THE CITY OF STONECREST GEORGIA

PLANNING COMMISION STAFF REPORT

MEETING DATE: May 7, 2019

GENERAL INFORMATION

Petition Number: TMOD- 19-0004 Telecommunications Regulations

Applicant: Legal Department

Project Location: City -Wide

Proposed Amendment: Updating 4.2.57 Wireless Telecommunications regulations.

Staff Recommendations: **APPROVAL**

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA REVISING SECTION 4.2.57 (WIRELESS TELECOMMUNICATIONS) OF ARTICLE IV (USE REGULATIONS) OF CHAPTER 27 (ZONING) OF THE CODE OF THE CITY OF STONECREST, GEORGIA TO COMPLY WITH REQUIREMENTS OF FEDERAL RULINGS AND STATE AND FEDERAL LAWS ON TELECOMMUNICATION FACILITY REGULATIONS.

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide for the general health, safety and welfare of the citizens of the City; and

WHEREAS the City has the power to regulate the development, siting and use of telecommunication towers and related equipment and facilities within its limits pursuant to its exclusive zoning and planning authority granted by the 1983 Constitution of the State of Georgia, including, but not limited to, Article IX, Section II, Paragraph IV and Article IX, Section II, Paragraph III; the authority granted the General Assembly of the State of Georgia, including, but not limited to, O.C.G.A. §36-70-3; the authority granted under the Charter of the City of Stonecrest, as well as the general police powers of the City and other authority provided by federal, state, and local laws applicable thereto; and

WHEREAS, the City previously exercised such power, having adopted the City's zoning ordinance, including a comprehensive code governing the manner in which people and entities develop, site, and use telecommunication towers and related equipment and facilities that presently is codified in Article IV, Section 4.2.57 of Chapter 27 of the City Code; and

WHEREAS, the Federal Communication Commission (FCC), on or about September, 2018, issued a ruling revising certain requirements and authority of the City in regulating installation of Small Cell Facilities and Infrastructures; and

WHEREAS, as a result of the FCC ruling, the City desires to revise its regulations as dictated by the FCC Rule and to create a more structured telecommunication regulatory mechanism; and

WHEREAS, the health, safety, and general welfare of the citizens of the City will be positively impacted by the adoption of this Ordinance.

THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF STONECREST, GEORGIA, and by the authority thereof:

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

Section 1: The Code of the City of Stonecrest, Georgia is hereby amended by revising Chapter 27 (Zoning), Article IV (Use Regulations), Section 4.2.57 (Wireless Telecommunications) to read as follows:

Sec. 4.2.57. Wireless telecommunications.

A. *Purpose and goals.* The purpose of this section is to ensure that residents, public safety operations, and businesses in the City of Stonecrest have reliable access to wireless telecommunications networks and state of the art communication services while also ensuring that this objective is achieved in a manner consistent with Stonecrest's planning and zoning standards, to maintain to the extent possible the aesthetic integrity of the community, and in accordance with applicable state law and with federal law, regulations, and guidance, including the Telecommunication Act of 1996 which preserved, with certain limitations, local government land use and zoning authority concerning the placement, construction, and modification of wireless telecommunication facilities. The goals of this section are:

1. To ensure City of Stonecrest has sufficient wireless infrastructure to support its public safety communications throughout the county;
2. To provide access to reliable wireless telecommunication services by residents, businesses, and visitors throughout all areas of the City;
3. To minimize the total number of support structures within the City by promoting and encouraging the joint use of new and existing wireless support structures among wireless service providers;
4. To encourage the location of wireless support structures, to the extent possible, in areas where adverse impacts on the community will be minimized;
5. To encourage the design and construction of towers and antennas to minimize adverse visual impacts;
6. To avoid potential damage to property caused by wireless communications facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound;
7. To preserve those areas of scenic or historic significance;
8. To facilitate implementation of an existing tower map for the City of Stonecret;
9. To promote and encourage the joint use of new and existing tower sites among service providers;

10. To enhance the ability of the providers of wireless communications services to deliver such services to the community effectively, safely and efficiently;

11. To be consistent with all overlay districts within the City, to the extent practicable and so as to not to conflict with this section;

12. To encourage the location of telecommunication facilities, including all Telecommunication Support Structures, Equipment and/or Antenna(s) in nonresidential areas;

13. To promote health, safety, and general welfare of the public by regulating the siting of and establishing development standards for wireless facilities and related wireless support structures, equipment, and infrastructure; and

14. To follow and promote policies embodied in Section 704 of the Federal Telecommunications Act of 1996 and O.C.G.A. §36-66B-1, *et. seq.*, in such manner as not to unreasonably discriminate between providers of functionally equivalent wireless services or to prohibit or have the effect of prohibiting personal wireless services in the City.

B. *Definitions.* For the purposes of this Article, the following definitions apply. Words not defined herein shall be construed to have the meaning given by common and ordinary usage and shall be interpreted within the context of the sentence and section in which they occur:

Accessory equipment (or Equipment) means any device or telecommunications infrastructure component serving or being used in conjunction with the delivery or transmission of all types of Telecommunication Services. This equipment includes, but is not limited to, Antennas, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures, small cell devices and similar wireless transmitters or conduits.

Administrative approval means zoning approval that the director of planning is authorized to grant in the form of a special administrative permit.

Administrative review means evaluation of an application by the director of planning in connection with the review of an application for a building permit.

Alternative Telecommunication Support Structure means clock towers, bell towers, water tanks, church steeples, light/power poles, electric transmission support structures, man-made trees and similar natural or man-made alternative-design mounting structures that camouflage or conceal the presence of Antennas or telecommunication support structures. An Alternative Telecommunication Support Structure may include a pre-existing building and outdoor advertising sign.

Antenna means any communications equipment that transmits, receives, or transmits and receives electromagnetic radio signal used in the provision of all types of

wireless communication services including, but not limited to, cellular, paging, personal communications services (PCS) or microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

Applicant means a person or entity with an application for an administrative or special use permit for the erection of, Modification of, or Co-location of Telecommunication Facilities in the City, whether located on private lands or in a Public Right-of-Way. For purposes of this section, this term shall include any Co-Applicant or party with an ownership interest in a proposed or affected existing Telecommunication Facility, including, but not limited to, property owners, telecommunication support structure owners, and any proposed tenants for the facility.

Application means a formal request submitted to the City of Stonecrest to construct, collocate or modify a Telecommunication Facility, Telecommunication Support Structure or Alternative Telecommunication Support Structure.

