ORDINANCE 2017-02

AN ORDINANCE OF THE TOWN OF CUMBERLAND
AMENDING THE CUMBERLAND ZONING ORDINANCE FOR

WHEREAS, the Town Council of the Town of Cumberland, Indiana has adopted a Zoning Ordinance for the Town that includes regulations for fencing; and

WHEREAS, from time to time this ordinance needs to be amended;

WHEREAS, Town staff identified a need to update sections dealing with signage and filing deadlines; and

WHEREAS, on December 15, 2016, the Cumberland Plan Commission conducted a public hearing on the proposed amendments; and

WHEREAS, in considering this proposal, the Cumberland Plan Commission has paid reasonable regard to the comprehensive plan, current conditions and the character of current structures and uses in each district, the most desirable use for with the land in each district is adapted, the conservation of property values throughout the jurisdiction, responsible development and growth, and has certified the proposal with a favorable recommendation to the Cumberland Town Council for the amendments to the Zoning Ordinance; and

WHEREAS, the Cumberland Town Council has reviewed and considered the Plan Commission’s recommendation and has decided to adopt these amendments.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUMBERLAND, INDIANA AS FOLLOWS:

Section 1. The amendments to the Zoning Ordinance attached as Exhibit A are adopted and replace the previous sections.

Section 2. This ordinance shall be effective immediately upon its adoption.

This ordinance is hereby passed and adopted this _____ day of ____________, 2017.
TOWN COUNCIL OF CUMBERLAND, INDIANA

Anna Pea, President

Joe Siefker, Vice President

Nicole Bell, Member

Brian Gritter, Member

Mark Reynolds, Member

ATTEST:

Erica Salmon, Clerk-Treasurer

Ordinance 2017-02
MEMORANDUM

TO: APRIL FISHER, TOWN MANAGER  
CUMBERLAND TOWN COUNCIL
FROM: CUMBERLAND ADVISORY PLAN COMMISSION
DATE: FEBRUARY 23, 2017
RE: ZONING TEXT AMENDMENT CASE # ZA 16-03

The Cumberland Plan Commission certifies to you the following report on the Zoning Ordinance Amendment (ZA 16-03) initiated by Town of Cumberland staff.

Staff is requesting various technical amendments to the Zoning Ordinance addressing signage in the National Road Overlay, improvement location permits, rezoning cases and development plans.

The Plan Commission held a public hearing for the amendment at their regular meeting on Wednesday, December 15, 2016. The Plan Commission's recommendation to the Cumberland Town Council is favorable by a vote of 5 to 0. The Plan Commission's Findings of Fact are attached.

Cumberland Plan Commission  
Town of Cumberland, Indiana

By:
Belinda Heller, President

Christine Owens, Secretary

CJO
Enclosures
CASE NUMBER: ZA 16-03
CASE NAME: Telecommunications Ordinance

1. The amendment pays reasonable regard to the intent of the Comprehensive Plan.

2. The amendment pays reasonable regard to the character of current structures and uses in each district.

3. The amendment pays reasonable regard to the most desirable use for which the land in each district is adapted.

4. The amendment pays reasonable regard to the conservation of property values throughout the jurisdiction.

5. The amendment pays reasonable regard to responsible development and growth.

DECISION

It is therefore the decision of the Cumberland Advisory Plan Commission that zoning petition ZA 16-03 be sent to the Cumberland Town Council with a favorable recommendation.


_________________________  __________________________
President                   Secretary

THIS INSTRUMENT WAS PREPARED ON FEBRUARY 6, 2017 BY:

_________________________
Director of Planning & Development,
Town of Cumberland
Staff Report

DEPARTMENT OF PLANNING AND DEVELOPMENT
Town of Cumberland, Indiana
11501 E. Washington St.
Cumberland, IN 46229

Case Number: ZA 16-03
Case Name: Telecommunications Ordinance
Report Date: December 15, 2016, updated 1/20/17

GENERAL INFORMATION AND CASE DESCRIPTION

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<thead>
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<th>Case Type:</th>
<th>Zoning Amendment</th>
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<tr>
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<td>Property Location:</td>
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STAFF COMMENTS

Staff has been working with the Plan Commission to amend the zoning ordinance to address telecommunications facilities and small/micro cell facilities. The amendment attempts to address the issue of small micro facilities located within public right-of-way. The amendment also provides changes to comply with changes in state and federal regulations for these types of facilities as well as improve the town's standards. Both sections are modeled after Fishers ordinance.

