PLANNING COMMISSION MEETING
OCTOBER 12, 2018

ALPHARETTA CITY HALL
COUNCIL CHAMBERS
2 PARK PLAZA
12:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC HEARING

a. PH-18-13 Unified Development Code Text Amendments - Wireless Telecommunications Facilities
Consideration of text amendments to Unified Development Code to amend Section 2.8 Wireless Telecommunications Facilities.

IV. ITEMS FROM BOARD MEMBERS

V. ITEMS FROM STAFF

VI. ADJOURNMENT

CITY COUNCIL MEETING
STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT
SUBMITTED BY: KATHI COOK
DRAFTED BY: MICHAEL WOODMAN

I. **AGENDA ITEM TITLE:** PH-18-13 UNIFIED DEVELOPMENT CODE TEXT AMENDMENTS – WIRELESS TELECOMMUNICATIONS FACILITIES

PLANNING COMMISSION: OCTOBER 12, 2018

CITY COUNCIL: OCTOBER 22, 2018

II. **RECOMMENDATION:**

Approve PH-18-13 Unified Development Code Text Amendments – Wireless Telecommunications Facilities as it relates to small cell technology in the public right-of-way.

III. **REPORT IN BRIEF:**

Consideration of text amendments to Unified Development Code (UDC) Section 2.8 Wireless Telecommunications Facilities as it relates to small cell technology in the public right-of-way.

IV. **ATTACHMENTS:**

- UDC Strike Through and Underline Edits

SECTION 2.8 - WIRELESS TELECOMMUNICATIONS FACILITIES

2.8.1. Purpose, intent and objectives.

The purpose of this Section is to reasonably regulate, to the extent permitted under Georgia and federal law, the installations, operations, collocations, modifications, replacements and removals of wireless telecommunications facilities in the City of Alpharetta, recognizing the benefits of wireless communications while reasonably protecting other important City interests, including the public health, safety and welfare, aesthetics and local property values. These regulations are intended to establish reasonable standards and requirements for the siting of wireless telecommunications facilities, including wireless towers, antennas and accessory equipment. It is the intent of these regulations to promote the health, safety and general welfare of the citizens of the City of Alpharetta by establishing an orderly process for regulating the siting of wireless telecommunications facilities while balancing the need for adequate service levels. Therefore, the purposes of this Section are to establish standards for the safe provision of wireless communication services consistent with state and federal law; to minimize the adverse visual impact of wireless telecommunications facilities through proper design, site placement, height limitation and screening and thereby retain the residential and traditional character of the City and maintain property values; and to encourage the shared use of wireless telecommunications facilities. In furtherance of these purposes, the City shall give consideration to the Comprehensive Plan and Future Land Use Map, the Zoning Map, existing land uses, and environmental, residential, historic and other sensitive areas in approving the location and siting of wireless telecommunications facilities.

It is the intent of this Section to address the aesthetic effect of wireless telecommunications facilities on landscapes in the City, the visual impact of wireless telecommunications facilities on surrounding property owners, citizens' demands for these services, and the needs of service providers to close significant gaps in service coverage by implementing the following objectives:

1. Minimize the visual and aesthetic effects of wireless telecommunications facilities through appropriate design, screening and location standards;
2. Promote the siting of wireless telecommunications facilities in a manner such that potential adverse effects to the City and its residents are minimal in order to insure harmony and compatibility with surrounding land uses;
3. Promote the location of wireless telecommunications facilities in areas where the adverse impact on the community is minimal;
4. Promote the installation of wireless telecommunications facilities at locations where other such facilities already exist; and
5. Promote the location and collocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts.

Pursuant to federal and state law, including Section 704(a) of the Federal Telecommunications Act of 1996, it is not the intent of this section to:

1. Prohibit or have the effect of prohibiting the provision of personal wireless services in the City of Alpharetta;
2. Unreasonably discriminate among providers of functionally equivalent wireless communication services;
3. Regulate the placement, construction or modification of wireless telecommunications facilities on the basis of environmental effects of radio frequency ("RF") emissions where it is demonstrated that the wireless telecommunications facility complies or will comply with the applicable FCC regulations;
4. Prohibit, effectively prohibit or unreasonably delay collocations or modifications to existing wireless telecommunications facilities that the City is required to approve pursuant to federal and state law; or

5. Require the location or siting of wireless telecommunications facilities on City-owned public property.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.2 Applicability.

The provisions of this Section shall apply to all applications to install, place, site, locate, collocate or modify any new or existing wireless telecommunications facility within the City. The provisions of this Section are in addition to, and do not replace, any obligations a wireless telecommunications facility permit holder may have under any other permits issued by the City. Notwithstanding any other provision herein to the contrary, no wireless telecommunications facility may be installed, sited, located, collocated or modified within the public rights-of-way of the City except in accordance with Section 2.8.10 (Wireless Telecommunications Facilities in Public Rights-of-Way). Further, except as expressly set forth in Section 2.8.10 regarding public rights-of-way, no person shall install, place, site, locate, or collocate a wireless telecommunications facility on any property, building or structure owned by the City without the City's separate and distinct agreement and conveyance of a property interest, such as an easement or license, to such party authorizing such use. Subject to the foregoing, the installation, placement, siting, location, or collocation of a wireless telecommunications facility on a City-owned property other than public right-of-way shall be exempt from regulation under this Section.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.3 Definitions.

A. *Defined terms.* When used in this Section, unless the context indicates otherwise, the following terms shall have the meanings set forth below:

Accessory Equipment. Any equipment serving or being used in conjunction with a wireless telecommunications facility, including, without limitation, utility equipment, power meters, power supplies, generators, batteries, cables, control boxes, and equipment cabinets, but excluding antennas, antenna arrays, antenna attachment devices, equipment shelters, storage sheds, antenna support structures and alternative support structures.

Amateur Radio Antenna. A radio communication facility operated for non-commercial purposes by a FCC-licensed amateur radio operator. The term "amateur radio antenna" shall include the antenna, electronic system and the structure it is affixed to for primary support.

Antenna. An apparatus, device or system of electrical conductors that transmits and/or receives electromagnetic waves, radio or other wireless signals used in the provision of all types of wireless communication services. Where the context permits, use of the term 'antenna' shall also refer to the antenna concealment enclosure when such concealment enclosure is required by the applicable design standards.

Antenna Array. A set of antennas and associated mounting hardware having transmission and/or reception elements extending in more than one direction or other similar appurtenances, which share a common attachment device such as a mounting frame or mounting support.

Antenna Attachment Device. Any pole, mount or device which attaches an antenna(s) or antenna array(s) to the roof or side of an existing building or other alternative support structure, such as an electrical transmission tower, light structure, utility pole, or other similar existing structure. Also referred to as a 'mount'.

Antenna, Whip. A slim, vertically-oriented, omni-directional antenna.

Attached Wireless Telecommunications Facility or Attached WTF. An antenna or antenna array that is attached to an existing building, electrical transmission tower, light structure, utility pole or other alternative support structure with an antenna attachment device, together with accessory equipment,

mounted on the roof of or within the subject building, to or within the structure or pole, or on or under the ground proximate to the subject building, structure or pole, as applicable. Attached WTF's for which an existing building serves as the alternative support structure are:

(1) "Roof-mounted wireless telecommunications facility" - antenna(s) attached with antenna attachment device(s) to the roof of an existing building; and

(2) "Building-mounted wireless telecommunications facility" - antenna(s) mounted on the side of an existing building.

Base station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

Building-Concealed Wireless Telecommunications Facility. An attached wireless telecommunications facility designed and constructed as an existing architectural feature of an existing building in a manner such that the WTF is not discernible from the remainder of the building and is completely enclosed within the architectural feature. Building-Concealed WTF's function as replacements of existing architectural features of a building that extend vertically above the roof of the building in order to position antennas at a greater height. Building architectural features employed as building-concealed WTF's include, but are not limited to steeples, church spires, clock towers, bell towers and cupolas. The term "building-concealed wireless telecommunications facility" does not include in-building antennas and other wireless transmission equipment that are exempt from the permitting requirements of this Section pursuant to Subsection 2.8.8(C) hereof.

Cell on Wheels or COW. A portable self-contained wireless telecommunications facility that can be moved to a location and set up to provide wireless communication services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

Collocation. The placement or installation of new wireless transmission equipment on a previously approved and constructed wireless tower or support structure on which there is an existing antenna in a manner that negates the need to construct a new freestanding support structure.

Concealed. The classification of a wireless telecommunications facility that is disguised, hidden, integrated as or as part of an existing or proposed structure, or placed and enclosed within an existing or proposed structure, and camouflaged and designed to be aesthetically compatible with existing and proposed building(s), structures, uses, and other site features, including natural and architectural features, located on the site and nearby properties, such that it is not readily identifiable as a wireless telecommunication facility by a casual observer, its presence is not apparent to a casual observer, or it is otherwise minimally visible to the casual observer in accordance with such other prescribed standard of visibility. A concealed WTF (i) is integrated as an architectural feature of an existing building such as a cupola; (ii) uses a design which mimics and is consistent with nearby natural, architectural or site features and is integrated as such a feature, such as a flagpole; or (iii) is attached to and, through the use of concealment techniques, is incorporated as part of an existing non-tower structure, such as utility poles or light structures. "Concealed" also refers to the effective employment of the foregoing design techniques in such a manner as to render a wireless telecommunications facility, or certain components or aspects thereof, minimally visible to the casual observer pursuant to a prescribed standard of visibility. The standard of visibility of a concealed WTF may be further prescribed by other guidelines, standards and regulations applicable to the subject type of WTF.

Coverage, Service. The geographic area reached by an individual wireless telecommunications facility.

DAS Hub. An equipment shelter containing accessory equipment utilized in the deployment and operation of wireless DAS receive/transmit infrastructure that is located elsewhere, but which typically does not have any DAS antennas located at such site.

Distributed Antenna System or DAS. A network of one or more antennas and related fiber optic nodes typically mounted to existing or proposed non-tower structures, such as utility poles or light structures. A DAS system typically consists of: (1) a number of remote communications nodes deployed

throughout a certain coverage area, each including at least one antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site (DAS hub); and (3) radio transceivers located at the hub site, rather than at each individual node (as is the case for small cells) to process or control the communications signals transmitted and received through the antennas. A DAS installation may be considered an attached WTF or concealed freestanding support structure for purposes of these regulations.

Electrical Transmission Tower. An electrical transmission tower used to support high voltage (110-kV and above) overhead electrical transmission lines.

Equipment cabinet. A cabinet, enclosure, pedestal, or other similar fixture that is used in association with a WTF to house or contain accessory equipment necessary for the transmission or reception of wireless communication signals. Also referred to as "equipment enclosure."

Equipment compound. A fenced area surrounding equipment shelters, equipment cabinets, storage sheds, and other ground-mounted wireless transmission equipment, and, if applicable, the framework (or base) of a wireless tower or stealth tower.

Equipment shelter. A small building, shed or similar structure that that is used in association with a WTF to shelter, store or house equipment cabinets and accessory equipment necessary for the transmission or reception of wireless communication signals.

FCC. The Federal Communications Commission.

Flush-mounted. The attachment of an antenna, equipment cabinet or other accessory equipment to the exterior (side) of an antenna support structure or alternative support structure (e.g., building, utility pole, or light structure) in a manner such that there is no visual separation between the support structure and wireless transmission equipment at the point of attachment or such that the wireless transmission equipment remains in close proximity, abreast and generally parallel to the exterior surface of the support structure, as applicable. Where a maximum distance related to such mounting is given, such distance shall be measured from the existing appurtenant edge of the antenna support structure or alternative support structure to the outside edge of the antenna or accessory equipment, as applicable. Unless otherwise prescribed, where no distance related to the flush-mounting of accessory equipment is given or where flush-mounting is required to be provided such that there is no visual horizontal separation, the accessory equipment or antenna, as applicable, shall appear to a casual observer to be in direct contact with the exterior surface of the support structure. When an antenna housed within an antenna concealment enclosure is expressly allowed to be flush-mounted to the top of a utility pole, light standard, or similar structure, there shall be no vertical separation between the utility pole and antenna concealment enclosure at the point of attachment, and the circumference of the antenna concealment enclosure shall be consistent with the subject structure's circumference at the point of attachment.

Geographic Search Area (GSA). A geographic area designated by a wireless carrier as the area within which to locate a new wireless telecommunications facility, produced in accordance with generally accepted principles of wireless telecommunications or radio frequency engineering.

Modification or modify. The improvement, upgrade, expansion, or replacement of existing wireless telecommunications facilities, including the installation or replacement of wireless transmission equipment associated with an existing wireless telecommunications facility.

Monopole. A cylindrical, self-supporting (i.e., not supported by guy wires) wireless tower constructed of a single spire.

OTARD antennas. Antennas covered by the "Over-the-Air Reception Devices" rule in 47 C.F.R. § 1.4000 et seq. as may be amended or replaced from time to time.

Propagation Study. A computer simulated model of how a wireless telecommunications facility should perform as part of a network or system. It gives an idea of the service coverage, dead-spots and performance of a proposed wireless telecommunications facility for planning purposes, as well as existing facilities for diagnostic and planning purposes.

Public Right-of-Way. A strip of land over which the City or the State has designated a right of use as a street, road, public thoroughfare or sidewalk for vehicular and/or pedestrian traffic.

Radio Frequency Engineer. An engineer with specialized training and/or experience in (i) the analysis and development of wireless telecommunications facilities and networks and (ii) electrical or microwave engineering, especially the study of radio frequencies.

Radome. A visually-opaque, radio frequency transparent enclosure which may contain one or more antennas, cables, and related accessory equipment therein.

Repeater. A low power, mobile radio service wireless telecommunication facility used to extend service coverage of cell areas to areas not covered by the originating facility.

Residential. Pertaining to the use of land, means premises such as homes, townhomes, patio homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for occupancy as a residence and which are designed primarily for living, sleeping, cooking, and eating therein.

Scenic View. A wide angle or panoramic field of sight or open space vista that may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A scenic view may be to a far-away object, such as a mountain, or a nearby object, or as part of an open space vista.

Screening or [to] screen. The use of design, existing buildings and structures, existing and proposed vegetation, foliage, and landscaping, existing and proposed man-made or natural site features, and color to obscure a wireless telecommunications facility.

Siting or [to] site. The method and form of placement of a wireless telecommunications facility on a specific area of a property.

Small Cell Facility. A miniaturized, low power mobile radio service wireless telecommunication facility used to provide targeted capacity or service coverage. Small cell facilities are often employed to provide increased capacity in high call-demand areas or to improve service coverage to weak areas. Small cell facilities can consist of one or more radio transceivers, antennas, coaxial cable, power supply, and other associated electronics. Often, this type of wireless telecommunication facility will have all of the components, except for the coaxial cables and antennas, gathered in a self-contained protective housing, or attached separately to a support structure or alternative support structure. Small cell facilities are generally made up of an equipment enclosure and antenna, and are often attached to an existing structure.

Stealth Tower. A freestanding antenna support structure, together with attached wireless transmission equipment, designed with camouflaging methods that render the wireless telecommunications facility more visually appealing and compatible with the surrounding area and blend the wireless telecommunications facility into an existing visual backdrop. Through the use of structural designs and other camouflaging techniques that are compatible with the natural setting and surrounding structures, stealth towers, such as monopines (or other man-made trees) and unipoles (or slick sticks), are designed to blend into an existing visual backdrop and render the wireless telecommunications facility more visually appealing so as to make the facility less recognizable to the casual observer and reduce or mitigate the facility's potential adverse visual impacts on the surrounding area.

Structure, Historic. A building or structure which has been formally designated as a historic property, building or structure as designated by the Georgia Historic Preservation Division of the Department of Natural Resources, the United States Department of the Interior, or the City Council, or which has sufficient historic merit so as to be listed as a contributing historic building on the City's Historic Resources Inventory.

Support Structure. Any structure on which one or more antennas may be mounted. The term 'support structure' is inclusive of 'alternative support structure' and 'antenna support structure'.

Support Structure, Alternative. An existing structure that is not primarily constructed or designed for the purpose of supporting antennas, but on which one or more antennas may be mounted. Alternative support structures include, but are not limited to, buildings (which may serve as alternative support structures for roof-mounted WTF's, building-mounted WTF's, and building-concealed WTF's), utility poles,

light structures, and electrical transmission towers. Alternative support structures have a primary, obvious function other than that of a WTF, and may be concealed or non-concealed.

Support Structure, Antenna. A structure constructed and designed to support antenna(s), antenna array(s), and certain accessory equipment for the primary purpose of accommodating antennas at a desired height, such as a wireless tower, stealth tower or concealed freestanding support structure.

Support Structure, Concealed Freestanding. A clock tower, campanile, freestanding steeple, or other similarly designed freestanding support structure that conceals antennas as an architectural feature, or an alternatively designed freestanding antenna support structure that mimics or also serves as a common site feature, such as a flagpole or light structure, and in which the antenna, and the accessory equipment, are completely hidden from view. Concealed freestanding support structures designed as flagpoles or light standards are referred to herein as "faux flagpoles" or "faux light standards", respectively. Concealed freestanding support structures are designed to be aesthetically compatible with existing uses, building(s), and site features located on the site and nearby properties, such that they are not identifiable or recognizable to the casual observer as a wireless telecommunication facility in order to substantially reduce the facility's potential adverse visual impacts on the surrounding areas. Antenna support structures utilizing concealment elements but which are obviously not such a natural, architectural or site feature so as to render it unidentifiable or unrecognizable as a WTF to the casual observer, such as monopines, slick sticks and other stealth towers, are not 'concealed freestanding support structures.'

Tower, Guy. A wireless tower supported, in whole or in part, by guy wires and ground anchors.

Tower, Lattice. A guyed or self-supporting open frame wireless tower that has three (3) or four (4) sides.

Unipole. A uniformly tapered pole with one or more antennas and associated equipment and cables contained within the interior of the pole, and with a radome located at the top of the pole being the same width as the pole at the point of attachment.

Utility Pole. An existing pole or structure owned or operated and in active use by a public utility, electric membership corporation or electric cooperative that is specifically designed and used to carry lines, cables, or wires for electricity, telephone, or cable television. A "utility pole" does not include street light or light structures, light poles, lamp posts, and other structures primarily designed and used to provide lighting. "Utility pole" includes electrical transmission structures or poles used to support lower voltage overhead electrical transmission lines, but does not include "electrical transmission towers."

Wireless Carrier or Carrier. An entity that provides 'personal wireless services' as defined in 47 U.S.C. §332.

Wireless Communications Services. Wireless radio, data and/or telecommunications services, including cellular, telephone, television, microwave, analog, and digital services, 'personal wireless services' as defined in 47 U.S.C. §332, personal communication services, wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies, wireless utility monitoring and control services, and any other FCC licensed or authorized communications service transmitted over frequencies in the electromagnetic spectrum.

Wireless Telecommunications Facility or WTF. Any facility designed or intended to be used for transmitting or receiving electromagnetic waves, radio or other wireless signals or to otherwise provide wireless communications services, and usually consisting of wireless transmission equipment, including antenna(s) and accessory equipment, mounted to or supported by a wireless tower, antenna support structure, or alternative support structure. The following nonexclusive list shall be considered a wireless telecommunications facility: new, existing, and replacement wireless towers or other antenna support structures, wireless transmission equipment collocated on existing wireless towers or support structures, and attached wireless telecommunications facilities.

