vertical structures in the rights-of-way is important to the welfare of the community, and that placement near residential structures, in underground areas, or areas that will be undergrounded, and in historical areas should be restricted where not critical to the provision of services.

(3) The Town already regulated the placement and design of other facilities that are placed in the rights-of-way, to the extent permissible under law, through franchising and permitting processes and local regulations and practices. The Town intends to apply similar principles to the regulation of wireless telecommunications facilities.

(4) However, because Federal Communications Commission regulations and federal law require that special procedures be applied to consideration of applications for certain wireless telecommunications facilities, the Town finds that it is appropriate to specify certain requirements in the code to provide clearer guidance with respect to the placement of wireless telecommunications facilities in the rights-of-way.

B. Intent.

The Town intends that all provisions set forth in this chapter be construed to serve the public interest and the foregoing public purposes, and that any permit issued pursuant to this chapter be construed to include the foregoing findings and public purposes as integral parts thereof.

C. Delegation of Powers.

The Town may delegate the performance of any act, duty, or obligation, or the exercise of any power, under this chapter to any employee, officer, department or agency, except where prohibited by applicable law.

D. Implementing Regulations.

The provisions of this chapter, and the forms for submission of applications may be adopted by regulation approved as provided in this Code.

E. Public Use.

Except as otherwise provided by Maryland law, any use of the rights-of-way authorized pursuant to this Chapter will be subordinate to the Town's use and use by the public.

Section 9003.1 Scope.

A. In general. Unless exempted, every person who desires to place a small wireless telecommunications facility in town rights-of-way, to include deployment of personal wireless service infrastructure, or modify an existing wireless telecommunications facility, including without limitation for the:

- (1) collocation of a small wireless facility;
- (2) attachment of a small wireless facility to a pole owned by an authority;
- (3) installation of a pole;
- (4) modification of a small wireless facility or a pole.

must obtain a wireless placement permit authorizing the placement or modification.

B. Exemptions. The following are exempted from the requirements of this chapter:

- (1) The placement or modification of wireless telecommunications facilities on supporting structures owned, or under the control of, the Town, the use of which is subject to a contract for use of the facility between the Town and the entity or entities that own or control the wireless telecommunications facility;
- (2) The placement or modification of wireless facilities by the Town or by any other agency of the state solely for public safety purposes.

- (3) Modifications to an existing wireless telecommunications facility that makes no material change to the footprint of a facility or to the surface or subsurface of a public street if the activity does not disrupt or impede traffic in the traveled portion of a street, and if the work activity does not change the visual or audible characteristics of the wireless telecommunications facility. The Town, by regulation, may also exempt wireless telecommunications facilities that otherwise are subject to the provisions of this section from the obligation to obtain a permit to install or modify a wireless telecommunications facility where it is determined that because of the physical characteristics of the proposed facilities, and the work associated with them, such a permit is not required to protect the public health, welfare or safety, to maintain the character of a neighborhood or corridor, or to otherwise serve the purposes of this ordinance.
- (4) Installation of a mobile cell facility or a similar structure for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement or removal of existing facilities, and that at least 30 days prior written notification is provided to the town, and consent for placement is granted.
- (5) A micro wireless facility strung between two utility poles as defined in Section 9003.2 and provided further that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles.

C. Other applicable requirements. In addition to the wireless telecommunications permit required herein, the placement of a wireless telecommunications facility in the public-rights of way requires the persons who will own or control those facilities to obtain the franchises, license agreements and permits required by applicable law, and to comply with applicable law, including, but not limited to, applicable law governing radio frequency (rf) emissions. Nothing in this chapter precludes the Town from applying its generally applicable health, safety, and welfare regulations when granting consent for a small cell facility or wireless support structure in the town's right of way.

D. Public use. Except as otherwise provided by Maryland law, any use of the right of way authorized pursuant to this chapter will be subordinate to the Town's use and use by the public.

**Section 2. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills that Chapter 90, Streets And Sidewalks, Section 9003.2, Definitions, be and it is hereby enacted to read as follows:

- A. Definitions and Usage, General. For the purposes of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein,

unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “will” are mandatory, and “may” is permissive. References to state or federal laws or regulations refer to those laws or regulations as they may be amended. References to agencies refer to the agencies or their successors or designees.

