

ORDINANCE NO. 1071

**AN ORDINANCE OF THE CITY OF ATHENS, TENNESSEE, PROVIDING THAT THE
ATHENS MUNICIPAL CODE, TITLE 14, CHAPTER 2, SECTION 4.16 TELECOMMUNICATION
STRUCTURES, BE AMENDED TO ADD LANGUAGE THAT ADDRESSES
SMALL CELL SUPPORT STRUCTURES; AND PROVIDING FOR CONFLICTS, SEVERABILITY AND AN
EFFECTIVE DATE**

WHEREAS, the State of Tennessee has passed legislation requiring municipalities to accommodate development and installation of new technology concerning Small Cell Support Structures;

WHEREAS, Telecommunication Towers and Small Cell Support Structures are a needed utility in the City corporate limits;

WHEREAS, the Athens Municipal-Regional Planning Commission met in open public meeting on November 5, 2018 and recommended the following changes to the zoning code as described herein;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TENNESSEE:

SECTION 1. That the Section 4.16 be amended to include the following red italics that reads as follows:

4.16. TELECOMMUNICATION STRUCTURES AND SMALL CELL SUPPORT STRUCTURES.

Telecommunications Structures and Small Cell Support Structures are allowed in the corporate limits as a Use Permitted on Review in the R-E, R-1, R-2, R-3, B-1, B-2, B-3, M-1, P-1, I-1 and I-2 Zoning Districts by this Ordinance and are subject to the following requirements.

I. TELECOMMUNICATION STRUCTURES

A. Setback

- 1. All towers and accessory structures that are not constructed within a utility easement shall be setback from the property lines a distance equal to twenty (20) percent of the tower height or the district yard requirement, whichever is greater.*
- 2. In instances when a tower and accessory structures are constructed within a utility easement on an existing utility structure, the tower and accessory structures shall adhere to a setback from the easement lines equal to twenty (20) percent of the tower height.*
- 3. In instances when a tower and accessory structures are constructed adjacent to a residential district, or a residential use (regardless of any district permitted uses or any grandfathering status in any zoning district) or within a residential district itself: either immediately adjacent to such property or across a public way, the minimum setback from all property lines of the parcel/subject site measured from the base of the tower, shall be equal to one-hundred (100) percent of the tower height. No variance shall be granted from this minimum setback requirement that does not conform to the requirements set forth in TCA 13-7-207. (3). 129*

B. Shared Use

- 1. The shared use of existing towers shall be required throughout the community. The applicant's proposal for a new wireless transmission facility shall not be approved unless the applicant can prove through documentation, that the proposed equipment cannot be accommodated on an existing or approved tower located within a minimum distance of one mile of the proposed tower due to one (1) of the following reasons:*

- a. The planned equipment would exceed the structural capacity of the existing and approved towers and said towers do not have the capability to be upgraded.*
 - b. The planned equipment would cause radio frequency (RF) interference with other existing or planned equipment.*
 - c. The planned equipment would not function effectively and reasonably on an existing tower.*
 - d. Geographic service requirements would prevent the co-use of an existing tower or structure.*
- 2. The feasibility of the shared use of any proposed tower in the future shall be addressed at the time of application. As a minimum, a tower shall be designed for the co-use of a minimum of three (3) fully sectored antenna arrays unless such tower is proposed for co-use on an existing utility structure. The applicants shall provide a letter of intent committing the tower owner and any successive owners to providing for the shared use of the tower, if a future applicant agrees, in writing, to pay any reasonable rate for the shared use.*

C. Type

All new towers shall be monopole type structure. No lattice type towers or antennas shall be permitted in the City of Athens.

D. Structural Requirements

Prior to the approval of any application for a tower or the co-use of an existing tower or utility structure, the applicant shall provide written certification from a registered structural engineer that the tower is able to withstand winds of a minimum of seventy (70) miles per hour with one-half (.5) inch radial ice.

