

ORDINANCE

AMENDING THE CODE OF ORDINANCES OF THE CITY OF BATON ROUGE, AND PARISH OF EAST BATON ROUGE, TITLE 2 (STREETS, ALLEYS, SIDEWALKS, BATTURES AND SEWERS), CHAPTER 9 (SMALL WIRELESS FACILITIES) SO AS TO PROVIDE FOR REGULATION OF WIRELESS COMMUNICATIONS FACILITIES WITHIN THE RIGHTS-OF-WAY OF THE CITY-PARISH OF BATON ROUGE.

BE IT ORDAINED by the Metropolitan Council of the City of Baton Rouge and the Parish of East Baton Rouge that:

Section 1. Title 2, Chapter 9 - Small wireless facilities of the Code of Ordinances of the City of Baton Rouge and Parish of East Baton Rouge is hereby amended as follows:

Section 2:380. - *Purpose and Scope.*

(a) Purpose. The purpose of this chapter is to establish a comprehensive set of site requirements for Wireless Communications Facilities. These regulations are intended to provide for the managed development of Wireless Communications Facilities within the public Rights-of-Way in a manner that recognizes and enhances the community benefits of wireless telecommunications technology and reasonably accommodates the needs of citizens and Wireless Providers in accordance with federal and State rules and regulations. At the same time, these regulations are intended to protect the community from potential adverse impacts of such facilities, including but not limited to traffic, aesthetic, safety, and other impacts over which the City-Parish has purview, and to preserve the visual character of the established community through appropriate design, siting, screening, and maintenance and location standards.

(b) Intent.

In enacting this chapter, the city-parish is establishing uniform standards to address issues presented by Wireless Communications Facilities located within the public Rights-of-Way, including without limitation, to:

(1) Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways;

(2) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(3) Prevent interference with the facilities and operations of other facilities lawfully located in Rights-of-Way, as well as public safety vehicles;

(4) Protect against environmental damage, including damage to trees located within the Rights-of-Way;

(5) Preserve the character of the neighborhoods in which facilities are installed; and

(6) Facilitate rapid deployment of Small Wireless Facilities to provide the benefits of advanced wireless services.

(c) Conflicts with other chapters. This chapter supersedes all chapters or parts of chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

Sec. 2:381. - Definitions.

For the purposes of this Chapter, the following terms, phrases, words, abbreviations, and their derivations, shall have the meaning given below, unless more specifically defined within a specific section or paragraph of this Chapter. When not inconsistent with the context, words used in the present tense include the future and past tense, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services. For purposes of this definition, the term Antenna does not include an unintentional radiator.

Antenna Equipment means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an Antenna, located at the same fixed location as the Antenna, and, when collocated on a structure, is mounted or installed at the same time as such Antenna.

Applicable Law means all applicable Federal, State and local laws or regulations governing Wireless Communication Facilities or the siting or use of the ROW by Wireless Providers.

Applicable Standards means applicable engineering and safety standards governing the installation, maintenance, and operation of Wireless Communications Facilities and the performance of all work in the ROW, and includes the most current versions of National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), the regulations of the FCC (defined herein), the Occupational Safety and Health

Administration ("OSHA") and provisions of the City-Parish's design standards set out in its Design Manual, the Manual On Uniform Traffic Control Devices ("MUTCD"), as well as applicable provisions of the City-Parish's building, construction, electrical, fire, mechanical, engineering and safety codes, including those of the Department of Development and Department of Transportation and Drainage, each of which is incorporated by reference in to Chapter, including UDC Section 18.5, as well as applicable requirements of the State of Louisiana or federal authority having jurisdiction over such Wireless Communications Facilities.

Applicant means a Wireless Provider, or its duly authorized representative, that submits an Application and the agents, employees, and contractors of such person or entity. Upon approval of any Application, the Applicant will become the "Permittee."

Application means an electronic submission to the City-Parish requesting authorization for the Deployment of a Wireless Communications Facility and/or associated Structure at a specified location within the ROW, utilizing the forms specified by the City-Parish. Such Application shall include a request for all required City-Parish permits required to construct, install and operate Wireless Communications Facilities within the ROW, and if applicable requests to attach Wireless Communications Facilities on City-Parish-owned Poles or other City-Parish-owned structures located within the ROW.

Authorization means any approval that the Applicant must obtain from the City-Parish under this Chapter, including applicable requirements of other City-Parish Chapters that have been incorporated by reference, prior to the deployment of Wireless Communications Facilities or associated structures.

Batched Application means a type of application process for a Small Wireless Facility ("SWF") permit, issued pursuant to this Chapter, when certain SWFs are proposed to be located in the City-Parish's ROW. The Batched Application process allows an Applicant to combine individual SWF Applications (that are for a single project, but that would otherwise be processed as separate individual applications) into a single batched submittal containing the individual Applications to be processed at the same time. Batched Applications must comply with the requirements of this Chapter.

City-Parish means the City of Baton Rouge and Parish of East Baton Rouge and any other department, representative, or official given authority to perform any action pursuant to this Chapter.

Collocate or Collocation means to install, mount, maintain, modify, operate, or replace Wireless Communications Facilities on an existing Wireless Support Structure or Pole.

Day means a workday. However, if a date to perform any action under this Chapter falls on a weekend or legal holiday, the date to perform the action shall be the next day that is not a weekend, a legal holiday, or a day on which the City-Parish is closed as a result of inclement weather. When calculating Days under this Chapter, the first "Day" counted shall be the first non-weekend or legal holiday immediately following the day of the event (such as the filing of an Application) that triggered the need for the City-Parish to perform an action within a specific period of time.

Deployment means placement, construction, or modification of a Wireless Communications Facility.

Federal Communications Commission ("FCC") means the federal agency responsible for implementing and administering the federal Communications Act of 1934, as amended.

Micro Wireless Facility means a Small Wireless Facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior Antenna, if any, no longer than 11 inches.

Notification of Final Completion is an electronic document the Permittee is required to send to the City-Parish notifying the City-Parish of the final completion date of the facility Deployment. The City-Parish may specify the form of the notification.

Person means any natural or corporate person, business association, or other business entity, including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity. Person shall not include the City-Parish or any of its departments or agencies.

Personal Wireless Service Facility means a Wireless Facility or Support Structure used for the provision of Personal Wireless Service.

Personal Wireless Services has the same meaning as provided in 47 U.S.C. § 332(c)(7)(C)(i), which defines the term as "commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services," as those terms are defined under the regulations of the FCC.

Pole means an above-grade pole/structure located in the ROW, including but not limited to Utility Poles, Streetlight Poles, or Traffic Signal Poles, whether or not owned by the City-Parish, a private utility, or a Wireless Provider.

Public Safety Facilities mean facilities used primarily for public safety functions, such as police, fire, and emergency operations.

Radio Frequency ("RF") is a rate of oscillation that corresponds to the frequency of radio waves, and the alternating currents that carry radio frequency, electromagnetic, or other wireless signals.

Related Equipment means all equipment ancillary to the Antenna used for transmission and reception of radio frequency, electromagnetic, or other wireless signals. Such equipment may include, but is not limited to, radios, cable, conduit, and connectors.

Rights-of-Way or ROW means the surface, the air space above the surface, and the area below the surface of any public street, bridge, tunnel, highway, lane, path, alley, sidewalk, or boulevard owned by or dedicated to the use of the City-Parish, and shall not include State-owned or federally-owned streets, highways, or lands. Rights-of-Way shall not include any City-Parish owned Utility Poles, Streetlight Poles, Traffic Signal Poles, street furniture, buildings, or any other City-Parish-owned structures or improvements, nor shall it include any privately-owned Poles or facilities, regardless of whether they are situated in the Public Rights-of-Way.

Small Wireless Facility ("SWF") means Wireless Communications Facilities that meet each of the following conditions:

1. The facilities:
 - a. Are mounted on Structures 50 feet or less in height including their Antennas;
 - b. Are mounted on Structures no more than ten percent taller than other adjacent Structures; or
 - c. Do not extend existing Structures on which they are located to a height of more than 50 feet or by more than ten percent, whichever is greater;
2. Each Antenna associated with the Deployment, excluding associated Antenna Equipment, is no more than three cubic feet (3 ft³) in volume;
3. 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 (28 ft³) in volume;
4. The facilities do not require antenna structure registration under C.F.R. Title 47, Chapter 1 Federal Communications Commission, Part 17;
5. The facilities are not located on Tribal lands, as defined under 36 C.F.R. 800.16(x); and,
6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b).

