

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Public Services Committee

Date: April 1, 2019

Time: 6:00 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH
2019 MAR 27 P 12:29

1. 02-25-2019 – **Order No. 19-1007568:** On Petition from Massachusetts Electric, to install 461 feet of underground primary from P13 on Framingham Road up to Pad 1-99 on Beverly Drive and to install 262 feet of underground secondary from Pad 1-99 to HH 0-2, all work to remain in the public way.
-Refer to Public Services Committee
-Public Hearing: March 25, 2019
2. 03-25-2019 – **Order No. 19-1007609:** Application for Renewal of Junk Dealer/Second Hand Dealer License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald J. Lynch Boulevard.
-Refer to Public Services Committee
3. 03-25-2019 – **Order No. 19-1007610:** Application for Renewal of Junk Dealer/Second Hand Dealer License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main Street.
-Refer to Public Services Committee
4. 03-25-2019 – **Order No. 19-1007605:** Communication from President Clancy, regarding Proposed Amendment to Chapter 473 of the City Code, Small Cell Wireless Facilities Within Public Rights of Way.
-Refer to Public Services Committee & Advertise

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



IN CITY COUNCIL

Marlborough, Mass., _____ FEBRUARY 25, 2019

ORDERED:

That there being no objection thereto set **MONDAY MARCH 25, 2019** as **DATE FOR PUBLIC HEARING** On Petition from Massachusetts Electric, to install 461 feet of underground primary from P13 on Framingham Road up to Pad 1-99 on Beverly Drive and to install 262 feet of underground secondary from Pad 1-99 to HH 0-2, all work to remain in the public way, be and is herewith refer to **PUBLIC SERVICES COMMITTEE**.

ADOPTED

ORDER NO. 19-1007568

PETITION FOR MANHOLE AND DUCT LOCATIONS

Town Copy

January 22, 2019

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 FEB 20 P 12:11

To the City Council
of the City of Marlborough, Massachusetts

MASSACHUSETTS ELECTRIC COMPANY requests permission to locate manholes, wires, and ducts, including the necessary sustaining and protecting fixtures, along and across the following public way:

Framingham Road & Beverly Drive

**Ngrid request install 461ft of ug primary from P13
on Framingham Rd up to Pad1-99 on Beverly Dr.
Install 262ft of ug secondary from Pad 1-99 to HH 0-2
Work to remain in the public way.**

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to install and maintain manholes, ducts and wires, together with such sustaining and protecting fixtures as it may find necessary, said manholes and ducts to be installed substantially in accordance with the plan filed herewith marked--

MASSACHUSETTS ELECTRIC COMPANY

Plan No. **25707653** Dated: **10/25/2018**

MASSACHUSETTS ELECTRIC COMPANY

By: *Rob Leonida*
Manager of Distribution Design

ORDER FOR MANHOLE AND DUCT LOCATIONS

January 22, 2019

By the City Council
of the City of Marlborough, Massachusetts

Notice having been given and a public hearing held, as provided by law,
IT IS HEREBY ORDERED:

that **MASSACHUSETTS ELECTRIC COMPANY** be and it is hereby granted permission to excavate the public highways and to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Company dated the **22nd day of January, 2019**

All construction under this order shall be in accordance with the following conditions:--

Manholes and ducts shall be set substantially at the points indicated upon the plan marked--

MASSACHUSETTS ELECTRIC COMPANY

Plan No. **25707653**

Dated: **10/25/2018**

The following are the public ways or parts of ways along which the manholes/ducts above referred to may be installed, and the number of manholes/ducts which may be installed thereon under this order:--

Framingham Road & Beverly Drive

Ngrid request install 461ft of ug primary from P13

on Framingham Rd up to Pad1-99 on Beverly Dr.

Install 262ft of ug secondary from Pad 1-99 to HH 0-2

Work to remain in the public way.

I hereby certify that the foregoing order was adopted at a meeting of the City Council

of the City of Marlborough, Massachusetts

held on the _____ day of _____ 2019

Clerk of Council

Received and entered in the records of location orders

of the City of Marlborough, Massachusetts

Book: _____ Page: _____

City Clerk

We hereby certify that on _____, 20____, at _____ o'clock, _____ M

at _____ a public hearing was held on the petition of

MASSACHUSETTS ELECTRIC COMPANY for permission to construct the underground electric conduits described in the order herewith recorded, and that I mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to construct the underground electric conduits under said order. And that thereupon said order was duly adopted.

Council of the City of

Marlborough, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of a location order and certificate of hearing with notice adopted by the City Council of the City of Marlborough, Massachusetts, on the _____ day of _____ 2019 and recorded with the records of location orders of said City, Book _____, Page _____.

This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest: _____
City Clerk

Pole & UG Petition/Permit Request Form

City

Town of Malborough
(circle one)

WR # 25707653

Install

(quantity)

SO

JO Poles on
(circle one) (street name)

Remove

(quantity)

SO

JO Poles on
(circle one) (street name)

Relocate

(quantity)

SO

JO Poles on
(circle one) (street name)

Beginning at a point approximately **feet** **of the centerline**
(distance) (compass heading)

of the intersection of
(street name)

and continuing approximately **feet in a** **direction.**
(distance) (compass heading)

Install underground facilities:

Street(s) Framingham Rd & Beverly Dr.

Description of Work:

Ngrid to:

Install 461ft of UG Primary from P13 on Framingham Rd. up to Pad 1-99 on Beverly Dr.

Install 262ft of UG Secondary from Pad 1-99 to HH 0-2.

Work to remain in the public way.

