

Agenda
Regular Work Session of the Mayor and Council
City of Chattahoochee Hills, Georgia
September 5, 2019/6:00 p.m.

Discussion Items

1. Council Meeting Agenda Review – Robbie Rokovitz
2. Health and Dental insurance renewal – Robbie Rokovitz
3. Brewery/winery/distillery revisions – Mike Morton
4. Telecommunication Towers revisions – Mike Morton

Mayor and Council Reports and Comments



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Date: September 5, 2019
To: Mayor and City Council
From: Mike Morton, City Planner
Subject: Brewery/Winery/Distillery revisions

The Planning Commission has discussed revisions to the regulation of Small Craft Breweries/Wineries/ Distilleries but they are not ready to make recommendations. The attached redline document represents something close to the current thinking on the revisions. This is a work in progress and does not represent a consensus of the Commission. The final recommendations will likely differ from the attached draft.

Attachments:

Current Small Craft Brewery, Winery, or Distillery section from the zoning ordinance with proposed changes in progress

Zoning for Small Craft Brewery, Winery, or Distillery (as adopted)

Section 1: A new definition of “Small Craft Brewery, Winery, or Distillery” found in Section 35-570 of the Zoning Ordinance be added:

Craft Brewery, Winery, or Distillery, Small means an establishment where malt beverages, wine, or distilled spirits are manufactured on-site and are sold for consumption either on the premises or off the premises. Small Craft Breweries, Wineries, and Distilleries are further regulated in Chapter 4, Alcohol Beverages, Sections 4-26.1, 4-26.2, and 4-194. Craft breweries, wineries, and distilleries are designed and operated in a manner that supports the rural character of the city. In the RL (Rural) district, operations should bear some relationship to agricultural activity occurring in the city.

Section 2: The current Table 35-595 found in Section 35-595 of the Zoning Ordinance be deleted in its entirety and replaced with the following:

Permitted Use	Supp	RL	HM #	VL	TN
Craft Breweries, Wineries, and Distilleries, Small	Yes	U	U	U	U

Section 3: A new Supplemental Use Provision for Craft Brewery, Winery, or Distillery, Small, be added to Article VIII, Division 4 of Chapter 35, the Zoning Ordinance:

Craft Brewery, Winery, or Distillery, Small

1. Retail/service hours shall be limited to 9:00 a.m. – 10:00 p.m. Sunday – Thursday and 9:00 a.m. – 11:00 p.m. on Friday and Saturday
2. Outdoor service areas must be located on the buildable area of the lot.
3. Additional vegetative buffer may be required by City Council. A privacy fence may be allowed or required by City Council.
- ~~4. In the RL District the following shall also apply:

 - ~~a. A minimum of one ingredient shall be grown on the property with a minimum of one acre of land used in cultivation to produce the ingredient(s)~~
 - ~~b. The minimum lot size shall be three acres~~
 - ~~c. Wholesale distribution shall be prohibited~~
 - ~~d. Buildings housing the use shall be located a minimum of 300 feet from any off-site residence at the time of permitting.~~
 - ~~e. The capacity of individual vessels used in the brewing fermenting, or distilling equipment shall not exceed 30 barrels per vessel.~~
 - ~~f. The maximum floor area shall be 3000 square feet.~~~~
4. When located in the RL District on a lot equal to or larger than five acres and less than ten acres the following shall also apply:

- a. A minimum of one half acre of ingredients used in the production process must be grown on site.
- b. A 150 foot setback shall apply to all buildings, outdoor service areas, and parking lots directly related to the use. This setback does not apply to other uses on the property including related agricultural uses.
- c. Buildings housing the use shall be located a minimum of 300 feet from any off-site residence at the time of permitting.
- d. Events with over 100 participants and ticketed events shall be limited to eight per year. No event shall last more than three consecutive days.
- e. The maximum floor area shall be 3000 square feet.

5. When located in the RL District on a lot equal to or larger than ten acres the following shall also apply:

- a. A minimum of one acre of ingredients used in the production process must be grown on site.
- b. A 150 foot setback shall apply to all buildings, outdoor service areas, and parking lots directly related to the use. This setback does not apply to other uses on the property including related agricultural uses.
- c. Buildings housing the use shall be located a minimum of 300 feet from any off-site residence at the time of permitting.
- d. Events with over 250 participants and ticketed events shall be limited to eight per year. No event shall last more than three days.



