

Town of Egremont
Board of Selectmen Rules and Regulations
Regarding Grants of Location
(Adopted – January 12, 2017)

1.0 OVERVIEW AND PURPOSE

1.1 The Board of Selectmen (hereinafter also referred to as the "Board") has authority to oversee and regulate the use of the Town of Egremont's ("Town's") public ways and public rights of way (hereinafter "public ways" or "public right(s)-of-way"), including both above and below the public ways. The Board finds that the management of public ways has become more complex and costly and with greater safety, health and environmental challenges and risks. At the same time there is increasing demand for the use of public ways, not only for transportation uses, but also for utility and telecommunication uses. Therefore, it is essential for the Board and Town to manage, oversee and safeguard the public ways in a more comprehensive and detailed manner. These Rules and Regulations ("Regulations") are promulgated to further improve the management of the Town's public ways.

1.2 The Board's review and any grant of location seeks to: promote rational, comprehensive and systematic development and use of the public ways; minimize disruption, hazard and damage; make the best use of limited space both above and below ground; and afford competitive access and neutrality in the use of the public ways.

2.0 GRANT OF LOCATION REQUIREMENT(S)

2.1 A company incorporated for the transmission of intelligence by electricity or by telephone, whether by electricity or otherwise, or for the transmission of television signals, whether by electricity or otherwise, or for the transmission of electricity for lighting, heating or power ("Transmission by or of Electricity") seeking to erect or construct along, under or across a public way, wires, poles, piers, abutments, conduits or fixtures necessary therefore, or otherwise materially expanding upon or adding to current infrastructure (whether previously so authorized by the Board of Selectmen or not previously requiring a grant of location) must comply with state and local grant of location laws, regulations and requirements, including M.G.L. c. 166, secs. 21-22 and these Regulations, and receive a grant of location from the Board.

2.1.1 These Regulations shall apply to the erection or construction for Transmission by or of Electricity as set out in Section 2.1 above, by or on behalf of the Town, notwithstanding the limitation contained in Section 22 of Chapter 166 as to a "company" incorporated for such purposes.

2.1.2 These Regulations shall not apply to cable television to the extent the applicant (cable licensee) has a separate Cable License from the Board of Selectmen, as cable television licensing authority, pursuant to applicable federal (the Cable Act) and state law (M.G.L. c. 166A). Nothing in a grant of location authorizes or allows a grantee the right or authority to provide cable service, as defined in applicable federal and or state law within the Town, and no grantee of a grant of location shall operate a "cable system" or provide "cable service" within the Town without first obtaining a cable license pursuant to said federal and state law. .

2.2 A gas company shall obtain a grant of location from the Board prior to digging up and opening the ground or placing gas lines, abutments, conduits in any of the streets, lanes and highways of the town pursuant to M.G.L. c. 164, sec.70 and these Rules and Regulations.

2.3 These Rules and Regulations seek to further set out and clarify the local grant of location requirements and process. The grant of location requirements apply to both aerial and underground installations. These Regulations shall apply to all grants of location granted after the date of promulgation and to expansion, additions to, material changes and/or rebuilding or reconstruction of such existing facilities.

2.4 A company seeking Transmission by or of Electricity by wire along, under or across a public way (or other public rights of way) with wires, poles, piers, abutments, conduits or fixtures necessary therefore, must petition the Board for a grant of location prior to the installation of said wires or other infrastructure and/or appurtenances.

2.4.1 An amended (or new) Grant of Location must be sought and obtained for any of the following: (a) placement in a new location by the existing grantee or (b) a material modification sought by the existing grantee of the existing installation(s) for which a grant of location is then currently in effect (e.g. new wires).

2.4.2 The addition of wires, poles, piers, abutments, conduits or fixtures to existing infrastructure subject to an existing grant of location by a party other than a grantee to whom a current grant of location was previously issued by the Board requires an additional (a new) grant of location.

2.4.3 No grant of location is required for renewing, repairing or replacing wires, cables, poles, piers, abutments, conduits or fixtures once erected or constructed under a grant of location, or for making house connections or connections between duly approved conduits and distributing poles.

