

ORDINANCE 2019 - 020
1st reading: August 19, 2019
2nd reading September 16, 2019

AN ORDINANCE TO AMEND CHAPTER 16 OF THE CODE OF ORDINANCES RELATED TO TELECOMMUNICATION; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.


WHEREAS, the City of Powder Springs from time to time amends its codes and ordinances for consistency with State law and standards;


WHEREAS, the City desires to update and amend its codes relating to utility accommodation as it relates to small cell regulation and related telecommunication standards;


NOW THEREFORE, the Mayor and Council of the City of Powder Springs hereby ordain that the City's code of ordinances relating to telecommunications and motion picture, television and photographic production is amended consistent with the attached Exhibit A, Exhibit B, and Exhibit C.

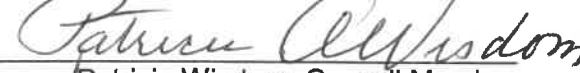
BE IT FURTHER ORDAINED, that all ordinances and parts of ordinances in conflict herewith are hereby repealed, and this ordinance shall become effective on August 19, 2019.


SO ORDAINED this 16th day of September, 2019.


Albert Thurman, Mayor


Patrick Bordelon, Council Member


Doris Dawkins, Council Member


Patricia Wisdom, Council Member


Henry Lust, Council Member


ABSENT
Thelma C. Farmer, Council Member

Attest: 
Kelly Axt, City Clerk

EXHIBIT A.

AMENDMENTS TO ARTICLE III OF CHAPTER 16 (NEW DIVISION 9 AND A RENUMBERED DIVISION 10)

ARTICLE III. - UTILITY ACCOMODATION POLICY

DIVISION 1. - DECLARATION OF FINDINGS AND PURPOSE, SCOPE, DEFINITIONS

Sec. 16-31. - Intent and purpose.

The City of Powder Springs (the "city") is vitally concerned with the use, construction within, and occupancy of all rights-of-way in the city as such rights-of-way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the city and to protect public work infrastructure. Therefore, the city, under the authority of the Laws and Constitution of the State of Georgia, including but not limited to Article 9, Section 2, Paragraphs 2 of the Georgia Constitution, O.C.G.A. 36-35-3 and O.C.G.A. 32-4-92(10), has adopted this article for the purpose of regulating public and private entities which use the city rights-of-way.

Sec. 16-32. - Scope.

The provisions of this chapter shall apply to all utilities and facilities occupying the rights-of-way as provided herein.

Sec. 16-33. - Definitions.

For the purposes of this article, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms whether or not capitalized.

City means the City of Powder, Georgia.

Codified ordinances means the codified ordinances of the City of Powder Springs, Georgia.

Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the right-of-way.

Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the right-of-way.

Director means the public works director of the City of Powder Springs, Georgia, or his or her designee.

Emergency means a condition that poses a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property.

Facility or facilities means any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances

and future technology of any utility in, on, along, over, or under any part of the rights-of-way within the city.

Facilities representative(s) means the specifically identified agent(s)/employee(s) of a utility who are authorized to direct field activities of that utility and serve as official notice agent(s) for facilities related information. Utility shall be required to make sure at least one (1) of its facilities representatives is available at all times to receive notice of, and immediately direct response to, facilities related emergencies or situations.

FCC means the Federal Communications Commission or any successor thereto.

Permit means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written agreement with the city or in a related provision of this Code of Ordinances.

Right(s)-of-way means the surface and space in, on, above, within, over, below, under or through any real property in which the city has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the city, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing facilities.

Service(s) means the offering of any service by a utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a utility between two (2) or more points for a proprietary purpose to a class of users other than the general public.

Service agreement means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the city or state pursuant to law and accepted by a utility or entered into by and between the city and a utility, which allows such utility to operate or provide service within the geographic limits of the city.

Street or streets means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the city within the corporate limits of the city, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof.

Transfer means the disposal by the utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty (50) percent at one (1) time of the ownership or controlling interest in the facilities, or of more than fifty (50) percent cumulatively over the term of a written approval of registration of such interests to a corporation, partnership, limited partnership, trust, or association, or person or group of persons acting in concert.