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Date: September 5, 2019
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Subject: Telecommunication Towers revisions

In order to promote the installation of additional telecommunications capacity in the city, the City Council may want to consider some changes to the current regulation of telecommunication structures.

The changes listed here for consideration are intended to support two kinds of actions:

1. Installation of 5G infrastructure on utility poles
2. Approval of towers don't meet the current requirements for height or colocation capacity

The section numbers below refer to the sections in the existing code, which is attached here.

Section 35-729 Applicability

Some 5G equipment may be installed on utility poles. Consider adding an exemption for pre-existing power/utility poles when the equipment adds ten feet or less to the height.

35-730 (b) Five-year plan and inventory of existing sites

Possibly eliminate this requirement for antennas that are to be collocated and for antennas to be located on an existing tower, provided that the proposed antenna does not add more than ten feet to the height of the tower.

35-730 (c) Co-location; design requirements

This section requires that new towers be required to handle additional antennas. The idea is to reduce the number of towers sticking up in the sky by forcing users to share towers. However, this increases the cost of erecting a new tower. Since the city has had trouble attracting service providers, Council might want to consider creating a variance standard to allow approval of these less-expensive towers in the appropriate circumstances. The question is what are those circumstances, and what are the criteria for approval? Modifying the height-related questions in 35-731 (b) (16) might be a good place to start, though criteria for approval would still need to be developed.

35-731 (b) (16) (This is actually just an application requirement in cases where the height exceeds the limits in 35-734.)

These questions must be answered when the proposed tower is higher than the standards in 35-734 (75 feet in RL; 90 feet in HM/VL/TN):

- a. What good faith efforts and measures were taken to secure an alternate site and why such efforts were unsuccessful;
- b. Why an alternate site was not technologically, legally or economically feasible;
- c. How and why the proposed height is essential to meet service demands for the geographic service area; and
- d. How and why the necessary service cannot be provided with more antennas at a height complying with section 35-734.

However, no authority is provided to approve such a tower that exceeds the height limits, except for the regular variance criteria (hardship due to size, shape, or topography), which would be difficult to apply. If Council would like to approve larger towers, standards should be developed for their approval.

One example of a similar type of standard that is currently in the telecommunications structures section:

35-733 (f) [Telecom Structure Special Use Permit consideration for approval or denial]

- (11) Whether the applicant has demonstrated with clear and convincing evidence that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity;

Building Code

Telecommunication Structures also are covered by the International Building Code, which was adopted by the state of Georgia and the city has agreed to enforce. Here's an excerpt:

SECTION 3108

TELECOMMUNICATION AND BROADCAST TOWERS

3108.1 General. Towers shall be designed and constructed in accordance with the provisions of TIA-222. Towers shall be designed for seismic loads; exceptions related to seismic design listed in Section 2.7.3 of TIA-222 shall not apply. In Section 2.6.6.2 of TIA 222, the horizontal extent of Topographic Category 2, escarpments, shall be 16 times the height of the escarpment.

Exception: Single free-standing poles used to support antennas not greater than 75 feet (22 860 mm), measured from the top of the pole to grade, shall not be required to be noncombustible.

3108.2 Location and access. Towers shall be located such that guy wires and other accessories shall not cross or encroach upon any street or other public space, or over above-ground electric utility lines, or encroach upon any privately owned property without the written consent of the owner of the encroached-upon property, space or above-ground electric utility lines. Towers shall be equipped with climbing and working facilities in compliance with TIA-222. Access to the tower sites shall be limited as required by applicable OSHA, FCC and EPA regulations.

Attachments:

Current Telecommunications Structures section from the zoning ordinance

DIVISION 5. - TELECOMMUNICATIONS STRUCTURES

Sec. 35-728. - Purpose.

