

ORDINANCE NO. 19-37

AN ORDINANCE TO AMEND TEXT OF THE CITY OF LEXINGTON, NORTH CAROLINA, CODE OF ORDINANCES, CHAPTER 12, UNIFIED DEVELOPMENT ORDINANCE, VARIOUS SECTIONS RELATING TO WIRELESS TELECOMMUNICATIONS AND SMALL WIRELESS SUPPORT STRUCTURES AND FACILITIES

WHEREAS, the City's Unified Development Ordinance is used as a tool for implementing the City's Land Use Planning Policies, which provides a vision for future development that accommodates physical and economic expansion, while protecting the community's valuable natural, cultural, and historical assets; and

WHEREAS, to ensure the effectiveness of the Unified Development Ordinance, amendments are made from time to time in order to keep the document current and relevant; and

WHEREAS, the regulation of wireless telecommunications support structures, equipment and facilities is important to mitigate negative impacts on public health, safety and to contribute to the orderly and balanced placement of telecommunications infrastructure; and

WHEREAS, there is a public expectation and responsibility to ensure new development and land use reflects the vision and intent of the City's Land Use Planning Policies; and

WHEREAS, at its regular meeting held March 18, 2019, the Planning Board unanimously recommended City Council amend the City's Unified Development Ordinance to amend various regulations relating to wireless telecommunications support structures, equipment and facilities; and

WHEREAS, at its regular meeting on March 25, 2019, the City Council held a first reading and called for a public hearing concerning adoption of this ordinance and scheduled the public hearing to be held on April 8, 2019, at 7:00 p.m. at City Hall; and

WHEREAS, notice of the public hearing was published in *The Dispatch*, a newspaper having general circulation in Lexington, as required; and

WHEREAS, on April 8, 2019, immediately following the close of the public hearing, upon a motion by Councilmember _____, and seconded by _____, a vote was as follows:

Councilmembers _____
voted "Yes," and

Councilmembers _____
voted "No."

The Council by vote did ordain that the City of Lexington's Code of Ordinances, Chapter 12, Unified Development Ordinance, is hereby amended as follows:

Within the City's Code of Ordinances, Section 12, Unified Development Ordinance *insert amended language and delete stricken language and adjust subsequent sections and numbering, as follows:*

Section 3, Zoning District Regulations: Delete “Communication Antenna*” and “Communication Tower*” as a permitted use in the Minor Zoning Permit Required tables for the following zoning districts: Mixed Use District (3.5.4.1), Uptown District (3.6.5.1), Business District (3.7.5.1), and Industrial District (3.8.5.1).

Section 5, Criteria for Specific Uses: *insert amended language and delete stricken language and adjust subsequent sections and numbering as appropriate, as follows:*

5.1.11 COMMUNICATION ANTENNA

- ~~(1) Antenna may be located on existing Communication Towers, Water Towers, Electric Towers, or other existing utility towers or structures.~~
- ~~(2) Antenna may not extend by more than 25 feet beyond the height of the principal tower or structure.~~
- ~~(3) Antennae for government and/or emergency service operations are exempt from the criteria listed above.~~

5.1.12 COMMUNICATION TOWER—OVER 90 FEET IN HEIGHT

- ~~(1) Equipment, mobile or immobile, not used in direct support of the transmission or relay facility, may not be stored or parked on the site unless related to repairs that are being made.~~
- ~~(2) A fence, a minimum of eight feet in height, shall be installed around the site and include any parking, accessory structures, and accessory equipment.~~
- ~~(3) A landscape area shall be located along the exterior of the fence except at the gate. The landscape area shall contain, at a minimum, large trees planted forty feet on center, and large shrubs planted 8 feet on center between the trees.—~~
- ~~(4) The fenced area shall be setback from side and rear property lines of adjacent properties in the Suburban Neighborhood, Traditional Neighborhood, Mixed Use, or Uptown Districts, an amount equal to 200% of the height of the tower. Otherwise the fenced area shall be setback from side and rear property lines an amount equal to 80% of the height of the tower.—~~
- ~~(5) The front setback for the fenced area shall be equal to 80% of the height of the tower.—~~
- ~~(6) Towers shall be of a monopole construction (lattice and guyed towers are not permitted).~~
- ~~(7) The maximum height of a communication tower is one hundred eighty (180) feet. Antenna may not extend by more than 25 feet beyond the height of the tower.~~
- ~~(8) No signs or logos of any type shall be allowed on any tower at any time.~~
- ~~(9) Towers shall meet the American National Standards Institute (ANSI) standards and applicable Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations, and comply with all other federal, state, and local laws and regulations. A structural engineer licensed to work in North Carolina shall certify that the plans for construction and erection or installation of the tower or antenna meet or exceed current safety and design standards of applicable codes.~~

- ~~(10) Any tower which is unused for the original permitted use for a period of 180 consecutive days shall be removed by the owner of said tower, within 120 days of receipt of notification by the City to that effect. If the owner fails to remove the tower as required by this section, then the City of Lexington may choose to remove the tower or have the tower removed by a third party and the owner shall reimburse the City for all expenses incurred thereby, including without limitation all engineering, demolition, transportation, disposal, and legal fees and costs.~~
- ~~(11) Towers colors shall blend with surroundings.—~~
- ~~(12) Towers and accessory structures may not be artificially lighted, except where otherwise required by the FAA, FCC, or other federal or state agencies.—~~

