

ORDINANCE NO. 2019-07

AN ORDINANCE ENACTING TITLE 19 OF THE CENTERVILLE MUNICIPAL CODE REGARDING SMALL WIRELESS FACILITIES

WHEREAS, the Utah legislature has adopted the Utah Small Wireless Facilities Deployment Act (“Act”), as set forth in Utah Code 54-21-101, et seq., encouraging wireless infrastructure investment within the State and requiring cities to allow for such facilities in certain public rights-of-way as more particularly provided in the Act; and

WHEREAS, the Federal Communications Commission (“FCC”) has issued its Declaratory Ruling and Third Report and Order: *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79 and WC Docket No. 17-84, regarding deployment of wireless broadband; and

WHEREAS, the City Council desires to enact Title 19 of the Centerville Municipal Code in compliance with applicable Federal and State laws, to provide a fair and predictable process for the deployment of small wireless facilities within the City and to promote and protect the safe management of the public rights-of-way in the overall interests of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH:

Section 1. Enactment. Title 19 of the Centerville City Municipal Code regarding the Small Wireless Facilities is hereby enacted to read in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference.

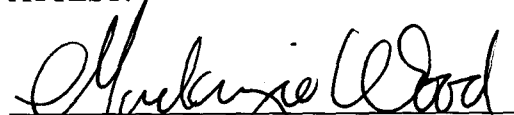
Section 2. Severability Clause. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all provisions, clauses and words of this Ordinance shall be severable. This Section shall become effective without codification.

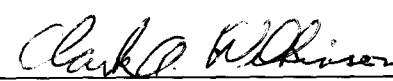
Section 3. Effective Date. This Ordinance shall become effective upon publication or posting.

PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE, STATE OF UTAH, ON THIS 12th DAY OF APRIL, 2019.

CENTERVILLE CITY

ATTEST:


Mackenzie Wood, City Recorder

By: 
Mayor Clark A. Wilkinson

Voting by the City Council:

	"AYE"	"NAY"	"ABSENT"
Councilmember Fillmore	<u>X</u>	_____	_____
Councilmember Ince	<u>X</u>	_____	_____
Councilmember Ivie	<u>X</u>	_____	_____
Councilmember McEwan	_____	_____	<u>X</u>
Councilmember Mecham	<u>X</u>	_____	_____

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provisions of the U.C.A. § 10-3-713, as amended, I, the municipal recorder of Centerville City, hereby certify that foregoing ordinance was duly passed by the City Council, recorded by me in a book used exclusively for that purpose, and published, or posted at: (1) 250 North Main; (2) 655 North 1250 West; and (3) RB's Gas Station, on the below referenced dates.

 MACKENZIE WOOD, City Recorder

DATE: _____

RECORDED on ____ day of _____, 2019.

PUBLISHED OR POSTED on ____ of _____, 2019.

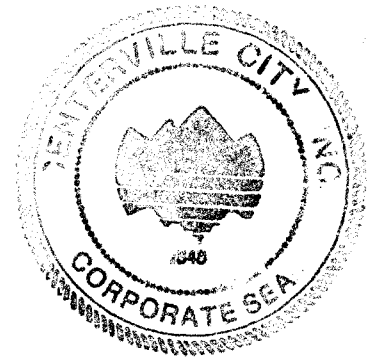


Exhibit A

Title 19: Small Wireless Facilities

Title 19

SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY

19.01 Small Wireless Facilities

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19.01.010 Scope and Purpose.

This Title applies to Small Wireless Facilities in the City's public Right-of-Way, as such terms are more particularly defined in CMC 19.01.040. The purpose of this Title is to regulate the installation, construction, operation, co-location, modification, maintenance, and removal of Small Wireless Facilities in the City's public Right-of-Way, balancing the benefit of wireless services with other established goals, objectives and values of the City while promoting and protecting the public health, safety and welfare of the citizenry and the general public. It is the intent of this Title to comply with all applicable provisions of Federal and State law, including, but not limited to the Utah Small Wireless Facilities Deployment Act, as set forth in Utah Code §§ 54-21-101, et seq., and the Federal Communications Commission, Declaratory Ruling and Third Report and Order: *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, to the extent applicable to the City.