The purpose of this division is to provide requirements for the siting of all wireless, cellular, television and radio telecommunications support structures and antennas; to encourage the location of support structures in nonresidential areas; to minimize the total number of support structures within the community necessary to provide adequate personal wireless services to residents of the city; to encourage the joint use of new and existing support structure sites among service providers; to locate telecommunications support structures and antennas in areas where adverse impacts on the community are minimized; to encourage the design and construction of support structures and antennas to minimize adverse visual impacts; and to enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

(Ord. No. 15-05-137, § 4.5.1, 5-5-2015)

Sec. 35-729. - Applicability.

- (a) *Location.* No support structure or antenna shall be located in the city except as set forth in this section. Except as set forth in subsections (c), (d), and (e) of this section, the provisions, requirements and limitations of this section shall govern the location of all wireless telecommunication, cellular telecommunication, television, microwave or radio transmission support structure or antenna installed within the city. If any provisions in other sections of this chapter conflict with this section, the provisions of this section shall apply.
- (b) *Height limitations.* Height limitations applicable to buildings and structures set forth elsewhere in this chapter shall not apply to support structures and antennas which comply with this section.
- (c) *Governmental exemption.* Except as otherwise specifically provided for in this section, the provisions of this section shall not apply to the governing authority's properties, facilities or structures.
- (d) *Amateur radio receive-only antennas.* This section shall not apply to any support structure, or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna; provided, however, only one such support structure or antenna per residence shall be exempt from this section. Amateur radio receive-only antennas shall be located in the second or third layer unless fully screened, or more than 600 feet from the right of way.
- (e) *Television/radio antennas/satellite dishes.* This section shall not apply to any support structure, or the installation of any antenna that is 75 feet or less in height and is used for the purpose of receiving satellite, television or radio signals in the operator's residence; provided, however, only one such support structure or antenna per residence shall be exempt from this section. Receive-only antennas/satellite dishes shall be located in the second or third layer unless fully screened, or more than 600 feet from the right of way.
- (f) *Pre-existing support structures and antennas.* Any support structure or antenna for which a permit has been properly issued prior to the effective date of the ordinance from which this chapter is derived shall not be required to meet the provisions of this section. Any such support structures or antennas shall be referred to in this chapter as "pre-existing support structures" or "pre-existing antennas"; provided, however, that the placement of antennas on any nonconforming structure shall not create a vested right for the continued use of the structures should the nonconforming use cease. If an additional antenna is co-located upon a pre-existing support structure or alternative support structure after adoption of this section, then the requirements of section 35-730(e) (except subsection (e)(6)), (g) and (h) shall be met as part of the permitting process.

(Ord. No. 15-05-137, § 4.5.2, 5-5-2015)

Sec. 35-730. - General provisions.

- (a) *Principal or accessory use.* A support structure and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if

located on a lot or parcel shared with a different existing primary use or existing structures. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or support structure. For purposes of determining whether the installation of a support structure or antenna complies with zoning district requirements, including, but not limited to, setback, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or support structure may be located on a leased area within such lot or parcel. Support structures that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.