Attached wireless telecommunications facility means an antenna or antenna array that is secured to an existing building or structure (except an antenna support structure) with any accompanying pole or device which attaches it to the building or structure, together with transmission cables and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure, and do not significantly change the profile of the existing structure and are not readily noticeable to the untrained eye. Attached wireless telecommunications facilities may be concealed or contained in an architectural feature and should complement the existing theme and rhythm of the structure. An attached wireless telecommunications facility is considered to be an accessory use to the existing principal use on a site.

Carrier on wheels or *cell on wheels ("COW")* means a portable self-contained telecommunications facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure, though it may use a separate temporary mast for the placement of antennas.

Collocate or *collocation* means the placement or installation of new wireless facilities on previously approved and constructed Telecommunication Support Structures or Alternative Telecommunication Support Structures, including monopoles and towers, both self-supporting and guyed, in a manner that negates the need to construct a new freestanding Telecommunication Support Structure or Alternative Telecommunication Support Structure. Such term includes the placement of accessory equipment within an existing equipment compound.

Commission means the Georgia Public Service Commission.

Distributed antenna systems ("DAS") means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure. A DAS is considered a type of Small Cell Installation.

Equipment compound means an area surrounding or adjacent to the base of a wireless support structure within which accessory equipment is located.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Fall zone means the maximum distance from its base a Telecommunication Support Structure or Alternative Telecommunication Support Structure will collapse in the event of a failure, usually less than the total height of such structure. This distance must be defined by a professional civil or structural engineer licensed in the State of Georgia.

Geographic search area (GSA) means a geographic area designated by a wireless provider or operator as the area within which a new telecommunication facility must be located to serve an identified system need, produced in accordance with generally accepted principles of wireless engineering.

Grantee means an Applicant in receipt of written authorization from the City to erect, operate, and/or maintain Telecommunication Facilities in the Public Right-of-Way.

Guyed Structure means a style of Telecommunication Support Structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Height means the distance measured from ground level to the highest point on a Telecommunication Support Structure or Alternative Telecommunication Support Structure, including all Antennas or lighting rods.

Modification means the improvement, upgrade, expansion, or replacement of wireless facilities on an existing Telecommunication Support Structure or Alternative Telecommunication Support Structure or within an existing equipment compound, including improvements, upgrades, expansions, or the replacement of any existing telecommunication Equipment, conduit, or infrastructure apparatus, provided such improvement, upgrade, expansion, or replacement does not increase the Height of the Telecommunication Support Structure.

Monopole means a single, freestanding Telecommunication Support Structure that consists of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of support structure is designed to support itself

without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on the roof of a building.

Ordinary maintenance means action taken to ensure that telecommunications facilities and support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a support structure's foundation, or of the support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing telecommunications facility, and relocating the antennas of approved telecommunications facilities to different height levels on an existing Telecommunication Support Structure or Alternative Telecommunication Support Structure upon which they are currently located. Ordinary maintenance does not include modifications.

Provider means any legal entity authorized and/or engaged in the provision of Telecommunication Services.

Public Right(s)-of-Way means and includes all public streets and utility easements now or hereafter owned by or granted to the City, but only to the extent of the City's right, title, interest or authority to authorize or permit an Applicant to occupy and use such streets and easements for the erection and operation of Telecommunication Facilities.

Public Street means a street, road, highway, boulevard, freeway, lane, path, alley, court, sidewalk, parkway, or drive which is owned by a public entity or to which a public entity has an easement for street purposes, and with respect to which, and to the extent that, the City has a right to grant use of the surface of and space above and below in connection with an authorized Provider of Telecommunication Services and/or owner of Telecommunication Facilities.

(i) *Small Cell* or *Small Cell Installation* means an antenna facility that meets the following conditions:Mounted on structures 50 feet or less in Height, including their antennas; or

(ii) Mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a Height of more than 50 feet or by more than 10 percent, whichever is greater;

AND

(iv) Each antenna, excluding associated Equipment, is no more than three cubic feet in volume; and

(v) All wireless equipment associated with the structure, including any pre-existing associated Equipment on the structure, is no more than 28 cubic feet in volume.

Substantial Increase in Size means:

(i) Any increase in an existing Telecommunication Support Structure's Height by more than 10% or 10 feet (on private property) or 20 feet (on Rights-of-Way), whichever is greater, or width of the added appurtenances more than 20 feet on property property or 6 feet on the Right-of-Way, as previously approved by the City or County, as a result of Modification or Collocation of Antennas or similar telecommunication Equipment;

(ii) An increase in the dimensions of a Telecommunication Facility's Equipment compound as approved by the City or County as a result of Modification or Collocation by more than 10%, inclusive of the increase due to placement of an additional Equipment compound or, if in the Right-of-Way, an installation of any Equipment compound where none existed prior to the Modification or Collocation;

(iii) A Modification or Collocation that will, as proposed, violated condition(s) of approval of an existing Telecommunication Facility, including any subsequently adopted amendments;

(iv) A Modification or Collocation of Equipment that, as proposed, will exceed the applicant weight limits for an existing Telecommunication Facility, as approved by the City or County;

(v) The addition of more than four (4) new Equipment cabinets or one (1) new shelter;

(vi) The excavation outside existing leased or owned property and current easements; and/or

(vii) For concealed or stealth-designed facilities, if a Modification or Collocation would defeat the concealment elements of the Telecommunication Facility or base station.

Telecommunications facility(ies) means any physical component utilized in the provision of all types of Telecommunications Services, including all Telecommunication Support Structures, Alternative Telecommunication Support Structures, Antennas, Equipment, infrastructure apparatus, based support mechanism, accessory equipment, towers, Monopoles, Small Cell Installations, and physical attachments necessary for the provision of such Telecommunication Services.

Telecommunication Facility Owner(s) means any person or entity that directly or indirectly owns, controls, operated or manages Telecommunication Facilities, including any related Equipment or property within the City, used or to be used for the purpose of offering or transmitting signals used in the provision of any Telecommunication Services.

Telecommunication Service(s) means the transmittal of voice, data, image, graphic, and video programming between or among points by wire, cable, fiber, optics, laser, microwave, radio, satellite, or other facilities. This term shall include commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange services as identified in the Telecommunications Act of 1996.

Telecommunication Support Structure means a freestanding structure that is designed to support or capable of supporting and constructed primarily for the purpose of supporting telecommunication Equipment; this term shall include self-supporting, guyed, and Monopole support structures. The term includes, and is not limited to, radio and television transmission telecommunication support structures, microwave telecommunication support structures, common-carrier telecommunication support structures, cellular telecommunication support structures, man-made trees, Alternative Telecommunication Support Structures, and other similar structures. In the Public Right-of-Way, only Telecommunication Support Structures erected for the installation of Small Cells shall be permitted.