Wireless Tower. A freestanding antenna support structure that is designed and constructed for the sole or primary purpose of supporting one or more antennas, antenna array(s), and other wireless transmission equipment, including non-concealed wireless towers, such as lattice towers, guy towers and monopoles, and stealth towers. The term includes, without limitation, tower structures that are constructed

to provide wireless communications services, radio and television transmission towers, microwave towers, common carrier towers, cellular (cell) and digital telephone towers and the like.

Wireless Transmission Equipment. The set of equipment and network components, including antennas, antenna arrays, transmitters, receivers, base stations, power supplies, antenna attachment devices, mounts, cabling, equipment cabinets, other accessory equipment, and equipment shelters, used in connection with a support structure or antenna to provide wireless communication services, but exclusive of the underlying wireless tower, antenna support structure or alternative support structure.

B. *Construction of Certain Words and Phrases.* For the purposes of this Section 2.8, the following rules shall govern the construction of the respective words and phrases used herein:

1. Measurement of Height. Unless otherwise expressly provided in this Section 2.8, height shall be measured as follows:

    a. Antenna Support Structure: The height of an antenna support structure (i.e., wireless tower, stealth tower or concealed freestanding support structure) shall be measured as the vertical distance from the average finished grade adjacent to the perimeter of the base of [the] antenna support structure to the highest point of the antenna support structure, including any antenna or other wireless transmission equipment mounted thereto.

    b. Alternative Support Structure: The height of an alternative support structure other than a building (i.e., utility pole, light structure or electrical transmission tower) shall be measured as the vertical distance from the adjacent finished grade to the highest point of the alternative support structure, including any antenna or other wireless transmission equipment mounted thereto.

    c. Building: The height of a building shall be measured in the same manner as provided for "Building Height" in Section 1.4.2 of the UDC.

    d. Roof-Mounted Wireless Telecommunications Facility: The height of a roof-mounted WTF shall be measured as the vertical distance from the existing roof surface of the building (at the location where the antenna attachment device or mount is affixed) to the highest point of the roof-mounted wireless telecommunications facility, including any antenna positioned for operation. The height of accessory equipment, new architectural features, concealment enclosures or other approved screening features installed on the roof in association with the WTF shall be measured as the vertical distance from the existing roof surface of the building (at or below the location where such accessory equipment or screening features are affixed) to the highest point of such equipment or screening feature.

    e. Ground-Mounted Equipment Cabinets: The height of a ground-mounted equipment cabinet shall be measured as the vertical distance from the adjacent finished grade to the highest point of the equipment cabinet or related concealment enclosure.

2. Measurement of Volume. Volume is a measure of the exterior displacement, not the interior volume of the enclosures. The measurements used to calculate the volume of an imaginary enclosure shall be based on the dimensions of rectangular cubes within which the antenna and its mount fit.

3. Visibility. Unless otherwise expressly provided in this Section 2.8, the visibility of a wireless telecommunications facility or wireless transmission equipment is based on the viewpoint of a casual observer, who is a person of ordinary sensibilities and intelligence, at ground level from the locations specified within this Section. A wireless telecommunications facility (or wireless transmission equipment) is "visible" when its location or the manner in which it is sited is such that it is likely to be seen by a casual observer or its size, height, shape, color or material contrasts with other objects or features in the surrounding setting such that it is likely to be seen by a casual observer. A wireless telecommunications facility (or wireless transmission equipment) is "plainly visible" when same stands out as an obvious or noticeable feature within its setting. A wireless telecommunications facility is "identifiable" when it is likely to be seen and recognized by a casual observer as a wireless telecommunications facility or something other than the structure or feature that it is designed to mimic.

4. Adjacent Property. An "adjacent property" shall refer to other properties that are contiguous to the subject property or which are only separated from the subject property by right-of-way.

5. DAS and Small Cell Facilities. References to DAS, small cell facilities or small wireless technologies, or to antennas, repeaters, equipment cabinets/pedestals, and other accessory equipment associated therewith, are intended to refer to wireless telecommunications facilities or wireless transmission equipment that are physically much smaller and less visible and can be placed at much lower elevations than macrocell 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. The use of the terms "DAS", "small cell facility", or "small wireless technologies" herein is for the purpose of generally describing in prevailing industry terminology the type of wireless transmission equipment (in terms of its size, scale, design and feasibility for location on alternative support structures or concealed freestanding support structures) that is allowed for the subject type of wireless telecommunications facility. Such terms are used for the purpose of regulating the design standards of wireless telecommunications facilities in order to limit the aesthetic impact of such facilities. The use of such terms is not intended to regulate the technological or operational aspects of wireless transmission equipment.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.4 Permits and applications.

A. *Wireless Telecommunications Facility Permit Required.* No wireless telecommunications facility shall be installed, placed, sited, located, collocated or modified without the issuance of a permit from the City in accordance with the provisions hereof, subject to certain exemptions set forth herein (a permit to install, place, site, locate, collocate or modify a wireless telecommunications facility, whether an administrative permit or a conditional use permit, is also referred to herein as a "WTF permit"). A WTF permit shall be required for each wireless telecommunications facility installation site. The complete removal of a wireless telecommunications facility shall not require a permit under this Section; however, removal must be performed in strict compliance with this Section and other applicable law.

1. Administrative Permits. Applications requesting administrative approval to install, place, site, locate, collocate or modify a wireless telecommunications facility shall be subject to the approval of the Director or his/her designee, as further set forth herein. Subject to compliance with the regulations provided herein, the following types of wireless telecommunications facilities are authorized by administrative permit:

   a. Concealed Attached Wireless Telecommunications Facilities;

      (i) Concealed Roof-Mounted WTF's;

      (ii) Concealed Building-Mounted WTF's;

      (iii) Building-Concealed WTF's;

      (iv) Concealed Attached WTF's Mounted to Utility Poles; and

      (v) Concealed Attached WTF's Mounted to Light Structures;

   b. Attached WTF's Mounted to Electrical Transmission Towers; and

   c. Concealed Freestanding Support Structures.

2. Conditional Use Permits. Unless authorized by administrative permit or expressly exempted from the WTF permit requirement, all other applications to install, place, site, locate, collocate or modify a wireless telecommunications facility shall be subject to the approval of a conditional use permit by the City Council, as further set forth herein.

B. *Pre-Application Review.* Prior to the submission of an application for a WTF permit, a person seeking to install or locate a new wireless telecommunications facility shall have a pre-application meeting with the Director, or his/her designee, to review preliminary documents and graphic exhibits of the proposed WTF and discuss the application, location and design requirements for the proposed WTF. The primary purposes of the review are to streamline applications and reduce site plan and design revisions, as well as the multiple reviews associated therewith.

C. *Application for Wireless Telecommunications Facility Permit.* Any person desiring to obtain a permit to install, place, site, locate, collocate or modify a wireless telecommunications facility shall make application to the Community Development Department. All applications for a WTF permit shall be reviewed by the Community Development Department. The submittal of an application for a WTF permit does not authorize the installation, location, collocation, modification or operation of the wireless telecommunication facility.

D. *Application Contents.* An application to install, site, locate, collocate or modify a wireless communication facility shall be made on a form(s) prepared by the Community Development Department. The Community Development Director is authorized to prepare application forms, and may develop application forms that distinguish between different types of wireless telecommunications facilities, installations, collocations and modifications in order to streamline the processing of certain applications and to comply with legal requirements. An applicant for a wireless telecommunications facility permit (or such other approvals required herein) shall include such information and documents required by the subject application form, which shall generally include, but not be limited to, the information the City Council requires for a planning and zoning decision, as well as the following:

1. Project Description: A written project description for the proposed wireless telecommunications facility that includes, but is not limited to, a general description of the existing land use setting, existing site features, the type of WTF proposed, visibility from public rights-of-way and properties with 'For-Sale' dwelling uses, concealment elements and other design features, on and off-site access, landscaping, and other components of the facility; the project description shall also provide the additional authorizations required for the installation, collocation or modification, and describe the steps that applicant has taken to comply with this Section;

2. Written Narrative: A written and technically accurate and reliable narrative that explains the nature of the permit sought (new installation, collocation, or modification of an existing WTF) and that further states whether the applicant believes (and the basis therefor) that the WTF is subject to: (a) the provisions of 47 U.S.C. section 332(c)(7), and if so, who the entity is that will be providing personal wireless services; (b) O.C.G.A. § 36-66B-1, et seq. (the BILD Act), and if so, why its proposal fits each and every criteria set forth therein; and/or (c) 47 U.S.C. § 1455(a), and if so, why its proposal fits each and every criteria for a Section 6409(a) modification set forth in Section 2.8.9 hereof;

3. Property Owner Authorization: A letter of authorization from the property owner(s), including, to the extent allowed by law, the owner of any existing support structure for any proposed attached WTF or collocation, that demonstrates knowledge and acceptance of the applicant's proposed wireless telecommunications facility and use on the subject property;

4. WTF Owner/Operator and Wireless Provider/Carrier: The name of the respective parties that will own, operate and be responsible for the maintenance of the proposed WTF and the name of the wireless provider and/or carrier that such WTF will serve;

5. Photo Simulations and Visual Impact Analysis: (a) Photo simulations of the WTF, which show the proposed facility from at least four (4) directions within the surrounding area and depict the visibility of WTF from public right-of-way and other properties zoned or used for 'For-Sale' dwelling use (the photo simulations shall include "before" and "after" renderings of the site, its surroundings, the proposed WTF and antennas at maximum height, and any other structures, vegetation, or topography that will conceal or screen the proposed WTF from visibility), (b) detailed drawings or renderings of the proposed WTF, which further provide the manner in which the proposed facility will be enclosed, camouflaged, screened, and/or obscured to meet

the visibility requirements set forth herein, and (c) such other visual information, as necessary, to determine the visual impact of the proposed wireless telecommunications facility on the existing setting or to determine compliance with design standards established herein;

6. Site Plan and Design Specifications. Written explanation, drawings and scaled site plan providing the following:

   a. Description of the WTF's components and design (including dimensions, colors, and materials), including accessory equipment, equipment cabinets, and the number, direction, and type of antennas;

   b. The location and dimensions of the entire site area and the exact location of the support structure, ground-mounted wireless transmission equipment and equipment compound (if applicable) with proposed setbacks, buffers, access road improvements, and any proposed landscaping or other development or site features;

   c. Front, side, and rear elevation plans showing the proposed WTF, including the support structure, antennas, accessory equipment, and all ground-mounted wireless transmission equipment;

   d. Manufacturer specifications, schematics, renderings, and illustrations of the proposed design of the WTF, including, but not limited to, samples of colors and materials of any proposed concealment elements; and

   e. Land uses and zoning designations or adjacent properties;

7. Certification from a professional civil and/or structural engineer (licensed in the State of Georgia) that the proposed antenna attachment device, antenna support structure and/or alternative support structure meet the applicable design standards for wind loads and have structural integrity to accommodate the proposed use;

8. Such additional information necessary for review to confirm compliance with the design requirements set forth herein, as reasonably determined and requested by the Director; and

9. Payment of the application and review fee as established from time to time by resolution of the City Council or, to the extent authorized, by the Director.

E. *Appeals.* Notwithstanding any other provision of the UDC or City Code to the contrary, appeals of administrative decisions or determinations of the Director regarding wireless telecommunications facilities, including denials of WTF permits and alleged errors in the enforcement or interpretation of the meaning of the provisions of this Section 2.8, shall not be taken to or heard by the Board of Appeals. The appeal of a written administrative decision of the Director, including the denial of a WTF permit, may be appealed to the City Council. Any such appeal must be filed with the Director within fifteen (15) days of the date of the written decision being appealed. Failure to timely file such appeal shall render the decision as a final decision. The decision of the City Council in regard to a timely-filed appeal, as well as all other decisions of the City Council pursuant to this Section 2.8, shall be final. The provisions of this Paragraph shall not apply to any request to locate a wireless telecommunications facility within or upon public right-of-way in the City or any decision related thereto.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.5 General regulations applicable to wireless telecommunications facilities.

The regulations set forth in this Subsection apply to all wireless telecommunications facilities; provided, however, to the extent additional, conflicting or more detailed requirements are provided for specific types of wireless telecommunication facility in other subsections of this Section 2.8, such specific requirements and design standards shall govern.

A. The wireless telecommunications facility shall comply with all applicable federal, state and local laws, statutes, regulations rules and ordinances, including, but not limited to, building and safety codes. Wireless telecommunications facilities which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.

B. Wireless telecommunications facilities shall not be artificially lighted except as follows:

1. When required by the FCC or Federal Aviation Administration (FAA);

2. Where such lighting currently exists on an alternative support structure, such as a light structure or utility pole;

3. Where such lighting is required to assure human safety or protect the public health, safety or welfare as required or approved by the Director of Community Development or City Council, as applicable; or

4. Where such lighting is approved as part of the design for a concealed attached WTF or concealed freestanding support structure, such as a faux light structure.

C. Wireless telecommunications facilities shall be designed and constructed to ensure that the structural failure or collapse of the antenna support structure or antenna attachment device will not create a safety hazard to adjoining properties, according to applicable Federal regulations and standards which may be amended from time to time.

D. Wireless telecommunications facilities shall not contain any signs for the purpose of commercial advertising; provided however, signs necessary to identify site identification or ASR (antenna structure registration) number, the owner, the party responsible for the operation and maintenance (including address and telephone number), to warn of danger, and to comply with applicable federal regulations are permitted. Such signage shall be limited to the smallest face area possible to be visible and legible at ground level.

E. A wireless telecommunications facility, including any antenna or antenna array, that ceases operation for a period of twelve (12) consecutive months shall be determined to have been abandoned and shall be removed within ninety (90) days of such abandonment at the property owner's expense. It shall be the duty of both the property owner and the owner of the wireless telecommunications facility to notify the City in writing of any intent to abandon the use of the facility.

F. A wireless telecommunications facility, including the antenna support structure, alternative support structure, and/or antenna attachment device, shall meet the applicable design standards for wind loads and have sufficient structural integrity to accommodate the proposed use, as certified by a professional engineer (licensed in the State of Georgia).

G. Wireless telecommunications facilities shall not be located in a 100-year flood plain or delineated wetlands. Notwithstanding the foregoing, a wireless telecommunications facility may be located in the 100-year floodplain if all accessory equipment can be located above the 100-year flood level, subject to such wireless telecommunications facility's compliance with any and all other City ordinances, regulations and/or rules related to floodplain management, flood damage prevention, and flood hazard reduction.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.6 Regulations for wireless telecommunications facilities authorized by administrative permit.

The guidelines, standards and regulations set forth in this Subsection regulate the location, siting, and design of wireless telecommunications facilities authorized by administrative permit. This Subsection shall not apply to any request to locate a wireless telecommunications facility within or upon public right-of-way in the City, including, but not limited to, any request to install, place, site, or locate an attached

wireless telecommunications facility on any electrical transmission tower, utility pole or light structure located within or upon any public right-of-way in the City.

A. *General Guidelines and Considerations for WTF's Authorized by Administrative Permit.*

1. Compatibility with the Existing Setting; Aesthetics; Visibility. To ensure the compatibility with surrounding properties and to protect the aesthetics and character of the City, particularly districts and properties zoned or used for 'For-Sale' dwelling uses, the Downtown Overlay, corridors of influence, and public places, all wireless telecommunications facilities subject to administrative approval shall be located, sited and designed so as to be compatible with the existing setting, to minimize the aesthetic and visual impact on surrounding properties, and to maintain the character and appearance of the subject area of the City, as further provided below.

   a. Location and Siting: WTF's shall be located in areas where existing topography, vegetation, buildings, structures or other site features are available to screen, obscure and/or camouflage the proposed facility, and sited in a manner that utilizes such existing features to effectively screen, hide, and/or camouflage the proposed WTF. WTF's shall be located, sited and otherwise configured in a manner that minimizes adverse effects to the existing landscape and character of the subject area, with specific considerations given to the land uses, architectural design of buildings, and quality of development existing on or planned for the subject and surrounding properties.

   b. Design: WTF's shall be designed (in terms of size, scale, height, shape, style, color, texture, and materials) to blend in with the existing topography, vegetation, buildings, and structures on the project site as well as its existing setting. WTF's shall employ a design that is in harmony with the surrounding area in terms of size, mass, visual and physical impact, and that minimizes adverse aesthetic effects to surrounding properties, with specific design considerations as to the height, scale, color, texture, and architectural design of existing buildings, structures and other features located on the subject lot and surrounding properties. Further, the design of a WTF in terms of its size and scale shall give consideration to the required screening of the WTF, including whether the size and scale of concealment enclosures or installed screening elements would create a greater visual impact than the WTF itself or otherwise not meet applicable screening, concealment or visibility standards. The colors and materials of a WTF shall blend into the predominant visual backdrop or the structure on which it is located and be compatible with existing screening features and/or proposed screening elements.

   c. Screening: WTF's shall be screened through the use of existing buildings and structures, existing and proposed vegetation/landscaping, and/or installed site features. Proposed site features shall comply with any and all other applicable provisions or requirements set forth in the UDC governing the location and design of the subject site feature. Proposed vegetation/landscaping must be approved by the City Arborist.

2. Concealment Design Requirements. Except as otherwise expressly provided herein, all wireless telecommunications facilities authorized by administrative permit shall be designed as a concealed WTF. Certain types of attached WTF's may only require partial concealment, such that the applicable design standards and requirements require that certain components of the WTF be fully concealed, such as antenna(s) or certain accessory equipment, while other components of the WTF are required to comply with a less restrictive standard or requirement, provided the overall design of the WTF meets the subject standard of visibility. Subject to and in accordance with the design standards and requirements applicable to the attached WTF, partially-concealed antennas are allowed on certain utility poles and certain buildings, and non-concealed antennas are only allowed on certain electrical transmission towers.

3. General Location and Design Standards for Ground-Mounted Equipment Cabinets. Ground-mounted equipment cabinets shall be located in the rear or side yard or other areas of a property where existing topography, vegetation, buildings, structures or other site features are available to screen, hide, and/or camouflage the equipment cabinet(s). Except as otherwise expressly permitted or restricted pursuant to the specific design standards and requirements set forth in other Paragraphs of this Subsection 2.8.6 applicable to the subject type of WTF, ground-mounted equipment cabinets shall be hidden and/or screened from visibility from public rights-of-way and adjacent properties with a 'For-Sale' dwelling use in a manner that meets the prescribed standard of visibility applicable to the WTF. Ground-mounted equipment cabinets shall be screened through the use of existing buildings, structures or site features or existing or proposed vegetation or landscaping. When further required to provide sufficient screening, site features, such as fences, walls or other similar screening features, that are compatible with the design (in terms of size, scale, shape, color, texture, and materials) of other existing site features and the style of architecture on the subject property and surrounding properties may be installed. Proposed site features shall comply with any and all other applicable provisions and requirements set forth in the UDC governing the location and design of the subject site feature. Unless sufficiently screened through the use of the foregoing techniques, ground-mounted equipment cabinets shall be painted, colored and textured or located within concealment enclosures designed to blend into the predominant visual backdrop. When a ground-mounted equipment cabinet cannot be located in accordance with the foregoing standards, such equipment shall be located in a flush-to-grade underground vault enclosure with flush-to-grade vents, or vents that extend no more than twenty-four (24) inches above the finished grade, screened from view from public right-of-way. Where an equipment compound is permitted for the subject type of WTF pursuant to the applicable design standards and requirements further set forth in this Subsection 2.8.6, such equipment shall be enclosed by fencing not less than six (6) feet in height. Except where access to the equipment compound is provided, a minimum ten-foot (10') wide landscape strip planted to buffer standards, as set forth in Article II of this Code, shall be required on the exterior of all sides of the fence surrounding the equipment compound as a vegetative screen unless the City Arborist determines that existing plant materials are adequate or other existing site features fully screen the equipment from visibility. Such landscape strip shall be maintained in accordance with Section 3.2 of this Code. Fences shall comply with other applicable regulations of this Code not in conflict with this Section. Unless otherwise expressly provided herein, ground-mounted equipment cabinets and equipment compounds are subject to the setback requirements of the zoning district in which located. The foregoing standards and requirements regulating the location and design of ground-mounted equipment cabinets are intended to supplement the general guidelines and considerations set forth in the preceding subparagraphs of this Paragraph A, as well as the specific design standards and requirements set forth in other Paragraphs of this Subsection 2.8.6 governing the subject type of WTF.

