

ORDINANCE 2019-21  
1st reading and Introduction: August 16, 2019  
2nd reading: September 16, 2019

---

**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE WITH REGARD TO PERMITTED USES RELATING TO AUTOMOTIVE BROKERAGE OFFICES AND RELATING TO TELCOMMUNICATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

---

**WHEREAS**, the Mayor and Council of the City of Powder Springs have heretofore adopted the Unified Development Code of Powder Springs, Georgia (“the UDC”); and

**NOW THEREFORE**, the Mayor and Council of the City of Powder Springs find that in the interest of the public health, safety and welfare, it does hereby ordain that the UDC shall be and is hereby amended as follows:

SECTION ONE

Article 2, Table 2-1 of the UDC is amended as shown in the attached Exhibit A.

SECTION TWO

Article 4 of the UDC is amended to redesignate “Division II. Towers and Wireless Telecommunications Facilities” as “Division II-A. Towers and Wireless Telecommunications Facilities” and to add a new “Division II-B. Small Cell Wireless Facilities and Aesthetic Standards,” as shown in the Attached Exhibit B.

SECTION THREE

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION FOUR

If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

SECTION FIVE

This ordinance shall become effective five (5) days after its adoption by the City Council.

SO ORDAINED, this 16<sup>TH</sup> day of September, 2019.

[signature page follows]

ORDINANCE 2019-21

1st reading and Introduction: August 16, 2019

2nd reading: September 16, 2019

---

  
Albert Thurman, Mayor

  
Patrick Bordelon, Council Member

  
Doris Dawkins, Council Member

  
Patricia Wisdom, Council Member

  
Henry Lust, Council Member

  
Thelma C. Farmer, Council Member

ATTEST:

  
Kelly Axt, City Clerk

## Exhibit A

**Table 2-3  
Permitted and Special Uses in  
Mixed-Use and Non-residential Zoning Districts**

<b>COMMERCIAL</b>	<b>Sec also</b>	<b>MXU</b>	<b>O-I</b>	<b>NRC</b>	<b>CRC</b>	<b>CBD</b>	<b>BP</b>	<b>LI</b>	<b>HI</b>
Adult business	Sec. 4-585	X	X	X	X	X	X	S	S
Animal hospital or veterinary clinic		X	S	P	P	S	P	P	X
Animal shelter	Sec. 4-30	X	X	X	X	X	P	P	X
Appliance repair	Sec. 4-50	X	X	X	X	X	P	P	X
Artist studio		P	P	P	P	P	P	P	X
Auto parts and tire store (New Only)		X	X	X	P	X	P	P	X
Automobile rental	Sec. 4-40	X	X	X	P	X	X	P	P
Automobile repair	Sec. 4-45	X	X	X	X	X	X	P	P
Automobile sales (new)	Sec. 4-40	X	X	X	X	X	X	P	P
Automobile sales (used)	Sec. 4-40	X	X	X	X	X	X	X	P
Automobile sales broker (office, <u>no inventory</u> )		X	X P	X	P	X	P	P	P
Automobile service	Sec. 4-50	X	X	X	P	X	X	P	P
Bakery, retail		P	X	P	P	P	P	P	X

## EXHIBIT B

### **Division II-A. Towers and Wireless Telecommunications Facilities.**

#### **Sec. 4-405. Purposes and Intentions.**

The purpose of this article is to establish guidelines for the siting of all wireless telecommunication equipment and facilities, microwave towers, common carrier towers, cellular, television and radio telecommunications towers and antennae. The regulations and requirements of this article are adopted for the following purposes:

- (a) To provide for the location of communication towers and communication antennas; and to protect residential areas and land uses from potentially adverse impacts of communication towers, monopoles, and antennas by restricting them in accordance with this article.
- (b) To minimize adverse visual impacts of communication towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
- (c) To accommodate the growing need for communication towers and antennas while minimizing the total number of towers within the community necessary to provide adequate personal wireless services to residents.
- (d) To promote and encourage shared use/co-location of existing and new communication towers (i.e., the use of multiple antennae operated by different providers on a single tower) as a primary option rather than construction of additional single-user towers or monopoles.
- (e) To promote and encourage placement of antennae on existing towers and on building and other structures where such siting options exist.
- (f) To consider public health, safety, and welfare in the siting of new towers, and to avoid potential damage to adjacent properties from tower or monopole failure through engineering and careful siting of tower structures.
- (g) To limit the siting of telecommunications facilities and towers where they will have the least adverse impact on the community and still comply with the requirements of the Telecommunications Act of 1996 (Public Law No. 104-104, 47 U.S.C. Section 332(c)(7)). These intentions are accomplished with restriction of locations and by enacting controls on height, setbacks, screening, color, and materials in order to minimize visibility and promote public safety and welfare. The regulations in this division are reasonably related to the valid public purposes described in this Section.
- (h) It is not the intent of the Mayor and Council to discriminate among providers of functionally equivalent services or to prohibit or have the effect of prohibiting the provision of wireless services in the city. It is also the intent of the city that applications to place, construct, or modify personal wireless service facilities will be acted upon within a reasonable time.

#### **Sec. 4-410. Applicability and Exemptions.**

All new communication towers, monopoles, and communication antennas shall be subject to this division, except that this division shall not govern the following:

- (a) Any tower, or the installation of any antenna, that is 70 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator or ham radio operator from the ham radio operator's residence.
- (b) Antennae or towers located on property owned, leased, or otherwise controlled by the City of Powder Springs, Cobb County, or Cobb County Board of Education, provided that a license or lease authorizing such antenna or tower has been approved by the government or agency with jurisdiction.
- (c) Monopole towers 100 feet or less in height located within electrical substations and antennae attached to existing transmission towers.

