

**CITY OF GEORGETOWN, KENTUCKY**

**ORDINANCE NO. 2021-01**

**AN ORDINANCE ADDING A NEW SECTION TO ARTICLE II OF THE GEORGETOWN-SCOTT COUNTY ZONING ORDINANCE REGARDING THE REGULATION OF SMALL WIRELESS FACILITIES AND SMALL CELL TOWERS.**

**SUMMARY**

1. Provides for the regulation of Small Wireless Facilities and Small Cell Towers, states the purpose of the regulations, cites authority to enact the regulations, covers general terms for interpretation and application of the regulations and defines terms used throughout the regulations.
2. Establishes the option for a pre-application conference between the applicant and Georgetown-Scott County Planning and Zoning Staff (“Staff”), as well as other interested parties such as utility providers, the owner of the right-of-way or property on which the infrastructure is proposed to be installed, etc.
3. Provides that, prior to application submittal, an applicant must obtain a franchise with the City of Georgetown, unless applicant already possesses a franchise from the City or the Commonwealth of Kentucky.
4. Outlines the items and information required for a complete Small Wireless Facility and/or Small Cell Tower Application to be accepted; establishes fee(s) for application submittal.
5. Establishes framework by which Staff and the Georgetown-Scott County Planning Commission (“Planning Commission”) will process applications, outlines the location and design regulations for proposed Small Wireless Facilities and Small Cell Towers and defines evaluation criteria for the approval or rejection of applications.
6. Defines the requirements for amending approved plans for Small Wireless Facilities and Small Cell Towers.
7. Provides for repeal of inconsistent ordinances, severability of provisions and an effective date upon passage and publication.

The full text of Ordinance 2021-01 is available for examination in the City Clerk’s Office, 100 North Court Street, Georgetown, Kentucky 40324 or at [www.georgetownky.gov](http://www.georgetownky.gov).

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INTRODUCED AND PUBLICLY READ FIRST TIME: February 8, 2021

PUBLICLY READ SECOND TIME AND PASSED: February 22, 2021

APPROVED: Tom Prather  
Tom Prather (Feb 26, 2021 11:23 EST)  
Tom Prather, Mayor

ATTEST: Tracie Hoffman  
Tracie Hoffman (Feb 26, 2021 16:25 EST)  
Tracie Hoffman, City Clerk

I, Devon E. Golden, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 100 North Court Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 2021-01 of the City of Georgetown, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9) and is a true and accurate summary of the contents of said Ordinance.

Devon Golden  
Devon Golden (Feb 27, 2021 09:44 EST)  
Devon E. Golden

**ORDINANCE 2021-01**

**AN ORDINANCE ADDING A NEW SECTION TO ARTICLE II OF THE GEORGETOWN-SCOTT COUNTY ZONING ORDINANCE REGARDING THE REGULATION OF SMALL WIRELESS FACILITIES AND SMALL CELL TOWERS.**

SPONSORS: David Lusby and Mark Showalter

WHEREAS, the Georgetown-Scott County Planning Commission, at its last regularly scheduled meeting, considered certain regulations for small cell towers within the applicable jurisdiction(s); and

WHEREAS, the matter having been heard publicly by the Planning Commission on the 14<sup>th</sup> day of January, 2021, pursuant to notice according to law and with a quorum present and voting; and

WHEREAS, after taking written and verbal comments from the public and fully considering same, the Planning Commission voted to recommend approval of certain small cell tower regulations to the Georgetown City Council, said recommendation sent and received on February 2, 2021;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GEORGETOWN, KENTUCKY:

**SECTION ONE**

A new Section of Article II of the Georgetown-Scott County Zoning Ordinance, entitled “Small Wireless Facilities & Small Cell Towers” and beginning with Section 2.551, is created as follows:

**SECTION 2.551 SMALL WIRELESS FACILITIES & SMALL CELL TOWERS:**

- A. **PURPOSE:** These regulations balance the need for new Small Wireless Facilities and Small Cell Towers with the impacts new Small Cell Towers have on adjacent land uses; provide for the safest and most efficient integration of cellular antenna facilities for Cellular Telecommunications Services or Personal Communications Services within the community; provide for these facilities in coordination with the recommendations of the City of Georgetown Comprehensive Plan; and, to further the public health, safety, and

general welfare of the City of Georgetown.