4. Exemptions from Certain Design Requirements. When buffers are provided on the subject lot and the proposed WTF is located, sited and otherwise designed such that the WTF as proposed, and following a 6409(a) modification or as a result of future development on the subject lot, is not and would not be visible from any other lot or any public right-of-way within the City, an application for an administrative WTF permit shall be approved by the Director without requiring the WTF to fully comply with other design standards and requirements applicable to the subject type of WTF.

B. *Standards for Approval.*

1. Administrative Approval. An application for wireless telecommunications facility authorized by administrative permit shall be approved by the Director whenever the Director determines that the proposed wireless telecommunication facility comports with applicable guidelines and fully complies with all regulations, standards and requirements applicable to the subject WTF. Compliance with the minimum requirements further set forth herein (i.e.,

requirements expressed in specific quantitative values, such as maximum height or antenna volume requirements) does not alone confer a right to issuance of an administrative permit; rather, a proposed wireless telecommunications facility must fully comply with all applicable regulations, standards and requirements, as determined by the Director after consideration of the guidelines, factors for consideration and criteria set forth in this Subsection 2.8.6.

2. Criteria for Evaluating Visual Compatibility and Compliance with Standard of Concealment/Visibility. The general guidelines and factors for consideration set forth in Paragraph A shall be considered by the Director when evaluating whether the proposed wireless telecommunications facility complies with the location, siting, and design standards and requirements applicable to the subject type of WTF. In addition to the aforementioned guidelines and factors for consideration, the following criteria shall be considered by the Director when evaluating and determining whether the proposed wireless telecommunications facility is visually or aesthetically compatible and whether the WTF meets the applicable standard of concealment or visibility:

   a. Blending: Whether and the extent to which the proposed WTF blends into the surrounding environment, is architecturally compatible with existing buildings and structures, and is integrated into the predominant visual backdrop;

   b. Screening: Whether and the extent to which the proposed WTF is concealed or screened by existing or proposed topography, vegetation, buildings or other structures, including architectural features or site features located or proposed to be located thereon;

   c. Size and Height: Whether and the extent to which the size and height of the proposed WTF is compatible with surrounding buildings and structures; and

   d. Location/Siting: Whether and the extent to which the proposed WTF is located and sited so as to utilize existing natural or manmade features in the vicinity of the WTF, including topography, vegetation, buildings, or other structures, to provide the greatest amount of visual screening and blending with the predominant visual backdrop.

C. *Concealed Roof-Mounted and Building-Mounted Wireless Telecommunications Facilities.* The following regulations, standards and requirements govern the location, siting, and design of roof-mounted and building-mounted wireless telecommunications facilities.

1. Allowed Districts with Administrative Permit: L-I, C-2, C-1, O-I, O-P, PSC, SU, MU*, CUP*, R-10M* and AG*.

   *The MU, CUP, R-10M and AG districts are subject to the following conditions:

   a. MU and CUP zoned properties. In the MU and CUP districts, concealed roof-mounted and building-mounted wireless telecommunications facilities may only be attached to an existing building or structure used (existing principal use) for an industrial, commercial, office or 'For-Rent' dwelling building (apartment) use.

   b. R-10M zoned properties. In the R-10M district, concealed roof-mounted and building-mounted wireless telecommunications facilities may only be attached to an existing building or structure used (existing principal use) for a 'For-Rent' dwelling building (apartment) use.

   c. AG zoned properties. In the AG district, concealed roof-mounted and building-mounted wireless telecommunications facilities may only be attached to an existing building or structure used (exiting principal use) for a business, semi-public or institutional use.

2. Standards and Requirements Applicable to Concealed Roof-Mounted and Building-Mounted Wireless Telecommunications Facilities:

a. Setback. Concealed roof-mounted and building-mounted wireless telecommunications facilities are subject to the setback requirements of the zoning district in which located.

b. General Concealment Elements. The antennas and roof-mounted accessory equipment of concealed roof-mounted and building-mounted wireless telecommunications facilities shall be concealed, camouflaged, screened, and/or obscured by, within or behind existing or proposed architectural features or concealment enclosures in such a manner so as to not be identifiable as a wireless telecommunications facility or visible from public rights-of-way and adjacent properties with 'For-Sale' dwelling uses; provided, however, the antenna(s) of a concealed roof-mounted wireless telecommunications facility located on an existing building that is six (6) stories or seventy-two (72) feet in height, whichever is greater, shall be concealed, camouflaged, screened, and/or obscured by, within or behind existing or proposed architectural features or otherwise sited and designed in such a manner so as to not be readily identifiable as a wireless telecommunications facility or plainly visible from public rights-of-way and adjacent properties with 'For-Sale' dwelling uses. Wireless transmission equipment may be located within an existing cupola, steeple, or similar architectural treatment in order to screen same from visibility. If existing architectural features are not sufficient to screen the antenna(s) and accessory equipment of a roof-mounted WTF or the accessory equipment of a building-mounted WTF, a parapet wall, cupola, roof screen, or other similar architectural feature that matches the existing architecture of the building, as determined and approved by the Director, may be installed. Notwithstanding the foregoing, antennas for concealed building-mounted WTF's are required to be located within antenna concealment enclosures designed and camouflaged to blend in with the existing building as further set forth herein.

c. Accessory Equipment; Equipment Cabinets. Accessory equipment, including equipment cabinets/enclosures, located on the roof of a building and not otherwise screened by existing or installed architectural features shall be located within concealment enclosures designed to architecturally match the facade, roof, wall or other architectural features of the building, blend in with the existing structural design, color and texture of the building, and, if necessary for compatibility with the existing architectural style of the building, be stepped back from the facade of the building in order to limit the WTF's impact on the building's silhouette. Any newly created architectural feature designed to screen or enclose accessory equipment located on the roof shall not exceed twelve (12) feet in height, as measured from the existing roof surface of the building. Equipment cabinets may also be located on the ground in accordance with the standards set forth in Subsection 2.8.6(A)(3). An equipment compound conforming with the requirements set forth in Subsection 2.8.6(A)(3) may only be sited in the rear or side yard of the lot in locations consistent with existing utility areas of the subject lot.

d. Roof-mounted and building-mounted WTF's, including newly created architectural structures or features designed to enclose or screen same, shall be compatible with the architectural style, color, texture, facade design, and materials of the building, and shall be proportional to the scale and size of the building. Antennas and accessory equipment mounted to the roof of the building shall not protrude beyond the exterior walls of the building.

e. Cables that are located on the side of the building shall be enclosed in conduit finished to match the materials and color of the building. Cables and conduit shall not be located on the façade of the building.

3. Additional Design Standards and Requirements for Concealed Roof-Mounted Wireless Telecommunications Facilities.

a. Type and Height of Antenna. No antenna, other than a whip antenna, or newly created architectural feature designed to screen same shall exceed twelve (12) feet in height.

The antenna of a concealed roof-mounted wireless telecommunication facility shall not protrude above required screening and other architectural features so as to be visible, except as follows:

i. Whip antennas, provided that the whip antenna does not exceed fifteen (15) feet in height, no more than fifty percent (50%) of the whip antenna is visible, and the visible portion of such whip antenna is no greater than two (2) inches in diameter;

ii. Panel antenna(s) located on an existing building that is six (6) stories or seventy-two (72) feet in height, whichever is greater, which are not otherwise screened by existing or installed architectural features, provided that the antennas are designed, colored and textured to match the facade, roof, walls or other architectural features of the building in order to blend in with same or otherwise camouflaged, designed and sited to blend in with the predominant visual backdrop such that the antenna(s) conforms to the subject visibility standard; and

iii. Antennas located within antenna concealment enclosures designed or camouflaged in a manner such that the wireless telecommunications facility conforms to the subject visibility standard.

b. The antenna(s) of concealed roof-mounted WTF's may only be mounted to an existing pitched, gabled or mansard roof if such a mount operates to completely screen the roof-mounted WTF from visibility from the public right-of-way and adjacent properties.

4. Additional Design Standards and Requirements for Concealed Building-Mounted Wireless Telecommunications Facilities:

a. Type and Height of Antenna. Only antennas enclosed within an antenna concealment enclosure shall be authorized for a concealed building-mounted wireless telecommunication facility. Antennas and their concealment enclosures shall be flush-mounted to the building (with no visual horizontal separation) and shall not extend or project more than eighteen (18) inches outside of the building's silhouette unless architectural features camouflage, screen or obscure same. Antenna concealment enclosures shall be compatible with the architectural style, color, texture, façade, and materials of the building, and appear as an integral part of the building. Antenna concealment enclosures shall not interrupt architectural lines of building facades, including the length and width of the portion of the façade on which mounted. Antennas and their concealment enclosures shall not extend vertically above the height of the building.

D. *Building-Concealed Wireless Telecommunications Facilities.* The following regulations, standards and requirements govern the location, siting and design of building-concealed wireless telecommunications facilities:

1. Allowed Districts with Administrative Permit: L-I, O-I, O-P, C-2, C-1, MU*, CUP*, PSC, SU, R-10M* and AG*.

*The MU, CUP, R-10M and AG districts are subject to the following conditions:

a. MU and CUP zoned properties. In the MU and CUP districts, building-concealed wireless telecommunications facilities may only be attached to an existing building or structure zoned and used (existing principal use) for an industrial, commercial, office, or 'For-Rent' dwelling building (apartment) use.

b. R-10M zoned properties. In the R-10M district, building-concealed wireless telecommunications facilities may only be attached to an existing building or structure used (existing principal use) for a 'For-Rent' dwelling building (apartment) use.

c. AG zoned properties. In the AG district, building-concealed wireless telecommunications facilities may only be attached to an existing building or structure used (existing principal use) for a business, semi-public or institutional use.

2. Standards and Requirements Applicable to Building-Concealed Attached Wireless Telecommunications Facilities:

a. Existing Building. Building-concealed wireless telecommunications facilities may only be located on existing buildings containing steeples, church spires, clock towers, bell towers or cupolas.

b. Maximum Height. The height of a building-concealed wireless telecommunications facility shall not exceed the height of the existing architectural feature (e.g., steeple, church spire, clock tower, bell tower or cupola) that it is designed to replace by more than twenty-five percent (25%); provided, however, the height of a building-concealed WTF designed as a cupola may exceed the height of the existing cupola that it is designed to replace by up to four (4) feet when the subject building is at least three (3) stories or forty (40) feet in height, whichever is greater. Height of the existing architectural feature shall be measured from the location where the roof surface of the building and base of the existing architectural feature meet to the highest point of the existing architectural feature. Height of the building-concealed WTF is measured from the location where the roof surface of the building and base of the existing or new (replacement) architectural feature meet to the highest point of the new architectural feature in which the antenna is concealed.

c. Setback. Building-concealed wireless telecommunications facilities are subject to the setback requirements of the zoning districts in which located.

d. Design Standards and Concealment Elements.

(i) A building-concealed WTF, including antenna(s) and accessory equipment, shall be fully enclosed by a new (replacement) architectural feature installed to replace an existing architectural feature of like kind; provided, the following exceptions shall be permitted:

(a) Equipment cabinets may be located on the ground in accordance with the standards set forth in Subsection 2.8.6(A)(3). An equipment compound conforming with the requirements set forth in Subsection 2.8.6(A)(3) may be sited in the rear or side yard of the lot in locations consistent with existing utility areas of the subject lot; and

(b) Cables may be enclosed in conduit and located on the sides of the architectural feature in which the building-concealed WTF is enclosed and/or the building to which the building-concealed WTF is attached, provided conduit shall be finished to match the materials, texture, and color of the architectural feature and building, as applicable. Cables and conduit shall not be located on the front/façade of the building or architectural feature.

(ii) A building-concealed WTF shall be designed as a replacement of an existing architectural feature of a building in such a manner so as to not be identifiable as a WTF by a casual observer. The design of the building-concealed WTF shall be compatible with the architectural style, color, texture, façade, design, and materials of the existing (original) architectural feature and building on which it is located.

(iii) The width of a building-concealed WTF shall not increase the width of the existing building, or create building features that protrude beyond the exterior walls of the building.

(iv) A building-concealed WTF shall not increase the habitable floor area of the building on which it is located.

E. *Concealed Attached WTF's Mounted to Utility Poles or Light Structures.* The following regulations, standards and requirements govern the location, siting, and design of concealed attached WTF's mounted to existing utility poles or light structures:

1. Allowed Districts with Administrative Permit: L-I, O-I, O-P, C-2, C-1, MU, PSC, and SU.

2. Standards and Requirements Applicable to Concealed Attached WTF's Mounted to Utility Poles or Light Structures.

   a. Allowed Utility Poles. Attached WTF's may only be attached to existing utility poles supporting aerial (overhead) telephone and electric distribution lines that are at least thirty (30) feet in height.

   b. Allowed Light Structures. Attached WTF's may only be attached to freestanding light structures that are at least twenty-five (25) feet in height.

   c. Prohibited Structures. Attached WTF's are not permitted to be attached to the following types of light fixtures:

      a. Antique or decorative light fixtures or lampposts;

      b. Post-top lights (post top luminary fixtures); and

      c. Traffic control devices, including, but not limited to, traffic signal poles or supports.

      Further, compliance with the requirements and standards set forth in this Subsection shall not authorize or permit the location of a wireless telecommunications facility within or upon public right-of-way in the City (See, Section 2.8.10), or upon any property or light structure owned by the City.

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

   e. Wireless Transmission Equipment. Only antennas, repeaters, equipment cabinets or pedestals, and other accessory equipment associated with DAS or small cell facilities may be installed in association with the attached WTF, subject to compliance with other design requirements set forth herein.

   f. Cables. Cables shall be enclosed in conduit flush mounted to the utility pole or light structure. Conduit shall be finished to match the materials, texture, and color of the subject utility pole or light structure and positioned on the utility pole or light structure so as to be screened from view from public rights-of-way.

3. Additional Design Standards and Requirements for Attached WTF's Mounted to Utility Poles.

   a. General Concealment Elements. 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. 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 attached WTF is no more readily apparent or plainly visible from public rights-of-way or adjacent property with a 'For-Sale' dwelling use than the existing utility equipment located on the utility pole. Further, if the utility pole is visible (at ground level) from any property with a 'for-sale' dwelling use, antennas shall be concealed or screened by means of canisters, radomes, shrouds or other similar concealment enclosures, which shall be flush-mounted to the utility pole and 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.

b. Type of Antennas; Maximum Number. No type of antenna other than a panel antenna, whip antenna, or antenna enclosed within a canister, radome, shroud or other similar antenna concealment enclosure may be mounted to a utility pole. No more than (a) one (1) whip antenna and (b) three (3) panel antennas or three (3) antenna concealment enclosures (mounted on the side of the pole) may be attached to a utility pole. Alternatively, no more than one (1) canister, radome, shroud or other similar antenna concealment enclosure may be mounted at the top of the utility pole, as set forth below.

c. Mounting of Antennas. Antennas shall be flush-mounted. A panel antenna, together with its mount, shall not extend horizontally from the utility pole more than the width of existing pole-mounted equipment (on the subject utility pole) with the same orientation, or more than three (3) feet, whichever is less. Panel antennas shall not extend vertically above the height of the utility pole. When flush-mounted to the side of the utility pole, a whip antenna, together with its mount, may extend horizontally up to eighteen (18) inches from the utility pole, and the whip antenna, exclusive of its mounts, may extend vertically up to three (3) feet above the height of the utility pole. Alternatively, the base of a whip antenna may be flush-mounted (without vertical separation) to the top surface of the utility pole, but shall not extend vertically above the height of the utility pole by more than three (3) feet. For any canister, radome, shroud or other similar antenna concealment placed at the top of the pole, the base of such canister, radome, shroud or other similar antenna concealment enclosure shall be flush-mounted (without vertical separation) to the top surface of the utility pole and shall 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 one (1) foot in width and two (2) feet in length. A whip antenna shall be no larger than two (2) 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 accessory equipment, other than cables, conduit, and power meters and switches (and similar equipment installed by an electric utility) shall be located in equipment cabinets or other equipment enclosures. Pole-mounted equipment cabinets and enclosures shall be flush-mounted to the side of the utility pole. The dimensions of a pole-mounted equipment cabinet/enclosure shall be not exceed 30 inches in height (length), 24 inches in width, and 18 inches in depth. The volume of all pole-mounted and ground-mounted equipment cabinets and enclosures associated with wireless transmission equipment located on the utility pole, including pre-existing wireless transmission equipment located on the utility pole, shall not exceed seventeen (17) cubic feet.

4. Additional Design Standards Requirements for Attached WTF's Mounted to Light Structures.

a. General Concealment Elements. Antenna(s) and pole-mounted accessory equipment of an attached WTF mounted to a light structure shall be designed, camouflaged,

screened and obscured from view in order to render the attached WTF as visually inconspicuous as possible. Such antenna(s) and accessory equipment shall be painted, textured, and designed in a manner consistent with the light structure's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing light structure in order to render the attached WTF as visually inconspicuous as possible, such that it is not readily identifiable or plainly visible from public rights-of-way or adjacent property with a 'For-Sale' dwelling use. 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 light structure and painted, textured, and designed in a manner consistent with the light structure's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing light structure.

b. Type of Antennas. Only panel antennas or antennas enclosed within a canister, radome, shroud or other similar antenna concealment enclosure may be mounted to a light structure. No more than (a) three (3) panel antennas or antenna concealment enclosures mounted to the side of a light structure or (b) one (1) antenna concealment enclosure vertically mounted to the top of a light structure shall be attached to a light structure. No light structure shall contain both types of antenna mounts.

c. Mounting of Antennas. Panel antennas and antenna concealment enclosures mounted to the side of a light structure shall be flush-mounted with minimal visual horizontal separation and without extending vertically above the height of the light structure. Antenna attachment devices shall not extend horizontally from the light structure's pole more than the width of the pole at the location of attachment. Canisters, radomes, or similar antenna concealment enclosures that are vertically mounted shall be flush-mounted (without vertical separation) to the top of the pole and shall not extend vertically above the height of the light structure 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 the style of the subject pole. Antennas shall not be mounted to the mast arm or luminary of a light structure.

d. Maximum Size of Antennas. The diameter of a canister, radome or similar antenna concealment enclosure that is mounted to the top of a pole shall not exceed the diameter of the existing pole at its mid-point. The depth and width of panel antennas and antenna concealment enclosures mounted to the side of a light structure shall not exceed the minimum width of the pole at the location of attachment by more than fifty percent (50%) and the length of such panel antennas and antenna concealment enclosures shall be no greater than two (2) feet.