#### **Sec. 4-415. Performance and Construction Standards.**

- (a) **Structural Design.** New communication towers or monopoles and antennae, and modifications to existing structures including, without limitation, the addition of height, antennae or service providers, shall be constructed in accordance with applicable federal, state and local regulations.
- (b) **Placement Restrictions.** Towers occupying a lot as a principal use shall at minimum meet the minimum lot size and setback requirements for the zoning district in which the lot is located. Towers shall be a minimum of 300 feet from any residential zoning district. All towers shall be located at least one-half of their height in feet from any public right-of-way. When the tower is on leased property, the setbacks shall apply to the lot of record, not the lease boundaries.
- (c) **Screening.** The visual impacts of a communication tower at the ground level shall be mitigated by landscaping. All towers and accessory structures shall be surrounded on the ground by a minimum ten foot wide landscape strip or buffer that forms a hardy screen dense enough to interrupt vision and shield the base and accessory structures from public view and view from the surrounding properties. The buffer shall consist of evergreens that will reach a minimum height of at least eight feet within three years.
- (d) **Fencing.** A wall, or a black vinyl-coated chain link fence, with a minimum height of six feet from finished grade, shall be provided around each communication tower or monopole. Access to the tower or monopole shall be through a locked gate. The tower or monopole shall be equipped with an appropriate anti-climbing device, unless the community development director waives this requirement for alternative tower structures.
- (e) **Height.** Through approval of a special use application, the height of the tower may exceed the maximum height limit of the zoning district in which it is located, up to a

height of two hundred feet, subject to the limitations of this paragraph. Towers shall be the minimum height necessary to provide parity with existing similar tower-supported antenna. No tower, pole, or antenna, whether freestanding or attached to a building or structure, shall exceed two-hundred feet in height from ground level unless approval is obtained via special use permit. To prevail in any special use application to exceed established maximum height limitations of this paragraph, the applicant must successfully demonstrate why the prescribed maximum height is insufficient to provide adequate service, or that a taller tower will be in the community's interest by avoiding the construction of one or more additional towers at a new location.

- (f) **Illumination.** Communication towers, monopoles, or antennae shall not be lighted except to assure human safety or as required by the Federal Aviation Administration (FAA), Federal Communications Commission, or other federal agency with jurisdiction. Lighting shall be restricted to dual lighting, medium intensity white strobe lights (daylight mode), and red obstruction lights (nighttime mode), unless the FAA or state aeronautics division requires another type of lighting.
- (g) **Color and Material.** Towers clustered at the same site shall be of similar height and design. Communication towers not required to be painted or marked by the Federal Aviation Administration shall have either galvanized steel finish or be painted a non-contrasting color approved by the Mayor and Council to minimize the equipment's visibility. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical or closely compatible with the color of the supporting structure to render the antenna and related equipment as visually unobtrusive as possible. During the review process, the Mayor and Council may require the camouflaging of towers where appropriate and feasible.
- (h) **Signs and advertising.** No advertising is permitted on a tower or antenna. However, towers shall have mounted in a conspicuous place a sign of not more than one square foot in area, identifying the facility's owner and providing a means of contact in the event of an emergency.
- (i) **Co-location.** Owners of proposed communication antennas may and are encouraged to co-locate on existing communication towers. New or additional special use approval is not required for the addition of an antenna to an existing approved tower or monopole. All towers over 100 feet in height shall have structural capacity and ground or interior space to accommodate multiple users as follows: towers up 160 feet shall accommodate at least three users, and towers taller than 160 feet shall accommodate at least five users.
- (j) **Noninterference.** No communication tower or antenna shall interfere with public safety communication. Frequency coordination is required to ensure noninterference with public safety system and/or public safety entities.

#### **Sec. 4-420. Application Requirements.**

Each application for a use pursuant to this division shall include the following information, which is in addition to the information required for special use applications generally, if required:

- (a) A recorded plat or boundary survey.
- (b) A site plan, with topographical information.
- (c) An elevation view, perspective drawing, or simulated photograph of how the proposed telecommunication tower will appear from public rights-of-way and surrounding residential streets from which the tower will be visible once constructed.
- (d) Supporting engineering calculations and information which provide evidence of need and document radio frequency range, coverage area, and tower height requirements. The application must specifically address whether there is a technically suitable space available on an existing tower or other location within the search area (i.e., the grid for the placement of the antenna), and such information shall specifically include the location of all existing towers within a one-mile radius of the site proposed.
- (e) The community development director may require certification as to structural integrity of any telecommunications tower, monopole or antenna array.
- (f) The community development director shall be authorized to charge a fee to the applicant in an amount designed to allow the city to retain the services of one or more consultants, engineers, or other experts in the area of radio frequency engineering or other relevant fields to assist the city in analyzing the application and providing an independent assessment of the information submitted as a part of the application.

#### **Sec. 4-425. Application Processing.**

Decisions on applications for wireless service facilities shall be made within a reasonable period of time, which shall mean generally that such decisions shall be processed in roughly the same amount of time required for other special use applications; provided, however, that the Mayor and Council shall table an application for special use for a wireless service facility no more than once before making a decision, unless the applicant does not object to additional continuances.

#### **Sec. 4-430. Criteria to Consider in Acting upon Applications.**

In addition to the criteria for determining whether to approve or deny special uses, as specified in this development code, when an application for wireless telecommunication facilities or equipment is considered, the Mayor and Council in the case of a special use permit shall consider the following criteria without limitation:

- (a) Impacts on surrounding properties with regard to aesthetics and fit with the context of its surroundings, considering the location, height, type of facility, color and materials proposed.
- (b) Whether impacts on surrounding properties on aesthetics can be mitigated by alternative designs, such as making the tower resemble common features such as church steeples, bell towers, clock towers, grain silos, gateway elements, and monuments, or by requiring greater setback from impacted properties.
- (c) Whether the tower or wireless facility would pose an unreasonable risk to adjoining properties, including consideration of a fall area where ice or other debris may fall off the tower without harm.
- (d) The appropriateness of the location of existing towers, monopoles, and buildings, or other structures including electric transmission towers, that might serve as alternative locations to construction of a new tower or monopole or placement on a building in a new location. It is the intent that, where possible, new antennae shall be co-located on existing towers and monopoles, placed on existing buildings, or be within a concealed support structure (e.g., camouflaged as a church steeple, clock tower, grain silo, flagpole, etc.), prior to authorizing the installation of a new non-camouflaged pole or tower. The failure to consider or unwillingness to accept viable options as described in this paragraph may be grounds for denial of a special use application for a new tower or monopole.
- (e) Whether the application demonstrates compliance with the regulations established in this division.
- (f) Whether the tower would be engineered and constructed to accommodate additional communication service providers (i.e., whether the application provides for co-location as required by this division).
- (g) Whether a denial of the application would have the effect of prohibiting wireless services in the jurisdiction or area or would unduly restrict competition among wireless providers.