Utility means any person, corporation, municipality, county, or other legal entity or department thereof or entity related or subordinate thereto, providing retail or wholesale electric, data, cable, or Telecommunication Services, or otherwise subject in any way to the lawful jurisdiction of the Commission.

Visual Quality means the appropriate design, arrangement, and location of Telecommunication Support Structures in relation ot the built or natural environment to avoid abrupt or severe differences.

C. *Approvals required for telecommunications facilities and support structures.* It shall be unlawful for any person to erect, install, construct, enlarge, move, alter or convert any Telecommunication Support Structure, Alternative Telecommunication Support Structure or antenna or cause the same to be done within the City except in accordance with the provisions of this section. In

addition, except as otherwise specifically provided herein, all support structures and antennas shall also comply with all applicable regulations for the zoning district in which said support structure or antenna is located and any permits authorizing said support structures or antennas.

1. All telecommunications facilities and support structures shall require the issuance of a building permit in compliance with the administrative review processes described in this chapter. The building permit for telecommunications facilities and support structures shall be in addition to either a special administrative permit or a special land use permit if required.

2. Telecommunications facilities and support structures permitted upon issuance of a special administrative permit by the director of planning shall be considered in accordance with the standards set forth in this chapter. A building permit for telecommunications facilities and support structures may be applied for and considered contemporaneously with an application for a special administrative permit.

3. Telecommunications facilities and support structures not permitted by a special administrative permit shall be permitted upon the granting of a special land use permit by the City of Stonecrest City Council in accordance with the standards set forth in this chapter, before submittal for administrative review (building permit).

D. *Exempt.* Ordinary maintenance of existing telecommunications facilities and support structures shall be exempt from permitting requirements. In addition, the following facilities are not subject to the provisions of this section:

1. Antennas used by residential households solely for broadcast radio and television reception;

2. Satellite antennas used solely for residential or household purposes;

3. Telecommunication facilities and support structures located on City-owned property;

4. COWs placed for a period of not more than one hundred twenty (120) consecutive days at any location within the City after a declaration of an emergency or a disaster;

5. Television and AM/FM radio broadcast towers and associated facilities; and

6. Small Cell facilities when located within a building interior.

E. Collocation of *Telecommunications facilities permitted by Special Administrative Permit.*

1. Collocation.

a. Collocated telecommunications facilities are permitted in all zoning districts when located on any existing structure fifty (50) feet in height or less subject to administrative review in accordance with the requirements of this Chapter.

b. Collocated telecommunication facilities may exceed the maximum building height limitations within a zoning district, above the roof line of a flat roof or the top of a parapet wall to which they are attached, but shall be camouflaged or screened with an architectural feature compatible with the building. Any Collocation that causes a Substantial Increase in Size of the Telecommunication Facility and/or supporting structure shall be permitted only upon a demonstration deemed sufficient to the director of planning that such collocation will obviate the need for an erection of a new Telecommunication Support Structure or Alternative Telecommunication Support Structure in the same geographic search area (GSA) as well as all other applicable review criteria as stated in this section.

2. The Special Administrative Permit must following the application requirements in subsection "F" below. The director of planning must issue a written decision approving, approving with conditions, or denying the application for Special Administrative Permit for Collocation within ninety (90) days of submission of the initial application or within sixty (60) days if the proposed Collocation does not substantially increase in size the existing Telecommunication Facility or is a Collocated Small Cell Installation.

F. *Erection of new Small Cell Installations and support structures and certain other Telecommunication Support Structures permitted by special administrative permit.*

1. *New support structures.*

a. New Telecommunication Support Structures and Alternative Telecommunication Support Structures for Small Cell Installations shall be permitted in all zoning districts and Public Rights-of-Way by special administrative permit.

b. New Telecommunication Support Structures and Alternative Telecommunication Support Structures, from fifty (50) feet up to one hundred ninety-nine (199) feet in height shall be permitted by special administrative permit in the OI, OD, C-1, C-2, M and M-2 zoning districts.

c. Attached wireless telecommunications (AWT) Antennas are allowed in single family residential districts, RE, RLG, R-100, R-85, R-75, R-60 and RSM. An AWT shall be located only on property that is used for non-residential purposes, and attached to

non-residential structures. The height of the facility shall be measured to include the height of the structure. These facilities shall be permitted by special administrative permit in accordance with the requirements of this chapter.

2. *Cell on wheels/carrier on wheels (COW) facilities.* The use of COWs shall be permitted in any zoning district after special administrative permit approval and administrative review (building permit). COWs may be placed for a period of not more than one hundred twenty (120) consecutive days at any location within the City of Stonecrest if used during a non-emergency or special event. Placement of a COW for the purpose of providing wireless telecommunication service in connection with a special event, subject to the COW's compliance with all federal requirements, may be up to forty-five (45) consecutive days before such special event, for the duration of the event, and for up to fourteen (14) consecutive days thereafter. After a declaration of an emergency or disaster by federal or state government, by City of Stonecrest, or a determination of public necessity by the director of planning, COWs are authorized without permitting.

3. *General standards, design requirements, and miscellaneous provisions.* Unless otherwise specified herein, all telecommunications facilities and support structures permitted by special administrative permit approval are subject to the applicable general standards and design requirements contained herein.

4. *Special administrative permit review process.* All special administrative permit applications must contain the following:

   a. The special administrative permit application form signed by the Applicant.

   b. A copy of a lease or letter of authorization from the owner of the property on which the telecommunications facility and support structure are or proposed to be located evidencing the applicant's authority to pursue the application. Such submissions need not disclose the financial lease terms.

   c. Site plans detailing proposed improvements complying with the City's site plan requirements. Site plans must depict all improvements and satisfaction of all applicable requirements contained in this Code, including property boundaries, setbacks, topography, elevation sketch, landscaping, fencing, and dimensions of improvements.

   d. Proof of and/or certified copies of any required approval, registration, and/or licensure from the Commission for any Provider of Telecommunication Services to provide such services

in the State of Georgia, where applicable, and any other required FAA, FCC, or otherwise state and federal approval, registration, and/or licensure required to erect, Modify, or Collocate the proposed Telecommunication Facility.

e. An affirmative declaration that the Applicant shall comply with all applicable federal, state, and local laws and regulations, including all applicable provisions of the City's Code of Ordinances and conditions imposed by the City regarding the erection and maintenance of Telecommunication Facilities.

f. In the case of a new support structure:

i. A statement indicating why collocation could not meet the applicant's requirements. Such statement may include justifications, including why collocation is either not reasonably available or technologically or structurally feasible, as applicable, to document the reason why collocation is not a viable option.