Stealth Facility means any Wireless Communications Facility that is designed to make the facility look like something other than a Communications Facility or Wireless Support Structure.

Streetlight Pole means a freestanding Pole that is used for lighting purposes and is capable of supporting Wireless Communications Facilities.

Substantial Change or *Substantial Modification* means, for Wireless Support Structures or Poles within the ROW:

1. The proposed Collocation or modification increases the height of the Support Structure or Pole by more than ten percent (10%) or ten (10') feet (whichever is greater); or
2. The proposed Collocation or modification involves adding an appurtenance to the Support Structure or Pole that would protrude from the edge of the Support Structure or Pole by more than six (6') feet (and is not inconsistent with Applicable Standards limiting the distance of structures from the edge of a roadway); or
3. The proposed Collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets associated with the Support Structure or Pole; or
4. The proposed Collocation or modification would defeat the concealment elements of a Stealth Design Support Structure.
5. The proposed Collocation or modification involves the installation of any new ground-mounted equipment cabinets that are more than ten percent (10%) larger in height or overall volume than any existing ground-mounted cabinets associated with the Support Structure or Pole; or
6. The proposed Collocation or modification involves excavation outside the area in proximity to the Structure or Pole and other transmission equipment already deployed on the ground; or
7. The proposed Collocation or modification would not comply with the conditions associated with the current siting approval, provided that this limitation does not apply to any proposed modification that would not otherwise constitute a Substantial Change.

Telecommunications has the same meaning as provided in 47 U.S.C. § 153(50), which defines the term as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received."

Telecommunications Services has the same meaning as provided in 47 U.S.C. § 153(53), which defines the term as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively

available directly to the public, regardless of the facilities used."

Traffic Signal Pole means a Pole or other facility used to support signs and devices used for vehicular or pedestrian traffic management and/or safety.

UDC means the City-Parish's Unified Development Code.

Utility pole means a Pole that is used in whole or in part for the purposes of supporting wires or cables wires for the distribution of electric or Telecommunications Services.

Visual Aesthetic Design Elements are requirements aimed at ensuring that Wireless Communications Facilities and associated Support Structures and Poles are designed to reasonably blend into the surrounding environment (including other similar facilities) by means of Stealth Facility design, screening, design (such as monopole), or camouflage (including being of comparable color to any support structure and/or to the immediate environment where applicable); provided that all aesthetic requirements that apply to a specific WCF are reasonable, technically feasible, not more burdensome than the aesthetic requirements that apply to other types of deployments, objective, and published in advance.

Wireless Communications Facility (WCF) means equipment at a fixed location that enables the provision of Wireless Services, including radio transceivers, Antennas, coaxial or fiber-optic cable (but not including separate wireline attachments for backhaul), regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes, but is not limited to, Small Wireless Facilities. The term does not include the Pole, Support Structure, or ROW, on which the equipment is installed.

Wireless Communications Facilities Permit (Permit or WCF Permit) means the official document or permit approving the Deployment of Wireless Communications Facilities within the public ROW, and if applicable, associated Poles or Wireless Support Structures, in accordance with this Chapter and Applicable Law.

Wireless Infrastructure Provider means any Person that builds or installs Wireless Communications Facilities or Wireless Support Structures used to provide Wireless Services, but that is not itself a Wireless Services Provider.

Wireless Provider means a Wireless Infrastructure Provider or a Wireless Services Provider.

Wireless Services means any services, using licensed or unlicensed spectrum, including the use of WiFi, and include but are not limited to voice, video or data communications services, that qualify as Personal Wireless Services or Telecommunications Services, whether utilized to provide

fixed or mobile services, that are provided to the public through the use of Wireless Communications Facilities.

Wireless Services Provider means a Person that provides Wireless Services.

Wireless Support Structure or *Support Structure* means a freestanding structure, such as a monopole; a tower, either guyed or self-supporting; or any other existing or proposed structure primarily designed to support or capable of supporting, Wireless Communications Facilities. Such term shall not include a Pole.

Sec. 2:382. - Permitted use.

- (a) *Permitted use.* Placement of a Wireless Communications Facility and any related Pole or Support Structure in the City-Parish Rights-of-Way shall be a permitted use under the applicable land use ordinances of the City-Parish, but subject to compliance with the requirements of this Chapter.
- (b) *Permit required.* No Person shall place a Wireless Communications Facility or Support Structure in the City-Parish Rights-of-Way or without first filing an WCF Permit Application and obtaining a WCF Permit, except as otherwise provided in this Chapter. All required permits for the construction, installation and operation of Wireless Communications Facilities within the ROW shall be applied for under the same unified WCF Permit Application.
 - (1) Except as set forth in subsection (b), no modification may be made to an existing Wireless Communications Facility or associated Pole/Support Structure without obtaining a new WCF Permit.
 - (2) No WCF Permit shall confer any exclusive right, privilege, license, or franchise to occupy or use any public property.
- (c) *Pole Attachment Agreements Required.* Nothing herein shall confer any right to install Wireless Communications Facilities upon public or privately-owned Poles or Support Structures, absent a separate attachment agreement with the owners of such Poles and Support Structures.
- (d) *No Permit Required.* Except as set forth in subsection (b), no WCF Permit is required to:
 - (1) Perform maintenance on, replace or repair a Wireless Communications Facility or associated Pole/Support Structure, provided such maintenance, replacement or repair does not:

- (a) materially change the loading;
 - (b) increase the RF emissions levels beyond the maximum levels allowed by Applicable Law;
 - (c) constitute a Substantial Change; or
 - (d) otherwise exceed the conditions of the WCF Permit.
- (2) A Wireless Provider or franchised Cable Operator may install Micro Wireless Facilities by suspending such facilities from authorized communications cables attached to Utility Poles, without the need to obtain a Permit, provided that the Wireless Provider or Cable Operator provides advance notice to the City-Parish, that such installations comply with all Applicable Standards.
- (e) Administrative Approval. Unless otherwise specified, a Permit issued under this Article shall be in the form of an administrative approval, and shall not require a conditional use permit, variance, or other authorization requiring a public hearing or approval of the City-Parish Council, the City-Parish Planning and Zoning Commission, or any other public commission, board or entity.

Sec. 2:383. - *Application content.*

- (a) *Required information.* The City-Parish may develop, publish, and from time to time update or amend, application forms, checklists, guidelines, informational handouts, and other related materials. Applications shall comply with the versions of such materials that are current at the time of the Application submittal. The City-Parish is authorized to request information reasonably necessary to review an Application. Application forms, checklists, guidelines, informational handouts, and other related materials shall be published on-line and made available by the City-Parish.
- (b) *Application Content.* A Wireless Provider or its duly authorized representative shall submit an Application in the form prescribed by the City-Parish. Applications shall include, at a minimum, the following information:
 - (1) *Narrative Summary.* A general description of the proposed Deployment, nature of the Wireless Facilities and their purposes, and requested timeframe for Deployment activities.
 - (2) *Applicant and Owner Information.*
 - (a) The name, address, telephone number and, e-mail address of the Applicant and its authorized contractors;

- (1) If the Applicant is a Wireless Infrastructure Provider, the Applicant shall certify that at the time of its Application it has existing contracts with Wireless Service Providers to utilize the proposed Wireless Communications Facilities. The above notwithstanding the City-Parish reserves the right to have the Applicant supplement the record with additional information if there no Wireless Provider in evidence within the first three months of the grant of an Application.
 - (2) A Wireless Infrastructure Provider shall provide the City-Parish with the name and contact information of every Wireless Service Provider seeking to operate on the Wireless Infrastructure Provider's Wireless Communications Facilities prior to such Wireless Communications Service Providers Initiating Wireless Communications Services.
- (b) The name, address, telephone number, and e-mail address of the owner of the Pole or Support Structure on which the proposed Wireless Communications Facilities Pole/Support Structure if not owned by the Applicant;
- (1) A written statement from the Applicant certifying that the owner of the Pole or Support Structure to which the proposed Wireless Communications Facility or any of its associated equipment is proposed to be attached consents to such attachments. The WCF Permit Application may be accepted without this document but no Permit shall be approved without the City-Parish's receipt of such document.
- (3) *Site Information.*
- (a) The nearest street address of the proposed site for the Wireless Communications Facility and/or associated Pole/Support Structure (which the Department of Information Services will provide upon request);
 - (b) The closest street or road intersection to the proposed site location of the Wireless

