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## **Article III — Standards and Requirements**

### **§ 59-301 In General.**

No Right-of-Way Use Permit or Mailbox Permit shall be issued under this Chapter for a use other than a State-Authorized Use if the proposed usage of the right-of-way, in the opinion of the Borough Manager or Council responsible for considering the application,—

(a) would be injurious to the public health, safety, or welfare as reasonably articulated by the Borough Manager or Council; or

(b) does not provide a sufficient benefit to the residents and taxpayers of the Borough compared to the detriments to the public health, safety, and welfare caused by the use.

### **§ 59-302 Qualified Applicant.**

In addition to all other requirements contained in this Chapter, each applicant for a Right-of-Way Use Permit under this Chapter shall demonstrate—

(a) that it has a history of compliance with applicable laws and regulations relating to the management, construction, and maintenance of facilities in streets and rights-of-way, wherever located, or, in the case of a person with no historical use of rights-of-way, that it has employed or engaged qualified persons with a history of compliance with applicable laws and regulations relating to the management, construction, and maintenance of facilities in streets and rights-of-way to assist it in its operations under the proposed permit; and

(b) that it possesses all licenses, permits, authorizations, and other permissions required by any applicable regulatory agency (including, but not limited to, the Federal Communications Commission, the Pennsylvania Public Utility Commission, other agencies of the United States or the Commonwealth of Pennsylvania, and the Borough) to allow it to use the right-of-way, to operate the facilities to be placed in the right-of-way, and to furnish the services to be provided utilizing such facilities.

**§ 59-303 Aerial Facilities.**

(a) Whenever practicable, facilities in the right-of-way shall be installed underground.

(b) No new aerial facilities shall be constructed or installed in the right-of-way to the extent that existing aerial facilities within the right-of-way can be utilized under reasonable terms and conditions to provide the Permittee's services.

(c) No aerial facilities shall extend more than forty-five (45) feet above ground level.

**§ 59-304 Clear-Sight Triangle.**

No facilities shall be placed at a height greater than two and one-half (2  $\frac{1}{2}$ ) feet and less than seven (7) feet above ground level within any clear-sight triangle. There shall be clear-sight triangles at every intersection of two or more streets and/or alleys. (In the case of the intersection of two streets which cross each other, for example, there are four such triangles, one for each of the four corners of the intersection.) The first leg of each triangle shall begin at the intersection of the two curblines which form that corner of the intersection (using the definition of "curbline" provided in § 41-105), and extend a distance of fifteen (15) feet along one curbline; the second leg of each triangle shall begin at the intersection of the two curblines and extend a distance of fifteen (15) along the other curbline; and the third leg of each triangle shall connect the ends of the other two legs.

**§ 59-305 Conditions.**

If a proposed usage of the right-of-way does not satisfy all of the requirements of this Chapter, but can be made acceptable to the public health, safety, and welfare and can satisfy the purposes of the requirements of this Chapter by the imposition of additional terms and conditions, then the Borough Manager or Council responsible for considering the application may offer to approve the application subject to the additional terms and conditions, rather than deny the application