Unused facilities means facilities located in the rights-of-way which have remained unused for twelve (12) months and for which the utility is unable to provide the city with a plan detailing the procedure by which the utility intends to begin actively using such facilities within the next twelve (12) months, or that it has a potential purchaser or user of the facilities who will be actively using the facilities within the next twelve (12) months, or, that the availability of such facilities is required by the utility to adequately and efficiently operate its facilities.

Utility or utilities means all privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, utility, service, contractor or subcontractor, or any agent thereof, of any above-described utility or utility facility.

Sec. 16-34. - Reservation of regulatory and police powers.

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 for 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.

Sec. 16-35. - Compliance.

No person shall be relieved of its obligation to comply with any of the provisions of this article by reason of any failure of city to enforce compliance.

Sec. 16-36. - Appeal of administrative decisions.

All appeals provided for by this article and any notification to the city required by this article shall be in writing and sent via certified mail to the director as specified in this article.

Secs. 16-37—16-40. - Reserved.

DIVISION 2. - UTILITY REGISTRATION

Sec. 16-41. - Registration required.

Each utility who occupies, uses or has facilities in the rights-of-way at the time of passage of this article, including by lease, sublease or assignment, to operate facilities located in the rights-of-way, unless specifically exempted by state or federal law or this Code, shall file a registration statement with the city within ninety (90) days of the effective date of this article.

Sec. 16-42. - Registration procedure.

The registration information provided to the city shall be on a form approved by the city and include, but not be limited to:

- (1) The name, legal status (i.e. partnership, corporation, etc.), street address, email address, and telephone and facsimile numbers of the utility filing the registration statement (the "registrant"). If the registrant is not the owner of the facility in the right-of-way, the registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner;

- (2) The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more facilities representative(s). Current information regarding how to contact the facilities representative(s) in an emergency shall be provided at the time of filing a registration and shall be updated as necessary to assure accurate contact information is available to the city at all times;
- (3) A copy, if requested, of the utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements.
- (4) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the registration.

Sec. 16-43. - Incomplete registration.

If a registration is incomplete, the director shall notify the registrant and shall provide a reasonable period of time in which to complete the registration. If a registration is complete, the director shall so notify the utility in writing.

Sec. 16-44. - Acceptance of the registration shall not convey title in the rights-of-way.

Acceptance of the registration is only the nonexclusive, limited right to occupy rights-of-way in the city for the limited purposes stated in the acceptance. Acceptance of the registration does not excuse a utility from obtaining permits required by city ordinances nor from obtaining appropriate access or pole attachment agreements before using the facilities of others, including the city. Acceptance of the registration does not excuse a utility from notifying the city of construction as required herein.

Sec. 16-45. - Facilities in place without registration.

Beginning one (1) year after the effective date of this article, any facilities or part of a facility found in a right-of-way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid service agreement exists with the city, may be deemed to be a nuisance and an unauthorized use of the rights-of-way. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the facilities, evicting the utility from the right-of-way; prosecuting the violator; and/or any other remedy provided by city ordinance or otherwise allowed in law or in equity.

Secs. 16-46—16-50. - Reserved.

DIVISION 3. - CONSTRUCTION PERMITS

Sec. 16-51. - Permit required.

It shall be unlawful for any utility to excavate or to construct, install, maintain, renew, remove or relocate facilities in, on, along, over or under the public roads of the city without a utility permit from the department of public works in accordance with the terms of this article.

Sec. 16-52. - Permit procedure.

Utility permits shall be obtained from the director (or such other person as the city manager may designate) upon application made on forms prescribed by the department of public works. The written application shall include the following:

- (1) The name and address of the utility;
- (2) The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed facility or operations as described in the permit application. The plans shall show the size or capacity of facilities to be installed; their relationship to street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the street and its operation;
- (3) The name and address of the person or firm who is to do such work;
- (4) The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more facilities representative(s).
- (5) The projected dates for the work to be started and finished;
- (6) An indemnity bond or other acceptable security in an amount to be set by the city to pay any damages to any part of the city road system or other city property or to any city employee or member of the public caused by activity or work of the utility performed under authority of the permit issued;
- (7) A copy, if requested, of the registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
- (8) A copy, if requested, of the service agreement, if applicable, or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the application.

