

ORDINANCE NO. 1127

AN ORDINANCE TO AMEND THE EAST RIDGE ZONING ORDINANCE, TITLE 14, CITY OF EAST RIDGE ZONING, ARTICLE VII REGULATIONS FOR USES PERMITTED ON REVIEW, SECTION 113, RADIO, TELEVISION, SATELLITE, CELLULAR, PCS AND MICROWAVE COMMUNICATION TOWERS

WHEREAS, it is necessary and beneficial for the health, safety, and welfare of the community to update the zoning regulations for development of Wireless Telecommunications Facilities in the City of East Ridge; and,

WHEREAS, it is important to accommodate the growing need and demand for telecommunications services while protecting the character of the City, its rights-of-way, and its neighborhoods; and,

WHEREAS, it is necessary for the City to establish procedures and standards in compliance with the Competitive Wireless Broadband Investment Deployment and Safety Act of 2018, T. C. A. §§13-24-401, et. seq.; and

WHEREAS, there is a need to establish standards for location, aesthetics and compatibility for small cell communication structures and uses, and to update the standards for other kinds of Telecommunications Facilities; and,

WHEREAS, the City is committed to encouraging a safe, reliable, efficient, integrated and connected system of streets that promote access, mobility and health for all people, regardless of their age, physical ability, or mode of transportation; and,

WHEREAS, it is necessary to encourage the location and Collocation of Transmission equipment on existing structures in order to reduce the need for new Towers and support structures, thereby minimizing visual clutter, public safety impacts, and effects upon the natural environment and wildlife as well as to encourage concealed technologies and the use of public lands, buildings, and structures as locations for Telecommunications Facilities; and,

WHEREAS, there is a need to encourage the availability of affordable, high-speed internet and cellular telephone and data access for business and residents, acknowledging that a growing number of businesses are conducted in whole or in part from homes and/or while mobile that increasingly, education incorporates online learning necessitating good home internet connections for students and faculty, and that government participation and emergency services to the general public are enhanced by fast and reliable cellular and home internet connectivity; and,

WHEREAS, it is important to encourage coordination between suppliers and providers of telecommunications services to maximize use of existing facilities and structures; and,

WHEREAS, establishing predictable and balanced regulations within the authority reserved for local land use determination is in the best interest of the citizens of the City of East Ridge; and

WHEREAS, a mechanism for the zoning and permitting of small cell telecommunications uses, and an update of existing zoning provisions for other kinds of telecommunications uses is in the best interest of the citizens of East Ridge; and,

WHEREAS, such changes have been determined necessary and beneficial to the community to update the zoning regulations, and has;

WHEREAS, the changes herein come with a recommendation for approval by the East Ridge Municipal Planning Commission, and;

NOW THEREFORE, BE IT ORDAINED, by the City of East Ridge that the East Ridge Zoning Ordinance is hereby amended as follows:

Title 14, City of East Ridge Zoning, Article VII Regulations for Uses Permitted on Review, Section 113 Radio, Television, Satellite, Cellular, PCS and Microwave Communication Towers is amended by deleting said section in its entirety and substituting in lieu thereof the following:

Section 1.

A. Purpose.

The purpose of this Ordinance is to establish general standards in accordance with federal and state laws for the siting of Telecommunications Facilities, including Towers, Transmission Equipment, Potential Support Structures, and related appurtenances, including installations on within public Rights-of-Way where permitted herein. In addition to the standards set forth in these guidelines, applications must follow all applicable City, State, and Utility Board standards. The guidelines address federal and state laws for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the public Right-of-Way.

The goals of this Ordinance are to:

1. Protect Residential Neighborhoods, corridors, and certain districts from adverse impacts of Telecommunications Facilities, including Towers; and
2. Encourage the location of Towers in non-residential areas; and
3. Minimize the total number of Towers in the city by encouraging Colocation strategies; and
4. Encourage creative and effective use of Stealth Technology for the concealment of new installations of Telecommunications Facilities; and
5. Provide standards for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the City's right of way and charges to be uniformly applied to all applicants.
6. Establish basic criteria for applications to site wireless communications facilities in the right of way and provide clear guidance to applicants.
7. Ensure that wireless communications facilities will conform to all applicable health and safety regulations and will blend into their environment to the greatest extent possible.

8. Enhance the ability of wireless communications carriers to deploy wireless infrastructure quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability.
9. Comply with, and not conflict with or preempt, all applicable state and federal laws.

B. Severability.

If any part, section, subsection, paragraph, sentence, phrase, clause, term, or word in this ordinance is declared invalid by a court of competent jurisdiction, such finding shall not affect the validity or enforceability of the remaining portions.

C. General Definitions.

For purposes of this subsection, the following General Definitions are included to provide greater clarity to this ordinance for specific terms referenced herein:

Aesthetic Plan: Means any publicly available written resolution, regulation, policy, site plan, or approved plat establishing generally applicable aesthetic requirements within the authority or designated area within the authority. An aesthetic plan may include a provision that limits the plan's application to construction or deployment that occurs after adoption of the aesthetic plan.

Alternative Structure: A structure that is not primarily constructed for the purpose of holding Antennas but on which one or more Antennas may be mounted, including but not limited to buildings, water tanks, pole signs, billboards, church steeples, electric power transmission poles/, and streetlights.

Antenna: An apparatus designed for the transmitting and/or receiving of electromagnetic waves, including telephonic, radio or television communications. Types of elements include omni-directional (whip) Antennas, sectionalized or sectorized (panel) Antennas, multi or single bay (FM& TV), Yagi, or parabolic (dish) Antennas. This definition does not include Towers.

Applicant: Means any person who submits an application pursuant to this part.

Application: Means a request submitted by an applicant to an Authority.

Architecturally Indiscernible: Means a building, addition or feature containing or housing an Antenna or related equipment which is architecturally harmonious in such aspects as façade material, height, bulk, scale, form, and design with the building or structure to which it is to be housed or located.

Authority: Means:

1. The City of East Ridge.
2. Upon state-owned property, the state.

This definition does not include a government-owned electric, gas, water, or wastewater utility that is a division of, or affiliated with a municipality, or county.

Authority-owned Potential Support Structure (PSS): Means a PSS owned by an authority but does not include a PSS owned by a distributor of electric power, regardless of whether an electric distributor is investor-owned, cooperatively owned, or government-owned.

