

First Read: _____
Second Read: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF MOUNTAIN PARK, GEORGIA, AMENDING CHAPTER 18 OF THE CODE OF THE CITY OF MOUNTAIN PARK, GEORGIA, PERTAINING TO COMMUNICATIONS, PROVIDING FOR SMALL WIRELESS FACILITY DEPLOYMENT; REPEALING CONFLICTING PROVISIONS; AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE CITY COUNCIL HELD ON THE _____ DAY OF _____, 2019.

WHEREAS, the Mayor and City Council wish to amend Chapter 18 of the Code of the City of Mountain Park, Georgia, pertaining to communications, to provide for small wireless facility deployment throughout the City of Mountain Park; and

WHEREAS, the Mayor and City Council wish to provide express procedures for the consideration and approval of small wireless facilities within the City of Mountain Park; and

WHEREAS, it is the intent of the Mayor and City Council to continue to comply with applicable federal and state laws pertaining to emerging wireless telecommunication technology, including but not limited to the Telecommunications Act of 1996 as well as regulations promulgated by the Federal Communications Commission, the General Assembly, and any other agency with the authority to regulate wireless telecommunications; and

WHEREAS, the Mayor and City Council find that such amendments are necessary to protect the health, safety, and public welfare of the city and its citizens.

NOW THEREFORE, the Council of the City of Mountain Park hereby ordains that Chapter 18 of the Code of the City of Mountain Park, Georgia, shall be amended as follows:

SECTION ONE

Article III of Chapter 18 of the Code of the City of Mountain Park, Georgia, is hereby amended to add regulations for small wireless facilities, as follows:

- A. The title of Article III shall be changed to: TELECOMMUNICATIONS FRANCHISES, LICENSES, AND SMALL WIRELESS FACILITIES**
- B. Article III of Chapter 18 of the Code of the City of Mountain Park, Georgia, shall be amended and restated as follows:**

DIVISION 1. - GENERALLY

18-71. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated person means each person who falls into one or more of the following categories:

- (1) Each person having, directly or indirectly, a controlling interest in the applicant;
- (2) Each person in which the applicant has, directly or indirectly, a controlling interest;
- (3) Each officer, director, joint venturer or joint venture partner of the applicant; and
- (4) Each person, directly or indirectly, controlling, controlled by, or under common control with the applicant;

provided that the term "affiliated person" shall in no event mean the city or any creditor of the applicant solely by virtue of its status as a creditor and which is not otherwise an affiliated person by reason of owning a controlling interest in, being owned by, or being under common ownership, common management or common control with the applicant.

Authority pole. An authority pole is a pole owned, managed, or operated by or on behalf of an authority. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

Cable services has the meaning as defined in the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996, and as may be further amended from time to time (the "Cable Act"), but does not include telecommunications services or private telecommunications services. If the term "cable services" is no longer defined in the Cable Act or the definition in the Cable Act otherwise becomes inapplicable, the term "cable services" shall mean as defined in the Cable Act immediately prior to such term no longer being defined in the Cable Act or such definition otherwise becoming inapplicable.

Cable system has the meaning as defined in the Cable Act.

Collocate or Collocation. Collocate or collocation means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

Control and controlling interest mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, including, but not limited to, a person's compliance with a franchise or revocable license, whether through the ownership of voting securities, by contract, or otherwise, and the beneficial ownership of shares representing ten percent or more of the votes entitled to be cast by a corporation's voting shares shall create a rebuttable presumption of control.

Decorative pole. An authority pole that is specially designed and placed for aesthetic purposes.

Facility services means the installation, construction, operation or maintenance of conduit or related facilities in the streets by a person for sale or lease to third parties, other than affiliated persons, that use such conduit or related facilities for the transmission of telecommunication services, but such person does not himself provide telecommunications service or cable service to such third parties or any locations or other persons in the license area.

Franchise means an initial authorization, or renewal thereof, issued by the city in accordance with the provisions of this article, which authorizes the occupation and use of the streets by a telecommunications system to provide telecommunications services.