~~5.1.13 COMMUNICATION TOWER—UP TO 90 FEET IN HEIGHT~~

- ~~(1) Towers over 90 feet in height shall comply with additional requirements of “Communication Towers—Principal Use” outlined in 5.6.~~
- ~~(2) If the tower is an accessory use or on the same parcel as a principal building, the tower shall be located within the rear yard.~~
- ~~(3) Tower shall be adequately protected by a non-climbable fence with a lockable gate.~~
- ~~(4) A landscape area shall be located along the exterior of the fence and shall contain, at a minimum, small trees planted thirty feet on center, and large shrubs planted 8 feet on center between the small trees.—~~
- ~~(5) Equipment storage related to the tower cannot exceed 144 square feet gross floor area and shall meet all required setback requirements for an accessory building.~~

5.2 WIRELESS TELECOMMUNICATIONS AND SMALL WIRELESS SUPPORT STRUCTURES AND FACILITIES

5.2.1 PURPOSE AND SCOPE

- (1) Purpose: The purpose of these regulations is to establish policies and procedures for the review, permitting and orderly placement of wireless telecommunications facilities (wireless facilities), wireless support structures, antenna, small wireless (small cell) facilities and other related infrastructure within the City’s jurisdiction, including City (public) Right-of-Way (ROW), which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City ROW, and the City as a whole.
- (2) Intent: In enacting this Section, the City is establishing uniform standards to address challenges presented by telecommunications infrastructure and equipment, and/or small wireless (small cell) facilities including however, not limited to:
- (a) Prevent interference with the use of streets, sidewalks, alleys, parkways, public utilities, public views, certain city corridors, and other public ways and places;
 - (b) Minimize the visual, aesthetic, and public safety impacts of their installation and maintenance;

- (c) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
 - (d) Protect against environmental damage, including damage to trees;
 - (e) Preserve the character of the neighborhoods, traditional urban core, National Register and Local Historic Districts in which facilities are installed; and
 - (f) Facilitate rapid deployment of small wireless facilities to provide the benefits of advanced wireless services.
- (3) **Applicability and Jurisdiction:** Beginning with and subsequent to its effective date, these regulations shall be applicable to all districts, new *development* and *redevelopment*, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt as described in section 5.2.5.7 Permitted Exemptions.
- (4) **Conflicts with Other Sections:** This section supersedes all sections or parts of sections adopted prior hereto that are in conflict herewith, to the extent of such conflict.

5.2.2 REVIEW AND APPROVAL

- (1) All applications received by the City shall comply with the submittal requirements detailed herein and serve the application requirements provided by the City. All qualifying applications shall be reviewed and deficiencies noted and identified by the City to the applicant within 30 days of submission. Should no feedback be provided within that window, the application will be deemed approved by Minor Zoning Permit (administrative review) after 45 days. Any deficiencies noted by the City may be addressed and resubmitted by the applicant after 30 days of notification by the City. This resubmission shall be considered to be the same application by the City. Deficiencies that are not present in the initial application and arise following this initial review and resubmission must be addressed through a new application. The City and the applicant do have the authority to mutually agree to an alternate review window for applications.
- (2) **Denial of Permit:** The City may deny an application for a permit on the basis that it does not meet the City's applicable codes, local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, City utility poles or reasonable and nondiscriminatory stealth and concealment requirements, including: screening or landscaping for ground-mounted equipment, public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a ROW, or the historic preservation requirements in subsection N.C.G.S 160A-400.55(i).
- (3) The City shall (1) document the basis for a denial, including the specific code provisions on which the denial was based, and (2) send the documentation to the applicant on or before the day the city denies an application. The applicant may cure the deficiencies identified by the City and resubmit the application within 30 days of the denial without paying an additional application fee. The City shall approve or deny the revised application within 30 days of the resubmittal date. Any subsequent review shall be limited to the deficiencies cited in the prior denial.
- (4) Co-location or any other modification of a wireless facility shall be permitted upon an existing wireless support structure or base station that has been deemed a non-conforming

use by the City, provided that the co-location or modification(s) are determined to be an eligible facilities request, as detailed herein.

- (5) Review of Eligible Facilities Requests: Notwithstanding any other provision of this Chapter, the City shall approve applications for eligible facilities requests for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, within sixty (60) days according to the procedures established under 47 CFR 1.40001, *Wireless Facility Modifications*.
- (6) Applicant must obtain all other required permits, authorizations, approvals, agreements, and declarations that may be required for installation, modification, and/or operation of the proposed facility under Federal, State, or local law, rules, and/or regulations. Requirements may include however, not limited to private, local, and State encroachment agreements, and approvals by the Federal Communications Commission (FCC). An approval issued under this section is not *in lieu* of any other permit required under the City of Lexington Unified Development Ordinance (UDO) or Code of Ordinances, nor is it a franchise, license, or other authorization to occupy the public ROW, or a license, lease, or agreement authorizing occupancy of any other public or private property. It does not create a vested right in occupying any particular location, and an applicant may be required to move and remove facilities at its expense consistent with other provisions of applicable law. An approval issued in error that is based upon incomplete or false information provided by an applicant, or any application that conflicts with other requirements within this ordinance, is not valid. No person may maintain a small wireless (small cell) facility in place unless required by State or Federal authorization.
- (7) The property owner(s) or applicant shall submit a certification letter from a North Carolina-certified land surveyor or licensed engineer which verifies that structure height complies with the approved development plan.
- (8) The applicant or owner of the facility shall maintain onsite at all times the contact information for all parties responsible for the maintenance of the facility.
- (9) No telecommunications facilities shall, whether by individual or collective operation with other facilities, generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.
- (10) The City may provide written notice to the applicant and/or owner of a small wireless facility of the requirement to relocate any facilities, or an associated utility pole, city utility pole, or wireless support structure upon which they are co-located, in the public right-of-way, to be paid for by the applicant and/or owner, as necessary for maintenance or reconfiguration of the right-of-way for other public projects, or to serve any other needs that serve the health and welfare of the City.
- (11) Co-location or any other modification of wireless telecommunications facilities or an existing non-conforming wireless support structure or base station shall not be construed as an expansion, enlargement, or increase in intensity of a non-conforming structure and/or use, provided that the co-location or modification constitute an eligible facilities request.
- (12) All wireless telecommunication support structures, facilities and/or appurtenances shall require an approved Minor Zoning Permit (administrative review) as part of a legal permitted use, provided they meet the requirements provided herein. A Major Zoning Permit granted by the City of Lexington City Council is required if a wireless support structure involves one of

the following criteria:

- (a) The setbacks required by the underlying zoning must be reduced to accommodate the proposed wireless support structure;
 - (b) A proposed stealth or non-stealth wireless support structure located within 200 feet from any property located in a residentially-zoned district that is currently used for residential purposes and contains primary structures; or
 - (c) A proposed antenna extending greater than 25 feet in height above the maximum allowed height of the tower or structure.
- (13) Presence of existing facilities: Applicant shall provide evidence that reasonable efforts have been made to lease or otherwise acquire space on all existing wireless support structure greater than 75 feet in height within a 3,000 feet radius of the proposed new wireless support structure. No new freestanding wireless support structures shall be permitted unless the applicant demonstrates that:
- (a) No existing or previously-approved wireless support structures can reasonably be used for placement of the new wireless telecommunications equipment rather than constructing the proposed new freestanding wireless support structure;
 - (b) Residential, historic, and municipal recreational areas cannot be served with an alternative placement of wireless support structure(s); or
 - (c) The service the applicant wishes to provide necessitates the proposed height or proposed height increase of a substantially-changed wireless support structure.

5.2.3 EFFECT OF PERMIT

- (1) Authority Granted: No property right or other interest created. A permit from the City authorizes an applicant to undertake only certain activities in accordance with this section, and does not create a property right or grant authority to the applicant to impinge or encroach upon the rights of others who may already have an interest in the ROW.
- (2) Duration: Collocation of the small wireless facility shall commence within six (6) months of approval and shall be activated no later than one year from the permit issuance date, unless the City and the applicant agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (3) Post Construction: The applicant must submit as-built drawings in an acceptable digital or GIS format as determined by City staff as soon as reasonably practicable but no later than one hundred twenty (120) days after the completion of the installation and shall submit and maintain current contact information for the party responsible for the wireless facility on a form to be supplied by the City.

5.2.4 APPLICATION AND FEES

- (1) Permitted Use: Collocation of a small wireless (small cell) facility or a new or modified utility pole or wireless support structure for the collocation of a small wireless facility that meet the height requirements of N.C.G.S. 160A-400.55(b) shall be classified as permitted

uses and subject to a Minor Zoning Permit (administrative review) if they are collocated:

- (a) In a City right of way (ROW) within any zoning district;
 - (b) Outside of ROW's on property located in non-residential zoning districts; or
 - (c) Outside of ROW's on vacant property located in residential zoning districts.
- (2) Permit Required: No person shall place any wireless support structure and/or facility without an approved Minor Zoning Permit, Major Zoning Permit or Special Use Permit, as applicable.
- (3) Permit Application: All wireless facility applications for permits filed pursuant to this Chapter shall be provided by the City. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "trade secret" by clearly marking each page of such materials accordingly. Trade secret information shall be filed as a separate addendum to permit applications.
- (4) Application Requirements: The wireless telecommunications facility permit application shall be made by the wireless provider or its duly authorized representative and shall contain the following:
- (a) The applicant's name, address, telephone number, and e-mail address;
 - (b) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;
 - (c) A general description of the proposed work and the purposes and intent of the wireless facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
 - (d) A site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the right-of-way, including any above or below-ground manholes, hand holes, cabinets, junction boxes, poles, antennas; the size, type, depth of any conduit or enclosure; screening plan and any other relevant appurtenances;
 - (e) A wireless facility shall comply with all applicable codes, City utility policies, approved plans, and conditions of approval;
 - (f) An application must include an attestation that any small wireless facilities will be collocated on a utility pole, City utility pole or wireless support structure and that the small wireless facilities will be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the City and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site. In instances where an applicant seeks to construct a new pole, a statement regarding the infeasibility of collocation on existing structures is required;
 - (g) Pursuant to N.C.G.S 160A-400.54: An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the City shall be allowed at the applicant's discretion to file a consolidated application for no more than 25

separate facilities and receive a single permit for the collocation of all the small wireless facilities meeting the requirements of this section. The City may remove small wireless facility collocations from a consolidated application and treat separately, small wireless facility collocations if:

- (1) Applicant provides incomplete information or;
- (2) Specific collocations are denied.

Then, the City may issue a separate permit for each collocation that is approved.