- B. Application: A formal request, including all required and requested documentation and information submitted by an applicant to the Town for a wireless placement permit.
- C. Applicant: A person filing an application for placement or modification of a wireless telecommunications facility in the rights-of-way.
- D. Antenna: An apparatus designed to emit radio frequency (rf) and operate from a fixed location to provide wireless services.
- E. Antenna Equipment: Equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.
- F. Applicable laws/codes: Uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Town, including any amendments adopted by the Town, or otherwise are applicable in the jurisdiction. The term includes the regulations of the Federal Communications Commission and the Occupational Safety and Health Administration as well as any local standards or regulations governing the use of rights-of-way.
- G. Base station: The term “base station” shall have the same meaning as in 47 C.F.R. Section 1.40001.
- H. Collocate: To install or mount a small wireless facility in the public row on an existing support structure, an existing tower, or on an existing pole to which a small wireless facility is attached at the time of the application. “Collocation” has a corresponding meaning.
- I. Construction, modification and repair: Shall be broadly construed to include all activities conducted in the rights-of-way with respect to a facility, including but not limited to construction, removal, relocation, alteration, and replacement.



- J FCC: The Federal Communications Commission.
- K Make-ready work: Work that an authority reasonably determines to be required to accommodate a wireless infrastructure provider’s installation under this chapter and to comply with all applicable standards. The work may include, but is not limited to, repair, rearrangement, replacement and construction of pole; inspections; engineering work and certification; permitting work; tree trimming (other than tree trimming performed for normal maintenance purposes); site preparation; and electrical power configuration. The term does not include a wireless infrastructure provider’s routine maintenance.
- L Micro wireless facility: A small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.
- M Operation: Activities affecting detectable attributes of facilities in the rights-of-way that may physically affect persons or property, such as noise and radiofrequency emissions. The term as used in this chapter does not include radio frequency interference with other licensed facilities.
- N. Rights-of-way: The term “rights-of-way” include any portion of any street, road or public way which the town has the responsibility to maintain or manage.
- O. Small wireless facility: Consistent with Subpart U, Part 1 of Title 47, “State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Service Facilities”, a facility that meets each of the following conditions:
- a. The structure on which antenna facilities are mounted—
    - i. Is 50 feet or less in height, or
    - ii. Is no more than 10 percent taller than other adjacent structures, or
    - iii. Is not extended to a height of more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
  - b. Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume; and
  - c. All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and
  - d. The facility does not require antenna structure registration;
  - e. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law

- P. Support structure: any structure capable of supporting a base station.
- Q. Tower: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.
- R. Town Manager: The chief administrative officer for the Town of Landover Hills or designee.
- S. Underground areas: Those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right-of-way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled, whether now or at a future time, to be converted from overhead to underground “electrical facilities” are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.
- T. Utility pole: A structure in the rights-of-way designed to support electric, telephone and similar utility lines. A tower is not a utility pole.
- U. Wireless permit: A permit issued pursuant to this chapter and authorizing the placement or modification of a wireless telecommunications facility of a design specified in the permit at a particular location within the rights-of-way; and the modification of any existing support structure to which the wireless telecommunications facility is proposed to be attached.
- V. Wireless infrastructure provider: A person that owns, controls, operates or manages a wireless telecommunication facility or portion thereof within the right-of-way.
- W. Wireless regulations: those regulations adopted to implement the provisions of this article.
- X. Wireless service provider. An entity that provides wireless services to end users.
- Y. Wireless services: Any FCC-licensed or authorized service, including, but not limited to private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul and the associated site.
- Z. Wireless telecommunications facility, or facility: Equipment at a fixed location that enables wireless communications between user equipment and a communications network including without limitation radio transceivers, antennas, base station, underground wiring, coaxial or fiber-optic cable, regular

and backup power supplies, and comparable equipment, regardless of technological configuration.