Communications Facility and/or associated Pole/Support Structure;

(c) The geographical coordinates stated in latitude and longitude of the proposed site for the Wireless Communications Facility and/or associated Pole/Support Structure;

(d) A site map using aerial photographs depicting the precise site location of the proposed Wireless Communications Facility and/or associated Pole/Support Structure on which shall be drawn a one hundred and fifty (150) foot radius from the proposed Wireless Communications Facility and/or associated Pole/Support Structure, utilizing the most recent commercially available photography and identifying the source and date of the photographs utilized;

(4) *Proposed Facility Construction Information.*

(a) A construction plan to scale, including plan and profile views, identifying the site location of the proposed Wireless Communications Facility and/or associated Pole/Support Structure, including the placement of all utility lines and power sources, and any related equipment or access drives, in relation to adjacent properties, structures, other telecommunication facilities, streets, sidewalks, trees, historic landmarks, and utilities;

(b) If installing a new metal pole, a foundation plan, certified by a professional Civil engineer licensed by the State of Louisiana;

(c) Transmission and maximum effective radiated power of the antenna(s), as well as a list of the specific frequency bands to be initially activated upon completion of construction. The information is being requested for informational and not regulatory purposes.

(d) Certification from an authorized representative of the Wireless Communications Provider attesting to the fact that the radio frequency (RF) emitted by the applicable equipment is in compliance with, and shall be operated and maintained at all times in compliance with, all current FCC

guidelines and requirements (including with respect to the cumulative effect of such equipment). The above notwithstanding, the City-Parish reserves the right to obtain a copy of the Applicant's tests and analysis if there is a credible, reasonable and substantial question as to whether the Wireless Facilities are being operated in compliance with applicable FCC requirements.

- (e) Emergency contact information and location of power or main breaker switch.
- (f) Elevation drawings to scale identifying the fall zone and elevation profiles of the proposed Wireless Communications Facility and/or associated Pole/Support Structure indicating the height and depth of the proposed structure, Antennas (with carrier name and antenna type, if applicable), and all other equipment, fixtures, or appurtenances proposed for the Wireless Communications Facility and/or associated Pole Support Structure immediately or for future attachment, specifically identifying what structures or equipment are above ground level;
- (g) With the exception of Antennas, Antenna Equipment, and Support Structures, an explanation of why any proposed above ground structures, equipment, or related appurtenances are proposed to be above ground level and cannot be placed underground;
- (h) If Applicant is proposing to Deploy a Small Wireless Facility, the Applicant shall provide a statement that the proposed Wireless Communications Facility meets the size limitations of a Small Wireless Facility, including any back-up generators;
- (i) All plans and drawings related to the Support Structure and foundation shall be prepared and stamped by a professional engineer licensed by the State of Louisiana;
- (j) Narrative description and accompanying drawings or illustrations demonstrating whether the proposed Wireless Communications Facility and/or Support

Structure/Pole is able to accommodate future Collocation by other Wireless Facilities;

- (k) Narrative description of measures employed to allow the Wireless Communications Facility and/or associated Pole/Support Structure to comply with any reasonable, technically feasible aesthetic standards that are published in advance and that do not unreasonably discriminate between similarly-situated facilities in the Rights-of-Way, including requirements that new Wireless Communications Facilities reasonably conform with the general character of the surrounding neighborhood as set out in the Design Manual;
- (l) Written descriptions, drawings, renderings and/or pictures depicting the proposed design, color, and finish for the proposed Wireless Communications Facility and/or associated Pole/Support Structure and associated equipment, including the impact on sightlines and sidewalks;
- (m) A drawing of the exterior of each piece of electrical equipment that depicts the power source and groundings.

(5) *Written and Signed Certifications.*

- (a) Wireless Provider's certification that all of its Wireless Communications Facilities included in the Application shall comply with all Applicable Laws and Applicable Standards. Failure to comply with same shall be grounds for WCF Permit revocation.
- (b) Wireless Infrastructure Provider's certification that it has an agreement to furnish its proposed Wireless Communications Facilities to a Wireless Service Provider at the time of Application submittal.
- (c) Applicant's certification that it meets all insurance requirements of this Chapter;
- (d) Applicant's certification that proposed Wireless Communications Facility and all components thereof will comply with the

permissible RF radiation exposure limits, including those set forth in 47 CFR §1.1310, as well as all other Applicable Laws;

- (e) Applicant's certification that there are no existing Support Structures or Poles within the ROW within a one hundred and fifty (150) foot radius of the proposed new Support Structure that would be capable of supporting the proposed Wireless Communications Facilities, including through reasonable modifications, as of the date of the Application submittal.
 - (f) Applicant's certification in accordance with Section 2:385(e)(4)(e), if applicable, that it concluded in good faith that the use of a Designated Preferred Location would not be commercially or technically feasible.
 - (g) Applicant's certification that all of its other authorized Wireless Communications Facilities located within the ROW are in substantial compliance with the requirements of this chapter and that there is no Pattern of Non-Compliance or failure to timely cure violations of this chapter with respect to such other Wireless Communications Facilities. For the purposes of this section, a "Pattern of Non-Compliance" shall have the meaning defined in Section 2:396(d).
- (6) *Confidential Information.* The Applicant may designate specific portions of its Application materials as confidential if it reasonably believes that such materials contain proprietary or confidential information whose disclosure thereof will harm its business. The City-Parish will treat such materials as confidential and will not disclose them to the extent allowed by Applicable Law.
- (7) *Batched Applications.* An Applicant may combine individual WCF Permit Applications for new Small Wireless Facilities (SWFs) that would otherwise be processed as separate individual applications into a single batched submittal containing the individual site Applications to be processed at the same time.
- (a) An Applicant may combine into a single Batched Application up to twenty-five (25) individual site Applications for WCF Permits for new SWFs to be located in the City-Parish's ROW, provided

that the proposed SWFs are of substantially the same design and style, and seek to be Deployed on the same type of Pole or Support Structure, and are located within the same Council District of the City-Parish.

- (8) *Amendments to Applications.* Any amendment to the information in an Application shall be submitted to the City-Parish no later than thirty (30) days after submission of the Application; otherwise if a material amendment is required, the Applicant shall be required to submit a new/amended Application. There will not be a separate filing fee for amending a pending Application.

Sec. 2:384. - *Application Fees.*

- (a) *Fee Required.* Upon receiving an Application, the City-Parish will issue an electronic invoice for the Permit Application Fee within twenty-four (24) hours of receipt. The Applicant shall pay the non-refundable Permit Application Fee upon receipt. An Application shall not be processed or reviewed until the Application Fee is paid in full; however, the shot clock described in 47 C.F.R. 1.6003 will begin to run on the day that the Application is submitted notwithstanding when the Application Fee is paid. The shot clock shall be tolled if the Application Permit Fee is not paid in full within two (2) days of receipt of an invoice from the City-Parish.
- (b) *Existing Structures.* The Permit Application Fee for Collocation of a new Wireless Communications Facility on an existing Pole or Support Structure or for Substantial Change of a Wireless Communications Facility on an existing Pole or Support Structure shall be \$500, which shall cover up to five (5) Wireless Communications Facilities listed in a single Application, and an additional \$100 for each Wireless Communications Facility in excess of five (5). For example, an Applicant seeking Permits for anywhere from one to five sites would be subject to a single Permit Application Fee of \$500.
- (c) *New Structure.* The Permit Application Fee for a new Pole or Support Structure supporting one or more Wireless Communications Facilities shall be \$1,000 for each such site included in the Application, whether or not it is part of a Batched Application.
- (d) *Additional Fees.* If a particular Application causes the City-Parish to incur costs in excess of fees prescribed in Sections 2.384(b) or (c), the City-Parish shall have the right to charge fees that result in full cost recovery provided that such fees are: (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) are non-discriminatory.