Sec. 16-53. - Permit fees.

Fees shall be determined by the director, subject to the approval by resolution of the city council. A fee schedule shall be available at the offices of the director and the city clerk and open for public inspection.

Sec. 16-54. - Issuance of permit.

If the director determines that the following requirements have been met, the director may issue a permit.

- (1) Issuance of the approval will be consistent with this article; and
- (2) Applicant has submitted a complete application and has secured all certificates and other authorizations required by law, if applicable, in order to construct facilities in the manner proposed by the applicant; and
- (3) There will be no unduly adverse impact on safety, visual quality of the streets, traffic flow, and other users of the right-of-way in consideration of the difficulty and length of time of the project, construction or maintenance.

Sec. 16-55. - Emergency situations.

- (1) Each utility shall, as soon as reasonably practicable, notify the director of any event regarding its facilities which it considers to be an emergency. The utility may proceed to take whatever actions are necessary in order to respond to the emergency. A utility which engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities and shall promptly restore or repair any affected right-of-way or facilities therein.
- (2) In the event that the city becomes aware of an emergency regarding utility facilities, the city may attempt to contact the affected utility or facilities representative. The city may take whatever action it deems necessary in order to respond to the emergency, including cutting or moving any of the wires, cables, amplifiers, appliances, or other parts of the facilities. The city shall not incur any liability to the utility, for such emergency actions, and the cost of such shall be paid by each utility affected by the emergency.

Sec. 16-56. - Effective period of permit.

- (1) Each permit shall have a commencement and expiration date based on information provided in the applicant's permit application.
- (2) The permit shall remain in place until construction is completed or until its expiration date unless the utility is in default. The director may give written notice of default to a utility if it is determined that a utility has:
 - a. Violated any provision or requirement of the issuance or acceptance of a permit application or any law of the city, state, or federal government;
 - b. Attempted to evade any provision or requirement of this article;
 - c. Practiced any fraud or deceit upon the city; or
 - d. Made a material misrepresentation or omission of fact in its permit application.

Sec. 16-57. - Cancellation for cause.

If a utility fails to cure a default within twenty (20) working days after such notice is provided to the utility by the city, then such default shall be a material breach and city may exercise any remedies or rights it has at law or in equity to terminate the permit. If the director decides there is cause or reason to terminate, the following procedure shall be followed:

- (1) City shall serve a utility with a written notice of the reason or cause for proposed termination and shall allow a utility fifteen (15) calendar days to cure its breach.
- (2) If the utility fails to cure within fifteen (15) calendar days, the city may declare the permit terminated.

Sec. 16-58. - Expiration of permit.

If work is not begun within six (6) months of the date of issuance, the permit will automatically expire.

Secs. 16-59—16-70. - Reserved.

DIVISION 4. - REQUIRED MINIMUM STANDARDS

Sec. 16-71. - Utility accommodation manual adopted.

The 1988 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, is hereby adopted by reference and incorporated in this division as if fully set forth herein, subject to the amendments and modifications contained in this article. A copy of the manual shall be maintained at the offices of the director or his designee and open for public inspection. Any conflicts between the provisions of this article and the manual shall be resolved in favor of the manual. References to state personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Powder Springs.

Sec. 16-72. - Protection of traffic and roadway.

Unless specifically set forth in the permit, no utility may occupy the city rights-of-way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the facilities do not jeopardize the traffic, street structure, other users of the right-of-way or the right-of-way itself.

Sec. 16-73. - Grading.