ENGINEER Veasna Eang

DATE 10/25/2018

Distribution Design

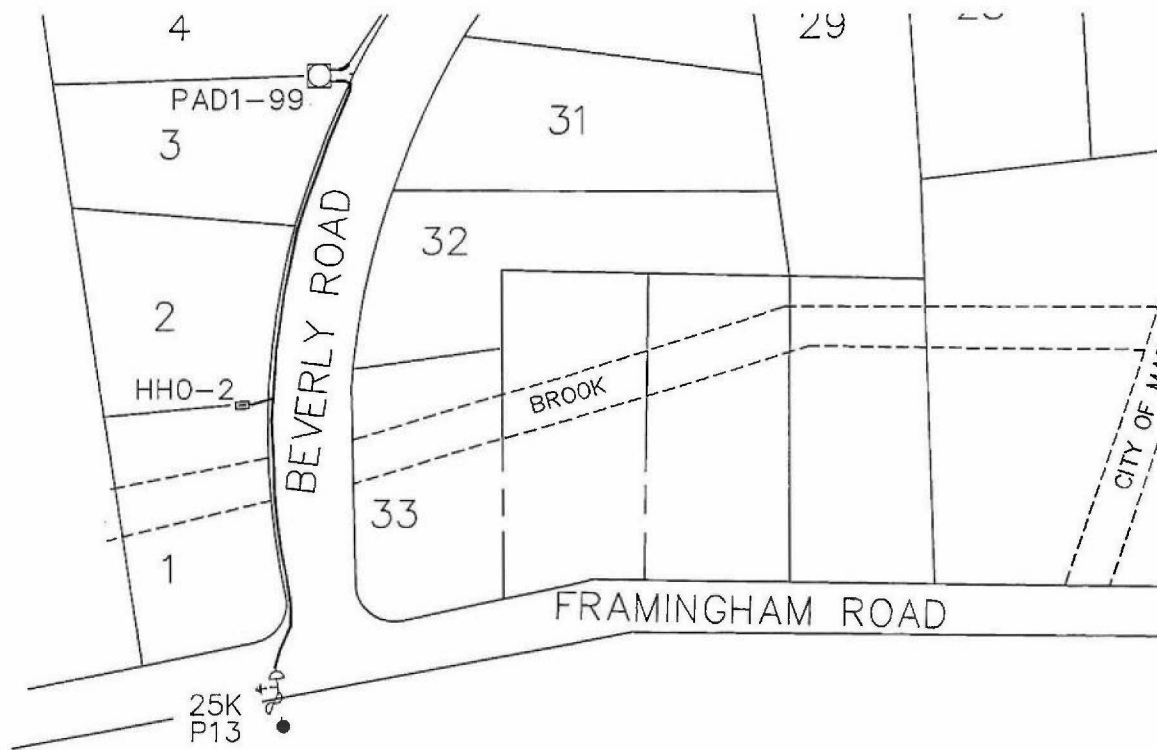
Updated by: JMD.

Last Updated: 01/14/2011

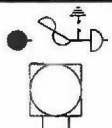
PRINTED COPIES OF THESE DOCUMENTS ARE NOT CONTROLLED. AUTHORIZED VERSIONS APPEAR ON THE NGRID INFONET ONLY



EXHIBIT 'A' NOT
TO SCALE
THE EXACT LOCATION OF
SAID FACILITIES TO BE
ESTABLISHED BY AND
UPON THE INSTALLATION
AND ERECTION OF THE
FACILITIES THEREOF.



LEGEND



URG POLE

HANDHOLE

SINGLE PHASE PAD

3 IN. PVC CONDUIT

RESERVOIR RIDGE

Petition

BEVERLY ROAD

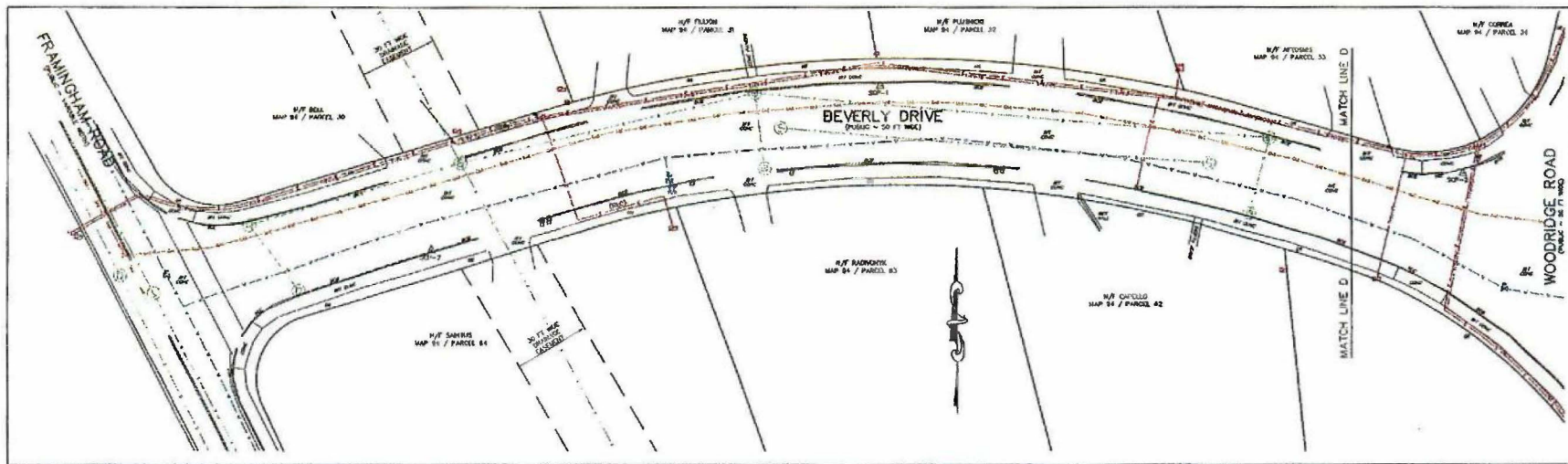
MARLBOROUGH, MA.