Grantee means the legal entity to which is granted the right, authority and responsibility to provide facility services along licensed routes pursuant to a license, or to construct, install, operate and maintain a telecommunications system as necessary to:

- (1) Furnish, supply and distribute telecommunications services to any locations or persons in the franchise or license area;
- (2) Provide private telecommunications services along licensed routes pursuant to a license; or
- (3) Transport telecommunications services across the city along licensed routes pursuant to a license without terminating or originating any telecommunications services at or from any person or location in the city.

Person means any individual or any association, firm, partnership, joint venture, corporation or other legally recognized entity, whether for profit or not for profit, but shall not mean the city.

Private telecommunications services means the transmission of telecommunications by a person, regardless of the facilities used, for or in connection with the internal operations of such person's business, residence or employment and not for or in connection with the provision or offering of telecommunications services for sale or resale to any person, and shall not mean cable services.

Revocable license means an initial authorization or renewal thereof, issued by the city in accordance with the provisions of this article, which authorizes the occupation and use of specifically identified streets, provided that a revocable license shall be issued only in the limited circumstances set forth in section 18-101(b).

Small wireless facility. Small wireless facility means radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications:

- a. Each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

- b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used.

Wireless facilities that do not comport with this definition shall be regulated under Article III of this chapter.

Streets means the surface of, as well as the spaces above and below, any and all streets, alleyways, avenues, highways, boulevards, driveways, bridges, tunnels, parks, parkways, public grounds or waters, and other public rights-of-way within or belonging to the city.

Telecommunications has the meaning as defined by 47 USC 153(43) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, but shall not include cable services.

Telecommunications service has the meaning as defined by 47 USC 153(46) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, but shall not include cable services. If the term "telecommunications service" is no longer defined in the Communications Act or the definition in the Communications Act otherwise becomes inapplicable, the term "telecommunications service" shall have the meaning as defined in the Communications Act immediately prior to such term no longer being defined in the Communications Act or such definition otherwise becoming inapplicable.

Telecommunications system means the system, plant, equipment or property within the streets in the franchise or license area over which telecommunications service or private telecommunications service is provided, and to be constructed, operated and maintained by a grantee pursuant to a franchise or license ordinance or agreement.

18-72. - Delegation.

Consistent with applicable law, the city council shall have the right to delegate and redelegate, and to revoke any such delegation or redelegation on, from time to time, any of its rights or obligations under this article to any body, organization or official. Any such delegation, redelegation or revocation, no matter how often made, shall not be deemed an amendment to this article or to require the consent of any applicant for a franchise or revocable license or grantee. The city council may also establish and appoint one or more advisory boards, with such duration and such number of members as the city council shall determine, to advise it on such of the matters which are the subject of this article.

18-73. - Application to existing telecommunications systems and providers of telecommunications services and private telecommunications services.

This article shall not be retroactively applied to franchises for the operation of telecommunications systems used to provide telecommunications services existing on the

effective date of the ordinance from which this article is derived, but shall apply to any renewal or extension of such franchises.

18-74. - Aesthetics/visibility.

- A. To protect the beauty and character of the city, particularly residential districts, historic districts, and certain scenic vistas and landscapes, all telecommunications systems and small wireless facilities shall be screened to the greatest extent possible. Screening shall occur through the use of design, existing buildings and structures, existing and proposed vegetation, and materials and color consistent with the applicable zoning district as well as surrounding buildings and structures.

18-75. - Equipment compound and/or equipment cabinetry.

Equipment related to the operation of a telecommunication system and small cell wireless telecommunication facilities shall be hidden and/or screened from public view to the greatest extent possible, which shall also be consistent with the aesthetic/visibility standards identified in Section 18-111 above:

18-76. - Additional Standards.

Additionally, Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the right of way as a permitted use, subject to the following requirements:

1. Each such new, modified, or replacement pole installed in the right of way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level;
2. Each such new, modified, or replacement pole installed in the right of way not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:
 - a. Fifty feet above ground level; or
 - b. Ten feet greater in height above ground level than the tallest existing pole in the same right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole; and
3. New small wireless facilities in the right of way shall not exceed:
 - a. For a collocation on an existing pole or support structure, more than ten feet above the existing pole or support structure; or
 - b. For a collocation on a new, modified, or replacement pole under paragraph (1) or (2) of this subsection, the height limit provided in such paragraphs

DIVISION 2. - APPLICATION PROCEDURE

18-77. - Telecommunication System granting authority.