- (e) Make-Ready and Replacement Costs. The Applicant shall be responsible for all applicable make-ready and/or replacement costs necessary to accommodate its proposed facilities and all such costs shall be in addition to the Application Fees. The Applicant shall enter into a separate agreement with the owners of Support Structures or Poles, including the City-Parish, to address the payment of any necessary make-ready costs.

Sec. 2:385. - *Locations of Facilities.*

- (a) Wireless Communications Facilities and associated Pole/Support Structures shall be located such that they do not unreasonably interfere with public health, public usage, or safety facilities, such as, but not limited to, streets, sidewalks, alleys, parkways, public ways, traffic control equipment, emergency vehicle pre-emption systems, fire hydrants, fire escapes, water valves, underground vaults, or valve housing structures.
- (b) Equipment and work associated with a Wireless Communications Facility and associated Pole/Support Structure shall not interfere with, endanger, hamper, impede, or disturb access to any utility or any other facility in the ROW, and shall comply with all Applicable Standards and Applicable Laws.
- (c) Wireless Communications Facilities and associated Poles, Support Structures, and associated equipment shall not be placed on any arms or any horizontal structure used to support or mount traffic control signals or devices, or on energized lines or on poles to be removed in conjunction with the City-Parish's existing and approved plans to utilize undergrounding of electrical utilities in a particular area.
- (d) A Permit for any Wireless Communications Facilities or related equipment to be attached to any Pole or Support Structure in need of safety-related remediation to comply with Applicable Standards may include all such required remediation work.
- (e) *City-Parish Preferences.* To the extent allowed under Applicable Law, the City-Parish requires that when submitting Applications for Wireless Communications Facilities all Wireless Providers certify that they have undertaken a good faith effort to consider whether they can reasonably accommodate the following City-Parish siting preferences in order to conform to the character of the neighborhood without unduly impairing their proposed Wireless Services.
 - (1) *Order of Preference for Types Wireless Communications Facility Siting Support Structures.* The following list indicates the City-Parish's order of preference for the types Poles/Wireless

Support Structures to be utilized for Wireless Communications Facilities within the ROW:

(a) Existing Utility Poles, City-Parish-owned Poles that are not Traffic Signal Poles, and/or Support Structures:

(b) Streetlight Poles:

If the Streetlight Pole needs to be replaced to accommodate the Wireless Communications Facility the replacement Pole shall be designed to meet the City-Parish's wind load specifications as well as all other Applicable Standards.

(c) New Support Structures.

(d) Sign poles (15 feet or taller).

(e) The use of Traffic Signal Poles is discouraged. These are the least preferred option for supporting Wireless Communications Facilities.

(2) *Order of Preference for Wireless Communications Facility Siting Locations.* The following list indicates the City-Parish's order of preference for the locations to be utilized for the siting of Wireless Communications Facilities on existing Poles and/or Support Structures:

(a) Non-Residential

(b) Multi-Family Residential

(c) Single-Family Residential

(d) Historic districts and/or historic landmarks

(3) *Standard for Using Lower Siting Priority.* If a proposed site on an Application is not for the highest priority listed above, the Application shall be accompanied a narrative explanation as to why the Applicant is electing to utilize a lower siting priority, including a discussion of any higher priority locations that are adjacent to or in close proximity to the location selected and why such alternate locations are not commercially and/or technically feasible to support Applicant's Wireless Communications Services.

(4) *Designated Preferred Locations List.*

(a) Any homeowners association as defined by La. R.S. 9:1141.1, condominium association as defined by La. R.S. 9:1121.101 et seq., or any commercial or business association,

established for the purpose of creating, maintaining, or enforcing building restrictions governing the use of immovable property as permitted by La. Civil Code article 776, as well as any property owner not governed by a homeowners association, condominium association, or a commercial or business association, may designate specified locations within the ROW as "Designated Preferred Locations" for SWFs. The Designated Preferred Locations shall be filed with the City-Parish and shall provide identifying site location information comparable to that required under Section 2:383(b)(3)(a)-(c). Any Designated Preferred Location filed with the City-Parish must be accompanied by a resolution of the board of the association.

- (b) These Designated Preferred Location lists of locations are to be maintained, updated, and made publicly available by the City-Parish; provided, however, that a Person or entity that submits one or more Designated Preferred Locations for inclusion in the lists, and not the City-Parish, shall be solely responsible for the accuracy and timeliness of the information submitted.
- (c) Any filer of a Designated Preferred Location list may update or amend the list at any time. The update or amendment shall become effective thirty (30) days after filing and any amendment to the Designated Preferred Locations List shall not be applied retroactively to existing SWFs and associated Support Structures or pending WCF Permit Applications.
- (d) If a WCF Permit Applicant elects not to utilize a Designated Preferred Location for the site of its proposed WCF or Support Structure, the Applicant shall certify that, in preparing its WCF Application, the Applicant has reviewed the pertinent Designated Preferred Location List and has in good faith concluded that the use of not one of the four (4) closest Designated Preferred Locations to the Applicant's proposed Application sites is commercially and/or technically feasible to support Applicant's Wireless Communications Services, and as part of such certification, has provided a narrative explanation supporting this conclusion.

- (e) The City-Parish's actions in granting or denying WCF Permit Applications shall be based on Applicable Law and Applicable Standards, not on an Applicant's failure to use a site on the Designated Preferred Location List; provided, however, that the City-Parish may deem an application that fails to include a required certification as incomplete. The City-Parish's use of the Designated Preferred Location List is intended to ensure that Wireless Providers will be aware of the community's preferences and will respond to them in good faith. The Designated Preferred Location List shall not be deemed to impose any substantive requirements or criteria on the City-Parish's review and determination of whether a WCF Permit Application is consistent with Applicable Law and Applicable Standards.
- (5) Siting Requirements for New Wireless Communications Support Structures.
 - (a) *Siting Prohibitions.* New Support Structures that are not of a similar look and design of other above-ground structures and Poles within the neighborhood, or otherwise do not conform with the general character of the neighborhood shall be prohibited in residential districts, historic districts, or within three hundred feet (300') of historic landmarks, and areas officially deemed to be visual or scenic sensitive areas unless the Applicant demonstrates that refusing to Permit a new Support Structure would materially inhibit the provision of Wireless Services by creating a Coverage Gap, preventing a Provider from densifying its wireless network, impeding the introduction of new services or improving service capabilities.
- (6) *Preference for Collocations.* It is the City-Parish's preference, that, to the extent reasonably commercially and technically practical, Wireless Communications Facilities and associated accessory equipment Deployed in the City-Parish be attached to pre-existing Poles or Support Structures (other than Traffic Signal Poles or Street Signs).
- (7) *Good Faith Negotiation Required.* The owner of a new Wireless Support Structure Permitted under this Chapter, and his/her successors in interest, shall negotiate in good faith regarding the future Collocation use of the facility by other Wireless Providers if the owner determines, in its sole discretion, that such Collocation is technically and commercially feasible.

- (8) *Consideration of Alternate Locations.* To the extent allowed by Applicable Law, the City-Parish reserves the right to propose to the Applicant for its consideration an alternate Pole/Wireless Support Structure location within the ROW in proximity to the one proposed in the Application, but the Applicant is under no obligation to use the location proposed by the City-Parish if the Applicant concludes in good faith that such alternate location is not commercially and/or technically feasible to support Applicant's Wireless Communications Services. Any such Alternate Location must be proposed by the City-Parish within the first ten (10) days of the City-Parish's receipt of the Application, and the proposal and consideration of an alternate location shall not delay or extend the time period of the City-Parish's review of the pending Application.

