§ \_\_\_\_ - \_\_\_\_ Purpose

1. While the existing wireless infrastructure in the U.S. was erected primarily using macro cells with relatively large antennas and towers, wireless networks increasingly have required the deployment of small cell systems to support increased usage and capacity. In response to this demand, the Federal Communications Commission (FCC) has issued a Declaratory Ruling and Third Report and Order addressing the extent to which state and local municipalities can regulate the deployment of small cell systems in public right-of-ways. The Order permits local municipalities to adopt aesthetic guidelines to ensure that the design, appearance, and other features of buildings and structures are:
	1. compatible with nearby land uses;
	2. manage right-of-way’s so as to ensure traffic safety and coordinate various uses; and
	3. protect the integrity of their historic, cultural, and scenic resources and their citizens’ quality of life.
2. The purpose of this Article is to establish uniform policies and procedures for the deployment and installation of small cell wireless telecommunication facilities (small cell facility) in the Town of Glenville, which will provide a public health, safety, and welfare benefit consistent with the preservation of the integrity, safe usage, and visual qualities in the Town. Any installation of a small cell facility shall require a building permit from the Town after being reviewed and approved by the Town of Glenville Planning Zoning Commission.

§ \_\_\_\_\_ - \_\_\_\_ Definitions

As used in this Article, the following terms shall mean and include:

ACCESSORY EQUIPMENT

Any equipment servicing or being used in conjunction with a wireless telecommunications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds.

ANTENNA

A system of electrical conducts that transmits or receives electromagnetic waves or radio frequencies signals. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

CO-LOCATION

The installation or mounting a Small Wireless Facility in the Public Right of Way on an existing Support Structure, an existing Tower, or an existing Pole to which a Small Wireless Facility is attached at the time of the Application.

COMMINICATIONS FACILITY

Collectively, the equipment at a fixed location or locations within the Public Right of Way or on private property that enables Communication Services, including:

1. Radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and
2. All other equipment associated with any of the foregoing.

A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.

COMMUNICATIONS SERVICE PROVIDER

Cable service, as defined in 47 U.S.C. § 522(6); information service or broadband, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).

COOMUNICATIONS SERVICE PROVIDER

A provider of Communications Services and includes a cable operator, as defined in 47 U.S.C. § 522(5).

DECORATIVE POLE

A Pole that is specially designed and placed for aesthetic purposes

DISTRIBUTED ANTENNA SYSTEM (DAS)

A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.

ELIGIBLE FACILITIES REQUEST

Eligible facility request as set forth in 47 C.F.R. §1.40001(b)(3), or as amended.

ELIGIBLE SUPPORT STRUCTURE

Any tower or base station as defined in this Article, provided that it is existing at the time the relevant application is filed with the Town of Glenville.

ORDINARY MAINTENANCE AND REPAIR

Inspections, testing and/or repair of existing Communications Facilities that maintain functional capacity, aesthetics and structural integrity of a Communications Facility and/or the associated Support Structure, Pole or Tower, that does not require blocking, damaging or disturbing any portion of the Pubic Right of Way.

POLE

A legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the Public Right of Way. A Pole does not include a Tower or Support Structure.

POLE EXTENDER

An object affixed between a pole and an antenna for the purpose of increasing the height of the antenna above a pole.

PUBLIC RIGHT OF WAY (ROW)

The area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this Article shall include Public Utility Easements, but only to the extent the Town has to permit use of the area or Public Utility Easement for Communications Facilities or Poles, Towers and Support Structures that support Communications Facilities. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the Town.

PUBLIC UTILITY EASEMENT

Unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. Public Utility Easement does not include an easement dedicated solely for Town use, or where the proposed use by the Provider is inconsistent with the terms of any easement granted to the Town.

REPLACE OR REPLACEMENT

In connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this Article and any other applicable Town code regulations, in order to address limitations of the existing structure to structurally support co-location of a Communications Facility.