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 similar enclosures. Equipment cabinets and enclosures shall be flush-mounted to the side of the light structure. The height (length) and depth of a pole-mounted equipment cabinet/enclosure shall not exceed 24 inches and 10 inches, respectively, and the width of a pole-mounted equipment cabinet/enclosure shall not exceed 12 inches or the minimum width of the pole at the location of attachment by more than fifty (50) percent, whichever is greater. The volume of all pole-mounted equipment cabinets/enclosures associated with wireless transmission equipment located on the light structure, including pre-existing wireless transmission equipment located on the light structure, shall not exceed six (6) cubic feet. To the extent ground-mounted equipment cabinets/enclosures are permitted in accordance with Subsection 2.8.6(A)(3) hereof, the volume of all pole-mounted and visible ground-mounted

equipment cabinets/enclosures associated with wireless transmission equipment located on the light structure, including pre-existing wireless transmission equipment located on the light structure, shall not exceed seventeen (17) cubic feet.

F. *Attached WTF's Mounted to Electrical Transmission Towers.* The following standards and requirements regulate the location, siting, design, and height of attached WTF's mounted to electrical transmission towers:

1. Allowed Districts with Administrative Permit: All districts.

2. Minimum Height of Alternative Support Structure. Non-concealed attached WTF's may only be mounted to electrical transmission towers with a height of fifty (50) feet or taller, as measured from finished grade. If the height of the electrical transmission tower is less than fifty (50) feet, only concealed attached WTF's may be mounted to such structure.

3. Design Standards and Requirements Applicable to Non-Concealed Attached WTF's Mounted to Electrical Transmission Towers.

   a. If the electrical transmission tower is eighty (80) feet or more in height, as measured from finished grade, the attached wireless telecommunications facility, including any antenna(s) or antenna array(s), may be mounted to the top of the electrical transmission tower and extend up to ten (10) feet above the height of such electrical transmission tower.

   b. If the electrical transmission tower is less than eighty (80) feet in height, the attached wireless telecommunications facility, including any antenna(s) or antenna arrays, shall not extend vertically above the height of the electrical transmission tower by more than five (5) feet.

   c. Antenna(s), antenna array(s), and any other accessory equipment attached to the electrical transmission tower shall be painted and textured to match the color and texture of the electrical transmission tower.

   d. Ground-mounted equipment cabinets shall be located and designed in conformity with Subection 2.8.6(A)(3) or located within an equipment compound complying with the requirements set forth in Subsection 2.8.6(A)(3) hereof and set back a minimum of twenty (20) feet from the boundaries of the public utility easement.

4. Design Standards and Requirements Applicable to Concealed Attached WTF's Mounted to Electrical Transmission Towers Less than Fifty Feet in Height.

   Only concealed attached WTF's may be attached to an existing electrical transmission tower less than fifty (50) [feet] in height. Concealed attached WTF's mounted to electrical transmission towers less than fifty (50) [feet] in height require an administrative permit and are required to comply with the design standards applicable to concealed attached WTF's mounted to utility poles, as set forth in subject to the following exceptions:

   a. Pole-mounted equipment cabinets may have dimensions up to 48 inches in height, 28 inches in width, and 20 inches in depth.

G. *Concealed Freestanding Support Structures.* The following standards and requirements regulate the location, siting, design and height of concealed freestanding support structures:

1. Allowed Districts with Administrative Permit:

   a. Concealed Freestanding Support Structure to Exceed District Height: L-I and O-I; and

   b. Concealed Freestanding Support Structure Not to Exceed District Height: All other nonresidential districts and AG, subject to the following:

      (i) AG zoned properties: In the AG district, concealed freestanding support structures may only be located on a property used (existing principal use) for a business, semi-public or institutional use.

2. Location, Setback and Height Requirements.

   a. Maximum Height.

      (i) L-I and O-I Districts. The height of a concealed freestanding support structure located in the L-I or O-I districts shall not exceed the following maximum heights, as measured above:

         (a) Clock tower, campanile, freestanding steeple, or other similarly designed freestanding support structure that conceals antennas as an architectural feature: eighty (80) feet;

         (b) Faux Flagpoles: sixty (60) feet; and

         (c) Faux Light Structures: forty (40) feet or as otherwise limited by applicable design standards set forth in other provisions of this Code or the City Code.

      (ii) Nonresidential and AG Districts. The height of a concealed freestanding support structure, as measured above, located in any other nonresidential district or AG district shall not exceed the maximum building or structure height allowed for the subject district or, if otherwise prescribed, the maximum height allowed for the subject type of structure feature in accordance with other applicable provisions of this Code or the City Code.

   b. Setback. Concealed freestanding support structures must be set back from the property line of any other property with a 'For-Sale' dwelling use a minimum distance equal to the height of such concealed freestanding support structure. Concealed freestanding support structures and accessory equipment are further subject to the setback requirements of the zoning district in which located and/or required by existing conditions of zoning, or which are otherwise applicable to the subject type of structure in accordance with other provisions of this Code.

3. Concealment Elements and Design Standards.

   a. General. Concealed freestanding support structures shall fully conceal all wireless transmission equipment, including antenna(s), and may either be designed as an architectural feature or as a structure that mimics a common site feature, such as a faux flagpole or faux light structure, in which the antenna and accessory equipment shall be fully enclosed and completely hidden from view. Concealed freestanding support structures shall be located and designed to be aesthetically compatible with existing uses, building(s), and site features located on the site and nearby properties in such a manner so as not to be reasonably identifiable or recognizable to the casual observer as a wireless telecommunication facility.

   b. Freestanding Architectural Feature.

      (i) A concealed freestanding support structure designed as an architectural feature may be designed as a clock tower, bell tower, campanile, freestanding steeple, or other similarly designed freestanding architectural feature so as to substantially reduce the WTF's potential adverse visual impacts on the surrounding areas. The design of the concealed freestanding support structure shall be compatible with the architectural style, color, texture, facade, design, and materials of the principal building of the lot on which located and other structures located thereon. In order to ensure visual and aesthetic compatibility with the existing buildings and structures located on the subject property and nearby properties, a concealed freestanding support structure designed as an architectural feature shall require the review and approval of a certificate of design approval by the Design Review Board prior to the issuance of an administrative permit hereunder.

(ii) All accessory equipment for a concealed freestanding support structure designed as an architectural feature shall be located within the concealed freestanding support structure.

c. Faux Flag Pole.

(i) The pole of a faux flag pole shall be tapered in a manner consistent with the style of other flag poles. The diameter of a faux flag pole that is less than fifty (50) feet in height shall not exceed eight (8) inches at its mid-point. The diameter of a faux flag pole that is more than fifty (50) feet in height shall not exceed twelve (12) inches at its mid-point.

(ii) No more than one faux flag pole shall be located on any lot or common development.

(iii) The faux flag pole shall be located on the property in a manner that is compatible with the location of similar site features on the subject property and other properties in the surrounding area.

(iv) Antenna(s) shall be fully concealed within the pole or through the use of canisters, radomes, or similar antenna concealment enclosures flush-mounted (without vertical separation) to the top of the pole. A canister, radome, or similar antenna concealment enclosure shall not exceed the diameter of the pole at its mid-point and shall be designed and camouflaged to appear as an integral part of the flag pole. 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 and may not exceed three (3) feet in length. Further, the hoist side of the flag shall be required to span the length of any such antenna concealment enclosure. The flag used on a faux flag pole shall comply with other provisions of this Code governing flags.

(v) Accessory equipment shall either be fully enclosed and concealed within the faux flag pole or placed within a ground-mounted equipment cabinet complying with Subsection 2.8.6(A)(3). An equipment compound conforming with the requirements set forth in Subsection 2.8.6(A)(3) may only be sited in the rear or side yard of the lot in locations consistent with existing utility areas of the subject lot.

d. Faux Light Structure.

(i) A faux light structure shall be designed as a replacement of an existing light structure located on the same property so as to substantially reduce the WTF's potential adverse visual impacts on the surrounding areas. The design of a faux light structure, including the design of the pole and any attached light arms, shall be consistent with the size, shape, style, and design of the existing light structure on the property that it is designed to replace/mimic. A faux light structure shall not exceed the height of the existing light structure that it is designed to replace by more than five (5) feet.

(ii) The faux light structure shall be sited at the same location as the existing light structure that is being replaced.

(iii) Antenna(s) shall be fully concealed within the pole of the faux light structure or by the use of radomes that do not exceed the circumference of the pole at the location of attachment.

(iv) Accessory equipment shall either be fully enclosed and concealed within the faux light structure or placed within a ground-mounted equipment cabinet complying with Subsection 2.8.6(A)(3).

H. *Variances.* Notwithstanding any other provision of this Code or the City Code to the contrary, no request for a grant of relief from or a variance or exception to any regulation, standard or

requirement set forth in this Section 2.8 may be heard or acted upon by the Board of Appeals. Further, subject to the limited exemption set forth in Subsection 2.8.6(A)(4), no administrative variances to any requirement of this Subsection 2.8.6 shall be permitted except for variances to prescribed setback requirements, as herein provided. Provided the proposed WTF meets the standard of visibility, the Director shall be authorized to grant variances from setback requirements for up to twenty percent (20%) of the prescribed setback requirement in accordance with the standards set forth in Articles IV and V of this Code. Except for the foregoing, any person seeking to install, place, site, locate, collocate or modify an attached wireless telecommunications facility or concealed freestanding support structure that does not fully comply with the applicable standards and requirements set forth in Subsection 2.8.6 shall be required to submit an application for a conditional use permit in accordance with Subsection 2.8.7. The additional application, procedural and other requirements for any such request and the factors to be considered in granting or denying such a request are set forth in Paragraphs B, C, and D of Subsection 2.8.7. The provisions of this Paragraph shall not apply to any request to locate a wireless telecommunications facility within or upon public right-of-way in the City or any decision related thereto.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.7 Standards and regulations for wireless telecommunications facilities authorized by conditional use permit.

The procedures, standards, minimum requirements and standards of approval set forth in this Subsection govern the installation, placement, siting, location, collocation and/or modification of wireless towers, including stealth towers, and the wireless transmission equipment associated therewith, which may only be allowed in certain zoning districts pursuant to the approval of a conditional use permit. Additionally, the procedures and standards for approval set forth in this Subsection govern the installation, placement, siting, location, collocation or modification of concealed attached WTF's, attached WTF's mounted to electrical transmission towers, and concealed freestanding support structures that do not fully comply with the administrative permit standards.

A. *Wireless Towers and Stealth Towers.*

1. Allowed Districts with Conditional Use Permit: L-I, O-I, C-2, PSC, SU, CUP*, and AG*.

   *The CUP and AG districts are subject to the following conditions:

   a. CUP zoned properties: Wireless towers may only be allowed as a conditional use on lots in the CUP district that are zoned and used (existing principal use) for an industrial, commercial, office, semi-public, or 'For-Rent' dwelling building (apartment) use.

   b. AG zoned properties: Wireless towers may only be allowed as a conditional use on lots in the AG district that are a minimum of four (4) acres in size.

2. Prohibited in Downtown Overlay. Wireless towers are prohibited in the Downtown Overlay.

3. Minimum Requirements.

   a. Wireless towers must be set back from any off-site residential building or structure a minimum distance equal to the height of the wireless tower. Additionally, wireless towers must be set back from any public right-of-way a distance equal to fifty percent (50%) of the height of the wireless tower.

   b. A wireless tower shall be designed as a stealth tower or monopole.

   c. The height of a wireless tower shall not exceed one-hundred-and-sixty (160) feet.

   d. The wireless tower and all ground-mounted wireless transmission equipment, including equipment shelters and equipment cabinets, shall be located within an

equipment compound enclosed by fencing not less than six feet (6') in height and equipped with an appropriate anti-climbing device. The equipment compound shall be subject to the setback requirements of the zoning district in which located.

e. Landscaping shall be designed in such a way as to preserve existing mature growth and to provide in the determination of the City Arborist, a suitable buffer of plant materials that mitigates the view of the wireless tower and wireless transmission equipment from surrounding properties. Additionally, a minimum 10-foot (10') wide landscape strip planted to buffer standards, as set forth in Article II of the UDC, shall be required on the exterior of all sides of the fence surrounding the equipment compound, except where access to the equipment compound is provided, as a vegetative screen unless the City of Alpharetta Arborist determines that existing plant materials are adequate. Such landscape strip shall be maintained in accordance with Section 3.2 of the UDC.

f. A fifty foot (50') heavy planted landscape buffer shall be required along all property lines adjoining property zoned or used for a 'For-Sale' dwelling use. Additionally, if the subject property is zoned AG, a fifty foot (50') heavy planted landscape buffer shall also be required along all public right-of-way. Use of natural topography and preservation of existing vegetation within a fifty foot (50') buffer, which may be supplemented by new vegetation, if needed, may be substituted for the above requirements when found by the Director to provide screening at the appropriate density, depth and height. Landscaping shall be maintained for the life of the project.

B. *Attached Wireless Telecommunications Facilities and Concealed Freestanding Support Structures not Meeting Administrative Standards.*

1. Purpose and Intent. The purpose of this Paragraph B is to provide a procedure for the review of an application to install, place, site, locate, collocate or modify a wireless telecommunications facility that generally comports with the design standards and guidelines set forth in Subsection 2.8.6, but fails to fully comply with all guidelines, standards and requirements set forth therein, such that the wireless telecommunications facility is not permitted by administrative permit. Any such application shall be subject to the review and approval of a conditional use permit by City Council in accordance with the standards for approval set forth in Paragraph C below.

2. Allowed Districts with Conditional Use Permit: See, Subsection 2.8.6 for allowed districts based on the subject type of wireless telecommunications facility.

3. Minimum Requirements.

a. The wireless telecommunications facility must be sited and designed as a concealed attached wireless telecommunications facility (concealed roof-mounted WTF, concealed building-mounted WTF, building-concealed WTF, concealed attached WTF mounted to utility pole, concealed attached WTF mounted to light structure), attached WTF mounted to electrical transmission tower, or concealed freestanding support structure that generally comports with the design standards and guidelines set forth in Subsection 2.8.6.

b. The maximum height of the attached WTF or concealed freestanding support structure shall not exceed the maximum height allowed pursuant to Subsection 2.8.6 by more than twenty-five percent (25%).

c. Relief from setback requirements shall not exceed fifty percent (50%) of the applicable requirement.

C. *Additional Application Requirements for Conditional Use Permits.* In addition to the application requirements set forth in Subsection 2.8.4 hereof, an applicant applying for a conditional use permit shall further provide the following:

1. A scaled site plan which shall clearly indicate: (a) cable/electrical elements to be utilized, (b) parking, (c) current and proposed on-site land uses and zoning of the property, (d) land uses and zoning designations of adjacent properties, (e) distance from the nearest edge of the support structure and all related equipment to historic structures or scenic views within one (1) mile of the proposed site, (f) adjacent roadways and proposed means of access to the site, (g) proposed setbacks and buffers from adjacent property lines, and (h) topography of the proposed site, including any existing streams, wetlands and floodplains or similar features.

2. Legal description of the lot and leased parcel (if applicable), for which the conditional use permit is to apply.

3. If applicant contends that the wireless telecommunications facility is required to close a significant gap in service coverage or capacity, an engineering study which includes a current and a future definition of the area of service coverage, capacity and radio frequency goals for voice and data (delineated individually and combined) to be served by the antenna or support structure and the extent to which such antenna or support structure is needed for service coverage and/or capacity of the subject wireless carrier. The study shall include the following information: (a) a description of the applicant's/wireless carrier's current wireless tower locations/sites within a two (2) mile radius of the proposed site, to include the types and kinds of services, service coverage, capacity and radio frequencies provided by the wireless carrier's antenna located thereon; (b) all other currently proposed wireless tower locations/sites of the applicant/wireless carrier within a two (2) mile radius of the proposed site for which an application or registration has been filed or submitted to another local government or the FCC; (c) the locations of other antennas of the wireless carrier currently proposed for collocation on other existing wireless towers of other owners or wireless carriers within a two (2) mile radius of the proposed site for which an application or registration has been filed or submitted to another local government or the FCC by, or on behalf of, the applicant and/or wireless carrier; (d) all existing wireless tower locations and sites of other owners or wireless carriers located within the geographic search area (GSA) that were considered by the applicant/wireless carrier as alternatives to the proposed siting; (e) other locations within the geographic search area (GSA) that were considered by the applicant/wireless carrier as alternatives to the proposed siting; (f) an analysis and color propagation study of the current usage and service coverage in the service area, including detailed service coverage maps indicating lack of service coverage (coverage gaps), and the projected or anticipated service coverage of the proposed wireless telecommunications facility. The propagation study shall include a map showing the carrier's existing facilities, existing coverage or capacity area, and the proposed coverage or capacity area at varied antenna heights. The study shall also provide justification that the proposed height of the wireless tower or other wireless telecommunications facility is the minimum necessary to achieve the required service coverage delineated in the study. If a capacity issue is involved, an analysis of the current and projected usage in the GSA shall be included. If applicant contends that the wireless telecommunications facility is required due to a coverage or capacity issue for in-home, in-building or transitory use, the analysis shall describe the service coverage/capacity currently existing for such use and the anticipated service coverage/capacity of the proposed wireless telecommunications facility shall be provided. The study shall bear the signature and certification of a radio frequency engineer that the information provided in the application is true and correct.

4. A curriculum vitae shall be provided for the radio frequency engineer who certifies any documentation provided as part of the application for a WTF. Information shall include education obtained in the area of radio frequency engineering, and experience in the field, including length of time.

5. An engineer scaled drawing providing the distance between (a) the nearest edge of the proposed wireless tower or other wireless telecommunications facility and the nearest off-site residential building or structure and (b) the nearest point of any proposed accessory

equipment of the wireless telecommunications facility and the nearest off-site residential building or structure.

6. Photos depicting the results of a balloon test of the wireless tower.

7. Certification that the wireless telecommunications facility, including the foundation and all attachments, are designed and will be constructed to meet all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal laws, rules, and regulations, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. Structural integrity analysis shall be provided where antennas and equipment will be attached to an existing structure. Such certification and structural integrity analysis shall bear the signature and seal of a professional engineer (licensed in the State of Georgia) and shall include the design plans.

8. Written documented, detailed analysis of the impact of the proposed wireless telecommunications facility/use addressing the factors specified in Paragraph D below.

9. Evidence of compliance with applicable FAA requirements under 14 C.F.R. Section 77, as amended, which may include a copy of the FAA determination of no hazard letter or a written statement prepared and signed by a professional airspace safety consultant.

10. Copies of the National Environmental Policy Act (NEPA) and the State Historic Preservation Office (SHPO) reports for the proposed wireless telecommunications facility, if any have been issued.

11. Copy of the Federal Communications Commission (FCC) license applicable for the intended use of the wireless telecommunication facility.