- (h) The applicant asserts, to the best of the applicant's knowledge, the truth of the information contained in the application.
- (5) Permit Conditions: A Permit for the collocation of any small wireless facility shall provide that the collocation installation activity must commence within six months of approval and that the small wireless facility shall be activated no later than one year from the permit issuance date, unless the City and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site. In addition, the applicant shall be required to obtain all otherwise applicable work permits including however, not limited to, permits for work that will involve excavation in the ROW, affect traffic patterns or obstruct vehicular traffic in the ROW. In addition, the applicant shall provide proof of adequate insurance coverage, covering damages of the facility itself and all surrounding property before any permits are issued.
 - (6) Routine Maintenance and Replacement: The City shall not require an application or permit or charge fees for (a) routine maintenance; (b) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller. Nothing in this section shall prevent a City from requiring permits for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the City ROW.
 - (7) Information Updates: Any amendment to information contained in a permit application shall be submitted in writing to the City within thirty (30) days after the change necessitating the amendment.
 - (8) Application and Permit Fees - Collocation of Small Wireless Facilities: Pursuant to N.C.G.S. §160A-400.54(e), and as may be amended from time to time, the City Council shall set an application fee for the collocation of small wireless facilities. The City Council shall incorporate such fees into the City's duly adopted fee schedules.
 - (9) Technical Consulting Fees - Collocation of Small Wireless Facilities: Pursuant to N.C.G.S. §160A-400.54(f), and as may be amended from time to time, the City Council shall set a technical consultation fee to offset the actual, direct and reasonable administrative costs incurred for the review, processing and approval of a collocation application for a small wireless facility. The City may engage a third party consultant for technical consultation and the review of a collocation small wireless facility application. The City Council shall incorporate such fees into the City's duly adopted fee schedules.
 - (10) Application Fees - Construction of New Wireless Support Structures or Substantial Structures Modification of Wireless Support Structures: Pursuant to N.C.G.S. §160A-400.52(f), and as may be amended from time to time, the City Council shall set an application fee, consulting fee or such other fees associated with the submission, review,

processing and approval of an application to site a new wireless support structure, or to substantially modify a wireless support structure or wireless facility. The City Council shall incorporate such fees into the City's duly adopted fee schedules.

- (11) Technical Consulting Fees - Collocation and Eligible Facility Requests of Wireless Support Structures: Pursuant to N.C.G.S. §160A-400.53(a)(3), and as may be amended from time to time, the City Council shall set a technical consultation fee to offset the actual, direct and reasonable administrative costs incurred for the review, processing and approval of a collocation or eligible facility request of a wireless support structure application. The City may engage a third party consultant for technical consultation and the review of a collocation application. The City Council shall incorporate such fees into the City's duly adopted fee schedules.

5.2.4.1 Right-of-Way (ROW) Rates:

- (1) Annual Rate: The City may only charge a wireless provider for the use of a City ROW to construct, collocate, install, mount, maintain, modify, operate, or replace a utility pole, wireless facility or wireless support structure if the City charges other communications service providers or publicly, cooperatively or municipally owned utilities for similar uses of the ROW, to the extent allowed under N.C.G.S. 160A-296. Charges authorized by this section shall meet all of the following requirements:
- (a) The ROW charge shall not exceed the direct and actual cost of managing the ROW and shall not be based on the wireless provider's revenue or customer counts;
 - (b) The ROW charge shall not exceed that imposed on the other users of the ROW, including investor, City or cooperatively owned entities; and
 - (c) The ROW charge shall not be unreasonable, discriminatory, or violate any applicable law.
- (2) Cease Payment: A wireless provider is authorized to remove its facilities at any time from the City ROW's and cease paying the City compensation for use of the ROW's.

5.2.4.2 Attachments to City Utility Poles in the ROW:

- (1) The City may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on City utility poles, in accordance with N.C.G.S. 160A-400.56(a).
- (2) Collocation on City Utility Poles: Pursuant to N.C.G.S. §160A-400.56, a wireless provider may collocate to a City utility pole. A request to collocate under this section may be denied only if there is insufficient capacity or space or for reason of safety, reliability and generally applicable engineering principles and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual costs of the City to be reimbursed by the wireless provider. The wireless provider shall comply with all applicable safety requirements including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration. Any collocation to a City utility pole shall be subject to the terms and conditions of the City's duly approved and adopted Utility Pole Attachment Agreement.
- (3) Rates: Pursuant to N.C.G.S. §160A-400.56(a), and as may be amended from time to time, the

City Council shall set a “rate” for the collocation of a small wireless facility to a City utility pole. The City Council shall incorporate such rates into the City’s duly adopted fee schedules.

- (4) Make Ready Work: The City will provide a good faith estimate for any make-ready work necessary to enable the City utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term “make-ready work” means any modification or replacement of a City utility pole necessary for the City utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety code, that is performed in preparation for a collocation installation.

5.2.5 STANDARDS

5.2.5.1 General Requirements:

- (1) Telecommunications Facilities: All telecommunications facilities that are not “qualifying small wireless facilities,” “qualifying utility poles,” and that are not exempted in Section 5.2.5.7. Non-stealth telecommunications facilities are not permitted to locate on an existing utility pole.
- (2) The provisions of these regulation do not permit the placement of telecommunications facilities of any type on privately-owned utility poles or wireless support structures, or upon private property, without meeting the design standards and/or other applicable provisions of this chapter and without the consent of the property owner.
- (3) Before any communications tower is approved, a site plan showing location, height of existing and proposed towers(s), structural support wiring, cableing, anchoring and the like, along with proposed accessory structures or equipment, proposed landscaping, screening, points of ingress and egress, and any other features that are proposed or existing shall be submitted and approved.
- (4) The applicant must provide documentation that the proposed tower complies with Federal Radio-Frequency Emission standards.
- (5) All lighting of towers must comply with FAA standards. No lighting shall present a glare to any adjoining properties or into any public right of way or a nuisance to aviation pilots.
- (6) No signs or logos of any type shall be allowed on any tower at any time.
- (7) Towers shall meet the American National Standards Institute (ANSI) standards and applicable Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations, and comply with all other Federal, State, and local laws and regulations. A structural engineer licensed to work in North Carolina shall certify that the plans for construction and erection or installation of the tower or antenna meet or exceed current safety and design standards of applicable codes.
- (8) Support buildings located in any residential zoning district shall not be used as an employment center for any worker. Periodic maintenance and/or monitoring of equipment and/or instruments is not prohibited by this clause.