- (b) *Five-year plan and inventory of existing sites.* To facilitate the co-location of antennas and future land use planning, each applicant seeking to locate a new support structure, alternative support structure or antenna, or modify any such existing structure, shall provide to the director an inventory of its existing support structures or alternative support structures, existing support structures or alternative structures to be upgraded or replaced, and proposed support structures or alternative Structures to be constructed in the next five years following the date of the application.
 - (1) The inventory shall include all such structures owned or leased by the applicant that are within the jurisdiction of the city and, within a neighboring jurisdiction which currently is capable of providing coverage or capacity within the city, and shall include specific information about the location (latitude and longitude coordinates), height, design, support structure type and general suitability for antenna co-location of each support structure or alternative structure, and other pertinent information as may be required by the director.
 - (2) If the applicant does not know specific future support structure and antenna site locations but does know of areas where telecommunications facilities will be needed within the next five years to provide service, the applicant shall list the assessor's blocks contained within the geographic service area and identify each geographic service area with a number that will correspond to the future telecommunication facility site.
 - (3) The director may share the location of existing telecommunication facility sites with other applicants seeking to locate support structures or antennas within the jurisdiction of the city; provided, however that the director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable. The location of any proposed telecommunication facility sites will be protected as privileged information if the applicant so requests and it is considered as such under the applicable laws and legal authority.
- (c) *Co-location; design requirements.* In addition to all applicable building and safety codes, all support structures shall be designed to accommodate the co-location of cellular telecommunication antennas according to the following:
 - (1) For support structures up to 90 feet in height, the structure and fenced compound shall be designed to accommodate the maximum number of users as determined by the most current technology;
 - (2) For support structures 90 feet to 150 feet in height, the structure and fenced compound shall be designed to accommodate at least three providers or the maximum number of users as determined by the most current technology, whichever is greater;
 - (3) For support structures 150 feet to 200 feet in height, the structure and fenced compound shall be designed to accommodate at least four providers or the maximum number of users as determined by the most current technology, whichever is greater;
 - (4) No support structure shall exceed 200 feet in height.
- (d) *Co-location; availability of suitable existing structures.* No new support structure shall be permitted unless the applicant demonstrates to the satisfaction of the director that no existing support structure or existing alternative support structure can accommodate the applicant's proposed antenna. The applicant shall submit an inventory of all support structures or alternative support structures located within one-half mile of the proposed location. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts. All required evidence must be submitted with the application. Evidence submitted to demonstrate that no existing support structure

or other structure can accommodate the proposed antenna shall consist of one or more of the following:

- (1) No existing support structures or suitable alternative support structures are located within the geographic antenna placement area required to meet the applicant's engineering requirements;
 - (2) Existing support structures or structures are not of sufficient height to meet the applicant's engineering requirements;
 - (3) Existing structures or support structures do not have sufficient structural strength to support the applicant's antenna and related equipment;
 - (4) The applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing support structures, or the antenna on the existing support structures would cause interference with the applicant's proposed antenna;
 - (5) The cost or contractual provisions required by the support structure owner to share an existing support structure or alternative support structure or to adapt an existing support structure or alternative support structure for sharing exceed the cost of new support structure development. Specific cost information must be submitted if this justification is to be relied upon; and
 - (6) The applicant adequately demonstrates that there are other limiting factors that render existing support structures unsuitable, other than economic reasons. If the requirement of co-location will cause additional expense to the applicant, all such costs must be specifically shown.
- (e) *Aesthetics*. The guidelines set forth in this subsection shall govern the design and construction of all support structures, and the installation of all antennas governed by this section.
- (1) Support structures and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (2) At all support structure sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the support structure facilities to the natural setting and building environment. Any equipment or cabinet that supports telecommunication facilities must be concealed from public view and made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.
 - (3) For antennas installed on a structure other than a support structure, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive. Antennas designed to appear as trees are preferred.
 - (4) Support structures shall not be artificially lighted, unless required by the FAA or other applicable authority. If the lighting is required, the director may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
 - (5) No signage or other identifying markings or signs shall be permitted upon any support structure or alternative support structure within the city.
 - (6) To the extent practical, telecommunication facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the governing body or by any state or federal law or agency.
 - (7) Access to the support structure site shall be restricted so as to minimize visibility of the access. Where possible, existing thoroughfares shall be used. Where no thoroughfare exists, access shall follow the existing contours of the land.
 - (8) Such other additional requirements as the director shall reasonably require to minimize the visual impact of the site on the surrounding area.
- (f) *Setbacks and separation*. The following setbacks and separation requirements shall apply to all support structures:

- (1) Support structures shall be set back a distance equal to the height of the support structure from its base to any public right-of-way or occupied structure, or property line of the lot or parcel containing the support structure.
 - (2) Guy-wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.
 - (3) In all zoning districts, support structures shall not be located closer than 2,000 feet from any existing support structure.
 - (4) In the event an applicant clearly demonstrates that, given the structural failure characteristics of an alternative structure design, the required setbacks are excessive and unduly burdensome, the applicant may request the setbacks be reduced. In determining whether setbacks shall be reduced, consideration shall be given to both the danger from structure collapse and falling debris, such as ice, from a structure.
- (g) *Security fencing/anti-climbing devices.* All support structures and supporting equipment shall be enclosed by fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood or other approved alternatives and shall comply with the fence requirements in section 35-400.
- (h) *Landscaping.* The following requirements shall govern landscaping surrounding all support structures.
- (1) Where adequate vegetation is not present, support structure facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the support structure compound. Landscaped strips shall be a minimum of ten feet in width and located outside the fenced perimeter of the compound.
 - (2) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.
 - (3) Landscaping shall be maintained by the provider and shall be subject to periodic review by the director to ensure proper maintenance. Failure to maintain landscaping shall be deemed a violation of this section.
- (i) *Maintenance impacts.* Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a thoroughfare, access for maintenance vehicles shall be exclusively by means of the thoroughfare, utilizing existing access to the property on which such facility is to be located, where possible.
- (j) *Airport review.* If, upon receipt of an application for the erection of any support structure or alternative support structure governed by this section, the director deems that the proposed structure may interfere with or affect the operation of existing or proposed airport facilities, a copy of the application shall be submitted by the director to the respective airport authority for review and recommendation.
- (k) *Federal requirements.* All support structures must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate support structures and antennas. If such standards and regulations are changed, the permittee or the lessee of the support structure and antenna governed by this section shall bring such support structure and/or antenna into compliance with such revised standards or regulations within six months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such support structure and/or antenna into compliance with such revised standards and regulations shall be deemed to be a declaration of abandonment of the support structure and constitute grounds for the removal of the support structure or antenna at the owner's, permittee's, or lessee's expense.
- (l) *Building codes; safety standards.* To ensure the structural integrity of support structures, the owner, permittee or subsequent lessee of a support structure or alternative support structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the

applicable standards for support structures that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the director concludes that a support structure fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee or lessee of the support structure, said party shall have 15 days to bring the support structure into compliance with such standards. Failure to bring such support structure into compliance within 15 days shall be deemed a declaration of abandonment of the support structure and constitute grounds for removal of the support structure. Prior to the removal of any support structure, the director may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard support structures, and may grant a reasonable extension of the above referenced compliance period.

- (m) *Change of ownership notification.* Upon the transfer of ownership of an interest in any support structure, alternative support structure, or lot upon which such a structure has been erected, the support structure permittee shall notify the director of the transaction in writing within 30 days.

(Ord. No. 15-05-137, § 4.5.3, 5-5-2015)

Sec. 35-731. - Application procedures.

- (a) *Pre-application meeting.* Prior to submitting an application for a permit for any telecommunication facility, the applicant shall schedule a pre-application meeting with the director as required in section 35-102. Applicants shall also review the city inventory of potentially available sites for co-location.
- (b) *General application requirement.* Application for a permit for any telecommunication facility shall be made to the director by the person, company or organization that will own and operate the telecommunications facility. The director is authorized to develop application forms to assist in providing the required information and facilitate the application process. Except for a co-location information submittal, the following information shall be submitted at the time the application is submitted. The application will not be considered complete and will not be accepted unless accompanied by all required information at the time of submittal.
- (1) A survey, sealed by a surveyor registered in the state, showing the location of all lot lines, leased areas, easements, access points, structures, screening and landscaping existing on site.
 - (2) Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent uses. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the city.
 - (3) Scaled elevations showing the impact of the proposed support structure or antenna.
 - (4) Landscaped plan to scale indicating size, spacing and type of plantings required in section 35-730(h).
 - (5) A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures, zoning districts, structures and sites of historic significance, streetscapes or scenic view corridors.
 - (6) Information and drawings showing that the proposed facility and support structure satisfy the aesthetic requirements of section 35-730(e).
 - (7) A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.
 - (8) Report from a professional qualified engineer licensed in the state, or other appropriate qualified industry expert, documenting the following:
 - a. Support structure or antenna type, height, and design;
 - b. Engineering, economic, and other pertinent factors governing selection of the proposed design;