SMALL CELL WIRELESS TELECOMMUNICATIONS FACILITY or SMALL CELL FACILITY

A facility which meets the following conditions:

1. The Facility is:
	1. mounted on structures 50 feet or less in height including its antennas as defined in 47 CFR §1.1320(d), or
	2. mounted on structures no more than 10 percent higher than other adjacent structures, or
	3. does not extend an existing structure on which it is located to a height of more than 50 feet or 10 percent, whichever is greater;
2. Each antenna, excluding associated antenna equipment, is no more than three cubic feet in volume;
3. 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 no more than 28 cubic feet in volume;
4. The facility does not require antenna structure registration under 47 CFR Part 17 or similar applicable regulations; and
5. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR §1.1307(b) or similar applicable regulations.
6. the thresholds identified above.

SUPPORT STRUCTURE

A structure in the Public ROW other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.

TOWER

Any structure built for the sole or primary purpose of supporting any licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

UTILITY POLE

A pole or similar structure that is used, in whole or in part, for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including Town-owned poles. Such term shall not include structures supporting only wireless telecommunication service facilities.

WIRELESS TELECOMMUNICATIONS SERVICES FACILITY

A structure, facility or location designed or intended to be used as, or used to support, antennas. It includes, without limit, freestanding towers, guyed towers, monopoles, small cell telecommunications facilities on utility poles in the public right-of-way or property of the Town of Glenville or of another municipal corporation with the Town of Glenville and similar structures that employ camouflage technology, including, but not limited to, structures such as a multistory building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, personal telecommunications services, commercial satellite services or microwave telecommunications, but excluding those used exclusively for dispatch telecommunications, or exclusively to private radio and television reception and private citizens' bands, amateur bands, amateur radio and other similar telecommunications.

WIRELESS TELECOMMUNICATIONS PROVIDER

A wireless telecommunications infrastructure provider or a wireless telecommunications services provider.

§ \_\_\_\_\_ - \_\_\_\_ Site Plan Review

1. No Small Cell Wireless Facility shall be used, erected, moved, reconstructed, changed or altered except after approval of a site plan by the Planning Zoning Commission in accordance with Chapter **270**, Zoning. No existing structure shall be modified to serve as a Small Cell Wireless Facility unless in conformity with this Article.

§ \_\_\_\_\_- \_\_\_\_\_ Application Requirements

1. The Applicant’s name, address, telephone number and e-mail address, including emergency contact information for the Applicant.
2. The names, addresses, telephone number, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filling of the Application.
3. A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Article. The Applicant shall state whether the Applicant believes the proposed work is subject to Administrative Review or Discretionary Review and if the permit is an Eligible Facilities Request.
4. If applicable, a copy of the authorization for use of the property from the Pole, Tower or Support Structure owner on or in which the Communications Facility will be placed or attached.
5. Detailed construction drawings regarding the proposed Communication Facility.
6. To the extent the proposed facility involves co-location on a Pole, Tower or Support Structure, a structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure will structurally support the co-location (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with the NYS Building Code.
7. For any new aboveground facilities or structures, accurate visual depictions or representations, if not included in the construction drawings.
8. If new construction, a plan that would show hoe co-locations on the new Pole, Tower or Support Structure would be possible for other Providers who may wish to deploy small cell technology in the geographic area of the subject Application.
9. Submission of an Environment Assessment Form.

§ \_\_\_\_\_ - \_\_\_\_\_ Ordinary Maintenance and Repair

1. A permit shall not be required for ordinary maintenance and repair. The Provider or other person performing the ordinary maintenance and repair shall obtain any other permits required by applicable law and shall notify the Town in writing at least forty-eight (48) hours before performing the ordinary maintenance and repair.

§ \_\_\_\_ - \_\_\_\_\_ Location of small cell facility approved by the Planning Zoning Commission.