Sec. 2:386. - *Design of facilities.*

- (a) *Design Requirements.* To the extent reasonably feasible and practicable, and to the extent permitted by Applicable Law, all Wireless Communications Facilities and associated Poles/Support Structures shall comply with the following requirements:
- (1) *Unobtrusive.* All Wireless Communications Facilities and Associated Poles and Support Structures shall utilize *Visual Aesthetic Design Elements* designed to blend into the surrounding environment and complement existing streetscape elements or structures in compliance with aesthetic standards that are reasonable, technically feasible, not more burdensome than those that are imposed on similarly-situated types of facilities, and published in advance as part of the Design Manual;
 - (2) *Finish/Color.* Any Wireless Communications Facility or associated Pole/Support Structure or equipment mounted to support structures shall, to the extent technically and commercially feasible, match the color of the attached facilities and/or surrounding structures, unless otherwise needed for public safety or service reliability;
 - (3) *Lighting.* Unless required by Applicable Law, no Wireless Communications Facility or associated Pole/Support Structure shall be designed or constructed to be illuminated (other than streetlight facilities on a Streetlight Pole);
 - (4) *Signage.* Unless required by Applicable Law, no Wireless Communications Facility or associated Pole/Support Structure shall have any signage affixed to it other than a two inch by four inch

(maximum) ID plate or sticker in a muted color, complementary color, or the same color as the equipment but with white colored lettering, identifying the owner's name, identifying information, permit number, and emergency telephone number and placed on the underside of the WCF so as to be concealed, if possible;

(5) *Advertising.* No advertising is permitted at wireless communication facility sites or on any ancillary structure or facilities equipment enclosure.

(6) *Power.* The Permittee shall obtain electric power from the applicable electric utility and shall not utilize nor tie into any City-Parish Streetlight or Traffic Signal meters or electric.

(7) *Exposed Wires Prohibited.*

(a) The cabling and wiring for a Wireless Communications Facility shall be placed in conduit to the extent technically feasible;

(b) The cabling and wiring for a Wireless Communications Facility proposed on a metal or non-conductive hollow pole shall be placed inside the pole to the extent technically feasible but not on Traffic Signal Poles where wiring must be on the outside of the Pole;

(8) *Flush Mounted.* All Antennas shall be flush-mounted or as close to flush-mounted on the Wireless Communications Facility as reasonably and technically practical, unless reasonably demonstrated that such would have the effect of diminishing the service to the intended area.

Sec. 2:387. - *Aesthetic requirements.*

(a) *Design.* To the extent technically and commercially feasible, and to the extent that these standards are consistent with Applicable Law, Antennas and Wireless Communications Facilities shall be designed to blend into the surrounding environment and complement existing streetscape elements through the use of color, camouflaging and architectural treatment.

(b) *General Concepts.* In order to render Wireless Communications Facilities as visually inconspicuous as reasonably possible, aesthetic requirements for Wireless Communications Facilities are guided by the following general concepts:

- (1) To the extent it is reasonable and technically and commercially feasible, Antennas and related equipment mounted to Poles or Support Structures shall be camouflaged, screened and/or obscured so as to reasonably blend in with the Poles/Support Structures.
 - (2) Reasonable efforts shall be undertaken to avoid adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification or removal of the Wireless Communications Facilities.
- (c) *Specific Restrictions.* Antennas and Wireless Communications Facilities shall be subject to the following specific requirements:
- (1) No Antenna or Wireless Communications Facility shall block, restrict, or unreasonably interfere with, impede access to, or impede use of, any street, sidewalk, alley, driveway, walkway, passageway, door, gate, ingress or egress points of a building or structure, delivery or pickup area, or access to public transportation stops or shelters, access to above-ground or below-ground infrastructure owned or operated by any public or private utility, and any public way or place.
 - (2) No Antenna or Wireless Communications Facility shall create a material visual obstruction to vehicular and pedestrian traffic, including, but not limited to, obstruction of any required sight triangle.
 - (3) No Antenna or Wireless Communications Facility shall create, contribute to, or exacerbate a violation of the Americans With Disabilities Act or related federal or state standards or regulations. No Antenna or Wireless Communications Facility shall interfere with safe operation of City-Parish equipment and facilities, specifically including, but not limited to, City-Parish-owned streetlights, traffic control equipment, or other facilities.
 - (4) When pole-mounted equipment is either permitted or required, all equipment other than the Antenna(s), electric meter and disconnect switch must, if technically and economically reasonable, be concealed within the pole or an equipment shroud. The equipment shroud must be non-reflective and painted, wrapped or otherwise colored to match the existing Pole/Support Structure. It is preferred that equipment shrouds be mounted flush to the Pole/Support Structure, subject to the owner's approval.
 - (5) If a new standalone Support Structure or cabinet is to be installed within fifty (50') feet of a

decorative Pole, the color of the new Support Structure and cabinet should match the color of the decorative Pole. Alternatively, such new Support Structures and cabinets should be black in color, preferably using Gloss Black #17038 per Federal Color Standard 595.

- (6) To the extent reasonably and technically practical, ground-mounted equipment should be minimal and unobtrusive and should be placed to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public ROW, maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic and maximize line of sight at street corners and intersections and minimize hazards at those locations. The City may deny a request that negatively impacts vehicular and/or pedestrian safety.
 - (7) New standalone poles must be constructed of wood, aluminum, steel or composite, unless otherwise permitted by the City-Parish.
 - (8) Any permitted luminaire(s) and luminaire arm(s) must match the nearest adjacent street lighting standard and must fit into the photometrics plan unless otherwise permitted by the City-Parish.
 - (9) For new Support Structures, all cabling for a WCF must either traverse the interior of the Structure or be covered using a U-guard of steel or aluminum construction no less than two (2") inches in diameter.
 - (10) The color of all shrouds and mounting equipment shall match the color of the Support Structure to which it is attached.
 - (11) Wherever possible, the preferred location of new Support Structures shall be reasonably in alignment with existing trees, Utility Poles, and Streetlights.
- (d) Noise Suppression. A Permittee is required to ensure compliance with all applicable noise regulations of the City-Parish so as not to create a nuisance.
- (e) *Undergrounding.* To the extent reasonably and technically practical, in areas in which other utility facilities are required to be placed underground, including in the central business district, Wireless Communications Facilities and associated equipment, other than Antennas, Antenna Equipment and Support Structures, shall comply with nondiscriminatory undergrounding requirements for other utility facilities as required by City-Parish ordinances and zoning requirements, and Applicable Standards. In all instances

those equipment components and facilities that are routinely designed for underground placement should be installed underground.

- (f) *Design standards.* The City-Parish is authorized to develop, publish, and from time to time update or amend, a Design Manual establishing reasonable rules and standards, including safety standards, for the design of Wireless Communications Facilities, SWFs, and associated Support Structures, that comply with Applicable Law. Revisions to any design standards shall be applied in a non-discriminatory manner to similarly-situated facilities and shall not be made retroactive to Applications that already have been submitted. Any Design Manual shall be published on-line and available for pick-up in person at the City-Parish office.

Sec. 2:388. - *Notice to Community.*

- (a) *Notice Requirements:* The Applicant shall be required to provide mailed notice and posted notice as required in this Section.
- (b) *Mailed Notice:* In order to ensure that nearby landowners and other interested persons and entities are informed of the filing of an Application, the Applicant shall send the City-Parish's "Notice of Application for Installation of Wireless Communications Facility" using the form provided by the City-Parish at the time of filing the Application. The Notice of Application for Installation of Wireless Communications Facility shall be sent via first class U.S. mail to the following persons and/or entities within two (2) days after submitting an application:
 - (1) All landowners whose property is located within a three hundred (300') foot radius of the proposed Wireless Communications Facility or associated Support Structure location, utilizing the names and addresses shown in the East Baton Rouge Parish Assessor's records;
 - (2) If the proposed Wireless Communications Facility location falls within three hundred (300') feet of a residential subdivision with a homeowners association, as defined in the Louisiana Homeowners Association Act, Louisiana Revised Statute 9:1141.1 *et seq.*, or a property governed by a condominium association as defined in the Louisiana Condominium Act, Louisiana Revised Statute 9:1121.101 *et seq.*, notice shall be provided to the homeowners association or condominium association;
 - (3) The Downtown Development District if the proposed Wireless Communications Facility or new Support

Structure will be located within the boundaries of the Downtown Development District;

- (4) The Historic Preservation Commission if the proposed Wireless Communications Facility or new Support Structure will be located in a designated local historic district or within three hundred feet (300') of a designated local historic landmark; and
 - (5) The Metropolitan Council member representing the district in which the proposed Wireless Communications Facility or new Support Structure will be located.
- (c) *Certification of Mailing:* The Applicant shall provide to the City-Parish a certification verifying that the Notice of Application for Installation of Wireless Communication Facility was mailed in accordance with this Chapter within seven (7) days of the submission of any Application.
- (d) *Posted Notice:* Applicant shall post a blaze orange placard notice provided by the City-Parish at the time of filing the Application at the precise location of the proposed Wireless Communications Facility and associated Support Structure. The posted notice shall be placed at the site location within two (2) days of submitting the Application.
- (e) *Inquiries:* Any interested Person or entity seeking information on the proposed Wireless Communications Facility and associated Support Structure may contact the City-Parish and/or the Applicant, via e-mail. Both the Mailed Notice and the Posted Notice required by the previous paragraph shall contain a City-Parish and Applicant e-mail address to which any interested person or entity may submit its inquiries.
- (f) *Submissions:* Within thirty (30) days of the filing of an Application, any interested Person or entity may submit to the City-Parish, by email, information pertinent to the Application. The City-Parish will consider such information to the extent that is relevant to and consistent with Applicable Law. Provided, however, that any such consideration by the City-Parish shall not extend the time period of the City-Parish's review of the pending WCF Permit Applications. Both the Mailed Notice and the Posted Notice set forth above shall contain a City-Parish e-mail address to which any interested person or entity may submit information permitted by this Section.