- (9) The City of Lexington has a preference for telecommunications infrastructure, equipment and/or facility types, and offers the following guidance for telecommunication facilities in the preferred order as follows: Collocations on existing wireless support structures; concealed (stealth) telecommunications facilities on existing buildings and/or structures (especially within the Uptown Zoning District and Local Historic Districts); new concealed (stealth) wireless support structures; non-stealth telecommunications facilities on existing buildings/structures; and new freestanding non-stealth wireless support structures (unipoles).

5.2.5.2 Design:

- (1) Non-stealth wireless communications facilities shall be of the unipole type, lattice and/or guyed towers are not permitted.
- (2) Commercial advertising shall not be allowed on the tower or any of its related facilities. However, an identification wall sign is allowed on any equipment shelter, provided it not exceed 10 percent of the wall area.
- (3) The exterior appearance of all wireless support structures and all associated support structures and buildings shall be compatible with the other buildings in the surrounding area. Telecommunication facilities shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Telecommunications facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community. Business and Community Development staff shall offer guidance to the applicant and any final color choice shall be at the discretion of the Director or his/her designee.
- (4) Within any National Register or Local Historic Districts, any wireless communications equipment support structures shall be black in color.
- (5) Any telecommunications facilities including those associated with the installation and operation of Optical Distribution Networks (ODN's) located within any National Register or Local Historic Districts including however, not limited to above or below-ground manholes, hand holes, cabinets, junction boxes, poles, antennas, enclosures or other relevant appurtenances shall be blended with the surrounding building material colors to achieve stealth or camouflage to the extent practicable. Earth-toned, non-brilliant colors and finishes (such as black, grey, tan, brown or slate) shall be used to achieve compatibility with surrounding structures in order to respect the existing special character of these districts. Business and Community Development staff shall offer guidance to the applicant and any final color choice shall be at the discretion of the Director or his/her designee.
- (6) Concealed (stealth) wireless support structures shall be designed to complement the physical landscape in which they are intended to be located. Examples of stealth wireless support structure that may be considered complementary include, but are not limited to, faux pine trees, unipoles/slick sticks, bell towers, etc. New stealth wireless support structures shall be configured and located in a manner that shall minimize adverse effects, including visual impacts on the landscape, horizon, and adjacent properties. New freestanding stealth wireless support structures shall be designed to be compatible with adjacent structures and landscapes with specific design considerations such as architectural designs, scale, color, screening and texture.

- (7) Non-stealth communications facilities placed on or near existing buildings or structures shall be appropriately camouflaged to blend in with the surroundings, and non-reflective paints and adhesives shall be used.
- (8) Except when located or placed in a paved ROW and/or sidewalk, vegetative screening shall be provided to minimize the negative appearance of any above-ground, at-grade telecommunications facilities such as cabinets, boxes, distribution hubs and/or other equipment. Medium to large shrubs shall be placed at four feet, on center along the perimeter and facing a public street.
- (9) Telecommunication Facilities up to 75 Feet in Height (stealth or non-stealth):
- (a) Tower shall be adequately protected by a non-climbable fence with a lockable, or otherwise secured gate;
 - (b) A landscape area shall be located along the exterior of the fence and shall contain, at a minimum, small trees planted thirty (30) feet on center, and large shrubs planted eight feet on center between the small trees;
 - (c) Equipment storage accessory structures related to the tower cannot exceed 144 square feet gross floor area and shall meet all required setback requirements for an accessory structure.
- (10) Telecommunication Facilities greater than 75 Feet in Height (stealth or non-stealth):
- (a) Tower shall be completely surrounded by secure fencing, being a minimum of eight feet in height. This fencing shall be installed around the site and include any parking or accessory structures, and accessory equipment.
 - (b) A landscape area shall be located along the exterior of the fence except the gate. The landscape area shall contain, at a minimum, large trees planted forty (40) feet on center, and large shrubs planted eight feet on center between the trees.
 - (c) The fenced area shall be setback from side, and rear property lines of adjacent properties in the Suburban Neighborhood, Traditional Neighborhood, Mixed Use, or Uptown Districts, an amount equal to 200% the height of the tower. Otherwise the fenced area shall be setback from side and rear property lines an amount equal to 80% of the height of the tower.
 - (d) The front setback for the fenced area shall be equal to 80% of the height of the tower.
 - (e) Tower colors shall blend with surroundings. Towers and accessory structures may not be artificially lighted, except where otherwise required by the FAA, FCC or other Federal or State agencies.
- (11) Wireless support structures shall be constructed to accommodate antenna arrays as follows:

WIRELESS SUPPORT STRUCTURE HEIGHT	ANTENNA ARRAYS SUPPORTED THROUGH ENGINEERING & CONSTRUCTION
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>150 feet	6+
121 - 150 feet	5+
<120 feet	4+

5.2.5.3 Placement:

- (1) Antenna may be located on existing communication towers, water towers, or other existing utility towers or structures.
- (2) No portion of a telecommunications facility may be placed in the public ROW in a manner that:
 - (a) Obstructs vehicular, pedestrians, bicycle or access by other modes of transportation;
 - (b) Obstructs sight lines or visibility for traffic, traffic signage, or signals, including all access for persons with disabilities;
 - (c) Results in ground-mounted, above-ground equipment cabinets in the public right-of-way associated with the support structure that are 10% larger in height or overall volume than other equipment cabinets in the same area; or
 - (d) Involves placement of pole-mounted equipment (other than cabling) whose lowest point is lower than eight feet above grade level.
 - (e) No wireless telecommunications support structure, equipment or facility shall interfere with or impede the safe and orderly flow of pedestrian and vehicular traffic; shall leave clear for pedestrian traffic a continuous area of paved sidewalk at least six (6) feet wide; and shall leave clear for access purposes an area at least three (3) feet wide next to the curb or edge of public streets where parking or standing of vehicles is permitted. No doorway to any building, alleyway or handicap accessibility may be blocked by wireless telecommunications support structures, equipment or facilities.
- (4) If the telecommunications facility is an accessory use or on the same parcel as a principal building, the facilities shall be located within the rear yard.
- (5) Non-Stealth Telecommunications facilities on existing buildings or structures shall be allowed as a permitted use on land used for any purpose in Business Zoning and Industrial Zoning Districts, and on land used for non-residential purposes in Mixed Use, Suburban Neighborhood, Traditional Neighborhood and Uptown Zoning Districts. Non-stealth telecommunications facilities on existing buildings or structures are prohibited in the public right-of-way.
- (6) Concealed (Stealth) Antennae shall be allowed as a permitted use in all non-residential zoning districts, and on residentially-zoned land used for non-residential purposes.