Date: 6.25.2018

Designer: V.EANG

W/R: 25707653

nationalgrid



MASSACHUSETTS
REGISTERED PROFESSIONAL ENGINEER
No. 10154
06/2018

North Arrow

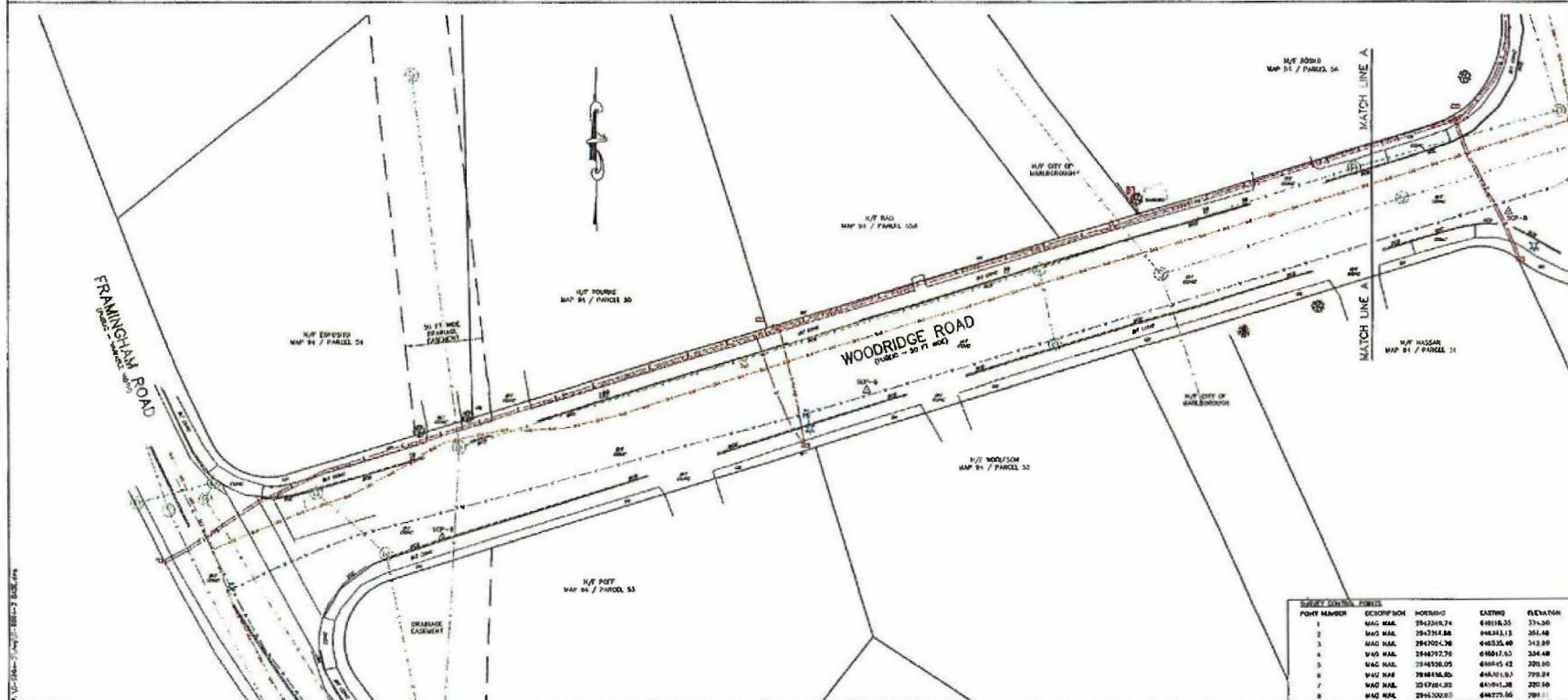
LOCUS MAP
1" = 300'

- NOTES**
1. SEE THE FOLLOWING PLANS RECORDED AT THE MASSACHUSETTS DEPARTMENT OF HIGHWAYS.
 2. SEE PLAN SHEETS 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

NOTE: CONSTRUCTION ON THIS PROJECT IS SUBJECT TO ANY EXISTING RIGHTS-OF-WAY, EASEMENTS, ENCUMBRANCES, OR OTHER INTERESTS THAT MAY BE REVEALED BY AN EXAMINATION OF THE FILE.

DIG SAFE NOTE:
UTILITIES ARE LOCATED FROM FIELD LOCATION AND ANY RECORD INFORMATION AVAILABLE. THIS SHOULD BE CONSIDERED APPROXIMATE. OTHER UTILITIES MAY EXIST THAT ARE NOT SHOWN ON THIS SHEET. INFORMATION HAS NOT BEEN OBTAINED FROM ANY OTHER SOURCE. CONTRACTORS SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO ANY EXCAVATION OR DRILLING. ALSO, CALL "DIG-SAFE" AT 1-800-4-A-SAFE (4272) BEFORE ANY EXCAVATION.

EXISTING LINES OTHER THAN THOSE SHOWN ON THESE SHEETS MAY BE ON THE SITE. NO CONSTRUCTION IS TO BE UNDERTAKEN WITHOUT FIRST VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES. POSSIBLE INTERFERENCE AS TO POSSIBLE UNLAWFUL UTILITIES.



Massachusetts Electric Company
nationalgrid
an Equal Opportunity Employer

EXISTING CONDITIONS
PLAN OF LAND
RESERVOIR RIDGE
MARLBOROUGH, MASSACHUSETTS
PREPARED FOR
MASSACHUSETTS ELECTRIC COMPANY
d/b/a NATIONAL GRID
SCALE: 1" = 20'
DATE: MAY 24, 2018

Guerriere & Hannon, Inc.
Geotechnical & Land Surveying
333 WEST STREET, WILMINGTON, MASS. 01897
(508) 475-4000 FAX: (508) 475-4003
www.guerrierehannon.com

0 20 40 60 80
0 2.5 5 METERS 10 15

SHEET 1 OF 3

POINT NUMBER	DESCRIPTION	NORTHING	EASTING	ELEVATION
1	WAC HAN	294328.74	610016.35	374.00
2	WAC HAN	294374.88	610343.13	351.48
3	WAC HAN	294700.78	610355.40	343.89
4	WAC HAN	294407.70	610045.53	334.48
5	WAC HAN	294538.05	610045.42	330.80
6	WAC HAN	294418.00	610045.93	299.84
7	WAC HAN	294700.10	610045.28	291.50
8	WAC HAN	294530.01	610045.96	291.11

**Abutters for Beverly Dr (Framingham Rd to 28 Beverly Dr) trench work petition
MARLBOROUGH, MA**

ap	Block	Lot	Unit	Owner~s Name	Co Owner~s Name	Address	City	ST Zip	Parcel Location
3	116			STEINBERG RICHARD D TR	GARY AND DIANE GLICK IRREVOCABLE TR	5 ALLIS ROAD	MARLBOROUGH	MA 01752	5 ALLIS RD
4	1			BALSER THELMA		125 FRAMINGHAM RD	MARLBOROUGH	MA 01752	125 FRAMINGHAM RD
4	30			BELL WILLIAM R	MARYANN BELL	2 BEVERLY DR	MARLBOROUGH	MA 01752	2 BEVERLY DR
4	31			FILLION PAUL O	ANNETTE M FILLION	18 BEVERLY DR	MARLBOROUGH	MA 01752	18 BEVERLY DR
4	32			PLUTNICKI RICHARD J	CHRISTINE A PLUTNICKI	28 BEVERLY DR	MARLBOROUGH	MA 01752	28 BEVERLY DR
4	33			AFTOSMIS STEPHEN F	AMBER B AFTOSMIS	38 BEVERLY DR	MARLBOROUGH	MA 01752	38 BEVERLY DR
4	61			OLIVIERA MANOEL	ANA C OLIVIERA	94 WOODRIDGE RD	MARLBOROUGH	MA 01752	94 WOODRIDGE RD
4	62			CAPPELLO JAMES T	KRISTEN M CAPPELLO	29 BEVERLY DR	MARLBOROUGH	MA 01752	29 BEVERLY DR
4	63			RADIVONYK CHRISTOPHER P	MELISSA M RADIVONYK	19 BEVERLY DR	MARLBOROUGH	MA 01752	19 BEVERLY DR
4	64			SAINTUS CLEMENT		1 BEVERLY DR	MARLBOROUGH	MA 01752	1 BEVERLY DR

