



CITY OF MELROSE
LEGAL & LEGISLATIVE COMMITTEE
AGENDA • MARCH 7, 2022

Web-based remote meeting
, Melrose, MA 02176

Committee Meeting

7:00 PM

The public should take notice that the Melrose City Council may, on certain occasions, have a quorum in attendance due to standing committees of the City Council consisting of both voting and non-voting members. Members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the standing committee.

I. CALL TO ORDER

Leila Migliorelli	Chair
Maya Jamaledine	Vice Chair
Jen Grigoraitis	
Robb Stewart	
Manjula Karamcheti	
Christopher Cinella	President, ex officio

Motion: statement of remote meeting information

Pursuant to An Act Extending Certain COVID-19 Measures signed by Governor Baker on June 16, 2021 that extended the remote meeting provisions of his March 12th Executive Order Suspending Certain Provisions of the Open-Meeting Law this meeting of the Legal & Legislative Committee will be conducted via remote participation. We will post a comprehensive record of these proceedings as soon as possible after the meeting on the City of Melrose website and on MMTV/ mmtv3.org. The public can find online access instructions to view this meeting at www.cityofmelrose.org/remote-meetings

II. PUBLIC COMMENT

III. ORDERS

1. **ORDER-2022-66** : An Order Relative to Property Tax Relief for Active Duty Members of the National Guard (Item # 9604)

Sponsored by: Shawn M. MacMaster, Manjula Karamcheti

From: City Council

ASSIGNED TO COMMITTEE

IV. ORDINANCES

1. **ORDNC-2022-1:** Amending Article I, Chapter 152-10, Licenses and Permits, General Provisions of the City of Melrose Code of Ordinances

Sponsored by: Chair Leila Migliorelli

From: City Council

ASSIGN TO COMMITTEE

2. **ORDNC-2022-2:** An Ordinance Relative to Small Wireless Facilities Installation in the Public Right Of Way

Sponsored by: Robb Stewart

From: City Council

ASSIGN TO COMMITTEE

V. ADJOURNMENT

**An Order Relative to Property Tax Relief for Active Duty
Members of the National Guard**

Be it Ordered that the City of Melrose accept Chapter 59, Section 5, Clause 56 ~~and 57,~~ as amended by Chapter 188 Sec. 42 of the Acts of 2010, *An Act Relative to Municipal Relief*:

Fifty-sixth: Upon the acceptance of this section by a city or town, the board of assessors may grant, real and personal property tax abatement up to 100 per cent of the total tax assessed to members of the Massachusetts National Guard and to reservists on active duty in foreign countries for the fiscal year they performed such service subject to eligibility criteria to be established by the board of assessors.

The authority to grant abatements under this section shall expire after 2 years of acceptance unless extended by a vote of the city or town.

~~Fifty-seventh: Upon the acceptance of this section by a city or town, the board of assessors may appropriate monies for and grant property tax rebates in an amount not to exceed annually the amount of the income tax credit set forth under subsection (k) of section 6 of chapter 62.~~

Offered by Councilor Shawn M. MacMaster, Ward 5

Co-Sponsored by Councilor Manjula Karamcheti, Ward 1

**An Order Relative to Property Tax Relief for Active Duty
Members of the National Guard**

Be it Ordained by the City Council of the City of Melrose, as follows, ~~ered~~ that the City of Melrose accept Chapter 59, Section 5, Clause 56 ~~and 57~~, as amended by Chapter 188 Sec. 42 of the Acts of 2010, *An Act Relative to Municipal Relief*:

Fifty-sixth: Upon the acceptance of this section by a city or town, the board of assessors may grant, real and personal property tax abatement up to 100 per cent of the total tax assessed to members of the Massachusetts National Guard and to reservists on active duty in foreign countries for the fiscal year they performed such service subject to eligibility criteria to be established by the board of assessors.

The authority to grant abatements under this section shall expire after 2 years of acceptance unless extended by a vote of the city or town.

~~Fifty-seventh: Upon the acceptance of this section by a city or town, the board of assessors may appropriate monies for and grant property tax rebates in an amount not to exceed annually the amount of the income tax credit set forth under subsection (k) of section 6 of chapter 62.~~

Offered by Councilor Shawn M. MacMaster, Ward 5

Co-Sponsored by Councilor Manjula Karamcheti, Ward 1



CITY OF MELROSE

Legal Department

Shannon Phillips
City Solicitor
sphillips@cityofmelrose.org

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone (781) 979-4184

January 26, 2022

VIA EMAIL

Margot Fleischman
 Chief of Staff & Director of Strategic Initiatives and Communications
 Office of Mayor Paul Brodeur
 562 Main Street
 Melrose, MA 02176

Re: Payment of taxes as a condition of licenses and permits.

Dear Margot:

It has come to my attention that there is no record of M.G.L. c. 40 § 57 which was accepted by the Melrose Board of Aldermen on November 7, 1996, Order No. 97-88, ever having been formally implemented by way of City ordinance in the City of Melrose.

In short, M.G.L. c. 40 § 57 allows any city or town which accepts it to *then* adopt an ordinance which allows for denial of any application for, or revocation or suspension of a building permit, or any local license or permit for neglect or refusal to pay local taxes, fees, assessments, or other municipal charges. The language of this statute not only needs to have been accepted by City Council (which it was), but also requires there to be a separate ordinance passed in the City.

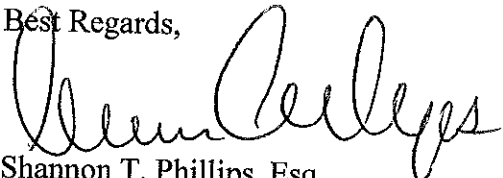
In looking through the history of the acceptance of this statute by the City of Melrose Board of Aldermen in 1996, it is clear this statute was intended to be fully implemented in the City of Melrose- as seen by the Aldermen having approved an Order entitled "Amending Revised Ordinances by the adoption of M.G.L. c. 40 § 57, "Local licenses and permits: denial, revocation or suspension for failure to pay municipal taxes and charges." [See attached Exhibit A, documentation relative to Order No. 97-88]. It is my understanding that the City has been and continues to deny, revoke, and suspend permits and licenses pursuant to authority under M.G.L. c. 40 § 57 since the Board of Aldermen's acceptance of it in 1996.