Base Station means equipment and non-Tower supporting structure at a fixed location that enables Federal Communications Commission (“FCC”) licensed or authorized wireless telecommunications between user equipment and a communications network. Examples include Transmission Equipment mounted on a rooftop, water tank, silo or other above ground structure other than a Tower. The term does not encompass a Tower as defined herein or any equipment associated with a Tower. "Base Station" includes, but is not limited to:

1. Equipment associated with wireless telecommunications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; radio transceivers, Antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks); any structure other than a Tower that, at the time the application is filed under this section, supports or houses equipment described in this definition that has been reviewed and approved under the applicable zoning or siting process, or under another regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
2. “Base Station” does not include any structure that, at the time the application is filed under this section, does not support or house wireless Transmission Equipment.

Breakpoint Technology: The engineering design of a Monopole, or any applicable Support Structure, wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the Monopole, the failure will occur at the Breakpoint rather than at the base plate, anchor bolts, or any other point on the Monopole.

Cellular on Wheels (COW): A temporary wireless service facility placed on property to provide short term, high volume telecommunications services to a specific location and which can be easily removed from the property.

Clear Zone: Means that portion of the Right-of-Way that is intended for pedestrian traffic along the sidewalk. The minimum width and location of the Clear Zone shall be determined by the paved area of any sidewalk within the Right-of-Way, however, in all instances it must be a minimum of forty-eight (48) inches of width and otherwise compliant with the Americans with Disabilities Act (ADA) for public sidewalk accessibility. In areas of congested pedestrian activity, a wider minimum portion of the sidewalk may be required. The location of the Clear Zone shall be consistent for the entire block, and in most instances, it shall be required to be located immediately adjacent to the facade of adjoining properties. The Clear Zone must at all times be free from any items, obstacles, or barriers so as to allow clear movement for pedestrians along the public Right-of-Way.

Co-Locate, Collocating, and Colocation: In their respective noun and verb forms, to install, mount, maintain, modify, operate, or replace small wireless facilities on, adjacent to, or related to a Potential Support Structure (PSS). “Colocation” does not include the installation of a new PSS or replacement of authority-owned PSS. The term(s) may also refer to shared use of existing Towers by small cell wireless, or other wireless telecommunications installations. Co- location is preferred to the construction of new Towers, or PSSs when practical.

Communications Facility: means the 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: Means cable service as defined in 47 U.S.C. § 522(6), telecommunications service as defined in 47 U.S.C. § 153(53), information service as defined in 47 U.S.C. § 153(24) or wireless service.

Communications Service Provider: Means a cable operator as defined in 47 U.S.C. § 522(5), a telecommunications carrier as defined in 47 U.S.C. §153(51), a provider of information service as defined in 47 U.S.C. § 153(24), a video service provider as defined in § 7-59-303, or a wireless provider.

Distributed Antenna System (DAS): A system consisting of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one Antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hubsite; and (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through the Antennas.

Eligible Facilities Request: A request for modification of an existing Tower or Base Station involving Collocation of new Transmission Equipment; removal of Transmission Equipment; or replacement of Transmission Equipment that does not Substantially Change the physical dimensions of such Tower or Base Station.

Eligible Support Structure: Any Tower or Base Station existing at the time the application is filed with the City. For purposes of this ordinance, the definition of “Eligible Support Structure” shall include utility structures currently hosting fiber, cable and wire used in the distribution of telecommunications services.

Fee: Means a one-time, nonrecurring charge.

Historic District: Means a property or areas zoned as an historic district or zone pursuant to Tennessee Code Annotated § 13-7-404.

Local Authority: Means the City of East Ridge.

Micro Wireless Facility: Means a small wireless facility that:

1. Does not exceed twenty-four inches (24”) in length, fifteen inches (15”) in width, and twelve inches (12”) in height; and
2. The exterior antenna, if any, does not exceed eleven inches (11”) in length.

Monopole: A structure that consists of a single vertical pole without guy wires, designed and erected on the ground to support communications antennas and connected appurtenances. A monopole could either be a Tower or a Small Cell Support Structure but would not include Non-Tower Wireless Communications Facilities since those are not originally designed to support communications Antennas and connected appurtenances.

Non-Tower Wireless Communications Facilities: Wireless communications facilities other than Tower-based wireless communications. This includes facilities mounted to existing structures that were not originally intended to accommodate wireless communications facilities, such as buildings, Utility Poles, water towers, steeples, billboards, flagpoles, etc.

Ordinance: Shall refer to this and other applicable sections of the East Ridge Municipal Code, as amended.

Person: Means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an Authority.

Personal Wireless Service Facility (PWSF): means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other personal wireless communications, including commercial mobile services, unlicensed wireless services, wireless broadband services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996 (Telecommunications Act), and usually consisting of an Antenna or group of Antennas, transmission cables, feed lines, equipment cabinets or shelters, and may include a Tower. Facilities may include new, replacement, or existing Towers, replacement Towers, collocation on existing Towers, Base Station attached concealed and non-concealed Antenna, dual purpose facilities, concealed Towers, and non-concealed Towers, so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

Planning Commission: Shall mean the East Ridge Municipal Planning Commission in East Ridge, Tennessee.

Potential Support Structure for a Small Wireless Facility (PSS): Means a pole or other structure used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for the collocation of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this part.

For the purposes of this Ordinance, a PSS could include a Monopole or a Non-Tower Wireless Communications Facility that is erected within the public Right-of-Way or on private property and that does not exceed forty feet in height in commercial zoning uses, or the lesser of either, the maximum building height in the associated zoning district, or no more than forty (40) feet in zoning districts that disallow residential uses.

Qualified Co-Location Request: Any request for Collocation of a PWSF on a Tower or Base Station that creates a Substantial Change in the facility but is entitled to processing within 90 days under 47 U.S.C. §332(c)(7).

Rate: Means a recurring charge.

Residential Neighborhood: means an area within a local authority's geographic boundary that is zoned or otherwise designated by the local authority for general purposes as an area primarily used for single-family residences and does not include multiple commercial properties and is subject to speed limits and traffic controls consistent with residential areas;

Right-of-Way or ROW: Means the space, in, upon, above, along, across, under, and over all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skywalks under the control of the Authority, and any unrestricted public utility easement established, dedicated, platted, improved, or devoted for utility purposes and accepted as such public utility easement by the authority, but excluding lands other than streets that are owned by the authority.

Small Wireless Facility: Means a wireless facility with:

1. An Antenna that could fit within an enclosure of no more than six (6) cubic feet in volume; and
2. Other wireless equipment in addition to the antenna that is cumulatively no more than twenty-eight (28) cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. "Other wireless equipment" does not include an electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and
3. Small Wireless Facility includes a Micro Wireless Facility.