1. The following locational priorities shall apply in the order specified, consistent with the Town’s obligation to create the least amount of adverse aesthetic impact and to preserve the scenic values of the Town:
	1. Existing Town-owned structures or facilities.
	2. On, in, or adjacent to, existing electrical power line transmission towers or power poles in the municipal right-of-way. If public utilities are currently located along rear property lines, then a Small Cell Wireless Facility shall be located within the same rear right-of-way as those utilities as opposed to the front yard right-of-way.
	3. On or adjacent to existing structures or facilities within the Town such as existing water towers, church steeples, silos etc.
	4. On or in a proposed new structure if the requirements below have been met by the applicant.
2. If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of higher priority was not selected. The person seeking such an exemption must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed use.
3. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Zoning Commission may, if otherwise permitted by law, disapprove an application for any of the following reasons:
	1. conflicts with safety and safety-related codes and requirements;
	2. interferes with line of sight for pedestrian and vehicular traffic;
	3. conflicts with the historic nature or character of a neighborhood or historical district;
	4. the placement and location of a facility would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;
	5. conflicts with the provisions of this Article;
	6. conflicts with the nature and character of the neighborhood.
4. Small Cell Wireless Facility attached to light poles and non-wooden poles. A Small Cell Wireless Facility attached to existing or replacement non-wooden light poles and other non-wooden poles in the right-of-way or non-wooden poles outside of the right-of-way shall conform to the following design criteria:
	1. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is technically infeasible, or is incompatible with the pole design, in which case the antennas and associated equipment enclosures shall be camouflaged to appear as an integral part of the pole or flush mounted to the pole, meaning no more than six (6) inches off of the pole, and shall be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of a Small Cell Wireless Facility. If the equipment cannot be concealed within the pole and requires an enclosure, the enclosure should be detached and located behind the pole or underground, provided that such location does not interfere with roads and sidewalks, underground infrastructure, or traffic line of sight or is otherwise determined by the Zoning Board to negatively affect the aesthetics of the premises or adjacent properties.
	2. The furthest point of any antenna may not extend more than twelve (12) inches from the face of the pole.
	3. All conduit, cables, wires and fiber shall be routed internally in the pole. Full concealment of all conduit, cables, wires and fiber is required within mounting brackets, shrouds, canisters or sleeves if attaching to exterior antennas or equipment.
	4. An antenna on top of an existing pole may not extend more than six (6) feet above the height of the existing pole and the diameter may not exceed sixteen (16) inches, measured at the top of the pole, unless the applicant can demonstrate that more space is needed. The antennas shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole except for canister antennas which shall not require screening. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.
	5. Any replacement pole shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards utilized within the contiguous right-of-way.
	6. Additional height of any replacement pole shall be the minimum additional height necessary but shall not exceed 10 feet above 10 the pole it replaces; provided that the height of the replacement pole cannot be extended further by additional antenna height.
	7. The diameter of a replacement pole shall comply with all standards required by the authority having jurisdiction for sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25% increase of the existing non-wooden pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole, and shall comply with the requirements in this Article.