However, in order to be in clear keeping with the required language of the statute that requires the City to officially adopt its own ordinance for M.G.L. c. 40 § 57 to validly take

effect, I recommend the City amend the City of Melrose Code of Ordinances forthwith by adding Section 152-10 as proposed in attached Exhibit B. The proposed language reflects the current version of M.G.L. c. 40, § 57.

Please do not hesitate to reach out to me with any questions or concerns in this regard.

Best Regards,



Shannon T. Phillips, Esq.

Encls.



CITY OF MELROSE

In Board of Aldermen

November 7, 1996

AN ORDER

Amending Revised Ordinances by the adoption of M.G.L. Chapter 40, Sec. 57, "Local licenses and permits; denial, revocation or suspension for failure to pay municipal taxes or charges"

Offered by Alderman John W. Dunne
BE IT ORDERED

by the Board of Aldermen of the City of Melrose that Chapter 40, Sec. 57, "Local licenses and permits; denial, revocation or suspension for failure to pay municipal taxes or charges be and the same hereby is adopted

[Handwritten signature]

[Handwritten signature: Linda M. Berge]

Attachment: 22.02.02 Attachments to Phillips Letter (ORDNC-2022-1 : Amending Article I Chapter 152-10)

POWERS AND DUTIES OF CITIES AND TOWNS

40 § 57

Historical and Statutory Notes

Legislation

1989, c. 718, § 2, an emergency act, approved
13, 1990, in the first paragraph, inserted the
and sentence.

Law Review Commentaries

Real estate taxation, legislation, classification
and comment. Richard A. Goren, 26 Ann.
Mass.L. 478 (1979).

LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

Caption editorially supplied

7. Local licenses and permits; denial, revocation or suspension for failure to pay municipal taxes or charges

Any city or town which accepts the provisions of this section, may by by-law or ordinance any application for, or revoke or suspend any local license or permit including renewals transfers issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. Such by-law or ordinances shall provide that:

The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, that such party has not filed in good faith a pending application for an abatement of such taxes or a pending petition before the appellate tax board.

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any person whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not more than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority issues a certificate issued by the tax collector that the party is in good standing with

40 § 57

CITIES, TOWNS & DISTRICTS

or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The board of selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

A city or town may exclude any local license or permit from this section by by-law or ordinance.

Added by St.1985, c. 640. Amended by St.1992, c. 286, § 117; St.1993, c. 408, §§ 1, 2.

Historical and Statutory Notes

1985 Enactment. St.1985, c. 640, was approved Dec. 23, 1985.

1992 Legislation

St.1992, c. 286, § 117, an emergency act, approved Dec. 23, 1992, in the first paragraph, in par. (d), substituted "sixty-eight A" for "sixty-eight".

1993 Legislation

St.1993, c. 408, § 1, approved Jan. 10, 1994, in the first paragraph, in the first sentence, added "or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or

exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges".

Section 2 of St.1993, c. 408, in the first paragraph, in par. (b), in the first sentence, inserted "or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector".

Library References

Comments.

Licenses and permits, unpaid local taxes and charges, see M.P.S. vol. 18, Randall and Franklin, § 434.

MUNICIPAL CHARGES LIENS

Caption editorially supplied

§ 58. Municipal charges lien

Any city or town may impose a lien on real property located within the city or town for any local charge or fee that has not been paid by the due date, said lien shall be known as the municipal charges lien; provided, that a separate vote at a town meeting, or by a city or town council is taken for each type of charge or fee.

A municipal charges lien authorized under this section shall be a lien in priority to all other liens except liens for taxes and assessments.



CITY OF MELROSE

CITY COUNCIL

City Hall, 562 Main Street
Melrose, MA 02176
Telephone - 781-979-4116

KRISTIN FOOTE

City Clerk

To: Mayor Paul Brodeur
From: Kristin Foote
Meeting Date: February 22, 2022
Subject: Amending Article I Chapter 152-10
Order #: ORDNC-2022-1

Be it Ordered, that the City of Melrose Code of Ordinances be amended by adding § 152-10 to Chapter 152, Licenses and Permits of Article I General Provisions to wit;

Sec. §152-10 Payment of taxes as a condition of licenses and permits.

Any board, officer or department who issues local licenses or permits for the city ("the licensing authority") may deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers for any person, corporation, or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of G. L. c. 40, § 21D, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, provided that

- (1) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board

(2) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(3) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(4) The City Council may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A of the Massachusetts General Laws in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning (G. L. c. 48, § 13); bicycle permits; (G. L. c. 85, § 11A); sales of articles for charitable purposes (G.L. c. 101, § 33); children work permits (G. L. c. 149, § 69); clubs, associations dispensing food or beverage licenses (G. L. c. 140, § 21E); dog licenses, (G. L. c. 140, § 137); fishing, hunting, trapping license, (G. L. c. 131, § 12);

marriage licenses, (G. L. c. 207, § 28); and theatrical events, public exhibition permits (G. L. c. 184, § 181).

State Law Reference-Authorized, M.G.L.A. c. 40, § 57 (Accepted by Aldermen November 7, 1996, Order No. 97-88).

FINANCIAL IMPACT:N/A

RESULT: ASSIGN TO COMMITTEE



PAUL BRODEUR
Mayor

CITY OF MELROSE

OFFICE OF THE MAYOR

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4440

MEMORANDUM

To: Melrose City Council
From: Mayor Paul Brodeur
Re: Small Wireless Facilities in Public Rights-of-Way
Date: February 22, 2022

I hereby request that the Honorable City Council adopt an ordinance setting out a formalized application process, conditions and standards for the review and approval of the installation of small wireless communications antennas (referred to by some providers as “small cell” or “5G” for the fifth generation of wireless antennas) within the City of Melrose.