ii. The applicant shall provide a list of all the existing structures considered by it as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either reasonably unavailable, or technologically or structurally infeasible.

iii. Applications for new support structures with accompanying telecommunications facilities shall be considered together as one (1) application requiring only a single application fee.

iv. A list of all Antennas and support structures in the City of Stonecrest in which the applicant has an ownership interest or use agreement. The list shall include the location, the type of structure, the height of the structure, the number of facilities located on the same structure, and the number of facilities for which collocation would be available under existing conditions.

v. A color propagation map demonstrating the existing coverage of all telecommunications facilities owned and proposed by the applicant within the GSA.

vi. Current and proposed coverage map for the proposed Telecommunication Facility.

vii. A structural integrity analysis of a support structure shall be included where Antennas and Equipment will be attached to such support structure, or to establish the fall zone. Such certification and structural integrity analysis shall bear the

signature and seal of a professional engineer licensed in the State of Georgia.

viii. A special administrative permit application fee as listed in the City's published fee schedule. Such fee for Small Cell Installations shall not exceed $500 for the first five locations submitted concurrently, and $100 for each additional location thereafter.

g. Any other information as the director of planning may require to demonstrate full compliance with this section, all other ordinances of the City and all applicable requirements of state or federal law.

h. *Additional Requirements for Right-of-Way Applications.* Applicants seeking to Modify, Collocate or erect new Small Cell Installations on any Public Right-of-Way within the municipal limits of the City shall provide the following in addition to the requirements of this subsection:

(i) Proof of adequate insurance or self-insurance of the Applicant to defend and cover all claims of third parties against the Applicant and/or City personnel related to the use of the Public Right-of-Way;

(ii) A description of the Applicant's service area, where applicable, which shall be sufficiently detailed so as to allow the City to respond to subscriber or end-user inquiries. For the purpose of this paragraph, an Applicant providing Telecommunication Services may, in lieu of or as a supplement to a written description, provide a map on 8 ½ inch by 11 inch paper that is clear and legible and that fairly depicts the service area within the municipal limits of the City. If such service area is less than the municipal limits of the City, the map shall describe the boundaries of the geographic area to be served in clear and concise terms;

(iii) Proof of an executed Right-of-Way Use Agreement with the City or otherwise an existence of a valid telecommunications franchise to locate utilities in the Public Rights-of-Way of the City, as applicable, in accordance with State law.

5. *Procedure.*

a. Within thirty (30) days of receipt of an application for special administrative permit, or within ten (10) days if for Small Cell Installations, the director of planning shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the director informs the applicant that its application is incomplete within thirty (30) days, the overall timeframe for review is suspended until such time that the applicant provides the requested information necessary to complete the application. In can of Small Cell Installations, the first subsequent resubmittal shall restart the review period anew.

b. An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's failure to complete the application within sixty (60) days after receipt of written notice of incompleteness shall result in the withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted as a new application upon the filing of a new application fee.

c. The director of planning must issue a written decision approving, approving with conditions, or denying the application for the erection of a new Telecommunication Support Structure or Alternative Telecommunication Support Structure within one hundred fifty (150) days of the submission of the initial application, or ninety (90) days in the case of application for the erection of a new Small Cell Installation, unless the director of planning notified applicant in writing that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the applicable total review time is suspended until the applicant provides the missing information.

G. *Special land use permit review process.*

1. Erection of a new telecommunications facility and new support structure, located in a medium to high density residential district, or NS and OIT, from 51 to 150 feet in Height (except for an attached wireless telecommunication facility) shall meet the requirements of this chapter and shall be approved by a special land use permit subject to:

a. The submission requirements below;

b. The applicable standards below; and

c. The requirements of the special land use permit general requirements provided in this Chapter.

2. Submission requirements for special land use permit applications.

a. All special land use permit applications for telecommunications facilities must contain the following:

i. The special land use permit application form signed by applicant.

ii. A copy of a lease or letter of authorization from the property owner evidencing applicant's authority to pursue the special land use permit application. Such submissions need not disclose the financial lease terms.

iii. A legal description of the parent tract, the leased parcel and any associated easements, as applicable.

iv. A scaled site plan clearly indicating the location, type and height of the proposed Telecommunication Support Structure or Alternative Telecommunication Support Structure to be utilized, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines and residential structures (if located on adjacent property), elevation drawings of the proposed support structure, design of the support structure and facility and how visible obtrusiveness is reduced, accessory structure and any other structures, topography on site and of surrounding property, existing streams, wetlands and floodplains, and other information deemed necessary by the director of planning to assess compliance with this section.

v. A letter of intent providing a detailed narrative regarding the proposed facility, including the needs it is intended to meet, the area to be served, design characteristics, collocation alternatives, nature of uses on adjacent properties, and any other information deemed necessary by the director of planning to provide an adequate description of the proposal.

vi. A radio frequency study including a description of the area of coverage, capacity and radio frequency goals to be served by the proposed facility, and the extent to which such proposed facility is needed for coverage or capacity needs. The study shall include all planned, proposed, in-service or existing sites operated by the applicant in or near the boundaries of and a color propagation study demonstrating the existing coverage of all telecommunications facilities owned and proposed by the applicant within the GSA. The study shall also demonstrate that the proposed Height is the minimum necessary to achieve the required coverage. The study shall bear the signature of a qualified radio frequency engineer and certify that all emissions from any Antenna on the

Telecommunication Support Structure will comply with FCC frequency emissions standards.

vii. Certification that the telecommunications facility, the foundation and all attachments are designed and will be constructed to meet all applicable local codes, ordinances, and regulations, including any and all applicable City, state and federal laws, rules, and regulations and will not interfere with public safety communications or the usual and customary transmission or reception of radio, television, or other Telecommunication Services enjoyed by adjacent properties.

viii. Line-of-sight diagram or photo simulation, including a balloon test, showing the proposed support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas.

ix. A list of all Telecommunication Support structures and Alternative Telecommunication Support Structure in the City of Stonecrest in which the applicant has an ownership interest or use agreement. The list shall include the location, the type of structure, the Height of the structure, the number of facilities located on the same structure, and the number of facilities for which collocation would be available under existing conditions.

x. A statement indicating why collocation is not feasible. Such statement shall include:

(1) Such technical information and other justifications as are necessary to indicate the reasons why collocation is not a viable option; and

(2) A list of the existing structures considered by the applicant as possible alternatives to the proposed location and a written explanation why the alternatives considered were structurally deficient or otherwise unsuitable.

xi. A statement certifying that the support structure will be made available for collocation to other service providers at commercially reasonable rates.

xii. Notification to surrounding property owners as required by this chapter.

xiii. A special land use permit application fee as listed in the City's published fee schedule.

ix. Proof of and/or certified copies of any required approval, registration, and/or licensure from the Commission for any Provider of Telecommunication Services to provide such services in the State of Georgia, where applicable, and any other required FAA, FCC, or other State and Federal approval, registration, and/or licensure required to erect the proposed new Telecommunication Support Structure or Alternative Telecommunication Support Structure.