5. Small Cell Wireless Facility attached to wooden poles. A Small Cell Wireless Facility located on a wooden pole shall conform to the following design criteria:
	1. The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a Small Cell Wireless Facility; provided, that the replacement pole shall not exceed a height that is a maximum of ten (10) feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wire line facilities.
	2. A pole extender may be used instead of replacing an existing pole but the overall height of the extender and all equipment may not increase the height of the existing pole by more than 10 feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wire line facilities. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.
	3. Replacement wooden poles shall either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the primary pole owner in the Town.
	4. All ancillary equipment, boxes, and conduit, shall be colored or painted to match the approximate color of the surface of the wooden pole on which they are attached and appear as an integral part of the pole or flush mounted to the pole, and shall be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of a Small Cell Wireless Facility. All ancillary equipment and boxes that cannot be mounted to the pole and require an enclosure shall be located in an enclosure that is detached and located behind the pole or underground, provided that such location does not interfere with roads and sidewalks, underground infrastructure, or traffic line of sight or is otherwise determined by the Zoning Board to negatively affect the aesthetics of the premises or adjacent properties.
	5. All Small Cell Wireless Facility antennas on wooden poles should be of a top mount canister or omnidirectional type when feasible to appear as an integral part of the pole. The antenna shall not exceed sixteen (16) inches wide, measured at the top of the pole, and shall be colored or painted to match the pole. The canister antenna shall be placed to look as if it is an extension of the pole.
	6. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness. Multiple antennas are not permitted on a single wooden pole and shall not be more than three (3) cubic feet in volume and shall not exceed the height limitation.
	7. An applicant who desires to enclose both its antennas and equipment within one unified enclosure may do so, provided that such enclosure is the minimum size necessary for its intended purpose and the enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole does not exceed twenty eight (28) cubic feet. The unified enclosure shall be placed so as to appear as an integrated part of the pole.
	8. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.
	9. An omnidirectional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four (4) feet in height and is mounted directly on the top of a pole or attached to an extender made to look like the exterior of the pole at the top of the pole. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.
	10. The visual effect of the Small Cell Wireless Facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible.
6. New poles in the right-of-way for Small Cell Wireless Facility.
	1. New poles within the right-of-way are only permitted if the applicant can establish that:
		1. The Small Cell Wireless Facility cannot be located on an existing utility or light pole, electrical transmission tower, or on a site outside of the public right-of-way such as a public park, public property, transmission tower, or water tower;
		2. The Small Cell Wireless Facility receives approval for a concealment element design;
		3. No new poles shall be located in a protected watercourse area or setback from the angle of repose; and
		4. The applicant signs a lease agreement listing terms of access, maintenance, future upgrades, indemnification and fees.
	2. The concealment element design shall include the design of the screening, fencing or other concealment technology for a tower, pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed Small Cell Wireless Facility, including but not limited to fiber and power connections.
	3. The concealment element design should seek to minimize the visual obtrusiveness of the Small Cell Wireless Facility. The proposed pole or structure should have similar designs to existing neighboring poles in the right-of-way, including similar height to the extent technically feasible.