19.01.020 Authority.

In accordance with Federal and State law, the City may exercise zoning, land use, planning, placement, and permitting authority with respect to wireless support structures and utility poles. To the fullest extent allowed under Federal and State law, rules and regulations, the City reserves the right to regulate zoning, land use, planning, placement and permitting related to wireless communication facilities.

19.01.030 Applicability.

All references to Small Wireless Facilities in this Title shall refer only to Small Wireless Facilities in the public Right-of-Way. No person shall install, construct, modify, or otherwise place any Small Wireless Facility within the public Right-of-Way in violation of the provisions of this Title. In the interest of the health, safety and welfare of the City, its citizens, and the general public, no Small Wireless Facilities shall be collocated on any power, traffic or directional poles within the City.

19.01.040 Definitions.

For purposes of this Title, the following words shall have the meanings set forth in this Section. Words not defined shall be given their common and ordinary meaning. The definitions set forth herein are intended to comply and be consistent with the terms and definitions set forth in the Utah Small Wireless Facilities Deployment Act, as set forth in Utah Code §§ 54-21-101, et seq.

- (a) Antenna – Communications equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of a wireless service.
- (b) Applicant – A wireless provider who submits an application.
- (c) Application – A request submitted by a wireless provider to the City for a permit to collocate a Small Wireless Facility in the Right-of-Way or install, modify, or replace a Utility Pole or Wireless Support Structure.
- (d) Authority Pole – A Utility Pole owned, managed, or operated by, or on behalf of, the City.
- (e) Collocate – To install, mount, maintain, modify, operate, or replace a Small Wireless Facility on a Wireless Support Structure or Utility Pole, or, ground-mounted equipment, adjacent to a Wireless Support Structure or Utility Pole.
- (f) Decorative Pole – An Authority Pole that is specially designed and placed for an aesthetic purpose and on which attachments are prohibited (other than Small Wireless Facilities, informal or directional signs, or temporary holiday or special event attachments).
- (g) Design District – An area that is zoned or otherwise designated by the City as an area of historic or other significance for which the City maintains and enforces unique design and standards. Design District shall include the Parrish Lane Gateway District, the Shorelands Commerce Park District, and the South Main Street Corridor Overlay District, as defined in the Centerville Zoning Code.
- (h) Gross Revenue – Means the same as gross receipts from telecommunications services as defined in Utah Code Ann. § 10-1-402.
- (i) Historic District – A group of buildings, properties, or sites that are listed in the National Register of Historic Places, formally determined eligible for listing in the National Register of Historic Places by the Keeper of the National Register, or in an historic district or area created under Utah Code Ann. § 10-9a-503. Historic District shall include the Centerville Deuel Creek Historic District as defined in the Centerville Zoning Code.

- (j) **Master License Agreement** – An agreement between a provider and the City that sets forth general terms and conditions pursuant to which the provider may install and operate small wireless facilities in the Right-of-Way.
- (k) **Micro Wireless Facility** – A type of Small Wireless Facility that, not including any antenna, is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height on which any exterior antenna is no longer than 11 inches and only provides Wi-Fi service.
- (l) **Permit** – Written authorization required by the City and issued under this Title for construction, excavation or other work in, or obstruction of, the public Right-of-Way allowing a wireless provider to perform an action or initiate, continue, or complete a project, subject to the terms of this Title and a Master License Agreement.
- (m) **Right-of-Way** – Includes the areas on, below or above all public highways, roadways, streets, roads, sidewalks, alleys, dedicated Rights-of-Way, owned by or dedicated for public use or dedicated to the City. It does not include utility or other easements not located within the above described areas.
- (n) **Small Wireless Facility** – A wireless facility on which each wireless provider’s antenna could fit within an enclosure of no more than 6 cubic feet in volume, and for which all wireless equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet in volume, not including any electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, vertical cable run for the connection of power or other service, wireless provider antenna, or coaxial or fiber-optic cable that is immediately adjacent to or directly associated with a particular collocation, unless the cable is a wireline backhaul facility. If more than one Small Wireless Facility is collocated on a structure, the facilities together shall collectively not exceed the total size dimensions described herein.
- (o) **Substantial Modification** – A proposed modification or replacement to an existing Wireless Support Structure that will substantially change the physical dimensions of the wireless support structure under the substantial change standard established in 47 C.F.R. Sec. 1.40001(7) or a proposed modification in excess of the site dimensions specified in 47 C.F.R. Part 1, Appendix C, Sec. III.B.
- (p) **Utility Pole** – A pole or similar structure that is in a Right-of-Way and is or may be used for: wireline communications, electric distribution, lighting, or the collocation of a Small Wireless Facility. Utility pole does not include traffic control signs, street signs, a Wireless Support Structure, a structure that supports electric transmission lines, or electric power poles owned by the City.
- (q) **Wireless Facility** – Equipment at a fixed location that enables wireless communication between user equipment and a communications network, including equipment associated with wireless communications regardless of the technological configuration, a radio transceiver, an antenna, a coaxial or fiber-optic cable, a regular or backup power supply, or comparable equipment. A Wireless Facility does not include the structure or an improvement on, under, or within which the equipment is collocated; or a coaxial or fiber-optic cable that is: (i) between wireless structures or utility poles; (ii) not