In addition, Mayor and Council shall make a decision on the application based on substantial evidence to allow a reviewing court to understand the reasoning behind the decision and whether that reasoning is consistent with the evidence presented. To this end, for each application for wireless service facilities, Mayor and Council shall rely on findings of fact in making a decision on said application. Such findings may be part of the recommendation and report of the community development director, the application and supporting materials submitted by the applicant, testimony from interested individuals, professionals, and the applicant, and any additional findings of fact the Mayor and Council may itself determine. Generalized community concerns, unaccompanied by supporting documentation, do not constitute substantial evidence under Section 704 of the Telecommunication Act of 1996 or this division.

**Sec. 4-435. Amateur Radio, Citizen's Band Radio and Other Receive-only Radio Antennae.**



- a) Amateur radio, Citizen's Band radio and other receive-only radio antennae may be installed on masts or towers anywhere within the buildable lot area, except in residential and mixed use zoning districts.
- b) In residential and mixed-use zoning districts, masts or free-standing towers shall be located in the side or rear yard but not within the minimum side or rear yard setback for principal buildings.
- c) The maximum height for masts or free-standing towers regulated by this section is 35 feet above ground level.

~~{Sec. 4-440 to 4-500 Reserved}.~~

## **Division II-B. Small Cell Wireless Facilities and Aesthetic Standards.**

### **Sec. 4-440. Authority.**

O.C.G.A. § 32-4-92(a)(10) authorizes the City of Powder Springs to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act, O.C.G.A. Title 36, Chapter 66C (the "SWFAA"), addresses the placement of small wireless facilities in the public rights of way of the City.

### **Sec. 4-441. Findings.**

The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications reasonable conditions regarding placement of small wireless facilities, poles in the public rights of way. These requirements, specifications and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights of way and its uses in the City.

### **Sec. 4-442. Purpose.**

The objective of this Article is to (i) implement the SWFAA and (ii) ensure use of the public rights of way is consistent with the design, appearance and other features of nearby land uses, protects the integrity of historic, cultural and scenic resources and does not harm residents' quality of life.

### **Sec. 4-443. Definitions.**

As used in this Article, the following terms have the following meanings:

(a) "Antenna" means: (i) communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or 122 (ii) Communications equipment similar to

equipment described in part (i) used for the transmission, reception, or transmission and reception of surface waves. Such term shall not include television broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

(b) “Applicable Codes” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the State of Georgia or the City or are otherwise applicable in the City.

(c) “Applicant” means any person that submits an application.

(d) “Application” means a written request submitted by an applicant to the City for a permit to: (i) collocate a small wireless facility in a right of way; or (ii) install, modify, or replace a pole or decorative pole in a right of way on which a small wireless facility is or will be located.

(e) “Authority Pole” means a pole owned, managed, or operated by or on behalf of the City. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

(f) “Collocate” or “Collocation” means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

(g) “Communications Facility” means the set of equipment and network components, including wires and cables and associated equipment and network components, used by a communications service provider to provide communications services.

(h) “Communications Service Provider” means a provider of communications services.

(i) “Communications Services” means cable service as defined in 47 U.S.C. § 522(6); telecommunications service as defined in 47 U.S.C. § 153(53); information service as defined in 47 U.S.C. Section 153(24), as each such term existed on January 1, 2019; or wireless services.

(j) “Consolidated Application” means an application for the collocation of multiple small wireless facilities on existing poles or support structures or for the installation, modification, or replacement of multiple poles and the collocation of associated small wireless facilities.

(k) “Decorative Pole” means an authority pole that is specially designed and placed for aesthetic purposes.

(l) “Electric Supplier” means any electric light and power company subject to regulation by the Georgia Public Service Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state.

(m) “Eligible Facilities Request” means an eligible facilities request as set forth in 47 C.F.R. § 1.40001(b)(3), as it existed on January 1, 2019.

(n) “FCC” means the Federal Communications Commission of the United States.

(o) “Fee” means a one-time, nonrecurring charge based on time and expense.

(p) “Historic District” means: (i) any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the secretary of the interior of the United States in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part 1; (ii) any area designated as a historic district under Article 2 of Chapter 10 of Title 44, the Georgia Historic Preservation Act; or (iii) any area designated as a historic district or property by law prior to April 26, 2019.

(q) “Law” means and includes any and all federal, state, or local laws, statutes, common laws, codes, rules, regulations, orders, or ordinances.

(r) “Micro Wireless Facility” means a small wireless facility not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.

(s) “Permit” means a written authorization, in electronic or hard copy format, required to be issued by the City to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole or decorative pole upon which a small wireless facility is collocated.

(t) “Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

(u) “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 within a right of way, including without limitation a replacement pole and an authority pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.

(v) “Rate” means a recurring charge.

(w) “Reconditioning Work” means the activities associated with substantially painting, reconditioning, improving, or repairing authority poles.

(x) “Replace,” “Replacement” or “Replacing” means to replace a pole or decorative pole with a new pole or a new decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. § 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.

(y) “Replacement Work” means the activities associated with replacing an authority pole.

(z) “Right of Way” means, generally, property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road; provided, however, that such term shall apply only to property or an interest therein that is under the ownership or control of the City and shall not include property or any interest therein acquired for or devoted to an interstate highway or the public rights, structures, sidewalks, facilities, and appurtenances of buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of public roads or research pertaining thereto or scenic easements and easements of light, air, view and access.