Smart Pole: Means any pole, which consists of a design pre-approved by the City of East Ridge, for the purpose of also serving as a Telecommunications Facility Support Structure, including Potential Support Structures for a Small Wireless Facility.

Staff: Means those employees of the City of East Ridge assigned to support and/or administer the powers and duties prescribed to the East Ridge Municipal Planning Commission.

Stealth Technology: Means design techniques applied to telecommunications structures that will help conceal them or make them less visible to the casual observer.

Implementation of such techniques shall have the goal of making a telecommunication Architecturally Indiscernible. Such techniques may include, but are not limited to, facilities constructed to resemble light poles, trees, flagpoles, steeples, or other streetscape elements. Stealth Technology may also include concealment wrap, landscaping, and placing applicable structures underground.

Substantial Change: Means a modification or Collocation of an Eligible Support Structure if it meets any one or more of the following criteria:

1. A Telecommunications Facility Collocation on an existing PSS structure within a Right-of-Way that increases the overall height of the structure, Antenna and/or Antenna array more than 10% or 10 feet, whichever is greater.
2. A Telecommunications Facility Collocation for Towers not in a Right-of-Way that protrudes from the structure more than 10% or 20 feet, whichever is greater, or the width of the structure at the elevation of the Collocation, and for Towers within a Right-of-Way, that protrudes from the structure more than 6 feet.
3. A Telecommunications Facility Collocation on an existing structure that fails to meet current building code requirements (including wind loading).
4. A Telecommunications Facility Collocation that adds more than four (4) additional equipment cabinets or one (1) additional equipment shelter.

5. A Telecommunications Facility Collocation that requires excavation outside of existing leased or owned parcel or existing easements.
6. A Telecommunications Facility Collocation that defeats any existing concealment elements of the structure.
7. A Telecommunications Facility Collocation that fails to comply with all conditions associated with the prior approval of the structure except for modification of parameters as permitted in this section.

Support Structure: Means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Telecommunications Facility: Means one or more Antenna, utility structures currently hosting either fiber, cable or wire, Tower, Base Station, mechanical and/or electronic equipment, conduit, cable, fiber, wire, and associated structures, enclosures, assemblages, devices and supporting elements that generate, transmit or produce a signal used for communication that is proposed by an entity other than the City of East Ridge, including but not limited to radio/TV/satellite and broadcast Towers, telephone service, including new microwave or cellular Towers, PWSF, DAS, Small Wireless Facilities and COW.

Tower: A support structure and all appurtenances constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of any telecommunications services or Personal Wireless Service Facility. This includes traditional commercial cellular Towers and Transport Poles. For the purposes of this Ordinance, a Tower is differentiated from a Potential Support Structure for a Small Wireless Facility in that a Tower is a Monopole that may exceed the permitted building height of the associated zoning district and is not permitted within the public Right-of-Way. A Tower may be concealed or non-concealed. Non-concealed Towers include:

1. Guyed- A style of Tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building; and
2. Lattice- A self-supporting, tapered style of Tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal cross strips or bars to support Antennas.
3. Monopole- A style of freestanding Tower consisting of a single shaft usually composed of two (2) or more hollow sections that are in turn attached to a foundation. This type of Tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure. Transport Pole: A type of Tower that includes microwave backhaul. Transport Poles are subject to all requirements associated with a Tower.

Transmission Equipment: Equipment that facilitates transmission for any Federal Communications Commission licensed or authorized wireless communications service, including, but not limited to radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with, but not limited to private, broadcast, and public safety

services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Utility, Overhead: Utility infrastructure that is located primarily above ground as determined by Staff. For the purposes of this Ordinance, Overhead Utilities include, but are not limited to power lines and communications lines.

Utility Pole: A structure used for the support of electrical, telephone, cable television or other video services, street lighting, or other similar cables and located within the public Right-of- Way or Utility easement. A Small Cell Support Structure may be incorporated onto a Utility Pole provided such pole does not extend, with the application of Small Cell Support Structures.

Utility, Underground: Utility infrastructure that is located primarily underground as determined by Staff. For purposes of this Ordinance, underground utilities include, but are not limited to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, certain Small Cell Support Systems/DAS structures, and communications lines.

Wireline Backhaul Facility: Means a communications facility used to transport communications services by wire from a wireless facility to a network.

Wireless Communications Facility: Means equipment at a fixed, unstaffed location typically consisting of a Tower or Base Station that enables wireless communications between user equipment and a communications network, including:

1. Equipment cabinets associated with wireless communications.
2. All materials or techniques used to conceal the installation.
3. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
4. A “Wireless Communications Facility” does **not** include:
 - i. The structure or improvements on, under, or within which the equipment is collocated.
 - ii. Wireline Backhaul Facilities; or
 - iii. Coaxial or fiber-optic cable that is in between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
5. A “Wireless Facility” includes small wireless facilities.

Wireless Provider: Means a person who provides wireless service.

Wireless Services: Means any service using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile provided to the public.

D. Colocation Requirements.

Collocation or location on existing Alternative Structures is required where possible. Applicants for a new Telecommunications Facility must explore all Collocation opportunities and opportunities to locate their Antenna on existing Alternative Structures whenever possible. Any Applicant for a Telecommunications Facility shall utilize Eligible Support Structures first and then Alternative Structures.

E. Exemptions and Administratively Approved Sites.

Determinations as to exemptions and administrative approval shall be provided by the Staff upon submission of a completed application. A Special Permit issued by the East Ridge City Council for Transmission Equipment shall not be required under the following circumstances:

1. Concealed Devices -Transmission Equipment which is concealed within a building or structure so that it is Architecturally Indiscernible may be permitted in all zoning districts subject to building permit procedures and standards, as may be amended.
2. Additions To Existing Structures In Any Zoning District- An Antenna, a dish or transmitter may be placed inside or on an existing structure, including but not limited to steeples, silos, spires, utility water tanks or Towers, athletic field lighting poles, utility poles and similar structures (but excluding single-family or duplex dwellings for any commercial use), subject to structural adequacy and provided the addition of the Antenna and any supporting structure shall not create a Substantial Change. The setback requirements for freestanding Towers shall not be applied to existing structures used to support or house the Antenna. Additional antennas may be placed on existing Towers without obtaining a Special Permit. The placement of Antennas in or on existing structures or Towers shall be subject to the screening landscape standards of this section if the addition of the Antenna or associated equipment causes any significant change to the ground level view of the existing structure as determined by the Building Official.
3. Existing Towers -Antennas, dishes, or similar equipment or additional users which do not create a Substantial Change, may be added on existing Towers without obtaining a Special Permit, but shall be subject to all applicable zoning, set-back, design, building permits, and building code regulations.