immediately adjacent to or directly associated with a particular antenna; or (iii) a wireline backhaul facility.

- (r) **Wireless Infrastructure Provider** – See definition in Utah Code 54-21-101.
- (s) **Wireless Provider** – A wireless infrastructure provider or wireless service provider.
- (t) **Wireless Service** – Any service using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public using a wireless facility. “Wireless Service” includes the use of WiFi.
- (u) **Wireless Service Provider** - See definition in Utah Code 54-21-101.
- (v) **Wireless Support Structure** – An existing or proposed structure that is in the Right-of-Way and designed to support or capable of supporting a wireless facility, including a monopole, tower, either guyed or self-supporting, billboard or building. A Wireless Support Structure does not include: a structure designed solely for the collocation of a Small Wireless Facility, utility pole, City owned structure that supports electric lines used for the provision of municipality electric service, or structure owned by the City that uses electric lines that are used for the provision of electrical service.
- (w) **Wireline Backhaul Facility** - See definition in Utah Code 54-21-101.

19.01.050 Orders, Rules and Regulations.

In addition to the requirements set forth in this Title, the City may adopt orders, rules and regulations which are reasonably necessary to accomplish the purposes of and are consistent with this Title. Such additional regulations include the Small Wireless Facilities Infrastructure Design Guidelines as adopted by resolution of the City Council.

19.01.060 Master License Agreement Required.

- (a) A wireless provider may not install, repair, maintain, remove and replace wireless facilities in the Right-of-Way without first entering into a master license agreement with the City.
- (b) The City is empowered and authorized to grant nonexclusive master license agreements on a nondiscriminatory basis, governing the installation, operation, use and maintenance of wireless facilities in the City’s rights of way that are consistent with the provisions of this Title.
- (c) The City may negotiate additional or different terms with the different wireless providers, in the exercise of City’s reasonable discretion and pursuant to the City’s police powers and proprietary rights in the Rights-of-Way.
- (d) The City shall grant a master license agreement to a wireless provider pursuant to ordinance authorizing the negotiation and execution of a master license agreement. Acceptance of the master license shall occur by the wireless provider executing the authorized master license agreement within 30 days of recordation of the authorizing ordinance. Any amendment or extension thereof will also require City council approval.
- (e) The term of a master license agreement may be renewed if the wireless provider is in compliance with the master license agreement and all applicable laws, rules, and regulations, including this Title. At the expiration of the term of the master license

agreement, the wireless provider shall remove its wireless facilities from the Right-of-Way.