- B. TITLE: These regulations shall be known as the Regulations for Small Wireless Facilities and Small Cell Towers in the City of Georgetown and may be referred to as “these regulations.”
- C. AUTHORIZATION: These regulations are adopted pursuant to authority granted to planning commissions in the Commonwealth of Kentucky, by Kentucky Revised Statutes (KRS) 100.985 – 100.987.
- D. CITATIONS OF KENTUCKY REVISED STATUTES: Whenever a provision of these regulations cites a provision of the Kentucky Revised Statutes (KRS) and that provision is later amended or superseded, these regulations shall be deemed amended to refer to the amended provision, or to the provision that most closely corresponds to the superseded provision.
- E. APPLICABILITY: These regulations apply to every Utility or company that is engaged in the business of providing the required infrastructure to a Utility that proposes to construct a Small Wireless Facility or Small Cell Tower for Cellular Telecommunications Services or Personal Communications Services. These regulations also apply to towers that do not meet the requirements of minor adjustments, in accordance with Section 2.559 of these regulations.
- F. RELATIONSHIP TO APPLICABLE CODES: These regulations are not intended to supersede in any way the requirements of the local zoning ordinance or the requirements of the Kentucky Building Code.
- G. STATEMENT OF SEVERABILITY: It is the intention that the articles, sections, subsections, sentences, clauses, and phrases of these regulations are severable. If any article, section, subsection, sentence, clause, or phrase is declared unconstitutional, or otherwise invalid by a court of competent jurisdiction in a valid judgment or decree, that unconstitutionality or invalidity shall not affect the remaining articles, sections, subsections, sentences, clauses, and phrases. These regulations would have been adopted without the incorporation into these regulations of the unconstitutional article, section, subsection, sentence, clause, or phrase.
- H. STATUS AS MINIMUM STANDARDS: In their interpretation and application, these regulations shall be viewed as minimum standards or requirements, adopted for promotion of the public health, safety, and general welfare. Whenever these regulations conflict with a requirement of any other lawfully adopted rule, regulation, ordinance, order, or resolution, the most restrictive or that imposing the higher standards shall govern.
- I. COMPLIANCE REQUIRED: Except as hereinafter specified, no Small Wireless Facility, Small Cell Tower or Non-Tower Wireless Communication Facility shall hereafter be placed or constructed except in conformity with these regulations.
- J. BURDEN OF PROOF: The burden of demonstrating that an Application subject to these regulations complies with applicable review and approval standards is placed upon the Applicant. The burden is not placed upon the Staff, the Planning Commission, or other

parties to show that the standards have been met by the Applicant or person responsible for the development.

## **SECTION 2.552 DEFINITIONS:**

**Antennas or Related Equipment:** Any transmitting, receiving or other equipment used in conjunction with a Wireless Communications Facility. The term includes Utility or Transmission Equipment, antennas, radios, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar equipment. This definition does not include Cellular Antenna Towers.

**Applicant:** A person or entity who is authorized by the provisions of these regulations to file an Application for approval under these regulations.

**Application:** An Application is the completed form or forms and all accompanying documents, exhibits, and fees required of an Applicant by Staff or the Planning Commission as part of a submission for review.

**Base Station:** A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communication between user equipment and a communication network. The term does not include a Cellular Antenna Tower as defined in this section or any equipment associated with a Cellular Antenna Tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

- A. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Small Wireless Facilities).
- B. The term includes any structure other than a Cellular Antenna Tower that, at the time the required Application is filed with the Planning Commission under this subsection, supports or houses equipment described in sub-paragraph (A) of this definition that has been reviewed and approved under the applicable zoning or siting process even if the structure was not built for the sole or primary purpose of providing such support.
- C. The term does not include any structure that, at the time the required Application is filed with the Planning Commission under this definition, does not support or house equipment described in this definition.

**Cellular Antenna Tower:** A tower 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 Cellular Telecommunications Services or Personal Communication Services.