If the grades or lines of any street within the city right-of-way are changed at any time by the city during the term of the permit and this change involves an area in which the utility's facilities are located, then the utility shall, at its own cost and expense and upon the request of the city upon reasonable notice, protect or promptly alter or relocate the facilities, or any part thereof, so as to conform with such new grades or lines. In the event the utility refuses or neglects to so protect, alter, or relocate all or part of the facilities, the city shall have the right to break through, remove, alter, or relocate all or any part of the facilities without any liability to the utility and the utility shall pay to the city the costs incurred in connection with such breaking through, removal, alteration, or relocation.

Sec. 16-74. - Installation of poles and other wire holding structures and relocation.

Unless otherwise provided in a valid service agreement, no placement of any pole or wire holding structure of the utility is to be considered a vested interest in the right-of-way, and such poles or structures are to be removed, relocated underground, or modified by the utility at its own expense whenever the city determines that the public convenience would be enhanced thereby. The facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

Sec. 16-75. - Blasting or excavating.

As provided in O.C.G.A § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended, no utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the utility planning the blasting or excavating has given forty-eight (48) hours' notice by submitting a locate request to the Utility Protection Center, beginning the next business day (as defined in the Georgia Utility Facility Protection Act) after such notice is provided, excluding hours during days other than business days.

Secs. 16-76—16-80. - Reserved.

DIVISION 5. - RESTORATION OF PROPERTY

Sec. 16-81. - Responsibility for cost of repair.

Each utility shall be responsible for the cost of repairing any facilities in the rights-of-way and adjoining property or other facilities which it or its facilities damage.

Sec. 16-82. - Liability of replacement, restoration or repair of street, facilities or property or structure.

A utility shall be liable, at its own cost and expense, to replace, restore or repair, any street, facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the construction or installation, operation, upgrade, repair or removal of facilities to a condition as good as or better than its condition before the work performed by the utility that caused such disturbance or damage. If the utility does not commence such replacement or repair after twenty (20) working days following written notice from the city, the city or the owner of the affected structure or property may make such replacement or repair and the utility shall pay the reasonable and actual cost of the same.

Secs. 16-83—16-100. - Reserved.

DIVISION 6. - INSPECTION

Sec. 16-101. - Available for inspection.

The utility shall make the construction site available to the director and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the construction.

Sec. 16-102. - Cessation of work.

At any time, including the time of inspection, the director may order the immediate cessation of any construction which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the permit and/or this chapter or issue an order to correct work which does not conform to the permit and/or applicable standards, conditions or codes.

Sec. 16-103. - Notice of completion.

When the construction under any permit is completed, the utility shall notify the department.

Secs. 16-104—16-120. - Reserved.

DIVISION 7. - OTHER APPROVALS, PERMITS AND AGREEMENTS

Sec. 16-121. - Additional permits required.

The utility shall obtain all construction, building or other permits or approvals as according to city ordinance, state or federal law. In addition, a permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the rights-of-way regardless of who performs the work. No rights-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an emergency as outlined in section 16-55.

Secs. 16-122—16-130. - Reserved.

DIVISION 8. - PENALTIES

• Sec. 16-131. - Penalties.

Every utility convicted of a violation of any provision of this article shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Secs. 16-132-135. Reserved

DIVISION 9 – AESTHETIC STANDARDS

Section 16-136 Authority and Scope

- (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 Article 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 Article 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 Article is established pursuant to the City Charter and applicable law. This Article is administered by the Community Development Department.
- (e) Placement or modification of facilities in the public right of way shall comply with this Article 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.

Section 16-137. Definitions; Cross Reference.

Unless otherwise defined in Section 16-33, terms used in this Division shall have the meanings given them in O.C.G.A. § 36-66C-2. Definitions in this Division 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.

Section 16-138. Facilities Standards.

- (a) 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.
- (b) 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.
- (c) Facilities must be located in alignment with existing trees and/or facilities.
- (d) Facilities must maintain the integrity and character of the neighborhoods and corridors in which the facilities are located.

Section 16-139. Undergrounding.

Except as provided in paragraphs (a) and (b) of this Section, 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.

- (a) Light poles and small wireless facilities collocated thereon may be located above ground in areas of the City where facilities are primarily located underground.
- (b) 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.

Section 16-140. Historic District.

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.