Telecommunication companies install and maintain antennas across municipalities like the City of Melrose to provide cellular coverage and high speed internet services. Although the City cannot impose onerous fees, additional safety standards for radio frequency exposure, or set standards that would effectively prohibit the installation of this wireless technology within our jurisdiction, the City can regulate the placement, siting, design, and installation of these devices.

By establishing a formalized process by way of ordinance, we can balance the City’s interests regarding these installations with each telecommunications company’s legal rights under the FCC to install this equipment in our municipality.

When reviewing and considering this proposed Ordinance, please note that it has been crafted with careful consideration of the public’s concerns over these installations, in conjunction with the Department of Public Works, Engineering Division and the City Solicitor’s office, with the intention of setting out a process that will meet the needs of the City while also complying with the limits placed upon municipalities in review and denial of these installations as set by the current state of the law.

Of important note, for example, is that the Federal law (the Telecommunications Act of 1996) expressly preempts state and local governments from locally addressing health concerns over Radio Frequency (RF) emissions from these installations. The FCC has set current RF emissions standards that any wireless technologies deployed in the City are required to meet and we have addressed that within this Ordinance to ensure compliance of each installation with those standards to the extent allowable by Law.

Our goal is that in establishing this formalized process and ordinance, like many communities in the Commonwealth and the country have done to date, we can regulate these installations and set design and installation standards for these devices that will satisfy the City’s needs and concerns to the greatest extent allowed for by law.

Ghobrial, Andrew

From: Beth Richtman <[REDACTED]>
Sent: Sunday, February 20, 2022 2:18 PM
To: Ghobrial, Andrew
Cc: Stewart, Robert; MacMaster, Shawn
Subject: Public Comment on ORDNC 2022-2
Attachments: Public Comment on ORDNC 2022-2.pdf

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

Dear Mr. Ghobrial,
Attached please find public comment I would like to submit ahead of the city council meeting this Tuesday, February 22, 2022.

Best regards,
Beth

Attachment: All Public Comment Ord 2022-2 (ORDNC-2022-2 : Small Wireless Facilities Installations)

February 20, 2022

Public Comment on Ordinance ORDNC-2022-2: An Ordinance Relative to Small Wireless Facilities Installation in the Public Right Of Way

Dear City Council of the City of Melrose,

Thank you for addressing this critically important matter. I was blindsided when Verizon recently located small cell equipment beside my house on Frances Street. In attempting to learn what was being installed, or what impact it might have on my family and property, I have been frustrated by Verizon's lack of transparency. Clearly guidance must come from the city. For-profit companies placing this new technology in public right-of-ways seem to currently lack incentives to disclose what it is, how it works and how the public may be affected. Additionally, there seems to be a concerning lack of oversight of such companies' compliance with safety regulations during installation and operations, which places residents abutting these facilities in an unfair relationship with a for-profit company whose installations did not have their input or consent. This legislation is critical to providing oversight and transparency for citizens of Melrose. A robust permitting process is a critical step in the right direction. I'm thrilled to see the City working to protect your citizens through this proposed ordinance. I would request the following additions:

1. This ordinance must clearly apply to ALL installations. Verizon is already making installations, which to the best of my knowledge began without permits or significant oversight. The residents nearby these new installations deserve to be protected with proper oversight by the city and their operations should not be allowed until they are reviewed under the proposed permitting process.
2. The permit application should document the facility's expected RF emissions such that it is clear what the RF engineer would inspect in the future. Random testing is great, periodic testing in addition would be even better.
3. The permitting process should consider the height of the structures near these installations. The proposed ordinance limits the minimum and maximum heights of the facilities, but the effect of the antennae's relative height on the exposure of surrounding buildings should also be reviewed for safety compliance.

My communication with Verizon has only resulted in dismissive responses to my reasonable questions, indicating a cavalier attitude toward the concerns and safety of the citizens of Melrose. I strongly believe City oversight is necessary to ensure they are actually meeting safety standards.

Thank you for your efforts to enable responsible implementation of this new technology, which hopefully can be done in a way that positively impacts the lives of the citizens of Melrose without unfairly burdening residents near these facilities.

Sincerely,

Beth Richtman of [REDACTED] St

Attachment: All Public Comment Ord 2022-2 (ORDNC-2022-2 : Small Wireless Facilities Installations)

Ghobrial, Andrew

From: Brendan Bernard <[REDACTED]>
Sent: Monday, February 21, 2022 11:39 AM
To: Ghobrial, Andrew
Subject: 5G Ordinance

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

Good Morning,

I am writing today to the City Council regarding the proposed 5G ordinance. There is a small but vocal contingent of anti-5G people around the country and locally. They will be pushing to stop or roll-back 5G in our area, but the 'evidence' they cite is from marginal fringe groups and is debunked by the vast majority of studies. The proposed ordinance is a good plan to ensure the city has control over the application and install of the towers/equipment. I do not believe that the individual resident should be able to stop the installation in a given location without overwhelming evidence of potential harm. Giving the ability to an individual resident to stop an installation will reduce equity in locations and prevent a smooth rollout of the technology.

Thank you,
-Brendan Bernard
[REDACTED]

--

Brendan Bernard
[REDACTED]

Attachment: All Public Comment Ord 2022-2 : Small Wireless Facilities Installations)

Ghobrial, Andrew

From: Heather Mahoney <[REDACTED]>
Sent: Monday, February 21, 2022 6:00 PM
To: Ghobrial, Andrew
Subject: Support of 5G ordinance

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

Good evening,

We are in support of the ordinance and would like to note that the rigor of the review of the applicant's good faith effort to keep away from schools, residences, daycares and to co-locate on poles will be the important check on this process.

Thank you for your consideration.