F. Special Permits Required:

Except as exempted by regulations of a particular zone, Special Permits shall be required for all Towers as provided herein:

1. Subject to the issuance of a Special Permit by the Board of Appeals for Variances and Special Permits, commercial Towers may be permitted to locate on publicly owned property in all zoning divisions where special permits are required.
2. Subject to the issuance of a Special Permit by the East Ridge Board of Zoning Appeals, commercial Towers may only be permitted to locate on any property whether publicly or privately owned that is located in any zone where Towers are listed as a permitted use.
3. The issuance of any Special Permit by the East Ridge Board of Zoning Appeals is subject to all landscaping standards, co-location requirements and other requirements set forth in the Special Permit procedures.

G. Telecommunications Facilities located outside of the Right-of-Way: Such facilities are subject to the following conditions and approval by the Planning and Building Department Staff and/or the East Ridge Board of Zoning Appeals.

1. Special Permit Procedures: A completed application and the following information must be provided to the Building Department when applying for a Special Permit:

- a. A schematic site plan, including schematic landscape plan with an elevation view of the type of facility to be placed on the site.
- b. The site plan shall depict where the Tower is to be located on the site and where additional co-located Transmission Equipment, shelters or vaults can be placed.
- c. Construction plans: Detailed construction plans or drawings prepared by a licensed engineer certifying that the Tower has sufficient structural integrity and equipment space to accommodate multiple users shall be required at the time of applying for a building permit.
- d. Landscape plans: Landscape plans that comply with the landscaping requirements of this ordinance shall be required at the time of applying for a building permit.
- e. Identification of the intended user(s) of the Tower.
- f. A statement prepared by the applicant that considers other alternatives to the proposed site and the impact of the proposed Tower. A map of the coverage area identifying all existing Towers and other sites with suitable zoning and adequate land area to site a Tower shall be included. The applicant shall justify the selection of the proposed site over other available alternative sites within the identified coverage area weighing the relative impacts of the proposed site to other available sites with particular consideration of the impact of the Tower upon adjacent properties, historic areas, scenic vistas and residential neighborhoods.
- g. Towers shall be sited so as to be as unimposing as practical. The applicant shall demonstrate that through location, construction, or camouflage, the proposed facility will have minimum visual impact upon the appearance of adjacent properties, views and vistas of historic areas, scenic assets, and the integrity of residential neighborhoods. False representations in an application shall be grounds for denial of a special exceptions permit. The Board of Appeals is specifically empowered to utilize its collective judgment in assessing and approving or denying the application based upon such information.
- h. Documentation of the number of other users that can be accommodated within the design parameters of the Tower as proposed. If the Tower will not accommodate the required number of users, the applicant must demonstrate with compelling evidence why it is not economically, aesthetically, or technologically feasible to construct the Tower with the required co-location capability. Applications failing to fulfill the co- location requirement are not eligible for administrative approval by the Building Official or other Staff.
- i. A statement indicating the owner's commitment to allow feasible shared use of the Tower within its design capacity for co-location.

- j. Documentation of a valid leasehold or ownership interest in the underlying property.
 - k. The applicant or the landowner shall provide proof of the establishment of a financially secure and legally enforceable method of removing a Tower when it ceases to be used for a period of twelve (12) months. This financial assurance can be provided through a sinking fund, a lien upon land which has a greater unencumbered appraised value than the cost of removal of the Tower, a removal bond, a letter of credit or any alternative financial arrangement which is approved by the city's Finance Officer as to financial adequacy and the City Attorney as to legal enforceability. If the applicant or landowner owns more than one (1) Tower, a blanket removal bond or alternative financial assurance may cover multiple sites.
2. **Fees:** A non-refundable fee of one thousand five hundred (\$1,500) dollars must accompany any site plan submitted for the purposes of securing a building permit for the construction of a Tower. The fee covers engineering and other costs associated with the review of a site plan for a Tower.
3. **Aesthetics:** Towers and Antennas shall meet the following requirements.
- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted a neutral color to reduce obtrusiveness.
 - b. At a Tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will enable them to blend into the natural setting and surrounding built environment.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
4. **Landscape Requirements:** Tower sites shall be subject to the following landscaping standards:
- a. The visual impact of a Tower on adjacent properties and streets shall be minimized to the extent practicable by utilizing existing topography, structures, and natural vegetation to screen the Tower. For all visual exposures not equivalently screened by existing structures or natural vegetation, all Tower sites shall be landscaped with a ten-foot deep landscape yard with evergreen trees spaced a maximum of ten (10) feet on-center or two (2) staggered rows of shrubs spaced a maximum of eight (8) feet apart. All plantings shall meet the installation and planting size requirements as specified below:
 - i. **Intent:** All landscaping materials shall be installed in a professional manner, and according to accepted planting procedures specified in the current edition of American Studies for Nursery Standard.
 - ii. **Screening Trees:** Screening trees are used to meet the tree planting requirements of this ordinance and shall be installed at a minimum height of eight (8) feet and have a minimum expected mature spread of eight (8) feet. Recommended species are American Holly,

Foster Holly, Southern Magnolia, Eastern Red Cedar, Atlas Cedar, Deodar Cedar and Virginia Pine.