Changes based on the comments from the Town Attorney have been made. These changes were not significant.

STAFF RECOMMENDATION

The Plan Commission Staff recommends approval of ZA 16-03, Telecommunications Ordinance.

Submitted By:

Christine Owens
Director of Planning and Development
Town of Cumberland
00-15-153-13.12 Telecommunications Facilities

1. Purpose

The purpose of this section is to provide for sensible and reasonable land use standards to allow for the provision of adequate reliable public and private telecommunication facilities that are not classified at Micro or Small Cell facilities, which are discussed in Section 00-15-153-13.13 of the Zoning Ordinance. Further, there is a need to maximize the use of any telecommunication transmission towers in order to reduce the total number of towers needed to serve the telecommunications needs of the area; and there is a need to minimize the adverse undesirable visual effects of such telecommunication facilities and to provide for the reasonable location of such facilities in the Town of Cumberland.

2. District Requirements

A. Permitted

Telecommunications facilities not subject to Section 00-15-153-13.13 are permitted as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Special Exception Required</th>
<th>Permitted</th>
<th>Maximum Height</th>
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B. Roof or Building Mounted facilities

Towers and antennas may be erected on existing buildings in the aforementioned districts by right provided the height of such towers or antennas does not exceed thirty percent (30%) of the height of the host building. Towers or antennas exceeding thirty percent (30%) shall require a Special Exception permit. No roof or building mounted tower or antenna shall exceed fifty percent (50%) of the height of the host building unless a variance from the Board of Zoning Appeals is obtained.

C. Criteria for Special Exceptions

When the Board of Zoning Appeals considers a special exception for telecommunications facilities, the following criteria should be considered in addition to those found in Section 00-15-153-10.5 of the Zoning Ordinance:

1. S substantial gap in service exists.
2. The substantial service gap cannot be addressed by installing a facility within a zoning district where it is permitted.
3. Collocation will not resolve the service gap or is not available due to one of the reasons stated in section 4 of this chapter.

D. Setback:
   a. Minimum setback from property line: All telecommunication facilities shall be set back from any property line a distance equal to at least eighty percent (80%) of the height of the tower; and
   b. Proximity to Residential Structures: A telecommunication facility may not be placed closer to any residential structure than five hundred (500) feet.
   c. Telecommunication facilities are generally not permitted in established front yards, except where evidence provided by the petitioner demonstrates that placement in an established front yard would provide the best camouflage for the tower.
   d. The minimum separation between telecommunication facilities is 1,000 feet.

E. Access to Site: Proposed telecommunication towers and antennas shall meet the following access requirements:
   a. Vehicular access to the tower and equipment building shall be provided along any existing driveways, whenever feasible; and
   b. The telecommunication facility shall be fully automated and unattended on a daily basis, and may be visited only for periodic maintenance, emergencies, installations or equipment removal.

3. Design Requirements
   A. All telecommunications towers shall be a monopole design.
   B. The location of the tower and related facilities shall comply with all local, state, and federal natural resource protection standards.
   C. Buffer Requirements: The following buffers shall be located around the outermost perimeter of a telecommunication facility:
      a. Fence or Wall: An eight-foot (8') high wood fence or brick masonry wall shall completely surround the entire telecommunications facility, excluding guy wires; and
      b. Evergreen screen: A live evergreen screen consisting of a hedge, planted five (5) feet on center maximum, or a row of evergreen trees planted a maximum of ten (10) feet on center shall be planted outside the fence around the entire telecommunication facility and each of the guy wires and anchors, if used, and the height of all plants at the time of planting shall be no less than five (5) feet.
   c. Existing Vegetation:
      i. Existing evergreen vegetation (trees and shrubs) shall be preserved to the maximum extent possible on the entire site;
      ii. Existing evergreen vegetation outside the fence or wall may be counted toward the evergreen screen.