Best,
 Heather and Tom Mahoney
 [REDACTED]

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Attachment: All Public Comment Ord 2022-2 : (ORDNC-2022-2 : Small Wireless Facilities Installations)

Ghobrial, Andrew

From: Caitlin Mancuso <[REDACTED]>
Sent: Monday, February 21, 2022 8:28 PM
To: Ghobrial, Andrew
Subject: 5G rollout in Melrose

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

Hello,

My name is Caitlin Mancuso at [REDACTED] St. in Melrose. Please stop the rollout of 5g towers. Our house is in between 2 towers, 1 at Nelson Rd and the other at Old Brook Cir. We don't need expanded 5g towers in Melrose, studies have shown adverse health affects for people who live in the areas of 5g towers. Within a 5 house radius, we have at least 10-15 kids under the age of 10, living near the tower on Old Brook Cir. Please think about the people living in the community and don't allow 5g towers here.

Thank You for your time,

Cait

Attachment: All Public Comment Ord 2022-2 (ORDNC-2022-2 : Small Wireless Facilities Installations)

Ghobrial, Andrew

From: b o <[REDACTED]>
Sent: Tuesday, February 22, 2022 4:19 PM
To: Ghobrial, Andrew
Subject: 5G small cell ordinance

**** CAUTION: This email originated outside the City of Melrose. Exercise caution. DO NOT open attachments or click links unless you recognize the sender and know the content is safe. ****

To Whom it Concerns,

I am writing to express our support for the proposed 5G ordinance. Unfortunately a 5G Verizon small cell site tower went up in very close proximity to our house on Baxter Street in the last couple weeks. This was despite bringing our concerns forward to the DPW, Board of Health, the Mayors Office, the City Solicitor, and our State Rep beginning back in July of 2021. I am hopeful that the new ordinance can be expanded to add language to ensure that these recently installed cell sites are not forgotten and are property monitored and regulated the same as any new site that is added in the city.

Thank you,
Alison

Attachment: All Public Comment Ord 2022-2 : Small Wireless Facilities Installations)

Ghobrial, Andrew

From: Claudio Frangini <[REDACTED]>
Sent: Tuesday, February 22, 2022 9:11 AM
To: Ghobrial, Andrew
Subject: Ordinance ORDNC-2022-2
Attachments: Letted to city council.pdf

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

Hello,

Attached please find my public comment.

Thanks

Claudio Frangini

System Administrator

The Dodge Company

Direct line: [REDACTED]

Email: [REDACTED]



Please consider the environment before printing this e-mail



February 22, 2022

Public Comment on Ordinance ORDNC-2022-2: An Ordinance Relative to Small Wireless
Facilities Installation in the Public Right Of Way

Dear City Council of the City of Melrose,

My name is Claudio Frangini, and I live in Melrose on [REDACTED] Street, recently I noticed wireless equipment on a pole # 2471, that was installed in January 2021.

This pole is within 30 feet of my house, and just in front of my son's bedroom. I called the City asking for an explanation on what kind of devices were actually installed, but was never Called back.

I assume that these are small cells for 5G coverage. As you know 5G is a new technology and there are no real studies on the effect these devices would cause to people living really close to such installations.

I am a little concerned about how this would affect my family and the property where I live.

I am grateful that the city decided to take up this matter and hope to have some regulation and guidance plus information on what exactly are the risks of living so close to this cell towers.

Sincerely

Claudio Frangini

Ghobrial, Andrew

From: M. Cabello <[REDACTED]>
Sent: Tuesday, February 22, 2022 9:44 AM
To: Ghobrial, Andrew
Subject: Tuesday, February 22, 7:45 pm - City Council. 5G

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

Subject: Tuesday, February 22, 7:45 pm - City Council. 5G

Upon review of the proposed ordinance, I would like to submit the following questions to the City Councilor's meeting scheduled for Tuesday, February 22nd;

1. Please walk us through the history of who/why/how Verizon was permitted to (i) construct and deploy new poles and (ii) receive approval for up to 50 antennas without any public hearings or meeting discussions by the City? and without City Council review for use of the right of way? Have any other companies applied for installations or received approvals to date?

2. How are we treating both current and future (incl. pending) installations at this time to ensure compliance with radio frequency? Did any departments permit the small cell installations to be activated for use?

3. Which departments were advised and approved of the DPW Capital Project for calendar to replace poles for non essential work in the middle of a pandemic and winter moratorium. Did the members of the city council consider its power to invoke a cease of non-essential work during this or at any time the past 2-3 years? (as a reminder, this has been used in Melrose's past with National Grid expansion of gas)

4. Re: 183-4. Application and Approval Process

Would you consider having applications submitted to a Committee through the Mayor's office for approval, instead of only be subjected to be reviewed and

Attachment: All Public Comment Ord 2022-2 (ORDNC-2022-2 : Small Wireless Facilities Installations)

approved by City Engineer? Also, including language requiring a public hearing and other city depts response prior to review?

Would you consider requiring that telecom companies do underground installations (fiber optics)? ... and in the event that it is not feasible, the applicant would have to provide documented efforts and also allow the City to reserve the right to mandate In the future to service the needs of the community.

5. Re: Sec.183-5. Content of Application

(i) Insurance Certificates

Please consider that the applicant's insurance policy does not excluded coverage for health claims due to radiofrequency (RF) radiation exposure (a "pollution exclusion"). The insurance must be issued to the parent company (e.g., Verizon), not the contractor, agent or company subdivision.

Please confirm that self insurance is not accepted.

Why would an applicant have to provide " a documented effort to place antennas... away from schools and daycare centers" **when the proposed ordinance would permit the placement of antennas 20 ft away from a baby/child's bedroom window?**

My estimate is that children spend far more hours per year at home than at school.

Why are not all public buildings (police, fire, city hall, schools, library, etc) be given first priority status for installation sites over other locations in close proximity to private residences?

Many of these locations only operate at full capacity during the standard work day hours.

6. Re: 183-6. Design Standards and Installation Requirements

(g) Antenna shall be placed no less than 20 feet from a residence's window, door opening, porch or balcony unless a waiver is granted specific to this requirement.

The proposed definition of Antenna indicates it is the apparatus only and a typical utility pole height is 30 to 60 ft.