12. Documentation establishing whether a stealth tower is to be proposed, and if not, an explanation as to why not.

13. Analysis of possibilities of collocation or the inability to collocate, including any studies and detailed reasons as to why collocation is not possible and proof of the following: (a) all collocation sites and other alternative sites in the area that are/were being pursued and whether use of such sites has been denied; (b) the ability or inability to site an attached WTF by using existing structures; and (c) all actions taken by the applicant to achieve collocation or site an attached WTF to an existing structure.

14. A written statement providing whether the proposed WTF is engineered and constructed to accommodate additional antennas or antenna arrays and whether the applicant consents to the future collocation of other wireless carriers on the proposed wireless tower.

15. In addition to the nonrefundable application fees (as established by the City Council), an applicant requesting a conditional use permit for a wireless tower shall be responsible for an additional fee equal to the City's actual, direct costs for the review of the engineering study (provided pursuant to Paragraph 4 above) by a third-party consultant (radio frequency engineer), which shall not exceed $3,500.00. The applicant shall submit a deposit of $2,000.00 toward the fee to be paid pursuant to this section with its application.

D. *Consideration of Conditional Use Permits.* Compliance with the minimum requirements set forth in Paragraph A or B of this Subsection does not alone confer a right to issuance of a conditional use permit. In regard to an application for a conditional use permit for a wireless telecommunications facility (i) the Planning Commission shall, after public hearing and consideration of the criteria set forth below, adopt a recommendation of approval, approval with conditions, or denial of the conditional use permit, and (ii) the City Council shall, after public hearing and consideration of the criteria set forth below, approve, approve with conditions, or deny the conditional use permit. Notwithstanding any other provision of this Code to the contrary and in lieu of the conditional use standards set forth in Sections 2.3.7 and 4.2.3, in determining whether to approve, approve with conditions, or deny an application for a

conditional use permit for a wireless telecommunications facility, the City Council shall consider the following criteria:

1. Proximity and impact, if any, on residential districts, properties with 'For-Sale' dwelling uses, and historic structures/properties, including the visual and aesthetic impact of the wireless telecommunications facility;
2. Impact on the use of adjacent properties and surrounding areas;
3. Visibility from public rights-of-way, particularly Corridors of Influence, minor arterials, collector streets, and local streets;
4. Demonstrated need for the wireless telecommunications facility at the specified site, including need for service coverage or additional capacity;
5. Demonstrated need for the proposed height of the wireless telecommunications facility;
6. Topography, tree coverage and foliage of the area where the wireless telecommunications facility is to be located that buffer or screen the potential visual impact of the support structure and wireless transmission equipment;
7. Design of the wireless telecommunications facility, with particular reference to design characteristics which have the effect of reducing or eliminating visual obtrusiveness, including consideration of stealth towers and concealed WTF's;
8. Proposed ingress and egress;
9. Availability of suitable existing wireless towers or other support structures for collocation or for siting an attached WTF, so as to not require the construction of additional wireless towers or other antenna support structures;
10. Other alternative sites;
11. Collocation capability (i.e., whether the WTF is engineered and constructed to accommodate additional antennas or antenna arrays) and whether applicant intends to allow, accept, and accommodate collocation in the future;
12. Whether the proposed wireless telecommunications facility will impede the normal and orderly development of surrounding property for uses predominant in the area; and
13. Whether the location and siting of the proposed wireless telecommunications facility is considered to be consistent with a desirable pattern of development for the City, in general.

E. *Variances.*

1. An application for a variance or exception to the minimum requirements applicable to wireless telecommunications facilities subject to the approval of a conditional use permit Cannot read may only be heard and acted upon by the City Council following the recommendation of the Planning Commission. Any such variance or exception must be requested as part of the conditional use application and shall be heard by the Planning Commission and decided by the City Council as part of the public hearing process related to the conditional use application. If the conditional use is denied, the variance/exception may not be approved. If the conditional use is approved, with or without conditions, action may then be considered on the proposed variance/exception. Any request to change or modify the conditions of an approved conditional use permit or to modify an existing wireless telecommunications facility that is not otherwise exempt pursuant to Sections 2.8.8 or 2.8.9 (§6409 modification) or subject to administrative approval, shall require an application for a conditional use permit. Notwithstanding any other provision of this Code or the City Code to the contrary, no grant of relief from or variance or exception to the requirements applicable to a wireless telecommunications facility subject to the approval of a conditional use permit shall be heard or acted upon by the Board of Appeals.
2. Variances or exceptions shall be limited to relief from the following requirements of this Section 2.8:

a. Maximum height of the WTF;

b. Minimum setback; and

c. Minimum buffer.

A variance or exception to a height limitation shall not exceed twenty percent (20%) of the maximum height allowed pursuant to the applicable provision of this Section 2.8. Further, a variance or exception to minimum setback or buffer requirements shall not exceed fifty percent (50%) of the minimum setback or buffer required pursuant to the applicable provision of this Section 2.8 or this Code.

3. When a proposed wireless telecommunications facility is recognized as potentially appropriate pursuant to the criteria set forth in Paragraph D, the City Council may grant a variance or exception only upon a showing by applicant, as found by the City Council, of the following:

a. (i) There are extraordinary and exceptional conditions pertaining to the property where the wireless telecommunication facility is to be located as a result of its size, shape or topography, which are not applicable to other lands in the area; and

(ii) The application of the particular provision of this Section 2.8 to the property will result in a hardship that is substantially unwarranted by the protection of the public health, safety or general welfare and the need for consistency among all properties similarly zoned; and

(iii) Granting the variance will not confer any special privileges to the applicant which are inconsistent with the limitations upon other properties similarly zoned or which are denied to others similarly situated, or otherwise confer to applicant any advantage over similarly zoned properties or others similarly situated; and

(iv) Granting of the variance would not violate more than one standard of this Section; and

(v) Relief, if granted, is the minimum necessary to alleviate such unnecessary hardship and will not otherwise serve as a mere convenience to the applicant; and

(vi) Relief, if granted and with necessary conditions imposed, would be in harmony with the general purpose and intent of this Section 2.8; and

(vii) Relief, if granted, would not be injurious to surrounding residential areas and neighborhoods, cause substantial detriment to the public good or impair the purpose and intent of this Code; or

b. Failure to grant relief would have the effect of prohibiting personal wireless services.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.8 Exemptions.

The following uses shall not require the approval of an administrative or conditional use WTF permit, as otherwise required pursuant to this Section 2.8, subject to compliance with the applicable requirements set forth below; provided, however, nothing set forth herein shall exempt the subject property or structure from compliance with applicable building, electrical, safety and other construction code requirements, or building or land development regulations, including building and land development permit and site plan review requirements:

A. Governmental WTF's. Wireless telecommunications facilities, including wireless towers, used solely for public safety purposes, installed and operated as a governmental function by federal

or state government, the City, the North Fulton Regional Radio System Authority, or authorized Fulton County public safety agencies (e.g., City or Fulton County 911 emergency communications and City or Fulton County public safety communications for sheriff's office, police department, fire department or first responder medical services) may be installed without the requirement of an administrative or conditional use permit. Unless otherwise prohibited by law, public safety agencies shall be required to provide a map of the wireless tower or wireless telecommunications facility location. Notwithstanding the foregoing requirement regarding the use of the wireless tower for public safety purposes, collocations of wireless transmission equipment for commercial purposes onto an existing governmental wireless tower may be allowed (pursuant to the requirements set forth in the preceding paragraph). When a wireless tower or other wireless telecommunications facility approved for an authorized public safety agency ceases to be operated or used by an authorized public safety agency for a public safety purpose, any current use of such wireless tower or other wireless telecommunications facility by a nonpublic safety entity (due to prior collocation) shall be deemed nonconforming and the structure shall be deemed a nonconforming structure, unless such nonpublic safety entity submits an application for use of the wireless tower or WTF pursuant to the administrative or conditional use permit requirements set forth in this Section, as applicable, as if it were a new wireless tower or WTF.

B. COW's. Upon a declaration of a state of emergency or disaster by federal, state, or local government or a determination of public necessity by the City, the City Administrator or his/her designee may approve the placement of a COW at any location within the City, subject to the COW's compliance with Federal and/or State requirements, for a period of not more than one-hundred and twenty (120) days following the duration of the state of emergency or occurrence of the disaster or other event providing for public necessity. Further, the City Administrator or his/her designee may approve the placement of a COW for the purpose of providing service for a special event, subject to the COW's compliance with Federal and/or State requirements, for up to forty-five (45) days prior to such special event, for the duration of the special event, and for up to fourteen (14) days thereafter.

C. In-Building Antennas. Antennas and other wireless transmission equipment installed entirely within buildings (without any exterior alterations to the exterior walls, roof, or other exterior architectural features of the building) for the primary purpose of providing wireless communications services within such building are not subject to the requirements of this Section.

D. Amateur Radio Antennas. An amateur radio antenna owned and operated by a FCC-licensed amateur radio station operator and used solely for non-commercial purposes may be located without the requirement of an administrative or conditional use permit provided the following requirements are met:

1. The amateur radio tower, including antenna, is located in the rear year of the property (behind the principal structure);
2. The amateur radio tower is less than (a) fifty (50) feet in height if located outside the Downtown Overlay, or (b) twenty-five (25) feet in height if located within the Downtown Overlay;
3. The amateur radio tower shall be designed such that the entire structure will remain on the property or within a fall easement if it should fall; and
4. The amateur radio tower and antenna shall meet all accessory structure requirements for the zoning district in which the amateur radio antenna is located except for the foregoing height limitations, which shall control.

E. Minor Antennas. Satellite dish, television broadcast receiving antennas, and other OTARD antennas that are one meter (39.37 inches) or less in diameter and designed and used only to receive video programming signals (a) from direct broadcast satellite services, (b) from television broadcast stations, or (c) for wireless cable service.

F. Collocations and Modifications. Collocation of new wireless transmission equipment on an existing antenna support structure and modification of an existing wireless telecommunications facility that conform with the following requirements, as applied to the wireless telecommunications facility as it was previously approved and constructed, do not require the approval of a WTF permit:

1. The proposed collocation shall not increase the height or width of the antenna support structure, as previously approved, to which the wireless transmission equipment is to be attached;

2. New ground-mounted wireless transmission equipment shall be installed within the existing equipment compound, or, when there is not an existing equipment compound, shall be located within an existing equipment cabinet or a replacement equipment cabinet, which shall not exceed the dimensions or footprint of the equipment cabinet being replaced;

3. The proposed modification shall not increase the dimensions (area/perimeter) of the equipment compound, as previously approved, or where there is no equipment compound;

4. The proposed collocation or modification shall comply with any and all regulations, and/or conditions of approval applicable to the wireless telecommunications facility, including any and all design standards and requirements or conditions of approval providing required concealment elements or otherwise related to the design or visibility of the WTF;

5. The proposed modification or collocation shall not exceed the applicable weight limits for the antenna support structure, as demonstrated by a certified letter from a structural engineer licensed to practice in the State of Georgia; and

6. The proposed wireless telecommunications facility will not interfere with emergency or public safety communications, as demonstrated by a certified letter from a licensed radio frequency engineer.

Notwithstanding the foregoing exemption, any such proposed collocation or modification requires the submittal of an application to the Community Development Department. The contents of such application shall include such information and documentation set forth in Subsection 2.8.4 as necessary to determine compliance with the foregoing criteria, as well as the applicable certifications required above. An application submitted pursuant to this Paragraph shall include a statement providing that the proposed application for collocation or modification is entitled to streamlined processing pursuant to O.C.G.A. § 36-66B-1, et seq. (the BILD Act). Any such application shall be reviewed for conformance with applicable building, electrical, safety and other construction code permit requirements, land development permit requirements, and site plan review requirements, including zoning and land use conformity, but shall not otherwise be subject to the issuance of additional administrative or conditional use permit (WTF permit) approvals, provided the proposed collocation or modification conforms with the requirements of this Paragraph. The provisions and procedures set forth in this Paragraph are adopted for the purpose of complying with O.C.G.A. § 36-66B-1, et seq. (the BILD Act) and are intended to allow previously approved wireless telecommunications facilities to be modified or collocations to previously approved antenna support structures to be accepted without the requirement of additional zoning or land use review and approval beyond that which is typically required by the City for the issuance of building or electrical permits.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.9 § 6409 modifications—Exemptions for modifications that do not substantially change the physical dimensions of a wireless telecommunications facility.

A. *Purpose.* This Subsection is adopted pursuant to § 6409(a) of the 2012 Middle Class Tax Relief and Job Creation Act (also referred to as § 6409(a) of the Spectrum Act), codified at 47 U.S.C. § 1455(a),

and the new FCC rules and regulations adopted pursuant to Federal Communications Commission Report and Order FCC-14-153 ("Wireless Infrastructure Order") and set forth in 47 CFR § 1.40001.

B. *Definitions.* For the purposes of this Subsection 2.8.9 only, the following terms shall have the meanings ascribed to them below (terms not otherwise defined in this Paragraph B, shall have the meanings set forth in Section 2.8.3):

1. *Base Station* means the alternative support structure of an attached WTF or any wireless transmission equipment at such fixed location associated with the attached WTF, provided the location and installation of such attached WTF was reviewed, approved, and issued a permit by the City in accordance with the applicable zoning and development regulations set forth in Section 2.8 (or any prior applicable City or local government zoning regulations in effect at the time of the original approval). The term "Base Station" does not encompass the term "Wireless Tower" as defined in this Subsection 2.8.9, or any wireless transmission equipment associated with a Wireless Tower.

2. *Collocation* means the mounting or installation of wireless transmission equipment on an Existing Wireless Tower or Existing Base Station for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

3. *Concealment Elements* means any and all concealment, camouflaging, screening, or blending techniques or methods, or other similar techniques or methods to reduce the visibility of the wireless telecommunication facility, (a) imposed as condition of zoning or conditional use approval at the time of the original approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change, or (b) required by any applicable regulation or provision of this Section 2.8 (or any prior applicable City or local government zoning regulations) in effect at the time of the original approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change. "Concealment Elements" include any and all design regulations, requirements or conditions that are applied to Wireless Towers and Base Stations to reduce the visibility of the wireless telecommunication facility, including, but not limited to, conditions or design regulations pertaining to antenna size and type, color of the support structure and wireless transmission equipment, antenna mounting techniques, including the requirement that antennas be flush-mounted, siting Base Stations so that they blend in with similar surrounding structures, requirements as to how cables should be located, and the size, location, design, and screening for ground based equipment. "Concealment Elements" include limitations on the height of the Wireless Tower or Base Station when such height limitations are imposed in conjunction with other design regulations or conditions requiring concealment, camouflaging, screening, blending, or other similar techniques or methods to be employed in order to reduce the visibility of the wireless telecommunication facility.

4. *Current Site* means:

   a. For Wireless Towers, other than Wireless Towers located in the public rights-of-way, the current boundaries of the leased or owned property surrounding the Wireless Tower and any related access or utility easements, as set forth in the application for the original approval of such Wireless Tower or any subsequent application to modify such Wireless Tower approved prior to February 22, 2012; and

   b. For Wireless Towers located in the public rights-of-way and Base Stations, the limited area in proximity to the alternative support structure and other wireless transmission equipment already deployed on the ground, but only such restricted area that lies within the current boundaries of the leased or owned property surrounding the Base Station and any related access or utility easements.

5. *Existing Wireless Tower* or *Existing Base Station* means a Wireless Tower or Base Station that:

a. At the time an application is filed with the City pursuant to this Subsection, supports or houses wireless transmission equipment; and

b. (i) Was reviewed, approved, and issued a permit by the City in accordance with the applicable zoning and development regulations set forth in Section 2.8, or was reviewed and approved in accordance with any former applicable City or other local government zoning and development regulations governing the permitting of such facilities and equipment at the time of its approval; or

(ii) Was lawfully built and placed into operation in an area that was not zoned at the time of its installation.

"Existing Wireless Tower" or "Existing Base Station" does not include a structure that (i) is merely capable of supporting wireless transmission equipment, (ii) was constructed without the required zoning and development review and approval, or was otherwise illegally constructed, or (iii) was legally constructed in an area that was zoned, but at a time when applicable City or local zoning and development regulations did not require WTF review and approval.

6. *Modification* means the improvement, upgrade, expansion, removal, or replacement of existing wireless telecommunications facilities, including the installation, removal or replacement of wireless transmission equipment associated with an Existing Wireless Tower or Existing Base Station, such as the collocation of antenna on an Existing Wireless Tower or Base Station, the installation, removal or replacement of wireless transmission equipment within an existing equipment compound, or the installation, removal or replacement of an equipment cabinet associated with an Existing Wireless Tower or Existing Base Station, but does not include the complete or substantial replacement of a Wireless Tower or Base Station.

7. *Substantial Change* means a modification that, either singularly or due to the cumulative effect of a series of changes over time, changes the physical dimensions of a Wireless Tower or Base Station in any manner meeting one or more of the following criteria:

a. For a Wireless Tower other than a Wireless Tower located in the public right-of-way, increases the height of the Wireless Tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for a Wireless Tower located in the public right-of-way or a Base Station, increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater, provided:

(i) In cases where the deployments are or will be separated horizontally, such as on buildings' rooftops, changes in height resulting from a modification shall be measured from the height of the original structure (e.g., change in height is measured from the rooftop to the highest point of the proposed deployment) rather than from the height of a previously approved antenna or WTF (e.g., change in height is not based on the highest point of the existing roof-mounted WTF's antenna); and

(ii) In other circumstances, changes in height shall be determined by measuring the change in height from the dimensions of the Wireless Tower or Base Station as originally approved, but inclusive of the most recent modification that received City approval or other applicable local zoning approval prior to February 22, 2012; or

b. For a Wireless Tower other than a Wireless Tower located in the public right-of-way, involves adding an appurtenance to the body of the Wireless Tower that would protrude from the edge of the Wireless Tower by more than twenty (20) feet, or more than the width of the Wireless Tower structure at the level of the appurtenance, whichever is greater; for a Wireless Tower located in the public right-of-way or a Base Station, involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet; or

c. Involves the installation of more than the standard number of new equipment cabinets for the technology involved, as reasonably determined by the Director, but not to exceed four

(4) equipment cabinets; or, for Wireless Towers located in the public rights-of-way or Base Stations, involves the installation of new equipment cabinet(s) on the ground if there are no pre-existing ground-mounted equipment cabinets associated with such Wireless Tower or Base Station, or involves the installation of ground-mounted equipment cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinet associated with the structure; or

d. Entails excavation or deployment outside the Current Site boundaries; or

e. Results in the Wireless Tower or Base Station, as modified, being out of compliance with any current regulation required for approval of a WTF permit, any condition imposed as condition of zoning or conditional use approval at the time of the original approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change, or any applicable regulation or provision of this Section 2.8 (or any prior applicable City or local government zoning regulations) in effect at the time of the original approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change, other than regulations or conditions related to height, width, equipment cabinets, or excavation or deployment that do not constitute Substantial Changes in accordance with the thresholds identified in subparagraphs a.—d. above, provided that such regulations or conditions related to height, width, equipment cabinets, or excavation or deployment are not concealment elements; or

f. Would defeat the concealment elements of the Wireless Tower or Base Station.

8. *Wireless Tower* means any structure built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including tower structures that are constructed for wireless communications services, and the associated Current Site.