**Section 3.** **BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills Maryland that Chapter 90 Streets and Sidewalks, Section 9003.3 General Standards for Wireless Telecommunications Facilities in the Rights-of-Way be and it is hereby repealed, re-enacted and amended to read as follows:

Section 9003.3 General Standards for Wireless Telecommunications Facilities in the Rights-of-Way.

- A. Generally. Wireless telecommunications facilities shall meet the minimum requirements set forth in this Chapter and the wireless regulations approved by the Mayor and Council, in addition to the requirements of any other applicable law, including Prince Georges' County Design and Technical Standards.
- B. Regulations. The wireless regulations and administrative decisions on applications for placement of wireless telecommunications facilities in the Rights-of-Way shall, at a minimum, ensure that the requirements of this section are satisfied, unless it is determined that applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this chapter and any Town wireless regulations may be waived, but only to the minimum extent required to avoid the prohibition.
- C. Standards. Wireless telecommunications facilities shall be installed and modified in a manner that:
  - (1) Minimizes risks to public safety, avoids placement of aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public rights-of-way, and maximizes use of existing structures and poles, avoids placement in residential areas when commercial areas are reasonably available, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;
  - (2) Ensures that installations are subject to periodic review to minimize the intrusion on the rights-of-way;
  - (3) Unless approved by the Town, any telecommunications facility must be located no closer than: (i) two (2) feet from any curb, sidewalk, or other improvement within the right-of-way; and (ii) five (5) feet from any driveway apron, and be otherwise located to avoid interference with pedestrian and motorist sightlines and use.
  - (4) Ensures that the Town bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the legal uses of the public rights-of-way or public assets by others, or hinder the ability of the Town or

other government agencies to improve, modify, relocate, abandon or vacate the public rights-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation or abandonment of facilities in the rights-of-way.

- (5) Ensures that the location of facilities on existing poles or structures is within the tolerance of those poles or structures.
- D. Concealment. Permits for wireless telecommunications facilities shall incorporate specific concealment elements to minimize visual impacts, and design requirements ensuring compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or placement is required under applicable law:
- (1) Antennas located at the top of support structures shall be incorporated into the structure, or placed within shrouds of a size such that the antenna appears to be part of the support structure.
  - (2) Antennas placed elsewhere on a support structure shall be integrated into the structure or be designed and placed to minimize visual impact.
  - (3) Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be placed as high as possible on a support structure, located to avoid interfering with, or creating any hazard to, any other use of the public rights-of-way, and located on one side of the utility pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on utility poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the support structure on which they are placed;
  - (4) Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible.
  - (5) Ground-mounted equipment associated with a wireless telecommunications facility shall be permitted only where consistent with the portion of the corridor in which it is to be placed, and may be required to be underground, located in alleys or otherwise shielded. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic.
  - (6) No permit shall be issued or effective unless it is shown that the wireless telecommunications facility will comply with Federal Communication Commission (FCC) regulations governing radio frequency (RF) emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing RF emissions, and failure to comply therewith shall be treated as a material violation of the terms of any permit or lease.
  - (7) No towers shall be permitted in the public rights-of-way, and no wireless

telecommunications facilities shall be permitted above-ground in underground areas; provided that the Town may permit placements where all elements of the wireless telecommunications facility are concealed and the facility does not appear to a casual observer to be a wireless telecommunications facility.

- (8) No permit shall issue except to wireless service providers with immediate plans for use of the proposed wireless telecommunications facility; or wireless infrastructure providers with contracts with wireless service providers, which require the service provider immediately to use the proposed wireless telecommunications facility.

**Section 4. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills Maryland that Chapter \*90, Streets and Sidewalks, Section 9003.4 Application Submission Requirements and Final Inspection be and it is hereby enacted to read as follows:

Section 9003.4 Application Submission Requirements and Final Inspection.