(a) *Sufficiency of Application.*

- (1) *Small Wireless Facilities.* Within ten (10) Days of receiving an initial Application for a Small Wireless Facility Permit, the City-Parish will notify the Applicant in writing if the Application is materially incomplete and shall clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit the requested information. Upon receipt of the requested information, the applicable time period for the City-Parish to complete its review of the Application will start over as if the Application were received on that date.
- (2) *Non-Small Wireless Facilities.* Within thirty (30) Days of receiving an initial Application for any other type of WCF Permit, the City-Parish will notify the Applicant in writing if the Application is materially incomplete and shall clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit the requested information. Pending the receipt of the requested information, the review period shall be tolled. Upon receipt of the requested information, the applicable time period for the City-Parish to complete its review of the Application shall resume.
- (3) Within ten (10) Days of receiving a resubmitted application in response to a notice of insufficiency for any type of WCF Permit Application, the City-Parish will notify the Applicant in writing if the resubmitted Application continues to be materially incomplete and shall clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit the requested information. Pending the receipt of the requested information the review period shall be tolled. Upon receipt of the requested information the applicable time period for the City-Parish to complete its review of the Application shall resume.
- (4) Any subsequent review of an Application by the City-Parish after notice of incompleteness shall be limited to the deficiencies cited in the notice.
- (5) There shall be no additional Application Fee to review a resubmitted Application.

(b) *Time Period for Permit Application Review.* The City-Parish shall make its final decision to approve or deny a WCF Permit Application within the following time

frames, subject to such deadlines being reset or tolled in the event of an incomplete or deficient Application:

- (1) Review of an Application or Batched Applications to Collocate a Small Wireless Facility upon an existing Pole or Support Structure: 60 Days.
 - (2) Review of an Application to Collocate a Wireless Communications Facility other than a Small Wireless Facility using an existing Pole or Support Structure: 90 Days.
 - (3) Review of an Application to Deploy a Small Wireless Facility using a new Support Structure: 90 Days.
 - (4) Review of an Application to deploy a Wireless Communications Facility other than a Small Wireless Facility using a new Support Structure: 150 Days.
 - (5) Review of Batched Applications for Small Wireless Facilities containing a mix of Applications for both Collocations and new Support Structures: 90 Days.
 - (6) For purposes of calculating application review periods, Applications received after 3:00 p.m. shall be deemed to have been received on the next Day.
 - (7) In all instances, the relevant application review period shall commence on the Day that the Applicant's Application is received by the Department of Development. All meetings, reviews and considerations of the Application by and between other City-Parish departments, agencies and commissions shall be undertaken simultaneously within the applicable review period.
 - (8) The above notwithstanding, to the extent allowed by Applicable Law, if, in extraordinary cases, the cumulative volume of reviewing and processing Batched Applications combined with other pressing Rights-of-Way management and zoning obligations of the City-Parish, overloads on City-Parish's resources, the City-Parish may reasonably extend the time period for the review of pending Applications. .
- (c) *Permit Application Review.* The City-Parish shall review the Application for a Wireless Communications Facility and/or associated Pole/Support Structure. The Department of Development shall act as the primary reviewing agency, and shall upon receipt of an Application, forward copies, to and coordinate with, all other impacted City-Parish departments, agencies and commissions. The Department of Development will issue a Permit on nondiscriminatory terms and conditions only if the Wireless Communications Facility and/or

associated Poles/Support Structure is in conformity with the provisions of this Chapter and all Applicable Laws and Applicable Standards.

- (1) The City-Parish shall advise the Applicant in writing of its final decision and shall include in the final decision document the basis for any denial(s), including specific Chapter or provisions of Applicable Law or Applicable Standards on which the denial(s) were based. The City-Parish shall publish the notice of its final decision on the Application on its website. The Applicant may cure the deficiencies identified by the City-Parish and resubmit the Application within thirty (30) Days of the denial(s) without paying an additional Application Fee. The City-Parish will approve or deny the revised Application within thirty (30) Days of receipt of the amended Application. The subsequent review by the City-Parish shall be limited to the deficiencies cited in the original denial(s).
- (2) Throughout the Application process, the Applicant is solely responsible for ensuring that the information that it provides in its Application is complete, thorough, and accurate. The City-Parish is not responsible for the completeness or accuracy of the Applicant's information.
- (3) The denial of any particular site within a Batched Application shall not affect the other proposed sites within the same Batched Application.
- (4) If the City-Parish fails to act on a WCF Permit Application within the above prescribed time periods, the Applicant may provide notice that the time period for acting has lapsed, after which the Applicant may pursue such other remedies as may be available under then-prevailing law.
 - (a) If the WCF Permit Application is to modify existing authorized Wireless Communications Facilities and the proposed modification does not constitute a "substantial change," as defined by the FCC, to the existing Wireless Communications Facilities, the City-Parish will approve the WCF Permit Application within sixty (60) days or else the Permit Application shall be deemed granted.
- (5) *Scope of Review.*
 - (a) The City-Parish or an authorized third-party contractor working on behalf of the City-Parish shall review the WCF Permit Application, proposed findings, and proposed conditions. The review and evaluation may

include, but shall not be limited to, such items as:

- (1) Completeness of the Application;
- (2) The site plan's compliance with Applicable Laws and Applicable Standards;
- (3) Completeness and sufficiency of the vicinity map;
- (4) General project information, including type of facility, number of Antennas, height to top of Antennas, certification as to compliance with FCC requirements, and *Visual Aesthetic Design Elements*;
- (5) Applicant's certification that its proposed Wireless Communications Facilities will comply with all applicable FCC radio frequency (RF) requirements;
- (6) Applicant's certification that it maintains sufficient insurance as required under this Ordinance;
- (7) The City-Parish's inspection of the physical location and surrounding area of any proposed Wireless Communications Facility for compliance with the requirements of this Chapter;
- (8) Recommendations of the City-Parish Engineer/Contractor regarding the proposed installation and modification to existing Wireless Communications Facilities; and
- (9) Preparation of written report to City-Parish Engineer of recommended action on Application.

(d) *Authority Granted.* A WCF Permit authorizes the Applicant to undertake certain activities in accordance with this Chapter and does not create a property right in the Rights-of-Way or grant authority to the applicant to impinge upon the lawful rights of others to utilize the Rights-of-Way.

(e) *Duration of Permit.*

- (1) *City-Parish ROW.* Any WCF Permit issued for installation of a Wireless Communications Facility and/or associated Pole or Support Structure located within the ROW shall be valid for one (1) year and

be eligible for renewal upon payment of the annual license fee and continued compliance with the requirements of this Chapter. Failure to pay the annual license fee or to comply with the requirements of this Chapter shall result in termination of the Permit for that WCF only.

- (f) *Transfer of Permit.* No approved and issued WCF Permit may be transferred without written notice to, and approval by, the City-Parish, which approval shall not be unreasonably withheld, conditioned, or delayed.
- (g) *Other approvals.* The issuance of a WCF Permit shall not relieve a Wireless Provider of the obligation to obtain all other applicable permits, approvals, and agreements necessary to install and operate its Wireless Communications Facilities in conformance with all Applicable Laws.
- (h) *Appeal of Permit Application Decision.* Any Person who is aggrieved or whose interests are adversely affected by a decision of the City-Parish granting or denying a Permit Application may pursue any available remedies under then prevailing law.