2.5 While a new or amended grant of location is required unless specifically exempted by these Regulations or applicable law, notice and a hearing (set out and described further below) is not required for the following:

- (i) an increase in the number of wires or cables, subject to the Board of Selectmen directing an alteration in the location of the poles, piers, abutments or conduits or in the height of the wires or cables by the same grantee.
- (ii) a written petition by two or more companies having grants of location in the same public way to transfer any such location from one of such companies to either or any of the other petitioners, or for one of said companies to attach its wires and fixtures to existing poles, piers or abutments of either or any of the other petitioners, or to maintain its wires or cables in the conduits of either or any of said other petitioners, or by order grant to said companies joint or identical locations for the maintenance of said existing poles, piers, abutments or conduits, to be used in common by them.

2.6 Grants of location are not required on private ways. (However, a street opening permit may be required if the company is digging in the street, and the Town maintains an easement for its water and sewer lines in the roadway, or if the company is otherwise digging a trench in a private way, as trench excavation may be subject to the permitting process under M.G.L. c. 82A.)

2.7 The issuance of a grant of location does not supersede or diminish the requirement for a company to obtain a street opening permit from the Highway Department or the Board, as applicable, where the work will involve street openings, street cuts or street excavation. With respect to matters that may, in addition to a grant of location, be under the jurisdiction of the Highway Department, another Town department or the Board, said department and/or the Board shall retain any independent and/or concurrent jurisdiction they lawfully have. Compliance with applicable related local, state and federal laws, bylaw, regulations, engineering and other codes shall be a condition of any grant of location or permit granted hereunder.

3.0 GRANT OF LOCATION APPLICATION PROCESS

3.1 All grants of location petitions must originate with the company incorporated for (and which will be providing) Transmission By or Of Electricity (the "Company"). (For instance, homeowners seeking to move electrical lines underground must first contact the Company. The Company is required to provide a written petition to the Board.) All petitions must include a

plan(s) at a scale not greater than 1"= 40' The petition and/or plan shall, as applicable, contain the following information:

- Name, address, and telephone number of the petitioner;
- Name, address, and telephone number of plan preparer; (if different) and emergency contact telephone number;
- A locus map and plans of the proposed project showing the location and size of the proposed infrastructure, property lines of public and private property, and public way related infrastructure and obstructions within fifty (50) feet of the proposed wires or facilities, including:

For above ground facilities: wires, utility poles, buildings (including street address, as applicable), trees greater than six inches (6") in diameter and obstructions, and whether the petitioner proposes to temporarily or permanently remove or relocate the same

For below ground facilities: conduit, pipelines, laterals, power supplies, vaults, pedestals, manholes, surface connection points and significant facilities and equipment to be located in the public way, and water mains, storm sewers and drains, sanitary sewers (if any), utility installations and their appurtenances, easements, property and street right-of-way lines, bounds and/or property markers and other material physical features, such as curblines, sidewalks, water gates, gas gates, and trees of a diameter or greater than six inches (6").

- Project description in reasonable detail.
- Wetlands, floodplains, rivers, ponds, and streams. Rock outcroppings;
- Engineering drawings of the locus should be in American Public Works Association (APWA) format or comparable format showing all current and proposed infrastructure.
- With respect to conduit construction, profiles shall be provided where proposed underground facilities are close to or cross over/under existing utilities. For all other areas, the depth of conduit construction shall be provided. The following should also be shown: (i) cross sections and/or details of proposed conduits, structures, etc.; (ii) details and dimensions of oversized structures, including manholes and vaults; and (iii) all oversized structures, including manholes and vaults, must be shown. All vertical control shall be based on the Town datum.
- Graphic depictions or superimposed photographs showing the appearance of the proposed wires and equipment, including any power supply connections and equipment; and
- A narrative description of the proposed infrastructure, including ancillary equipment, including the physical dimensions of the same and how it operates; the reason(s) for the proposed location and type of equipment; the benefits to the public of the proposed installation; and the measures that will be taken to prevent, minimize or otherwise mitigate nuisance conditions and public health and safety risks resulting from the proposed installation, including, without limitation, noise and vibrations.

All engineering plans shall be signed and stamped by a Massachusetts-registered civil engineer, unless otherwise specifically waived by the Board.