- (a) No person shall use or occupy the streets to construct, operate or maintain a telecommunications system over which telecommunications services or private telecommunications services are provided, or use or occupy the streets to provide facility services, without a franchise or revocable license granted in accordance with the provisions of this article. The city intends to exercise its authority to franchise or license persons pursuant to this article to the maximum extent permitted by applicable law, including the 1996 Act.
- (b) A person shall not use or occupy the streets to operate a telecommunications system over which telecommunications services or private telecommunications services are provided without a franchise, except that such person may use or occupy specific streets without a franchise if the person obtains a revocable license in accordance with the terms of this article. A revocable license is intended to be a limited grant of authority to use and occupy specifically identified streets as follows:
 - (1) The license may be granted only if the use or occupation of such streets is for the sole purpose of providing private telecommunications services or facility services;
 - (2) The license shall be granted to provide telecommunications services only if the use or occupation of such streets, together with the use or occupation of any streets pursuant to revocable licenses previously granted to such person and affiliated persons, shall not exceed 500 linear feet; or
 - (3) The license shall be granted only if the use or occupation of such streets is by a telecommunications system that is not used by the grantee or any other person to sell, resell or otherwise provide telecommunications services to any person in the city.

If an application for a revocable license would cause a person to exceed or fail to comply with the limits specified in this subsection, then such person must apply for a franchise in accordance with the provisions of this article, and the use of specifically identified streets pursuant to all previously granted revocable licenses shall thereafter be pursuant to and in accordance with any such franchise that may be granted.

- (c) The city council may grant one or more franchises or revocable licenses in accordance with this article, provided that the city council reserves the right to modify any provision of this article by amendment hereof.
- (d) The grant of any franchise or revocable license shall be made by adoption of a separate ordinance by the city council and shall be on such terms and conditions as may be specified in said separate ordinance and/or a franchise or license agreement between the city and the grantee.
- (e) Any franchise or revocable license granted shall be nonexclusive. The city specifically reserves the right to grant, at any time, such additional franchises or revocable licenses as it deems appropriate, and/or itself engage in the provision of telecommunications services, private telecommunications services or facility services.
- (f) A franchise may be granted for all or any defined portion of the city. A revocable license may only be granted for use of specifically identified streets.

- (g) The grant of franchises and revocable licenses by the city to persons constructing, operating or maintaining a telecommunications system shall be subject to the provisions of applicable law, such as the provisions in the 1996 Act, as amended, governing telecommunications franchises and renewals thereof.

18-78. – Telecommunications System franchise applications.

- (a) Applications for franchises and revocable licenses shall be submitted in such form and be issued on such terms and conditions as the city council may determine, subject to applicable law.
- (b) Any application for a franchise or revocable license shall contain and/or require the following information with respect to the proposed franchise or revocable license:
 - (1) The applicant's name, address, telephone number, and federal employer identification number or social security number; copy of applicant's corporate charter or partnership agreement as applicable; and any trade names and registrations used by applicant;
 - (2) For the purpose of determining who controls the applicant, a detailed statement of the corporation or business entity organization of the applicant, including the following:
 - a. The names and business addresses of all officers and directors of the corporation or business entity organization;
 - b. The names and business addresses of all persons having control over the applicant;
 - c. Financial information sufficient to demonstrate that the applicant has the financial ability to construct and maintain the telecommunications system, or to provide facility services, in a safe manner and in accordance with the city's management policies, rules and regulations with respect to the streets and to the extent not prohibited by law; and
 - d. For purposes of determining whether the applicant will construct, maintain, operate, and repair the telecommunications system, or provide facility services, in compliance with the city's management policies, rules and regulations with respect to the streets and in a manner protective of the public health, safety and welfare with respect to the applicant's use of the streets, the names and addresses for telecommunications systems owned or controlled by the applicant and the areas served by such systems.
 - (3) In order to permit the city to manage its streets, a description of the proposed plan of construction and maintenance of the telecommunications system or facility services to be constructed in the streets, which shall include the following.
 - a. A map indicating the location of the system or facility services in the streets, and an estimated construction schedule, if known; and
 - b. A statement describing the proposed and actual location of facilities and equipment to be used in the streets by the applicant.
 - (4) To the extent not prohibited by law, any other details, statements, supplementary information on, or references reasonably pertinent to the city's management of the

streets or the compensation to be paid to the city, which shall be required or requested by the council or by any other provision of law.