Section 2:390.- *Construction of Facility; Notification of Final Completion Date.*

- (a) *Construction of Wireless Communications Facility or Associated Support Structure.* Upon approval and issuance of a Permit, construction under the Permit shall be completed no later than six (6) months after issuance of the Permit, provided that the deadline to completion may be extended for force majeure events, or other circumstances beyond the reasonable control of the Applicant, with the consent of City-Parish not to be unreasonably withheld.
- (b) *Notification of Final Completion.* An Applicant shall electronically notify the City-Parish of the completion of the work authorized under the WCF Permit no later than thirty (30) days after final completion. Said electronic notification shall contain a statement from the Applicant that the Wireless Communications Facilities and/or associated Support Structure was constructed as approved and permitted.

Section 2:391. - *Removal, Relocation or Modification of Wireless Communications Facility.*

- (a) *Removal or Relocation to Accommodate Public Works.* Within ninety (90) days following written notice from the City-Parish, a Wireless Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change, or alter the position of any Wireless Communications Facilities whenever the City-Parish has determined that such

removal, relocation, change, or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City-Parish improvement in or upon the ROW, or the operations of City-Parish facilities, in or upon the ROW, or whenever the City-Parish has determined, following notice and a meaningful opportunity for the Wireless Provider to be heard, that the Wireless Communications Facility does not conform to the permits granted. In the event that the City-Parish requests removal, relocation, change or alteration for its own purposes or needs, it will work in good faith with the Wireless Provider to identify a suitable temporary or permanent location for the WCF, and it will not require the Wireless Provider to submit a new Application or pay a Permit Application Fee, provided that the Wireless Provider installs the replacement facilities at the same approximate time as the City-Parish's action.

- (b) *Removal or Relocation of Facilities in Response to Public Health or Safety Incident.* The City-Parish retains the right and privilege to move or rearrange any Wireless Communications Facility located within the ROW, as the City-Parish may determine to be necessary, appropriate, or useful in response to any public health or safety incident, where there is an imminent threat of harm to people or property. If circumstances permit, the City-Parish shall notify the Wireless Provider and provide the Wireless Provider an opportunity to move its own Facilities prior to rearranging or removing a Facility. In all circumstances, the City-Parish shall notify the Wireless Provider after removing or rearranging a Wireless Communications Facility. The City-Parish shall not be liable for any damages to the Wireless Communications Facility or for an interruption in service resulting from such rearrangements or removals when undertaken in response to a public health or safety incident or imminent threat of harm to people or property , except to the extent that its employees or contractors were grossly negligent or acted intentionally to cause damage or interrupt service.
- (c) *Abandonment of Facilities.* Upon abandonment of a Wireless Communications Facility, the City-Parish may direct the Wireless Provider to remove all or any portion of the Wireless Communications Facility if the City-Parish determines that such removal will be in the interest of the public health, safety and welfare. For purposes of this provision, "abandonment" shall be inactive or non-use of a Small Wireless Facility for a period of one hundred and eighty (180) consecutive days (except as the result of a force majeure event).

Section 2:392. - Annual Fees.

- (a) *ROW Usage Fee.* Upon notification of a decision for approval for the WCF Permit, Applicants may obtain the Permit from the City-Parish, and upon obtaining such

Permit, shall pay a Public Rights-of-Way usage fee of two hundred and fifty (\$250) dollars ("ROW Usage Fee"). Thereafter, the Wireless Provider shall continue to pay two hundred and fifty (\$250) dollars per year, in accordance with Section 2:392(c), for each Wireless Communications Facility that the Provider installs and maintains within the ROW.

- (b) *Pole Attachment Fee.* Wireless Providers placing a Wireless Communications Facility on a City-Parish-owned Pole or other City-Parish-owned structure in the ROW shall pay a Pole Attachment Fee of twenty (\$20) dollars per pole at the time that the applicable pole attachment permit is granted. Thereafter, the Wireless Provider shall continue to pay twenty (\$20) dollars per pole, per year, in accordance with Section 2:392(c). The annual Pole Attachment Fee shall be in addition to the annual ROW Usage Fee.
- (c) *Assessment of Annual Fees.* All ROW Usage Fees and Pole Attachment Fees levied by this ordinance shall be due and payable on the first day of January of each calendar year for which the applicable Permit is active following the year of issuance. All fees unpaid after the last day of February of the calendar year for which they are due shall be deemed delinquent and subject to the payment of delinquent penalty. The delinquent penalty shall be computed from the first day of March of the calendar year for which they are due at a rate of five (5%) percent per month, or fraction thereof, not to exceed twenty-five (25%) percent in aggregate, of the fee due.
 - (1) *Existing Wireless Facilities.* Any existing Wireless Communications Facilities located within the ROW as of the Effective Date of this Ordinance that were previously authorized under a prior City-Parish ordinance shall continue to be subject to the fee requirements of the prior ordinance for the remainder of the year, and shall not be subject to the annual ROW Usage Fees or Pole Attachment Fees set out above until the first day of January of the calendar year after enactment of this Ordinance. Thereafter, such Wireless Communications Facilities shall be subject to payment of all annual ROW Usage Fees and Pole Attachment Fees set forth above. The above notwithstanding, a Wireless Provider shall remain liable for any unpaid fees accrued under the prior ordinance and failure to pay such fees shall subject the Wireless Provider to all enforcement remedies under this Ordinance and/or Applicable Law.

Section 2:393. - *Attachment to City-Parish-Owned Poles or Other City-Parish-Owned Structures in the Public Rights-of-Way.*

- (a) *Attachment Agreement Required.* A Wireless Provider shall not attach Wireless Communications Facilities to a City-Owned Pole, City-Parish-owned Streetlight Pole,

or any other City-Parish-owned structure without first obtaining a pole attachment agreement with the City-Parish.

- (b) *Make-Ready.* As part of its Application, the Applicant shall provide a structural analysis for all facilities to be located on any City-Parish-owned Pole or other City-Parish-owned structures in the ROW and a good-faith estimate of any make-ready work necessary to enable the Pole or structure to support the requested Wireless Communications Facility, including Pole replacement if necessary. Within sixty (60) days of receipt of a completed Application, the City-Parish will either approve the make-ready work estimate or provide a written explanation as to why the Application is being modified, or denied, in whole or in part, for reasons of safety, reliability, or insufficient capacity that cannot be resolved consistent with Applicable Standards. The Applicant shall be responsible for all make-ready work costs associated with attachment to the City-Parish Pole or structure. Unless otherwise agreed, the Applicant and/or its authorized City-Parish approved contractors shall perform all necessary make-ready work, which shall be completed prior to installation of the facility.

Section 2:394.-*Liability, insurance, defense and indemnification.*

- (a) *Assumption of Liability.* An Applicant assumes all risk with respect to the City-Parish for liability for damages that may occur to persons or property arising out of or relating to the construction, maintenance, or operation of a Wireless Communications Facility or associated Pole/Support Structure except to the extent that such damages are caused by the gross negligence or willful misconduct of the City-Parish, its employees, or contractors.
- (b) *Insurance Required.* Applicant shall procure and maintain liability insurance to protect the City-Parish from liability and damages occasioned by the construction, maintenance, or operation of a Wireless Communications Facility or associated Pole/Support Structure. In satisfaction of the insurance requirements, the applicant shall supply as part of its Application "certificates of insurance" or other satisfactory evidence to show applicant carries:
 - (1) Commercial general liability insurance covering the City-Parish against claims, injury, or damage to persons or property, both real and personal, caused by the construction, maintenance, or operation of a Wireless Communications Facility, in amounts of \$1,000,000.00 U.S. dollars per occurrence (combined single limit), including bodily injury and property damage, and

\$2,000,000.00 U.S. dollars annual aggregate, and
\$2,000,000.00 U.S. dollars for each personal injury
liability;