E. Buffering and Landscaping

- 1. For all ground structures and buildings special care shall be taken to minimize the effects on the adjacent residential areas.*
- 2. All ground structures shall be buffered in a manner which consist of a minimum of an eight (8) foot wide landscaped strip around the perimeter of the security fencing. The buffered strip shall consist of a combination of trees, shrubs, vines and or ground covers that blends and enhances the appearance of the ground structures within the surrounded area. The buffer shall be installed for the permanent year-round protection of adjacent property by visually shielding internal activities from adjoining property to a height of eight (8) feet or the height of the proposed accessory structures, whichever is greater. The landscaping provisions of this section may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or physical features that meet the intent and purpose of this section.*

F. Height

- 1. No tower shall exceed a height of two hundred and fifty (250) feet.*
- 2. In instances when a tower is to be co-located upon an existing utility structure, which is defined as an existing power line structure or an existing water tower, the maximum height shall not exceed the height of the structure plus (+) twenty (20) feet.*

G. Co-located Towers and Antennas

The co-location of towers and antennas shall only be permitted on existing and proposed telecommunication towers and public utility structures consisting of power line structures or water towers in excess of thirty-five (35) feet in height.

H. Vehicle Access Control

The location and design of driveways and/or access easements to the facility from a public street shall be depicted on the site plan and all access points shall

be approved by the Athens Planning Commission in accordance with these regulations.

I. Lighting

- 1. Towers: Towers may be lighted within the City limits of Athens if required by the FAA (Federal Aviation Administration).*
- 2. Structures: Outside lighting of structures, if required for safety and security purposes, shall be of a sensory fashion in which illumination occurs only when the site is approached. The lighting shall be arranged to minimize glare and reflection on adjacent residential properties and public streets and does not exceed 0.4 feet candles measured at the property line, easement line or abutting properties zoned for residential use.*

J. Security

The entire area of the cellular tower facility (which includes all the co-location areas but excludes access drives) shall be fully secured through the installation of a security fencing/wall system of a minimum height of eight (8) feet and shall also be equipped with an appropriate anti-climbing device to deter unauthorized entry into the facility.

K. Removal of Obsolete Towers

- 1. Any tower that is no longer in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the City with a copy of the notice of intent to the FCC to cease operations and shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower and accessory structure(s), provided another operator has not submitted a request for a tower during that time period. In the case of multiple operators sharing a single tower, this provision shall not become effective until all users cease operations.*
- 2. Prior to the issuance of a permit for any tower, co-use of any tower or co-use of any utility structure, a surety instrument (i.e. letter of credit or bond), which shall serve to ensure prompt removal of the tower once it ceases to operate, shall be provided by all users. The amount of the surety instrument shall be determined by the town's designated official and then approved by the Board of Zoning Appeals during the site plan review process.*

L. Site Plan Requirements

Prior to the issuance of a building permit, the construction of a tower or the utilization of an existing structure for telecommunications or television transmission purposes, the submission of a site plan in accordance with the following provisions and all other provisions of this Ordinance shall be required.

- 1. If the proposed tower is a new tower not on an existing utility structure, the site plan shall show the location of the initial users' accessory structure and the location of two (2) future accessory structures.*
- 2. A letter of intent from the owner and any successive owners allowing for the shared use of the tower.*
- 3. A letter from a professional engineer certifying that the towers height and design complies with these regulations and all applicable structural standards and, also, describes the tower's capacity which includes the number and type of antennas that can be accommodated. 132*
- 4. A letter indicating why existing towers within one (1) mile of the proposed towers location cannot be utilized.*
- 5. A site plan where the regulations are applicable, per Section 4.17 of this Ordinance, reviewed and approved by the Board of Zoning Appeals.*

II. SMALL CELL SUPPORT STRUCTURES

A. Definitions

The following terms shall apply to Small Cell Support Structures, as provided for in the remainder of this Ordinance. For terms not defined herein, the Federal Communications Commission ("FCC") definition shall apply.

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, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar equipment. This definition does not include Towers.

Applicant: An Applicant is a person or entity who is authorized by the provisions of this Ordinance to file for approval under these regulations.