18-79. - Nonrefundable application fees for new franchises and revocable licenses.

No application for a new franchise or revocable license shall be considered without payment by the applicant of application fees as provided in this section. If a franchise or revocable license is granted, application fees will not be deemed a credit towards any other fees or sums due by the grantee. If an application is denied, the application fee will not be refunded, except if required by law.

- (1) Purpose of application fees. The application fees provided by this section will serve to cover the direct and indirect costs incurred by the city in processing the application, evaluating the applicant, and granting a franchise and shall include, but not be limited to, administrative, engineering, publication, legal, and consultant's expenses.
- (2) Application fee. The applicant will be expected to pay the reasonable costs of the city in evaluating the application. Notwithstanding any other requirement of this article, each applicant for a franchise must furnish with its proposal a nonrefundable application fee in the amount of \$1,000.00 by certified check or cashier's check made payable to the city, and each applicant for a revocable license must furnish with its proposal a nonrefundable application fee in the amount of \$1,000.00 by certified check or cashier's check made payable to the city. If the city's reasonable costs exceed such amount, the applicant may be required by the city to pay any additional amount to cover such costs. If the city's reasonable costs are less than the application amount, the city shall reimburse to the applicant the amount in excess of the city's actual cost if required by applicable law.

18-80. – Franchise and Revocable License Evaluation Criteria.

An applicant shall be granted a franchise or revocable license to construct, operate or maintain a telecommunications system over which telecommunications services are provided, provided the city council reasonably determines that the applicant has agreed to or meets the following factors:

- (1) The adequacy of the proposed compensation to be paid to the city;
- (2) Demonstration of adequate financial and technical ability to construct and maintain a telecommunications system in the streets, which such demonstration may be made by an adequate bond, security fund, and/or such other demonstration that is reasonably acceptable to the city, and a certificate of public convenience or other authorization from the state or federal communications commission permitting the applicant to provide telecommunications services in the city;
- (3) The ability of the applicant to maintain the property of the city in good condition throughout the term of the franchise;
- (4) The willingness and the ability of the applicant to meet construction requirements and to abide by all conditions, limitations and requirements with respect to the franchise, including any terms or conditions imposed pursuant to section 18-108, any public, health, safety and welfare requirements reasonably related to the applicant's use of the streets, and the city's management of streets; and

- (5) To the extent not prohibited by law, any other factors or considerations reasonably deemed pertinent by the city for managing the streets and safeguarding the interests of the city and the public in the streets, and for ensuring the city receives fair and reasonable compensation for use of the streets.

In making any determination under this division as to any application for a revocable license to provide private telecommunications services or facility services and in accordance with applicable law, other than section 253 of the Communications Act which is not applicable to persons providing only private telecommunications services or facility services, the city council may consider such factors as it deems appropriate and in the public interest, including, without limitation, the provisions of subsections (1)—(5) of this section to the extent applicable.

18-81. - Procedure for consideration of and action on franchise and revocable license applications.