All plans, maps, diagrams and photographs shall be submitted in both paper and electronic versions. The petitioner/grantee shall not be required to provide a particular type of electronic format which is different from the electronic format the petitioner/grantee maintains, however the petitioner/grantee is requested to provide a format that is compatible with the Town's technology.

The petition shall also include the following:

1. A true copy of the Petitioner's license with the Federal Communications Commission and any license, certification and/or registration with the Massachusetts Department of Telecommunications, as applicable.
2. Documentation of the Petitioner's right to attach to or collocate in the existing infrastructure of another company currently on or within the public way (such as on a utility pole or in a conduit). A copy of such agreement (which may be redacted with respect to financial information or such other information for which there is a legal right to withhold submission as determined by the Board upon the submission of the legal bases therefore by the Petitioner) shall also be submitted to the Board.
3. Specific reference to any additional statutory basis, in addition to M.G.L. c. 166, sec. 22 upon which the petition has been submitted and/or which the petitioner claims to be applicable to the Board's review of its Petition.
4. A preliminary construction schedule and date of substantial and final completion.
5. The name of the contractor(s) who will perform the work.

The Grant of Location petition shall include the petitioner's agreement to indemnify Town, provide insurance, bond and otherwise comply with state law and local requirements including the Massachusetts Department of Telecommunications' Street Restoration Standards; State Dig-Safe and Excavation and Trench Safety Law; other applicable state and Town laws, bylaws, regulations and requirements.

4.0 PETITION FEE

All petitioners are required to pay a petition fee of \$100.00, with an additional fee of \$200 per mile or part thereof after the first mile based on the length of the proposed infrastructure along, under and/or across public ways. Said fee shall be submitted to the Board of Selectmen together with the petition for the grant of location. This fee is imposed as a result of in-house costs incurred with the administrative review and processing of the petition. The grant of location application will not be processed until the full petition fee has been received. The petition fee does not include the cost for mailing of notice of the public hearing. The petition fee is non-refundable.

5.0 CO-LOCATION OF FACILITIES/ SURPLUS CAPACITY/RESERVATION OF SPACE FOR TOWN CABLES AND MITIGATION/RELOCATION OF FACILITIES DUE TO PUBLIC NECESSITY/REMOVAL OF FACILITIES

5.1 Co-location

To minimize disruption of the public right-of-way, it is the policy of the Town to encourage grantees to make excess capacity available to other co-locators on commercially practical and feasible terms, and it is the policy of the Town to encourage applicants to consider use of existing excess capacity on commercially practical and technically feasible terms. To promote such co-locations, applicants shall, if requested by the Town at a pre-construction meeting, enter good faith discussions with the Board of Selectmen or its designee to consider voluntary and mutually agreeable co-location plans, including notification of other companies of co-location, joint trenching or similar opportunities for shared use or development of facilities. To further promotion of co-location, any petitioner shall, if requested by the Town, report to the Town on the petitioner's policies to provide third parties with non-discriminatory access to the petitioner's infrastructure, and shall address the question of whether such non-discriminatory access is required by applicable federal or state law or otherwise. Nothing herein shall be deemed to restrict or limit the right of the Town to require co-location otherwise allowed pursuant to applicable law.

5.2 Construction of Surplus Capacity

To minimize disruption of the public rights-of-way, it is the policy of the Town to encourage grantees to build surplus conduit, pipes or other capacity for use by co-locators on commercially practical and technically feasible terms. To promote such construction of surplus capacity, applicants shall, if requested by the Town, enter good faith discussions with the Board and/or its designee(s) to consider voluntary and mutually agreeable terms concerning construction of surplus capacity for third party use and/or Town use. If requested by the Town, the petitioner

shall explain its own projected future needs for conduit or facilities in the public right-of-way, and what plans, if any, petitioner has to install surplus capacity to avoid future excavation to meet its own projected needs. Nothing herein shall be deemed to restrict or limit the right of the Town to require the provision of surplus capacity otherwise allowed pursuant to applicable law.

5.3 Reservation of Space for Town Cables

It is the policy of the Town to require grantees that are pole owners to reserve an exclusive area of municipal space (a minimum of 12 inches, unless otherwise authorized by the Board) on the aerial poles to ensure the Town has reserved space for fire alarm, police, telephone, telegraph signal, fiber optic cables, other cables for communications that serve municipal applications and uses, and the supporting fiber cables utilized for the transmittal of such municipal traffic.