**Cellular Telecommunications Services:** A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

**Co-Location:** Locating two (2) or more transmission Antennas or Related Equipment on the same Cellular Antenna Tower.

**Non-Tower Wireless Communications Facilities:** Wireless Communications Facilities other than tower-based wireless communications that are located on buildings, Utility Poles as defined by this section, and other existing structures.

**Personal Communication Services:** Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in 47 U.S.C. sec. 332(c).

**Planning Commission:** The term “Planning Commission” shall mean the Georgetown-Scott County Planning Commission.

**Right-Of-Way:** The surface of and space above and below any real property in the municipality in which the federal government, Commonwealth, municipality, or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, bridges, or any other public place, area, or property under the control of the federal government, Commonwealth, municipality, or municipal authority. Private Rights-of-Way and other government-owned lands not listed above shall not be considered a Right-of-Way. The phrase “in the Right(s)-Of-Way” means in, on, over, along, above and/or under the Right(s)-Of-Way.

**Small Cell Tower:** Any structure under fifty (50) feet in height with an antenna or transmitter that is constructed for the sole or primary purpose of supporting any Federal Communications Commission – licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole. The term Small Cell Tower includes structures erected to support Antennas and Related Equipment, mini cell towers, distributed antenna system towers, micro cell towers, mini cells, Wi-Fi antennas, or similar technology.

**Small Wireless Facility:** A Wireless Communications Facility that meets each of the following conditions: (i) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume; and (ii) 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.

**Staff:** Those employees of the City of Georgetown and Scott County assigned to support and/or administer the powers and duties proscribed to the Planning Commission.

**Stealth Technology:** Design techniques used to blend objects into the surrounding environment and to minimize visual impact. These design techniques may be applied to wireless communications towers, antennas, and other facilities, which blend the

proposed facility into the existing structure or visual backdrop in such a manner as to render it less visible to the casual observer. Such methods include but are not limited to facilities constructed to resemble light poles, flag poles or other streetscape amenities. The use of additional features such as flags, decorative streetlamps, and banners or signs may be utilized to blend the proposed facility into the visual backdrop.

**Transmission Equipment:** Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communication 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 wireless communications services including, 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:** Has the meaning as defined in KRS 278.010(3).

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

**Utility Pole:** A structure originally constructed for the support of electrical, telephone, cable television or other video services, street lighting, or other similar cables and located within the Right-Of-Way or Utility easements. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole.

**Utility, Underground:** Utility infrastructure that is located primarily underground as determined by Staff. For purposes of these regulations, utilities include but are not limited to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, and communications lines. This definition does not include electric transformers, switch boxes, telephone pedestals and telephone boxes, traffic boxes, and similar devices which are ground mounted.

**Wireless Communications Facility:** The set of equipment and network components including antennas, transmitters, receivers, Base Stations, cabling, and Antenna or Related Equipment, used to provide wireless data and telecommunication services.

**SECTION 2.553 PRE-APPLICATION CONFERENCE:** A pre-application conference is optional and is not required. A pre-application conference does not trigger any of the FCC's shot clock requirements for placement of Small Wireless Facilities or Small Cell Towers. Applicants may contact Staff and request a pre-application conference. Upon receipt of this request, Staff will set up the meeting which shall include Staff, the Applicant, any applicable Utility providers, the local jurisdiction, and the owner of the Right-Of-Way or property on which the Small Wireless Facility or Small Cell Tower is proposed to be installed. A pre-application conference allows for early coordination by identifying existing structures that might be suitable for collocation and identifying any other items which are in conformance/nonconformance with the Comprehensive Plan,

local zoning ordinance, and/or the provisions of these regulations. A pre-application conference provides an opportunity for an initial discussion regarding proposed structure locations, design and the Application submittal, approval process and coordination with utilities for possible use of pre-existing structures. Applicants desiring to have a pre-application conference should supply the Applicant's preferred locations, structure design style and structure height one week prior to the pre-application conference or upon request for a pre-application conference.