- iii. **Screening Shrubs:** All screening shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight (8) feet and mature spread of at least five (5) feet. Recommended species include: Fragrant Olive, English Holly, Burford Holly, Nellie R. Stevens Holly, Wax Myrtle, Cherry Laurel, English Laurel and Leatherleaf Viburnum.
 - iv. **Prohibited Plants:** The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance: Kudzu Vine, Purple Loosestrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry and Silver Maple.
 - v. **Maintenance:** The property owner (or lessee if so provided in a written lease) shall be responsible for the maintenance of all installed landscaping. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner (or lessee if provided in a written lease) with new plantings that meet the requirements of these regulations.
- b. A break in the landscape not to exceed sixteen (16) feet in width shall be allowed for access for maintenance personnel and vehicles.
 - c. New or existing vegetation, earth berms, existing topographic features, walls, screening fences, buildings and other features other than prescribed above may be used to meet the requirements of these regulations if the Director of Codes Administration finds that they achieve reasonably equivalent screening as specified in subsection (a) herein.
 - d. In Commercial and Industrial/Manufacturing Districts a sight-obscuring fence at least eight (8) feet in height and a minimum of seventy-five percent (75%) opaque may be substituted for screening trees or screening shrubs as specified in subsection (a) herein by special exception from the Board of Zoning Appeals when the applicant can demonstrate that it is impractical to provide living screening material.
 - e. No screening shall be required if the applicant adequately demonstrates that base of the Tower site is not visible from adjoining property or is not otherwise visible from a dedicated Right-of-Way.
 - f. Site landscaping is not required for Antennas which are being collocated on existing Towers, or which are being placed on other buildings or structures where the Antenna is allowed as an accessory use.
 - g. No screening shall be required when this screening is explicitly prohibited by Federal Communications Commission regulations or is otherwise restricted by site limitations. The East Ridge Board of Zoning Appeals shall review and approve any deviations from the standards specified herein.

5. Colocation Requirements:

- a. New Towers of a height of more than one hundred (100) feet and less than two hundred (200) feet must be designed and built to accommodate three (3) or more personal communication system carrier applications and must be made available upon reasonable terms for Collocation to at least three (3) additional single Antenna applications such as paging, 911, two-way, and emergency management communications. Additionally, the site must be sufficiently large enough to accommodate at least three (3) telecommunication equipment shelters, cabinets or additions to existing structures.
- b. New Towers of a height of two hundred (200) feet to two hundred fifty (250) feet must be designed and built to accommodate at least three (3) personal communication system applications and at least three (3) additional single Antenna applications plus at least one (1) additional personal communication system application and at least one (1) additional single Antenna application for each additional fifty (50) feet of height, to a maximum of six (6) personal service communication system carriers and six (6) single Antenna applications, to be made available upon reasonable terms for Collocation.

6. Other Requirements:

- a. **Height:** No Tower shall exceed a height of two hundred and fifty (250) feet above grade.
- b. **Design Standards:** The proposed site plan and Tower design plans shall meet or exceed all applicable standards, as may be amended, including without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE) Standards for power density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electrical Code, National Electrical Safety Code, and the American Steel Institute. The proposed site shall also be designed and built in compliance with Section 106 of the National Historic Preservation Act of 1996 if applicable.
- c. **Maintenance:** The property owner (or lessee if provided in a written lease) shall be responsible for the maintenance of all provided landscaping. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner with new plantings that meet the requirements of these regulations.
- d. **Removal of Abandoned Antennas and Towers:** Any permitted Tower that is not operated as a personal communication system carrier application for a continuous period of twelve (12) months shall be considered abandoned and the owner of such Antenna or Tower shall remove same within ninety (90) days of receipt of notice from the Building Official. Failure to remove an abandoned Tower shall be deemed to be a violation of these regulations and shall be subject to the penalty. The owner of the Antenna or Tower may appeal the decision of the Building Official to the Board of Appeals for Variances and Special Permits, but at such hearing shall be required to show just cause why the Antenna or Tower should not be considered abandoned and subject to removal.
- e. **Setback:** Towers shall be set back from all property lines on which the Tower is located by the distance equal to the height of the lowest engineered Breakpoint on the proposed structure

or the height of the Tower. Provided, however, the minimum setback for any Tower is fifty (50) feet.

- f. **Breakpoint Technology:** For purposes of these regulations, the engineered failure point is the location(s) on the Tower that is designed to fail when overstressed beyond the structural parameters of the Tower design. This failure point will cause the overstressed portion of the structure to fall in upon itself in such a way as to reduce the remaining stress on the structure to such a level that result in no further failures of the Tower structure.
 - i. The lowest engineered failure point is described such that if the Tower should collapse, the tallest remaining vertical section of the structure shall be equal to the setback from the abutting property lines.
 - ii. If the proposed Tower is designed with failure points that allow for the collapse of the structure upon itself, a letter stamped by a licensed Professional Structural Engineer evidencing the design and fall zone parameters of the proposed Tower shall satisfy the requirements determining the minimum fall zone setback distance.
 - iii. No portion of the Tower structure shall be designed or constructed so that the height of the Tower allows it to fall across the property line of the abutting property.
 - iv. The Tower must comply with building codes and other federal, state, and local regulations.
- g. **Guyed Towers:** Any Tower requiring the use of guy wires is prohibited. Monopoles and Lattice Towers are permitted.
- h. A sign furnished by the Staff shall be prominently posted by the applicant on the site of the proposed Tower for at least fifteen (15) consecutive days prior to the meeting of the East Ridge Board of Zoning Appeals to give notice to the public of the application and the Board meeting date.

H. Telecommunications Facilities located inside of the public Right-of-Way Towers as defined herein are prohibited within the right-of-way. Qualifying Telecommunications Facilities, including Potential Support Structures (PSS) for Small Wireless Facilities located within Rights-of-Way are subject to the following standards, conditions, procedures, along with Staff review and approval in accordance with Tennessee Code Annotated § 13-24-401 et seq.

- 1. **General Location Criteria.** The following shall apply to all Communication Facilities locating in the public Right-of-Way.
 - a. **Collocation Preference.** Whenever an applicant proposes to place a new wireless facility within 250 feet from an existing wireless facility, whether on a new pole or an existing potential support structure, the applicant must either collocate with the existing facility or demonstrate with clear and convincing evidence that a collocation is either not technically feasible or space on the existing facility is not potentially available.