- c. Total anticipated capacity of the telecommunications facility, including numbers and types of antennas which can be accommodated;
 - d. Evidence of structural integrity of the support structure or alternative support structure;
 - e. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris; and
 - f. Certification that the antenna and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.
- (9) The identity of a community liaison officer appointed by the applicant to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility, including name, address, telephone number, facsimile number, and electronic mail address. Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network, such as whether such antenna or support structure is needed for coverage or capacity.
- (10) If the proposed site is in a RL zoning district, applicant must describe why an alternate zoning district was not proposed by identifying:
- a. What good faith efforts and measures were taken to secure such an alternate site and why such efforts were unsuccessful;
 - b. Why such an alternate site was not technologically, legally or economically feasible; and
 - c. How and why the proposed site is essential to meet service demands for the geographic service area.
- (11) The director will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The director shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.
- (12) The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power line easements impacting the proposed support structure site.
- (13) The original signature of the applicant. The applicant must provide a signed, notarized statement of all owners of the subject property authorizing the filing of the application, and where applicable, the signed and notarized affidavit of the owners of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner of the subject property. Where applicable, the applicant shall also provide a copy of any lease agreements with the owner of the subject property.
- (14) The applicants proposed five-year plan, the inventory of existing support and alternative support structures, and other information required by section 35-730(b).
- (15) Evidence demonstrating specifically that no existing support or alternative support structure can accommodate the proposed antenna, under section 35-730(d).
- (16) If the proposed antenna height exceeds the limitations of section 35-734, the applicant must describe why an antenna complying with that height standard is not feasible by showing:
- a. What good faith efforts and measures were taken to secure an alternate site and why such efforts were unsuccessful;
 - b. Why an alternate site was not technologically, legally or economically feasible;

- c. How and why the proposed height is essential to meet service demands for the geographic service area; and
 - d. How and why the necessary service cannot be provided with more antennas at a height complying with section 35-734.
- (17) The applicant must provide any other information which may be requested by the director to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.
- (c) *Support structure co-location information submittals.* Any person or entity co-locating an antenna which will add no more than ten feet to the height of the support structure and related equipment or appurtenances on or around a support structure for which a permit has already been issued shall submit the following information only. This information must be submitted at the time the application is submitted. The application will not be considered complete and will not be accepted unless accompanied by all required information at the time of submittal:
- (1) The name of the person or entity co-locating the antenna.
 - (2) The name of the owner of the support structure and a copy of any lease agreements with said owner.
 - (3) The support structure's permit number.
 - (4) The location of the support structure.
 - (5) The remaining structural capacity of the support structure.
 - (6) Certification that the antenna and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

(Ord. No. 15-05-137, § 4.5.4, 5-5-2015)

Sec. 35-732. - Administrative approvals.

- (a) General.
- (1) The director may approve by special administrative permit the uses set forth in subsection (d) of this section. All such uses shall comply with requirements set forth in this subsection, in section 35-114 for special administrative permits and all other applicable codes and ordinances.
 - (2) As part of any special administrative permit approval related to this section, the director may administratively reduce setback requirements by up to ten percent to compensate for irregularly shaped lots or parcels.
 - (3) Any decision by the director that results in the denial of a request to place, construct, or modify wireless telecommunications facilities shall be in writing and supported by substantial evidence contained in a written record. In addition to the requirements set forth in subsection (d) of this section for uses allowed by administrative approval and provided in section 35-114 for special administrative permits, the director shall consider the applicable factors set forth in section 35-733(f) in acting upon an application for administrative approval.
- (b) *Application contents; fee.* All applications for special administrative permits shall be submitted to the director. Each application shall contain as a part thereof detailed plans and specifications as set forth in section 35-731. A special administrative permit application shall not be accepted for processing without the information required in section 35-731. An application fee shall be charged by the director in an amount stated in section 35-736.
- (c) *Co-location of antennas required.* Applicants for the erection of a support structure or placement of an antenna shall be required to co-locate upon an existing support structure or alternative support structure. An exception to co-location shall only be made if the applicant adequately demonstrates that

an existing support structure suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative support structure is available as set forth in section 35-730(d).