MARLBOROUGH ASSESSORS

Anthony C. Amato Jr
Colleen K. Silverstein
David May Jr



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019

ORDERED:

That the Application for Renewal of Junk Dealer/Second Hand Dealer License, Tony Bitar, d/b/a Hannoush Jewelers, 601 Donald J. Lynch Boulevard, be and is herewith refer to **PUBLIC SERVICES COMMITTEE.**

ADOPTED

ORDER NO. 19-1007609



10
City of Marlborough, Massachusetts
RECEIVED
CITY CLERK'S OFFICE
CITY CLERK DEPARTMENT
CITY OF MARLBOROUGH

2019 MAR 11 P 1:28

Lisa M. Thomas
City Clerk

Public
Swears

MARLBOROUGH, MA

DATE: 3-11-2019

To the City Council:

Owner Name: TONY BITAR

Residential Address: 5 ROLLING RIDGE LANE, PATTON, MA 01612

Telephone Number: 508-981-5080

Business Name: HANNOUSH JEWELERS

Business Address: 601 DONALD LYNCH BLVD.

Business Telephone Number: 508-303-6595

Email Address: TBITAR@HANNOUSH.COM

Owner Signature: Tony Bitar

The above-signed TONY BITAR respectfully requests that he/she be

granted a Junk Dealer/Second Hand Dealer License.

In City Council



IN CITY COUNCIL

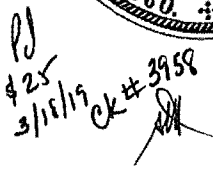
Marlborough, Mass., MARCH 25, 2019

ORDERED:

That the Application for Renewal of Junk Dealer/Second Hand Dealer License, Roman Kimyagarov, d/b/a Arthur & Sons Shoe Repair, 107 Main Street, be and is herewith refer to **PUBLIC SERVICES COMMITTEE.**

ADOPTED

ORDER NO. 19-1007610



11

2019 MAR 21 A 8:09

Robin
Singer

DATE: 03/19/2019

Owner Name: Roman KINYAGAROV

Residential Address: 76 APPLE D'OR ROAD

Telephone Number: 508-624-7066

Business Name: ARTHUR & SONS SHOE REPAIR

Business Address: 107 MAIN ST MARLBOROUGH MA.

Business Telephone Number: 508 624 7066

Email Address: iramka@verizon.net

Owner Signature: Roman Krugov

The above-signed _____ respectfully requests that he/she be

granted a **Junk Dealer/Second Hand Dealer License.**

Marlborough City Clerk's Office ■ 140 Main St. ■ Marlborough, Massachusetts 01752
Telephone (508) 460-3775 ■ Fax (508) 460-3723



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019
PAGE 1

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 473, ENTITLED "POLES, WIRES AND CONDUITS," AS FOLLOWS:

- I. By adding to Chapter 473 a new Article III, entitled "Small Cell Wireless Facilities within Public Rights of Way," as follows:

Sec. 473-27. Purpose.

- A. The purpose and intent of this Article III is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of small cell wireless telecommunications facilities in the City of Marlborough. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with small cell wireless facilities. This Article III provides standards necessary to:
 - (1) preserve and promote harmonious land uses and the public rights of way in the City;
 - (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City;
 - (3) provide for the orderly, managed, and efficient development of small cell wireless telecommunications facilities in accordance with federal and state laws, rules, and regulations; and
 - (4) encourage new and more efficient technology in the provision of small cell wireless telecommunications facilities.
- B. This chapter is not intended, nor shall it be interpreted or applied, to:
 - (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
 - (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management;
 - (3) unreasonably discriminate among providers of functionally equivalent services;
 - (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; or
 - (5) otherwise authorize the City to preempt any applicable federal or state law.



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019

PAGE 2

ORDERED:

Sec. 473-28. Application Process.

Applications for permits to install small cell wireless facilities shall be processed as follows.

- A. Fees. Applications shall be submitted to the City Council by filing with the City Clerk's Office in accordance with subsection D below, accompanied by the application filing fee of \$500.00 per application, payable to the City of Marlborough. The \$500.00 fee will cover up to five (5) locations. Each application for more than 5 installations is subject to a separate fee of \$100.00 per installation.
- B. Public Hearing Notices. The applicant must also pay for legal notices of the public hearing to be mailed to abutters directly abutting, and across the street from, the property where the pole for the proposed small cell wireless facility currently is, or is proposed to be, located. The applicant is responsible for obtaining the abutters list for each pole location contained within the application.
- C. Pre-Submittal Verification by DPW Engineering. No application will be filed as provided in subsection D below unless and until the Engineering Division of the City's Department of Public Works ("DPW Engineering") shall have first verified that the applicant has assembled, to DPW Engineering's satisfaction, all of the application contents listed in subsection E below.
- D. Payment of Application Filing Fees and Number of Application Copies. The applicant shall pay all application filing fees to the City Clerk's Office and shall file the following number of sets of application materials at the offices set forth below:

Number of Sets	Office
3	City Clerk's Office
1	City Engineer
1	Building Commissioner
12	City Council Office



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019
PAGE 3

ORDERED:

- E. Contents of Application. Applications shall include the following information:
- (1) Applicant's name, address, telephone number and email address.
 - (2) Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with respect to the application.
 - (3) Detailed drawings and descriptions of the equipment to be mounted on the pole(s) in question, including:
 - a. Type of equipment;
 - b. Specifications of equipment (including but not limited to dimensions and weight);
 - c. Equipment mount type and material;
 - d. Power source or sources for equipment, including necessary wires, cables, and conduit;
 - e. Expected life of equipment;
 - f. Coverage area of equipment, including:
 - i. Amount of antennas
 - ii. Antenna model
 - iii. Antenna length
 - iv. Antenna height
 - v. Typical coverage area radius;
 - g. Hardening, including:
 - i. If there is a battery backup
 - ii. If there is a generator backup; and
 - h. Renderings/photo simulations and elevation of equipment.
 - (4) Detailed map with locations of the poles on which equipment is to be located, including specific pole identification number, if applicable, and the geographic areas the equipment will service.
 - (5) Detailed map showing existing and proposed small cell installations within 500 feet of the application site.
 - (6) Certification by a registered professional engineer that the pole will safely support the proposed equipment.
 - (7) Written consent by the pole owner to the proposed installation.
 - (8) Affidavit from a radio frequency engineer outlining the network/network service requirements in Marlborough and how each installation addresses that need in Marlborough. Such affidavit should characterize, through or with coverage maps, the current level of coverage and how the desired installation(s) will change the current level of coverage, including current and proposed coverage, and the breakdown of "excellent," "good," and "poor" reception areas.



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019

PAGE 4

ORDERED:

- (9) Liability insurance certificate, naming the City of Marlborough as an additional insured.
 - (10) Description as to why the desired location is superior to other similar locations, from a community perspective, including but not limited to:
 - a. Visual aspects; and
 - b. Proximity to single-family residences.
 - (11) Description of efforts to locate the equipment on existing poles which currently exist or are under construction. A good faith effort to locate on such poles is required and evidence of such efforts must be included within the application.
 - (12) An affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and will remove any installation not in such good repair, or not in use, within sixty (60) days of being no longer in good repair or no longer in use.
- F. Placement of Application on Agenda. Once the application has been submitted and all filing fees have been paid, the City Clerk's Office will place the application on the City Council agenda for the scheduling of a public hearing.
- G. Shot Clocks. The City Council shall have sixty (60) days from the application's filing date for processing an application for collocation of a small cell wireless facility using a pre-existing pole, and ninety (90) days for processing an application for attachment of small cell wireless facility proposing a new pole. These shot clocks may be extended by mutual written agreement of the City Council and the applicant, such agreement to be timely filed with the City Clerk's Office and a copy of that filing to be submitted for informational purposes on the agenda for the next regular Council meeting; provided, however, that by vote of the standing Council committee to which any given application has been referred by the full Council, that committee may, by simple majority vote at a duly noticed public meeting, authorize the following committee members to sign the written extension agreement on behalf of the full Council: a) the chairman of the committee; or, b) in his or her absence or incapacity, its vice-chairman; or, c) when a quorum of the committee is otherwise not present, the Council President or Vice-President sitting for that meeting as an ex officio member of that committee.



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019
PAGE 5

ORDERED:

H. Council Decision. The City Council may grant, grant with conditions, or deny the application based on inadequate capacity of the pole or mounting structure, safety concerns, reliability concerns, failure to meet applicable engineering standards, and/or failure to meet applicable aesthetic requirements as hereinbelow set forth.

Sec. 473-29. Annual Re-Certification and Affidavit.

- A. Annual Re-Certification and Affidavit. Each year on July 1, the small cell wireless equipment owner shall submit an affidavit which shall list, by location, all small cell wireless installations it owns within the City of Marlborough, and shall certify:
- (1) each such installation that remains in use;
 - (2) that such in-use installations remain covered by liability insurance naming the City as an additional insured; and
 - (3) each such installation which is no longer in use.
- B. Annual Re-Certification Fee. The equipment owner shall pay to the City of Marlborough an annual re-certification fee of \$250.00 per installation which remains in use.
- C. Facility No Longer in Use. Any small cell wireless facility which is no longer in use shall be removed by the owner, at the owner's expense, within sixty (60) days of the City Council's receipt of the annual re-certification affidavit.
- D. Non-Removal of Facility No Longer in Use. Any small cell wireless installation which is not removed by the owner, at the owner's expense, within sixty (60) days after being listed in the annual re-certification affidavit as no longer in use shall be subject to a fine of \$100/day until such installation is removed by the owner.
- E. Failure to Timely Submit Re-Certification/Remove Facility No Longer in Use. Where such annual re-certification has not been timely submitted, or equipment no longer in use has not been removed within the 60-day period, no further applications for small cell wireless installations will be accepted by the City Clerk's Office until such time as the annual re-certification has been submitted and all fees and fines have been paid.



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019
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ORDERED:

Sec. 473-30. Aesthetics and Additional City Requirements.

A. Poles.

- (1) No small cell wireless equipment shall be installed on double poles.
- (2) Within the public right of way, only pole-mounted antennas shall be permitted and all telecommunications towers within the meaning of City Code sec. 650-25:A are prohibited.
- (3) Absent City Council permission, no new poles are permitted within the public right of way that are not replacing an existing pole. If an applicant proposes to replace a pole in order to accommodate the small cell wireless facility, the pole shall match the appearance of the original pole to the extent feasible, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven (7) feet.
- (4) If a new pole is permitted by the City Council to be placed within the public right of way, the new pole shall be designed to resemble existing poles in the right of way, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such new poles that are not replacement poles shall be located no closer than ninety (90) feet to an existing pole.
- (5) Small cell wireless installation equipment (meters, boxes, etc.) shall be mounted on the pole a minimum of eleven (11) feet above ground level.
- (6) No small cell wireless installation equipment shall be replaced or altered on a pole without a re-application, hearing and approval from the City Council, unless the equipment is no longer functioning and it is being replaced with the same or substantially similar equipment.
- (7) The maximum height of any antenna mounted to an existing pole shall not exceed 24 inches above the height of the then-existing pole; provided that in any event:
 - a. no small cell wireless facility shall be located on a pole that is less than twenty-six (26) feet in height; and
 - b. no facility shall exceed thirty-five (35) feet in height, including but not limited to the pole and any antenna that protrudes above the pole.
- (8) Pole-mounted equipment shall not exceed six (6) cubic feet in dimension.
- (9) Not more than one (1) small cell wireless facility shall be mounted per pole.



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019
PAGE 7

ORDERED:

B. Location.

- (1) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right of way, or safety hazards to pedestrians and motorists.
- (2) A facility shall not be located within any portion of the public right of way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
- (3) Each pole-mounted small cell wireless telecommunications facility must be separated by at least 1,500 feet.
- (4) All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing pole so as to not exceed the diameter and height of the existing pole.