- (f) If a wireless provider has telecommunications systems that may be used for multiple purposes, such as a wireline backhaul facility or video services system, then such provider shall obtain a franchise or other relevant agreement from the City for each permitted purpose.
- (g) Before offering or providing any wireless services pursuant to the master license agreement, a wireless provider shall obtain all other regulatory approvals, permits, authorizations or licenses for the offering or providing of such services from the appropriate Federal, State, and local authorities, if required, and shall submit to the City evidence of the same. If such regulatory approvals, permits, authorizations or licenses cannot be obtained until after a permit is issued from the City, provider shall inform the City in writing and such regulatory approvals, permits, authorizations or licenses may be waived until after issuance of the permit from the City. If any portion is herein is waived, provider shall still be required to provide such proof of regulatory approvals, permits, authorizations, or licenses after a permit is issued by the City.
- (h) The grant of a master license agreement does not excuse the wireless provider from obtaining: (i) any permit or other authorization required to engage in or carry on any business within the City as required by the laws, rules, and regulations of the City; (ii) any other permit, agreement or authorization required in connection with the use of property or facilities owned by third parties; or (iii) any other permit or authorization required in connection with excavating or performing other work in or along the Right-of-Way.
- (i) Any wireless provider acting without a master license agreement on the effective date of the ordinance codified in this Title shall request issuance of a master license agreement from the City within 90 days of the effective date of this Ordinance. If such request is made, the wireless provider may continue to provide services during the course of negotiations. If a timely request is not made, or if a master license agreement is not granted, the wireless provider shall remove its equipment from the Right-of-Way within 30 days of notice from the City.
- (j) A master license agreement shall not convey title, equitable or legal, in the Right-of-Way. A master license agreement is the right to non-exclusively occupy the Right-of-Way for the limited purposes and time period stated in the agreement.
- (k) A master license agreement granted pursuant to this Title shall contain appropriate provisions for enforcement, compensation, and protection of the public, consistent with the other provisions of this Title, including, but not limited to, defining events of default, procedures for accessing the bond/security fund, and rights of termination or revocation.
- (l) In the event a wireless provider continues to operate all or any of its wireless facilities after the terms of the master license has expired, such wireless provider shall continue to comply with all applicable provisions of this Title and the master license agreement, including, without limitation, all compensation provisions; provided, that any such continued operations shall in no way be construed as a renewal or other extension of the master license agreement, nor as a limitation on the remedies available to the City as a

result of such continued operation after the term, including, but not limited to, damages and restitution.

19.01.070 Use by Right-of-Way for Small Wireless Facilities and Utility Poles.

(a) Subject to the provisions of this Title and the issuance of a permit, a Wireless Provider may:

(1) Collocate a Small Wireless Facility;

(2) Install, operate, modify, maintain or replace:

(A) A Utility Pole associated with the Wireless Provider's collection of Small Wireless Facilities;

(B) Equipment required for a Wireless Provider's Collocation of Small Wireless Facilities; or

(C) Authority Pole with the wireless provider's collection of Small Wireless Facilities.

(3) Except, an Applicant may not install a new Utility Pole in a Right-of-Way without the City's discretionary, nondiscriminatory, and written consent, if the Right-of-Way is adjacent to a street or thoroughfare that is:

(a) not more than 60 feet wide, as depicted in the official plat records;

(b) adjacent to single-family residential lots, other multifamily residences or undeveloped land that is designated for residential use by master plan, zoning or deed restrictions.

(b) Small Wireless Facilities and new, modified, and replacement Utility Poles, Authority Poles and Wireless Support Structures in the Right-of-Way shall be allowed in any zoning district after staff review and approval in accordance with the standards set forth in this Title.

(c) A Small Wireless Facility, Utility Pole or Authority Pole may not:

(1) obstruct or hinder the usual travel or public safety on a Right-of-Way;

(2) obstruct, damage, or interfere with another utility facility in a Right-of-Way or a utility's use of the utility's facility in a Right-of-

Way or the clear view area of any public or private driveway or drive approach.

(d) Construction and maintenance by the Wireless Provider shall comply with all applicable legal obligations for the protection of underground and overhead utility facilities.

19.01.080 Design Standards.

(a) Integrated Design. The design and location of a Small Wireless Facility, Utility Pole, and/or Wireless Support Structure shall comply with all standards adopted by the City. Small Wireless Facilities shall be architecturally integrated into the Wireless Support Structure and shall be installed in a manner that prioritizes and minimizes the visual impact. Small Wireless Facilities should not be readily noticed. Exposed cabling is prohibited, except for Collocations on existing structures where internal cable routing is not feasible (e.g., on a wooden pole). To the extent reasonably feasible from an engineering, construction and design perspective, the application shall consider the surrounding colors, materials, and architectural features to ensure that the design of the new facility is compatible with the surrounding area and the goals of the City.

(b) Height and Size Limitations.

(1) The height of a new or modified Utility Pole or Authority Pole that has a collocated Small Wireless Facility may not exceed 50 feet above ground level.