3. *Procedure.*

a. Within thirty (30) days of the receipt of an application for special land use permit, the director of planning shall either: (1) inform the applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the director informs the applicant in writing that its application is incomplete within thirty (30) days, the overall timeframe for review is suspended until such time that the applicant provides the requested information necessary to constitute a complete application.

b. If an application is deemed incomplete, the applicant may submit additional materials to complete the application. An applicant's unreasonable failure to complete the application within sixty (60) days after receipt of written notice of incompleteness shall result in the withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

c. A complete application for a special land use permit shall be scheduled for a hearing date as required by the City of Stonecrest.

d. The posting of the property and public notification of the application shall be accomplished in the same manner required for any special land use permit application under this chapter.

e. The director of planning must provide the applicant with a written decision of the City Council approving, approving with conditions, or denying the request within one hundred fifty (150) days of the submission of the initial application unless the director of planning notified applicant in writing that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred-fifty-day total review time is suspended until the applicant provides the missing information in writing.

H. *General standards and design requirements.*

1. *Design.*

   a. Support structures shall be subject to the following:

      i. Designed to accommodate a minimum number of collocations based upon their Height, as follows:

         (i) Support structures less than one hundred (100) feet in height shall be designed to support at least two (2) antenna arrays;

         (ii) Support structures between one hundred (100) and one hundred fifty feet (150) shall be designed to support at least three (3) antenna arrays; and

         (iii) Support structures greater than one hundred fifty (150) feet in height shall be designed to support at least four (4) antenna arrays.

      ii. The compound area surrounding the support structure must be in the minimum size to accommodate accessory equipment for the appropriate number of collocations.

      iii. Property leased or purchased for the purpose of a telecommunication facility is not required to have minimum road frontage or lot area of the zoning district. However, the applicant must demonstrate access to a public road via an access easement.

   b. Upon request of the applicant, the director of planning may waive the requirement that new support structures accommodate the collocation of other service providers if the director of planning determines that collocation at the site is not essential to the public interest and that the construction of a shorter support structure with fewer antennas would minimize adverse impact on the community.

2. *Setbacks.*

   a. Property lines. Unless otherwise stated herein or on public Right-of-Way, new support structures shall be set back from all property lines a distance of the fall zone plus twenty (20) feet, or if adjacent to property zoned residential, the greater of (a) the fall zone plus twenty (20) feet or (b) one hundred (100) feet.

   b. Residential dwellings. There shall be no setback requirement from dwellings located on the same parcel as the proposed structure.

   c. Unless otherwise stated herein, all accessory Equipment shall be set back from all property lines in accordance with the minimum setback requirements in the underlying zoning district and any overlay district. Accessory Equipment associated with an existing

or replacement utility pole shall not be subject to setback requirements.

d. The zoning board of appeals shall have the authority to vary any required setback upon the request of the applicant if:

i. The applicant provides a letter stamped by a certified structural engineer licensed in the State of Georgia documenting that the proposed structure's fall zone is less than the requested setback; and

ii. The proposed Telecommunication Support Structure or Alternative Telecommunication Support Structure is consistent with the purposes and intent of this ordinance.

3. *Height.*

a. In non-residential districts, support structures shall be designed to be the minimum height needed to meet the service objectives of the applicant, but in no event shall exceed one hundred ninety-nine (199) feet in height as measured from the base of the structure to its highest point, excluding any appurtenances.

b. In medium and high density residential districts, stealth support structures shall not exceed one hundred fifty (150) feet. Stealth support structures shall be measured from the base of the structure to the top of the highest point, excluding appurtenances. Any proposed stealth support structure shall be designed to be the minimum Height needed to meet the service objectives of the applicant.

c. In all zoning districts, the zoning board of appeals shall have the authority to vary the Height restrictions listed in this section upon the request of the applicant and a satisfactory showing of need for a greater height. With its variance request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the zoning board of appeals.

4. *Aesthetics.* Amateur radio Telecommunication Support Structures, or receiver-only Antennas, shall not be subject to the provisions of this subsection unless such structures exceed thirty-five (35) feet in Height.

a. Lighting and marking. Telecommunications facilities or support structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA). If lighting is required, the City may review the available federally-approved lighting alternatives and approve the design that would cause the least disturbance to the surrounding area.

b. Signage. Signs located at the telecommunications facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.

c. Landscaping. The visual impacts of a Telecommunication Facility and support structure shall be mitigated by landscaping. Unless located in heavily wooded areas, or on Public Rights-of-Way, Telecommunication Facilities shall be landscaped with a landscape buffer which effectively screens the view of the facility from all sides. The use of existing plant material and trees shall be preserved to the maximum extent practicable and may be used as a substitute for, or in supplement towards, meeting landscaping requirements.

d. Landscape buffers shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the Telecommunication Facility compound.

e. All landscaping shall be of the evergreen variety and shall conform to the City's buffer standards.

f. Telecommunication Support Structures and Antennas shall either maintain a galvanized steel outer shell or, subject to any applicable standards of the FAA and FCC, shall be painted a neutral color so as to reduce visual obtrusiveness.

g. All Telecommunication Support Structure sites and related structure designs shall use materials, colors, textures, screening, and landscaping that will blend the Telecommunication Facilities to the natural setting and surrounding environment.

h. For Antennas erected on an Alternative Telecommunication Support structure, the Antenna and supporting electrical and mechanical ground Equipment shall be a neutral color so as to make the Antenna and related Equipment as visually unobtrusive as is reasonable.

i. Telecommunication Support Structures in the Public Right-of-Way must be substantially similar in appearance to adjacent light poles or other similar structures so as to blend in to same, including any design requirements of the adjacent zoning or overlay district. All Equipment associated with a Telecommunication Support Structure in the Public Right-of-Way that are not placed on the

Structure itself must either be located on adjacent private property, buried underground, or both. Any such Equipment placed on the Structure itself must be on the side of the Structure facing away from the Public Right-of-Way, if at all physically possible.

5. *Accessory Equipment, including any buildings, cabinets or shelters.*

   a. Accessory Equipment shall be used only to house Equipment and other supplies in support of the operation of the on-site telecommunication facility or support structure.

   b. Any Equipment not used in direct support of such on-site operation shall not be stored on the site.

   c. Accessory Equipment must conform to the setback standards of the applicable zoning districts. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the director of planning in order to accomplish the purposes and goals of this section.