- (a) The city may make such investigations and take or authorize the taking of such other steps, as the city council deems necessary or appropriate, to consider and act on applications for franchises or revocable licenses. In considering applications, the city council may seek advice from other city officials or bodies, from such other advisory bodies as it may establish or determine appropriate, or from the public, and may request the preparation of one or more reports to be submitted to the city council, which may include recommendations with respect to such applications.
- (b) After considering such information provided pursuant to this article as it determines to be appropriate, the city council shall set one or more public hearings for consideration of the application, fixing and setting forth a day, hour and place certain at which such application shall be heard, and providing notice of such public hearing in accordance with applicable law.
- (c) The city council may authorize negotiations between city officials and applicants on the terms of the proposed franchise or revocable license.
- (d) The city council shall consider the application for a franchise or revocable license to provide telecommunications services in accordance with this article and applicable law, including 47 USC 253, and shall grant the franchise or revocable license, provided that the applicant has agreed to the terms on which the franchise or revocable license is to be granted and meets the evaluation criteria set forth in section 18-106. The city also reserves the right to waive any or all requirements in order to grant a franchise or revocable license to an applicant when it determines that the best interests of the city may be served thereby or that applicable law requires such waiver.
- (e) Upon completion of the steps deemed appropriate by the city council, the city council may grant the revocable license to provide private telecommunications services or facility services and may specify the conditions under which the revocable license is granted. Alternatively, the city may reject any and all applications for a revocable license to provide private telecommunications services or facility services. The city also reserves the right to waive any or all requirements when it determines that the best interests of the city may be served thereby.

18-82. - Terms and conditions of franchise and revocable license.

- (a) The terms and conditions applicable to any franchise or revocable license granted pursuant to this division shall be set forth in the separate ordinance granting the franchise or revocable license or in a separate written agreement. Such separate ordinance or written agreement, among other things, may address the following subjects, to the extent not prohibited by law:
- (1) The term of the franchise or revocable license; provided, however, that the initial term of the revocable license shall not exceed five years and shall not be renewed for terms exceeding five years;
 - (2) The franchise area authorized by the franchise, or the streets that may be used pursuant to the revocable license;
 - (3) The compensation to be paid to the city;
 - (4) The circumstances upon which the franchise or revocable license may be terminated or cancelled;
 - (5) The mechanisms, such as performance bonds, security funds or letters of credit, to be put in place to ensure the performance of the grantee's obligations under the franchise or revocable license;
 - (6) For the limited purpose of ensuring that the grantee is complying with the terms of the franchise or revocable license, including, but not limited to, any compensation or street management provisions and the city's right to inspect the facilities and records of the grantee;
 - (7) Insurance and indemnification requirements applicable to the grantee;
 - (8) The obligation of the grantee to maintain complete and accurate books of account and records with respect to its obligations under the franchise or revocable license, including, but not limited to, any compensation or street management provisions, and the city's inspection rights with respect thereto;
 - (9) Provisions to ensure quality workmanship and construction methods in the streets;
 - (10) Provisions to ensure that the grantee will comply with all applicable city, state and federal laws, regulations, rules and policies;
 - (11) Provisions to ensure adequate oversight by the city of the grantee's use of streets and compliance with the franchise or revocable license;
 - (12) Provisions relating to an assignment or other transfer of the franchise or revocable license or the telecommunications system that results in a change in control;
 - (13) Remedies available to the city to protect the city's interest in the event of the grantee's failure to comply with terms and conditions of the franchise or revocable license;
 - (14) Provisions to ensure that the grantee will obtain all licenses and permits necessary to provide telecommunications services by use of the city's streets from any governmental body having jurisdiction over the grantee, including, but not limited to, the federal communications commission;

- (15) Provisions to ensure that the grantee will protect the property of the city from damage or interruption of city operations resulting from the construction, operation, maintenance, repair or removal of improvements of the telecommunications system, or from the provision of facility services;
 - (16) Provisions designed to minimize the extent to which the public use of the streets of the city are disrupted in connection with the construction of improvements relating to the telecommunications system, or the provision of facility services; and
 - (17) Such other provisions as the city reasonably determines are necessary or appropriate to permit the city to manage its streets or ensure compliance with the franchise or revocable license, to the extent not prohibited by law.
- (b) The city shall make available to an applicant a model franchise or revocable license, as applicable, containing the terms and conditions the city seeks to impose pursuant to this section. The city shall have the right to modify from time to time such model franchise or revocable license, so long as such modifications are consistent with this article and applicable law.

18-83. - Revocation of revocable license.