- Is it the intention of the ordinance that there are no setback limitations to residents, businesses, schools, public buildings, hospitals, parks, recreational areas, etc
- Please advise how and why the proposed 20ft setback was determined? Did this take into consideration the FCC's commissions to ensure a maximum exposure of 10W/m2 RF? Please provide the calculations?

Should we increase the minimum setbacks and/ or remove and allow a Committee to approve **case by case** along with the right to reserve to make changes in the future?

Sample Language; the city reserves the right to implement and impose on an interim basis, reasonable aesthetic standards pertaining to the size of the antenna, the equipment box, and/or related cabling; placement of equipment on support structures; establishing flush-mounting requirements and spacing requirements; and aesthetic measures such as paint matching or design matching for small wireless facilities in specific areas, camouflage and other concealment methods; and for residential areas, guidelines on structure heights and lengths, and minimum setback rules from dwellings, parks, or playgrounds or similar recreational areas.

- Please consider limitations on decibels for Cooling Fans.
- Please advise why co-locating is permitted and preferred in proposed ordinance language?
- Please advise if a maximum number of antennas (across providers) has been determine or calculated..., or can we limit it through a committee approval process based upon aesthetics and reservations required for future needs of the city.

7. If an independent professional engineer finds RF level are higher than FCC regulation, what are the consequences besides shutoff? What is the potential impact health wise to the residents?

To ensure ongoing compliance with RF emission levels, should we require a quarterly report by an independent professional engineer to test each installation at the expense of the applicant?

Are private antennas permitted on residential and/or commercial locations, what regulations would be followed?

Thanks

Manuel Cabello De Alba. PhD, P.Eng

Ghobrial, Andrew

From: Heidi O'Wril Laplante <[REDACTED]>
Sent: Tuesday, February 22, 2022 4:41 PM
To: Ghobrial, Andrew
Subject: Support of 5G small cell antenna ordinance

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

Hello,

I am writing in support of the 5G small cell antenna ordinance. I am particularly concerned about antennas going up outside houses and bedroom windows. These antennas decrease property values--given a choice, who wants to live next to one? Most importantly, I urge you to please update the language to include strand-mounted antennas that can be placed on power lines without needing a telephone poll. The way the ordinance is written, this is a glaring loophole.

Thank you for your time and consideration.

Sincerely,
Heidi Laplante

Attachment: All Public Comment Ord 2022-2 : Small Wireless Facilities Installations)

Ghobrial, Andrew

From: Erica Gonzales <[REDACTED]>
Sent: Tuesday, February 22, 2022 1:33 PM
To: Ghobrial, Andrew
Subject: Public Comment on Ordinance ORDNC-2022-2

**** **CAUTION:** This email originated outside the City of Melrose. Exercise caution. **DO NOT** open attachments or click links unless you recognize the sender and know the content is safe. ****

February 22, 2022

Members of the Melrose City Council:

My name is Erica Gonzales and I live on Baxter Street with my husband Gregory and our 19-month-old daughter. We would like to address the proposed ordinance related to small cell wireless antennas within the City of Melrose.

In July of last year, we received notice from Verizon that they planned to install a small cell wireless antenna unit on a utility pole that is in very close proximity to our home. From the beginning, we were opposed to its location in our neighborhood, as 5G technology is relatively new and not well studied, and the long-term health implications for our neighbors and our family could be significant. In the weeks that followed, we communicated with City Councilor Stewart, Department of Public Works Director Proakis Ellis, City Solicitor Phillips, Mayor Brodeur, and a representative from Verizon in an effort to have the antenna relocated. Time and again, we were told that the City had no authority to approve such a request.

Last week, the 5G antenna was installed and is now nearly at eye-level when we look out of our second-floor bedroom windows. Neighboring homes with small children on Baxter, Tappan, and Whittier Streets, as well as a state-approved daycare program all now have clear views of this antenna. In the days that followed, we learned that with the support of Councilor Stewart, a neighbor on Conant Road successfully prevented the installation of the same technology near their home, and that this proposed ordinance was just now coming before the City Council for discussion.

We are disheartened by the lack of timeliness and consistency in both decision-making and advocacy that the City's officials have demonstrated. We remain incredibly concerned about the proximity of this technology to our home, and we would like it removed. While this ordinance is a step in the right direction, it is incomplete. For the residents of Baxter Street, it also comes too late, lacking a clear process for reviewing or removing any antenna that was installed before the ordinance is passed.

While we acknowledge the City's efforts on this matter, this ordinance should not be passed as written. To be acceptable, it should also factor in: consideration for the residential nature of each location; an analysis of nearby schools and other places where children live, learn, and play; and a reasonable opportunity for local property owners to approve, dispute, or request the removal of each antenna. It is the responsibility of our elected and appointed officials to protect the City's residents, including the youngest and most vulnerable.

Thank you.

Erica and Gregory Gonzales
 [REDACTED] Street

Attachment: All Public Comment Ord 2022-2 : Small Wireless Facilities Installations)



CITY OF MELROSE

MAYOR

MARGOT FLEISCHMAN

City Hall, 562 Main Street
Melrose, MA 02176
Telephone - 781-979-4441

To: Mayor Paul Brodeur
From: Margot Fleischman
Meeting Date: February 22, 2022
Subject: Small Wireless Facilities Installations
Order #: ORDNC-2022-2

AN ORDINANCE RELATIVE TO SMALL WIRELESS FACILITIES INSTALLATION IN THE PUBLIC RIGHTS- OF-WAY

Be it ordained by the City Council of the City of Melrose, that the Revised Code of Ordinances of the City of Melrose is hereby amended by adding a new Chapter 183, to read as follows:

Chapter 183. Small Wireless Facilities in the Public Rights-of-Way

Sec. 183-1. Purpose.

Public demand for consistent wireless communication service is being met by service providers in some locations by the use of small cell wireless antennas. ~~Wireless service providers in some cases seek to place small cell wireless antennas on utility poles located in the public way.~~ Therefore, in order to balance public interests between demand for reliable wireless service and public concerns regarding the installation of this technology, this Chapter is intended to provide a uniform and comprehensive set of standards and requirements for permitting, developing, siting, installing, designing, operating, and maintaining small wireless facilities in the public Rights-of-Way within the city's jurisdiction. This section applies to the facility, mounting, placement, and operation of small wireless facilities within the public rights-of-way regardless of the type, owner, structure, strand, or wire to which they are affixed or attached.