(aa) “Small Wireless Facility” means radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed

locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications: (i) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters; concealment elements; telecommunications demarcation boxes; grounding equipment; power transfer switches; cut-off switches; and vertical cable runs for connection of power and other services. Such term shall not include a pole, decorative pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

(bb) "State" means the State of Georgia.

(cc) "Support Structure" means a building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.

(dd) "Wireless Infrastructure Provider" means any person, including a person authorized to provide telecommunications services in this state, that builds, installs, or operates small wireless facilities, poles, decorative poles, or support structures on which small wireless facilities are or are intended to be used for collocation but that is not a wireless services provider.

(ee) "Wireless Provider" means a wireless infrastructure provider or a wireless services provider.

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

(gg) "Wireless Services Provider" means a person that provides wireless services.

(hh) "Wireline Backhaul Facility" means an aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with small wireless facility to a network.

#### **Sec. 4-444. Authority.**

In the event that any federal or state law containing definitions used in this Article is amended, the definition in the referenced section, as amended, shall control.

#### **Sec. 4-445. Permits.**

A permit is required to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

#### **Sec. 4-446. Permit Applications.**

Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way shall submit an application to the Community Development Department for a permit. Any material change to information contained in an application shall be submitted in writing to the Community Development Department within 30 days after the events necessitating the change.

**Sec. 4-447. Permit Fees.**

Each application for a permit shall include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2) and (a)(3). Such maximum application fees shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

**Sec. 4-448. Application Review.**

The Community Development Department shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.

**Sec. 4-449. Standards for Approval.**

Applications for permits shall be approved except as follows:

(a) In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which: (i) the applicant has the right to collocate subject to reasonable terms and conditions; and (ii) such collocation would not impose technical limitations or significant additional costs. The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.

(b) The Community Development Department may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).

(c) For applications for new poles in the public right of way in areas zoned for residential use, the City may propose an alternate location in the public right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the Community Development Department's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

**Sec. 4-450. Effect of Permit Issuance.**

A permit issued under this Article shall authorize such person to occupy the public rights of way to: (i) collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and (ii) install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).

**Sec. 4-451. Annual Fees.**

Upon the issuance of a permit under this Article, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights of way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal. The maximum annual payments shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

#### **Sec. 4-452. Fees Under State Law.**

Any person issued a permit shall pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.

#### **Sec. 4-453. Revocation for Noncompliance.**

The City may revoke a permit issued pursuant to this **Error! Reference source not found.** if the wireless provider or its equipment placed in the public right of way under that permit subsequently is not in compliance with any provision of this Article or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the City may proceed as provided in this Article.

#### **Sec. 4-454. City Remedies for Unpermitted Activity.**

If a wireless provider occupies the public rights of way without obtaining a permit required by this Article or without complying with the SWFAA, then the City may, at its sole discretion, restore the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty not to exceed \$1,000.00. The City may suspend the ability of the wireless provider to receive any new permits from the City under this Article **Error! Reference source not found.** until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

#### **Sec. 4-455. Public Inspection.**

All accepted applications for permits shall be publicly available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).

#### **Sec. 4-456. Consolidated Applications.**

Section 16-176. An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.

#### **Sec. 4-457. Permit Timeframe.**

Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).

**Sec. 4-458. Permit Duration.**

Issuance of a permit authorizes the applicant to: (i) undertake the collocation, installation, modification or replacement approved by the permit and (ii) operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of 10 years.

**Sec. 4-459. Permit Renewal.**

Permits shall be renewed following the expiration of the term identified in Section 4-458 upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).

**Sec. 4-460. Collocation.**

If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights of way, then the City shall, within 60-days of receipt of the completed application: (i) provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or (ii) notify the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the City shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

**Sec. 4-461. Procedures for Removal.**

A person may remove its small wireless facilities from the public rights of according to the procedures of O.C.G.A. § 36-66C-5(e).

**Sec. 4-462. Requirement of Restoration.**

In the event of a removal hereunder, the right of way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If a person fails to return the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right of way to such condition and charge the person the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed \$500.00. The City may suspend the ability of the person to receive any new permits under this Article unless the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City will not suspend such ability of any person that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

**Sec. 4-463. Removal to Meet City Needs.**

If, in the reasonable exercise of police powers, the City determines: (i) a pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway, or (ii) relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider shall relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l). If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City make take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.

**Sec. 4-464. Reconditioning and Replacement.**

The City shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).

**Sec. 4-465. Abandonment.**

A wireless provider must notify the City of its decision to abandon any small wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

**Sec. 4-466. Location Standards.**

Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use: (i) upon a receipt of a permit under this Article (ii) subject to applicable codes; and (iii) so long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).

(a) New, modified, or replacement poles installed in the right of way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.

(b) Each new, modified, or replacement pole installed in the right of way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:

- (i) Fifty feet above ground level; or
- (ii) Ten feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole;

(c) New small wireless facilities in the public right of way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.

(d) New small wireless facilities in the public right of way collocated on a new or replacement pole under Section 1.1(a) or Section 1.1(b) may not extend above the top of such poles.

**Sec. 4-467. Decorative Poles:**

A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the City has identified that a streetlight is necessary.

**Sec. 4-468. Concealment.**

Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:



(a) Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure;

(b) Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.

(c) Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.

(d) Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

#### **Sec. 4-469. Collocation in Historic Districts.**

Notwithstanding any provision of this Article to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following: (i) issuance of a permit under this Article and (ii) in compliance with applicable codes.

#### **Sec. 4-470. Collocation on Decorative Poles.**

Notwithstanding any provision of this Article to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following: (i) issuance of a permit under this Article and (ii) compliance with applicable codes.