**SECTION 2.554 APPLICATION SUBMITTAL:** Prior to making an Application for a Small Wireless Facility, a Small Cell Tower, or a Non-Tower Wireless Communications Facility in the Rights-Of-Way, an Applicant must first obtain a franchise from the City, unless Applicant already possesses a franchise from the City or the Commonwealth. All proposed Small Wireless Facilities, Small Cell Towers, or Non-Tower Wireless Communications Facilities shall be subject to administrative review and approval by Staff or the Planning Commission. The factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of these regulations and the Comprehensive Plan. One Application for multiple proposed Small Wireless Facilities is encouraged whenever possible.

**SECTION 2.555 REQUESTED APPLICATION INFORMATION:** All information contained in the Application and any updates, except for any map or other information that specifically identifies the proposed location of the facilities then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction.

Applicants for the construction of Small Wireless Facilities and/or Small Cell Towers for Cellular Telecommunications Services or Personal Communications Services may choose to provide either the Uniform Application per KRS.100.9865 or in lieu of the Uniform Application, a Small Wireless Facilities Application may be made. A Small Wireless Facilities and/or Small Cell Tower Application shall be considered complete upon submission of all the following items and information:

A. Fees:

1. \$1,000 shall be submitted for each new Small Cell Tower in the Application which supports any Small Wireless Facilities; and
2. \$500 shall be submitted for up to five (5) new Non-Tower Wireless Communications Facilities and/or Small Wireless Facilities, plus an additional \$100 for each additional Non-Tower Wireless Communications Facility and/or Small Wireless Facility included in the Application.

Applications are limited to ten (10) new Small Cell Towers, ten (10) new Non-Tower Wireless Communications Facilities or ten (10) new Small Wireless Facilities on existing towers per Application. Multiple Small Cell Towers may only be included on a single Application if they are located within the same city or unincorporated area of the County.

- B. A written description and map showing the coverage area of the provider's existing facilities in the general and site-specific areas that are the subject of the Application.
- C. A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, the Kentucky Public Service Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
- D. A statement by an authorized representative that the Applicant is in compliance with all conditions required for the Applicant's applicable licenses and approvals.
- E. A full description of the number and dimensions of all new Small Cell Towers proposed to be installed, if applicable.
- F. A site development plan, signed and sealed by a professional engineer registered in Kentucky, showing the proposed location of the proposed new Small Cell Tower(s) and existing structures within five hundred (500) feet of the proposed new Small Cell Tower(s). For Applications in which multiple new Small Cell Towers are proposed, an overall site development plan showing all proposed locations within a single city or unincorporated area must be provided.
- G. A vertical profile drawing of the proposed new Small Cell Tower(s) included in the Application, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the proposed new Small Cell Tower(s) and the placement of all antennas and equipment enclosures associated with the proposed new Small Cell Towers(s).
- H. A statement identifying the individual who is the authorized agent and their preferred email and mailing address to receive communications under these regulations.
- I. Photographs of view shed from each proposed new Small Cell Tower(s) location, taken in at least four directions.
- J. Description of whether other Overhead Utilities exist within five hundred (500) feet of the proposed new Small Cell Tower(s) locations.
- K. A completed form indicating compliance with Code Enforcement, Revenue Commission, and all property taxes, if applicable.

#### **SECTION 2.556 PROCESSING OF APPLICATION:**

- A. Applications will be reviewed for substance only when they meet all submittal

requirements. If Applications are not complete, Staff must notify the Applicant within ten (10) calendar days from the submission of the Application stating the Application is incomplete and identifying the missing materials, which must be submitted in order to complete the Application. No further review of the Application will take place until the Application is complete. If the resubmitted materials are not complete, Staff must notify the Applicant within ten (10) calendar days from the most recent submission of Application materials stating the Application is incomplete and identifying the missing materials, which must be submitted in order to complete the Application. No further review of the Application will take place until the Application is complete.