6. *Stealth design telecommunications facilities.*

   a. Any telecommunications facility that otherwise complies with the requirements of this chapter, including procedural approvals, may be designed as a stealth telecommunication facility.

   b. Stealth telecommunication facilities are mandatory in medium and high density residential districts and shall not exceed one hundred fifty (150) feet in height. All towers in medium and high density residential districts must be approved by a special land use permit.

   c. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

I. No sound emanating from the facility generator during normal operations shall be audible above seventy (70) decibels which would allow normal conversation within fifteen (15) feet of the compound.

J. Pre-existing Facilities. Any pre-existing Telecommunication Facility which does not meet the requirements of this section shall be considered nonconforming and subject to the nonconforming use provisions of the zoning ordinance; provided, however, that the installation of a new Antenna on a pre-existing Telecommunication Support Structure shall not constitute the expansion of a nonconforming use provided that (a) the new Antenna does not result in a Substantial Increase in Size and (b) the resulting Height of the pre-existing Telecommunication Support Structure is less than the maximum Height the Telecommunication Support Structure previously approved by the City.

K. *Annual Registration of Telecommunication Facilities.* The owner of any Telecommunication Facility shall submit an annual registration of such Facility on such forms as the director of planning shall prescribe. Each annual registration shall identify the tax parcel identification and physical street address for the parcel on which such Telecommunication Facility is located. Each annual registration of such Telecommunication Facility shall describe all Telecommunication Support Structures, Alternative Telecommunication Support Structures, Antennas, and other Telecommunication Equipment on the site, describe in detail any improvements during the preceding calendar year, and, for Telecommunication Support Structures only, state the total gross income from all improvements on the site for the preceding calendar year. Each annual return shall be filed with the City on or before April 1st of each year and shall be accompanied by an annual administrative fee in an amount as established by the Mayor and Council.

L. *Principal or Accessory Use.* A Telecommunication Support Structure and/or Antenna is considered a principal use if located on any parcel as the sole or primary structure, and is considered an accessory use if located on a parcel shared with a different existing primary use or existing structure. An existing use or structure on the same parcel shall not preclude the installation of an antenna or Telecommunication Support Structure. For purposes of determining whether the erection of a Telecommunication Support Structure or Antenna complies with the requirements of the zoning district in which it is located (including, but not limited to, all setback and buffer requirements), the dimensions of the entire parcel shall control, even though the Antenna or Telecommunication Support Structure may be located on a leased area within the dimensions of such parcel.

M. *Inventory of Existing Sites for New Telecommunication Support Structure or Alternative Telecommunication Support Structure Applications.*

1. The City shall maintain an itemized list of all Telecommunication Support Structures or Alternative Telecommunication Support Structures, active and inactive, which are located within the municipal limits of the City. This list shall include specific information about the location (latitude and longitude coordinates), Height, design, Telecommunication Support Structure type and general suitability for Antenna co-location of each Telecommunication Support Structure and authorized Alternative

Telecommunication Support Structures, and other pertinent information as may be decided by the City.

2. To facilitate collocation of Antennas, each Applicant seeking to erect a new Telecommunication Support Structure or Alternative Telecommunication Support Structure, or to modify any such existing structure, shall provide to the City an itemized list of its existing Telecommunication Support Structures and authorized Alternative Telecommunication Support Structures as provided for below. Applicants seeking to erect an amateur radio Telecommunication Support Structure or Antenna less than thirty-five (35) feet in Height shall be exempt from this provision.

3. Each Applicant seeking to erect a new Telecommunication Support Structure or Alternative Telecommunication Support Structure or to modify existing support structures shall provide the City with an itemized list, including all of the following: a complete listing of all Applicant-owned Telecommunication Support Structures that are within the municipal limits of the City or within one-quarter (1/4) mile of the municipal limits of the City; with respect to each listed Telecommunication Support Structure, specific information, including the location (latitude and longitude coordinates), Height, design, structure type, and general suitability for Antenna collocation; and other pertinent information as may be required by the director of planning. The City shall share such information with any other Applicant under this section or any other organization or governmental entity seeking to locate a Telecommunication Facility within the municipal limits of the City, provided, however, that the City shall not, by sharing such information, in any way be deemed to have represented or warranted that such sites are available or suitable.

4. An application, with the exception of an application to erect an amateur radio telecommunication support structure or Antenna less than thirty-five (35) feet in Height as set forth herein, shall not be considered complete without the itemized list required in this subsection.

N. *Documentation from Applicable Regulatory Agencies and Review for Aviation Purposes.* Any applicant for the erection of a Telecommunication Facility governed by this section shall demonstrate compliance with all FAA and FCC regulations with respect to prior approval, registration and/or licensure of a proposed Telecommunication Facility. No building permit shall be issued until an

Applicant has received approval from the FAA and/or registered the proposed facility with the FCC where required and provided copies of all applicable approvals, registrations, and/or licenses to the City. In the alternative, Applicants may demonstrate that such prior authorization and/or registration is not required to be accompanied by a sworn affidavit asserting same. All Telecommunication Facilities must meet or exceed current standards and regulations of the FAA, the FCC, the Commission, and any other agency of the federal government authorized to regulate such facilities.

O. *Building Codes; Safety Standards.* To ensure structural integrity of Telecommunication Facilities, the owner, permittee, or subsequent lessee of a Telecommunication Support Structure or Alternative Telecommunication Support Structure shall ensure that all applicable Telecommunication Facilities on such site are maintained in compliance with standards contained in applicable local building codes. If, upon inspection, the City concludes that an applicable Telecommunication Facility fails to comply with all governing codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee, or lessee of such a facility, the recipient shall have fifteen (15) days to bring the Telecommunication Facility into compliance with such standards. If the owner, permittee, or lessee fails to bring the Telecommunication Facility into compliance within the 15-day period, the City may, at the direction of the City Manager, remove the non-compliant Telecommunication Facility at the owner, permittee, or lessee's expense. Prior to the removal of any telecommunication facility, the City may consider detailed plans submitted by the owner, permittee, or subsequent lessee for repair of substandard Telecommunication Support Structures, and may grant a reasonable extension of the above-referenced compliance period. Any such removal by the City shall be in the manner provided in O.C.G.A. §§ 41-2-7 through 41-2-17.

P. *Change of Ownership or Control Notification.* Upon the transfer of ownership or control of any Telecommunication Facility, the party transferring such ownership or control shall notify the City of the transaction in writing within thirty (30) days.