D. Proposed telecommunication towers, antennas, and related facilities shall meet the following design requirements:
   a. Telecommunication towers and antennas shall be designed to blend into the surrounding environment through the use of color, camouflaging and architectural
treatment, except in an instance where the color is dictated by the federal or state authorities such as the Federal Aviation Administration (FAA).

b. The entire facility shall be aesthetically and architecturally compatible with its environment. The use of materials compatible with the surrounding environment such as wood, brick, or stucco is required for associate support structures, which shall be designed to architecturally match the exterior structures within the neighborhood or area. Only if the facility will be one hundred percent (100%) screened during all seasons with an eight-foot (8') tall wood privacy fence and evergreen screen will other materials be approved.

c. Only lighting that is for safety or security reasons, or required by the FAA or other federal or state authority, is permitted. All required lighting shall be oriented inward so as not to project onto surrounding residential properties.

4. Collocation Requirements:
   a. Collocation Requirements: The minimum number of additional antenna sites to be provided on an eighty-foot (80') tower is two (2).
   b. At a minimum, a monopole shall be constructed to support the initial user plus the anticipated loading of the number of additional users required in accordance with the Zoning Ordinance.
   c. The site of the initial telecommunication tower and telecommunication facility shall be of sufficient area to allow for the location of at least one (1) additional user and associated telecommunication equipment.
   d. Any proposed telecommunication tower shall be designed, and engineered structurally, electrically, and in all other respects, to accommodate both this tower and the number of additional users as required in accordance with the Zoning Ordinance.
   e. Telecommunication towers shall be designed to allow for future rearrangement of cellular communication equipment and antennas upon the tower, and to accept cellular communication equipment and antennas mounted at varying heights.

5. Siting Requirements: A proposal for a new telecommunication tower shall not be approved unless the petitioner submits verification that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or buildings or other structure due to one (1) or more of the following reasons:
   a. The planned telecommunication equipment would exceed the structural capacity of the existing or approved towers, buildings, or structures as documented by a qualified and licensed professional engineer, and the existing or approved towers, buildings or structures cannot be reinforced, modified, or replaced to accommodate the planned telecommunication equipment at a reasonable cost.
   b. The planned telecommunication equipment would cause interference impacting the usability of other existing telecommunication equipment at the site if placed on existing structures. Supportive documentation by a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost.
   c. Other unforeseen reasons that make it unfeasible or impossible to locate the planned telecommunication equipment upon an existing or approved tower, building or structure.
d. The petitioner has been unable to enter a reasonable lease term with the owners of an existing tower, buildings or structures.

6. Construction Requirements: All antennas, telecommunication towers, accessory structure and any other wiring constructed within the Plan Commission jurisdiction shall comply with the following requirements:

a. All applicable provisions of this Zoning Ordinance, the Subdivision Control Ordinance, Town Code, and the Building Code of the State of Indiana, as amended, and all the Federal Communications Commission (FCC) requirements when applicable.

b. All telecommunication towers and telecommunication equipment shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code, as amended, and the Electronics Industry Association.

c. With the exception of necessary electric and telephone service and connection lines approved by the Board of Zoning Appeals, no part of any telecommunication equipment or telecommunication tower nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk, trail or property line without appropriate approval in writing.

d. All telecommunication towers and telecommunication equipment shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.

e. All telecommunication towers and telecommunication equipment shall be constructed to conform with the requirements of the Occupations Safety and Health Administration (OSHA).

f. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower and other telecommunication equipment, or between towers, shall be at least ten (10) feet above ground at all points, unless buried underground.

g. All telecommunication towers and telecommunication equipment shall be designed and constructed to comply with all applicable standards of the American National Standards Institute (ANSI) manual, as amended.

h. An engineer’s certification shall be submitted for all telecommunication towers and all other telecommunication equipment to document and verify the design specifications, including, but not limited to, the foundation for all towers, anchors for all guy wires (if used), the location of all collocation sites, and strength requirements to withstand natural forces such as ice, wind, earth movements, etc.

i. All telecommunication towers and telecommunication equipment shall be designed and constructed, at a minimum, to withstand wind gusts of at least eighty (80) miles per hour with one-half (1/2) inch of ice and to accommodate all collocation sites as required by the Zoning Ordinance.