C. *Application Review and Approval.* Notwithstanding any other provision of Section 2.8 of this Code, a request for Collocation or Modification that will not result in a Substantial Change in the physical dimensions of an Existing Wireless Tower or Existing Base Station, shall be reviewed and approved in accordance with the procedures set forth in 47 CFR § 1.40001, provided the Director further finds that the proposed Collocation or Modification will comply with generally applicable building, structural, electrical and safety codes and all other objective standards set forth in applicable regulations related to health and safety.

D. *Application Contents.* Each application that is submitted for review under this Subsection shall clearly identify the application as a Section 6409(a) application and shall be accompanied by such information and documentation set forth in Subsection 2.8.4 as necessary to determine compliance with the foregoing criteria, including, but not limited to:

1. A written and technically accurate and reliable narrative that explains the nature of the permit sought (collocation or modification) and that further states whether the applicant believes (and the basis therefor) that the WTF is subject to 47 U.S.C. § 1455(a), and if so, why its proposal fits each and every criteria for a Section 6409(a) modification set forth herein.

2. A detailed written description of the proposed Modification to the Existing Wireless Tower or Existing Base Station;

3. A photograph or graphic description to scale and a written description of the Existing Wireless Tower or Existing Base Station as originally constructed, if available, and as currently existing, and a graphic depiction to scale of the Wireless Tower or Base Station after Collocation or Modification;

4. A description of all construction that will be performed in connection with the proposed Collocation or Modification, including any excavation; and

5. A signed declaration by the applicant certifying that the proposed Collocation or Modification shall not constitute a Substantial Change and detailing the reasons therefor.

E. *Validity.* This Subsection 2.8.9 is adopted for the purpose of complying with Section 6409(a) and the Wireless Infrastructure Order. This Subsection shall become null and void if Section 6409(a) or the Wireless Infrastructure Order is rescinded or invalidated. Any and all permits issued pursuant to this Subsection 2.8.9 shall terminate on the ninety-first (91st) day after Section 6409(a) or the Wireless Infrastructure Order is rescinded or invalidated. Further, if any provision of Section 6409(a) or the Wireless Infrastructure Order limiting the review of a modification or collocation by a local government is found unconstitutional, unenforceable or invalid by a court of competent jurisdiction, the corresponding provision(s) set forth in this Subsection 2.8.9 shall become null and void.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)

2.8.10 Wireless Telecommunications Facilities in Public Rights-of-Way.

A. *Purpose and Intent.* It is the purpose and intent of this Section 2.8.10 to provide for the management of the public rights-of-way in order to protect, maintain and promote the public health, safety, and general welfare; to establish reasonable regulations designed to manage the public rights-of-way that provide design requirements and procedures for the placement, construction and maintenance of wireless telecommunications facilities within the public rights-of-way by chartered telephone companies authorized to access such public rights-of-way per [O.C.G.A.] § 46-5-1; to establish and administer reasonable regulations governing the placement, construction and maintenance of wireless telecommunications facilities within the public rights-of-way pursuant to O.C.G.A. § 32-4-92 and consistent with state and federal law, including O.C.G.A. § 46-5-1 and 47 U.S.C. § 253 and §332; to provide for and maintain the safety of the traveling public and pedestrians and the appearance of public rights-of-way; to minimize disruption to the public rights-of-way; and to otherwise preserve the City's authority to manage and regulate the public rights-of-way within the City. Further, these provisions supplement and are in addition to other regulations and guidelines applicable to the use of public rights-of-way in the City.

B. *Definitions.* For the purposes of this Subsection 2.8.10 only, the following terms shall have the meanings ascribed to them below (terms not otherwise defined in this Paragraph, shall have the meanings set forth in Section 2.8.3):

Evidence of Need Report. A report providing sufficient information to demonstrate why existing alternative support structures in the public right-of-way cannot reasonably accommodate the applicant's need.

Post-top street light. A tapered steel pole with the luminaire mounted on top of the pole. Also referred to as a "post top luminary fixture."

Registrant. A telephone company that has filed a complete registration application adopted by the City authorizing the telephone company to construct, maintain and operate its lines upon, under, along, and over public rights-of-way of the City in accordance with O.C.G.A. § 46-5-1 and Section 12-21 of The Code of the City of Alpharetta, Georgia, as further set forth in Subsection 2.8.10.C.

Replacement utility pole. A utility pole constructed to replace an existing utility pole and which meets the requirements prescribed herein.

Street light standard. A street light, light structure, light pole, lamp post or other similar structure primarily designed and used to provide lighting.~~A tapered steel pole with a mast arm extending a minimum of three (3) feet from the pole, to which the luminaire or lighting fixture is mounted~~.

Telephone Company. A telephone company chartered by the laws of the State of Georgia or any other state and certified by the Georgia Public Service Commission to provide telecommunications services in this state, and which is authorized to construct, maintain and operate its lines upon, under, along, and over public rights-of-way of this State in accordance with O.C.G.A. § 46-5-1.

C. *Registration to Access Public Rights-of-Way of City.*

1. Registration Required. Subject to and in accordance with the additional regulations, terms and conditions prescribed in this Section 2.8.10, only a telephone company that has filed a complete registration application approved by the City in accordance with O.C.G.A. § 46-5-1 and Section 12-21 of The Code of the City of Alpharetta, Georgia (the "City Code") may place, site, locate, install, modify, or maintain a wireless telecommunications facility in public rights-of-way of the City. Wireless telecommunications facilities may only be placed, sited, located, installed, modified, or maintained by such registrants in public rights-of-way that are located within the service area identified in the registration application approved by the City in accordance with O.C.G.A. § 46-5-1 and Section 12-21 of the City Code. Further, only wireless telecommunications facilities providing the types of services included in the description of services set forth in the application approved by the City in accordance with O.C.G.A. § 46-5-1 and Section 12-21 of the City Code may be placed, sited, located, installed, modified or maintained by a registrant in public right-of-way. If the telephone company has modified the service area or the description of services to be provided as identified in the original application, the telephone company shall update the changes to the service area and/or the services provided prior to submitting an application to locate a wireless telecommunications facility in public rights-of-way of the City.

2. Review of Registration. The registration of the registered telephone company shall be reviewed by the City at the time an application to locate a wireless telecommunications facility in public right-of-way is submitted by such registrant. Such review shall include confirmation that all "due compensation" owed to the City has been paid by the registrant pursuant to Section 12-21 of the City Code and O.C.G.A. § 46-5-1. If the City confirms that the registrant has submitted all information in accordance with this subsection C. and is compliant with the provisions of O.C.G.A. § 46-5-1 and Section 12-21 of the City Code, the City shall notify the registrant of same; provided, however, such notification shall neither have the effect of nor be deemed an accord and satisfaction or waiver of any "due compensation" owed to the City. If the City determines that information has not been submitted in accordance with this subsection C. or the registration is not compliant with the provisions of O.C.G.A. § 46-5-1 and Section 12-21 of the City Code, the City shall notify the registrant in writing of the non-effectiveness of registration, and reasons for the non-effectiveness.

3. Effect of Registration; Additional Permits Required. An effective registration is a pre-condition for obtaining a permit to locate or place a WTF in public right-of-way. Notwithstanding an effective registration, a registrant shall be required to obtain a permit to place a wireless telecommunications facility in public right-of-way and such other permits as required by other applicable City ordinances, codes or regulations, as well as state and federal law. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.

    a. Non-Exclusive. Registration in accordance with O.C.G.A. § 46-5-1 and Section 12-21 of the City Code is nonexclusive and does not establish any right or priority to place or maintain a wireless telecommunications facility in any particular area in public rights-of-way within the City. Registrations and the placement of WTF's in the public rights-of-way are expressly subject to any future amendment of this Section 2.8.10, and such other City, state or federal laws, codes, ordinances, regulations or policies that may be enacted.

    b. Neither registration nor the issuance of WTF right-of-way placement permit conveys any title, equitable or legal, in the public rights-of-way of the City. Pursuant to O.C.G.A. §§ 46-5-1 and 32-4-92, registration governs only the right to access the public rights-of-way of the City in compliance with City, local, state and federal laws, ordinances, codes and regulations. Registration does not excuse a registrant from obtaining appropriate access or pole attachment agreements before locating its wireless transmission facilities on the facilities of another utility or person, nor does it excuse a registrant from complying with the provisions of this Section 2.8.10 and other applicable City, local, state or federal laws, ordinances, codes and regulations.

c. A registrant shall not commence to place or maintain a wireless telecommunications facility in public rights-of-way until all applicable permits, including a WTF right-of-way placement permit, have been applied for by registrant and issued by the City or other appropriate authority.

D. *WTF Right-of-Way Placement Permits.*

1. WTF Right-Of-Way Placement Permit Required. A registrant shall not place, install, site, locate, collocate or modify a wireless telecommunications facility in the public right-of-way of the City without the issuance of an administrative permit from the City in accordance with the provisions hereof (an administrative permit to place, install, site, locate, collocate or modify a wireless telecommunications facility in the public right-of-way of the City is referred to herein as a "WTF right-of-way placement permit"). A WTF right-of-way placement permit shall be required for each wireless telecommunications facility installation site in the public right-of-way. The complete removal of a wireless telecommunications facility shall not require a permit under this Section; however, removal must be performed in strict compliance with this Section.

   a. Following the issuance of a WTF right-of-way placement permit, a registrant shall not commence to install, construct or place a wireless telecommunications facility in the public right-of-way until all other applicable permits have been issued by the City or other appropriate authority. Registrant acknowledges that as a condition of granting such permits, the City may impose reasonable terms and conditions governing the placement or maintenance of a wireless telecommunications facility in public rights-of-way.

   b. All issued permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The City may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements.

   c. A registrant that places or maintain a wireless telecommunications facility in the public right-of-way shall comply with and abide by all applicable provisions of this Section 2.8.10 and any and all other City, local, state and federal laws, ordinances, codes, statutes, regulations and policies.

2. Exemptions. A WTF right-of-way placement permit shall not be required for the following:

   a. §6409 Modifications. A registrant shall be exempt from the requirement of obtaining an additional WTF right-of-way placement permit for collocations and modifications that are exempt per Section 2.8.9 hereof (§6409 Modifications — Exemptions for Modifications that do not Substantially Change the Physical Dimensions of a Wireless Telecommunications Facility); provided, however, the registrant shall be required to submit an application as set forth therein.

   b. Emergencies. Subject to compliance with the other requirements provided herein, in the event of an emergency requiring the replacement or maintenance of a wireless telecommunications facility in the public right-of-way, a registrant shall be exempt from the requirement of first obtaining a WTF right-of-way placement permit prior to performing such work. The term "emergency" shall mean a condition that affects the public's health, safety or welfare, and which includes an unplanned out-of-service condition of a pre-existing service. Registrant shall provide prompt notice to the City of the replacement or maintenance of a wireless telecommunications facility in public rights-of-way in the event of an emergency.

3. Application for WTF right-of-way placement permit.

   a. General. The Director of Engineering/Public Works, or his/her designee, shall be responsible for the review and approval or denial of all WTF right-of-way placement permit applications. The Community Development Department shall be responsible for receiving all WTF right-of-way placement permit applications. Original applications received by the Community Development Department shall be forwarded to the City Engineering/Public Works Department and copies of same shall be distributed to the Finance Department and

all other affected City departments for review for completeness and compliance with City regulations and laws. The Director of Engineering/Public Works shall be responsible for further coordinating departmental review for compliance. Applications for a WTF right-of-way placement permit shall be approved by the Director of Engineering/Public Works whenever the Director of Engineering/Public Works determines that the proposed WTF fully complies with the subject standards, regulations and requirements, as more fully set forth herein—which may include revisions to the application.

b. Submittal of Application(s). An application for a WTF right-of-way placement permit shall be submitted to the Community Development Department on an application form prepared by the City and made available to the public. An application shall be required for each WTF or installation site. Where a proposed WTF is part of a planned network of WTF's that will be installed contemporaneously or sequentially, such as a WTF for DAS, applications for each of the WTF's in the proposed network shall be submitted at the same time.

4. Contents of Application. An application for a WTF right-of-way placement shall include such information and documents required by the application form, which shall include, but not be limited to, the information and documents set forth in Section 2.8.4(C), as well as the following:

a. Description of Construction: A description of the manner in which the WTF will be installed (i.e. anticipated construction methods and/or techniques) and the timetable for construction of the project or each phase thereof, and the areas of the City which will be affected;

b. Traffic Maintenance Plan: A traffic maintenance plan for any disruption or obstruction of the public rights-of-way;

c. If appropriate given the type of WTF proposed, an estimate of the cost of restoration to the public rights-of-way;

d. Identification of Facilities in Public Right-of-Way: Information that identifies and depicts all utility poles, electrical transmission towers, street light fixtures, traffic control signals and device, and other above-ground structures, fixtures, facilities and equipment currently existing in the area of the public right-of-way to which the permit application applies, and extending one thousand (1,000) feet in each direction along the public right-of-way, if available, including, but not limited to, those owned or used by public utilities, electric membership corporations, electric cooperatives, or the City (such information shall be provided without certification as to correctness, to the extent obtained from other persons with fixtures, facilities or equipment in the public rights-of-way);

e. WTF Inventory: An inventory of all existing wireless telecommunications facilities located in the areas of the public right-of-way to which the permit application applies, and extending one thousand (1,000) feet in each direction along the public right-of-way, including any wireless transmission equipment or support structures that the registrant or its predecessor(s) in interest has previously placed or which are otherwise used by the registrant, and, to the extent such information is available, or which are owned or used by other wireless providers (such information shall be provided without certification as to correctness, to the extent obtained from other persons with WTF's in the public rights-of-way);

f. Evidence of Need Report: If required due to the type of WTF proposed, an evidence of need report, which shall include sufficient information to demonstrate that existing WTF's, existing utility poles and/or existing street light standards in the public right-of-way, as applicable, cannot reasonably accommodate the applicant's need because:

(i) There are no existing WTF's, existing utility poles and/or street light standards, as applicable, located in the public right-of-way within the GSA;

(ii) The existing utility poles and/or street light standards, as applicable, in the GSA cannot accommodate the proposed attached WTF because the antenna and/or other wireless transmission equipment cannot be mounted at a sufficient height to meet the applicant's engineering requirements or there is not sufficient space available for

mounting wireless transmission equipment meeting the applicant's engineering requirements due to the location of utility equipment or other equipment currently mounted on the subject structure;

(iii) The existing utility poles and/or street light standards, as applicable, in the GSA do not have sufficient structural strength and cannot be structurally improved to support the wireless transmission equipment for the applicant's proposed WTF, which shall be further certified by a Georgia-licensed professional engineer;

(iv) Taking into consideration economic and technical feasibility, compliance with the design requirements and standards governing the proposed attached WTF are not reasonably practicable due to other existing conditions associated with the existing utility poles and/or street light standards, as applicable;

(v) To the extent there are existing WTF's within the GSA available for collocation or modification, the collocation of the proposed WTF on or modification to the existing WTF's would defeat the concealment elements required for the existing WTF; or

(vi) The existing utility poles and/or street light standards in the GSA are unsuitable due to other similar limiting factors; and

g. Such additional information necessary for review in order to confirm compliance with the requirements set forth herein, as reasonably determined and requested by the City.

5. No Application Fee. Notwithstanding any provision set forth in Section 2.8.4 to the contrary, no permit, application or review fee is required for a WTF right-of-way placement permit.

E. *General Standards.*

1. General Standards of Approval; Factors for Consideration. The City shall have the authority to prohibit or limit the placement of new or additional wireless telecommunications facilities within certain public rights-of-way as reasonably necessary to protect existing facilities in the public rights-of-way, including facilities owned by a public utility or the City, to accommodate City plans for public improvements or projects that the City determines are in the public interest, to prevent interference with the operations of public safety communications services, to accommodate or address traffic safety issues or concerns related to the subject location or arising out of the proposed placement of the wireless telecommunication facility at the subject location, or as otherwise necessary, proper, or incidental to the efficient operation, management or development of the public rights-of-way and the municipal street system.

a. Preservation of Safe Traffic Environment, Appearance of Right-of-Way and Efficiency of Right-of-way Maintenance. The type of construction required for the installation, vertical clearance above pavement, horizontal clearance within the public right-of-way, the location of the support structure and wireless transmission equipment, and the location of existing poles, guys, and related ground-mounted utility appurtenances, such as transformers or cabinets, are factors of major importance to preserve a safe traffic environment as well as the appearance of the public right-of-way and the efficiency and economy of public right-of-way maintenance. A critical requirement for locating support structures and wireless transmission equipment along the roadside is the width of the border area; i.e., the space between the edge of pavement, edge of paved shoulder or curb line and the right-of-way line, and its availability and suitability for accommodating such facilities. The safety, maintenance efficiency and appearance of public rights-of-way are enhanced by keeping this space as free as possible from encroachment by obstacles above the ground. Where ground-mounted utility facilities are to occupy this space, they shall be placed as far as possible from the traveled way and beyond the clear zone. The nature and extent of roadside development and the ruggedness of the terrain are additional controlling factors for locating support structures and wireless transmission equipment within the public right-of-way as close as possible to the right-of-way line and outside of the clear zone.

b. Non-interference.

(i) Wireless telecommunications facilities shall be placed and maintained so as not to interfere unreasonably with the use of the public rights-of-way by the public and so as not to cause unreasonable interference with the rights and convenience of property owners who own property adjacent to the subject public right-of-way.

(ii) All wireless telecommunications facilities shall be placed and maintained so as not to interfere, displace, damage or destroy any other utilities or facilities, including but not limited to, water mains, sanitary sewer facilities, storm drains, electrical facilities; gas mains, pipes, cables or conduits of the City or any utility's facilities lawfully occupying the public rights-of-way of the City.

(iii) All wireless telecommunications facilities shall be placed and maintained so as not to create interference with the operations of public safety communications services.

c. Insufficient Space. The City has the authority to prohibit or limit the placement of new or additional wireless telecommunications facilities within the public rights-of-way if there is insufficient physical space to accommodate all of the requests to place and maintain WTF's or other facilities in that area of the public rights-of-way.

2. General Design Standards.

a. Concealed Attached WTF's and Concealed Freestanding Support Structures. Subject to compliance with the other regulations set forth herein, including location, siting and design standards and requirements, and the issuance of a WTF right-of-way placement permit, only the following types of concealed attached WTF's and concealed freestanding support structures may be placed in the public rights-of-way:

(i) Concealed attached WTF mounted to one of the following types of alternative support structures:

(a) Utility pole, replacement utility pole or electrical transmission tower (i.e., utility-pole-mounted WTF); or

(b) Streetlight standard (i.e., streetlight-mounted WTF).

(ii) Concealed freestanding support structure designed as a:

(a) ~~(a)~~ Streetlight standard, decorative streetlight fixture or decorative lamppost primarily used for public lighting (i.e., faux streetlight facility)~~.~~; or

(b) Slimline pole.

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b. Wireless Transmission Equipment. Only antennas, repeaters, equipment cabinets or pedestals, and other accessory equipment associated with small wireless technologies, like DAS or small cell facilities, which are physically much smaller and less visible and can be placed at much lower elevations than macrocell 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; 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 wireless transmission 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 accordance with the further regulations provided herein; the foregoing provisions are not intended to restrict the technology used by the registrant.

c. Concealment Elements. In order to preserve the appearance of the public right-of-way and minimize the visual impact of new facilities, all wireless telecommunications facilities and wireless transmission equipment located in the public rights-of-way shall be designed with concealment elements, as further prescribed herein. It is the intent of this ordinance to prescribe concealment element that are technically feasible and reasonably directed to

avoiding or remedying the intangible public harm of unsightly or out-of-character deployments.