5.2.5.4 Setbacks:

- (1) Stealth wireless support structure must comply with the minimum building setbacks for the zoning district in which they are located. They shall also satisfy the following setback requirements: All residentially-zoned properties containing existing dwelling units shall be minimally separated at its property line from the proposed wireless support structures by a

distance equivalent to the wireless support structures' height(s); all existing dwelling units in a non-residential zoning district shall be minimally separated from the proposed wireless support structures by a distance equivalent to the wireless support structures' height(s); all non-residentially-zoned properties shall be minimally separated from the proposed wireless support structures by a distance equivalent to either one-half the wireless support structures' height(s) or the required buffer width for that property, whichever is greater; and all adjacent road right-of-way boundaries shall be minimally separated from all buildings by a distance equivalent to the proposed wireless support structures' height(s).

- (2) Non-stealth wireless support structure must comply with the minimum building setbacks for the zoning district in which they are located. They shall also satisfy the following setback requirements: The setback distance from existing property lines in all zoning districts for all towers shall be 100 feet, or one foot for every one foot of tower height, whichever is greater, all existing dwelling units in residential and non-residential zoning districts shall be minimally separated from the proposed wireless support structures by the greater of either 200 feet or a distance twice that of the wireless support structures' height(s); and all adjacent road ROW boundaries shall be minimally separated from all buildings by a distance equivalent to the proposed wireless support structures' height(s).

5.2.5.5 Height:

- (1) If located in the ROW of any public road or street, stealth antennae shall be located on an existing utility pole that does not exceed a height of 35 feet above the immediately local ground area. Regardless of placement relative to a public right-of-way, stealth antennae on an existing utility pole shall not be higher than ten (10) feet above the pole's highest point.
- (2) If located in the ROW of any public road or street, non-stealth antennae shall not exceed a height of 50 feet above the immediately local ground area.
- (3) Stealth and non-stealth telecommunications facilities on existing buildings or structures located outside of the ROW and not on an existing utility pole shall have the following maximum heights, relative to the height of the structure it is mounted upon:

MAXIMUM STRUCTURE HEIGHT	MAXIMUM TOTAL HEIGHT_ (<u>measured from height of structure & including antennae</u>)
150 - 180 feet	15% of the structure height
75 feet - 149 feet	25% of the structure height
<75 feet	40% of the structure height

- (4) The maximum permitted height for freestanding stealth or non-stealth wireless telecommunications support structures shall be 180 feet.
- (5) New Antenna collocated upon wireless support structures may not extend greater than 25 feet beyond the height of the tower.
- (6) The ground-mounted components of all non-stealth and stealth telecommunications facilities near existing buildings or structures shall be located flush to grade whenever possible to avoid inconveniencing the public or creating a potential hazard.
- (7) All structure-mounted telecommunications facilities shall be designed to meet current

building standards and wind load requirements.

- (8) The property owner(s) or applicant shall submit a certification letter from a North Carolina certified land surveyor or licensed engineer verifying that the structure's height complies with the approved development plan.

5.2.5.6 Small Wireless Facilities in the Public Right-of-Way (ROW):

- (1) The City may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on City utility poles, in accordance with N.C.G.S. 160A-400.56(a).
- (2) Maximum Size of Permitted Use: A wireless provider may collocate small wireless (small cell) facilities along, across, upon, and under any City ROW. Subject to this section, a wireless provider may place, maintain, modify, operate and replace associated utility poles, City utility poles, conduit, cable, and related appurtenances and facilities along, across, upon, and under any City ROW. The placement, maintenance, modification, operation and replacement of utility poles and City utility poles associated with the collocation of small wireless facilities, along, across, upon, and under any City ROW shall be classified as permitted uses and subject to Minor Zoning Permit (administrative review) approval under Section 5.2.2 if the wireless provider meets the following requirements:
 - (a) Each new utility pole and each modified or replacement utility pole or City utility pole installed in the ROW shall not exceed 50 feet above ground level;
 - (b) Each new small wireless facility in the ROW shall not extend more than 10 feet above the utility pole, City utility pole or wireless support structure on which it is collocated.
- (3) Other Requirements: Any wireless provider that seeks to construct or modify a utility pole, wireless support structure or wireless facility shall be subject to the following requirements:
 - (a) Collocations of small wireless facilities are preferred on existing poles where feasible;
 - (b) Installations of small wireless facilities are preferred at property lines and street corners where feasible;
 - (c) Small wireless facilities shall be located such that they do not interfere with, or cause a dangerous condition with, public infrastructure and/or health or safety facilities such as however, not limited to: Electric utility high-voltage lines, fire hydrants, fire stations, police stations, other local government buildings, fire escapes, water valves, gas valves, underground utility vaults, valve housing structure, or any other public health or safety facility. New facilities shall not be installed directly over any water, sewer, gas or reuse main or service line;
 - (c) New wireless support structures erected for installations of small wireless facilities shall have the same type of material as existing poles in the immediate area. The design provisions in section 5.2.5.2 shall apply;
 - (e) Wireless support structures shall not be lighted or marked by artificial means, except when mounted on an existing light pole or where illumination is specifically required

by the Federal Aviation Administration or other Federal, State, or local regulations. Notwithstanding the preceding sentence, the mounting of small wireless facilities on light poles is permitted;