(2) For a utility pole existing on or before September 1, 2018, an antenna of a Small Wireless Facility may not extend more than 10 feet above the top of the Utility Pole.

(3) A Small Wireless Facility and its associated equipment may not exceed the dimensions set forth in Utah Code 54-21-101(25).

(c) Decorative Poles. If necessary to collocate a Small Wireless Facility, a Wireless Provider may replace a decorative pole, if the replacement pole reasonably conforms to the design aesthetic of the displaced decorative pole.

(d) Historic and Design Districts.

(1) A wireless provider shall participate in a pre-application meeting with the City's Planning Staff and obtain design approval from the City before collocating a new Small Wireless Facility or installing a new Utility Pole in an area that is zoned or otherwise designated as a Historic District or a Design District. The pre-application meeting shall be included in any time frames set forth for review of the application by the City.

(2) All Small Wireless Facilities in Historic or Design Districts shall, to the extent possible, use design techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, or other design options that will blend the Small Wireless Facilities to the surrounding natural setting and built environment. Design, materials and colors of Small Wireless Facilities shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation located in the Right-of-Way and on adjacent parcels.

(3) Should the Director determine that such design meets the intent of this Code and the community is better served thereby, the design may include the use of man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflage or conceals the presence of Antennas or Poles so as to make them architecturally compatible with the surrounding area pursuant to this Title.

(4) All visible exterior surfaces on all Small Wireless Facilities shall be constructed out of or finished with non-reflective materials.

(5) Subject to the permit process set forth in this Title, the City may require a reasonable, technically feasible, nondiscriminatory, or technologically neutral design or concealment measure in an historic district or design district, unless the facility is excluded from evaluation for effects on historic properties under 47 C.F.R. Sec. 1.1307(a)(4).

(6) No above ground wireless facilities or poles shall be installed in designated Historic Districts.

(e) Aesthetics. Small Wireless Facilities shall not be lighted or marked unless required by an applicable governmental authority. Signs located at the Small Wireless Facilities shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by an applicable governmental authority. Commercial advertising is strictly prohibited.

(f) Undergrounding. All new fiber backhaul lines, electrical distribution lines, wires, cables, or other facilities serving Small Wireless Facilities must be located underground, however antennas or other facilities required to remain above ground in order to be functional are permitted as approved by the City.

19.01.090 Additional Requirements.

(a) Insurance and Bonding. A wireless provider will be responsible for carrying and maintaining insurance and bonds as may be required in the master license agreement and in connection with obtaining a permit.

(b) Indemnity. A wireless provider shall indemnify, save harmless, and defend City, its officers and employees, from and against all losses, claims, counterclaims, demands, actions, damages, costs, charges, and causes of action of every kind or character, including attorneys' fees, arising out of or in connection with such provider's wireless facilities or use of the Right-of-Way, unless and to the extent caused by the City's negligence.

(c) Electrical Service. A wireless provider will be solely responsible for establishing electrical power services for to each of its wireless facilities and for the payment of all electrical utility charges to the City.

(d) Inspections. All wireless facilities and wireless provider-owned structures shall be maintained by the wireless provided in a clean and good condition, free of graffiti, and rusting, excessive dirt, and peeling paint. The City shall have the authority to conduct inspections of the wireless facilities and structures at any time to determine whether such facilities and structures comply with the requirements of this Title. The City shall notify provider in writing of any failed inspections and provide 30 days to provider to remedy any failed inspection. If provider fails to remedy any failed inspection, the City may remedy any defect and provider shall pay to the City the actual costs incurred by the City along with any administrative penalties set forth by the City.

(e) Compliance with Law. All Small Wireless Facilities must at all times comply with all applicable federal, state, and local building codes and safety codes and regulations. All Small Wireless Facilities and structures shall be constructed and installed to manufacturer's specifications.

(f) Hazardous Materials. Provider shall not possess, use, generate, release, discharge, store, dispose of, or transport any hazardous materials on, under, in, above, to, or from any Right-of-Way except in compliance with all applicable environmental laws and pre-approved by City. Wireless provider shall promptly reimburse City for any fines or penalties levied against c because of wireless provider's failure to comply with environmental laws.

(g) Compliance. Provider shall follow all City Ordinances regarding insurance, bonding, and any other requirement applicable to other entities utilizing the the Right-of-Way.