5.4 Mitigation

To ensure the physical integrity of the public right-of-way, it is the policy of the Town to encourage applicants for grants of location to reasonably mitigate the impacts of work related thereto, including resulting traffic and public safety problems, hazards, nuisances, costs, disturbances, possible damage to water and other utility mains, discharge of contaminants into sewer systems and/or conservation areas; degradation of the Town's aesthetic character; and to generally minimize disruption and deterioration of the public ways. Consequently, upon request of the Town, an applicant for a grant of location shall participate in a process of voluntary consultation and mitigation directed to consideration of a lawful user fee or other lawful reimbursements that may be payable to the Town; in-kind provision of technical assistance; environmental and environmental health and safety monitoring and mitigation programs; and engineering monitoring and mitigation programs. In the event of voluntary and mutual agreement on mitigation terms beyond those within the power of the Town to unilaterally require, if any, the Town reserves the right to codify such terms in a grant of location. Nothing herein shall be deemed to restrict or limit the right of the Town to require mitigation otherwise allowed pursuant to applicable law.

6.0 GRANT OF LOCATION NOTICE/PUBLIC HEARING PROCEDURES AND PROCESS/GRANT OF LOCATION DECISION INCLUDING POST-APPROVAL REQUIREMENTS

6.1 Once a complete petition is received by the Board, the petition will be forwarded to the Highway Department and the Highway Superintendent for review and comment, and for a possible pre-hearing-informal meeting(s) to garner necessary technical information.

6.2 Pursuant to M.G.L. c. 44, sec. 53G and the Board of Selectmen's regulation regarding "Review Fees for Outside Consultants Under M.G.L. c. 44, sec. 53G Arising From Grant of Location Petitions To The Board of Selectmen Pursuant to M.G.L. c. 166, sec. 22", the Board may impose reasonable fees for the employment of outside consultants for specific consultant services deemed necessary by the Board to review, issue a decision and otherwise implement its authority, including the issuance of grants of location, on a petition(s) submitted to the Board pursuant to M.G.L. c. 166, sec. 22.

6.3 If the petition is complete and in compliance with applicable legal requirements, a public hearing before the Board shall be scheduled, subject to the outside consultant review process, as applicable, to review and consider the petition for the grant of location.

6.4 Written notice of the time and place of the public hearing shall be mailed at least seven (7) days prior to the hearing date by or on behalf of the Board to all owners of real property abutting upon that part of the way upon, along, across or under which the line is to be constructed, as such ownership is determined by the last preceding assessment for taxation. The Board reserves the right to require the petitioner to implement the mailing of the notifications to abutters, subject to applicable law. If the Board mails said notice, the petitioner shall reimburse all costs to the Town for such notice at or before the opening of the public hearing. Notice of the meeting shall also be posted by the Town Clerk in compliance with the Open Meeting Law.

6.5 At the hearing, abutters and the public shall be given an opportunity to speak and comment on the petition and the petitioner's submissions and presentation in support thereof, including the comments and/or recommendations of the Highway Department/ Superintendent; other Town departments, officials, boards or commissions; and the Board's outside consultant(s), if any. The Petitioner shall provide the Board with any additional information and/or documentation reasonably requested for review of the petition.

6.6 When acting on a petition, the Board shall review the petition and supporting documentation submitted therewith and/or in support thereof, any evidence presented at the public hearing, the comments and recommendations received from Town officials, boards and commissions, including the Highway Department/Superintendent, and the Board's outside

consultants. The Board may reasonably consider lawful matters relevant to right-of-way management, including but not limited to the likelihood that the new facility will incommode the public use of the public ways or endanger or interrupt use of the public ways, and may consider reasonable conditions appropriate to protection of the physical use and condition of the public way.

6.7 The Board may, except to the extent, if any, preempted by applicable law, impose reasonable terms and conditions on any favorable decision to grant a petition and issue a grant of location, including, but not limited to terms and conditions that protect the public safety; manage traffic; assure proper work standards and street restoration; protect the public way and use thereof for motor vehicle and pedestrian uses; require reimbursement for other reasonable review costs arising from the grant of location review process and oversight; and perform the Town's right-of-way management responsibilities.