Q. *Revocation or Termination of Permit.*
Any authorization to erect or operate Telecommunication Facilities may be revoked for the following reasons:

(1) Erection or operation of Telecommunication Facilities at an unauthorized location;

(2) Misrepresentation or lack of candor by or on behalf of a Grantee in any representation to the City;

(3) Abandonment of applicable Telecommunication Facilities;

(4) Failure to pay required reasonable fees or costs, as may be required in this section;

(5) Failure to meet any provision of the annual registration requirement in this section;

(6) Failure to pay required reasonable fees or costs for access and use of Public Rights-of-Way, as may be required in this section; and

(7) Violation of a material provision of the City's Code of Ordinances or violation of a material condition set forth in any permit or authorization to erect and operate Telecommunication Facilities.

R. *Access to the Public Right-of-Way.*

(a) Fees for Access to Public Rights-of-Way. Pursuant to O.C.G.A. §46-5-1(b)(9) and in accordance with applicable state law, Providers of Telecommunication Services and Applicants governed by this section shall provide the City due compensation for use of, and access to, a Public Right-of-Way, equal to no more than three (3) percent of actual recurring local service revenues received by a Provider from its retail, end user customers located within the municipal limits of the City, and no more than three (3) percent of actual recurring revenues from the lease of governed Telecommunication Facilities. Such compensation shall not be assessed in a discriminatory fashion with respect to the Telecommunication Services to be provided or transmitted by or through a proposed Telecommunication Facility, in accordance with applicable state law. Said compensation for the use of the Public Right-of-Way shall be paid by the Applicant to the City within thirty (30) days after the end of each calendar quarter. Included with any such application for the installation of Antennas on existing structures or the erection of structural poles so as to accommodate such Antennas in Public Rights-of-Way, the Applicant shall demonstrate to the director of planning that the Applicant possesses a Certificate of Authority from the Georgia Public Service Commission. Those Applicants that do not hold such certification are subject to the rules and regulations of other wireless Applicants including tower companies and carriers. For those Applicants without end-user customers from which said percentage is calculated shall be required to

execute a Right-of-Way Use Agreement with the City which shall set out fees for access thereto.

(b) Maintenance. A Telecommunication Facility erected in a Public Right-of-Way shall be maintained in good condition, as determined by the City. Maintenance of such a Telecommunication Facility shall include, but not be limited to, the structural integrity of all Telecommunication Support Structures, Alternative Telecommunication Support Structures, Antennas, Equipment compounds, Equipment cabinets, painting, irrigation systems, buffer areas, and landscaping, to the extent applicable.

(c) Restoration of Public Rights-of-Way and City Property. When a Grantee authorized to construct Telecommunication Facilities in the Public Rights-of-Way, or any person acting on behalf of a Grantee, does any work affecting any Public Right-of-Way or City Property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such Public Right-of-Way or City Property to as good a condition as existed before the work was undertaken, unless otherwise directed by the City. Restoration will be consistent with standards required by the City.

(d) Grantee Insurance for Use of Public Right-of-Way. Unless otherwise provided by the City, any Applicant, as a condition of the grant of authorization to erect Telecommunication Facilities in a Public Right-of-Way, shall secure and maintain comprehensive insurance policies insuring both the Applicant and the City, and its officers, appointed officials, agents, employees, and assigns as coinsured. Such insurance coverage shall include general liability insurance, automobile liability insurance, worker's compensation insurance, employer's liability insurance and premises-operations insurance. Such insurance shall be maintained throughout the duration of the Applicant's authorization to own or operate a Telecommunication Facility in an applicable Public Right-of-Way.

(e) Indemnification. Each Applicant shall, upon receiving authorization form the City to erect or Modify Telecommunication Facilities in a Public Right-of-Way, and to the greatest extent permitted by law, expressly undertake to defend, indemnify, and hold the City and its officers, appointed officials, agents, employees, and assigns harmless from and against any and all damages, losses, and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failures to act, or misconduct of the Applicant, its affiliates, officers, employees, agents, contractors, or subcontractors in the

construction, operation, maintenance, repair, or removal of any Telecommunication Facilities in Public Rights-of-Way, whether such acts are authorized, allowed, or prohibited by this section.

(f) Transfer of Authorization to Erect, Own, and Operate Telecommunication Facilities in Public Rights-of-Way. Control of an authorized Telecommunication Facility in a Public Right-of-Way may not, directly or indirectly, be transferred, assigned, or disposed of by sale, lease, merger, consolidation or other act of a Grantee, by operation of law or otherwise, without prior consent of the City, which shall not be unreasonably withheld or delayed. A Grantee and the proposed assignee or transferee of an existing permit to erect and operate a Telecommunication Facility in a Public Right-of-Way shall provide and certify, via sworn affidavit, the following information to the City not less than ninety (90) days prior to the proposed date of such transfer or assignment of control:

(1) Information setting forth the nature, terms, and conditions of the proposed transfer or assignment of ownership and/or control;

(2) With respect to the transferr/assignee, all information as outlined in subsection "F" of this section;

(3) Any changes to information provided to the City, as set forth in subsection "F" of this section; and

(4) Any other information reasonably required by the director of planning.

S. *Limitations on Municipal Authority.* In regulating the erection and maintenance of Telecommunication Facilities, whether located on private lands or in Public Rights-of-Way, the City shall not:

(a) Condition the approval of any application for a new Telecommunication Support Structure or Alternative Telecommunication Support Structure on a requirement that a Modification or Collocation to such structure be subject to a review inconsistent with this section;

(b) Required the removal of an existing Telecommunication Support Structure, Alternative Telecommunication Support Structure, or Telecommunication Facility as a condition of approval of an application for a new Telecommunication Facility unless such existing Telecommunication Support Structure, Alternative Telecommunication

Support Structure, or Telecommunication Facility is abandoned and owned by the Applicant;

(c) Require the Applicant to place an Antenna or other Equipment on publicly owned land or on a publicly or privately owned water tank, building, or electric transmission tower as an alternative to the location proposed by the Applicant.

T. *Fees.* The fees levied and charged for all persons and businesses subject thereto shall be set forth on a schedule which may be amended from time to time by resolution of the Mayor and Council, a copy of which shall be maintained on file in the City Clerk's office and with the director of planning. Said fees are levied and assessed in addition to any business or occupational taxes assessed and levied under the City Code. Applications for Small Cell Installations, whether collocation or erection of new infrastructure, shall not be charged more than $500 for up to the first five (5) locations requested concurrently, and $100 for each additional location therefrom. The City shall not seek reimbursement from an Applicant for fees, consultation fees, registry fees, audit fees, or otherwise payment in connection with an application subject to this section on a contingency fee arrangement.