- A. Submission. Applicant shall submit a paper copy and an electronic copy of any application, amendments or supplements to an application, or responses to requests for information regarding an application, to the Town Manager or designee.
- B. Content. An application must contain:
  - (1) the name of the applicant, its telephone number and contact information, and if the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider that will be using the wireless telecommunications facility;
  - (2) a complete description of the proposed wireless telecommunications facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the wireless telecommunications facility, a pre-construction survey; a proposed schedule for completion, certified by a licensed professional engineer; a certification by a radiofrequency engineer that the telecommunications facility will comply with the radiofrequency radiation emission standards adopted by the Federal Communications Commission; and a description of the distance to the nearest residential dwelling unit and any contributing historical structure within 500 feet of the facility. Before and after 360-degree photo simulations must be provided. The electronic version of an application must be in a standard format that can be easily uploaded on a Web Page for review by the public.
  - (3) An application for modification of an eligible support structure must contain information sufficient to show that the application qualifies under of 47 C.F.R. section 1.40001. The application must relate to an

existing wireless telecommunications facility that has been approved by the Town pursuant to this article. Before and after 360-degree photo simulations must be provided with detailed specifications demonstrating that the modification does not substantially change the physical dimensions of the existing approved structure.

- (4) An application for a permit shall be submitted in the format and manner specified by the Town Manager or designee. Applications must contain all information required herein and by any wireless regulations to demonstrate that applicant is entitled to the permit requested.
- (5) Applicant must provide any information upon which it relies in support of a claim that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law. Applicants are not permitted to supplement this showing if doing so would prevent Town from complying with any deadline for action on an application.
- (6) Proof that notice has been mailed to owners of all property, and the resident manager for any multi-family dwelling unit that includes ten (10) or more units, within 300 feet of the proposed wireless telecommunications facility.
- (7) A copy of any pole or structure attachment agreement must be provided, as well as sufficient information to determine that the installation can be supported by and does not exceed the tolerances of the pole or structure and specifications for each element of the wireless telecommunications facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; a structural report performed by a duly licensed engineer evidencing that the pole, tower or support structure can adequately support the collocation (or that the pole, tower, or support structure will be modified to meet structural requirements) in accordance with applicable codes;
- (8) Payment of any required fees.
- (9) Before a permit is issued, a concurrent agreement to any required franchise, access or license agreement must be provided.

C. Fees. Applicant must provide an application fee and shall be required to pay all costs reasonably incurred by the Town in reviewing the application, including costs incurred in retaining outside consultants. Applicant also shall pay an access fee. Fees shall be reviewed periodically and raised or lowered based on costs the Town expects to incur.

- D. The Town may elect to provide public notice of an application and hold a public hearing prior to the approval of an application. If the Town elects to hold a public hearing on an application, the applicant shall be represented at the public hearing and be available to answer inquiries about the application.
- E. As part of the permit process, the Town may require a wireless facility to be fully operational within a specified period after the date the last or final permit is issued, unless the Town and the applicant agree to extend the period.
- F. Waivers. Requests for waivers from any requirement of this article shall be made in writing to the town manager or designee. The same may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the Town will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought.
- G. Processing of applications. For small wireless facilities, personal wireless facilities, as those terms are defined under federal law, and eligible facilities requests, as that term is defined under federal law, applications will be processed in conformity with state, local and federal law, as amended. Currently, the FCC has required that such applications be processed within 60 days of receipt of a completed application for facilities that will be collocated on preexisting structures, and 90 days for new construction.
- H. Rejection for incompleteness. Notices of incompleteness shall be provided in conformity with state, and local and federal law. If such an application is incomplete, it may be rejected by a written order specifying the material omitted from the application, or the Town may notify the applicant of the material omitted and provide an opportunity to submit the missing material. The time imposed by federal, state or local law for the processing of an application does not begin to run until an application is complete.
- I. Final inspection. Upon completion of the approved work, the applicant must file a statement of the professional opinion by an independent, qualified engineer licensed in the state of Maryland that indicates that the installation, based upon their actual inspections, in their opinion and to the best of their knowledge, meets the requirements of the approved plan documents, this article and other applicable law. Certifications must be signed and sealed by the qualified engineer making the statement. Upon receipt of the statement, and any required Town inspection, the work may be accepted.