6.7.1 All work authorized by a grant of location shall be done in a workmanlike manner and as to be reasonably satisfactory to the Town and all materials shall be of good quality, and shall be in accordance with all applicable law and regulations. All wiring, connections, conduit construction shall comply with applicable electrical codes and requirements. All equipment, including electronics subject to the grant of location shall be kept in good and safe order, and shall be repaired and replaced as necessary by the grantee or a qualified designee of the grantee.

6.7.2 Nothing in a grant of location shall be deemed to grant the grantee the right to interfere with any right or privilege of the Town or otherwise granted by the Town to a third party in accordance with applicable law, unless specifically so stated in the grant.

6.7.3 The use of pedestals or any surface mounted structures shall require specific approval by the Board. Laterals and service connections shall, unless otherwise approved by the Board, shall terminate at the nearest manhole, hand hole or duct bank and shall be located so as to minimize traffic disruption and future street openings. Manholes and hand holes shall be shared with other companies licensed to occupy the designated location(s).

6.8 Commencement/Notification and Completion of Construction

(a) After issuance of the grant of location, construction must begin within six (6) months of the issuance date of the grant of location, and shall be substantially completed and finally completed within a construction period(s) proposed by the Applicant and approved by the Board, which approval will not be unreasonably denied by the Board. (The date for final completion may be no later than a reasonable amount of time after substantial completion based on the totality of circumstances.) Extensions of time may be sought by the petitioner/grantee for good cause and granted or denied by the Board in its sole discretion.

(b) Written notification of a minimum of one (1) week prior to commencing construction shall be provided to the Highway Superintendent and Chief of Police by the grantee. and shall contain the name, address and telephone number of the contractor, including the telephone number for emergency calls and messages.

6.9 Insurance

All grantees as well as those constructing or installing including wires, poles, piers, abutments, conduits and fixtures or other infrastructure, whether located on, above or below the right-of-way, shall obtain and maintain

(a) A commercial general liability insurance policy, written on an occurrence basis, naming the Town, its officers, boards, commissions, committees, employees and agents as additional insureds on all claims on account of injury to or death of a person or persons occasioned by the construction, installation, maintenance, operation or removal of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000). The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for personal injury, broad form property damage, products and completed operations liability, independent contractor's liability and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.

(b) Automobile liability insurance for owned automobiles and trucks, non-owned automobiles and trucks and/or rented automobiles and trucks in the amount of One Million Dollars (\$1,000,000) combined single limit for bodily injury and consequent death and property damage per occurrence.

(c) Workers Compensation in the minimum amount of the statutory limit.

(d) The Licensee shall carry excess liability, written on an occurrence basis, in the minimum amount of Two Million Dollars (\$2,000,000) umbrella form over all other insurance required by this Section.

(e) The following conditions shall apply to the insurance policies required herein:

- (i) Such insurance shall commence no later than the commencement of any work.
- (ii) Such insurance shall be primary with respect to any insurance maintained by the Town and shall not call on the Town's insurance for contributions.
- (iii) Such insurance shall be obtained from brokers or carriers authorized to transact insurance business in the State.
- (iv) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those required herein.

- (v) The grantee's failure to obtain, procure or maintain the required insurance shall constitute a material breach of the grant of location under which the Town may immediately suspend operations under the grant of location.
- (vi) The grantee shall be responsible for all deductibles under its own insurance policies.
- (vii) The Town, its Board of Selectmen, other officials, and employees shall be named as "additional insureds" on all required liability insurance policies.
- (viii) Neither this insurance requirement, nor the provision of insurance or insurance proceeds pursuant hereto, shall limit the liability of the grantee.
- (ix) The grantee shall provide the Board with certificate(s) of insurance for all policies required herein upon expiration of the policies. All certificates shall contain, at a minimum, a twenty (20) day notice of cancellation or reduction in the coverage amount(s).