U. *Bond Requirement for new Telecommunication Support Structures.* Prior to the issuance of a permit for the erection of a Telecommunication Support Structure or Alternative Telecommunication Support Structure, an Applicant shall procure a bond or an irrevocable letter of credit in an amount not less than twenty-five thousand dollars ($25,000.00) conditioned upon the removal of the Telecommunication Support Structure or Alternative Telecommunication Support Structure, should it be deemed abandoned under the provisions set forth in this section. Such bond or letter of credit (a) shall be renewed at least every two (2) years during the life of the Telecommunication Support Structure, (b) shall not expire unless the City is given sixty (60) calendar days' prior written notice, (c) shall include the name, address, telephone number, and contact for the provider of bond or letter of credit and (d) in the case of a bond, shall include the statement that the provider of the bond is listed in the latest issue of the U.S. Treasury Circular 570.

V. *Non-Discrimination.* In evaluating any application governed by this section, the City shall not unreasonably discriminate among telecommunication providers of functionally equivalent services and technical capabilities and/or deny an

application based solely on the financial status of an Applicant, type of Telecommunication Services to be provided should a prospective application be approved, and/or thee content of telecommunications to be provided by and/or through proposed Telecommunication Facilities.

W. *Inspections.*

(1) Whenever inspections of the premises used for or in connection with a Telecommunication Support Structure, Alternative Telecommunication Support Structure, or Antenna are provided for or required by ordinance, or are reasonably necessary to ensure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the Applicant, or the person(s) responsible for the premises to be inspected, to admit thereto for the purpose of making the inspection any officer, agent, or employee of the City who is authorized or directed to make such inspection, at any reasonable time that admission is requested.

(2) In addition to any other penalty which may be provided, the permit granted to any Applicant who refuses to allow any authorized officer, agent or employee of the City to make any inspection provided for in subsection (a) hereinabove, or who interferes with such officer or employee while in the performance of his duty in making such inspection may be suspended or revoked at the reasonable discretion of the director of planning.

X. *Penalties for Violation.* In addition to the other remedies available to the City for violation of this section set forth herein or in any other applicable provisions of the City Code, the municipal court of the City, after notice to the Applicant or permittee and hearing, may impose a civil fine for failure to comply with the provisions of this section or a sentence not to exceed sixty (60) days. Such a civil fine shall not exceed one thousand dollars ($1,000.00) per day and may be enforced by the contempt power of the court. In addition, the Applicant or permittee shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing contained in this subsection shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation of this section.

Y. *Appeals of Decisions of the Mayor and Council.* Appeals of the decisions of Mayor and Council under this section shall be by writ of certiorari to the Superior Court of DeKalb County in accordance with State Law.

J. *Miscellaneous provisions.*

1. *Fencing.*

   a. All Telecommunication Support Structures and related Equipment shall be enclosed by fencing not less than six (6) feet in Height and shall also be equipped with appropriate anti-climbing devices. Telecommunication Support Structures on the Public Right-of-Way shall be exempt from the fencing requirement.

   b. Fencing shall be decorative, including brick or concrete columns.

   c. The director of planning may waive the requirement of subsection (j)(1)a. above if it is deemed that a fence is inappropriate or unnecessary at the proposed location in order to accomplish the purposes and goals of this section.

   d. Amateur radio Telecommunication Support Structures or receive-only Antennas shall not be subject to the provisions of this subsection unless such structures exceed thirty-five (35) feet in Height.

2. *Neighborhood identity.* If located in residential area, Telecommunication Facilities may incorporate features that identify neighborhoods, such as banner arms or monuments.

3. *Abandonment and removal.* Any Telecommunication Support Structure or Antenna that is not operated for a continuous period exceeding six (6) months shall be considered abandoned, and the owner of such Telecommunication Facility shall place the applicable Antenna or Telecommunication Support Structure into operation or remove the same. The director of planning must first provide written notice to the owner of the support structure and give the owner the opportunity to take such action(s) as may be necessary to reclaim the support structure within sixty (60) days of receipt of said written notice. In the event the owner of the support structure fails to reclaim the support structure within the sixty-day period, the owner of the support structure shall be required to remove the same within six (6) months thereafter at the owner's expense. If said support structure is not removed within the required period of time, the City may, at the direction of the City Manager, and in the manner provided in O.C.G.A. §§41-2-7 through 41-2-17, remove such Antenna or Telecommunication Support Structure at the owner's expense. If there are two or more users of a single Telecommunication Support Structure, this

provision shall not become effective unless and until all users cease utilizing the Telecommunication Support Structure.

4. *Multiple uses on a single parcel or lot.* Telecommunications facilities and support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

K. *Telecommunications facilities and support structures in existence on the date of adoption of this chapter.*

1. Telecommunications facilities and support structures that were legally permitted nonconforming uses on or before the date this chapter was enacted shall be considered a legal, lawful use, subject to the nonconforming use regulation in this chapter and state law.

2. Ordinary maintenance may be performed on a nonconforming support structure or telecommunications facility.

3. Collocation or modifications of telecommunications facilities on an existing nonconforming support structure shall not be construed as an expansion, enlargement or increase in intensity of a nonconforming structure and/or use and shall be permitted through the administrative approval of a building permit process.

Section 2. Chapter 27 (Zoning), Article IV (Use Regulations) is hereby further amended by revising a portion of Table 4.1 Use Table, specifically that portion concerning the use for "Wireless Telecommunication" in Section 4.1.3 (Use Table), to read as follows:

KEY:	P - Permitted use	SA - Special administrative permit from director of planning
	Pa - Permitted as an accessory use	SP - Special land use permit from BoC (SLUP)

Use	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1, 2, 3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2	MU-3	MU-4, 5	See Section 4.2
WIRELESS TELECOMMUNICATION																									

New support structure from 51 feet to 150 feet	SP	SP	SP	SP	SP	SP	SP							SP	SP									
New support structure from 50 feet up to 199'													SA			SA	SA	SA	SA	SA				
COW's (non-emergency or event, no more than 120 days)	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA
COW's (declared emergency)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Attached wireless telecommunication facility, used for non-residential purposes (prohibited if used as residential)	SA	SA	SA	SA	SA	SA	SA																	
Attached wireless telecommunication								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

facility																								
Small Cell Installations (new support structures or collocation) on private property or ROW	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA	SA

Section 3. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise

unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 7. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

SO ORDAINED AND EFFECTIVE this ____ day of _____, 2019.

_____
Jason Lary, Sr., Mayor

Approved as to form:

_____
City Attorney

Attest:

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

_____
City Clerk