#### **Sec. 4-471. Aesthetic Standards.**

- (a) O.C.G.A. § 32-4-92(a)(10) authorizes the City to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way.
- (b) The City finds it is in the best interest of the City and its residents and businesses to establish aesthetic requirements and other specifications and reasonable conditions regarding placement of facilities in the public rights of way. These requirements, specifications and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights of way and its uses in the City.
- (c) The objective of this Section is to ensure use of the public rights of way: (i) is consistent with the design, appearance and other features of nearby land uses; (ii) protects the

integrity of historic, cultural and scenic resources; and (iii) does not harm residents' quality of life.

- (d) This Section applies to all requests to locate facilities in the public rights of way and ongoing use of the public rights of way for such facilities. This Section is established pursuant to the City Charter and applicable law. This Section is administered by the Community Development Department.
- (e) Placement or modification of facilities in the public right of way shall comply with this Section at the time the permit for installation or modification is approved and as amended from time to time. Permittees are required to comply with the City Code and applicable law and regulations.
- (f) Unless otherwise defined, terms used in this Section shall have the meanings given them in O.C.G.A. § 36-66C-2. Definitions in this Section include references and citations to applicable federal and state laws. In the event that any referenced section is amended, the definition in the referenced section, as amended, shall control.
- (g) Facilities must be compatible in size, mass, and color to similar facilities in the same zoning area, with a goal of minimizing the physical and visual impact on the area.
- (h) Facilities in residential and historic districts or properties areas shall be visually and architecturally integrated with the residential and historic districts and properties and shall not interfere with prominent vistas or significant public view corridors.
- (i) Facilities must be located in alignment with existing trees and/or facilities.
- (j) Facilities must maintain the integrity and character of the neighborhoods and corridors in which the facilities are located.
- (k) Except as provided in paragraphs (1) and (2) of this Subsection, facilities shall be installed underground in residential districts so long as placement underground will not materially impact the provision of service. Any individual requesting to locate facilities above ground in residential districts has the burden to demonstrate by clear and convincing evidence that undergrounding will effectively prohibit the provision of the service in question.
  - (1) Light poles and small wireless facilities collocated thereon may be located above ground in areas of the City where facilities are primarily located underground.
  - (2) The City may: (i) allow collocated small wireless facilities placed aboveground prior to the effective date of this division and subject to any applicable pole attachment agreement to remain above ground; or (ii) allow the wireless provider to replace the pole associated with previously collocated small wireless facilities at the same location or propose an alternate location within 50 feet of the prior location, which the wireless

provider shall use unless such alternate location imposes technical limits or significant additional costs.

(l) Facilities installed in the historic district of the City shall conform to the provisions of the Community Enhancement Master Plan and Unified Development Code and the provisions of this Section.

(1) Subject to compliance with the other regulations set forth by City Ordinance, State or Federal law, including location, siting and design standards and requirements and the issuance of a small wireless permit facility right of way placement permit pursuant to O.C.G.A. § 36-66C-1 et. seq. (and as amended from time to time) only the following types of facilities may be placed in the public right of way located in the City Historic District:

(A) Concealed attached small wireless facility mounted to one of the following types of alternative support structures:

(i) Utility pole or replacement utility pole (i.e., utility pole-mounted small wireless facility);

(ii) Street light pole (i.e., streetlight-mounted small wireless facility);

(iii) Traffic signal pole.

(B) Concealed freestanding support structures designed as a:

(i) Street light fixture, such as a street light standard or pole, pedestrian light, decorative street light, or decorative post-top luminaire (lamppost) which is primarily used for public lighting (i.e., faux streetlight facility); or

(ii) Concealed Unipole.

(2) Siting Standards and Requirements for small wireless facilities in the City Historic District. In order to limit the proliferation of new support structures in the public right-of-way in the Historic District and so as to preserve the appearance of the public right-of-way and prevent physical or visual obstructions to pedestrian or vehicular traffic, inconveniences to public use of the right-of-way in the Historic District, safety hazards to pedestrians and/or motorists, and new visual and aesthetic impacts, a proposed small wireless facility in the City Historic District shall be sited in the public right-of-way in accordance with the siting alternatives order set forth below. In order to demonstrate that a siting is impracticable or technically infeasible, the applicant shall provide an evidence of need report to the City at its pre-application meeting or as part of the application showing why and how complying with the foregoing standard would be impractical or technically infeasible:

(A) Utility-Pole-Mounted small wireless facility. A new small wireless facility in the public rights-of-way in the City Historic District must be placed on utility poles or replacement utility poles (subject to and in accordance with the standards and regulations governing concealed utility-pole-mounted small wireless facilities and

other requirements set forth herein), unless such siting is impracticable or technically infeasible as sufficiently demonstrated by an evidence of need report;

- (B) Concealed Streetlight-Mounted Small Wireless Facility. When an applicant sufficiently demonstrates that there are no existing utility poles in the subject area of the public right-of-way to accommodate the proposed small wireless facility, the proposed small wireless facility shall be placed on an existing street light (subject to and in accordance with the standards and regulations governing concealed street-light-mounted small wireless facility and other requirements set forth herein), unless such siting is impracticable or technically infeasible as sufficiently demonstrated by an evidence of need report;
- (C) Concealed Attached Small Wireless Facility Mounted to Traffic Signal Pole. When an applicant sufficiently demonstrates that there are no existing utility poles and street lights in the subject area of the public right-of-way to accommodate the proposed small wireless facility, the proposed small wireless facility may be placed on an existing traffic signal pole (subject to and in accordance with the standards and regulations governing concealed street-light-mounted small wireless facilities and other requirements set forth herein), unless such siting is impracticable or technically infeasible as sufficiently demonstrated by an evidence of need report; or
- (D) New Concealed Freestanding Support Structures: Faux Streetlight Facility or Concealed Unipole. When a registrant sufficiently demonstrates that there are no existing utility poles, street lights or traffic signal poles in the subject area of the public right-of-way to accommodate the proposed small wireless facility, a faux streetlight facility or concealed unipole may be sited in the public right-of-way in the Historic District (subject to and in accordance with the standards and regulations governing faux streetlight facilities and concealed unipoles and other requirements set forth herein).
- (3) Small Wireless Facility Equipment allowed in the Historic District. Only antennas, repeaters, radio units, equipment cabinets or pedestals, and other accessory equipment associated with small wireless facilities, which are physically much smaller and less visible and can be placed at much lower elevations than macro-cell antennas and accessory equipment, such that they can be more easily deployed with concealment enclosures and other concealment elements that blend with the non-tower support structure on or within which they are installed, may be located within the public right-of-way in the City Historic District; provided, however, a DAS hub may not be located within the public right-of-way. The foregoing provisions are provided for the purpose of generally describing in prevailing industry terminology the type of small wireless facility equipment (in terms of its size, scale, design and feasibility for location on alternative support structures or concealed freestanding support structures) allowed in public rights-of-way in the City Historic District in accordance with the further regulations provided herein; the foregoing provisions are not intended to restrict the technology used by the registrant.