§ \_\_\_\_ - \_\_\_\_\_ Duration. Any permit for construction issued under this Article shall be valid for a period of ninety (90) days after issuance and can be extended for an additional ninety (90) days upon written request of the applicant, at the sole consent of the Town.

§ \_\_\_\_\_ - \_\_\_\_\_ Small cell facility permit fees. A fee schedule shall be established by resolution of the Town Board. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, right-of-way agreement fee, right-of-way use fee, attachment fees, and other actions of the Building Inspector described in or contemplated by this Article.

§ \_\_\_\_\_ - \_\_\_\_\_\_ Planning Zoning Commission requirements as to aesthetics and neighborhood impact mitigation for small cell permits.

1. In order to preserve the character and integrity of Town neighborhoods, the Town finds that the following requirements are essential to protect the public health, safety and welfare, and scenic preservation.
	1. New small cell facilities shall include concealment element designs, unless the Planning Zoning Commission makes a written determination that such designs are not feasible.
	2. The Planning Zoning Commission may consider alternative locations for equipment, whether pole mounted or ground mounted.
	3. All small cells placed on any roof shall be set back at least 15 feet from the edge of the roof along any street frontage, unless the Planning Zoning Commission makes a written determination waiving the setback requirement.
	4. Any lighting constructed as part of the installation shall be in conformance with all applicable regulations of the Town of Glenville Code.
	5. Antennas, ancillary equipment, and cable shall not dominate the structure or pole upon which they are attached.
	6. A Small Cell Wireless Facility is not permitted on traffic signal poles unless denial of the siting could prohibit or effectively prohibit the applicant’s ability to provide telecommunications service in violation of 47 USC §§ 253 and 332
	7. The Town may consider the cumulative visual effects of Small Cell Wireless Facilities mounted on poles within the right-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the Town. The Zoning Board may require a visual assessment, use of photo-simulations, or other visual analysis tools to aid in its consideration. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available or to impose a technological requirement on the applicant.
	8. Generators located in the rights of way are prohibited.
	9. No equipment shall be operated so as to produce noise that is considered a nuisance.
	10. Except within the public right-of-way, all proposed poles, pole equipment and enclosures shall comply with the designated setback requirement.
	11. Up to two small cells will be allowed per utility pole if technically feasible and if in the determination of the Planning Zoning Commission there are no safety or aesthetic concerns. Small cells must be designed and placed in an aesthetically pleasing manner to the reasonable satisfaction of the approving agency.
	12. In the event that installation of a proposed Small Cell Wireless Facility requires disturbance to surrounding land, the applicant shall be responsible for restoring the site to its original condition.
	13. No small cell facilities shall obstruct pedestrian or vehicular vehicle traffic in any way.
	14. In no event shall any utility pole or wireless telecommunications support structure, installed in the public right-of-way, exceed 30 feet in height, unless permit approval is obtained from the Planning Zoning Commission. A shorter pole may be required if the initial proposal is deemed out of character with the neighborhood as determined by the Planning Zoning Commission.
	15. Each new small cell facility, including antennas or other associated equipment, installed in the public right-of-way shall not exceed more than 10 feet above the existing utility pole or wireless telecommunications support structure on which it is being located, unless permit approval is obtained from the Planning Zoning Commission.
2. The Secretary of the Planning Zoning Commission shall transmit a copy of the Planning Zoning Commission decision to the Town Tax Assessor to better assess the utility infrastructure for wireless telephone facilities.

§ \_\_\_\_\_ - \_\_\_\_\_\_ Information updates.

1. Any amendment to information contained in a small cell building/work permit application shall be submitted, in writing, to the Town within 30 days after the change necessitating the amendment. On an annual basis, the wireless telecommunications provider shall provide a list of existing small cell locations within the Town.

§ \_\_\_\_\_ - \_\_\_\_\_\_\_ Removal, relocation or modification of small cell facility in the public right-of-way.

1. Notice. Within 90 days following written notice from the Town, the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small facilities within the public right-of-way whenever the Town has determined that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Town improvement in or upon, or the operations of the Town in or upon, the public right-of-way.
2. The Town retains the right and privilege to cut or move any Communications Facility, Pole, Support Structure or Tower located within the Public ROW of the Town, as the Town may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Town shall notify the Provider and give the Provider an opportunity to move its own facilities prior to cutting or removing the Communications Facility, Pole, Support Structure or Tower. In all cases the Town shall notify the Provider after cutting or removing the Communications Facility, Pole, Support Structure or Tower as promptly as reasonably possible.
3. Abandonment of facilities. Upon abandonment of a small facility within the public right-of-way of the Town, the wireless provider shall notify the Town at the time the decisions are made, however, in no case shall such notification be made later than 30 days prior to abandonment. Following receipt of such notice, the Town may direct the wireless provider to remove all or any portion of the small cell facility if the Town, or any of its departments, determines that such removal will be in the best interest of the public health, safety and welfare. The Provider shall remain solely responsible and liable for all of its Communications Facilities, Poles, Support Structures and Towers until they are removed from the Public ROW unless the Town agrees in writing to take ownership of the abandoned Communications Facility, Poles, Support Structures or Towers. Upon the issuance of a Permit, the Provider shall provide a removal bond in the amount estimated for the removal of all of the Communications Facilities that are the subject of an Application, such estimated amount to be determined by the Building Inspector, after consultation with the Town Board.
4. If the Provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its Communications Facilities, Poles, Support Structures or Towers or remove any of its abandoned Communications Facilities, Poles, Support Structures or Towers as required in this subsection, the Town or its contractor may do so and the Provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Town incurs arising from the delay.
5. As-builts and Maps showing the location of equipment in the ROW and as-builts after construction shall be provided to the Town, within thirty (30) days after completion of construction, in conformance to the requirements of the Building Inspector.