7. Existing Structures: The following shall apply to existing antennas, telecommunication towers and telecommunication equipment:
a. Telecommunications towers, antenna, and equipment that exist when this ordinance takes effect may continue in use for the purpose now used and as now existing, but may not be replaced or significantly structurally altered without complying in all respects to the requirements set out in this Zoning Ordinance.
b. All requests to install any telecommunication equipment on an existing approved or "grandfathered" tower, building or structure shall be submitted to the Department of Planning & Development for approval. All such requests will only require an electrical permit, zoning approval, and the contract between the petitioner and the owner of the existing tower, building or structure, unless other approvals are required as set out in this Zoning Ordinance.

8. Permitting
   a. The Town of Cumberland encourages the collocation of telecommunication facilities in order to minimize the proliferation of antenna support structures and to achieve the most efficient use of land within the community. Therefore, the co-location of new telecommunication facilities on existing facilities will only require obtaining an Improvement Location Permit pursuant to Article 5, Section 4-5-1 (Improvement Location Permits).
   b. Applications: In addition to the requirements of Article 10 (Special Exceptions), Article 5, Section 4-5-1 (Improvement Location Permit) or any other requirement prescribed by this ordinance, applications for the establishment of a commercial telecommunication facility shall include at least the following information:
      i. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the telecommunication facility is to be situated. If the applicant is not the owner of the property, documentation that the owner of the property has granted, by agreement, use of the property for the proposed facility shall be required.
      ii. The name, address, and telephone number of all owners of other telecommunication facilities within 1,000 feet of the proposed facility.
      iii. Documentation, signed by an Engineer licensed in the State of Indiana, that the facility is designed in accordance with the Town’s Building Code, this ordinance, and all state and federal laws and regulations applicable thereto.
      iv. Sworn statement of the applicant that the application meets the requirements of 00-15-153-13.12.

9. Inspection of Towers: The following shall apply to the inspection of telecommunication towers:
   a. All telecommunication towers may be inspected at least once every year — or more often as needed to respond to complaints received by the Town and/or a qualified and licensed consulting engineer to determine compliance with the original construction standards, approvals, and permits. Deviation from any terms of approval, permit, or original construction for which any permit was obtained constitutes a violation of this Zoning Ordinance.
   b. When a violation is observed, a Notice of Violation will be sent by the Director of Planning & Development. Notice shall be sent registered mail to the owner and the owner will have thirty (30) days from the date of the notification is issued to make the required corrections. The owner is required to notify the Planning and Development
Department that the corrections have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results of same.

10. Abandoned Towers: Any telecommunication tower that is unused or left abandoned for six (6) consecutive months shall be removed by the tower owner at its expense. Should the owner fail to remove the telecommunication tower after thirty (30) days from the date a Notice of Violation is issued, the Town may remove the telecommunication tower and bill the owner for the costs of removal and cleanup of the site.

00-15-153-13.13  Telecommunications Facilities; Micro (Small Cell)

1. Statement of Purpose

The purpose of this section is to provide for sensible and reasonable land use standards to allow for the provision of adequate reliable public and private telecommunication service; and whereas, there is a need for the use of small cell facilities for telecommunications in order to serve the telecommunications needs of the area; and whereas, there is a need to minimize the adverse, undesirable visual effects of such small cell facilities and to provide for the reasonable location of such facilities in the Town of Cumberland.

2. Definitions: For purposes of this Section, consistent with Indiana Code 8-1-32, et. Seq. the words and phrases below are defined as follows:

a. Antenna: Any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.

b. Base Station: A station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associate with a station.

c. Collocation: The placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

d. Construction Plan (1): When referring to a new wireless support structure means a written plan for construction that demonstrates that the aesthetics of the wireless support structure are substantially similar to the street lights located nearest the proposed location; includes the total height and width of the wireless facility and wireless support structure, including cross section and elevation, footing, foundation and wind geotechnical report and calculations for the design and construction; and signed and sealed documentation from the applicant that shows the proposed location of the wireless facility and wireless support structure and all easements and existing structures within one thousand (1,000) feet of such wireless facility or wireless support structure.

e. Construction Plan (2): When referring to a substantial modification of an existing wireless facility or wireless support structure means a plan that describes the
proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

f. Electrical Transmission Tower: A structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

g. Equipment Compound: The area that (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.

h. Existing Structure: Does not include a utility pole or an electrical transmission tower.

i. Permit Authority: The staff of the Town of Cumberland and its Board of Zoning Appeals.

j. Person: A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

k. Small Cell Facility: (1) a personal wireless service facility as defined by the Act or (2) a wireless service facility that satisfies the following requirements: (a) each antenna, including exposed elements, has a volume of three (3) cubic feet or less; (b) all antennas, including exposed elements, have a total volume of six (6) cubic feet or less; and (c) the primary equipment enclosure located with the facility has a volume of forty (40) cubic feet or less.

l. Small Cell Network: A collection of interrelated small cell facilities designed to deliver wireless service.

m. Substantial Modification of a Wireless Support Structure: The mounting of a wireless facility on a wireless support structure in a manner that (1) increases the height of the wireless support structure by the greater of (a) ten percent (10%) of the original height of the wireless support structure; or (b) twenty (20) feet; (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of (a) twenty (20) feet or (b) the width of the wireless support structure at the location of the appurtenance; or (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet. The term substantial modification does not include the following: (1) increasing the height of a wireless support structure to avoid interfering with an existing antenna; (2) increasing the diameter or area of a wireless support structure to (a) shelter an antenna from inclement weather or (b) connect an antenna to the wireless support structure by cable.

n. Utility Pole: A structure that is (1) owned or operated by (a) a public utility; (b) a communications service provider; (c) a municipality; (d) an electric membership corporation; or (e) a rural electric cooperative; and (2) designed and used to (a) carry lines, cables, or wires for telephone, cable television, or electricity; or (b) provide lighting.

o. Wireless Facility: The set of equipment components necessary to provide wireless communications service. The term does not include a wireless support structure.
3. Limitations to the ROW District
Small cell facilities for telecommunications are limited to placement in the ROW District. However, small cell facilities for telecommunications are not permitted within any right-of-way of a street having the “Local” or “Neighborhood” functional classification as defined by the Town’s Thoroughfare Plan.

4. General Standards
   a. Permits: Any person or entity seeking to install small-cell facilities and/or related equipment, a substantial modification, or to collocate shall seek a Telecommunications Facility Permit from the Town in accordance with Cumberland Town Code Section 00-09-95-63.

   An applicant shall demonstrate that the proposed wireless facility, wireless support structure or substantial modification thereof complies with the requirements of this ordinance.

   b. Collocation Preference
      i. At a minimum, new wireless support structures shall be a monopole constructed to support the initial user plus the anticipated loading of one additional user.

      ii. The site of the initial wireless facility at any location shall be of sufficient area to allow for the location of one (1) additional wireless facility.

      iii. Any proposed wireless support structure shall be designed, and engineered structurally, electrically and in all other respects, to accommodate both the initial wireless facility and one additional wireless facility support structure and shall be designed to allow for future rearrangement of cellular communication equipment and antennas upon the structure and to accept cellular communication equipment and antennas mounted at varying heights.

      iv. A proposal for a new wireless support structure shall not be approved unless the person submits an affidavit stating that the telecommunication equipment planned for the proposed wireless support structure cannot be accommodated on an existing or approved utility pole or electrical transmission tower or other structure due to one (1) or more of the following reasons:

         1. The planned telecommunication equipment would exceed the structural capacity of the existing or approved utility pole or electrical transmission tower, building, or structures as documented by a qualified and licensed professional engineer, and the existing or approved utility pole or electrical transmission tower, buildings or structures cannot be reinforced, modified, or replaced to accommodate the planned telecommunication equipment at a reasonable cost, or

         2. The planned telecommunication equipment would cause interference impacting the performance of other existing telecommunication equipment at the site if placed on existing structures. The applicant
must provide supporting documentation from a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost; or

3. The existing or approved utility pole or electrical transmission tower, buildings, or structures within the search radius cannot accommodate the planned telecommunication equipment at a height necessary to function reasonably, as documented by a qualified and licensed professional engineer; or

4. Other unforeseen reasons that make it unfeasible or impossible to locate the planned telecommunication equipment upon an existing or approved utility pole or electrical transmission tower, building or structure; or

5. The person has been unable to enter into a commonly reasonable lease term with the owners of an existing utility pole or electrical transmission tower, buildings or structures.

c. Specifications: Upon the adoption of this chapter, new small telecommunications facilities and wireless support structures shall meet the following specifications:

i. Overall Maximum Antenna and Tower Height: Fifty (50) feet from AGL (at grade level).

ii. Minimum Tower Separation: One thousand (1,000) feet between any support structures primarily used for telecommunications, measured in any direction between support structures, not necessarily a dimension measured parallel to a road right-of-way.

iii. Support structures must be metal or fiberglass poles matching the Town’s street light poles, per engineering specifications as may be adopted and amended from time to time by the Town Council. When located on US 40/E. Washington Street, structures must be black and consistent with the streetscape design. Support structures shall include luminaires that match the Town’s specifications for lighting and be maintained in a good working order, at the cost of the applicant including the cost of electricity. Any antenna equipment mounted to the support structures (antenna or other permitted equipment) shall also be matching in color to the support structure.

iv. All facility equipment at a single small cell facility, with the exception of the antenna itself, shall be ground mounted in a cabinet having an area not to exceed forty (40) cubic feet and no greater than forty-eight (48) inches overall height. Under special circumstances based on a mutual agreement, the permit authority may allow a pole mounted cabinet with dimension not exceeding twenty (20) inches by twenty (20) inches by six (6) inches (20” x 20” x 6”), ground mounted cabinet not to exceed two (2) feet by one (1) foot (2’ x 2 x 1’) and other considerations, such as, but not limited to, the addition of shrouding and landscaping to mitigate the visual impact of the equipment. If a mutual agreement cannot be reached, then the Cumberland Town Council shall intervene and make a determination.
v. All wireless support structures shall have a durable plaque affixed identifying the structure, the owner and the owner's contact information. Said plaque shall not exceed 0.25 square feet.

vi. All wiring and fiber shall be concealed within the support structure and all conduit, wiring and fiber shall be buried between structures and/or structures and ground mounted cabinets. All service lines (e.g. electric lines) to the support structure must also be buried unless service lines in the area of the support structure are aerial then service lines to the support structure can also be aerial, except for any service drop crossing a street or roadway which would need to be bored and placed under such street or roadway.

vii. Wireless support structures and small cell facilities shall be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment and the entire facility shall be aesthetically and architecturally compatible with its environment. The use of materials compatible with the surrounding environment is required for associated support structures, which shall be designed to architecturally match the exterior of requirements for aesthetics of the wireless support structures and facilities shall be in accordance with standards established by the Cumberland Town Council from time to time.

d. Continued Operation: A person receiving a permit for (1) construction of a new wireless support structure; (2) a substantial modification of a wireless support structure; or (3) the collection of wireless facilities on an existing structure inherently agrees that if the wireless support structure or wireless facilities are not used for a period of six (6) consecutive months, they will be removed by the facility's owner at its expense. Should such owner fail to remove the wireless support structure or wireless facilities after thirty (30) business days from the date a Notice of Violation is issued by the Town, the Town may remove such structure or facilities and bill the owner for the costs of removal and cleanup of the site.

e. Annual Report: The owner of any facility shall annually file with the permit authority a report of any inspections completed on such wireless support structure or wireless facilities. Failure to file such report may result in an order to cease use of the facility.

f. Confidential Information: All confidential information submitted by an applicant shall be maintained to the extent authorized by Ind. Code 5-14-3 et. seq.

5. Approval of New Wireless Support Structures, Collocation, and Substantial Modification
   A. Permit procedures are found in Section 00-09-95-63 of the Cumberland Town Code.
   B. Construction Requirements: All antennas, telecommunication towers, accessory structures and any other wiring constructed within the Town's jurisdiction shall comply with the following requirements:
      a. All applicable provisions of the Cumberland Zoning and Subdivision Control Ordinances and the Building Code of the State of Indiana, as amended, and the Federal Communications Commission (FCC) when applicable.
      b. All wireless facilities and support structures shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and
wind loading requirements of the Uniform Building Code, as amendment, and the
Electronics Industry Association.
c. All wireless facilities and support structures shall be designed to conform with
accepted electrical engineering methods and practices and to comply with the
provisions of the National Electrical Code, as amended.
d. All wireless facilities and support structure shall be constructed to conform with the
requirements of the Occupational Safety and Health Administration (OSHA).
e. All wireless facilities and support structures shall be designed and constructed to
comply with all applicable standards of the American National Standards Institute
(ANSI) manual, as amended.