6.10 Grantee Responsibilities and Liability for Infrastructure/Indemnification

The grant of location shall contain, and the grantee must acknowledge, the grantee's responsibility for maintenance of and liability for its wires, poles, piers, abutments, conduits and fixtures and other infrastructure including indemnification of the Town by the grantee. The grantee shall indemnify, hold harmless and defend the Town, its officials, employees and agents against all claims, actions, damages, costs and expenses, including reasonable attorney fees and legal costs and expense, whatsoever, to which the Town, its officials, employee or agents may be subjected to as a result of issuing this grant of location, in any manner arising from the rights or privileges hereby granted, or arising from the acts of the grantee, its employees or agents.

6.11 Performance Bond

Grantee shall obtain and maintain a performance bond in an amount reasonably determined by the Board based on the proposed grant of location work and totality of relevant circumstances to help ensure compliance with the grant of location and applicable requirements so as to protect the public health and safety and the reasonable financial interests of the Town, including reimbursement to the Town for any damages to the public way or other Town property caused by the grantee, its employees or agents, or otherwise incurred pursuant to this grant of location.

6.12 Advance Copies of Insurance Certificate and Performance Bond

Copies of actual insurance and bond certificates (or accurate samples) shall be provided to the Board for review in advance of Town action on a grant of location application.

6.13 Avoidance of Construction Vertically Over Town Infrastructure

It shall be a condition of grants of location for underground facilities that the grantee not locate its infrastructure vertically above Town water mains, drain, or, sewer pipes, absent: (i) a showing that such location is the only location reasonable available to the petitioner; (ii) a written determination from the Highway Superintendent and the Board of Selectmen or their designee, that such placement will not interfere with any such Town services; and (iii) written authorization, included in the grant of location document, that such placement is authorized by the Board. In the event of a water main or sewer pipe leak, the Town needs ready access to its own pipes to implement repairs. Access to Town utilities (i.e. water, sewer, and drain) is made difficult and dangerous if the Town has to excavate around gas mains and other infrastructure located vertically above its utilities. Vertical placement of gas or other mains/pipes vertically above Town water mains, drain lines, and sewer pipes incommodes the Town's use of the right-of-way for public utility infrastructure, and Massachusetts law establishes that Town grants of location may be used to prevent incommoding of use of the right-of-way.

6.14 Photographs

The Grant of Location may require the grantee to take a sufficient number of photographs prior to the commencement of construction to serve as reference to ensure restoration of designated areas to their former condition. The required photographs shall be taken prior to the commencement of the work and shall be of a size, type, quality and number as determined by the Board or its designee. All expenses incurred by this requirement shall be borne by the grantee.

6.15 As-Built Plans

After substantial completion of the work pursuant to, and as required by, a grant of location, the grantee shall submit as-built plans of the facility which shall show and/or contain, the information set out in Section 3.1 above, and such other depictions and/or information required in the grant of location.

6.16 Relocation of Facilities Due to Public Necessity

Any grantee accepts such grant with the understanding and agreement that Town public works, public improvements, construction, excavation, grading, filling or work of any kind in the right-of-way may necessitate such permittee or grantee to relocate, including undergrounding, its facilities and infrastructure, at its sole cost and expense to enable such Town work, facilities and/or public improvements, and Town shall not be liable for any damage to or loss of any overhead or underground facility located in the right-of-way as a result of or in connection with such work, facilities and/or public improvements. Any necessary relocation work shall be coordinated with the Highway Department and Superintendent and the Board of Selectmen and its designee(s), as applicable.

6.17 Removal of Facilities

In the event of a lawful termination of a grant of location or an abandonment of facilities, the Board reserves the right, to fullest extent allowed by applicable law, to order the grantee to remove its underground or overhead facilities from the right-of-way and restore the area to its original condition within a period of time determined by the Board under the circumstances, of not less than three (3) months and not to exceed six (6) months, except for reasons of public safety, in which case the time period may be shorter. In the event that the grantee fails to so remove its facilities with required time period, as may be extended by the Board in its discretion, the Board may treat such as abandoned property and, among other remedies, remove the facilities and restore the area at the grantee's sole cost and expense. In doing so, the Board may call upon the grantee's performance bond.

