CITY OF KERRVILLE PLANNING & ZONING COMMISSION AGENDA
REGULAR MEETING, THURSDAY, OCTOBER 5, 2017 4:30 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

1. VISITORS/CITIZENS FORUM:
Any person with business not scheduled on the agenda is encouraged to briefly speak to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

2. CONSENT AGENDA:
All items listed below on the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

2A. Approval of the minutes from the September 21, 2017 meeting. **Pg. 2**

3. PUBLIC HEARING, CONSIDERATION & ACTION

3A. **Public Hearing, Consideration, & Action, Zoning Ordinance Amendment** - Public hearing, consideration and action concerning a text amendment adding home occupation regulations, to Chapter 1, Article 11-1-19, “Home Occupation Regulations”. (File No. 2017-027) **Pg. 5**

4. DISCUSSION ITEMS

4A. **Discussion Item, Ordinance Amendment** – Discussion regarding pending ordinance amendment as it pertains to Wireless Telecommunications Facilities. **Pg. 10**

5. STAFF REPORTS

6. ADJOURNMENT

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary’s Office at 830-258-1117 for further information.
I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time: September 29, 2017 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

City of Kerrville
Planning Department
Report

To:	Planning & Zoning Commission
Agenda Item:	2A Minutes September 21, 2017 Commission meeting
Action:	Approval, approval with specific changes
Representative:	Staff

Proposal

Review and approval of the minutes from the September 21, 2017 meeting.

CITY OF KERRVILLE, TEXAS **September 21, 2017**
PLANNING AND ZONING COMMISSION

MEMBERS PRESENT:
Bob Waller, Chairman
Garrett Harmon, Vice-Chair
Don Barnett, Commissioner
Michael Sigerman, Commissioner
Rustin Zuber, Commissioner
David Jones, Alternate

MEMBERS ABSENT:
Marty Lenard, Alternate

STAFF PRESENT:
Sabine Kuenzel, Interim Executive Director of Development Services
Stuart Barron, Public Works Director
Kyle Burow, Director of Engineering
Mike Hayes, City Attorney
Dorothy Miller, Recording Secretary

CALL TO ORDER:
On September 21, 2017, Cmr. Waller called the Kerrville Planning and Zoning Commission regular meeting to order at 4:30 p.m. in the City Hall Council Chambers, 701 Main Street, Kerrville, Texas.

1. VISITORS/CITIZENS FORUM:
Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act

requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

2. CONSENT AGENDA:

All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

2A. Approval of the minutes from the September 7, 2017 meeting.

Cmr. Sigerman moved to approve the minutes as presented. Motion was seconded by Cmr. Zuber and passed 5-0.

3. CONSIDERATION AND ACTION

3A. **Consideration and Action, Replat** - Consideration and action of a replat of 5.608 acres located at 1709 Water Street, described as Lots 1-6, Block 9, the abandoned portion of H Street, and Lots 1-5, Block 10, J.A. Tivy's Addition to the City of Kerrville recorded in Volume P, Page 16, Plat Records, Kerr County, Texas. (File No. 2017-026).

Ms. Kuenzel presented the case and asked Commissioners to render a decision.

Cmr. Barnett moved to approve the replat. Motion was seconded by Cmr. Harmon and passed 5-0.

4. DISCUSSION ITEMS

4A. **Discussion Item, Ordinance Amendment** – Discussion regarding pending ordinance amendment as it pertains to Wireless Telecommunications Facilities.

Ms. Kuenzel presented an overview of the new state mandates, samples of the types of facilities, reviewed the range of options, and asked for general direction for further research and discussion of regulations.

4B. **Discussion Item, Ordinance Amendment** – Discussion regarding pending ordinance amendment as it pertains to subdivision regulations approval process.

Ms. Kuenzel discussed the Commission's role in the subdivision platting process. There is a specific section of the subdivision regulations that appears to be in conflict with the intent of Texas Local Government Code Chapter 212 regarding timely review of plats. It also could potentially conflict with the City's Subdivision Regulations related to total review time. It also does not appear to be aligned with standard development practices. Ms. Kuenzel discussed the standard of sequencing of platting and associated public infrastructure in communities that she worked in. Compliance with Article 10-IV-2 Section (B) 4 of the Subdivision Regulations appears to take two of the steps out of sequence. Compliance with this section would be virtually impossible and remain in compliance with Section (B) 2. In order to comply with both sections, the applicant would need to submit construction plans, construct the improvements, and have their City inspections completed, all prior to submittal of the actual final plat document. To provide a higher level of certainty within the process, Ms. Kuenzel recommends that Commissioners consider an amendment that would set the application/approval process sequencing as discussed.

5. STAFF REPORTS

Ms. Kuenzel stated there are no staff reports at this time.

6. ADJOURNMENT

This meeting was adjourned at 5:35 p.m.

City of Kerrville
Planning Department
Report

To:	Planning & Zoning Commission
Agenda Item:	3A
Action:	Public Hearing; Consideration and Action on Recommendation to City Council
Planning File #:	2017-027
Representative:	City of Kerrville

Proposal

A text amendment adding home occupation regulations, to Chapter 1, Article 11-1-19, "Home Occupation Regulations".

Procedural Requirements

This public hearing date was published in The Hill Country Community Journal, the FY2017 City of Kerrville official newspaper of general circulation. Additionally, notice of this meeting was posted at city hall and on the city's internet website in accordance with Section 551.043(a) of the Texas Government Code.