The revocable license shall be revocable at any time by the city for cause or, if the revocable license is for the provision of private telecommunications services or facility services, for the city's convenience. The revocable license, together with all revocable licenses granted to the applicant or affiliated persons, shall not authorize the occupation and use of more than 500 linear feet of specifically identified streets, unless the use or occupation of the streets does not involve the offering or provision of telecommunications services by the grantee, any affiliated persons or any other persons to or from any person or location in the city, or unless the use or occupation of the streets is for the provision of facility services.

18-84. – Small Wireless Facility Application and Permits

- A. Any entity wishing to collocate a small wireless facility or install, modify, or replace a pole or decorative pole for collocation of a small wireless facility in the right of way must submit an application to the City Council and obtain a permit.
- B. Any entity who collocates a small wireless facility or installs, modifies, or replaces a pole or decorative pole for collocation of a small wireless facility in the right of way without first obtaining a permit shall be fined the reasonable, documented cost of restoring the right of way, to the extent practicable, to its condition prior to the unpermitted collocation or installation as well as an additional fine of \$1,000.
- C. Application for collocation or installation shall be made by the applicable wireless provider or its duly authorized representative and shall contain the following:
 - 1. The applicant's name, address, telephone number, and email address, including emergency contact information for the applicant;

2. The names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;
3. A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;
4. Detailed construction drawings regarding the proposed use of the right of way;
5. To the extent the proposed facility involves collocation on a pole, decorative pole, or support structure, a structural report performed by a duly licensed engineer evidencing that the pole, decorative pole, or support structure will structurally support the collocation, or that the pole, decorative pole, or support structure may and will be modified to meet structural requirements, in accordance with applicable codes;
6. For any new aboveground facilities, visual depictions or representations if such are not included in the construction drawings;
7. Information indicating the horizontal and approximate vertical location, relative to the boundaries of the right of way, of the small wireless facility for which the application is being submitted;
8. If the application is for the installation of a pole or replacement of a decorative pole, a certification stating that it has determined in good faith, after diligent investigation and based on the assessment of a licensed engineer, that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:
 - a. The wireless provider has the right to collocate subject to reasonable terms and conditions; and
 - b. Such collocation would not impose technical limitations or significant additional costs.

A written summary of the basis for such determination shall also be provided;
9. If the small wireless facility will be collocated on a pole or support structure owned by a third party, other than an authority pole or a decorative pole, a certification that the wireless provider has permission from the owner to collocate on the pole or support structure; and
10. If the applicant is not a wireless services provider, a certification that a wireless services provider has requested in writing that the applicant collocate the small wireless facilities or install, modify, or replace the pole or decorative pole at the requested location.

18-85. – Small Wireless Facility Application Review.

- A. Within twenty (20) days of receipt of a written application, the City Council shall
 1. Notify the applicant in writing of the commencement and completion dates of any widening, repair, reconstruction, or relocation of the

applicable right of way that is scheduled to commence, or is anticipated in good faith to commence, within 24 months after the application is filed;

2. Notify the applicant, based on the City Council's good faith preliminary review of the information provided in the application, of any aspect of the application that appears to be grounds for denial of the application pursuant to subparagraph C of this section; and
 3. Determine whether the application is complete and inform the applicant of its determination in writing. If the City Council determines that an application is incomplete, it shall specifically identify to the applicant in writing all missing information within such 20 day period; otherwise the application is deemed complete. If the City Council identifies missing information to the applicant as provided in this paragraph, the applicant may submit such missing information to the City Council within 20 days of receipt of notification in writing from the City Council that the application is incomplete without paying any additional application fee, and any subsequent review of the application by the City Council for completeness shall be limited to the previously identified missing information. If the City Council determines that an application remains incomplete, or if the City Council determines that the applicant has made material changes to the application other than to address the missing information identified by the City Council, the City Council shall notify the applicant of such determination in writing within ten days of receipt of the resubmission of the written application, and absent an agreement to the contrary between the City Council and the applicant that is confirmed by email or other writing, such notice shall constitute a denial of the application. If the City Council does not provide such written notification to the applicant within this ten-day period, the application shall be deemed complete.
- B. The City Council shall make its final decision to approve or deny the application within 30 days of the written determination that the application is complete or when the application is deemed complete, whichever is earlier, for a collocation of a small wireless facility, and within 70 days of the written determination that the application is complete or when the application is deemed complete, whichever is earlier, for the installation, modification, or replacement of a pole or decorative pole.
- C. The City Council shall approve an application for collocation of a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in Section 18-113 or on or adjacent to a compliant decorative pole; and installation, modification, or replacement of a pole or a decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in Section 18-113 unless the requested collocation of a small wireless facility or the requested installation, modification, or replacement of a pole or decorative pole:
1. Interferes with the operation of traffic control equipment;
 2. Interferes with sight lines or clear zones for transportation or pedestrians;