Sec. 183-2. Definitions.

As used in this article, the following terms shall be defined as follows:

Abandoned - The cessation of use of a small wireless facility.

Antenna - an apparatus designed for the purpose of emitting radio frequency signals from a fixed location pursuant to the Federal Communications Commission authorization, for the provision of wireless service. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, antenna designed for amateur radio use, or satellite dish for residential or household purposes.

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 in conjunction with the installation of such antenna.

Applicant - any person who submits an application under this ordinance and is, or is acting on behalf of, a wireless services provider or wireless infrastructure provider.

Collocate - mount or install an antenna on an existing structure containing other equipment, or modify a structure for the purpose of mounting or installing an antenna. "Collocation" has a corresponding meaning.

Design standards - standards promulgated for installation of a small wireless facility, in accordance with applicable Federal Communications Commission rules and regulations, that are reasonable, no more burdensome than those applied to other types of infrastructure deployments, and objective and published in advance.

Rights-of-Way or ROW - the area on, below, or above a public utility easement, roadway, highway, street, sidewalk, alley, or similar property, but not including a federal interstate highway.

Small Wireless Facility - a facility that meets each of the following conditions:

- (a) The facility is mounted on a structure 50 feet or less in height including the antenna, or is mounted on a structure no more than 10 percent taller than other adjacent structures, or does not extend the existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (b) The antenna, excluding associated antenna equipment, is no more than three cubic feet in volume;
- (c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;
- (d) The facility does not require antenna structure registration;
- (e) The facility is not located on tribal lands; and
- (f) The facility does not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b).

Structure - a pole, tower, base station, or other building, whether not it has an existing antenna facility, that is used or to be used for the provision of wireless service.

Wireless Provider - any individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, authorized to provide communications service in the state, that builds or installs wireless communication transmission

equipment and/or small wireless facilities, or that subcontracts the building of such facilities, or provides to the public wireless services using radio frequency signals.

Sec. 183-3. Permit Required.

No wireless provider shall place, construct, erect, modify, mount, attach, operate or maintain a small wireless facility in the Rights-of-Way in the city without first obtaining a permit from the City Engineer.

Sec. 183-4. Application and Approval Process.

- (a) All applications for a small wireless facility shall be submitted to the City Clerk in accordance with policies and procedures set forth by the city on the webpage for the City Clerk.
- (b) Applicants shall submit applications accompanied by a fee of \$100 per application, payable to the "City of Melrose." Each application for more than 5 installations is subject to a separate fee of \$100 per installation after the first 5 installations. The amounts due under this section may be revised by the Council from time to time, consistent with applicable law;
- (c) Applicants shall provide notice by first class mail to all other wireless providers, within the Applicant's knowledge after reasonable inquiry to the City, who use or may request use of the public right of way for communications services within five hundred feet (500') of the proposed location(s). Such notice shall inform recipients of the Applicant's application, including specifying ~~the pole(s) or other structures to be utilized~~ the intended placement of the small wireless facility, and any excavation(s) of the public way contemplated by the work. Proof of mailing of such notice shall be provided within three (3) business days of application submission, and may be provided by submission of an affidavit to the City Clerk. Note that any excavation beyond 3-feet from the original facility requires a separate Grant of Location from the City Council.
- (d) Upon receipt, the City will make a determination as to the completeness of the application and notify the Applicant, in writing within 10 days, if the application is incomplete in accordance with the submission requirements as referenced herein below. If incomplete, the City will specify the information needs and the relevant policy or ordinance provisions or requirements.
- (e) If the Applicant is notified the application is incomplete, the time periods set forth herein shall be tolled until such time as the City is in receipt of a complete application from the Applicant. In the event an application remains incomplete forty-five (45) days after any notice that the application is incomplete and the Applicant has not responded, such application shall be deemed denied without prejudice, and will need to be resubmitted in full.
- (f) If the application is deemed complete, the application shall then be circulated to the Ward Councilor for the ward in which the proposed small wireless facility will be installed;
- (g) Applicants shall notify all property owners within 500 feet of the proposed installation by certified mail within 5 days of determination of a complete application submission to the City. Proof of all certified mail receipts shall be provided to the City Engineer as they become readily available.
- (h) Applicants shall post conspicuous signs of pending applications at proposed sites within 10 days of determination of a complete submission of any application to the City;

- (i) Written comments from the Ward Councilor, if any, shall be submitted to the City Engineer within 30 days of receipt of the application.
- (j) Any material changes to an application that must be made to meet the City's design standards, as determined by the City Engineer in his/her sole discretion, shall constitute a new application for the purposes of the time standards. Where a changed or new application is submitted, the prior application shall be deemed withdrawn.
- (k) Once the application is deemed complete, and all comments have been received, the City Engineer shall issue a determination. This will occur within 60 days of an application submission.
- (l) The City Engineer may grant, grant with conditions, or deny the Application for a permit under this ordinance. Applications may be approved if they comply with all applicable City requirements as set forth herein, or if their approval is otherwise consistent with applicable law. A denial by the City may be based on criteria which include but are not limited to any of the following:
 - i. Failure to meet the requirements of the application process and the content of applications as specified in this Ordinance;
 - ii. Failure to meet the Design Standards and Installation Requirements set forth in this Ordinance, unless the Applicant can demonstrate that such design standards are not technically feasible for that particular installation or that there is no reasonable alternative;
 - iii. Failure of the applicant to comply with all applicable state and federal laws, rules, regulations, or other requirements;
 - iv. Any other legally valid reason to deny such application.
- (m) Any approval granted to an Applicant shall be only for the specific Applicant and application submitted, including location of all proposed installations.
- (n) The City is permitted to hire an RF engineer to conduct random, unannounced RF emission testing of any or all antenna installation(s) at the expense of the operator.
- (o) No approval granted under this Chapter shall confer any exclusive right, privilege, license, or franchise to occupy or use the public right of way for delivery of telecommunications services or any other purpose.