Application: An Application is the completed site plan application form and all accompanying documents, exhibits, and fees required of an Applicant by the City of Athens as part of a submission for review.

Base Station: Equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communication between user equipment and a communication network.

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

Co-Location: Locating more than one (1) transmission Antenna or Related Equipment on the same Small Cell Support Structure or Tower.

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

Non-Tower Wireless Communications Facilities: Wireless communications facilities other than Tower-based wireless communications. This would include facilities mounted to existing structures that were not originally intended to accommodate wireless communications facilities, such as buildings, utility poles, water towers, steeples, billboards, flags, etc.

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

Board of Zoning Appeals: The term "Board of Zoning Appeals" shall mean the City of Athens Board of Zoning Appeals in Athens, Tennessee.

Planning Jurisdiction: The Planning Jurisdiction includes those areas of McMinn County, Tennessee, which fall under the jurisdictional authority of the City of Athens Board of Zoning Appeals.

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

Right-of-Way: The surface of and space above and below any real property in the municipality in which the federal government, state government, 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, state, 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 System/Distributed Antenna System ("DAS"): A network of remote antenna nodes that distribute radio frequency signals from a central hub through a high capacity signal transport medium to a specific area.

Small Cell Support Structure: For purposes of this Ordinance, a Small Cell Support Structure could include a Monopole or a Non-Tower Wireless Communications Facility that is erected within the public Right of Way or on private property and that does not exceed the lesser of either the maximum building height permitted in the associated zoning district or no more than three (3) feet above the predominant height of the shortest existing Utility Poles in the immediate area. Any other Monopole shall be considered a Tower, as defined herein, and subject to the regulations that would apply to Towers.

Small Cell Support Structures are 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.

Staff: Those employees of the City of Athens assigned to support and/or administer the powers and duties prescribed to the Athens Board of Zoning Appeals.

Stealth Technology: Design techniques applied to telecommunication structures that will help conceal them or make them less visible to the casual observer. Such techniques may include, but are not limited to, facilities constructed to resemble light poles, trees, flag poles, steeples, or other streetscape elements. Stealth Technology may also include concealment wrap and similar technologies and placing applicable structures underground.

Tower: A support structure and all appurtenances constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of any telecommunications services or Personal Communication Services. This would include traditional Monopole commercial cell towers and Transport Poles. For purposes of this Ordinance, a Tower is differentiated from a Small Cell Support Structure in that a Tower is a Monopole that may exceed the permitted building height of the associated zoning district and is not permitted within the public right-of-way.

Transport Poles: A type of Tower that includes microwave backhaul. Transport poles are subject to all requirements associated with a Tower.

Transmission Equipment: Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless 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 Tennessee Code Annotated.

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

Utility Pole: A structure used for the support of telephone, cable television or other video services, street lighting, or other similar cables and located within the public right of way or utility easements owned by the City of Athens. A Small Cell Support Structure may be incorporated onto a utility pole provided such pole does not extend, with the application of Small Cell Support Structures, to a height greater than three (3) feet above the predominant height of the shortest utility poles within five-hundred (500) feet.

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

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.

B. Small Cell Support Structures and Distributed Antenna Systems (DAS).

The following provisions shall apply to Small Cell Support Structures and DAS, as defined in this Ordinance.

1. Application Requirements

Pre-Application Filing Meeting. Prior to filing an application for a Small Cell Support Structure or DAS, a pre-application meeting with the Staff is required. At this meeting the applicable provisions associated with the request can be reviewed and discussed. An Application will not be accepted if the required pre-application meeting has not been completed.

This meeting will allow for early coordination by identifying existing structures that might be suitable for co-location or that might qualify as Non-Tower Wireless Communication Facilities. This will also help identify any other issues which may relate to (i) the use of Right of Way or Utility Poles and/or (ii) the application to the proposed request of any other local zoning, subdivision regulations, or other rules, regulations or adopted plans, including, but not limited to the Comprehensive Land Use Plan and Architectural Design Standards. The meeting will provide an opportunity for an initial discussion regarding proposed structure locations, design, and the Application submittal and approval process. Coordination with utilities for possible use of pre-existing structures will be required. Applicants shall supply the provider's preferred locations, structure design, style, and structure height at least one week prior to the pre-application meeting or upon request for such meeting.