- B. Planning Commission shall review and take final action on Applications for new Small Cell Towers within ninety (90) calendar days of a completed Application. If an Application is not complete, the Staff shall notify the Applicant in writing within ten (10) days of receipt of the Application. If said notice is sent to Applicant within ten (10) days of receipt of the Application, the time period will not begin until the Application is deemed complete by Staff. Staff shall notify the Applicant once the Application is deemed complete and provide the deadline for the Planning Commission review period. Planning Commission shall either approve, approve with conditions, or deny the Application. If Planning Commission does not make a final decision within the required ninety (90) calendar days, the Application shall be deemed approved as submitted.
- C. Planning Commission Staff shall review and take final action on Applications for new Non-Tower Wireless Communication Facilities within sixty (60) calendar days of a completed Application. If an Application is not complete, the Staff shall notify the Applicant in writing within ten (10) days of receipt of the Application. If said notice is sent to Applicant within ten (10) days of receipt of the Application, the time-period will not begin until the Application is deemed complete by Staff. Staff shall notify the Applicant once the Application is deemed complete and provide the deadline for the Planning Commission review period. Staff shall either approve, approve with conditions, or deny the Application. If Staff does not make a final decision within the required sixty (60) calendar days, the Application shall be deemed to be approved as submitted.
- D. An Applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of Staff in the administration of these regulations may appeal the action to the Planning Commission. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by Staff. The appeal shall be filed with Staff along with an appeal fee of five hundred dollars (\$500). Staff will fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant, the jurisdiction where the proposed Small Wireless Facility is located, and the owner of Right-Of-Way or property (if different from the jurisdiction) at least one (1) calendar week prior to the hearing.

An Applicant claiming to be injured or aggrieved by any final action of the Planning Commission shall appeal from the final action to the Circuit Court of the county in which the property is located. Such appeal shall be taken within

thirty (30) calendar days after such action.

- E. **WAIVERS TO THESE REGULATIONS:** This Section sets forth a procedure by which the Planning Commission may allow for waivers of these regulations. The purpose is to allow some flexibility in dealing with unique issues that are outlined in Subsection 4 below.
1. An Application requesting a waiver, a \$500 fee, and any additional documentation necessary to meet the requirements of this section shall be submitted for review.
  2. The Planning Commission shall hold at least one public hearing after giving notice as according to KRS 424 for the purposes of reviewing the requested waiver.
  3. After the public hearing, the Planning Commission may approve, approve with conditions, or disapprove the requested waiver.
  4. The Planning Commission may grant a waiver to these regulations balanced against the public interest, providing the Planning Commission finds that the waiver will not be detrimental to the public interest and that the City or unincorporated jurisdiction where the proposed Small Cell Tower is to be located approves the waiver, and at least one of the following criteria apply:
    - a. That strict compliance with these regulations will create a hardship or unsafe situation in the face of unusual conditions.
    - b. That granting the waiver creates a situation more in keeping with unique character within the general vicinity.
    - c. That the requested waiver better meets the objectives of these regulations.
    - d. That granting the waiver creates a safer situation than strict compliance with these regulations.
    - e. Failure to grant the waiver would create a violation of federal law by prohibiting or having the effect of prohibiting telecommunications services.
- F. In addition to GSCPC approval, separate applicable building, zoning, and electrical permits, and permission from the City or unincorporated jurisdiction, Right-Of-Way or property owner must be obtained prior to the beginning of construction.

## **SECTION 2.557 SMALL WIRELESS FACILITY AND SMALL CELL TOWER LOCATION AND DESIGN REGULATIONS:**

A new Small Wireless Facility is subject to design review and approval by the Planning Commission, either by Staff for Small Wireless Facilities on existing structures or after a

public hearing, by the Planning Commission Board for new Small Cell Towers. The design criteria required for the new Small Wireless Facility is determined by the type of location or zoning district in which the facility is to be located. The design review and approval process, including any public hearing, shall be compliant with state and federal law.