C. Americans with Disabilities Act Compliance. All facilities shall be built and maintained in compliance with the Americans with Disabilities Act (ADA)/Architectural Access Board (AAB).

D. Residential Neighborhoods. If an applicant seeks to place a small cell wireless facility in a residentially-zoned neighborhood, the applicant:

- a. Should seek to avoid attaching to poles that are within twenty-five (25) feet of an existing driveway so that the property owner can plant trees that could shield the wireless equipment from view; and
- b. Should seek to avoid poles where the installation and/or ongoing maintenance will require significant tree trimming due to the wireless equipment.

E. Satisfactory Material, Construction and Work. The small cell wireless facility shall be of such material and construction, and all installation and maintenance work shall be done in such manner, as to be satisfactory to the City Council and DPW Engineering. If the DPW Engineering shall determine that such material, construction and/or work is (a) placing or tending to place at risk the public health, safety, and welfare, (b) interfering or tending to interfere with pedestrian and/or vehicular traffic, and/or (c) causing or tending to cause damage to the public right of way or any property adjacent to the location of the pole in question, the DPW Engineering shall forthwith notify the City Council, which shall review that determination for possible further action as to the applicant.



IN CITY COUNCIL

Marlborough, Mass., _____ MARCH 25, 2019

PAGE 8

ORDERED:

- F. Indemnification. The applicant shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of the applicant, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to the applicant for its small cell wireless facility. Such indemnification shall not be limited by the amount of the applicant's liability insurance naming the City as an additional insured.
- G. City Streets and/or Sidewalks. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of an applicant in conjunction with its small cell wireless facility is prohibited, as is all underground installation associated with the small cell wireless facility; provided, however, that the grounding rod proposed to be installed as part of the small cell wireless facility is permitted as long as:
- 1) The applicant installs the rod immediately adjacent to the pole so as to cause minimal disturbance to the surface of the street or sidewalk; and
 - 2) The applicant restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the DPW Engineering.
- H. Repair of Damage. The applicant shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right of way. The applicant shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the applicant fails to complete such repair within the number of days stated on a written notice from the City Engineering Division, the Division shall cause such repair to be completed at the applicant's sole cost and expense.
- I. Visual Impact Minimization. The small cell wireless facility shall be color-coordinated so as to best minimize the visual impact of the facility.
- J. Side of Pole on which to Mount Equipment. The small cell wireless facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of the pole facing away from the roadway.



IN CITY COUNCIL

Marlborough, Mass., MARCH 25, 2019
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ORDERED:

- K. Future Road Reconstruction/Repair. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of the pole shall result in the applicant's moving its small cell wireless facility to another pole in a timely fashion after having been notified by the DPW Engineering about the road project; provided, however, that any such relocation shall require further City Council approval.
- L. Construction and/or Installation Schedule. Prior to the commencement of construction and/or installation of the small cell wireless facility, the applicant shall provide the DPW Engineering with a written construction and/or installation schedule satisfactory to DPW Engineering.
- M. Removal Bond. Prior to the commencement of construction and/or installation of its small cell wireless facility, an applicant shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the small cell wireless facility from the pole in question and for the repair and/or restoration of the public way, in the vicinity of the pole in question, to the condition the public way was in as of the date when the relevant application was submitted to the City Clerk's Office, said amount to be determined by DPW Engineering. The amount of the bond shall be the total of the estimate by DPW Engineering plus an annual increase of 3% for the operating life of the small cell wireless facility. The applicant shall notify the City CPO and DPW Engineering of any cancellation of, or change in the terms or conditions in, the bond.
- N. Each Requirement a Permit Condition. Each and every requirement set forth in sections 29 and 30 of this Chapter 473 shall be deemed to be continuing conditions on the applicant's pole location permit granted by the City Council.
- O. Failure to Comply with Conditions. An applicant's failure to comply with any of the City Council's conditions to the Council's satisfaction or, as applicable, DPW Engineering or the City CPO, shall result in the City Council's review of the applicant's pole location permit(s).

II. This amendment shall become effective immediately upon passage.

Be and is herewith refer to **PUBLIC SERVICES COMMITTEE** AND ORDERED
ADVERTISED.

ADOPTED

ORDER NO. 19-1007605

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RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2019 MAR 20 P 12:55

*refer
Public Works
+
Administration*



City of Marlborough
Office of the City Council

140 MAIN STREET
MARLBOROUGH, MA 01752
TELEPHONE (508) 460-3711, FACSIMILE (508) 460-3710

March 21, 2019

Marlborough City Council
City Hall
Marlborough, MA 01752

RE: Proposed Amendment to Chapter 473 of City Code –
Small Cell Wireless Facilities within Public Rights of Way

Dear Fellow Councilors:

On September 27, 2018, the Federal Communications Commission released a Declaratory Ruling and Third Report and Order ("Ruling and Order"). This Ruling and Order will govern the wireless industry's deployment of small cell facilities within public rights of way and is designed to support advanced 4G and 5G services from wireless companies. As the FCC notes, "today's action is the next step in the FCC's ongoing efforts to remove regulatory barriers that would unlawfully inhibit the deployment of infrastructure necessary to support these new services."

The FCC's Ruling and Order took effect in mid-January of this year. Cities and towns have until on or about April 15, 2019 to establish and publish aesthetics standards pertaining to small cell deployment on poles located within public rights of way.

Accordingly, enclosed is a proposed amendment to Chapter 473 of the City Code. It would establish not only aesthetic standards, but also an application and fee structure along with a process for annual re-certification of wireless equipment on poles. The proposed language is the result of joint efforts by me, Councilor Ossing, Karen Boule, and the Legal Department.

Thank you for your consideration of this matter.

Very truly yours,

Edward Clancy
Edward Clancy
President

Enclosure

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 473, ENTITLED "POLES, WIRES AND CONDUITS," AS FOLLOWS:

- I. By adding to Chapter 473 a new Article III, entitled "Small Cell Wireless Facilities within Public Rights of Way," as follows:

Sec. 473-27. Purpose.

- A. The purpose and intent of this Article III is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of small cell wireless telecommunications facilities in the City of Marlborough. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with small cell wireless facilities. This Article III provides standards necessary to:
- (1) preserve and promote harmonious land uses and the public rights of way in the City;
 - (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City;
 - (3) provide for the orderly, managed, and efficient development of small cell wireless telecommunications facilities in accordance with federal and state laws, rules, and regulations; and
 - (4) encourage new and more efficient technology in the provision of small cell wireless telecommunications facilities.
- B. This chapter is not intended, nor shall it be interpreted or applied, to:
- (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
 - (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management;
 - (3) unreasonably discriminate among providers of functionally equivalent services;
 - (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; or
 - (5) otherwise authorize the City to preempt any applicable federal or state law.