Unless provided for otherwise, all proposed Small Cell Support Structures/DAS shall be subject to Staff review and approval by the Board of Zoning Appeals. Certain Non-Tower Wireless Communication Facilities Applications, including co-locations, may be reviewed and approved by the Staff provided the Staff determines that a more formal review with the Board of Zoning Appeals is not necessary based on the location and/or physical characteristics of the proposed facilities.

Applications for Small Cell Support Structures or DAS shall include the following information as applicable to the request:

- a) A completed site plan application and filing fee. Applications are limited to Five (5) Structures per Application.
- b) A development site plan, signed and sealed by a professional engineer registered in Tennessee, showing the proposed location of each Small Cell Support Structure and any existing Small Cell Support Structures within five hundred (500) feet of each proposed location. This plan shall specifically identify, for each location, existing Utility Poles within five-hundred (500) feet and their predominant physical characteristics (type, material, height, color, etc.). The plan shall address whether an existing Utility Pole is proposed to be used to accommodate a Small Cell Support Structure or whether a new Monopole is being requested. The plan shall also address if an existing Utility Pole is being replaced in order to accommodate a Small Cell Support Structure.
- c) A map and plan for how fiber optics are being extended to the Small Cell Support Structure/DAS and, where applicable, the Non-Tower Wireless Communications Facility. Fiber optics shall be placed underground in areas with primarily underground utilities and an additional Right of Way Permit from the City shall be obtained for any work conducted within the Right of Way. Any fiber optics proposed outside the Right of Way or not within existing platted utility easements shall require a recorded easement to be platted and presented to the Staff and the Board of Zoning Appeals for approval.
- d) For Non-Tower Wireless Communications Facilities proposed on buildings or other structures that are not within the Right of Way, the development site plan shall include the proposed Small Cell Support Structures, their physical characteristics, and Stealth Technology applications that would be proposed based on the planned location and context.
- e) An indication of existing improvements, such as pedestrian facilities, accesses, landscaping, and Underground Utilities, that are within twenty-five (25) feet of the proposed Small Cell Support Structure(s) and any other information that may be pertinent to or impact the decision on where to place the structure and its related equipment.
- f) A map and other documentation which demonstrates the coverage area for each proposed Small Cell Support Structure. This shall include a statement of the telecommunications objective(s) for each proposed Small Cell Support Structure location, whether the proposed facility is necessary to prevent or fill a gap or capacity shortfall in the Applicant or provider's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites or other applications that would have fewer aesthetic impacts while providing comparable service.
- g) A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the FCC, 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.
- h) A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.
- i) A full description of the number and dimensions of all Small Cell Support Structures to be installed including, but not limited to, all underground structures, antennae, the height of above ground structures and any equipment cabinets or buildings associated with the installation.
- j) Where structures are permitted above ground, a vertical profile sketch or drawing of the structures, signed and sealed by a professional engineer registered in Tennessee, indicating the height of the structure

and the placement and physical dimensions of all antennas and equipment enclosures.

k) For Non-Tower Wireless Communications Facilities to be mounted on existing Utility Poles or replacement Utility Poles, the profile sketch shall verify compliance with the height parameters provided for in this Ordinance.

l) Written approval from the property owner(s) stating that the Applicant or provider has permission to apply to construct a facility on their property (e.g. on an existing building with a Non-Tower Wireless Communication Facility in the form of a Small Cell Support Structure). In the case of non-City owned Utility Poles, the utility provider shall acknowledge permission for the Applicant to apply to use their Pole(s) for Small Cell Support Structures. Monopoles within the Right-of-Way or proposed on City-owned Utility Poles shall be considered by the Staff and Board of Zoning Appeals, as representatives of the City, as part of the Application review. Final approval to use City-owned property for Small Cell Support Structures shall be acknowledged in writing by the duly-authorized representative of the City. A lease agreement or a franchise agreement with the City will typically be required as a condition of Staff or Board of Zoning Appeals approval.