(h) Additional Requirements. Wireless facilities will be subject to any additional requirements set forth in the applicable master license agreement and permit.

19.01.100 Permitting, Application, and Review Process.

(a) All Applicants shall be required to obtain a permit to Collocate a Small Wireless Facility in a Right-of-Way or to install a new, modified, or replacement Utility Pole, Authority Pole or Wireless Support Structure associated with a Small Wireless Facility in a Right-of-Way.

(b) City staff is authorized and empowered to create any necessary forms, rules, regulations and requirements consistent with this Title that are necessary to assist the City in the permitting, application and review process.

(c) All Applications shall contain the following:

(1) Application form signed by the Applicant or authorized representative;

(2) Zoning and construction drawings;

(3) Application fee;

(4) An industry-standard pole load analysis indicating that the structure on which the wireless facilities will be mounted will safely support the load. If a small wireless facility cannot be safely installed on the respective structure, applicant shall either replace the structure with a compliant structure of the same type, or propose a new location;

(5) A photograph of each proposed location showing the condition of the location before construction and installation;

(6) Proof or evidence of insurance as required by applicable City Ordinance or the master license agreement or any other agreement with the City; and

(7) An affidavit that the installation or collocation of the Small Wireless Facility shall be completed within 270 days after the day on which the City issues the permit.

(c) Application Fees. The Applicant shall pay all application fees set forth in CMC 19.01.130.

(d) Procedure for Review of Applications

(1) Within thirty (30) days of the receipt of an application for Review for the collocation of Small Wireless Facility or new, modified or replacement Utility Pole or Authority Pole, the City shall determine whether the application is complete and notify the Applicant in writing.

(2) If the City determines the application is incomplete, the City shall specifically identify the missing information in the written notification. The processing deadline shall be tolled from the day on which the City sends the Applicant the written notice to the day on which the City receives the Applicant's missing information or for a mutually agreeable period of time as identified in a written agreement between the Applicant and the City.

(3) Expiration of Application. An Application for a Small Wireless Facility expires if the City notifies the Wireless Provider that the Wireless Provider's Application is incomplete, in accordance with Subsection (2) and the Wireless Provider fails to respond within 90 days after the day on which the City notifies the wireless provider.

(e) Decision. The City shall approve or deny an Application for the Collocation of a Small Wireless Facility, within 60 days after the day on which the City receives the complete Application and for a new, modified, or replacement Utility Pole, within 105 days after the day on which the City receives the complete Application. If the City fails to approve or deny the Application within the applicable time period the Application is deemed approved.

(f) Denial of Application.

(1) The City may deny an Application to collocate a Small Wireless Facility or to install, modify, or replace a Utility Pole, only if the action requested in the Application:

(A) materially interferes with the safe operation of traffic control equipment;

(B) materially interferes with a sight line or a clear view area for transportation or pedestrians;

(C) materially interferes with compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq., or a similar federal or state standard regarding pedestrian access or movement;

(D) fails to comply with the requirements set forth in this Code;

(E) creates a public health or safety hazard; or

(F) obstructs or hinders the usual travel or public safety of the Right-of-Way.

(g) If the City denies an application, the City shall document the basis for the denial, including any specific law on which the denial is based and send written notification informing the Applicant of the denial, including the basis for the denial.

(h) Resubmission of Application. Within 30 days after the day on which the City denies an Application, the Applicant may, without paying an additional application fee cure any deficiency the City identifies in the Applicant's Application and resubmit the Application. The City shall approve or deny a revised Application within 30 days after the day on which the City receives the revised Application. Review of a revised Application is limited to the deficiencies documented as the basis for denial unless the Applicant has changed another portion of the Application.

(i) **Consolidated Applications.** If an Applicant seeks to Collocate multiple Small Wireless Facilities within the City, the City shall allow the Applicant, at the Applicant's discretion, to file a consolidated Application for the Collocation of up to 25 Small Wireless Facilities, if all of the Small Wireless Facilities in the consolidated Application are substantially the same type and proposed for collocation on substantially the same types of structures, or install, modify, or replace multiple Utility Poles within the City, the City shall allow the Applicant, at the Applicant's discretion, to file a consolidated Application for the installation, modification, or replacement of up to 25 Utility Poles.