3. Siting Standards and Requirements for WTF's. In order to limit the proliferation of new support structures in the public right-of-way 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, safety hazards to pedestrians and/or motorists, and new visual and aesthetic impacts, a proposed wireless telecommunications facility shall be sited in the public right-of-way in accordance with the following siting alternatives order:

   a. Utility-Pole-Mounted WTF's. A new wireless telecommunications facility in the public rights-of-way must be placed on existing utility poles or replacement utility poles (subject to and in accordance with the standards and regulations governing concealed utility-pole-mounted WTF's and other requirements set forth herein), unless such siting is impracticable or technically infeasible. In order to demonstrate that such siting is impracticable or technically infeasible, the registrant 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.

   b. Concealed Streetlight-Mounted WTF's. When a registrant sufficiently demonstrates that there are no existing utility poles in the subject area of the public right-of-way to accommodate the proposed WTF, the proposed wireless telecommunications facility shall be placed on an existing streetlight standard (subject to and in accordance with the standards and regulations governing concealed street-light-mounted WTF's and other requirements set forth herein), unless such siting is impracticable or technically infeasible as sufficiently demonstrated by an evidence of need report; or

   c. New Concealed Freestanding Support Structures: Faux Streetlight Facility and Slimline Poles. When a registrant sufficiently demonstrates that there are no existing utility poles or streetlight standards in the subject area of the public right-of-way to accommodate the proposed WTF, a faux streetlight facility may be sited in the public right-of-way (subject to and in accordance with the standards and regulations governing faux streetlight facilities and other requirements set forth herein).

4. General Location, Siting and Design Standards for Ground-Mounted Equipment Cabinets.

   a. Purpose and Intent. The purpose of this Paragraph 4 is to establish and prescribe uniform standards and controls for the location and placement of ground-mounted equipment cabinets within the public right-of-way in order to provide a basis for the planning of such installations. These regulations, standards and guidelines for ground-mounted equipment cabinets are intended to cover the majority of situations which will occur and are general in application, particularly in regard to the location of new ground-mounted equipment cabinets in the public rights-of-way. There may be instances where the location of a proposed installation of a ground-mounted equipment cabinet appears to meet the requirements set forth herein, but special circumstances, other considerations, or other regulations may make the location inappropriate. Each requested location for placement of a ground-mounted equipment cabinet is subject to the approval of the City Engineer/Public Works Director and shall be reviewed on its own merit with regard to the foregoing general standards, including, but not limited to, its impact on safety, visual quality of the public right-of-way, and the difficulty of public right-of-way and public utility construction and maintenance, as well as the additional standards and requirements set forth herein.

   b. Authority. A ground-mounted equipment cabinet may only be installed in the public right-of-way when the location has been reviewed and approved by the City Engineer/Public Works Director. In determining whether the location is appropriate, the City Engineer/Public Works Director shall review the proposed location for compliance with the general standards, the additional standards and requirements applicable to the subject type of WTF, and such other applicable City, state and federal laws, codes, ordinances, regulations and policies, and further give due consideration to such other factors relevant to the protection of the

public health, safety, and welfare in relation to the use and regulation of the public rights-of-way.

c. General Location Standards and Guidelines. In order to avoid the clustering of multiple ground-mounted equipment cabinets in a single area, a ground-mounted equipment [cabinet] must be spaced a minimum of one thousand (1000) linear feet from another ground-mounted equipment cabinet located in the public right-of-way; however, a maximum of two (2) ground-mounted equipment cabinets may be grouped together in a single location when the other standards hereof are also met. Individual ground-mounted equipment cabinets shall not exceed three (3) feet in width, three (3) feet in depth or five (5) feet high in height. Ground-mounted equipment cabinets shall only be located in areas of the public right-of-way with existing foliage or other aesthetic features that screen or obscure the view of the equipment cabinet or in which there is existing space and conditions such that landscaping can be installed to fully screen such equipment cabinet; provided, however, a ground-mounted equipment cabinet may be located adjacent to an existing utility cabinet in any area of the right-of-way in which there are aerial telecommunications and electric distribution lines. Accessory equipment and equipment cabinets not meeting the requirements hereof, may only be located on the support structure of the WTF subject to and in accordance with the additional regulations set forth herein, or in flush-to-grade underground vault enclosures. Such flush-to-grade underground vault enclosures, including flush-to-grade vents, or vents that extend no more than twenty-four (24) inches above the finished grade and are screened from public view may be incorporated. Electrical meters required for the purpose of providing power to the proposed WTF may be installed above ground on a pedestal in the public right-of-way provided such pedestal is designed or screened to blend in with the surrounding area and meets other applicable standards.

d. General Design Standards for Ground-Mounted Equipment Cabinets. Subject to such additional design standards and regulations for the subject type of WTF, ground-mounted equipment cabinets shall be painted, textured, and designed in a manner consistent with the style, color, texture and materials of other fixtures and features in the area in which located, or painted, textured and located to blend in with existing foliage/vegetation or additional landscaping, and otherwise camouflaged, screened and designed in such a manner to render the ground-mounted equipment cabinet as visually inconspicuous as possible, such that the ground-mounted equipment cabinet meets the visibility standard applicable to the subject type of WTF, as further set forth herein. All ground-mounted equipment cabinets shall be screened by landscaping unless existing foliage and vegetation and/or other existing structures or fixtures provide sufficient screening to meet the subject standard of visibility.

e. Downtown Overlay District. In addition to the foregoing standards, in the Downtown Overlay District, ground-mounted equipment cabinets shall not be located in any area of the public right-of-way ~~in which a~~adjacent to an existing or planned pedestrian walkway ~~is also located or planned~~, unless such equipment cabinet is camouflaged, screened and designed such that it is not visible (to a reasonable person of ordinary sensibilities) from public rights-of-way or any public place.

f. Residential Areas. In addition to the foregoing standards, ground-mounted equipment cabinets shall not be located in any portion of the public right-of-way that is contiguous to the front or side yard property line of a property with a "for-sale" dwelling use, unless there are existing utility cabinets or enclosures located on the ground and screened with landscaping, such as telephone cabinets or electrical transformer boxes/enclosures, provided (i) there is sufficient space to place the ground-mounted equipment cabinet within such screened area, (ii) the height and other dimensions of the ground-mounted equipment cabinet do not exceed the height or size of the existing utility cabinet or enclosure located on the ground, or be more than five (5) feet in height, three (3) feet in width, or three (3) feet in depth, whichever is less, and (iii) the ground-mounted equipment cabinet is otherwise camouflaged, screened and designed so as to render it as visually

inconspicuous as possible, such that the ground-mounted equipment cabinet is not readily apparent or plainly visible (to a reasonable person of ordinary sensibilities) from public rights-of-way or any property with a "for-sale" dwelling use.

F. *Additional Regulations, Design Standards and Minimum Requirements for WTF's in Public Rights-of-Way.*

1. ~~Additional Regulations and Design Standards for~~ Concealed Utility-Pole-Mounted WTF's ~~-~~ Additional Regulations and Design Standards.

a. Location Standards. Utility-pole-mounted WTF's shall be located in areas of the public right-of-way in which there are existing utility poles supporting aerial (overhead) telephone ~~and~~ or electric distribution lines. Antenna(s) and pole-mounted accessory equipment of utility-pole-mounted WTF's may only be located on an existing utility pole supporting such aerial lines or on an existing electrical transmission tower. ~~Notwithstanding the foregoing, utility-pole-mounted WTF's shall not be located in any portion of the public right-of-way that is contiguous to the front yard property line of a property with a "for-sale" dwelling use.~~

b. Minimum Height of Utility Pole. Antenna(s) and pole-mounted accessory equipment of a utility-pole-mounted WTF may only be attached to a utility pole with a height of twenty-five~~thirty~~ (25~~30~~) feet or greater, as measured from finished grade, or on an electrical transmission tower.

c. Minimum Height Location of Antennas. Antenna(s) shall be mounted on the utility pole or electrical transmission tower at a height of fifteen (15) feet or more above grade. Pole-mounted equipment cabinets/enclosures shall be mounted on the utility pole or electrical transmission tower 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 (use of the term "utility pole" shall include "electrical transmission tower" when an electrical transmission tower serves as the alternative support structure) 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 WTF is no more readily apparent or plainly visible from public rights-of-way than the existing utility equipment located on the utility pole. Further, if the utility pole is located in any portion of the public right-of-way that is contiguous to the front yard property line of a property with a residential "for-sale" dwelling use or visible (at ground level) from any property with a residential 'for-sale' dwelling use, antennas shall be concealed or screened by means of canisters, radomes, shrouds or other similar concealment enclosures, which shall be ~~flush-~~mounted, ~~to the utility pole and~~ 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.

(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) one (1) whip antenna and (b) three (3) panel antennas or three (3) antennas enclosed within canisters, radomes, shrouds or other similar antenna concealment enclosures may be attached to a utility pole.

(iii) Mounting of Antennas. ~~Antennas shall be flush-mounted.~~ A panel antenna, together with its mount, shall not extend horizontally from the utility pole more than the width of existing pole-mounted equipment (on the subject utility pole) with the same

orientation, or more than three (3) feet, whichever is less. Panel antennas shall not extend vertically above the height of the utility pole. When flush-mounted to the side of the utility pole, a whip antenna, together with its mount, may extend horizontally up to eighteen (18) inches from the utility pole, and the whip antenna, exclusive of its mounts, may extend vertically up to three (3) feet above the height of the utility pole. Alternatively, the base of a whip antenna may be flush-mounted (without vertical separation) to the top surface of the utility pole, but shall not extend vertically above the height of the utility pole by more than three (3) feet. Canisters, radomes, shrouds or other similar antenna concealment enclosures ~~shall~~ may be ~~flush~~ mounted to the side of a utility pole, ~~without any visual horizontal separation and without~~but shall not extend~~ing~~ vertically above the height of the utility pole. Additionally, one (1) canister, radome, shroud or other similar antenna concealment enclosure may be ~~flush~~ vertically mounted ~~(without vertical separation)~~ 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 and that the vertical separation between the top of the utility pole and but shall 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 one (1) foot in width and two (2) feet in length. A whip antenna shall be no larger than two (2) 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 accessory equipment, other than antennas, antenna attachment devices, 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. Except for any approved ground-mounted equipment cabinet(s), all equipment cabinets and enclosures shall be flush-mounted to the utility pole. The dimensions of a pole-mounted equipment cabinet/enclosure shall be not exceed 30 inches in height (length), 24 inches in width, and 18 inches in depth. The volume of all pole-mounted and ground-mounted equipment cabinets and enclosures associated with wireless transmission equipment located on the utility pole, including pre-existing wireless transmission equipment located on the utility pole, shall not exceed seventeen (17) cubic feet.

2. Additional Regulations and Design Standards for Concealed Streetlight-Mounted WTF's.

a. Location Standards. Streetlight-mounted WTF's may only be located in arterial rights-of-way or areas of the public right-of-way in which there are existing aerial (overhead) telephone and electric distribution lines, and antenna(s) and pole-mounted accessory equipment of streetlight-mounted WTF's may only be located on an existing street light standard. Notwithstanding the foregoing, streetlight-mounted WTF's shall not be located in the Downtown Overlay District or in any portion of the public right-of-way that is contiguous to the front yard property line of a property with a "for-sale" dwelling use.

b. Minimum Height of Streetlight Standard. Antenna(s) and pole-mounted accessory equipment of streetlight-mounted WTF's may only be attached to a street light standard with a height of twenty-five (25) feet or more above grade.

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

d. Lighting, Operability and Maintenance. The streetlight-mounted WTF shall not impair the existing function of the street light standard, including its lighting. Further, the faux streetlight 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 facility 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 WTF's shall be designed, camouflaged, screened and obscured from view in order to render the attached WTF 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 standard's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing street light standard in order to render the attached WTF as visually inconspicuous as possible, such that the streetlight-mounted WTF is not 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 standard and painted, textured, and designed in a manner consistent with the street light standard's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing street light standard.

(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 standard. 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, but shall not extend vertically above the height of the street light standard 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 standard.

(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) and depth of a pole-mounted equipment cabinet/enclosure shall not exceed 24 inches and 10 inches, respectively, and the width of a pole-mounted equipment cabinet/enclosure shall not exceed the minimum width of the pole at the location of attachment by more than fifty (50) percent. The volume of all pole-mounted equipment cabinets/enclosures located on the street light standard, including pre-existing wireless transmission equipment

located on the street light standard, shall not exceed six (6) cubic feet. To the extent ground-mounted equipment cabinets/enclosures are permitted in accordance with Subsection 2.8.10(E)(4) hereof, the volume of all pole-mounted and ground-mounted equipment cabinets/enclosures associated with wireless transmission equipment located on the street light standard, including pre-existing wireless transmission equipment located on the street light standard, shall not exceed seventeen (17) cubic feet.

3. Additional Regulations and Design Standards for Faux Streetlight Facilities.

   a. Purpose and Intent. The following regulations, standards and guidelines for the placement of faux streetlight facilities attempt to cover the large majority of situations which will occur and are general in application, particularly in regard to the location of new faux streetlight facilities in the public right-of-way. There may be instances where a proposed installation of a faux streetlight facility appears to meet the requirements set forth herein, but special circumstances, other considerations, or other regulations may make the installation inappropriate. Each requested location for placement of a faux streetlight facility is subject to the approval of the City Engineer/Public Works Director and shall be reviewed by the City Engineer/Public Works Director on its own merit with regard to the policies and purposes of this Section 2.8.10, including, but not limited to, its impact on safety, visual quality of the public right-of-way, and the difficulty of public right-of-way and public utility construction and maintenance.

   b. Location Standards and Guidelines.

      (i) A faux streetlight facility may only be installed in the public right-of-way when the location has been reviewed and approved by the City Engineer/Public Works Director. In determining whether the location is appropriate, the City Engineer/Public Works Director shall review the proposed location for compliance with the foregoing general standards, the additional standards and requirement set forth below, and such other applicable City, state and federal laws, codes, ordinances, regulations and policies, and further give due consideration to such other factors relevant to the protection of the public health, safety, and welfare in the use and regulation of the public rights-of-way.

      (ii) In addition to the standards set forth herein, the location of faux streetlight facilities, including required spacing and separation from existing or planned street lights, shall comply with all other design standards and guidelines related to street lights required by other applicable City or State laws, ordinances, codes or regulations, including design standards and guidelines that are applicable due to the proposed location lying within certain areas and corridors of the City (e.g., Design Review Board Guidelines, the Downtown Code, and the Northpoint Activity Center Design Guidelines). The spacing and separation of the faux streetlight facility from other street lights shall be consistent and visually compatible with the existing spacing of street lights located on the same side of the right-of-way; provided, however, such compatibility may further require that the location be opposite of or staggered with street lights located on the other side of the public right-of-way, when applicable. When appropriate due to the separation of existing street lights and the locations of any planned street lights, new faux streetlight facilities should generally be located midway between existing/planned street lights on the same side of the right-of-way. Faux streetlight facilities shall be located so as to align with existing and/or planned street lights in the surrounding areas of the public right-of-way and have consistent setback distances from the curb as other street lights.

      (iii) In the event appropriate spacing and separation distances cannot be met, the applicant may include with its application a proposal to replace an existing street light fixture with a faux streetlight facility of the same design. A proposal to replace an existing street light fixture with a faux streetlight facility shall be subject to the approval of the City Council.

c. Height of Faux Streetlight Facility. The height of the faux streetlight facility shall comply with height requirements set forth in other applicable City regulations, policies and guidelines, including City design standards and guidelines applicable to the proposed location within the City, and/or shall be equivalent to the height of the adjacent existing street lights that it is designed to replicate.

d. Lighting, Operability and Maintenance. The faux streetlight facility shall function as a street light facility and comply with all City requirements applicable thereto, including, but not limited to, the lighting fixture must comply with all lighting and illumination standards required pursuant to other City laws, codes, regulations and policies. Further, the faux streetlight facility must be separately metered for electric power to its wireless transmission equipment and the lighting fixture. The applicant shall be responsible for all maintenance to and operations of the faux streetlight facility, including the operation, replacement and repair of the lighting fixture.

e. Design Standards and Concealment Elements.

(i) Full Concealment. The faux streetlight facility shall be designed (i) in compliance with City design requirements and standards applicable to new street light fixtures generally and as further prescribed for the subject area of the right-of-way, (ii) in compliance with the specifications of street light fixtures that are planned for installation in the subject area of the right-of-way, and/or (iii) to replicate the design of existing street light fixtures in the surrounding area of the public right-of-way, such that the faux streetlight facility is indistinguishable by a casual observer from the existing, planned or other street light fixture(s) that it replicates. The size, shape, height, design, style, color, texture and materials of all components of the faux streetlight facility shall match the existing, planned or other street light fixture(s) that it replicates, and all wireless transmission equipment associated with the faux streetlight facility, other than any permitted ground-mounted equipment cabinet or electric meter, shall be concealed within the pole or post of the structure or otherwise designed and incorporated as a design element of the required style of street light fixture. When the faux streetlight facility is a replacement of an existing street light, the faux streetlight facility shall be designed to fully replicate the street light feature being replaced.

(ii) Antennas. Antenna(s) shall be enclosed within a canister, radome, shroud or other similar antenna concealment enclosure designed to replicate a design element and to appear to be an integral part of the subject style of street light fixture, such that the antenna and concealment enclosure are indistinguishable from the related feature or design element of the street light fixture(s) that the faux streetlight facility is designed to replicate.

(iii) Ground-Mounted Equipment Cabinets. The placement of ground-mounted equipment cabinets is subject to Subsection 2.8.10(E)(4) hereof.

G. *General Conditions.*

1. A WTF right-of-way placement permit issued by the City is a mere privilege that authorizes the permissive use of the public right-of-way for the placement and maintenance of the WTF only. The issuance of a WTF right-of-way placement permit and the placement of such facility in accordance therewith does not create or vest any property right in the applicant, or any other party, or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

2. Other Government Approvals. An applicant shall be required to obtain any and all approvals that may be required by any state or federal governmental unit, department or agency related to the use of right-of-way under its jurisdiction.

3. Conditional Use of Public Right-of-Way.

a. The City shall retain the right, without limitation, to alter, change, or cause to be changed, the grading, installation, relocation or width of the public rights-of-way within the limits of

the City. Neither the approval of WTF right-of-way placement permit nor any provision set forth in this Section 2.8.10 shall affect the City's authority to add, modify, vacate or abandon public rights-of-way.

b. If a registrant desires to use any of its wireless telecommunications facilities for the purpose of providing any other services other than the provision of communications service, including utility or non-utility services to existing or potential consumers or resellers, or by providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from the City and other governmental or regulatory authorities as may be required by applicable law.

c. A registrant, or any person that leases or otherwise uses the wireless telecommunications facilities of a registrant, that has been issued a WTF right-of-way placement permit or that has otherwise been authorized to place a WTF in the public rights-of-way of the City shall not make or assert any claim, right, or cause of action or take any other action against the City that will impede the lawful exercise of the City's rights, including requiring the removal or relocation of such facilities from the public rights-of-way of the City, notwithstanding the effect of same on registrant's ability to place or maintain wireless telecommunications facilities in public rights-of-way of the City.