m) Photographs of view shed from each proposed Small Cell Support Structure location taken in at least four directions.

n) The Applicants certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the structural integrity and weight bearing capacity of the PSS and small wireless facility, whether the structure (including any entity or apparatus to be used in the installation) is existing or newly constructed. Those standards relevant to engineering must be certified by a Tennessee licensed professional engineer.

o) The Applicant shall provide a bond to cover 125% of the cost to remove the tower upon it becoming obsolete or abandoned for a period of three (3) consecutive months. The wireless provider responsible for use and ownership of the tower shall notify the city within 90-day of any plan to abandon any tower with in the City of Athens jurisdiction.

2. Processing of Applications

a) Staff shall review all Applications for new Small Cell Support Structures within 30 days of Application filing to determine if an Application is complete. During this time frame, the Staff may request a third-party consultant review to verify certain applicable information.

b) Staff shall issue comments to the Applicant within this 30-day time frame so that the Applicant can address any identified deficiencies. Once comments have been addressed, Staff shall notify the Applicant in writing that the Application is complete. As applicable, the Staff or the Board of Zoning Appeals shall then either approve, approve with conditions, or deny the Application within sixty (60) days of the date the Application is determined to be complete. If the City does not make a final decision within the required sixty (60) days, the Application shall be deemed to be approved as submitted.

c) An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Staff or Board of Zoning Appeals in the administration of this Ordinance may appeal the action to the Board of Zoning Appeals. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by the Staff or Board of Zoning Appeals. The appeal shall be filed with the Staff along with an appeal fee of one hundred dollars (\$100). The Staff will fix a reasonable time for hearing the appeal and give public notice, as well as written notice to the appellant and the

owner of right-of-way or property (if different from the jurisdiction) at least ten (10) days prior to the hearing.

d) An applicant claiming to be injured or aggrieved by any final action of the City rendered by the Board of Zoning Appeals may appeal from the final action to the Circuit Court of McMinn County Tennessee. Such appeal shall be taken within thirty (30) days after such action.

3. Design Standards for Small Cell Support Structures/DAS

The regulations in this subsection shall apply to Small Cell Support Structures and DAS. Temporary, mobile or wheeled cellular antenna structures shall not be permitted without prior approval from the Staff or, where applicable, the Board of Zoning Appeals.

a) Monopole Small Cell Support Structures shall include Stealth Technology and shall not exceed the lesser of either the maximum building height for the zoning district within which they are located or three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet of the proposed Monopole. Small Cell Support Structures that involve replacing existing Utility Poles shall be subject to adhering to the height of the Utility Pole that is being replaced plus an additional three (3) feet. Replacement Utility Poles that will more effectively accommodate a Stealth Technology shall be prioritized as part of the Application review process.

b) Non-Tower Wireless Communication Facilities that incorporate Small Cell Support Structures shall include Stealth Technology appropriate for the proposed location and context. With the exception of Utility Poles, Non-Tower Wireless Communications Facilities shall not exceed the lesser of either the maximum building height permitted in the associated zoning district or ten (10) feet above the height of the existing structure on which the Small Cell Support Structures are proposed. In relation to Utility Poles, Non-Tower Wireless Communications Facilities shall not extend more than three (3) feet above the predominant height of the shortest Utility Poles within five-hundred (500) feet.

c) Small Cell Support Structures shall be designed and constructed to accommodate a minimum of two (2) service providers. Based on the proposed location and context, this may be exempted for Non-Tower Wireless Communications Facilities.

d) Small Cell Support Structures shall not interfere with other utilities, encroach onto or over sidewalks and other pedestrian or bicycle facilities, interfere with landscaping, visibility, or other matters of public safety.