Sec. 473-28. Application Process.

Applications for permits to install small cell wireless facilities shall be processed as follows.

- A. Fees. Applications shall be submitted to the City Council by filing with the City Clerk's Office in accordance with subsection D below, accompanied by the application filing fee of \$500.00 per application, payable to the City of Marlborough. The \$500.00 fee will cover up to five (5) locations. Each application for more than 5 installations is subject to a separate fee of \$100.00 per installation.
- B. Public Hearing Notices. The applicant must also pay for legal notices of the public hearing to be mailed to abutters directly abutting, and across the street from, the property where the pole for the proposed small cell wireless facility currently is, or is proposed to be, located. The applicant is responsible for obtaining the abutters list for each pole location contained within the application.
- C. Pre-Submittal Verification by DPW Engineering. No application will be filed as provided in subsection D below unless and until the Engineering Division of the City's Department of Public Works ("DPW Engineering") shall have first verified that the applicant has assembled, to DPW Engineering's satisfaction, all of the application contents listed in subsection E below.
- D. Payment of Application Filing Fees and Number of Application Copies. The applicant shall pay all application filing fees to the City Clerk's Office and shall file the following number of sets of application materials at the offices set forth below:

Number of Sets	Office
3	City Clerk's Office
1	City Engineer
1	Building Commissioner
12	City Council Office

- E. Contents of Application. Applications shall include the following information:
 - (1) Applicant's name, address, telephone number and email address.
 - (2) Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with respect to the application.
 - (3) Detailed drawings and descriptions of the equipment to be mounted on the pole(s) in question, including:
 - a. Type of equipment;
 - b. Specifications of equipment (including but not limited to dimensions and weight);
 - c. Equipment mount type and material;
 - d. Power source or sources for equipment, including necessary wires, cables, and conduit;
 - e. Expected life of equipment;

- f. Coverage area of equipment, including:
 - i. Amount of antennas
 - ii. Antenna model
 - iii. Antenna length
 - iv. Antenna height
 - v. Typical coverage area radius;
 - g. Hardening, including:
 - i. If there is a battery backup
 - ii. If there is a generator backup; and
 - h. Renderings/photo simulations and elevation of equipment.
 - (4) Detailed map with locations of the poles on which equipment is to be located, including specific pole identification number, if applicable, and the geographic areas the equipment will service.
 - (5) Detailed map showing existing and proposed small cell installations within 500 feet of the application site.
 - (6) Certification by a registered professional engineer that the pole will safely support the proposed equipment.
 - (7) Written consent by the pole owner to the proposed installation.
 - (8) Affidavit from a radio frequency engineer outlining the network/network service requirements in Marlborough and how each installation addresses that need in Marlborough. Such affidavit should characterize, through or with coverage maps, the current level of coverage and how the desired installation(s) will change the current level of coverage, including current and proposed coverage, and the breakdown of “excellent,” “good,” and “poor” reception areas.
 - (9) Liability insurance certificate, naming the City of Marlborough as an additional insured.
 - (10) Description as to why the desired location is superior to other similar locations, from a community perspective, including but not limited to:
 - a. Visual aspects; and
 - b. Proximity to single-family residences.
 - (11) Description of efforts to locate the equipment on existing poles which currently exist or are under construction. A good faith effort to locate on such poles is required and evidence of such efforts must be included within the application.
 - (12) An affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and will remove any installation not in such good repair, or not in use, within sixty (60) days of being no longer in good repair or no longer in use.
- F. Placement of Application on Agenda. Once the application has been submitted and all filing fees have been paid, the City Clerk’s Office will place the application on the City Council agenda for the scheduling of a public hearing.
- G. Shot Clocks. The City Council shall have sixty (60) days from the application’s filing date for processing an application for collocation of a small cell wireless facility using a pre-existing pole, and ninety (90) days for processing an application for attachment of

small cell wireless facility proposing a new pole. These shot clocks may be extended by mutual written agreement of the City Council and the applicant, such agreement to be timely filed with the City Clerk's Office and a copy of that filing to be submitted for informational purposes on the agenda for the next regular Council meeting; provided, however, that by vote of the standing Council committee to which any given application has been referred by the full Council, that committee may, by simple majority vote at a duly noticed public meeting, authorize the following committee members to sign the written extension agreement on behalf of the full Council: a) the chairman of the committee; or, b) in his or her absence or incapacity, its vice-chairman; or, c) when a quorum of the committee is otherwise not present, the Council President or Vice-President sitting for that meeting as an ex officio member of that committee.

- H. Council Decision. The City Council may grant, grant with conditions, or deny the application based on inadequate capacity of the pole or mounting structure, safety concerns, reliability concerns, failure to meet applicable engineering standards, and/or failure to meet applicable aesthetic requirements as hereinbelow set forth.

Sec. 473-29. Annual Re-Certification and Affidavit.

- A. Annual Re-Certification and Affidavit. Each year on July 1, the small cell wireless equipment owner shall submit an affidavit which shall list, by location, all small cell wireless installations it owns within the City of Marlborough, and shall certify:
- (1) each such installation that remains in use;
 - (2) that such in-use installations remain covered by liability insurance naming the City as an additional insured; and
 - (3) each such installation which is no longer in use.
- B. Annual Re-Certification Fee. The equipment owner shall pay to the City of Marlborough an annual re-certification fee of \$250.00 per installation which remains in use.
- C. Facility No Longer in Use. Any small cell wireless facility which is no longer in use shall be removed by the owner, at the owner's expense, within sixty (60) days of the City Council's receipt of the annual re-certification affidavit.
- D. Non-Removal of Facility No Longer in Use. Any small cell wireless installation which is not removed by the owner, at the owner's expense, within sixty (60) days after being listed in the annual re-certification affidavit as no longer in use shall be subject to a fine of \$100/day until such installation is removed by the owner.
- E. Failure to Timely Submit Re-Certification/Remove Facility No Longer in Use. Where such annual re-certification has not been timely submitted, or equipment no longer in use has not been removed within the 60-day period, no further applications for small cell wireless installations will be accepted by the City Clerk's Office until such time as the annual re-certification has been submitted and all fees and fines have been paid.