3. Fails to comply with the federal Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., or similar laws of general applicability regarding pedestrian access or movement;
4. Requests that ground-mounted small wireless facility equipment be located more than 7.5 feet in radial circumference from the base of the pole, decorative pole, or support structure to which the small wireless facility antenna would be attached, provided that the City Council shall not deny the application if a greater distance from the base of the pole, decorative pole, or support structure is necessary to avoid interfering with sight lines or clear zones for transportation or pedestrians or to otherwise protect public safety;
5. Fails to comply with applicable codes;
6. Fails to comply with the maximum limitations set forth in subsection (h) of this Code section or the requirements of subsection (i) of this Code section;
7. With respect to an application to install a pole or decorative pole, interferes with the widening, repair, reconstruction, or relocation of a public road or highway by the City Council or the Department of Transportation that has been advertised for bid and scheduled for completion within six months after the application is filed;
8. With respect to an application to install a pole or decorative pole, interferes with a public works construction project governed by Chapter 91 of Title 36 and scheduled for completion within six months after the application is filed;
9. Fails to comply with governing Georgia statutes;
10. Fails to comply with laws of general applicability that address pedestrian and vehicular traffic and safety requirements; or
11. Fails to comply with laws of general applicability that address the occupancy or management of the right of way and that are not otherwise inconsistent with this chapter

18-86. – Small Wireless Facility Fees and Rates.

1. Each applicant and/or provider shall pay certain fees associated with the deployment of local small wireless facilities.
2. The fee for review of any permit application to collocate a small wireless facility or to install, modify, or replace a pole or a decorative pole for collocation of a small wireless facility in a right of way, the applicant shall pay the following fees and rates:
 - a. \$100 per small wireless facility for applications for the collocation of a small wireless facility on an existing pole
 - b. \$250 per replacement pole for such applications with an associated small wireless facility

- c. \$1,000 per pole for applications for new poles with an associated small wireless facility
- 3. The recurring rate associated with the continued use of the City's right-of-way for small cell deployment shall be:
 - a. \$100 per year for each small wireless facility collocated on any existing or replacement pole
 - b. \$200 per year for each new pole, other than a replacement pole, with an associated small wireless facility
- 4. The recurring rate associated with the continued attachment to municipally-owned authority poles shall be \$40 per year per small wireless facility.

18-87. - Responsibilities of applicants.

It shall be the responsibility of each applicant, whether for a small wireless facility application or for a franchise or revocable license, to comply with all applicable laws, ordinances, resolutions, rules, regulations and other directives of the city and any federal, state or local governmental authority having jurisdiction.

18-88. - Public availability of applications.

To the extent determined by the city council, applications for deployment of small wireless facilities and for franchises or revocable licenses, including any additions, modifications or amendments thereto, shall be available for public inspection at a designated city office during normal business hours.

SECTION TWO

- A. All other Ordinances and Resolutions, or parts of said Ordinances or Resolutions, in conflict herewith are hereby repealed, except to the extent said Ordinances are more restrictive than this Ordinance.**
- B. This Ordinance amendment shall take effect immediately upon adoption, the public welfare demanding.**
- C. The provisions of this Ordinance are severable; in the event that a court of competent jurisdiction finds that any provision of this Ordinance is unlawful or unconstitutional, it is the express intent of the City Council that such provision be severed and the remaining provisions of this Ordinance remain in force as if adopted separately from the severed portion.**

SO ADOPTED THIS THE _____ DAY OF _____, 2019.

MOUNTAIN PARK, GEORGIA

Jim Still, Mayor

ATTEST:

Karen Segars, City Clerk