(4) Concealment Elements. In order to preserve the appearance of the public right-of-way in the Historic District and minimize the visual impact of new facilities, all small wireless facilities and small wireless facility equipment located in the public rights-of-way in the Historic District shall be designed with concealment elements, as further prescribed herein. It is the intent of this ordinance to prescribe concealment elements that are technically feasible and reasonably directed to avoid or remedy the intangible public harm of unsightly or out-of-character deployments.

(5) Additional Regulations and Design Standards for Concealed Utility-Pole-Mounted Small Wireless Facilities.

(A) Location Standards. Utility-pole-mounted small wireless facilities shall be located in areas of the public right-of-way in which there are existing utility poles. Antenna(s) and pole-mounted accessory equipment of utility-pole-mounted small wireless facilities may only be located on a utility pole currently supporting such aerial lines or a replacement utility pole.

(B) Minimum Height of Utility Pole. Antenna(s) and pole-mounted accessory equipment of a utility-pole-mounted small wireless facilities may only be attached to a utility pole with a height of twenty-five (25) feet or greater, as measured from finished grade.

(C) Minimum Height Location of Antennas. Antenna(s) shall be mounted on the utility pole at a height of fifteen (15) feet or more above grade. Pole-mounted equipment cabinets/enclosures shall be mounted on the utility pole at a height of ten (10) feet or more above grade.

(D) Design Standards and Concealment Elements.

(i) General Concealment Measures. The size, shape and orientation of antenna(s) and accessory equipment mounted to a utility pole shall be consistent with the size, shape and orientation of existing utility equipment installed on the subject utility pole and other utility poles in the nearby area (within 500 linear feet of the subject utility pole and on the same side of the right-of-way). Such antenna(s) and accessory equipment shall be painted, textured, and designed in a manner consistent with the utility pole's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing utility pole such that the utility-pole-mounted small wireless facility is no more readily apparent or plainly visible from public rights-of-way than the existing utility equipment located on the utility pole.

(ii) Type of Antennas; Maximum Number. No type of antenna other than a panel or whip antenna may be mounted to a utility pole unless such antenna is enclosed within a canister, radome, shroud or other similar concealment enclosures. No more than (a) four (4) side-mounted panel antennas, whip

antennas, or antenna concealment enclosures, or any combination thereof, or (b) one (1) top-mounted canister, radome, shroud or similar antenna concealment enclosures with antenna(s) enclosed therein may be attached to a utility pole; provided, however, that, one (1) pole-top mounted whip antenna may be used in lieu of a side-mounted whip antenna when the other antennas or antenna concealment enclosures are side-mounted.

- (iii) Mounting of Antennas. A panel antenna or canister antenna (or other antenna concealment enclosure) mounted to the side of the utility pole, together with its mount, shall not extend horizontally from the side of the utility pole more than existing utility equipment with the same orientation (located on the utility pole), or more than three (3) feet, whichever is less. No antennas mounted to the side of a utility pole shall extend vertically above the height of the utility pole, other than one (1) flush-mounted whip antenna, which may extend vertically up to three (3) feet above the height of the utility pole. Alternatively, a whip antenna may be top-mounted on the utility pole but shall not extend vertically above the height of the utility pole by more than five (5) feet, and any vertical separation between the top of the pole and the base of the whip antenna shall not be plainly visible. Canisters, radomes, shrouds or other similar antenna concealment enclosures may be mounted to the side of a utility pole but shall not extend vertically above the height of the utility pole. Additionally, one (1) canister, radome, shroud or other similar antenna concealment enclosure may be top-mounted on the utility pole (vertically mounted to the top surface of the utility pole), provided that such canister, radome, shroud or other similar antenna concealment enclosure, including its mount, is centered on the top of the utility pole, is not wider than the diameter of the top of the utility pole, and does not extend vertically above the height of the utility pole by more than three (3) feet.
- (iv) Maximum Size of Antennas. A non-enclosed panel antenna shall be no larger than sixteen (16) inches in width and thirty (30) inches in length. A whip antenna shall be no larger than two-and-a-half (2.5) inches in diameter and five (5) feet in length.
- (v) Maximum Antenna Volume. In addition to the foregoing size limitations, each antenna located on the utility pole shall either be (a) located within a canister, radome, shroud or other similar antenna concealment enclosure that is no more than three (3) cubic feet in volume, or (b) if the antenna is not enclosed within an antenna concealment enclosure, capable of fitting within an enclosure (i.e., an imaginary enclosure) that is no more than three (3) cubic feet in volume. The aggregate volume of actual concealment enclosures and/or imaginary enclosures of all antennas located on the utility pole, including any pre-existing antennas, shall not exceed six (6) cubic feet in volume.

(vi) Accessory Equipment; Equipment Cabinets. All pole-mounted equipment cabinets/enclosures or, where permitted, radio units shall be flush-mounted to the utility pole. The vertical dimension of a pole-mounted equipment cabinet/enclosure (or, if permitted radio unit) shall not exceed 48 inches, and the width and depth of a pole-mounted equipment cabinet/enclosure shall not be more than twice the width (diameter) of the pole at the location of attachment. The volume of all pole-mounted equipment cabinets and accessory equipment located on the utility pole and, to the extent permitted, ground-mounted equipment cabinets and enclosures associated with wireless transmission equipment located on the utility pole, including any pre-existing wireless transmission equipment located on the utility pole, shall not exceed twenty-one (21) cubic feet.