Sec. 183-5. Content of Applications: Applications shall include the following information:

- (a) Applicant's name, address, telephone number and email address.
- (b) Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the Applicant with respect to the application.
- (c) Detailed drawings and descriptions of the equipment to be installed including:
 - i. Type of equipment
 - ii. Specifications of equipment (including but not limited to dimensions and weight)
 - iii. Equipment mount type and material
 - iv. Power source or sources for equipment, including necessary wires, cables and conduit
 - v. Expected life of equipment

- vi. Coverage area of equipment, including:
 - a) Number of antennas
 - b) Antenna model
 - c) Antenna length
 - d) Antenna height
 - e) Typical coverage of area radius
 - vii. Rendering and elevation of equipment.
 - viii. If installation requires new equipment mounted on the ground or a new pole to be erected, a prior Grant of Location approval from Melrose City Council is required. Proof of such approval shall be submitted at the time the application is filed.
 - ix. Existing conditions photographs including at least one showing the pole where the small wireless facility will be installed and the nearest residential structure;
 - x. For all applications to locate small wireless facilities, the Applicant shall provide photo simulations from at least two reasonable line of-site locations near the proposed project site. The photo simulations must be taken from the viewpoints of the greatest pedestrian or vehicular traffic.
- (d) Detailed map with locations of the poles or other facility on which equipment is to be located, including specific pole identification number, if applicable, and the areas it will service.
 - (e) Detailed map showing existing and proposed small cell installations within 500 feet of the Application site.
 - (f) Certification by a registered professional engineer that the pole/location will safely support the proposed equipment, including how it will affect the integrity of the pole for public safety concerns.
 - (g) Written consent of the pole or facility owner for the installation.
 - (h) Affidavit of a Radio Frequency Engineer or Radio Frequency Safety Officer with Massachusetts experience that demonstrates that the resulting radio frequency emission levels from equipment installation at the proposed location(s) comply with the Federal Communication Commission's radio frequency (RF) emissions regulations as well as any Commonwealth of Massachusetts health and safety standards at the street level and at the closest point of the nearest occupied building. RF Radiation emission limits apply to the aggregate emissions of all co-located equipment not just emissions of single antennas. Should emissions exceed FCC guidelines, all antennas must be turned off until the aggregate emissions are lowered to acceptable limits.
 - (i) Insurance Certificates with the following minimum coverages: General liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, worker's compensation insurance not less than the amount of \$100,000 per accident and \$500,000 per illness or the statutorily required amount, whichever is greater, and umbrella insurance in an amount not less than \$5,000,000. The City must be an additionally named insured, and such policies shall indicate that the insurance company shall provide thirty (30) business days' prior written notice to the City of lapse or cancellation. All insurance carriers shall carry an A.M. Best rating of "A-" or better. Such insurance shall provide for the waiver by the insurance carrier of any subrogation rights against City, its agents, servants and employees
 - (j) Description as to why the desired location is superior to other similar locations from a community perspective, including:

- i. Visual aspects
- ii. Proximity to residential dwellings, schools, parks or playgrounds.
- iii. Documented effort to place antennas in non-residential areas, away from schools and daycare centers, and proof that such alternate sites will not result in adequate coverage
- (k) Description of efforts to co-locate the equipment on existing structures, poles or towers which currently exist or are under construction. A good faith effort to co-locate is required and evidence of such efforts must be included within the application. Any installations that would require a new pole require a Grant of Location approval from the City Council prior to submitting a small cell application.
- (l) An Affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards, and remove any installation not in such good repair, or not in use, within 30 days of being no longer in good repair or 90 days of being no longer in use.
- (m) A written analysis indicating that the installation and location of the equipment will not interfere with the operation of the existing pole or its primary uses, or with any public safety or public works radio transmissions. This analysis shall include certification that the proposed facilities will not cause interference to any lawfully operating emergency communication system, television, telephone, or radio in the surrounding area.
- (n) A written plan indicating the protocol for turning off wireless facilities when utility workers are present on poles, in order to limit their exposure to radio frequency emissions. The plan should also include a description of any warning signs that will be posted to alert utility workers to radio frequency exposure.
- (o) A written plan indicating the response protocol to be implemented in the event that the equipment is damaged by a weather related event or due to an accident.
- (p) A statement indicating whether a waiver is being requested from any of the applicable Design Standards and Installation Requirements as set by the City. If so, the Applicant shall identify from what particular standard a waiver is being requested, and any request for a waiver must contain information detailing how the applicable standard is not technically feasible, why there is no reasonable alternative, and/or that requiring the Applicant to meet the standard would constitute an effective prohibition.

Sec. 183-6. Design Standards and Installation Requirements: All small wireless facilities must be constructed, installed, and operated in accordance with the plans and specifications included in the application and the following design standards and installation requirements:

- (a) Cables, Wires, Connectors: All cables, wires and connectors related to the small wireless facility must be fully concealed on the wireless support structure and shall match the color of the wireless support structure. There shall be no external cables and wires related to the small wireless facility hanging off or otherwise exposed on the wireless support structure.
- (b) Signage: The small cell wireless facility permittee shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the small wireless facility that is visible to the public. Signage required under this section shall not exceed 4 inches by 6 inches, unless otherwise required by law (e.g. radiofrequency (RF) ground notification signs) or the City.
- (c) Lights: New small cell wireless facilities and wireless support structures shall not be illuminated, except in accord with state or federal regulations.