- (2) All required liability insurance coverages shall include the City-Parish as an additional insured. Applicant shall notify the City-Parish at least 30 days in advance of any cancellation of any required insurance that is not replaced; and
 - (3) Applicant may self-insure any required coverage as long as it or its affiliated parent maintains a net worth of at least \$200,000,000.00 as evidenced in annual certified financials.
- (c) *Indemnification.* By the act of submitting of an application, the Applicant agrees to defend, indemnify, and hold harmless the City-Parish, its council, boards, commissions, officials, officers, agents, contractors, volunteers, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including court costs and reasonable attorney's fees, arising out of any act or omission of permittee, permittee's officers, agents, employees, or contractors relating to the construction, maintenance, or operation of a Wireless Communications Facility or associated Support Structure.
- (d) *Defense.* By the act of submitting of an application and naming the City-Parish as a named insured on a liability policy, the Applicant specifically agrees to defend the City-Parish, its council, boards, commissions, officials, officers, agents, contractors, volunteers and employees from and against any and all loss, damage, liability, claims, suits, costs and expenses arising out of any act or omission of permittee, permittee's officers, agents, employees, or contractors, relating to the construction, maintenance, or operation of a Wireless Communications Facility or associated Support Structure. Should Applicant fail to defend the City-Parish, Applicant shall be liable for penalties in addition to any sums found due under the Indemnification clause.
- (e) *Performance and Payment Bond.* A Wireless Provider shall furnish a performance and payment bond executed by a surety company reasonably acceptable to the City-Parish which is duly authorized to do business in the state of Louisiana in the amount of twenty-five thousand dollars (\$25,000.00) for the duration of any authorizations granted hereunder as security for the faithful performance of the terms and conditions of its WCF Permits, and for the payment of all fees, and persons performing labor and furnishing materials in connection with its installation and use of Wireless Communications Facilities in the ROW.

- (f) *Municipal Liability Limits.* No provision of this Ordinance is intended, or shall be construed, to be a waiver for any purpose by the City-Parish of any applicable state limits on municipal liability or governmental immunity. No indemnification provision contained in this Ordinance under which a Wireless Provider indemnifies the City-Parish shall be construed in any way to limit any other indemnification provision contained in this Ordinance.

Section 2:395. - *Safety and Construction Requirements for Small Wireless Facilities.*

(a) Construction and Structural Requirements:

- (1) *Compliance.* Wireless Communications Facilities and associated Poles/Support Structures shall comply with all Applicable Laws and Applicable Standards. In the event of a conflict between or among Applicable Standards, the more stringent shall apply.
- (2) *Workmanship.* Work performed at a location permitted for installation of a Wireless Communications Facility or associated Pole/Support Structure shall be performed by individuals and entities licensed or permitted to do such work. All work shall be performed in strict compliance with all versions or editions of the latest Applicable Standards and consistent with the accepted and responsible workmanlike industry practices.
- (3) *Structure.* All Wireless Communications Facilities and/or associated Support Structures and Poles shall be designed and maintained in compliance with all Applicable Standards, including the ability to withstand without failure, the maximum forces expected from wind and ice loading when the structure is fully loaded with antennas, transmitters and other equipment, and camouflaging.
- (4) After the effective date of this ordinance, all new Wireless Communications Facilities and/or associated Support Structures and Poles shall comply with any applicable Design Manual requirements and specifications. All Wireless Communications Facilities, Support Structures, and Poles constructed and installed prior to the effective date of this ordinance, as well as the replacement of such Facilities in the same location that do not involve a substantial increase in height, shall not be subject to any new Design Manual specifications absent a revision to this ordinance.

- (5) Any time a Wireless Provider constructs, installs, repairs, replaces, or removes Wireless Communications Facilities or Support Structures, the Wireless Provider and its contractors shall clean up and restore the ROW and surrounding area to the condition they were in immediately prior to the removal of the Wireless Communication Facilities.

Section 2:396. - *Non-Compliance.*

- (a) *Event of Non-Compliance.* If a Wireless Provider fails to comply with any material term or condition of this Chapter or any WCF Permit issued under it, the Provider shall be in Non-Compliance with this Chapter.
- (b) Continued or repeated non-payment of any applicable fees and charges shall constitute a material default of the particular Permit at issue.
- (c) *Remedies Following Failure to Cure.* In the event that a Wireless Provider is found to be in Non-Compliance with this Chapter the City-Parish shall give the Wireless Provider forty-five (45) days written notice either to cure the violation(s), or diligently commence and continue the cure to completion for matters that cannot reasonably be cured within forty-five (45) days. In the event of an uncured material failure to comply with this Article, the City-Parish, at its option, shall be entitled to pursue any and all remedies that it may have in law or at equity, including terminating the particular WCF Permit(s) issued to the non-compliant Wireless Provider by the City-Parish that are the subject of the Non-Compliance, and drawing down the non-compliant Wireless Provider's performance and payment bond to cover any fees, costs, damages, expenses, or penalties that a Wireless Provider has not paid.
- (d) If a Wireless Provider engages in a Pattern of Non-Compliance the City-Parish may pursue any remedies permitted by Applicable Law and/or suspend consideration of additional Wireless Permit Applications by the Wireless Provider, until the Pattern of Non-compliance is removed. For the purposes of this section, a "Pattern of Non-compliance" exists if, within any period of twelve (12) months, either twenty-five (25) or five percent (5%), whichever is lesser, of the Wireless Provider's other permitted Wireless Communications Facility installations located within the ROW are Non-compliant (as defined in Section 2:396(a) above) and have not been cured within the applicable period of time set forth in 2:396(c). However, when relying upon the percentage methodology for determination of a Pattern of Non-compliance, in no event shall any Wireless Provider be found to have engaged in a Pattern of Non-compliance if fewer than five (5) Wireless Communications Facility installations are Non-compliant within the applicable twelve (12) month period. The City-Parish shall not

suspend consideration of additional Wireless Permit Applications by a Wireless Provider if, within thirty (30) days of receiving notice that the City-Parish believes that the Wireless Provider has engaged in a Pattern of Non-compliance, the Wireless Provider demonstrates to the City-Parish that no such pattern exists or takes affirmative steps satisfactory to the City-Parish to remove the Pattern of Non-compliance.

- (e) *Removal of Facilities.* Upon termination of one or more WCF Permit(s) for Non-Compliance, a Wireless Provider shall remove the associated Wireless Communication Facilities from the ROW within six (6) months of receiving notice, or at a rate of twenty-five (25) of its Wireless Communications Facilities per month, whichever period results in the shortest length of time for completing removal. A Wireless Provider shall restore the ROW to its condition immediately prior to the removal of the Wireless Communication Facilities. If not so removed within that time period, City-Parish shall have the right, but not the obligation, to treat Wireless Provider's Attachments as abandoned and to take title, store, sell, or otherwise dispose of them. A Wireless Provider shall be required to pay City-Parish's actual and documented costs of taking title, storing, selling, or otherwise disposing of a Wireless Communication Facility subject to this Subsection within ninety (90) Days after it has received an invoice from the City-Parish.

Section 2:397. - Retention of Local Police Power; Effect of Future Changes in Governing Law.

This Chapter is intended to establish only the minimum restrictions upon the police power of City-Parish necessary to comply with the final rules adopted by the Federal Communications Commission regarding permissible local regulations of Antennas and Wireless Communications Facilities. Nothing in this Chapter shall be construed as surrender by the City-Parish of its right and power to adopt future ordinances, rules, and regulations in the exercise of its police power applying to Antennas and Wireless Communications Facilities to the maximum extent allowed by Applicable Law. In the event of any future change in governing law (including, but not limited to, invalidation or modification of the final rules of the Federal Communications Commission in effect at the time of initial adoption of this Chapter), City-Parish at all times reserves the right to regulate new and existing Wireless Communications Facilities to the extent allowed by changes in Applicable Law..

Section 2:398. - Severability and Conflicts.

- (a) *Severability.* If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter or any application thereof to any person or circumstance

is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

- (b) *Conflicts with other chapters.* This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.
- (c) *Conflicts with state and federal laws.* In the event that applicable federal or state laws or regulations conflict with the requirements of this Chapter, the Wireless Provider shall comply with the requirements of this Chapter to the maximum extent possible to the extent that such requirements do not violate federal or state laws or regulations.

Section 2. This amendment shall be effective on January 1, 2021.

Section 3. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.