Sec. 473-30. Aesthetics and Additional City Requirements.

A. Poles.

- (1) No small cell wireless equipment shall be installed on double poles.
- (2) Within the public right of way, only pole-mounted antennas shall be permitted and all telecommunications towers within the meaning of City Code sec. 650-25.A are prohibited.
- (3) Absent City Council permission, no new poles are permitted within the public right of way that are not replacing an existing pole. If an applicant proposes to replace a pole in order to accommodate the small cell wireless facility, the pole shall match the appearance of the original pole to the extent feasible, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven (7) feet.
- (4) If a new pole is permitted by the City Council to be placed within the public right of way, the new pole shall be designed to resemble existing poles in the right of way, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Council. Such new poles that are not replacement poles shall be located no closer than ninety (90) feet to an existing pole.
- (5) Small cell wireless installation equipment (meters, boxes, etc.) shall be mounted on the pole a minimum of eleven (11) feet above ground level.
- (6) No small cell wireless installation equipment shall be replaced or altered on a pole without a re-application, hearing and approval from the City Council, unless the equipment is no longer functioning and it is being replaced with the same or substantially similar equipment.
- (7) The maximum height of any antenna mounted to an existing pole shall not exceed 24 inches above the height of the then-existing pole; provided that in any event:
 - a. no small cell wireless facility shall be located on a pole that is less than twenty-six (26) feet in height; and
 - b. no facility shall exceed thirty-five (35) feet in height, including but not limited to the pole and any antenna that protrudes above the pole.
- (8) Pole-mounted equipment shall not exceed six (6) cubic feet in dimension.
- (9) Not more than one (1) small cell wireless facility shall be mounted per pole.

B. Location.

- (1) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right of way, or safety hazards to pedestrians and motorists.
- (2) A facility shall not be located within any portion of the public right of way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
- (3) Each pole-mounted small cell wireless telecommunications facility must be separated by at least 1,500 feet.

- (4) All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing pole so as to not exceed the diameter and height of the existing pole.
- C. Americans with Disabilities Act Compliance. All facilities shall be built and maintained in compliance with the Americans with Disabilities Act (ADA)/Architectural Access Board (AAB).
- D. Residential Neighborhoods. If an applicant seeks to place a small cell wireless facility in a residentially-zoned neighborhood, the applicant:
- a. Should seek to avoid attaching to poles that are within twenty-five (25) feet of an existing driveway so that the property owner can plant trees that could shield the wireless equipment from view; and
 - b. Should seek to avoid poles where the installation and/or ongoing maintenance will require significant tree trimming due to the wireless equipment.
- E. Satisfactory Material, Construction and Work. The small cell wireless facility shall be of such material and construction, and all installation and maintenance work shall be done in such manner, as to be satisfactory to the City Council and DPW Engineering. If the DPW Engineering shall determine that such material, construction and/or work is (a) placing or tending to place at risk the public health, safety, and welfare, (b) interfering or tending to interfere with pedestrian and/or vehicular traffic, and/or (c) causing or tending to cause damage to the public right of way or any property adjacent to the location of the pole in question, the DPW Engineering shall forthwith notify the City Council, which shall review that determination for possible further action as to the applicant.
- F. Indemnification. The applicant shall indemnify and hold harmless the City against all damages, injuries, costs, expenses, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of the applicant, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to the applicant for its small cell wireless facility. Such indemnification shall not be limited by the amount of the applicant's liability insurance naming the City as an additional insured.
- G. City Streets and/or Sidewalks. All cutting of and/or digging into City streets and/or sidewalks by or on behalf of an applicant in conjunction with its small cell wireless facility is prohibited, as is all underground installation associated with the small cell wireless facility; provided, however, that the grounding rod proposed to be installed as part of the small cell wireless facility is permitted as long as:
- 1) The applicant installs the rod immediately adjacent to the pole so as to cause minimal disturbance to the surface of the street or sidewalk; and
 - 2) The applicant restores the street or sidewalk surface to its pre-disturbance condition to the satisfaction of the DPW Engineering.

- H. Repair of Damage. The applicant shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right of way. The applicant shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the applicant fails to complete such repair within the number of days stated on a written notice from the City Engineering Division, the Division shall cause such repair to be completed at the applicant's sole cost and expense.
- I. Visual Impact Minimization. The small cell wireless facility shall be color-coordinated so as to best minimize the visual impact of the facility.
- J. Side of Pole on which to Mount Equipment. The small cell wireless facility's equipment cabinet, circuit breaker box, and electric meter main shall be mounted on the side of the pole facing away from the roadway.
- K. Future Road Reconstruction/Repair. Any future road reconstruction or repair project by the City and/or the Commonwealth requiring the relocation of the pole shall result in the applicant's moving its small cell wireless facility to another pole in a timely fashion after having been notified by the DPW Engineering about the road project; provided, however, that any such relocation shall require further City Council approval.
- L. Construction and/or Installation Schedule. Prior to the commencement of construction and/or installation of the small cell wireless facility, the applicant shall provide the DPW Engineering with a written construction and/or installation schedule satisfactory to DPW Engineering.
- M. Removal Bond. Prior to the commencement of construction and/or installation of its small cell wireless facility, an applicant shall provide the City's Chief Procurement Officer (the "City CPO") with a bond from a surety authorized to do business in Massachusetts and satisfactory to the City CPO in an amount equal to the cost of removal of the small cell wireless facility from the pole in question and for the repair and/or restoration of the public way, in the vicinity of the pole in question, to the condition the public way was in as of the date when the relevant application was submitted to the City Clerk's Office, said amount to be determined by DPW Engineering. The amount of the bond shall be the total of the estimate by DPW Engineering plus an annual increase of 3% for the operating life of the small cell wireless facility. The applicant shall notify the City CPO and DPW Engineering of any cancellation of, or change in the terms or conditions in, the bond.

N. Each Requirement a Permit Condition. Each and every requirement set forth in sections 29 and 30 of this Chapter 473 shall be deemed to be continuing conditions on the applicant's pole location permit granted by the City Council.

O. Failure to Comply with Conditions. An applicant's failure to comply with any of the City Council's conditions to the Council's satisfaction or, as applicable, DPW Engineering or the City CPO, shall result in the City Council's review of the applicant's pole location permit(s).

II. This amendment shall become effective immediately upon passage.

ADOPTED
In City Council
Order No. 19-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST: