



**Planning Staff Report to  
Greenville Planning Commission  
August 12, 2020**  
*for the August 20, 2020 Public Hearing*

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**Docket Number:** Z-4-2020  
**Applicant:** City of Greenville  
**Proposal:** **TEXT AMENDMENT to MODIFY** Section(s) 19-1.11 Definitions; 19-4.3.2(G) Wireless Communications Facility; 19-4.1.2 Table of Uses; Chapter 36 Streets, Sidewalks, and other Public Places  
**Staff Recommendation:** **Recommend Approval to City Council**

**Applicable Sections of the City of Greenville Code of Ordinances:**

*Sec. 2-372 Function, Powers, and Duties of the Planning Commission*  
*Sec. 19-1.11 Definitions*  
*Sec. 19-4.3.2(G) Wireless Communications Facility*  
*Sec. 19-4.1.2 Table of Uses*  
*Chapter 36 Streets, Sidewalks, and other Public Places*

**Staff Analysis:**

Planning staff submits a text amendment to Section(s) 19-1.11 Definitions; 19-4.3.2(G) Wireless Communications Facility; 19-4.1.2 Table of Uses; Chapter 36 Streets, Sidewalks, and other Public Places in order to:

1. Remove provisions for the installation of small cell wireless facilities from Chapter 19 and add them to Chapter 36 of the City Code, which governs City right-of-way;
2. Provide updates to the ordinance consistent with state and federal law, including updated definitions; and
3. Other general guidance updates pertaining to small wireless facilities.

This amendment provides provisions to reduce visual impacts and reduce the amount of physical equipment throughout the city, while offering opportunities for wireless providers to deliver communication services to customers in residential and commercial areas alike with new technologies such as 4G and 5G wireless capabilities.

Furthermore, the text amendment addresses governing the location of small cells in public rights-of-way to Chapter 36, and will enhance the city's ability to enforce small cell standards consistent with state and federal law. Wireless facilities installed outside the rights-of-way and wireless facilities in the rights-of-way that are not small wireless facilities will continue to be regulated under Chapter 19 of the Land Management Ordinance.

Staff concurs that this proposed text amendment to Section(s) 19-1.11 Definitions; 19-4.3.2(G) Wireless Communications Facility; 19-4.1.2 Table of Uses; Chapter 36 Streets, Sidewalks, and other Public Places is consistent with the findings of Section 19-2.3.2(E)(1); therefore, staff recommends approval of this text amendment to City Council.

Application # ___ Fees Paid _____ Date Received: _____ Accepted by _____ Date deemed complete App Deny Conditions _____
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## APPLICATION FOR ORDINANCE TEXT AMENDMENT CITY OF GREENVILLE, SOUTH CAROLINA

### APPLICANT INFORMATION

City of Greenville - City Attorney's Office <hr/> NAME 206 South Main Street <hr/> ADDRESS Greenville, SC 29601 <hr/> 864-467-4420 <hr/> PHONE	864-467-4424 <hr/> FAX <a href="mailto:mpitts@greenvillesc.gov">mpitts@greenvillesc.gov</a> <hr/> EMAIL <hr/> SIGNED <hr/> DATE
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### REQUEST

PERTINENT CODE SECTION(S)  
Sec. 19-1.11 Definitions; Sec. 19-4.3.2(G) Wireless Communications Facility; Section 19-4.1.2 Table of Uses; Chapter 36 Streets, Sidewalks, and other Public Places

#### NARRATIVE DESCRIPTION/PROPOSED REVISION(S):

The purpose of the proposed amendment is as follows:

1. Remove provisions for the installation of small cell wireless facilities from Chapter 19 and add them to Chapter 36 of the City Code, which governs City right-of-way;
2. Provide updates to the ordinance consistent with state and federal law, including updated definitions; and
3. Other general ordinance updates pertaining to small wireless facilities.

### INSTRUCTIONS

1. THE APPLICATION AND FEE, **MADE PAYABLE TO THE CITY OF GREENVILLE**, MUST BE RECEIVED BY THE PLANNING AND DEVELOPMENT OFFICE NO LATER THAN 5:00 PM OF THE DATE REFLECTED ON THE ATTACHED SCHEDULE.
2. THE APPLICANT MUST RESPOND TO THE "STANDARDS" QUESTIONS ON PAGE 2 OF THIS APPLICATION (YOU MUST ANSWER "WHY" YOU BELIEVE THE APPLICATION MEETS THE TESTS FOR GRANTING A TEXT AMENDMENT). SEE ALSO **SECTION 19-2.3.2, AMENDMENTS TO TEXT AND ZONING DISTRICT MAP**, FOR ADDITIONAL INFORMATION. YOU MAY ATTACH A SEPARATE SHEET ADDRESSING THESE QUESTIONS.
3. YOU MUST ATTACH THE REQUIRED APPLICATION FEE: \$ 100.00.
4. THE ADMINISTRATOR WILL REVIEW THE APPLICATION FOR "SUFFICIENCY" PURSUANT TO **SECTION 192.2.6, DETERMINATION OF SUFFICIENCY**, PRIOR TO PLACING THE APPLICATION ON THE PLANNING COMMISSION AGENDA. IF THE APPLICATION IS DETERMINED TO BE "INSUFFICIENT", THE ADMINISTRATOR WILL CONTACT THE APPLICANT TO REQUEST THAT THE APPLICANT RESOLVE THE DEFICIENCIES. **YOU ARE ENCOURAGED TO SCHEDULE AN APPLICATION CONFERENCE WITH A PLANNER, WHO WILL REVIEW YOUR APPLICATION FOR "SUFFICIENCY" AT THE TIME IT IS SUBMITTED. CALL (864) 467-4476 TO SCHEDULE AN APPOINTMENT.**

**APPLICANT RESPONSE TO SECTION 19-2.3.2(E)(1), AMENDMENTS TO TEXT**  
**(YOU MAY ATTACH A SEPARATE SHEET)**

1. DESCRIBE THE WAYS IN WHICH THE PROPOSED AMENDMENT IS CONSISTENT WITH THE COMPREHENSIVE PLAN.

While many provisions of local wireless ordinances are stipulated by state and federal law, the City is able to regulate certain aspects through its zoning ordinance. These provisions are designed to reduce visual impacts and reduce the amount of physical equipment throughout the city, while allowing wireless providers to provide communications services to customers in residential and commercial areas alike.

2. DESCRIBE THE WAYS IN WHICH THE PROPOSAL IS CONSISTENT WITH THE PROVISIONS OF THE ORDINANCE AND RELATED CITY REGULATIONS.

This ordinance places many of the regulations governing the location of small cells in public rights of way to Chapter 36, which governs infrastructure located in the right of way generally. This change will enhance the city's ability to enforce small cell standards consistent with state and federal law. Wireless facilities installed outside the ROW and wireless facilities in the rights-of-way that are not small wireless facilities will continue to be regulated under Chapter 19.

3. DESCRIBE THE CONDITIONS THAT HAVE CHANGED FROM THE CONDITIONS PREVAILING AT THE TIME THAT THE ORIGINAL TEXT WAS ADOPTED.

This ordinance is in response to the increase in deployment of 4G and 5G wireless facilities across the United States, pending changes in state law, and recent orders set forth by the Federal Communications Commission.

4. DESCRIBE THE WAYS IN WHICH THE PROPOSAL ADDRESSES A DEMONSTRATED COMMUNITY NEED.

Federal law includes provisions to expedite the siting and expansion of wireless infrastructure by limiting local authority over wireless facilities. The proposed amendment preserves the City's jurisdictional authority to regulate the location, design, and permitting of wireless facilities to the extent permitted under state and federal law.

5. DESCRIBE THE WAYS IN WHICH THE PROPOSAL IS CONSISTENT WITH THE PURPOSE AND INTENT OF THE ZONING DISTRICTS IN THE ORDINANCE, WILL PROMOTE COMPATIBILITY AMONG USES, AND WILL PROMOTE EFFICIENT AND RESPONSIBLE DEVELOPMENT WITHIN THE CITY.

Wireless facilities are not often regulated by individual zoning district. The amendment modifies the city's existing design review and permitting regulations for wireless facilities so that the city can ensure antenna and pole designs are consistent with the existing regulations of the C 4 district, historic neighborhoods, and other design districts, to the extent permitted under state and federal law.

6. DESCRIBE THE WAYS IN WHICH THE PROPOSAL PROMOTES A LOGICAL AND ORDERLY DEVELOPMENT PATTERN.

The City has developed its regulations in consultation with legal professionals to ensure maximum oversight over the location and design of wireless facilities, given the limitations under state and federal law.

7. DESCRIBE THE WAYS IN WHICH THE PROPOSED AMENDMENT WILL RESULT IN BENEFICIAL IMPACTS ON THE NATURAL ENVIRONMENT AND ITS ECOLOGY, INCLUDING BUT NOT LIMITED TO: WATER; AIR; NOISE; STORMWATER MANAGEMENT; WILDLIFE; VEGETATION; AND, WETLANDS.

Applications for wireless facilities, whether inside or outside the right-of-way, are reviewed on a case-by-case basis. The city's ordinances encourages collocation on existing structures to the extent possible. Installations that require extensive tree cutting will have alternative locations recommended as part of their presubmittal conference.

8. DESCRIBE THE WAYS IN WHICH THE PROPOSED AMENDMENT WILL RESULT IN DEVELOPMENT THAT IS ADEQUATELY SERVED BY PUBLIC FACILITIES AND SERVICES (ROADS, POTABLE WATER, SEWERAGE, SCHOOLS, PARKS, POLICE, FIRE, AND EMERGENCY FACILITIES).

Since most wireless facilities are installed to serve populated areas, public infrastructure is typically in place.

Section 1. Section 19-1.11 of the Code of Ordinances of the City is hereby amended as follows:

Antenna means communications equipment that transmits, receives or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services; or similar equipment used for the transmission or reception of surface waves.

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Micro wireless facility means a small wireless facility that meets the following qualifications:

(a) is not longer in dimension that twenty-four inches in length, fifteen inches in width, and twelve inches in height; and

(b) any exterior antenna that is no longer than eleven inches.

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Node site license means a site-specific approval for the installation of a wireless communications facility, including the structure supporting same, at a particular location with the public rights-of-way regardless of the type of wireless-support structure or pole utilized.

Pole means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located at a particular location. The term includes without limitation, a replacement pole and, when used to refer to a location in the rights-of-way, an authority pole. Such term shall not include a support structure or electric transmission structure.

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Small Wireless Facilities has the same meaning as under 47 C.F.R. §1.6001, or under any definition of that term under South Carolina law that is binding on the City, but only as to the placements to which the definition is required to apply.

Stealth facility means any wireless communications facility designed to look like some feature other than a wireless tower or base station. ~~any wireless communications facility that is integrated as an architectural feature of an existing building to which it will be affixed; or any wireless communications facility that is camouflaged or concealed; so that the presence of the wireless facility is either: (1) virtually invisible to the casual observer, such as an antenna behind louvers on a building, or inside a steeple or similar structure; or (2) camouflaged, through stealth design, so as to blend in with its surroundings to such an extent that it is indistinguishable by the casual observer from the structure on which it is placed or the surrounding in which it is located.~~ Examples of stealth facilities include wireless facilities which are disguised as public art or markers, as flagpoles, light poles, as indigenous trees, as rocks, or as architectural elements such as dormers, steeples and chimneys. To qualify as "stealth" design, the item in question must match the type of item that it is mimicking in size, scale, shape, dimensions, color, materials, function and other attributes as closely as possible, and placed in a manner and at a location appropriate to the item that it is mimicking. The elements that make a facility a stealth facility are concealment elements.

Support Structure means a building, billboard, water tank or any other structure to which a wireless communications facility may be attached other than a pole, decorative pole or electric transmission structure to which a wireless facility is or may be attached. A tower is a support structure for purpose of Ch. 19.

Wireless communications facility or wireless communications facilities means a facility at a fixed location used in the provision of personal wireless services, wireless Internet access services to the

general public or public agencies, or wireless utility, governmental or educational services. The term includes the base station, and accessory equipment, and tower, if any, associated with the same, but excludes the pole or supporting structure, other than a tower, to which the facility is or will be affixed, and does not include end user equipment.

Wireless services means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public

Section 2. Section 19-4.1.2 of the Code of Ordinances of the City hereby amended to read:

**Table 19-4.1-2: Table of Uses**

**Key:**

**"P" = Permitted Use.** A "P" in a cell indicates that a use category is allowed by right in the respective district, subject to compliance with the use-specific regulations set forth in the final column of the table. Permitted uses are subject to all other applicable regulations of this chapter, including those set forth in article 19-6, development and design standards.

**"S" = Special Exception Use.** An "S" in a cell indicates that a use category is allowed only if reviewed and approved as a special exception in accordance with the special exception review procedures of subsection 19-2.3.5, special exception permit.

**"C" = Conditional Use.** A "C" in a cell indicates that a use category is allowed conditionally in the respective district, subject to compliance with the use-specific regulations set forth in the final column of the table and administrative approval in accordance with the procedures of section 19-2.2, common procedures.

**Blank Cell = Prohibited Use.** A blank cell indicates that the use type is prohibited in the district.

**PUBLIC AND INSTITUTIONAL USES 1, 4**

		<u>R</u> <u>6</u>	<u>R</u> <u>9</u>	<u>RM</u> <u>1</u>	<u>RM</u> <u>1.5</u>	<u>RM</u> <u>2</u>	<u>RM</u> <u>3</u>	<u>OD</u>	<u>C</u> <u>1</u>	<u>C</u> <u>2</u>	<u>C</u> <u>3</u>	<u>C</u> <u>4</u>	<u>S</u> <u>1</u>	<u>I1</u>	<u>RDV</u>	
<u>Utilities</u>	<u>Communication tower, freestanding</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>		<u>S</u>	<u>S</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>19-4.3.2(G)</u>
	<u>Communication tower, roof-mounted</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>19-4.3.2(G)</u>
	<u>Small Wireless Facility within right-of-way</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>19-4.3.2(G) and 36-124</u>

<u>Other Wireless communications facilities right-of-way</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>19-4.3.2(G) and 36-124</u>
<u>Utility, major</u>										<u>S</u>		<u>S</u>	<u>C</u>			
<u>Utility, minor</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		

Section 3. Chapter 19, Section 19.4.3.2(G) is amended as follows:

Sec. 19-4.3.2 – Public and Institutional Uses.

(G) *Wireless communications facility.*

- (1) *General requirements.* All wireless communications facilities permitted under this Chapter shall comply with the following general requirements in addition to other applicable provisions of this subsection 19-4.3.2(G); ~~and Chapter 36:~~
  - (a) *Abandonment and removal.* A wireless communications facility, ~~and any pole or support structure used solely for that wireless communication facility or tower~~ that has not been operated for a period in excess of 12 consecutive months, ~~is~~ abandoned and must be removed; provided the city must first provide written notice to the owner(s) in order to allow the owner(s) ten business days to rebut the assertion of abandonment. Any supporting structure other than a tower, and any property affected by placement of the wireless communications facility or modification of ~~the supporting~~ structure must be restored to its condition prior to attachment of the wireless communications facility, except as the city may otherwise direct. The city shall enforce removal by means of existing regulatory authority, with costs of removal or restoration jointly chargeable to the owner of the wireless communications facility or the supporting structure.
  - (b) *Multiple uses on a single parcel or lot.* Wireless communications facilities may be located on a parcel containing another principal use on the same site or may be the principal use itself.
  - (c) *Required buffer yards.* Wireless communications facilities or poles or support structures associated with the same shall not be located within street buffer yards that are required by subsection 19-6.2.4, Street buffer yards, with the exception of approved stealth wireless communications facilities.
  - (d) ~~Right of way.~~ No wireless communications facility may be installed in the public right-of-way of the city unless:
    - (i) ~~The applicant holds a valid franchise or other written consent from the city or is otherwise authorized by South Carolina law to occupy the right-of-way;~~
    - (ii) ~~Each wireless communications facility location is permitted through an individual node site license or otherwise approved pursuant to this chapter; and~~
    - (iii) ~~The other applicable provisions of this section 19-4.3.2(G) are satisfied along with all ordinances and regulations governing public rights-of-way management, including but not limited to Section 36-124.~~

~~(iv) The issuance of permits for a wireless communications facility shall not operate as a consent by the City. Any permit may be terminated at any time if the permittee does not hold a franchise or written consent from the city; provided the city shall treat all franchises whether voluntary or mandatory, in the same manner.~~

(ed) *Lighting and signage.*

(i) *Lighting.* ~~Wireless communications facilities and associated pole or support structure shall not be lighted unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA), or unless the facilities are stealth facilities, and lighting is a concealment element.~~

(ii) *Signage.* ~~Except for signage that may be approved as a concealment element, signs located at or upon wireless communications facilities, placed on an associated pole or support structure in connection with the wireless communications facility, or installed by or on behalf of the entity that owns or uses the wireless communications facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.~~

(fe) *Site usage.*

(i) Any buildings, cabinets or shelters associated with the wireless communications facility, shall be used only to house equipment and other supplies in support of the operation of the wireless communications facility. Any equipment not used in direct support of such operation shall not be stored on the site.

(ii) Where stealth facilities are not feasible, base station and accessory equipment shall be located, designed, and/or screened to blend with the existing natural, or built surroundings to reduce the visual impacts as much as technically feasible, and to be compatible with neighboring land uses and the character of the community.

(iii) Except as part of a stealth facility, no ground mounted base station or accessory equipment is permitted in a residential zone with the exception of such cabinets which do not exceed the dimensions of other utility-associated cabinets within the immediate residential vicinity, and which are shielded or placed in a manner consistent with such other cabinets.

(iv) The wireless communications facility shall not produce noise that would interfere with the peaceable enjoyment of adjoining properties.

(v) The equipment installed as part of any wireless communications facility shall be minimized, so that the wireless communications facility is as unobtrusive as technically feasible.

(vi) The elements of the wireless communications facility, and any pole or support structure to which it is affixed must be consistent with the overall design and character of the neighborhood and locations in which it is placed, and with publicly available planned improvements to those neighborhoods. The design, including the physical dimensions of the pole or support structure, are to be considered in making this determination. ~~For facilities in the rights-of-way, the wireless communications facility, and any support structure to which it is to be affixed, must be consistent with the corridor in which it is placed, and publicly available planned corridor improvements.~~

(gf) *Exceptions.*

(i) Notwithstanding any other provision of the City Code, an applicant may obtain approval of an application for placement of a wireless communications facility and for any pole or support structure for which approval is sought as part of the application, if applicant demonstrates that denial of the application would constitute an effective prohibition within the meaning of 47 U.S.C. Section 332(c)(7) or otherwise violates applicable law such that the city is required to issue a permit for placement. Claims must be supported

by sworn declarations, and engineering claims by licensed engineers authorized to practice in the State of South Carolina and qualified to attest to facts asserted.

- (ii) A permit approval is not required under this section 19.4.3.2(G) for placement of cells on wheels for a temporary period as defined under FCC regulations; for placement, installation, maintenance, operation or replacement of micro wireless facilities that are suspended on cables between poles or support structures in compliance with applicable codes on a portion of strand between two utility poles of wireless communications facilities that do not cumulatively exceed one cubic foot in volume; or for ordinary maintenance or replacement of equipment which does not increase the physical dimensions of a wireless communications facility or supporting structure, or defeat any applicable concealment element. Other modifications of a wireless communications facility, or of a support structure to accommodate a modification to a wireless communications facility, do require approval; provided, however, the city engineer, with the approval of the administrator, may exempt from approval immaterial increases in the physical dimensions of a wireless communications facility or supporting structure, provided the applicable concealment elements are not defeated. A permit under this Chapter is not required for placement, installation, maintenance, operation or replacement of small wireless facilities in the rights-of-way for which a node site license is issued pursuant to Chapter 36, or for micro wireless facilities that are exempted from the permit requirements of Chapter 36. A permit otherwise is required, provided that for placement of a small wireless facility in any public right-of-way, a permit will be issued applying the standards and procedures of Chapter 36, and this Chapter 19-4-3.2(G)(1).

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- (i) *Other obligations.* The application for, and the placement of wireless communications facilities shall be subject to this chapter and regulations issued to implement this chapter. This section 19-4.3.2 shall not be interpreted to waive any obligations that may apply under other provisions of applicable law, including but not limited to building and electrical codes, noise codes, and codes governing use of the rights-of-way.
- (j) *Design guidelines—generally .* In order to provide guidance to applicants concerning the design of wireless communications facilities, support structures and poles, towers, and/or poles which comply with this chapter, the city engineer shall maintain and publish on the city's website a catalogue of site-specific designs that have been approved by the city, it being recognized that the same design as those set forth in in the catalogue should in most instances be deemed appropriate for a comparable location. A person who wishes to install a wireless communications facility may ask the city to review the design for installation in particular locations, and to add the design to the catalogue.
- (2) *Towers, monopoles and colocation.*
- (a) *Types permitted.* New towers must be either monopoles, or stealth facilities, and stealth facilities are preferred.
- (b) *Availability of other suitable locations.* New monopoles other than stealth facilities shall not be permitted unless the applicant makes the showing required by section 19-4.3.2(G)(1)(g)(i). Except in residential zoning districts, stealth facilities may be permitted if applicant demonstrates that no existing tower would permit the provision of personal wireless services to the area which the applicant proposes to serve, while satisfying the other provisions of this section 19-4.3.2(G).
- (c) *Design.* Towers shall be subject to the following:
- (i) Except where inconsistent with other provisions of the City Code, towers shall be engineered and constructed to accommodate a minimum number of collocations based upon their height:
- (1) Towers 60 to 100 feet shall support at least two communications providers;



- (2) Towers greater than 100 feet but less than 150 feet shall support at least three communications providers; and
  - (3) Towers greater than 150 feet in height shall support at least four communications carriers.
- (ii) Except where inconsistent with other provisions of this Code, the equipment compound area surrounding the tower must be of sufficient size to accommodate base station and accessory equipment for the appropriate number of communications providers in accordance with subsection 19-4.3.2(G)(2)(c)(i).
  - (iii) Towers shall be subject to terms and conditions that minimize the impact upon private and public property (including, where applicable, the public right-of-way), ensure consistency with the surrounding area, and employ concealment elements appropriate to the location proposed.
  - (iv) Towers are not permitted within ~~the public utility~~ rights-of-way or in utility easements, except in accordance with the following requirements:
    - (1) The easement area or public rights-of-way shall be a minimum of 100 feet in width;
    - (2) The easement area or public rights-of-way shall contain overhead utility transmission and/or distribution structures that are 80 feet or greater in height;
    - (3) The height of a tower or the highest point on the base station affixed to it may not exceed by more than 30 feet the height of existing utility support structures; and
    - (4) The tower and all other elements of the wireless communications facility associated with it, shall be set back a minimum of 15 feet from all boundaries of the easement or right-of-way.
- (d) *Setbacks.* Unless otherwise stated herein, towers shall be set back from all property lines a distance equal to its engineered fall zone.
    - (i) *Residential uses.* Where allowed in residential districts, towers shall be located at least 30 feet from the property line of a lot containing a residential use and, further, setback from any structure located thereon at a distance equal to its engineered fall zone.
  - (e) *Height.* When allowed in residential districts, the highest point on the tower or base station affixed to it shall not exceed a height equal to 60 feet from ground level.
  - (f) *Fencing.* Except for towers permitted under section (c)(iv)~~in the rights-of-way~~, or where the requirement would defeat concealment elements, a tower and all other elements of the wireless communications facility associated with it shall be secured and enclosed with a fence not less than six (6) feet in height. Fencing shall be screened in accordance with subsection 19-6.2.5. Barbwire is prohibited.
  - ~~(f)~~ *Fencing.* Except for towers in the rights-of-way, or where the requirement would defeat concealment elements, a tower and all other elements of the wireless communications facility associated with it shall be secured and enclosed with a fence not less than six (6) feet in height. Fencing shall be screened in accordance with subsection 19-6.2.5. Barbwire is prohibited.
- (3) *Roof-mounted communication towers and base stations.*
    - (a) *Location.* Except in the C-4 district, a proposed roof-mounted communication tower or base station may be permitted as an accessory or secondary use only on buildings that exceed 50 feet in height in accordance with subsection 19-5.2.9, Building height.
    - (b) *Height.* In the C-4 district, a roof-mounted communication tower or base station shall not exceed a height to which it is visible from the adjacent public rights-of-way. For all other districts except S-1 and I-1, such roof-mounted facilities shall not exceed the height of 40

feet, and the height may be further limited as appropriate to issuance of the conditional use permit in light of the proposed location.

- (c) *Equipment.* All elements of the wireless communications facility and any pole or tower shall be of a color that will minimize their visual impact unless concealed by a parapet, located on the rear elevation, or configured to have a minimal visual impact as seen from the street or existing residential development.
- (4) *Building, utility pole and light pole mounted wireless communications facilities.*
  - (a) *Stealth facilities permitted.* Base stations that are stealth facilities may be placed inside any existing building or other existing structures (other than off-premises signs) provided that the placement does not alter the physical dimensions of the structure. Portions of base stations that are stealth facilities may be attached to the side of any building or other existing structures, other than a single-family residential units and off-premises signs. However, installation is not permitted where it would adversely affect a historically significant or environmentally sensitive structure or area, and is only permitted where other elements of the wireless communications facility and pole or support structures can be appropriately concealed by placing those elements on the rooftop, within the building, underground, or by some other means that conceals them from view. Antennas must be located at least 20 feet above ground level, and may not extend into any rights-of-way except as part of approved signage.
  - (b) *Placement on existing utility poles outside of the rights-of-way.*
    - (i) Antennas associated with a wireless communications facility may be placed on an existing utility pole outside of the rights-of-way. The facilities must be small wireless facilities within the meaning of federal regulations, and shall be reviewed applying the standards applicable to placements on utility poles within the rights of way. ~~colored to match or complement the color of the utility pole, and mounted in as unobtrusive a manner as technically feasible and incorporate concealment elements. Except where the utility prohibits it, the antenna should be placed in a shroud at the top of the pole, with the shroud of the same circumference as the utility pole at the point of attachment. Except for such designs as may be included in the design catalogue, pole-top antennas (including connectors) should not extend more than six feet above the existing utility pole. Where the antenna cannot be placed at the top of the pole, it may be placed in the communications space on a cross-arm parallel to and consistent with the placement of cross-arms on utility poles in the same corridor and with antennas and cross-arms sized and mounted to minimize their obtrusiveness. The volume of the antennas on any utility pole should not exceed three cubic feet in size.~~
    - (ii) ~~Accessory equipment may not be attached to the pole, or ground mounted absent a showing that the equipment is required, and no other placement is feasible, or less intrusive.~~
    - (iii) ~~Other base station and permitted, pole-mounted accessory equipment shall be mounted in as unobtrusive a manner as technically feasible and incorporate concealment elements. Equipment should be flush mounted to the pole, with all cabling neat and concealed. In no event shall any portion of the wireless communications facility be ground-mounted without the city's express approval, which approval may be conditioned on placing concealing the facilities in a manner appropriate to the location. Unless base station equipment is within the utility pole, in order to utilize concealment elements, the equipment must be designed so that it is not readily apparent from all~~

~~angles of view, so that it is mounted at a height such that it is out of pedestrian sight lines, and so that the impact on adjoining properties is minimized.~~

~~(iv) Neither the wireless communications facility, or the support structure shall interfere with pedestrian or vehicular movement or storage.~~

(c) *Mounted on light poles.*

(i) ~~This section applies to light Light poles Poles situated on private property, or public property other than the rights-of-way, that are not owned or controlled by the city. Other light poles require a license from the city, which license will specify the design permitted for particular light poles.~~

(ii) Wireless communications facilities may be placed on existing ~~light Light poles Poles~~ subject to the same conditions that apply to existing utility poles provided that:

(1) The design and placement of all elements of the wireless communications facility is consistent with the design of the ~~light Light pole Pole~~ to which it will be attached and;

(2) The design and placement of all elements of the wireless communications facility will not adversely affect the overall design of the area within which the Light Pole is located.

(3) The city must know who will own and control the ~~light Light pole Pole~~, and who is responsible for emergency responses and ensuring the safety of the ~~light Light pole Pole~~.

(4) The applicant must have and maintain a binding contract with the entity that owns or controls the Light Pole, which may include the City. Nothing in this ordinance prevents an entity that owns or controls a Light Pole, including the City, from imposing additional or stricter standards for the design of the Light Pole than may be imposed pursuant to the regulatory conditions in the permit issued pursuant to this section.

(d) *Replacement.* For purposes of this section, if an existing utility or ~~light Light pole Pole~~ must be replaced it may be replaced provided that it meets other applicable requirements of this section and:

(i) The design of the replacement Light Pole is consistent with the design of the Light Pole that it replaces.

(ii) In the case of the utility pole, the overall height of the pole, measured from ground level to the highest point including the ~~on~~ the wireless communications facility, does not increase by more than ~~six-ten~~ feet, and the diameter measured at six feet from the butt, does not increase by more than two inches; and

(ii) In the case of the ~~light Light pole Pole~~, its overall height, measured from ground level to the highest point, including ~~on~~ the wireless communications facility, does not increase by more than ~~six-ten~~ feet, and the design, height and proportions remain consistent with design of the light pole that is being replaced.

(5) A permit under this Chapter 19 will only be issued for a wireless communications facility and associated poles and support structures in the right-of-way that are not, or will not be small wireless facilities, where the same (a) satisfy the conditions of Chapter 36; and (b) the facility is an approved stealth facility or the applicant shows that a permit must be issued to it as a matter of state or federal law.

~~(5) *Special rules for placement within the public rights-of-way.* In addition to the above requirements, the following rules apply to wireless communications facilities located within the public rights-of-way.~~

- ~~(a) Applications for placement of wireless communications facilities must be submitted to the division of public works, to the attention of the city engineer and such applications may be decided administratively. If the city engineer determines that the installation complies with the requirements of any required franchise, and this ordinance, and has been appropriately designed for the existing and publically available planned design of the corridor in which it is placed; or where applicant shows that denial would result in an effective prohibition within the meaning of 47 U.S.C. § 332(c)(7), or otherwise violates applicable law such that the City is required to issue a permit for placement, the application may be preliminarily approved, subject to appeal, and otherwise preliminarily denied or approved subject to conditions. Preliminary decisions become final unless appealed to the zoning board of appeals.~~
- ~~(b) Preliminary decisions adverse to the applicant may be appealed to the zoning board of appeals within five business days of a preliminary decision, and in any case where there is a claim that denial will result in an effective prohibition within the meaning of 47 U.S.C. § 332(c)(7), or otherwise violates applicable law such that the City is required to issue a permit for placement, the zoning board of appeals shall hear and determine the matter, applying standards and following procedures that would be followed in issuing a special exception.~~
- ~~(c) Approval shall be by way of an individual, site specific node site license jointly issued by the administrator and the city engineer (or their designees). Denials shall be in writing, based upon substantial evidence in a written record.~~
- ~~(d) With respect to any location within the central business district or a preservation overlay district with residential character, wireless communications facilities shall be of a design approved by the design review board.~~
- ~~(e) Except for small wireless facilities in the right of way, wireless communications facilities shall not be located above ground in any location where the lines of the incumbent local exchange carrier are underground, unless co located on an existing structure or an existing structure is removed and replaced with a new structure which is substantially similar in size and appearance to the structure that is being replaced.~~
- ~~(f) Except for small wireless facilities in the right of way, placement of wireless communications facilities in the public rights-of-way shall not result in an increase in the number of support structures located in the public rights-of-way as of the date of enactment of this ordinance with the exception of those towers permitted under section 19-4.3.2(G)(2) or new utility poles. Provided, in the case of the latter, there must be existing utility poles in the same right-of-way in the immediate vicinity and the applicant must demonstrate that co-location upon said existing utility poles is not feasible or would require a modification such that an additional utility pole would be less intrusive or safer. If an additional utility pole is permitted under this provision, it shall be similar in size and design to existing poles in the same right-of-way and in the immediate vicinity, and spaced appropriately to minimize intrusiveness and to avoid creating undue hazard to persons or property; and~~
- ~~(g) Except for small wireless facilities in the right of way, Where where above ground facilities are permitted under this section 19-4.3.2(G)(4)(e) and/or (f) and the above-ground facilities of the incumbent local exchange carrier are subsequently placed underground, all wireless communications facilities in the same right-of-way, in the same area shall be placed underground at the sole expense of the owner.~~
- ~~(h) Except for small wireless facilities in the right of way, Placement of wireless communications facilities or support structures for wireless communications facilities, or any modification thereto, is not permitted where the city engineer determines that, due to insufficient capacity, safety, reliability, or engineering concerns, existing infrastructure is not adequate to support the same; or the placements or modifications will unduly interfere with other uses of the rights-of-way, or require construction that will be unduly disruptive.~~

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- (b) Final action approving or denying an application shall be taken within the periods required by applicable law, following periods, unless applicant agrees to a different schedule, or applicable law requires a different schedule:
- (i) ~~In the case of an application to place a small wireless facility (as that term is defined by FCC regulations) using an existing structure outside of the right of way, sixty (60) days from receipt of the application, provided that the time period may be reset upon initial notification of an incomplete application, and restart upon resubmission, subject to further tolling if the application remains incomplete;~~
  - (ii) ~~Review of an application to place a small wireless facility (as that term is defined by FCC regulations), using a new structure outside of the right of way, ninety (90) days from receipt of the application, provided that the time period may be reset upon initial notification of an incomplete application, and restart upon resubmission, subject to further tolling if the application remains incomplete;~~
  - (iii) ~~Except for applications for small wireless facilities (as that term is defined by FCC regulations) to be placed outside the right of way in the case of an application that does not involve modification of, or collocation upon an existing wireless communications facility, 150 days of receipt of the application, subject to tolling after notification of an incomplete application until the date when the applicant submits all the documents and information identified in the notice of incompleteness;~~
  - (iv) ~~If the application is an eligible facilities request, the administrator shall approve the application within 60 days of receipt of the application, subject to tolling after notification of an incomplete application until the date when the applicant submits all the documents and information identified in the notice of incompleteness. Any approval shall be operative, and any permit issued pursuant to this subsection shall remain in effect only so long as Federal law, 47 U.S.C. § 1455, and implementing Federal Communications Commission regulations, 47 C.F.R. § 1.40001 regulations require approval of an eligible facilities request as defined herein. By approval, the city solely intends to comply with a requirement of Federal law and not to grant any property rights or interests except as compelled by Federal law;~~
  - (v) ~~In the case of any other application, 90 days, from receipt of the application, subject to tolling after notification of an incomplete application until the date when the applicant submits all the documents and information identified in the notice of incompleteness.~~