6.18 Hours of Operation

Based on the totality of circumstances, including the nature of the work, the area(s) where the work is to take place, the expected noise and disturbance of the proposed work, and issues and matters of public health and safety, the Board will impose restrictions on the days and hours that work, including particularly types of work, can occur. Prohibitions and/or limitations will include hours of work, work on Saturdays, Sundays and/or holidays, and be placed on work occurring on Saturdays

6.19 Seasonal Limitations

No excavation, trenching, etc., shall be allowed in any public way between December 1st and April 1st, unless approved by the Board or its designee.

6.20 Maintenance of Traffic Flow and Safety Precautions/Access

The grantee shall perform its work such that traffic, both pedestrian and vehicular, will be maintained over and through the work with safety and convenience. Pavement, fire hydrants, catch basins and sidewalk areas shall be kept reasonably clear of materials. Pedestrians must be able to walk by, or a boardwalk must be constructed over any excavation authorized hereunder. Appropriate access must be maintained to both public and private property, unless otherwise authorized pursuant to the grant of location or the authority vested thereby. The Board may, in a grant of location make specific provision for traffic and police details, subject to the additional authority therefore of the Chief of Police.

6.21 Site Conditions

The grantee is responsible for site conditions at and adjacent the area subject to the grant of location. This may include, but not be limited to: (i) maintaining and repairing grassed areas; (ii) trimming and/or removing public shade trees only as authorized and directed by the Highway Superintendent and Tree Warden; (iii) removal of fences only with permission and requirement for restoration thereof; (iv) roadway dust control; (v) use of suitable materials only; (vi)

appropriate and proper compaction of materials, grading and resurfacing; and (vii) appropriate and proper street, sidewalk and curbing replacement and installation.

6.22 Contact Information

The grantee shall provide the Board and the Highway Superintendent with the name and contact information, including emergency contact information, for the grantee's employee or agent who is responsible for the infrastructure subject to the grant of location, and shall update this information with the both whenever it changes.

7.1 MISCELLANEOUS PROVISIONS

7.1 No Real Estate or Exclusive Interest Created

No grant of location shall create a real estate property interest, real estate easement, servitude, or any exclusive right, privilege or franchise to occupy the right-of-way, but shall create a grant of location only. No grant of location shall be construed as a warranty of title.

7.2 Suspension and Revocation of Grant of Location

A grant of location may be suspended or revoke by the Board for violation of a material term of said grant of location unless prohibited by applicable law. Prior to suspending or revoking a grant of location, the Board shall provide a minimum seven (7) days written notice (by either hand deliver, overnight mail with a receipt of delivery or by certified mail, return receipt requested) and an opportunity to be heard to the grantee if so requested in writing by said grantee. Any such suspension or revocation shall be in writing and shall specify the violation(s) of the grant of location and the facts supporting the same.

7.3 Limitation of Grant of Location

The issuance of a grant of location does not: (i) supersede, substitute for or otherwise satisfy any other applicable federal, state or local permitting requirements, including, without limitation, any zoning, building permit or wetlands authorization; or (ii) does not constitute, and shall not be construed as, a certification or confirmation by the Board that the petitioner/grantee has the permission of the owners of a pole or conduit to collocate thereon or therein.

7.4 Transfer or Assignment

The grantee shall not transfer or assign, or otherwise convey its rights, if any, in a grant of location granted to another entity, without the written approval of the Board, which approval shall not be unreasonably denied.

7.5 Consistency with State and Federal Law; Waiver Procedure

It is the intent of the Town that these Regulations be subject to and not in contravention of any applicable state or federal law, and the Board and Town shall seek to apply local standards consistent with applicable law. In the event any term or condition hereof is deemed by a petitioner or grantee to be in conflict with or otherwise preempted by applicable state or federal law, the permittee or grantee may request a waiver of such term or condition, and state reasons therefore, and the Board shall consider such request and the reasons therefore. If the Board is in agreement with the petitioner's or grantee's claim of conflict with or preemption by applicable law, the Board may waive such term or condition consistent with applicable law.

7.6 Severability

The invalidity of any section of these Regulations shall not invalidate any other section or provision thereof, nor shall it invalidate any permit that has been previously issued thereunder.

7.7 Amendment of Regulations

The Board reserves the right to amend these Regulations at any time. Changes to regulations shall apply immediately to existing grants of location upon written notice to holder of the grant of location, subject to applicable law.