- (d) *Uses allowed by special administrative permit.* The following uses may be approved through special administrative permit by the director after conducting an administrative review, provided all other criteria of this section are met.
 - (1) Co-location of any antenna, so long as the addition of said antenna adds no more than ten feet to the height of the existing support or alternative support structure.
 - (2) Replacing an existing support structure with a new support structure designed to accommodate three or more users so long as the new support structure does not exceed the height of the original structure or the height limitations of this section or the setback requirements of this section. After the replacement support structure is built, only one support structure shall remain on such site.
- (e) *Appeal of the director's determination.* If a special administrative permit application for a support structure as an administratively permitted use is determined by the director to not meet all applicable criteria of this section or any other related regulation of this chapter, the applicant may appeal the determination to the city council pursuant to section 35-117.
- (f) *Report of approved permits.* A report of all administrative permits approved as set forth in this section shall be presented to the city council at the next regularly scheduled city council meeting.

(Ord. No. 15-05-137, § 4.5.5, 5-5-2015)

Sec. 35-733. - Special use permit required.

- (a) General.
 - (1) If the proposed support structure or antenna is not eligible for a special administrative permit, then a special use permit shall be required for the construction of a support structure, alternative support structure or the placement of an antenna in any zoning district. All such uses shall comply with requirements set forth in this section, in section 35-113 for special use permits and all other applicable codes and ordinances.
 - (2) In granting a special use permit, the city council may impose conditions to the extent that it concludes such conditions are necessary to mitigate from the proposed support structure or antenna upon surrounding properties.
- (b) *Application contents; fee.* All applications for special use permits shall be submitted to the director. Each application shall contain as a part thereof detailed plans and specifications as set forth in section 35-731. An application for a special use permit shall not be accepted for processing without all the information required in section 35-731.
- (c) *Co-location of antennas required.* Applicants for the erection of a support structure or antenna, except amateur radio operators, shall be required to co-locate upon an existing support structure. An exception to co-location shall only be made if the applicant adequately demonstrates that an existing support structure suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative support structure is available as set forth in section 35-730(d).
- (d) *Independent expert review.* The city shall engage a licensed professional engineer as an independent expert to review any of the materials submitted by an applicant for a special use permit if the application seeks a new support structure over 100 feet in height. The city may engage such an expert if the application seeks a new support structure less than 100 feet, or seeks a co-location. The expert shall render an opinion regarding any concerns about the proposal, including, but not limited to, structural integrity and the feasibility of alternative sites or co-location. Following the review of an independent expert, the city shall convey its concerns to the applicant in writing and shall allow the applicant a reasonable opportunity to address those concerns.

- (e) *Public hearing.* Before taking action upon the proposed special use permit, the governing authority shall hold a public hearing on the matter consistent with the requirements of section 35-106.
- (f) *Considerations in approval or denial of special use permits.* Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The city council shall submit a written decision to the city clerk, and mail a copy to the applicant, within one week of the date of decision. In addition to the review standards provided for special use permits in section 35-115, the following factors shall further be taken into consideration in acting upon a special use permit application under the provisions of this section:
 - (1) The height and setbacks of the proposed support structure or antenna;
 - (2) The proximity of the support structure or antenna to residential structures and properties;
 - (3) The surrounding topography;
 - (4) The surrounding tree coverage and foliage;
 - (5) The design of the support structure or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness, such as a monopole or alternative support structure;
 - (6) The proposed ingress and egress;
 - (7) The availability of suitable existing support structures or other structures for antenna co-location; and whether the applicant has demonstrated adequately, pursuant to section 35-730(d), that no co-location is possible;
 - (8) The impact of the proposed support structure or antenna upon scenic views, special districts or properties, and visual quality of the surrounding area;
 - (9) The needs of the applicant as balanced against the detrimental effects on surrounding properties;
 - (10) The impact of the proposed support structure or antenna on adjacent and nearby properties;
 - (11) Whether the applicant has demonstrated with clear and convincing evidence that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity;
 - (12) Whether the applicant has complied with, and satisfactorily demonstrated compliance with, all requirements of this division;
 - (13) Whether the applicant has satisfied the aesthetic requirements of section 35-730(e); and
 - (14) If the applicant has previously filed a five-year plan pursuant to section 35-730(b), whether the proposed facility complies with that plan, and if not, whether the applicant has valid reasons for deviating from its plan.
- (g) *Requirements for issuance of special use permit.* The special use permit may be issued by the city only upon satisfaction of the following requirements:
 - (1) A proper and complete application filed in accordance with the requirements of section 35-115;
 - (2) The application is in compliance with the conditions for the proposed special use permit required by this division, and is in compliance with all requirements of section 35-730;
 - (3) The applicant complies with the conditions proposed by the city for the purpose of reducing the harmful effects of the use on surrounding uses and ensuring compatibility with neighboring uses;
 - (4) The city determines, based upon a review of the requirements and factors set forth in this division, that the benefits and need for the proposed special use permit are greater than any possible depreciating effects or damages to neighboring or nearby properties; and
 - (5) All fees have been paid in full.