- (d) The City may require a wireless provider to repair all damage to a city ROW directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, City utility poles, or utility poles and to return the ROW to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the City within a reasonable time after written notice, the City may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The City reserves the right to enforce these provisions according to procedures adopted in the City of Lexington's Unified Development Ordinance and the City of Lexington's Code of Ordinances in order to recover the costs of the repairs;
 - (f) The City shall have authority to enforce its Local Historic Preservation Guidelines consistent with grants of authority under State law, the Preservation of Local Zoning Authority under 47 U.S.C. § 332(c) (7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1996, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and City charter provisions adopted to implement those laws; notwithstanding anything herein to the contrary pursuant to N.C.G.S. 160A-400.55(h), the City may maintain an action to recover the cost of the repairs;
 - (e) Within any National Register or Local Historic Districts, small wireless facilities and their associated appurtenances shall be stealth by design using camouflaged finishes, disguised or screened facilities, hidden, and/or blended facilities and equipment with the surrounding environment to the extent practicable. The design provisions in section 5.2.5.2 shall apply;
 - (g) Any tree disturbing activity within any National Register or Local Historic Districts necessary for the installation or collocation of small wireless facilities shall comply with the City's Historic District Design Guidelines;
 - (f) No wireless facility may bear any signs or advertising devices other than certifications, warnings, or other information as required by Federal or State law and/or regulation or by the City's Unified Development Ordinance;
 - (h) Wireless facility owners shall place company identification markers on support structure, poles and/or facilities reflecting current contact information;
 - (g) New wireless facilities on existing poles shall comply with otherwise applicable rules imposed by the pole owner including, when applicable, the National Electric Safety Code.
- (9) Undergrounding Provisions: Applicant shall comply with nondiscriminatory undergrounding requirements that prohibit electric utilities, telecommunications or cable providers from installing structures in the public ROW, provided such requirements shall not prohibit the replacement of existing structures.

5.2.5.7 Permitted Exemptions:

- (1) Antenna or similar telecommunications equipment in form and/or function, for government and/or emergency service operations, subject to the following requirements:
 - (a) A temporary telecommunications facility that: upon the declaration of a state of emergency by Federal, State, or local government, and a written determination of public necessity by City of Lexington designees; except that such facility must comply with all Federal and State requirements and must be removed at the conclusion of the emergency;
 - (b) Temporary structures necessary to continue providing service while a wireless support structure or other structure upon which the existing telecommunications facility has been placed (e.g. a water tank) is undergoing maintenance, replacement, or reconstruction, rendering use of the existing telecommunications facility unusable, excepting that: the temporary facility must be located on site and no taller than the existing wireless support structure or other structure; as for all permanent facilities, the temporary facility must meet the placement and setback requirements detailed herein; the temporary facility must be removed within 60 days of the conclusion of the operation that necessitated its use, or within one year, whichever is shorter, unless the time is administratively extended based upon evidentiary cause provided to the City of Lexington's Business and Community Development Department; or public safety facilities or installations required for public safety on public or private property, including transmitters, repeaters, and remote cameras, so long as the facilities are designed to match the supporting structure.

5.2.5.8 Operations and Maintenance

- (1) All wireless support structures, facilities and related equipment, including, but not limited to: fences, cabinets, poles, support structures and landscaping, shall be maintained in good working conditions over the life of the use. This shall include keeping the structures maintained to the visual standards established at the time of approval. The wireless facility shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than 30 calendar days from the date of notification by the City. In public rights-of-way, damaged or deteriorated components must be corrected within 5 business days of notification.
- (2) All wireless support structures, facilities and related equipment shall be maintained in good working order. A wireless facility that ceases to provide its intended service or falls to disrepair, and is not repaired or removed within 30 calendar days shall be considered abandoned. A wireless services provider may also declare a facility abandoned. Abandoned facilities must be removed within 180 days of declaration either by the owner or the City. After 180 days of abandonment, the City may remove the facility, recovering costs of removal, including legal services costs, from the owner of that facility in accordance with N.C.G.S. 160A-400.54(g).
- (3) The applicant or owner of the wireless telecommunications facility shall maintain onsite at all times the contact information for all parties responsible for the maintenance of the facility.
- (4) No telecommunications facilities shall, whether by individual or collective operation with other facilities, generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.

- (5) The City may provide written notice to the applicant and/or owner of a wireless communication facility of the requirement to relocate any facilities located in the public ROW, to be paid for by the applicant and/or owner, as necessary for maintenance or reconfiguration of the ROW for other public projects, or to serve any other needs that serve the health and welfare of the City.
- (6) Equipment, mobile or immobile, not used in direct support of the telecommunications facility, may not be stored or parked on the site unless related to current repairs and/or maintenance activities.

5.2.5.9 Removal, Relocation or Modification of Small Wireless Facilities in within the Public Right-of-Way (ROW)

- (1) Notice: Within ninety (90) days following written notice from the City, wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the ROW whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the ROW's.
- (2) Emergency Removal or Relocation of Facilities: The City reserves the right and privilege to cut or move any small wireless facility located within the ROW's of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless provider after cutting or removing a small wireless facility.
- (3) Abandonment of Facilities: The City may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the City may cause such wireless facility to be removed and may recover the actual cost of such removal from the wireless services provider. A wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates in any way that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to be used unless the wireless services provider gives the City reasonable evidence that it is diligently working to place such wireless facility back in service.
- (4) Liability: Applicant hereby assumes all risk for liability for damages that may occur to persons or property on account of the proposed work, whether completed by applicant or applicant's agent or contractor completing, installing, or maintaining the work on applicant's behalf. Applicant shall procure and maintain liability insurance to protect the City from liability and damages on account of injuries to workers, as provided by law, and to protect the City from liability and damages occasioned by the proposed work.

Applicant shall procure and maintain in continuous effect, during the pendency of the encroachment, "Certificates of Insurance" or other satisfactory evidence to show applicant carries:

- (a) Commercial General Liability insurance and Commercial Automobile Liability insurance covering the city against claims, injury or damage to persons or property,

- both real and personal, caused by the proposed work, in amounts of One Million U.S. Dollars (\$1,000,000.00) per occurrence (combined single limit), including bodily injury and property damage, and Two Million U.S. Dollars (\$2,000,000.00) annual aggregate, and Two Million U.S. Dollars (\$2,000,000.00) for each personal injury liability; and
- (b) Statutory workers' compensation and employer's liability insurance of One Million U.S. Dollars (\$1,000,000.00) per accident / per disease, per employee / per disease, policy limits;
 - (c) All required liability insurance coverages shall include the City as an additional insured. Applicant shall notify the city at least thirty (30) days in advance of any cancellation of any required insurance that is not replaced;
 - (d) Applicant shall procure proof that all contractors and all of their subcontractors who perform work on behalf of applicant hereunder shall carry and maintain, in full force and effect, during any period of work in the ROW's, workers' compensation and employers' liability, commercial general liability and automobile liability insurance coverages of the type that applicant is required to obtain under this Section 5.2.5.9 with the same limits;
 - (e) Applicant may self-insure any required coverage as long as it or its affiliated parent maintains a net worth of at least \$200 million as evidenced in annual certified financials.
- (5) Indemnification: Applicant shall defend, indemnify, and hold harmless the City, its Council, boards, commissions, officials, officers, agents, volunteers, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including court costs and reasonable attorney's fees resulting from the alleged acts or omissions of permittee, Applicant's officers, agents, or employees in connection with the permitted work. This indemnity provision shall be applicable regardless of the merit or outcome of such claim or suit. The indemnification set forth in this subsection shall commence upon the issuance of a permit to applicant.

5.2.4.10 DEFINITIONS SPECIFIC TO WIRELESS TELECOMMUNICATIONS AND SMALL WIRELESS SUPPORT STRUCTURES AND FACILITIES

Antenna

Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable Codes

The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Applicant

Any person who submits an application and is a wireless provider.

Application

A request submitted by an applicant (1) for a permit to collocate small wireless facilities; or (2)

to approve the installation or modification of a utility pole, City utility pole, or wireless support structure.

Base Station

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

Building Permit

An official administrative authorization issued by the City prior to beginning construction consistent with the provisions of G.S. 160A-417.

City

Refers to the City of Lexington, North Carolina.

City Right-of-Way (ROW)

A right-of-way owned, leased, or operated by a City, including, including any public street or alley that is not part of the State highway system.

City Utility Pole

A utility pole owned by the City in the rights-of-way, including a utility pole that provides lighting or traffic control functions, including light poles, traffic signals, and structures for signage, and (2) a pole or similar structure owned by the City in the ROW that supports only Wireless Facilities.

Collocation

The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, City utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term “collocation” or “collocate” does not include the installation of new utility poles, City utility poles, or wireless support structures. “Collocate” has a corresponding meaning.

Communications facilities

A set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications service

Cable service as defined in 47 U.S.C.; 153(24), telecommunications service as defined in 47 U.S.C.; 153(53), or wireless services.

Communications service provider

A cable operator as defined in 47 U.S.C.; 522(5); a provider of information service, as defined in 47 U.S.C.; 153(24); a telecommunications carrier, as defined in 47 U.S.C.; 153 (51); or a wireless provider.

Eligible facilities request

A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Equipment compound

An area surrounding or near the base of a wireless support structure within which a wireless

facility is located.

Day

One calendar day.

Emergency

A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the right-of-way to be unusable and result in loss of the services provided.

Existing Structure

A previously erected support structure or utility pole that is capable of supporting the installation of wireless facilities.

Facility(ies)

Wireless telecommunication facilities.

FCC

The Federal Communications Commission of the United States.

Fee

A one-time charge.

Law

Local, State, or Federal law, statute, common law, code, rule, regulation, order, or ordinance.

Micro wireless facility

A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Modification

A change to an existing wireless facility that involves any of the following: collocation, expansion, alteration, enlargement, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material. "Modification" does not include repair, replacement or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

Monopole

A structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole.

Ordinance

The City of Lexington, North Carolina Unified Development Ordinance (UDO).

Permit

A written authorization required by the City to perform an action or initiate, continue, modify, or complete a project.

Person

An individual, corporation, limited liability company, partnership, association, trust, or other

entity or organization, including the City.

Pole

A single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Code.

Rate

A recurring charge.

Search Ring

The area within which a wireless support facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Small Wireless Facility (Small Cell)

A wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the Antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (2) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility Pole

A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

Wireless Facility

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (2) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following: The structure or improvements on, under, within, or adjacent to which the equipment is collocated; wireline backhaul facilities; coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider

Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider

A wireless infrastructure provider or a wireless services provider.

Wireless Services

Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider

A person who provides wireless services.

Wireless Support Structure

A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or, other existing or proposed structure designed to support or capable of supporting wireless facilities. Such term shall not include a utility pole or city utility pole.

The amendment described herein shall become effective immediately upon adoption.

This the 8th day of April, 2019.

Newell Clark, Mayor

Sara S. Lanier, MMC, City Clerk