- b. **Adherence to an adopted Aesthetic Plan.** pursuant to TCA § 13-24-411, Construction or deployments shall adhere to the City's adopted Aesthetic Plan.
- c. **General Limitation on New Poles.** The standards herein strongly discourage more than one new pole per 500 feet.
- d. **Alignment with Other Poles.** The centerline of any new pole must be aligned with the centerlines of existing poles on the same sidewalk segment, but only if the new pole height does not conflict with overhead power utility lines and facilities.
- e. **Setbacks for Visibility and Access.** Any new pole and/or equipment and other improvements associated with a new or existing pole must be set back from intersections, alleyways and driveways and placed in locations where it will not obstruct motorists' sightlines or pedestrian access. In general, no obstruction will occur when a new structure and/or equipment is setback at least (i) 50 feet from any intersection; (ii) six (6) feet from any driveway cut or alleyway entrance or exit; or (iii) six (6) feet from any permanent object or existing lawfully-permitted encroachment in the public right-of-way, including without limitation bicycle racks, traffic signs and signals, street trees, open tree wells, benches or other street furniture, streetlights, door swings, gate swings or sidewalk café enclosures. An additional setback for a specific pole may be required when presumptively acceptable setback would nevertheless obstruct motorists' sightlines or pedestrian access.
- f. **Obstructions.** Any new pole and/or equipment and other improvements associated with a new existing pole must not obstruct any:
 - i. Worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
 - ii. Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop
 - iii. Worker access to above ground or underground infrastructure owned or operated by any public or private utility agency;
 - iv. Fire hydrant access;
 - v. Access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right-of-way; or
 - vi. Access to any fire escape.
- g. **Americans With Disabilities Act.** Notwithstanding compliance with the requirements herein, structures and facilities shall not be in conflict with the Americans With Disabilities Act by hindering use of the Right-of-Way.
- h. **Historic or Architecturally Significant Structures.** Any new pole and/or equipment and other improvements associated with a new or existing pole may not be placed directly in

front of any historic or architecturally significant structures in prominent locations. Applicant must comply with federal rules regarding historic structures and require a Section 106 study (National Historic Preservation Act (NHPA) on all applicable installation locations.

- i. **Public Utility Easements.** The City may prohibit or limit deployment or colocation of Small Wireless Facilities in public utility easements when the easements are:
 - i. Not contiguous with paved roads or alleys on which vehicles are permitted.
 - ii. Located along the rear of residential lots, parcels, or tracts.
 - iii. In an area where no electric distribution or telephone utility poles are permitted to be deployed.
- j. **Potential Support Structures used for lighting.** The City may require lighting to be included on a replacement PSS.
- k. **Deployments affecting regulatory signs.** If an applicant submits an application that will affect a regulatory sign as defined by the Manual on Uniform Traffic Control Devices, or any sign requiring breakaway supports, the City may deny the application. Under these circumstances, the applicant may seek reconsideration of the design through a conference which shall be held within thirty (30) days of such a request by the applicant.
- l. **Unsafe, abandoned, or inoperable deployments.** When a deployment as regulated herein is abandoned, deemed unsafe, or rendered inoperable, the City shall remove or cause the removal or repair of the deployment in order to restore the Right-of-Way to a safe condition.
- m. **Undergrounding.** The City may require an applicant to comply with undergrounding requirements in the Right-of-Way for compliance in certain circumstances or locations, or to comply with an established Aesthetic Plan.
- n. **Restoration and Maintenance of the Right-of-Way.** The City may require an applicant to:
 - i. Repair damage caused by entities entitled to deploy infrastructure in a Right-of-Way, including damage to public roadways, sidewalks or other pedestrian facilities, and bicycle paths, and to other utility facilities placed in a ROW consistent with established policies.
 - ii. Require maintenance or relocation of infrastructure deployed in the ROW, timely removal of infrastructure no longer utilized, and require insurance, a surety bond, or indemnification for claims arising from the applicant's negligence consistent with established policies.
- o. **Work permits.** Notwithstanding approval of applications as controlled within this Ordinance, the City shall also require applicants to obtain work, or traffic permits and pay the established fees if any prior to the deployment of a PSS or Small Wireless Facility.
- p. **Categories of Applications:** Every application to locate Wireless Communication Facility in the right of way shall be classified by the following types:

q. Minor modification that:

- i. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower, utility pole or base station.
- ii. Does not substantially change the physical dimension (width, height, and depth) of the existing wireless tower, pole-mounted equipment or base station.

r. Major modification that:

- i. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
- ii. Substantially changes the physical dimension (width, height, and depth) of the existing wireless tower or base station or does not qualify for approval pursuant to 47 U.S.C. § 1455(a) for any lawful reason.

s. New transmission equipment on an existing or new utility pole:

- i. Siting new transmission equipment on a Potential Support Structure in the right of way that does not already support transmission equipment; or
- ii. Siting a new wireless communication facility on a new pole or other support structure in the right of way.

2. Minor Modifications: Minor modifications are additions or changes to previously approved facilities and covered under 47 U.S.C. § 1455(a), which mandates approval for certain applications that do not propose a substantial change to the underlying facility. Federal regulations provide specific definitions and criteria for approval or denial. The provisions in this section are intended to assist applicants and application reviewers to determine whether an application qualifies for approval as a minor modification.

a. Approval and Denials

- i. **Criteria for Approval.** Staff may approve an application for a minor modification when it finds that the proposed project:
 - 1. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
 - 2. Does not substantially change the physical dimensions of the existing wireless tower or base station.
- ii. **Criteria for Denial.** Notwithstanding any other provisions in this Ordinance, and consistent with all applicable federal laws and regulations, the application may be denied for a minor modification when it finds that the proposed project:

1. Does not satisfy the criteria for approval;
2. Violates any legally enforceable standard or permit condition reasonably related to public health and safety; or
3. Involves the replacement of the entire support structure, triggering other applicable standards.

3. Major Modifications

- a. **General Design and Construction Standards.** To promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community, wireless facilities in the public right-of-way must comply with all applicable provisions in this section. In the event that any other law, regulation or code requires any more restrictive structural design and/or construction requirements, the most restrictive requirement will control.
- b. **Collocation.** Collocations between two separate wireless service providers on the same support structure is encouraged whenever feasible and safe.
- c. **Antennas on Existing or Replaced Utility Poles.** The antenna(s) associated with installation on existing or replaced utility poles must be located within the communication zone and have concealed cable connections, antenna mount and other hardware. The maximum dimensions for panel style antennas shall be 30" high and 12" wide. The maximum dimensions for canister style antennas shall be 30" high and 16" in diameter.
- d. **Antennas on New Stand-Alone Poles without Power or other Utility Lines.** The antenna(s) associated with installation on new poles that are not replacing utility poles may have antennas located on top of the pole, provided there are no electrical lines located on the poles. These antennas must have concealed cable connections, antenna mount and other hardware. The maximum dimension shall be 48" high and 18" wide.
- e. **Equipment Mounting on Existing or Replaced Utility Poles.** All pole-mounted equipment must be installed as flush to the pole as possible, using stainless steel banding straps. Through-bolting or use of lag bolts is prohibited. All pole mounted equipment shall be located as close together and if possible, on the same side of the pole. Standard color for all equipment shall be grey but other colors may be required when installing on a decorative pole.
- f. **Pole-Mounted Equipment Cages or Equipment Shrouds.** When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment cage. Equipment cages may not extend more than 24 inches from the face of the pole. The equipment cage must be non-reflective and be green or color matching to the existing pole. Equipment cages should be mounted flush to the pole. All pole-mounted equipment must be installed as flush to the pole as possible. Any standoff mount for the equipment cage may not exceed 4 inches.