**Section 5. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills Maryland that Chapter 90, Streets and Sidewalks, Section 9003.5 Termination of Permit/Breach be and it is hereby enacted to read as follows:

**Section 9003.5 Termination of Permit/Breach.**

- A. For breach. A wireless telecommunications permit may be revoked for failure to comply with the conditions of the permit, franchise, license or applicable law. Upon revocation, the wireless telecommunications facility must be removed within 30 days of written notice; provided that removal of support structure owned by the Town, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the Town. All costs incurred by the Town in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless telecommunications facility.
- B. For installation without a permit. A wireless telecommunications facility installed without a wireless permit (except for those exempted by this article) must be removed within 30 days of written notice; provided that removal of support structure owned by Town, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the Town. All costs incurred by the Town in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless telecommunications facility.
- C. Term. A wireless permit, other than a permit issued pursuant to an eligible facilities request, shall be valid for a period of five (5) years. An eligible facilities permit shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. A person holding a wireless telecommunications permit must either remove the wireless telecommunications facility upon expiration (provided that removal of support structure owned by the Town, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the Town); or, at least 90 days prior to expiration, must submit an application to renew the permit, which application must demonstrate that the impact of the wireless telecommunications facility cannot be reduced. The wireless telecommunications facility must remain in place until it is acted upon by the Town, and any appeals from the Town's decision are exhausted.

**Section 6. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills, Maryland that Chapter 90 Streets and Sidewalks, Section 9003.6 Infrastructure Owned or Controlled by the Town be and it is hereby enacted to read as follows:

**Section 9003.6 Infrastructure Owned or Controlled by the Town.**

The Town may negotiate agreements for use of Town-owned or -controlled structures in the public rights-of-way for the placement of wireless telecommunications facilities on those structures. The agreement shall specify the compensation to the Town for use of the structures. The person seeking the agreement shall additionally reimburse the Town for all



costs the Town incurs in connection with its review of, and action upon the person's request for an agreement.

**Section 7.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Landover Hills, Maryland that Chapter 90 Streets and Sidewalks, Section 9003.7 Insurance be and it is hereby enacted to read as follows:

**Section 9003.7 Insurance.**

- A. The Town shall require a wireless infrastructure provider to indemnify and hold harmless the Town and its officials, officers and employees against any loss, damage, or liability to the extent that it is caused by the negligent or willful act or omission of the wireless infrastructure provider who owns or operates small wireless facilities or poles in the right-of-way, its agents, officers, directors, representatives, employees, affiliates, or subcontractors, or their respective officers, agents, employees, directors, or representatives.
- B. During the period in which the facilities of a wireless infrastructure provider are located on or attached to the Town's assets or rights-of-way, the Town may require a wireless infrastructure provider to:
  - (1) Carry, at the wireless infrastructure provider's sole cost and expense, the following types of third-party insurance:
    - (i) Property insurance for its property's replacement cost against all risks;
    - (ii) Workers' compensation insurance, as required by law; and
    - (iii) Commercial general liability insurance with respect to its activities on Town improvements or rights-of-way to afford protection with limits not inconsistent with its requirements of other users of Town improvements or rights-of-way, including coverage for bodily injury and property damage; and
  - (2) Include the Town as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Town in a commercial general liability policy as reasonably required by the Town.

**Section 8.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Landover Hills, Maryland that Chapter 90 Streets and Sidewalks, Section 9003.8 Make-Ready Work be and it is hereby enacted to read as follows:

**Section 9003.8 Make-Ready Work.**

- A. The Town may provide a wireless infrastructure provider the option of either having the wireless infrastructure provider perform any necessary make-ready work through the use of qualified contractors authorized by the Town, or having the Town perform any necessary make-ready work at the sole cost of the wireless infrastructure provider.
- B. Upon completion of the make-ready work performed by the Town at the request of a wireless infrastructure provider, the wireless infrastructure provider shall reimburse the

Town for the Town's actual and documented cost of the make-ready work.