(6) Additional Regulations and Design Standards for Concealed Streetlight-Mounted small wireless facilities.

(A) Prohibited Structures. No attached small wireless facilities may be mounted to a pedestrian light or post-top street light.

(B) Minimum Height of Streetlight Standard. Antenna(s) and pole-mounted accessory equipment of streetlight-mounted small wireless facilities may only be attached to a street light with a height of twenty (20) feet or more above grade.

(C) Minimum Height Location of Equipment Cabinets/Accessory Equipment. Pole-mounted equipment cabinets and other equipment enclosures or accessory equipment shall be mounted on the street light at a height of ten (10) feet or more above grade.

(D) Lighting, Operability and Maintenance. The streetlight-mounted small wireless facility shall not impair the existing function of the street light, including its lighting. Further, the streetlight-mounted small wireless facility must be separately metered for electric power to all wireless transmission equipment located thereon. The applicant shall be responsible for all maintenance to the wireless transmission equipment located on the street light or otherwise installed in association therewith.

(E) Design Standards and Concealment Elements.

(i) General Concealment Measures. Antenna(s) and pole-mounted accessory equipment of streetlight-mounted small wireless facilities shall be designed, camouflaged, screened and obscured from view in order to render the attached small wireless facilities as visually inconspicuous as possible. Such antenna(s) and accessory equipment shall be painted, textured, and designed in a manner consistent with the street light's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing street light in order to render the attached small wireless facilities visually inconspicuous as possible, such that the

streetlight-mounted small wireless facilities is not readily identifiable or plainly visible from public rights-of-way. Antennas shall be concealed or screened by means of canisters, radomes, shrouds or other similar concealment enclosures, which shall be flush-mounted to the top of the street light pole and painted, textured, and designed in a manner consistent with the street light pole's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing street light.

- (ii) Type of Antennas. Only antenna enclosed within a canister, radome, shroud or other similar antenna concealment enclosure may be mounted to a street light. No more than one (1) antenna concealment enclosure may be attached to a street light standard.
- (iii) Mounting of Antennas. Canisters, radomes, or similar antenna concealment enclosures shall be flush-mounted (without vertical separation) to the top of the pole located above the point of attachment of the mast arm or horizontally mounted luminaire but shall not extend vertically above the height of the street light by more than three (3) feet. The canister, radome or similar antenna concealment enclosure shall be designed and camouflaged to appear as an integral part of the existing pole to which it is attached. If the diameter of an antenna concealment enclosure is greater than the diameter of the top end of the pole, the antenna concealment enclosure must be tapered in a manner consistent with style of the subject pole. Antennas shall not be mounted to the mast arm of the street light.
- (iv) Maximum Size of Antennas. The diameter of the canister, radome or similar antenna concealment enclosure shall not exceed the diameter of the existing pole at its mid-point.
- (v) Accessory Equipment; Equipment Cabinets. Cable and conduit shall be located inside the pole and not attached to the exterior. All accessory equipment, other than antenna concealment enclosures, cables, conduit, and power meters and switches (and similar equipment installed by an electric utility), shall be located in equipment cabinets or smaller equipment enclosures. Equipment cabinets and enclosures shall be flush-mounted to the side of the street light standard. The height (length) of a pole-mounted equipment cabinet/enclosure shall not exceed 48 inches, and the width and depth of a pole-mounted equipment cabinet/enclosure shall not exceed the minimum width (diameter) of the pole at the location of attachment by more than fifty (50) percent. The volume of all pole-mounted equipment cabinets/enclosures and accessory equipment located on the street light and, to the extent permitted under state law, ground-mounted equipment cabinets/enclosures associated with the wireless transmission equipment located on the street light, including pre-existing accessory equipment located on or associated with the street light, shall not exceed seventeen (17) cubic feet.



(7) Additional Regulations and Design Standards for Concealed Attached Small Wireless Facilities Mounted to Traffic Signal Poles.

(A) General Location Standards. A small wireless facility may only be mounted on a traffic signal pole with sufficient space to accommodate the associated small wireless facility equipment, as reasonably determined and approved in writing by the Cobb County Department of Transportation (CDOT), based on the existing or planned use of the traffic signal pole, including the location of equipment used by the City (or CDOT or GDOT) for traffic control, transportation or similar public purposes. A small wireless facility shall not be mounted on a traffic signal pole when, in the reasonable opinion of the City (or, if applicable, CDOT or GDOT), it is determined that the proposed small wireless facility including its proposed location or manner of attachment, would not comply with the requirements set forth in subparagraph (b) below. Further, due to the finite amount of traffic signal poles available for attachment, applications will be denied when approval of same would effectively grant the applicant an exclusive license or right to placements on traffic signal poles within certain corridors or areas of the City.

(B) Interference with Operation and Maintenance of Traffic Signals and Other Devices. The placement of small wireless facilities on a traffic signal pole shall not obstruct, interfere with, impair or impede the use, operation or maintenance of the traffic signal pole or any equipment used by the City (or CDOT or GDOT) for traffic control, transportation or other governmental purposes, whether or not such equipment is mounted on the subject traffic signal pole, including, but not limited to, any equipment or devices used for or as part of any intelligent transportation system (ITS), dedicated short range communications (DSRC) system, vehicle detection system, video detection system, CCTV system, or transportation management system or any elements of any transportation communications network. Small wireless facilities attached to a traffic signal pole shall not obstruct, materially interfere with or adversely affect the safe and efficient maintenance, repair or installation of any infrastructure or equipment used by the City (or CDOT or GDOT) for traffic control, transportation or other governmental purposes, or otherwise compromise safety of workers maintaining, repairing or installing such infrastructure or equipment.

(C) Other Prohibited Attachments.