- g. **Undergrounded Equipment Vaults.** Pole-mounted equipment in self-contained cages is permitted, but equipment in an environmentally controlled underground vault may be required in some areas.
- h. **Ground-Mounted Equipment.** New ground-mounted equipment is not permitted, unless the applicant shows clear and convincing evidence that the equipment cannot be feasibly installed as a pole-mounted installation, in an environmentally controlled underground vault, or within an existing street feature (such as a bus stop shelter) for a valid technical reason. Increased costs alone shall be presumed to be insufficient. In the event that ground-mounted equipment is used, the applicant must conform to the following requirements:
- i. **Self-Contained Cabinet or Shroud.** The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly through the tapered metal pole (with the exception of Utility Board power poles) and undergrounded between the pole and the ground-mounted cabinet.
 - ii. **Concealment.** The Ground-Mounted Equipment shall incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, public art displayed on the cabinet, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.
 - iii. **Ambient Noise Suppression.** The applicant is required to incorporate ambient noise suppression measures and/or required to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations.
 - iv. **Utility Lines.** Service lines must be underground whenever possible to avoid additional overhead lines. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.
 - v. **Electric Meter.** Each wireless communication facility must be individually metered. Multiple operators on a shared pole must have their own meter. Site operators shall use the smallest and least intrusive electric meter available. Whenever permitted by the electric service provider, the electric meter base should be painted to match the pole.
 - vi. **Telephone/Fiber Optic Utilities.** Cabinets for telephone and/or fiber optic utilities may not extend more than 10 inches from the face of the pole, and must be painted, wrapped or otherwise colored to match the pole.
 - vii. **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables for wireless communication facilities shall not be spooled, coiled or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.
 - viii. **Underground Conduit.** All underground conduit placed behind the curb face and underneath the sidewalk must be SCH 80 PVC encased in concrete. All underground conduit must be Rigid Conduit when placed: (1) underneath driveway aprons, (2) within tree wells or (3) in front of the curb face and beneath the street.

- ix. **Above-Ground Conduit.** On wood poles, all above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of 4" diameter, and painted to match the pole.
- x. **Ground Rods.** All ground rods shall comply with current ANSI/TIA 222 and other applicable standards. If attaching to existing utility poles, wireless communication facilities shall be bonded (connected) to the existing pole ground or as required by the utility.
- xi. **Lights.** Unless otherwise required for compliance with FAA or FCC regulations, the facility shall not include any permanently installed lights. Any lights associated with the electronic equipment shall be appropriately shielded from public view. The provisions in this subsection shall not be interpreted to prohibit installations on streetlights or the installation of luminaires on new poles when required.
- xii. **Generally Applicable Health and Safety Regulations.** All facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, including without limitation all applicable regulations for human exposure to RF emissions.

4. New and Replacement Poles or Structures

- a. **General Restrictions on New Wood PSS installations.** In all locations, the City reserves the right to require a metal PSS rather than a wood PSS based on the built and/or natural environmental character of the proposed site location as found in the Aesthetic Plan.
- b. **Overall Height.** The heights of a PSS should be consistent with other poles in the vicinity, the built environment, the neighborhood character, the overall site appearance and the purposes in these standards. In no case shall a PSS installation exceed forty (40) feet in height in zoning districts allowing residential uses, or where applicable, the lesser of either, the maximum building height in the associated zoning district, or no more than forty (50) feet in zoning districts that disallow residential uses.
- c. **Pole Diameter.** Pole diameter shall be consistent with the surrounding poles. The applicant shall consider other poles in vicinity, the built environment, the neighborhood character, the overall site appearance and the purposes in these Guidelines.
- d. **Wood Pole Footings and Foundations.** All new wood poles, if permitted, must be direct buried to a depth determined, stamped, sealed and signed by a professional engineer licensed and registered by the State of Tennessee, and subject to review and approval.
- e. **Tapered Metal Pole Footings and Foundations.** All new tapered metal poles must be supported with a reinforced concrete pier designed, stamped, sealed and signed by a professional engineer licensed and registered by the State of Tennessee, and subject to review and approval.
- f. **Tapered Metal Pole Material.** All tapered metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant material and finished in accordance with these Guidelines to avoid rust stains on adjacent sidewalks, buildings or other improvements.

- g. **Lighting; Banners.** The applicant may be required to install functional streetlights and/or banner brackets if technically feasible when it is determined that such additions will enhance the overall appearance and usefulness of the proposed facility.
- h. **Signage.** Signage and labeling on poles and equipment should be limited only to what is required by FCC and OSHA. In addition, site node information (pole address, node identification number, and emergency contact information) may be included.
- i. **Damage of Equipment.** Upon notification, the wireless communication facility provider must rectify any aesthetic damage to their equipment within 30 days. Any damage that concerns safety must be addressed immediately.

5. Installations on Existing Poles and Other Potential Support Structures

- a. **General.** The standards encourage applicants to consider existing poles and other potential support structures prior to any new pole to reduce congestion in the public right-of-way. All generally applicable design, construction and location standards will be considered when reviewing applications for new facilities installed on existing poles or other potential support structures in the public right-of-way.
- b. **Privately-Owned Structures.** For a privately-owned structure in the public right-of-way onto which an applicant proposes to attach a wireless communications facility, if the owner of the structure requires more restrictive standards than those contained in these Guidelines, the more restrictive standards shall control. If any portion of a privately-owned structure is on private property, the applicant must first obtain all applicable zoning and building permits prior to submittal.
- c. **City Owned Structures.** The City, in its proprietary capacity, retains sole and absolute discretion over whether and on what terms it may allow wireless facilities on its poles and other facilities in the public right-of-way notwithstanding conflicting design provisions set forth in these Guidelines. Applicants may not submit any applications in connection with City-owned poles or other facilities without a valid and fully executed agreement to use the specific pole or other facility. The City shall not authorize any attachments to City-owned infrastructure that negatively impacts the structural integrity of the support structure.
 - i. **Independent Power Source.** A Wireless Communications Facility on a City-owned Potential Support Structure may not use the same power source that provides power for the original purpose of the Potential Support Structure.
 - ii. **City-Owned Traffic Control Signal Poles.** The City may approve wireless facilities (and all other non-traffic control facilities) on City-owned traffic control signal poles.