e) Small Cell Support Structures proposed in an area with primarily underground utilities shall be placed underground with the exception of an antenna. All wiring shall be concealed within the pole and antenna and the antenna shall include Stealth Technology appropriate for the location and context.

f) Small Cell Support Structures proposed in an area with primarily overhead utilities shall apply Stealth Technology that is appropriate for the location and context.

g) Where wiring to an antenna cannot be concealed within a Utility Pole (e.g. wooden poles), all wiring to the antenna shall be concealed within the most Stealth conduit possible that matches the color of the Utility Pole.

h) Small Cell Support Structures proposed on property zoned residential shall be encouraged to be Non-Tower Wireless Communication Facilities (such as those contained behind building parapets or concealed within other existing structures) that include Stealth Technology appropriate for the location and context.

i) Where an Applicant can clearly demonstrate that employment of a Non-Tower Wireless Communication Facility is not possible on a property zoned residential, all Small Cell Support Structures shall be placed underground. When visible from a public right-of-way (ROW), antennas

proposed on property zoned residential shall be concealed with concealment wrap or a similar application.

j) Small Cell Support Structures shall not be illuminated, except to fulfill certain state or federal regulations, or where illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.

k) Small Cell Support Structures 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 a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.

l) The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.

m) Small Cell Support Structures shall not be located within five hundred (500) feet of an existing Small Cell Support Structure unless an Applicant can clearly demonstrate that such distance prohibits the carrier's ability to provide service. Multiple carriers are permitted and encouraged to locate on one Small Cell Support Structure, where possible.

n) Reasonable efforts shall be made by the Applicant and assessed as part of the Application review process to locate new Small Cell Support Structures on arterials and collectors before placing on local streets.

o) Reasonable efforts shall be made by the Applicant and assessed as part of the Application review process to locate new Small Cell Support Structures in Industrial, Commercial, Medical or Professional Zoning Districts before locating in any residential district within the City.

C. Evaluation of Applications

As part of Staff and Board of Zoning Appeals review of Applications filed for telecommunications facilities, the conformity of the Application with the foregoing requirements, including but not limited to the following, shall apply:

- 1. The Application is consistent with this Ordinance.*
- 2. The adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.) that provide for the ability to comply with the provisions of this Ordinance.*
- 3. The extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.*
- 4. The extent to which the proposed telecommunications facility is camouflaged (i.e., use of Stealth Technology).*
- 5. The extent to which the proposed facility is integrated with existing structures (i.e., buildings, signs, Utility Poles, etc.).*
- 6. An Applicant's compliance with all City requirements with respect to previous Applications.*

D. Amendments to Approved Plans

Amendments to approved plans shall be reviewed by the Staff once the Application for the associated amendment is deemed complete and, where applicable, forwarded to the Board of Zoning Appeals for consideration and approval. Evaluation of the amendment shall be based on the applicable criteria of this Ordinance.

E. Fees for Small Wireless Facilities

- 1. The application fee shall be one hundred (100) dollars for each of the first five (5) Small Wireless Facilities in a single application.*

2. *An additional two hundred (200) dollar fee for the first application an applicant files following the effective date of this Ordinance.*
3. *Beginning January 1, 2020 and every five (5) year interval thereafter, the application fee will be raised ten (10) percent more than previously required.*
4. *The annual rate for colocation of a Small Wireless Facility on a City owned PSS shall be one hundred (100) dollars per installation.*
5. *The usual application fee to petition the Athens Board of Zoning Appeals shall not apply.*

F. Tennessee Code Annotated

Anything not addressed or covered in the above section shall be governed by the T.C.A. Title 13, Chapter 24, Section 400 in its entirety.

SECTION 2. That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

SECTION 3. In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

SECTION 4. This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

PASSED ON FIRST READING: November 12, 2018

PASSED ON SECOND READING: December 18, 2018

DATE OF PUBLIC HEARING: December 18, 2018



C. SETH SUMNER, City Manager



CHARLES T. BURRIS, II, Mayor

APPROVED AS TO FORM:



H. CHRIS TREW, City Attorney