A. NON-TOWER WIRELESS COMMUNICATIONS FACILITIES LOCATIONS AND SMALL WIRELESS FACILITIES ON EXISTING UTILITY POLES OR SMALL CELL TOWERS:

Administrative review by Staff is required for Non-Tower Wireless Communications Facilities and Small Wireless Facilities on existing Utility Poles or Small Cell Towers. A Utility planning to erect said Non-Tower Wireless Communications Facilities and Small Wireless Facilities on existing Utility Poles or Small Cell Towers shall file an Application with the Planning Commission its intent to do so, including the name and address of the Utility, name of the owner of the structure, the latitude and longitude of the structure, and a description of the plan to locate the Small Wireless Facility including a statement documenting that the new Small Wireless Facility location does not change the height of the structure beyond the lower of 10 feet, or a 10% increase in height. These non-tower locations must adhere to all other applicable federal, state, and local zoning codes, building codes or permits and the design regulations herein, where applicable.

B. NEW SMALL WIRELESS FACILITIES AND SMALL CELL LOCATIONS IN ALL ZONING DISTRICTS: The regulations in this subsection apply to all new Small Wireless Facilities and Small Cell Towers.

1. Except when deployed in response to temporary service outages; as a result of emergencies; or at the request of first responders, temporary, mobile or wheeled Cellular Antenna Towers or Small Cell Towers shall not be permitted.
2. New Small Cell Towers shall not exceed the greater of the maximum building height for the zoning district (or adjacent zoning district if in Right-Of-Way) within which they are located or thirty-five (35)'-feet. A height that is in excess of what is permitted within the zoning district may be approved by staff if it integrates Stealth Technology that better meets the objectives of these regulations.
3. If technologically possible, new Small Cell Towers shall be designed and constructed to accommodate a minimum of two (2) service providers.
4. New Small Cell Towers may be located on public or private non-residential land or within a public Right-Of-Way provided it does not interfere with other utilities, functionality of sidewalks, visibility, or other matters of public safety.

5. New Small Cell Towers shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.
6. New Small Cell Towers shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one (1) square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the Stealth Technology. Such display shall not exceed the width of the pole, unless required by state or federal regulations or a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.
7. If a new Small Cell Tower is located in an area with primarily Underground Utilities, or where no adjacent Overhead Utility lines exist, it shall not utilize Overhead Utility lines.
8. In instances where an antenna is proposed to be constructed within a historic or commercial district with established public or private design control measures, regulations in subsection 2.557, C. shall be followed. Efforts shall be made to adhere to any established design control measures or existing furnishing or fixture styles within the district. Where additional local design review processes exist, such as Certificates of Appropriateness or Urban Design Review Boards, such approvals may be required.

**C. NEW SMALL WIRELESS FACILITIES AND SMALL CELL TOWERS**

**LOCATIONS IN RESIDENTIAL ZONES:** The regulations in this subsection apply to Small Cell Systems and Small Cell Towers to be located within, or immediately adjacent to, residential zoning districts as defined in Article II, Section 2.557, D., (1).

1. Facilities in residential areas are strongly encouraged to be Non-Tower Wireless Communication Facilities, which are eligible for Staff approval from these regulations per Article II, Section 2.556, C.
2. New Small Cell Towers and Small Wireless Facilities shall be camouflaged by Stealth Technology. Examples of appropriate Stealth Technology for residential areas includes, at a minimum, towers with all cables, wires, Transmission Equipment, electric meters, power equipment, etc. installed inside the Small Cell Tower to the extent technologically feasible. Other types of stealth technology or other methods which will reduce the visual impact may be approved by Staff.
3. All poles and antennas shall be uniform grey or black in color, unless another color is integral to the Stealth Technology as approved by Staff or the Applicant shows that grey and black are not technologically feasible.

4. The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.
5. New Small Cell Towers should avoid areas without Overhead Utilities. If a Small Cell Tower is located in an area with primarily Underground Utilities it must adhere to Stealth Technology that incorporates the telecommunications equipment into a streetscape amenity such as a decorative lamp post, streetlight or other approved design. In areas with Overhead Utilities, cylindrical antennas or antennas housed within cylindrical canisters or shrouds are required.
6. In residential areas, a Small Cell Tower shall not be located closer than the height of the proposed tower to an existing or proposed residential structure, or no closer than thirty (30) feet, whichever is greater.
7. Efforts should be made to locate new Small Cell Towers in the yard location where other Overhead Utilities are located, in the event that Co-location has been demonstrated to be infeasible.
8. New Small Cell Towers within residential areas should be located to avoid obstructing the view of building facades by placing the tower at a corner, intersection or along a lot line.
9. When technologically feasible new Small Cell Tower shall not be located within five hundred (500) feet of an existing Small Cell Tower. Multiple carriers are permitted and encouraged to locate on one Small Cell Tower, where technologically feasible.
10. Reasonable efforts shall be made to locate new Small Cell Towers in the order of hierarchy below, based on the following functional roadway classification from the most to least preferred:
  - a. Interstate
  - b. Arterial
  - c. Collector
  - d. Local