6. Additional Design and Construction Standards for Major Modifications.

In addition to all applicable General Design and Construction Standards, all major modifications to eligible facilities are to comply with the following requirements:

- a. **Coordination with Original Facility Design.** The applicant must design the proposed installation in a manner that mimics the design and any concealment elements of the existing

facility. To the extent feasible, new facilities should utilize capacity in existing equipment cages or cabinets and existing conduits or risers.

- b. **Antennas.** The guidelines discourage side-mounted antennas that overhang the roadway but may permit side-mounted antennas that overhang the sidewalk provide that the antenna complies with all applicable setbacks and vertical clearance requirements.
- c. **Structural Integrity.** Any additional equipment must not negatively impact the structural integrity of the support structure and must comply with all applicable local, state and federal codes and regulations.

7. **Minor Technical Exceptions.** In some circumstances strict compliance with these Guidelines may result in undesirable aesthetic outcomes, and minor deviations may be granted when the need for such deviation arises from circumstances outside the applicant's control. For example, if an applicant proposes to construct a standard configuration facility in an office district, but required a pole with a slightly wider base due to poor foundation conditions, the City may grant a technical exception rather than subjecting an otherwise preferred design to a standard review. In contrast, if an applicant proposed a 50-foot tall standard configuration facility in an office district because it desired additional service area, the City would apply standard review because the need for additional height arises from the applicant's preferences. This section describes the required findings for a minor technical exception.

Required Findings. The City may, in its sole discretion, grant a minor technical exception from strict compliance with the design and location guidelines when:

- a. The applicant has requested an exception in writing;
- b. The proposed facility would normally qualify for minor review but for the need for a minor technical exception;
- c. The need for the exception arises from an external factor outside the applicant's control that impacts public health, safety, or welfare, including without limitation soil compaction, existing congestion or clutter within the right-of-way or other location-specific condition or phenomenon.
- d. The proposed deviation from the applicable requirement is less than 10% larger than the generally applicable standard; and
- e. The granting of a minor technical exception would not create any obvious hazard or unreasonable obstruction in the public right-of-way.

8. **Application Requirements and Fees for Small Wireless Facilities.** The City shall require a completed application in adherence to the following requirements:

- a. An applicant shall include up to twenty (20) Small Wireless Facilities in a single application.
 - i. The application fee shall be one hundred (\$100) dollars for each of the first five (5) Small Wireless Facilities in a single application.

- ii. An additional two hundred (\$200) dollar fee for the first application an applicant files following the effective date of this Ordinance.
 - iii. Beginning July 1, 2020 and every five (5) year interval thereafter, the application fee will be raised ten (10) percent more than previously required.
 - iv. The annual rate for colocation of a Small Wireless Facility on a City- owned PSS shall be one hundred (\$100) dollars per installation.
- b. Upon the submittal of an application to the City Building Department, Staff shall determine whether the application is complete and notify the applicant of any deficiencies relating to one or more Small Wireless Facilities included in an application within thirty (30) days, and if there is a need to conduct a conference with applicant to clarify or correct:
 - i. Safety considerations not adequately addressed by the application or regarding which the local authority proposes additional safety-related alterations to the design;
 - ii. Potential of conflict with another applicant’s application for the same or a nearby location;
 - iii. Impact of planned construction or other public works projects at or near the location identified by the application;
 - iv. Alternative design options that may enable colocation on existing PSS instead of deployment of new PSS or opportunities and potential benefits of alternatives design that would incorporate other features or elements of benefit to the City.
- c. The City shall approve or deny application for deployment or colocation of Small Wireless Facilities within sixty (60) days unless circumstances allowing extension to seventy-five (75) days as allowed by TCA § 13-24-409.
- d. A preliminary site plan shall be required with a diagram or engineering drawing depicting the design for installation of the Small Wireless Facility with sufficient detail for Staff to determine that the design of the proposed installation and any new PSS or any modification of a PSS is consistent with all generally applicable aesthetic, design, and safety requirements, including those specified by the Manual on Uniform Traffic Control Devices. Such a site plan shall include:
 - i. The location of the site, including the latitudinal and longitudinal coordinates of the specific location of the site;
 - ii. Identification of any third party upon whose PSS the applicant intends to collocate and certification by the applicant that it has obtained approval from the third party;
 - iii. The applicant's identifying information and the identifying information of the owner of the small wireless facility and certification by the applicant or the owner that such person agrees to pay applicable fees and rates, repair damage, and comply with all generally applicable ROW requirements for deployment of any associated infrastructure that is not a Small Wireless Facility and the contact information for the party that will respond in the event of an emergency related to the small wireless facility;

- iv. The applicant's certification of compliance with surety bond, insurance, or indemnification requirements; rules requiring maintenance of infrastructure deployed in ROW; rule requiring relocation or timely removal of infrastructure in ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in ROW under emergency conditions, if any, that the local authority imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in the ROW; and
- v. The applicant's certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the structural integrity and weight bearing capacity of the PSS and small wireless facility. Those standards relevant to engineering must be certified by a licensed professional engineer.
- e. Timeframe for deployment. If an applicant does not complete deployment within nine (9) months of receiving approval for an application, the City shall require the applicant to complete a new application and pay an additional application fee, unless both parties, by mutual agreement agree to an extension, or because the deployment is delayed because of a lack of commercial power or communication transport facilities to the site.

NOW, THEREFORE BE IT ORDAINED, that this ordinance shall become effective fifteen (15) days after final reading and passage by the East Ridge Mayor and City Council, the public welfare of the City requiring it.

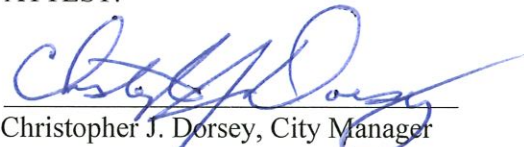
Passed on First Reading April 9, 2020

Passed on Second Reading April 23, 2020



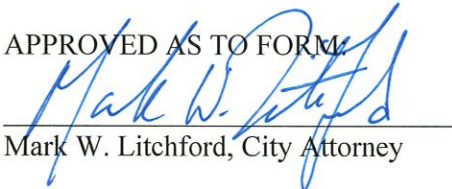
Brian W. Williams, Mayor

ATTEST:



Christopher J. Dorsey, City Manager

APPROVED AS TO FORM:



Mark W. Litchford, City Attorney