- (d) Logos/Decals: The small wireless facility operator/permittee shall place the RF warning sticker required by government or electric utility regulations as close to the antenna as possible.
- (e) Cooling Fans: The small cell wireless facility operator/permittee shall use a passive cooling system. In the event that a fan is needed, the small cell wireless facility operator/permittee shall use a cooling fan with a low noise profile. In any event, all small wireless facilities shall comply with current requirements of the City of Melrose Zoning and Noise ordinances.
- (f) All small wireless facilities shall be installed in accordance with the applicable codes in force at the time of installation.
- (g) Antenna shall be placed no less than 20 feet from a residence's window, door opening, porch or balcony unless a waiver is granted specific to this requirement.
- (h) No installation shall be placed where, in the determination of the City, it would limit the city's ability to plant future street trees based upon any existing city standards or guidelines for planting of street trees.
- (i) Pole-mounted equipment heights to the bottom of the antenna and all ancillary cabinets and equipment shall be no less than 12 feet above the sidewalk elevation.
- (j) Where conditions do not permit a top mounted antenna, the antenna may be side mounted with a minimum height of 15 feet above the sidewalk elevation.
- (k) The city reserves the right to reasonably require, in its sole discretion, a supplemental review by independent experts of any application for a small wireless facility under this section. All reasonable costs of such review shall be borne by the applicant, in addition to scheduled fees. Whether based on the results of the supplemental review or the city's own review, the city may require changes to or supplementation of the application.
- (l) Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Chapter shall be valid for more than 12 months unless the City Engineer and Applicant agree to an extension and all required fees are paid for the term regardless of construction.
- (m) Routine maintenance shall not require submittal of a new application, although it shall require all necessary permits for work to be performed.
- (n) A wireless provider shall repair, at its sole cost and expense, any damage to city streets, sidewalks, curbs, gutters, trees, parkways, city poles or other property, utility lines and systems, or sewer or water systems or lines resulting from the collocation of a small wireless facility in the ROW or the installation of a pole in the ROW. The wireless provider shall restore such areas, structures and systems to substantially the same condition in which they existed prior to the damage. If the wireless provider fails to make the repairs within 60 days of notice of the damage, the city may affect those repairs and recover the actual and reasonable expenses of doing so from the wireless provider, its successors or assigns.

Sec. 183-8. Annual Requirements.

- (a) Each year on or before January 31st, the wireless provider shall submit an affidavit to the City Engineer listing, by location, all small wireless installations it owns within the city and certifying which installations remain in use and remain covered by the Applicant's insurance, which installations it has abandoned, and which installations are no longer in use.

- (b) Accompanying the annual affidavit referenced in (a) above, the wireless provider shall submit a \$270 annual fee per small wireless facility in the Rights-of-Way in the City of Melrose.
- (c) If a wireless provider fails to make the payments required by the city at the time of the affidavit submission, the wireless provider's small wireless facilities shall be deemed abandoned and the city may, at its sole option, remove all or any portion of them, or take other action as authorized by law.

Sec. 183-9. Removal and Abandonment of Facilities.

- (a) Removal. No less than 90 days following written notice from the city, the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the Rights-of-Way whenever the city has determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance, or installation of any city improvement in or upon, or the operations of the city in or upon, the Rights-of-Way. If the wireless provider fails to comply with the written notice, the city may perform the work and recover the actual and reasonable expenses of doing so from the wireless provider, its successors or assigns.
- (b) Abandonment. The City may require a wireless provider to remove a small wireless facility permitted hereunder within 90 days after the date that the facility ceases to be used unless the wireless provider gives the City reasonable evidence that it is diligently working to place the facility or pole back in service. Should the wireless provider fail to timely remove the small wireless facility or pole, the City may remove such facility and recover the actual, reasonable cost of such removal from the wireless provider.
- (c) The city retains the right to cut or move any small wireless facility located within the Rights-of-Way of the city in the event of an emergency, as the city may determine to be necessary, appropriate or useful in response to any imminent danger to public health, safety, or property. If circumstances permit, the city shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless provider promptly after cutting or removing a small wireless facility. If the city performs work under this section, it may recover the actual and reasonable expenses of doing so from the wireless provider, its successor or assigns. The wireless provider shall repair all damage to city property caused by the activities of the wireless provider and shall return the city property to its functional equivalence before the damage pursuant to competitively neutral, reasonable requirements and specifications.

Sec. 183-10. Exception to Applicability.

Nothing in this Article shall authorize a wireless provider to locate small wireless facilities on property owned by a private party, property that is not located within the public right-of-way, or a privately owned utility pole or wireless support structure within a right-of-way without the consent of the property owner.

Sec. 183-12. Insurance and Indemnification.

(a) All wireless providers shall maintain at all times insurance with the following minimum coverages: General liability insurance in an amount not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, and umbrella insurance in an amount not less than \$5,000,000.00. The city must be an additionally insured party. All insurance carriers shall carry an A.M. Best rating of "A-" or better. Such insurance shall provide for the waiver by the insurance carrier of any subrogation rights against the city, its agents, servants and employees.

(b) To the fullest extent allowed by law, any wireless provider constructing, installing, operating, repairing, maintaining and using a small wireless facility shall indemnify, defend and hold harmless the city, and its officials, agents, and employees from and against all suits, actions or claims of any character brought because of any injury or damage received or sustained by any person, persons or property arising out of, or resulting from, said wireless provider's breach of any provision of law, including but not limited to the requirements of this ordinance and applicable state and federal regulations, or any asserted negligent act, error or omission of the wireless provider, or its agents or employees, arising from or relating to its small wireless facility. The indemnifications required hereunder shall not be limited by reason of the specification of any particular insurance coverage for any permit. Each wireless provider's obligations under this provision shall not terminate with the expiration or termination of its permit, but shall survive it.

Sec. 183-11. Compliance with all applicable laws.

The wireless provider shall comply with all applicable local ordinances, state and federal laws, including but not limited to the noise and zoning ordinances, as well as the Massachusetts building, plumbing and electrical codes, uniform building, fire electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, and the National Electric Code, National Electric Safety Code, any applicable environmental codes (e.g., Wetlands Protection Act and local bylaw), local, state, and federal regulations pertaining to historic districts and structures, and the rules, regulations, and provisions of the Federal Communications Commission, the Occupational Safety and Health Administration, and any other state or federal agency regulating wireless communications.

FINANCIAL IMPACT:<<Enter Financial Impact Here>>

RESULT: ASSIGN TO COMMITTEE