**D. NEW SMALL WIRELESS SYSTEM AND SMALL CELL TOWER LOCATIONS IN NON-RESIDENTIAL ZONES:** The regulations in this subsection apply to towers to be located within non-residential zoning districts.

1. In instances where a facility is proposed to be constructed in the Right-Of-Way within one hundred (100) feet of a residential zone or use, even if the antenna's physical location is within a non-residential zone, regulations in subsection 2.557, C., shall be followed.
2. Antennas in commercial, institutional, or park areas are encouraged to be installed as Non-Tower Wireless Communication Facilities, which are

eligible for Staff approval per Article II, Section 2.556, C.

3. Reasonable effort shall be given to locate new equipment based upon the following hierarchy of zones and land uses from the most to least preferred:
  - a. Co-locate on an existing structure whenever possible, which is exempt from these regulations, per Section 2.556, C.
  - b. Institutional.
  - c. Industrial.
  - d. Commercial.
  - e. Public parks.
  - f. Agricultural.
4. Equipment enclosures, including electric meters, should be nearly the same width as the pole or as small as possible.
5. Shrouds, risers, and conduits shall be used to reduce the appearance of external cabling.
6. All poles, antennas, brackets, cabling, risers, shrouds, and conduits shall be uniform grey or black in color, or other color as approved by Staff.
7. Cylindrical antennas or antennas housed within cylindrical canisters or shrouds shall be required, unless another antenna style is integral to the Stealth Technology as approved by Staff.
8. There shall be no more than a four (4) inch off-set between the pole and pole-mounted equipment enclosures.

**SECTION 2.558 EVALUATION CRITERIA:** Evaluation of the proposal shall be based upon the following criteria and shall be subject to administrative approval by Staff or approval by the Planning Commission after a public hearing, as applicable:

- A. The extent to which the proposal is consistent with the purposes of these regulations.
- B. The extent to which the proposal minimizes the impact on adjacent land uses, especially in terms of visual impact.
- C. The extent to which the proposed facility is camouflaged (i.e., use of Stealth Technology).
- D. The extent to which the proposed facility conforms to the character of the surrounding area (i.e., buildings, street lighting, signs).

**SECTION 2.559 AMENDMENTS TO APPROVED PLANS:** Any amendments to Plans for Small Wireless Facilities and Small Cell Towers, except for the minor adjustments outlined below, shall be made in accordance with the procedure

required by Section 2.556, subject to the same limitations and requirements as those under which such plans were originally approved.

The following activities shall be considered minor adjustments from the original approval of an Application for towers located in the Right-Of-Way. Changes are measured cumulatively from the original approval of the Small Cell Tower or Small Wireless Facility.

- A. Tower height increases by less than ten (10) percent.
- B. Change in the tower width of less than ten (10) percent.

## **SECTION TWO**

If any section, subsection, paragraph, sentence, clause, phrase, or a portion of this ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

## **SECTION THREE**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

## **SECTION FOUR**

This Ordinance shall be in full force and effect upon passage and publication.

PUBLICLY INTRODUCED AND READ FIRST TIME: February 8, 2021

PUBLICLY READ SECOND TIME AND PASSED: February 22, 2021

APPROVED: *Tom Prather*  
Tom Prather (Feb 26, 2021 11:23 EST)  
Tom Prather, Mayor

ATTEST: *Tracie Hoffman*  
Tracie Hoffman (Feb 26, 2021 16:25 EST)  
Tracie Hoffman, City Clerk