**Section 9.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Landover Hills, Maryland that Chapter 90 Streets and Sidewalks, Section 9003.9 Right-of-Way Repair be and it is hereby enacted to read as follows:

**Section 9003.9 Right-of -Way Repair.**

A wireless infrastructure provider shall be required to promptly:

- A. Repair any damage to the public right-of-way or any damages to facilities in the right-of-way directly caused by the activities of the wireless infrastructure provider and return the right-of-way to the right-of-way's condition prior to the damages caused by the wireless infrastructure provider.
- B. Remove and relocate the permitted small cell facility and/or wireless support structure at the wireless infrastructure provider's sole expense to accommodate construction of a public improvement project by the Town. If the wireless infrastructure provider fails to remove or relocate the small cell facility and/or wireless support structure or portion thereof as requested by the Town within 120 days of the Town's notice, then the Town shall be entitled to remove the small cell facility and/or wireless support structure, or portion thereof at the wireless infrastructure provider's sole cost and expense, without further notice to the wireless infrastructure provider. The wireless infrastructure provider shall, within 30 days following issuance of invoice for the same, reimburse the Town for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the small cell facilities and/or wireless support structure, or portion thereof.
- C. At its sole cost and expense, promptly disconnect, remove, or relocate the applicable small cell facility and/or wireless support structure within the time frame and in the manner required by the town if the town reasonably determines that the disconnection, removal, or relocation of any part of a small cell facility and/or wireless support structure (a) is necessary to protect the public health, safety, welfare, or Town property, or (b) the wireless infrastructure provider fails to obtain all applicable licenses, permits, and certifications required by law for its small cell facility and/or wireless support structure. If the Town reasonably determines that there is imminent danger to the public, then the Town may immediately disconnect, remove, or relocate the applicable small cell facility and/or wireless support structure at the wireless infrastructure provider's sole cost and expense.

**Section 10.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Landover Hills, Maryland that Chapter 90 Streets and Sidewalks, Section 9003.10 Facilities No Longer Needed be and it is hereby enacted to read as follows:

**Section 9003.10 Facilities No Longer Needed.**

- A. A wireless infrastructure provider shall promptly notify the Town of a decision to remove from service a wireless facility located on a public right-of-way.

- B. A wireless infrastructure provider shall remove a wireless facility that is no longer needed for service and located on a public right-of-way at the sole cost and expense of the wireless infrastructure provider.
- C. If the Town concludes that a wireless facility has been abandoned in place, the Town may remove the wireless facility and invoice the wireless infrastructure provider for the actual and documented cost incurred by the town for removal.
- D. Until a wireless facility that is located on public right-of-way is removed from the public right-of-way, a wireless infrastructure provider shall pay all fees and charges due the Town, regardless of whether a wireless facility is operational.

**Section 11. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills, Maryland that Chapter 90 Streets and Sidewalks, Section 9003.11 Surety Bonds be and it is hereby enacted to read as follows:

**Section 9003.11 Surety Bonds**

- A. The Town may require a surety bonding for wireless infrastructure providers.
- B. The purpose of a surety bond required under subsection (a) of this section shall be to:
  - (1) Provide for the removal of abandoned or improperly maintained small wireless facilities, including those that the Town requires to be removed to protect public health, safety, or welfare, and restore the rights-of-way; and
  - (2) Recoup rates or fees that have not been paid by a wireless infrastructure provider, subject to thirty (30) days prior written notice to the wireless infrastructure provider and the opportunity to pay the rates or fees outstanding.

**Section 12. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills that Chapter 90 Streets and Sidewalks, Section 9003.12 Fees be and it is hereby enacted to read as follows:

**Section 9003.12 Fees.**

The following enumerations are the current fees and charges under this Chapter.

**Application Fee**

Wireless communications facilities and related overhead and underground wiring, cable, hoses, pipes and similar facilities:

- A. Each facility \$500.00
- B. Each new pole \$1,000.00
- C. Actual cost to review applications, if in excess of set fees.

**Access fee** - \$270 per small wireless facility per year

**Section 13.** **BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Landover Hills, Maryland that Chapter 90 Streets and Sidewalks, Section 9003.13 Violations be and it is hereby enacted to read as follows:

**Section 9003.13 Violations.**

A violation of any provision of Section 9003 shall constitute a municipal infraction and is subject to a fine of \$100.00 per day.

(June 15, 2020)