- 7
- A. 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:
 1. Concealed attached small wireless facility mounted to one of the following types of alternative support structures:
 - a. Utility pole or replacement utility pole (i.e., utility pole-mounted small wireless facility);
 - b. Street light pole (i.e., streetlight-mounted small wireless facility);
 - c. Traffic signal pole.
 2. Concealed freestanding support structures designed as a:
 - a. 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
 - b. Concealed Unipole.
 - B. 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:
 1. 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;
 2. 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;
 3. 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
 4. 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).

- C. 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.
- D. 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
- E. Additional Regulations and Design Standards for Concealed Utility-Pole-Mounted Small Wireless Facilities.
1. 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.
 2. 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.
 3. 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.
 4. Design Standards and Concealment Elements.
 - a. 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.
 - b. 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.

- c. 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.
- d. 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.
- e. 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.
- f. 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.

F. Additional Regulations and Design Standards for Concealed Streetlight-Mounted small wireless facilities.

1. Prohibited Structures. No attached small wireless facilities may be mounted to a pedestrian light or post-top street light.
2. 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.

3. 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.
4. 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.
5. Design Standards and Concealment Elements.
 - a. 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.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. 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.

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

1. 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.
2. 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.
3. Other Prohibited Attachments.
 - a. 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).
 - b. Mast Arm. No small wireless facility may be attached to the mast arm of a traffic signal pole.
 - c. 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.
 - d. 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.
 - e. 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.

Section 16-141. Camouflaging.

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

- (a) 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
- (b) Existing facilities in the area are out of character with a streetscape plan or other aesthetic plan that has been adopted by the City.

Section 16-142. Concealment

Facilities shall incorporate specific concealment elements to minimize visual impacts.

Section 16-143. Preferred Locations.

(a) 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.

(b) 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.

Section 16-144. Installation and Modification Standards.

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:

(a) Minimize risks to public safety;

(b) Ensure that placement of facilities on existing structures is within the tolerance of those structures;

(c) Ensure that installations and modifications are subject to periodic review to minimize the intrusion on the right of way;

(d) Ensure that the City bears no risk or liability as a result of the installations or modifications; and

(e) 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.

Section 16-145. Plans for Use.

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.

Section 16-146. Contact Information.

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.

Secs. 16-147 and 149 Reserved.

DIVISION 10 - OTHER PROVISIONS

Section 16-150 Severability, Reservation of Powers

If any section, subsection, sentence, clause, phrase, or portion of this Chapter 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.

Section 16-151 Compliance. 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.

EXHIBIT B
NEW ARTICLE IV OF CHAPTER 16

CHAPTER 16 – STREETS, SIDEWALKS, RIGHT OF WAYS
ARTICLE IV - WIRELESS FACILITIES AND ANTENNAS

DIVISION I. PURPOSE AND COMPLIANCE

Section 16-160. 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.

Section 16-161. 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.

Section 16-162. 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.

DIVISION II. DEFINITIONS

Section 16-163. 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 (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.

Section 16-164. 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.

DIVISION III. PERMITS

Section 16-165. 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).

Section 16-166. 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.

Section 16.167. 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).

Section 16.168. 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.

Section 16-169. 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.

Section 16-170. 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).

Section 16-171. 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).

Section 16- 172. 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.

Section 16-173. The City may revoke a permit issued pursuant to this 0if 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.

Section 16-174. 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 the 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 Article0 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.

Section 16 – 175. All accepted applications for permits shall be publicly available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).

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.

Section 16-177. Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).

Section 16-178. 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.

Section 16-179. Permits shall be renewed following the expiration of the term identified in Section 16-178 upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).

Section 16-180. 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).

DIVISION IV

RELOCATION; RECONDITIONING; REPLACEMENT; ABANDONMENT

Section 16-181. 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).

Section 16-182. 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.

Section 16-183. 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.

Section 16-185. 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).

Section 16-186. 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.

DIVISION V. STANDARDS

Section 16-187. 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.

Section 16-188. 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.

Section 16-189. 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.

Section 16-190. 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.

Section 16-191. 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.