- (i) Decorative Poles. No small wireless facilities may be attached to a traffic signal pole with a post-top luminaire or other decorative pole (decorative traffic signal pole).
- (ii) Mast Arm. No small wireless facility may be attached to the mast arm of a traffic signal pole.
- (iii) Conflicting Future Use. No small wireless facility may be attached to any space on the traffic signal pole needed or required by the City (or CDOT or

GDOT) for the future expansion or placement of equipment used for traffic control, traffic management, traffic monitoring, transportation or similar public purposes.

(iv) Minimum Height Location of Equipment Cabinets/Accessory Equipment.

Pole-mounted equipment cabinets/shrouds or radio units shall be mounted on the traffic signal pole at a height often (10) feet or more above grade.

(v) Design Standards and Concealment Elements.

- i. General Concealment Measures. Antenna(s) and pole-mounted accessory equipment shall be designed, camouflaged, screened and obscured from view in order to render the attached small wireless facility as visually inconspicuous as possible. Such antenna(s) and accessory equipment shall be painted, textured, and designed in a manner consistent with the traffic signal pole's style, color, texture and materials and otherwise camouflaged and designed to blend in with the traffic signal pole in order to render the attached small wireless facility as visually inconspicuous as possible, such that the attached small wireless facility is not readily identifiable or plainly visible from public rights-of-way. Antennas shall be concealed or screened by means of canisters, radomes, shrouds or other similar concealment enclosures, which shall be flush-mounted to the top of the traffic signal pole and painted, textured, and designed in a manner consistent with the traffic signal pole's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing traffic signal pole.
- ii. Type of Antennas. Only antenna enclosed within a canister, radome, shroud or other similar antenna concealment enclosure may be mounted to a traffic signal pole. No more than one (1) antenna concealment enclosure may be attached to a traffic signal pole.
- iii. Mounting of Antennas. A canister, radome, or similar antenna concealment enclosure shall be flush-mounted (without vertical separation) to the top of the pole, but shall not extend vertically above the height of the traffic signal pole by more than three (3) feet. The canister, radome or similar antenna concealment enclosure shall be designed and camouflaged to appear as an integral part of the existing pole to which it is attached. If the diameter of an antenna concealment enclosure is greater than the diameter of the top end of the pole, the antenna concealment enclosure must be tapered in a manner consistent with style of the subject pole. Antennas shall not be mounted to the mast arm of the traffic signal pole.
- iv. Maximum Size of Antennas. The diameter of the canister, radome or similar antenna concealment enclosure shall not exceed the diameter of the existing pole at its mid-point.

v. Accessory Equipment; Equipment Cabinets. Cable and conduit shall be located inside the pole and not attached to the exterior. All accessory equipment, other than antenna concealment enclosures, cables, conduit, and power meters and switches (and similar equipment installed by an electric utility), shall be located in equipment cabinets or smaller equipment enclosures. Equipment cabinets and enclosures shall be flush-mounted to the side of the traffic signal pole. The height (length) of a pole-mounted equipment cabinet/enclosure shall not exceed 48 inches, and the width and depth of a pole-mounted equipment cabinet/enclosure shall not exceed the minimum width (diameter) of the pole at the location of attachment by more than fifty (50) percent. The volume of all pole-mounted equipment cabinets/enclosures and accessory equipment located on the traffic signal pole and, to the extent permitted under this Ordinance and the Act, ground-mounted equipment cabinets/enclosures associated with the wireless transmission equipment located on the traffic signal pole, including pre-existing accessory equipment located on or associated with the traffic signal pole, shall not exceed seventeen (17) cubic feet.

(m) Facilities must be designed using camouflaging techniques that make them as unobtrusive as possible if:

- (1) It is not possible or desirable to match the design and color of facilities with the similar facilities in the same zoning area, as required under Section 9.4(a); or
- (2) Existing facilities in the area are out of character with a streetscape plan or other aesthetic plan that has been adopted by the City.

(n) Facilities shall incorporate specific concealment elements to minimize visual impacts.

(o) (1) Unless otherwise provided by applicable law, facilities shall, to the extent that is it reasonable, be placed in the following areas of the City: Industrial, Commercial. These areas are identified in terms of priority, meaning Industrial is the most preferred location, followed by Commercial.

(2) Facilities may be located outside areas identified in this Section if facilities must be placed outside of the areas in order to maintain existing services, improve services, or new service can only be provided if facilities are placed in areas located outside of those identified in this Section; or (ii) the proposed facilities will meet all applicable requirements for the non-preferred location and will complement the character of the zoning area.

(p) Installation of new facilities in, on, along, over, or under the public rights of way or modification of existing facilities in, on, along, over, or under the public rights of way shall:

- (1) Minimize risks to public safety;

- (2) Ensure that placement of facilities on existing structures is within the tolerance of those structures;
- (3) Ensure that installations and modifications are subject to periodic review to minimize the intrusion on the right of way;
- (4) Ensure that the City bears no risk or liability as a result of the installations or modifications; and
- (5) Ensure that use of the public rights of way does not inconvenience the public, interfere with the primary uses of the public rights of way, or hinder the ability of the City or other government entities to improve, modify, relocate, abandon, or vacate the right of way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right of way.
- (q) No facilities shall be placed in, on, along, over, or under the public rights of way unless: (i) there are immediate plans to use the proposed facility; or (ii) there is a contract with another party that has immediate plans to use the proposed facility.
- (r) Every facility placed in the public rights of way shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center.
- (s) If any subsection, sentence, clause, phrase, or portion of this Section is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

The City by issuing a written approval of Registration under this Chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and Laws of the United States, State of Georgia and the City Charter, and under the provisions of the City's Codified Ordinances to regulate the use of the Rights of Way. The Utility by applying for and being issued a written Permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Utility is deemed to acknowledge that its interests are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the City pursuant to such powers. In particular, all Utilities shall comply with City zoning and other land use requirements pertaining to the placement and specifications of Facilities.

- (t) No Person shall be relieved of its obligation to comply with any of the provisions of this Chapter by reason of any failure of City to enforce compliance.