(Ord. No. 15-05-137, § 4.5.6, 5-5-2015)

Sec. 35-734. - Support structures and antennas by location.

- (a) *Placement of support structures and antennas.* No permit shall be granted for any site in a rural area, unless the evidence establishes that it is not possible to locate said support structure or antenna in another area and close significant gaps or otherwise provide personal wireless communication service mandated by the terms of the applicant's federal telecommunication license. No support structure or antenna shall be permitted within 2,000 feet of any residentially used property unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity. For the purposes of this section, the term "residentially used property" means the property on which the residence is located and not more than three acres of land, determined as if the residence was situated in the center of said tract. All other requirements of this division shall apply and must be satisfied prior to a permit being granted.
- (b) *Height standards.* If the evidence establishes the necessity for placing a support structure or antenna within the areas listed in subsection (a) of this section, the height of such support structure or antenna shall be limited as follows:
 - (1) Within the RL district: the maximum height for a support structure, including antennas, shall be 75 feet.
 - (2) Within HM, VL, or TN district: The maximum height for a support structure, including antennas, shall be 90 feet.

(Ord. No. 15-05-137, § 4.5.7, 5-5-2015; Ord. No. 15-10-146, § 3, 10-6-2015)

Sec. 35-735. - Removal of abandoned support structures and antennas.

- (a) *Notice of abandoned antenna and structures.* The owner or lessee of a support structure or antenna shall promptly notify the director of its intent to abandon or the abandonment of any support structure or antenna.
- (b) *Removal of abandoned antennas and support structures.* Any support structure or antenna that is not operated for a continuous period exceeding 12 months shall be considered abandoned, and the owner of such antenna or support structure shall remove the structure within 90 days of such abandonment. If said support structure or antenna is not removed within said 90 days, the city may take such action as may be deemed necessary to remove, or cause to be removed, such antenna or support structure at the owner's expense. If there are two or more users of a single support structure, then this provision shall not become effective until all users cease utilizing the support structure.

(Ord. No. 15-05-137, § 4.5.8, 5-5-2015)

Sec. 35-736. - Application and permit fees.

- (a) *Administrative approvals.* For purposes of this division, an application for a special administrative permit shall be \$500.00.
- (b) *Construction of new support structure up to 100 feet.* An application for construction of a new support structure up to a height of 100 feet, including the placement of additional buildings or other supporting equipment used in connection with said support structure or antenna, shall be \$1,000.00.
- (c) *Construction of new support structure greater than 100 feet.* An application for construction of a new support structure greater than 100 feet in height, including the placement of additional buildings or other supporting equipment used in connection with said support structure or antenna, shall be \$3,000.00.

- (d) *Special use permit for location of antenna on support structure or alternative support structure.* An application for location of an antenna on an existing support structure or alternative support structure, the addition of said antenna adding more than ten feet to the height of the existing support structure or structure, shall be \$500.00.
- (e) *All other applications.* Unless specifically provided above, the fee for any other application under this division shall be \$500.00.
- (f) *Building permit fees.* In addition to the application fees set forth herein, the applicable construction and utility inspection permit fees in effect at the time of the application for the permit shall apply.
- (g) *Review costs.* All direct costs incurred by the city for an independent expert review conducted according to section 35-733(d) shall be charged to the applicant. Such charges shall be paid by the applicant before the permit is issued.

(Ord. No. 15-05-137, § 4.5.9, 5-5-2015)