

AN ORDINANCE TO AMEND SECTION 6.3.2 OF CHAPTER 240 OF THE CODE OF THE CITY OF SARATOGA SPRINGS, NY, ENTITLED “ZONING” TO ESTABLISH SPECIAL REGULATIONS REGARDING SMALL CELL WIRELESS FACILITIES

BE IT ORDAINED by the City Council of the City of Saratoga Springs, NY, as follows:

SECTION 1: Purpose, Intent and Findings: While the existing wireless infrastructure in the U.S. was erected primarily using macro cells with relatively large antennas and towers, wireless networks increasingly have required the deployment of small cell systems to support increased usage and capacity. In response to this demand, the Federal Communications Commission (FCC) has issued a Declaratory Ruling and Third Report and Order addressing the extent to which state and local municipalities can regulate the deployment of small cell systems in public right-of-ways. The Order permits local municipalities to adopt aesthetic guidelines to ensure that the design, appearance, and other features of buildings and structures are (1) compatible with nearby land uses; (2) manage right-of-ways so as to ensure traffic safety and coordinate various uses; and (3) protect the integrity of their historic, cultural, and scenic resources and their citizens’ quality of life. In its adoption of this Ordinance, the City of Saratoga Springs desires to encourage wireless infrastructure investment only through a fair and predictable process for the deployment of small wireless facilities, while enabling the City to promote the management of its rights-of-way in the interests of the public health, safety and welfare.

SECTION 2: This Ordinance shall take effect the day after publication as provided by the City Charter of the City of Saratoga Springs, NY.

SECTION 3: Section 6.3.2, entitled “Telecommunications Facilities and Towers” of Chapter 240 of the Code of the City of Saratoga Springs, NY, entitled “Zoning” is hereby amended by adding a new Section 6.3.2.1 to read:

6.3.2.1 SMALL CELL WIRELESS FACILITIES

A. Definitions.

“Small Cell Wireless Facilities” or “Microcell Wireless Facilities” shall be used interchangeably and both shall mean and include facilities that meet the following conditions:

- a. The facilities:
 - i. are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR 1.1320(d), or
 - ii. are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - iii. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

- b. Each antenna associated with the deployment, excluding associated antenna equipment is no more than three cubic feet in volume;
- c. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- d. The facilities do not require antenna structure registration under 47 CFR Part 17; and
- e. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 47 CFR 1.1307(b).

“Stealth” or “Stealth Technology” means minimizing adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities or Small Cell Wireless Facilities by using the least visually and physically intrusive facility.

B. Small wireless facility approval required.

1. All Small wireless facilities shall require architectural review (or historic review if located within an historic district) and approval from the Design Review Commission.
2. The Design Review Commission shall be empowered to condition the issuance of an approval upon implementation of stealth technologies or other measures which mitigate adverse visual impacts, in any district.
3. All applications for small wireless facilities shall comply with all applicable provisions of this section. However, notwithstanding anything to the contrary, where appropriate, the Design Review Commission shall have the authority to waive any requirements set forth in this section relating to an application for, or approval of, a small wireless facility, provided that it would further the purposes of this section.
4. Unless otherwise set forth in this chapter, a facility not meeting the requirements set forth for small wireless facilities shall comply with 6.3.2 as applicable.

C. Applications for small wireless facilities.

1. Upon receipt of an application for a small wireless facility, the Design Review Commission shall review said application and plans in accordance with the standards and requirements set forth in this chapter.

2. The Design Review Commission may attach such conditions and safeguards to any small wireless facility and site development plan as are, in its opinion, necessary to ensure initial and continued conformance to all applicable standards and requirements.
3. No application shall be accepted and no small wireless facilities approval shall be granted for a property where the Building Inspector or Code Enforcement Officer has found, or there exists, a violation of the City Code and where such violation has not been corrected.
4. Granting small wireless facilities approval shall not waive the requirement for final site plan approval, including fees, in accordance with Article 7.2, Site Plan Review, if applicable.
5. An application for a small wireless facility shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The property owner, if different than the applicant, shall also sign the application. At the discretion of the Design Review Commission, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
6. The applicant must provide documentation to verify it has a legal interest in, or consent to occupy, the site/structure, if not owned or controlled by the City of Saratoga Springs. Said documentation may be in the form of a deed, contract or sale or lease for the property, depending on whether the applicant is the property owner, contract-vendee or lessee.
7. The applicant shall include a statement, in writing, that:
 - a. The applicant's proposed small wireless facility shall be maintained in a safe manner and in compliance with all conditions of the small wireless facility approval, without exception, as well as all applicable and permissible federal, state and local laws, statutes, codes, rules and regulations; and
 - b. The construction of the small wireless facility is legally permissible, including, but not limited to, the fact that the applicant is authorized to do business in the State of New York.
8. If proposing a new structure for the purpose of supporting a small wireless facility, the application shall be accompanied by a map which shows the applicant's existing and proposed area of coverage. Such map should locate all existing wireless telecommunication facilities sites within the City and within one-half (1/2) mile of the proposed small wireless facility.
9. In addition to all other required information as stated in this section, all applications for the construction or installation of new small wireless facility or modification of an existing small wireless facility shall contain the following information:

- a. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
- b. Documentation that demonstrates and proves the need for the small wireless facility to provide service primarily and essentially within the City. Such documentation shall include, but not be limited to: (i) information relating to all other wireless telecommunication facilities that are to be deployed in the City in conjunction with the proposed small wireless facility; (ii) propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;
- c. The name, address and phone number of the person preparing the report;
- d. The name, address and phone number of the property owner, operator and applicant;
- e. The postal address and Tax Map parcel number of the property;
- f. The zoning district or designation in which the property is situated;
- g. The size of the property stated both in square feet and lot line dimensions, and a survey prepared by a licensed professional surveyor showing the location of all lot lines, if the proposed small wireless facility is located outside the public right-of-way;
- h. The location of the nearest residential structure;
- i. The location, size and height of all existing and proposed structures on the property which is the subject of the application;
- j. The type, locations and dimensions of all proposed and existing landscaping and fencing, if the proposed small wireless facility is located outside the public right-of-way;
- k. The number, type and model of the antenna(s) proposed, with a copy of the specification sheet;
- l. The make, model, type and manufacturer of the utility pole, monopole or other structure on which any antenna or accessory equipment for a small wireless facility is to be located and a design plan stating the structure's capacity to accommodate multiple users;

- m. A site plan describing any new proposed structure and antenna(s) and all related fixtures, accessory equipment, appurtenances and apparatus, including but not limited to, height above preexisting grade, materials color and lighting;
 - n. The frequency, modulation and class of service of radio or other transmitting equipment;
 - o. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts of the antenna(s);
 - p. Direction of maximum lobes and associated radiation of the antenna(s);
 - q. Applicant's proposed maintenance and inspection procedures and related system of records;
 - r. Documentation justifying the total height of any proposed antenna and structure and the basis thereof. Such justification shall be to provide service within the City to the extent practicable, unless good cause is shown;
 - s. Certification that NIER levels at the proposed site will be and remain within the current threshold levels adopted by the FCC;
 - t. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
 - u. A copy of the FCC license applicable for the intended use of the wireless telecommunication facilities;
 - v. Certification that a topographic and geomorphologic study and analysis has been conducted, and that, taking into account the subsurface and substrate, and the proposed drainage plan, the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site, though the certifying engineer need not be approved by the City; and
 - w. Information relating to the expected useful life of the proposed small wireless facility.
10. The applicant shall furnish written certification that the small wireless facility and attachments are designed and will be constructed to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. If the wireless facility is subsequently approved and constructed, as-built certification indicating that the facility has been constructed in accordance with all standards shall be furnished to the City prior to issuance of any certificate of occupancy or compliance.

11. All proposed small wireless facilities shall contain a demonstration that the facility will be sited so as to minimize visual intrusion as much as possible given the facts and circumstances involved with the proposed site and facility, will employ stealth technologies as directed by the Design Review Commission, where appropriate, and will thereby have the least adverse visual effect on the environment, the character of the community, surrounding properties and on the residences in the area of the wireless telecommunication facility.

D. General and Specific Requirements for small wireless facilities

1. Design. All small wireless facilities shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. All small wireless facilities shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the City.
2. Wind and ice. All small wireless facilities structures shall be designed to withstand the effects of wind gusts and ice to the standard designed by ANSI as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
3. Aviation Safety. Small wireless facilities shall comply with all federal and state laws and regulations concerning aviation safety.
4. Public safety communications. Small wireless facilities shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
5. Radio frequency emissions. A small wireless facility shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields", as amended. When a small wireless facility is complete, as-built readings will be taken and submitted to the City.
6. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - a. Small wireless facilities shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

- b. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the City's residents.
- c. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- d. The owner or operator of a small wireless facility shall maintain authorized and approved standby power generators or batteries capable of powering the small wireless facility for at least twelve (12) hours without additional public utility power and indefinitely with a continuous or replenished fuel supply, where appropriate. Such standby power shall activate automatically upon the failure of public utility power to the site. Notwithstanding the foregoing, the Design Review Commission may waive the requirement for back-up power, where appropriate.

E. Approval procedures.

1. Timeframes for Approval.

- a. Within sixty (60) days of receipt of a complete application for the collocation of a small wireless facility on a preexisting utility pole, monopole or other existing wireless telecommunication facility support structure, the Design Review Commission shall make a final decision on whether to approve the application and shall notify the applicant in writing of such decision.
- b. Within ninety (90) days of receipt of a complete application for a small wireless facility on a new utility pole, monopole or other new wireless telecommunication facility support structure, the Design Review Commission shall make a final decision on whether to approve the application and shall notify the applicant in writing of such decision.
- c. Within ten (10) days of receipt of an incomplete application for a small wireless facility, the City's Building Inspector shall notify the applicant in writing of any supplemental information required to complete the application. Upon receipt of an applicant's supplemental information in response to the initial notification of incompleteness by the City, the applicable shot clock will reset to zero (0) and the City shall have the full sixty (60) or ninety (90) days permitted by law to act on the completed application.
- d. For any subsequent determinations of incompleteness beyond the initial, the City's Building Inspector shall notify the applicant of any required supplemental information within ten (10) days of receipt of the supplemental

submission and such notice shall toll the applicable shot clock until the applicant submits the required supplemental information.

2. All time periods set forth in this Section reference calendar days.

F. Location

1. Applications for small wireless facilities shall locate, site and erect said facility in accordance with the following priorities, “a” being the highest priority and “g” being the lowest priority.
 - a. Collocation on existing utility poles, monopoles or other wireless telecommunication facility support structures on lands owned or controlled by the City, not including the public right-of-way;
 - b. Collocation on a site with existing wireless telecommunication facilities or other wireless telecommunication facility structures in the City;
 - c. On other lands owned or controlled by the City including, but not limited to, the City public right-of-way;
 - d. On lands owned or controlled by other municipal corporations within the City, to the extent permitted by such other municipal corporation;
 - e. On non-residential zoned properties;
 - f. On residential zoned properties; and
 - g. No small wireless facilities shall be permitted in the Saratoga Springs Historic District, or on any property designated as a Historic Structure or City Landmark, unless the applicant demonstrates to the Design Review Commission’s satisfaction that the selected site is necessary to provide adequate service and no feasible alternative site exists.
2. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a special use permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
3. An applicant may not bypass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address collocation as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the Design Review Commission why collocation is commercially impracticable.

4. Notwithstanding the above, the Design Review Commission may approve any site located within the City, provided that the Design Review Commission finds that the proposed site will further the purposes of this section, is in the best interest of the safety, public welfare, character and environment of the City and will not have a deleterious effect on the nature and character of the community and surrounding properties.

G. Height.

Small wireless facilities shall be no higher than the minimum height necessary. The proposed height, which may be in excess of maximum height permitted for other structures in the applicable zone, shall address any additional height necessary to accommodate collocation by additional antenna arrays, but under no circumstances is the height to be in excess of what is permitted for small wireless facilities.

H. Setback.

All wireless telecommunication support structures for small wireless facilities located outside the public right-of-way shall be set back from the property line of the lot on which it is located at a distance equal to, not less than, the total height of the facility, including support structure, measured from the highest point of such support structure to the finished grade elevation of the ground on which it is situated, plus ten percent (10%) of such total height. The Design Review Commission may reduce such setback requirements based upon consideration of lot size, topographic conditions, adjoining land uses, landscaping, other forms of screening and/or structural characteristics of the proposed support structure.

I. Visibility.

1. All small wireless telecommunication facilities shall be sited so as to have the least adverse visual effect on the environment and its character, on existing vegetation and on the residents in the area of the wireless telecommunications facilities sites.
2. Both the small wireless telecommunication facility and any and all accessory equipment shall maximize use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings.
3. Small wireless telecommunication facilities shall not be artificially lighted or marked, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under federal, state and local laws, statutes, codes, rules or regulations.
4. Electrical and land-based telephone lines extended to serve the wireless telecommunication services facility sites shall be installed underground.
5. Stealth technologies shall be required to be employed in an effort to blend into the surrounding environment and minimize aesthetic impact.

6. Landscaping shall be provided, if appropriate, and as required by the Design Review Commission.

J. Security.

All small wireless telecommunication facilities, antennas, and supporting structure shall be located, fenced or otherwise secured in a manner that prevents unauthorized access.

K. Recertification of small wireless facilities approval.

1. At the five-year (5) anniversary date after the effective date for the small wireless facility approval and for all subsequent fifth (5th) anniversaries of the effective date of the original approval for small wireless telecommunications facilities, the holder of the small wireless facility approval shall submit a signed written document with the following information, to the appropriate City department, confirming the compliance of the small wireless facility with the small wireless facility approval. Such submission shall include the following:
 - a. The name of the holder of the small wireless facilities approval for the wireless telecommunications facilities.
 - b. The date of the original granting of the small wireless facilities approval.
 - c. Whether the small wireless facility has been modified since the issuance of the small wireless facilities approval and, if so, in what manner.
 - d. Any requests for waivers or relief of any kind whatsoever from the requirements of this section and any requirements for small wireless facilities approval.
 - e. Certification that the small wireless facilities are in compliance with the original small wireless facilities approval and in compliance with all applicable codes, laws, rules, regulations, Federal certification requirements including but not limited to this section.
 - f. Certification that the wireless telecommunications facility support structure, attachments and accessory equipment have been designed and constructed (as build) and continues to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such certification shall be by a qualified New York State licensed professional engineer.
2. If the holder of a small wireless facility approval does not submit the certifications in Subsection 1 of this section within the time frame noted in Subsection 1 of this section, then such small wireless facilities approval shall terminate and any authorizations granted thereunder shall cease to exist on the date of the fifth (5th) anniversary of the original granting of the special use approval, or subsequent fifth (5th) anniversaries, unless the holder of the small wireless facilities approval adequately demonstrates to the Design

Review Commission that extenuating circumstances prevented a timely submission of such written certification. If the City agrees that there were extenuating circumstances, then the holder of the expired small wireless facilities approval may submit a late recertification request or application for a new small wireless facilities approval.

L. Application fees.

At the time that a person submits an application for a small wireless facility, such person shall pay a nonrefundable application fee in an amount as determined by the City Council and as set forth in the City Fee Schedule, in addition to any other fee required by law.

M. Performance security for small wireless facilities.

The applicant and the owner of record of any proposed small wireless facilities property site shall comply with any requirements set forth in the City Code regarding the posting of security to a place a small wireless facility in the public right-of-way.

N. Authority to inspect.

In order to verify that the holder of a small wireless facilities approval and any and all lessees, renters, and/or licensees of small wireless facilities place and construct such facilities, including supporting structures, accessory equipment and antennas, in accordance with all applicable technical, safety, fire, building, and zoning laws, statutes, codes, rules, regulations and other applicable requirements, the City may inspect at any time, upon providing reasonable notice, all facets, including placement, construction, modification and maintenance of such facilities, including, but not limited to, structures, antennas, accessory equipment and electromagnetic output.

O. Liability insurance.

An applicant for a small wireless facility shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the small wireless facilities permit in amounts as established by the City.

P. Indemnification.

Any approval for small wireless facilities that is proposed for City property or in a public right-of-way, pursuant to this section, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City and its elected officials, officers, board members, employees, commission members, attorneys agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, product performance, use operation, maintenance, repair, installation, replacement, removal, or restoration of said facility; excepting, however, any

portion of such claims, suits, demands, causes of action or award or damages as may be attributable to the negligent or intentional acts or omissions of the City or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorney's fees, consultant's fees, and expert witness fees are included in those costs that are recoverable by the City.

Q. Annual NIER certification

The holder of any small wireless facilities approval shall, annually certify to the City that NIER levels at the site where a small wireless facility is located are within the threshold levels adopted by the FCC. In addition, the City, at its own cost and expense, shall be permitted to conduct its own certification test of the NIER levels at the site where any small wireless facility is located, with or without notice to the wireless telecommunication provider. Once operational, but prior to providing service to customers, as-built readings will be provided to the City.

R. Default and/or revocation of small wireless facilities approval.

1. If any small wireless facilities are constructed, repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this section or of the small wireless facility approval conditions and requirements, or it is determined conclusively that the applicant made materially false or misleading statements during the application process, then Building Inspector, or their designee, shall notify the holder of the small wireless facilities permit in writing of such violation. Such notice shall specify the nature of the violation or noncompliance, and the violations must be corrected within seven (7) days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this section, if the violation or non-compliance causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Building Inspector or Code Administrator may, at their sole discretion, order the violation remedied within twenty-four (24) hours.
2. If within the period set forth in Subsection 1 above, the small wireless facilities are not brought into compliance with the provisions of this section, or of the approval, or substantial steps are not taken in order to bring the affected small wireless facilities into compliance, then the Design Review Commission or the Building Inspector may revoke such small wireless facility approval and require removal of such small wireless facility pursuant to Section S below.

S. Removal.

1. Under the following circumstances, the City may determine that the safety, public welfare, character and environment of the City warrant and require the removal of small wireless facilities, under the following circumstances:
 - a. The small wireless facility has been abandoned (i.e., not used as wireless telecommunication facilities) for a period exceeding ninety (90) consecutive days

or a total of one hundred eighty days (180) in any three hundred sixty five day (365) period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within ninety (90) days;

- b. A permitted small wireless facility falls into such a state of disrepair that it creates a safety hazard;
 - c. The small wireless facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required small wireless facilities approval, or any other necessary authorization; or
 - d. Any small wireless facility is determined to be in violation pursuant to Section R above and fails to cure such violation within the time set forth in that Section.
2. If the City makes a determination as noted in Subsection 1 of this section, then it shall notify the holder of the small facilities permit and the owner of the property in writing that said small wireless facilities are to be removed.
 3. The holder of the small wireless facilities approval or the owner of the property shall be required to dismantle and remove such small wireless facilities, and all accessory equipment and associated structures, from the site and return the site to its original condition and certify through soils or other testing that no contamination has been created by the facility, such restoration being completed, limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the City to remove such small wireless facilities. However, if the owner of the property upon which the small wireless facilities are located wishes to retain any access roadway to the small wireless facilities, the owners may do so with the approval of the City.
 4. If the small wireless facilities are not removed or substantial progress has not been made to remove the small wireless facilities within ninety (90) days after the holder of small wireless facility approval has received such written notice of removal, then the City may remove the small wireless facilities at the sole expense of the property owner and/small wireless facility approval holder.
 5. If the City removes or causes to be removed the small wireless facilities, and the owner of the wireless telecommunication facilities does not claim and remove them to a lawful location within ten (10) days, then the City may take steps to declare the small wireless facilities abandoned and dispose of or sell them and their components and retain the proceeds therefrom. The City may also cause the costs associated with the removal and disposal of the small wireless facilities to be assessed on the property in the same manner as a tax or assessment.

T. Additional requirements relating to small facility approval.

Non-commercial usage exemption. City residents utilizing satellite dishes, citizen and/or band radios, and antenna for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations relating to small wireless facilities enumerated in this section.

U. Regulations applicable to small facility approvals in the public right-of-way.

1. In addition to the applicable small wireless facility requirements listed in this section, all small wireless facilities located in the public right-of-way shall be required to comply with the following regulations and obtain a right-of-way permit from the Department of Public Works as set forth in the City Code:
 - a. Location. Small wireless facilities in the public right-of-way shall be collocated on existing wireless telecommunications facilities, whenever possible. If collocation is not technologically feasible, the applicant shall locate its small wireless facility on existing utility poles or other structures that do not already act as wireless telecommunication facility support structures.
 - b. Design Requirements:
 - i. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - ii. Antenna and accessory equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
 - c. Equipment Location. Small wireless facilities and any accessory equipment in the public right-of-way shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the public right-of-way as determined by the City. In addition:
 - i. In no case shall ground-mounted accessory equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb, or within four (4) feet of the edge of the cartway, or within an easement extending into a privately-owned lot;
 - ii. To the extent feasible, accessory equipment shall be placed underground. Ground-mounted accessory equipment that cannot be placed underground shall be screened from surrounding views, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the City. Ground-mounted accessory equipment shall be screened, when possible, by utilizing existing structures. If screening by utilizing existing structures is not possible, ground-mounted accessory equipment shall be made architecturally and aesthetically compatible with

the surrounding area through the use of coatings, landscaping, and/or screening walls, enclosures or other stealth technology to the satisfaction of the City.

- iii. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the City.
 - iv. Any graffiti on any small wireless facility support structure or any accessory equipment shall be removed within thirty (30) days upon notification by the City at the sole expense of the owner.
 - v. Any proposed underground vault related to small wireless facilities shall be reviewed and approved by the City.
 - vi. Accessory equipment attached to the small wireless facility support structure shall have such vertical clearance as the City may determine.
- d. Relocation or removal of small wireless facilities in the public right-of-way. In addition to the removal provisions set forth in Section S above, within ninety (90) days following written notice from the City, or such longer period as the City determines is reasonably necessary, or such shorter period in the case of an emergency, an owner of a small wireless facility and any accessory equipment in the public right-of-way shall, at its own expense, temporarily or permanently remove, relocate, or change the position of any small wireless facility or accessory equipment when the City, consistent with its police powers and any applicable regulations, shall have determined that such removal, relocation, change or alteration is reasonable necessary under the following circumstances:
- i. To construct, repair, maintain or install any City or other public improvement located in the public right-of-way;
 - ii. To prevent the interference with the operations of the City or other governmental entity, in the public right-of-way;
 - iii. Abandonment of a street or road or the release of a utility easement; or
 - iv. An emergency as determined by the City Council.

V. Reimbursement for the use of the public right-of-way.

In addition to application fees for small wireless facility approval, every small wireless facility located in the public right-of-way is subject to the City's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the public right-of-way. Such compensation for use of the public right-of-way shall be directly related to the City's actual public right-of-way management costs including, but not limited to, the costs of the administration and performance

of all reviewing, inspecting, permitting, supervision and other public right-of-way management activities by the City. The owner of each small wireless facility permit shall pay an annual fee to the City to compensate the City for the City's costs incurred in connection with the activities described above as determined by the City Council and as set forth in the City Fee Schedule.