(1) A consolidated Application may not combine Applications solely for collocation of Small Wireless Facilities on existing Utility Poles with Applications for the installation, modification, or replacement of a Utility Pole.

(2) If the City denies the application for one or more Utility Poles, or one or more Small Wireless Facilities, in a consolidated application, the City may not use the denial as a basis to delay the application process of any other Utility Pole or Small Wireless Facility in the same consolidated Application.

(3) An applicant may not file within a 30-day period more than one consolidated application or multiple applications that collectively seek permits for a combined total of more than 25 Small Wireless Facilities and Utility Poles.

(j) **Exceptions to Permitting.** Except as otherwise provided herein or in a master license agreement, applications for permits are not required for routine maintenance of the Small Wireless Facility or support structures for the Small Wireless Facility unless it interferes with pedestrian or vehicular traffic or affects the health, safety or welfare of the City.

19.01.110 Damage and Repair

If a Wireless Provider's activity causes damage to a pole or Right-of-Way, the Wireless Provider shall repair the pole or Right-of-Way to substantially the same condition as before the damage. If a Wireless Provider fails to make a repair required by the City within a reasonable time after written notice, the City may make the required repair; and charge the Wireless Provider the reasonable, documented, actual cost for the repair. If the damage causes an urgent safety hazard, the City may immediately make the necessary repair and charge the Wireless Provider the reasonable, documented, cost for the repair.

19.01.120 Enforcement and Remedies; Abandonment and/or Removal

(a) **Enforcement.** The City is responsible for enforcing and administering this Title. The City or its designee is authorized to give any notice required by law or under any master license agreement or permit. Failure of City to require performance of any term in this Title or the

waiver by either party of breach hereof shall not prevent subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

(b) Abandonment and/or Removal of wireless facilities:

(1) In the event: (a) the use of a wireless facility is discontinued for a continuous period of 12 months; (b) the term of the applicable master license agreement has expired; or (c) any wireless facility or structure has been installed in the Rights-of-Way without complying with the requirements of this Title, and the respective wireless facilities have not been removed by the wireless provider within 30 days of any such event, such wireless provider shall be deemed to have abandoned such wireless facility.

(2) If any wireless facility is deemed abandoned or installed without complying with the requirements of this Title, the wireless provider shall remove its wireless facilities and structures within 60 days of the City's notice of such abandonment and shall repair and restore the Right-of-Way to a similar or better condition than at the time of the installation. Failure to do so may result in the City's removal of the facilities and structures at the wireless provider's cost. The City shall have the right to inspect and approve the condition of the Right-of-Way, wireless facilities, and structures prior to and after removal. The liability, indemnity and insurance provisions of this Title and any security required of a wireless provider shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this Title.

(c) Transfer and/or Acknowledgment of Abandoned System. Upon abandonment of any system, a provider, if required by the City, shall submit to the City a written instrument, in a form satisfactory to the City, transferring to the City the ownership of the abandoned system or, as the City may request, acknowledging abandonment of the system.

19.01.130. Compensation.

As fair and reasonable compensation for any small wireless facility installation granted pursuant to this Title, applicants and providers shall have the following obligations:

(a) Application Fees. The Applicant shall pay the applicable application fees set forth in Utah Code 54-21-503 and as more particularly provided in CMC 19.01.100;

- (1) \$100 for each small wireless facility;
- (2) \$250 for each utility pole associated with a small wireless facility; and
- (3) \$1,000 for each utility pole or WCF that is not permitted under Utah Code 54-21-204.

(b) **Right-of-Way Rate.** A provider shall pay a right-of-way rate of the greater of 3.5% of all gross revenues related to the provider's use of the city's right-of-way for small wireless facilities or \$250 annually for each small wireless facility in accordance with Utah Code 54-21-502. A provider does not have to pay this rate if it is subject to the municipal telecommunications license tax under Title 10, Part 4 of the Utah Code, Municipal Telecommunications License Tax Act, and CMC 5.08 (Telecommunications License Tax).

(c) **Permit Fees.** The Applicant and/or provider shall also pay fees required for any permit necessary to install and maintain the proposed WCF or utility pole.

(d) **Authority Pole Collocation Rate.** The city adopts the authority pole collocation rate as established in Utah Code 54-21-504.