4. Removal and Relocation. Notwithstanding the issuance of a WTF right-of-way placement permit, the City shall have the authority to order the removal and relocation of a WTF located in the public right-of-way that in the reasonable opinion of the City constitutes an obstruction or interference with the construction, maintenance, use, or safe operation of the roadway. Any registrant owning a wireless telecommunications facility located within or adjacent to any part of the public right-of-way or public road which the City or Georgia Department of Transportation (GDOT) has undertaken to improve or intends to improve shall, at registrant's sole cost and expense, remove, relocate, or make the necessary adjustments to its wireless telecommunications facility when, in the reasonable opinion of the City or GDOT, the facility constitutes an obstruction or interference with the use or safe operation of such road by the traveling public or when, in the reasonable opinion of the City or GDOT, the facility will interfere with such contemplated construction or maintenance. Removal or relocation of a wireless telecommunication facility at the direction of the City or GDOT shall be subject to and governed by the applicable provisions of O.C.G.A. §§ 32-4-92, 32-6-171 and 32-6-173, as amended, which shall include the provision of a minimum of sixty (60) days' notice of the required removal or relocation.

5. All Rights of City Reserved. Notwithstanding any provision of this Section 2.8.10 or the City's issuance of a permit or other authorization to place a WTF in the public right-of-way, the City may place and maintain, grant utility easements for, or otherwise permit the placement and maintenance of other utilities in the public rights-of-way, including, water, sewer, electric, gas, storm drainage, telecommunications, traffic, and other utilities and facilities, cables or conduit, including underground and overhead installations, in public rights-of-way occupied by the registrant. Registrant may allow City facilities to be co-located within City's public rights-of-way through the use of a joint trench during registrant's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between registrant and City and may be subjected to other City rights-of-way requirements. The City further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation or width of the public rights-of-way within the City.

6. Restoration of ROW. The area disturbed by the construction or maintenance of a WTF in the public right-of-way shall be kept to a minimum. The registrant shall, at its own expense, restore all right-of-way to a condition equal to or better than the condition existing prior to such construction or maintenance activities. Restoration methods and any work required to repair the right-of-way shall be performed in accordance with City Design Standards or other City-adopted standards and specifications applicable to the construction of City improvements within the public right-of-way. In the absence of any City standards and specifications applicable to the subject work or improvement(s), the materials and methods of construction shall be in

accordance with GDOT's current standards and specifications, including GDOT Standard and Supplemental Specifications and/or Special Provisions, and Construction Standards and Details. All repairs and restoration work must be approved by the Director of Engineering/Public Works and final completion of any such work is subject to the reasonable approval of the Director of Engineering/Public Works. If necessary, unsatisfactory restoration work shall be corrected by the registrant, or by the City with all costs billed to the registrant.

7. Registrant shall at all times keep the wireless telecommunications facility authorized by the WTF right-of-way placement permit in a good state of repair from the standpoint of both structure and appearance.

8. Compliance with Applicable Law; Acceptable Industry Practices. Registrant shall place and maintain a wireless telecommunications facility in public rights-of-way in compliance with all applicable standards as established by all local, state or federal law and in conformance with the City ordinances, codes and regulations. All safety practices required by applicable City, local, state and federal law or accepted industry practices and standards shall be used during the placement or maintenance of wireless telecommunications facilities in the public right-of-way. Registrant shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas. A registrant shall maintain all of its WTF's located in the public rights-of-way in a manner consistent with accepted industry practice and applicable law.

9. Scheduling. In the interest of the public's health, safety and welfare, upon request of the City, a registrant shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way. The City may require a registrant to alter reasonably its placement or maintenance schedule for permitted work as necessary so as to minimize disruptions and disturbance in the public rights-of-way. The City may provide a more definite time frame based on specific City construction or maintenance schedules.

10. Registrant's Liability and Risk. City makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the registrant's wireless telecommunications facilities and any performance of work or costs incurred by registrant or provision of services shall be at registrant's sole risk. Nothing in this article shall affect the City's authority to add, vacate or abandon public rights-of-way and City makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for wireless telecommunications facilities. Notwithstanding any requirements or conditions the City Engineer may impose in order to protect the public from injury and the right-of-way from damage, a registrant shall be solely responsible for the adequacy and safety of the engineering of its facilities and the operations authorized by the permit. Construction performed to place or maintain a registrant's wireless telecommunications facilities shall not interfere, displace, damage or destroy any other utilities or facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the City or any other person's facilities lawfully occupying the public rights-of-way of the City.

11. Inspection. The City shall have the right to make such inspections of facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this Section. In the event the City determines that a violation exists with respect to registrant's placement or maintenance of facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the City will provide registrant written notice setting forth the violation and requesting correction.

12. As-Builts Plans. An application for a WTF right-of-way placement permit, including an application to replace an existing WTF in the public right-of-way, shall include plans showing the location of the proposed installation of facilities in the public rights-of-way. If the plans so provided require revision based upon actual installation, the registrant shall promptly provide revised plans. Further, the registrant shall provide "as-builts" upon completion of any installation or construction. The plans shall be in a digitized format showing the two-dimensional location of

the facilities based on the City's geographical database, or other format acceptable to the City. The registrant shall provide such plans at no cost to the City.

13. Cooperation. Subject to applicable law, a registrant shall, on the request of any person holding a permit issued by the City, temporarily support, protect, raise or lower its wireless telecommunications facilities to permit the work authorized by the permit. The expense of such temporary support, protection, raising or lowering of facilities shall be paid by the person requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than thirty (30) days advance written notice to arrange for such temporary measures. If the City requests the temporary support, protection, raising or lowering of a facility for a public purpose, the City shall not be charged for the temporary support, protection, raising or lowering of the facility.

14. Due Compensation. A registrant that places or maintains wireless telecommunications facilities in the public rights-of-way shall be required to pay "due compensation" to the City as required by applicable City and State laws, ordinances and regulations.

15. Terms and Conditions of Permit. Registrant, in accepting the permit, agrees to abide by the terms and conditions thereof. The placement of the WTF must fully comply with this Section 2.8.10, and any other requirements that the Director of Engineering/Public Works may stipulate. Registrant shall review the permit for additional requirements and, if not in agreement, may withdraw the permit application by written request prior to the placement of the WTF covered by the permit. The registrant, in accepting the permit, agrees to abide by the terms and conditions thereof. Failure to comply with terms of the permit during the installation, operation and maintenance of the WTF may result in revocation of the permit and removal of the WTF.

16. Insurance. A registrant shall, at registrant's own expense, obtain and continuously maintain for the period of time required for the complete installation of the facilities authorized by the permit, including the repair and restoration of the public right-of-way, and also during such future periods of time when operations are performed involving the maintenance, repair, relocation, or removal of said facilities authorized by the permit, insurance of the kind and in the minimum amounts described herein. Prior to placing a WTF in the public right-of-way or otherwise performing any work in the public right-of-way, registrant shall furnish the City with certificates of insurance, which shall [provide] insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with the requirements provided herein. All insurance coverages required herein shall be procured and maintained with insurers with an A- or better rating as determined by Best's Key Rating Guide and with a financial size rating of Class V or larger. All liability policies shall be endorsed to name the City, and its elected officials, officers, employees and agents as additional insured parties. The required coverages must be evidenced by properly executed certificates of insurance forms. Every policy of insurance shall provide that the City will receive notice no less than thirty (30) calendar days prior to any cancellation, termination, or a material change in such policy. Registrant shall ensure that any and all policies of insurance procured hereunder shall provide for a waiver of subrogation against the City, and registrant waives any claim against the City which is covered by its insurance hereunder. No policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations. The minimum required insurance coverages and respective limits of coverage are as follows:

    a. Worker's compensation insurance in accordance with statutory limits and covering all employees and other persons as established and required by Georgia law. A group-insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan. A self-insurer must submit a certificate from the Georgia Board of Workers' Compensation stating that the registrant qualifies to pay its own workers' compensation claims. Registrant shall require all contractors using the public right-of-way or performing work under the permit to obtain an insurance certificate showing proof of workers' compensation insurance, and registrant shall submit a certificate on its letterhead to the City providing that all contractors performing work in the public right-of-way are covered by workers' compensation insurance.

b. Employers' liability insurance with minimum limits of (a) One Million Dollars ($1,000,000) per accident for bodily injury by accident and (b) One Million Dollars ($1,000,000) per employee for bodily injury by disease. Registrant shall require all contractors using the public right-of-way or performing work under the permit to obtain an insurance certificate showing proof of employers' liability insurance coverage and shall submit a certificate on its letterhead to the City providing that all contractors performing work in the public right-of-way are covered by employers' liability insurance.

c. Comprehensive general liability insurance with minimum combined single limits of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate which shall include coverage for bodily injury, broad form property damage (including completed operations coverage), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. Further, the policy shall be endorsed to provide "all risks" coverage. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis and must include separate aggregates for each permit.

d. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury of not less than One Million Dollars ($1,000,000) per occurrence and property damage of not less than One Hundred Thousand Dollars ($100,000) per occurrence with respect to each of registrant's or its contractor's owned, hired and non-owned vehicles assigned to or used to place or maintain facilities in the public right-of-way.

e. Umbrella/excess liability insurance with minimum combined single limits of Two Million Dollars ($2,000,000) per occurrence and Four Million Dollars ($4,000,000) in the aggregate. Such policy shall provide the same coverage set forth in the Comprehensive General Liability insurance policy, and coverage shall be provided on an "occurrence" basis. Such insurance shall be endorsed to name the City, and its elected officials, officers, employees and agents as additional insured parties.

17. Indemnification. A registrant shall indemnify and hold harmless the City, its elected officials, officers, agents and employees, from and against any and all claims, demands, losses, liabilities, suits, actions, costs, expenses (including expenses of litigation and attorneys' fees) and damages ("Claims") of any type or nature, arising out of the construction, installation, maintenance, repair, removal, relocation, operation, or use of its wireless telecommunications facilities in public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this Section, provided, however, that a registrant's obligation hereunder shall not extend to any Claims caused by the sole negligence of the City. This indemnification extends to the successors and assigns of registrant and survives the termination or revocation of the permit and the dissolution or, to the extent allowed by law, the bankruptcy of the registrant. This indemnification does not extend beyond the scope of the permit and the uses or work undertaken thereunder.

18. Performance Bond. When necessary due to the estimated costs to repair and restore potential damages to infrastructure located in the right-of-way and/or the estimated costs to remove the WTF, or when warranted by unique circumstances related to the installation of the WTF, as reasonably determined by the City, a performance bond, irrevocable letter of credit, or other acceptable form of surety (as determined by the City) payable to, in favor of, and for the protection of the City shall be required as a condition of a WTF right-of-way placement permit. Such bond or surety shall secure the restoration of the public rights-of-way and ensure the registrant's faithful performance of the installation of the WTF and performance of other work in the public rights-of-way in accordance with the WTF right-of-way placement permit (or any related permit), this Section 2.8.10, or other applicable law, regulation or requirement of the City. The term of any such performance bond, irrevocable letter of credit, or other form of surety shall be for the period of time required to complete the installation of the facilities authorized by the WTF right-of-way placement permit and to restore the public right-of-way, and shall extend for an additional twelve (12) month period to cover any warranty/guarantee period related to the

repair and restoration of any infrastructure located in the right-of-way. The amount of the performance bond, letter of credit, or other form of surety shall be limited to an engineering estimate of the costs to repair and restore potential infrastructure damages and remove the installation or facilities installed by registrant. The bond shall be written by a Surety Company or Bank duly qualified and licensed to do business in the State of Georgia. A registrant shall not commence the installation of any portion of a WTF authorized pursuant to a WTF right-of-way placement permit until the performance bond, letter of credit, or other acceptable surety has been submitted to and approved by the City. In the event the WTF installed by registrant fails to comply with the WTF right-of-way placement permit (or any related permit) or any provision of this Section 2.8.10, registrant fails to complete the installation of the WTF, or registrant fails to complete all restoration work in the public right-of-way as required, the City may declare registrant in default and, in accordance with the provisions of the bond or surety agreement, the City may call the bond/surety agreement, or any part thereof, and use the proceeds thereof to perform the work necessary to correct the subject condition. The rights of the City with respect to any performance bond or surety agreement pursuant to this subsection are in addition to all other rights and remedies the City may have in accordance with other City ordinances, codes or regulations, or at law or in equity, and no action, proceeding or exercise of a right with respect to such bond/surety agreement will affect any other right the City may have.

19. Injury or Damage to Other Property. Nothing contained in this Section shall be construed to make or hold the City responsible or liable for any damage to persons or any property whatsoever arising from the use, operation or condition of the registrant's wireless telecommunications facilities; or by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance of any permit or the approval or disapproval of any placement or maintenance of the registrant's wireless telecommunications facilities constitute any representation, guarantee or warranty of any kind by, nor create any liability upon, the City or any elected official, officer, agent or employee thereof. The City, including its elected officials, officers, agents and employees, shall not be held responsible or liable for any injury or damages that may occur to wireless telecommunications facilities covered by a WTF right-of-way placement permit, or to any connection or connections thereto, by reason of right-of-way maintenance and construction activities, including work performed by the City's employees or contractors, or as a result of work performed by another permittee.

20. Expiration. Unless otherwise provided in the terms and conditions of the permit, a WTF right-of-way placement permit shall expire twelve (12) months after its issuance if the placement of such facility has not occurred or work to place same has not commenced and been continuously pursued within such time. Subject to the foregoing, a WTF right-of-way placement permit shall be in effect for an indefinite period of time from and after the date approved, unless sooner suspended or revoked by the City, terminated by the registrant, or as otherwise provided by applicable law. A WTF right-of-way placement permit is automatically revoked upon the abandonment of the subject facility.

H. *Suspension or Revocation of WTF Right-of-Way Placement Permits.*

1. Failure of a registrant, within a reasonable time after receipt of written notice from the City, to comply with any of the terms and conditions of a WTF right-of-way placement permit shall be sufficient cause for the suspension or revocation of the permit. The Director of Engineering/Public Works or his/her designee may suspend or revoke a WTF right-of-way placement permit or any related permit authorizing a registrant to use or work in the public rights-of-way for one or more of the following:

   a. Subject to written notice by the City and a reasonable opportunity to cure same, failure to comply with or satisfy permit conditions or any requirement or condition set forth in this Section 2.8.10 or other applicable City ordinances, codes or regulations governing placement or maintenance of wireless telecommunications facilities in public rights-of-way or the use of the public rights-of-way in relation thereto;

   b. Misrepresentation or fraud by registrant in a registration or any permit application to the City;

c. Subject to O.C.G.A. § 46-5-1, failure to pay "due compensation" to the City; or

d. Failure to remove or relocate wireless telecommunications facilities or reimburse the City for the cost of same, as lawfully required.

2. After the suspension or revocation of a permit pursuant to this section, the Director of Engineering/Public Works shall provide written notice of same and the reason therefor to the registrant.

I. *Appeals.* Notwithstanding any other provision of the City Code or Unified Development Code to the contrary, (i) any decision or determination of the Director of Engineering/Public Works in the administration of this Section 2.8.10 or any interpretation of the provisions hereof, may only be appealed to the City Council, and (ii) no variances or exceptions to the requirements of this Section may be granted. The decisions of the Director of Engineering/Public Works, including any decision to deny, suspend or revoke a WTF right-of-way placement permit, are final and conclusive unless appealed to the City Council. An appeal must be filed with the City within thirty (30) days of the date of the written notice of the decision being appealed. The hearing of the appeal shall occur within thirty (30) days of the receipt of the appeal, and the appeal shall be heard and decided in accordance with procedures to be published in writing by the City, which at a minimum shall include notice to all affected parties and the opportunity to be heard. The decision of the City Council shall be final.

J. *Transfer or Control; Sale or Assignment of Assets.* If a registrant transfers, sells or assigns its registration, transfers, sells or assigns any of its WTF's in the public rights-of-way to another telephone company, or upon the occurrence of any such transfer or assignment as an incident of the transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this Section. Written notice of any such transfer, sale or assignment shall be provided to the City within thirty (30) days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided in Ch. 12 of the City Code within sixty (60) days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the appropriate City officials that the transferee, buyer or assignee is the new applicant. A WTF right-of-way placement permit, the privileges granted, and the further obligations of a registrant created thereby, shall be binding upon all successor and assigns of registrant. Any mortgage, pledge, lease or other encumbrance of or upon the wireless telecommunications facilities shall be subject and subordinate to the rights of the City under this Section and applicable law.

K. *Enforcement.* The City Director of Engineering/Public Works shall be responsible for the administration and enforcement of this Section 2.8.10, and is authorized to give any notice required by law. The remedies and penalties set forth herein are nonexclusive and the exercise of one or more of such remedies or penalties shall not preclude the exercise of another. In addition to the other remedies previously set forth herein, violations of the provisions of this Section shall be enforced, prosecuted and punished in the same manner as set forth in Section 5.9 the Unified Development Code. Additionally, the City may take all necessary civil action to enforce the provisions hereof and may seek appropriate legal or equitable remedies or relief, including injunctive relief. The remedies set forth for in this Section are in addition to and cumulative of all other remedies provided by law.

L. *Abandonment of WTF.* Upon abandonment of a wireless telecommunications facility owned by a registrant and located in the public right-of-way, the registrant shall notify the City of such abandonment within ninety (90) days. In the event of the foregoing or following the City's determination that any such wireless telecommunication facility has been abandoned, the City may direct the registrant by written notice to remove all or any portion of such abandoned wireless telecommunications facility at the registrant's sole expense when the City determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility:

1. Compromises safety at any time for any public rights-of-way user or during construction or maintenance in the public rights-of-way;
2. Prevents another person from locating facilities in the area of public rights-of-way where the abandoned facility is located when other alternative locations are not reasonably available; or
3. Creates a maintenance condition that is disruptive to the public rights-of-way's use.

In the event of circumstances noted above in 2., the City may require the third person to coordinate with the registrant that owns the existing wireless telecommunications facility for joint removal and placement, where agreed to by the registrant. In the event the City does not direct the removal of the abandoned wireless telecommunications facility, the registrant, by its notice of abandonment to the City shall be deemed to consent to the alteration or removal of all or any portion of the facility by the City or a third party. If the registrant fails to remove all or any portion of an abandoned wireless telecommunications facility as directed by the City within a reasonable time period as may be required by the City under the circumstances, the City may perform such removal and charge the cost of the removal against the registrant or any such third person may perform such removal at its sole costs.

M. *Applicability and Effective Date.* The City may further amend this Section 2.8.10 as it shall find necessary in the lawful exercise of its police powers and in the management of the public rights-of-way. The provisions hereof shall be applicable to all wireless telecommunications facilities placed in the public rights-of-way on or after the effective date of the ordinance adopting or amending these provisions, as applicable. Further, to the full extent permitted by state and federal law, the provisions hereof shall be applicable to all existing wireless telecommunications facilities placed in the public rights-of-way prior to the effective date of the ordinance adopting or amending these provisions, as applicable, except that any provision of this article regarding the design, size, composition, or location of wireless telecommunications facilities shall not apply to any facilities lawfully placed within any City right-of-way prior to the effective date of the ordinance from which such provision is derived.

(Ord. No. 715 , § 6(Exh. A), 9-28-2015)