Staff Recommendation:

Approval

Staff Analysis and Recommendation: Approval

Home Occupations in Kerrville are currently administered and regulated by a definition in Article 11-1-3, Definitions and Interpretations of Words and Phases of the Zoning Code. The definition does not place any restrictions on the type of dwelling unit in which a home occupation can operate, single-family, duplex, apartment, etc., or restrict the use to any zoning district. It does not provide for any type of registration or monitoring and according to the City Attorney, it does not allow for the prosecution of violations, which does not give the Code Enforcement staff firm ground to respond to complaints, nor to take proactive action to assist with averting neighborhood decline.

On April 6, 2017, the Commission discussed moving forward with an ordinance amendment to define and regulate home occupations. On May 4, the Commission received researched background information and further discussed options. On June 16, 2017, the Commission reviewed a draft ordinance and discussed several changes.

On July 6, 2017, the Planning and Zoning Commission reviewed the attached ordinance language. That version came before the Commission for public hearing, and recommendation to the City Council on September 7, 2017. One citizen spoke and raised questions regarding the percentage limitation of business use relative to residential use of a home, and raised the question regarding performance criteria, pointing out that violations could occur with purely residential uses as well.

The Commission tabled the item pending further review by Planning and Legal staff. Accordingly, the revised draft that is coming before the Commission is simplified from the one that had been sent to the Commission in September, and it removes the percentage use restriction. Due to the fact that the latest draft has changed, the staff advertised another public hearing before the Commission.

Attachments:

Exhibit A Ordinance Amendment Draft

Exhibit A Ordinance Amendment Draft

Article 11-I-3 Definitions and Interpretation of Words and Phrases

(57) <u>Home Occupation:</u> An occupation/business activity conducted within a home or dwelling unit that is clearly incidental and secondary to the use of the premises for residential purposes and is further defined in Article 11-I-19 (I), "Home Occupation Regulations".

New Article 11-I-19 (I) – Home Occupation Regulations:

ARTICLE 11-I-19
SUPPLEMENTAL DEVELOPMENT REQUIREMENTS

I. <u>Home Occupation</u>

A. <u>GENERAL PROVISIONS:</u>

1. SCOPE.

   a. These regulations shall apply in the City's residential Zoning Districts as defined in Article 11-I-10, "Residential Zoning Districts".

   b. These regulations shall not apply to:

      i. A community home that meets the qualifications imposed under Texas Human Resources Code and the City of Kerrville building and operations regulations; or

      ii. Cottage food production that meets the qualifications imposed under Texas Local Government Code and the City of Kerrville building and operations regulations.

2. PURPOSE. The purpose of this section is to ensure the continuance of the residential character of the City's Residential Districts by permitting only low-intensity home occupations that are clearly incidental and secondary to the primary residential use of the property and that create little exterior indication of the activity and which do not create a nuisance or otherwise adversely impact the health, safety or welfare of the neighborhood.

3. REGISTRATION REQUIRED: All home occupations shall be required to register with the City of Kerrville with a description of the nature and extent of the activity. Approval of a home occupation shall be limited to one year, from the date of approval. However, such approval shall be automatically renewed annually unless the applicant provides written notice to the Development Services Department that the home occupation has been discontinued. There is no fee for registration.

B. STANDARDS OF OPERATION:

All home occupations shall comply with the following performance standards and limitations, except as specifically stated.

All home occupations shall also be subject to all provisions of local, state and/or federal regulations and laws that govern such uses.

1. EMPLOYEES

No one other than an occupant of the residence shall be engaged in the home occupation.

2. STORAGE

Storage shall be enclosed within the residence, attached garage or permitted accessory building. Outside storage in conjunction with a home occupation shall be prohibited.

3. ALTERATIONS

No exterior alterations to the dwelling, which changes the residential appearance or character, shall be permitted.

4. EQUIPMENT

The installation, storage or use of any equipment or machinery not normally found in a household or general office shall be prohibited.

5. SALES AND DISPLAY

Direct, on-site sales, retail or wholesale and/or the display of goods or products on the premises shall be prohibited.

6. NUISANCES

The creation of any excessive noise, odors, vibrations, glare, fumes or electrical interference which is detectable outside the structure shall be prohibited.

7. DELIVERIES

No deliveries related to the home occupation shall be permitted by vehicles of more than two (2) axles.

8. TRAFFIC

Home occupations shall not increase the traffic volume on the street on which the business is located above typical residential street capacity.

9. ADVERTISING/SIGNS

Home occupations may have one (1) non-illuminated sign; the sign may be flush mounted to the residence and shall not exceed one square foot in size. As an alternative, one on-illuminated freestanding sign may be placed in the front yard, no closer than 20 feet to the property line, and

shall not exceed six (6) square feet in size and three (3) feet in height. The sign may indicate only the name of the occupant and the home occupation.

C. USES PROHIBITED AS HOME OCCUPATIONS:

Except as specifically authorized, the following uses are prohibited as home occupations;

1. On-site retail or wholesale sales of any kind where customers visit the residence.
2. Vehicle repair and service of any type, to include boats and recreational vehicles.
3. Uses involving the breeding, boarding or kenneling of animals.
4. Repair services for large appliances, furniture, lawn mowers or similar engine repair.
5. Uses involving manufacturing and/or assembling.
6. Uses involving the sale of fire arms, ammunition or explosives.
7. Medical offices and/or clinics.
8. Barber and/or beauty shops including nail salons.

D. ADMINISTRATION:

The Director of Planning shall make all determinations as to whether any aspect of a proposed home occupation complies with the requirements of these regulations. If the Director determines that a proposed or existing home occupation does not comply with any provision of these regulations, any person engaged in the home occupation may submit an application to the Planning and Zoning Commission and City Council for review under the requirements regarding a Conditional Use Permit (Article 11-I-13). In such instance, the applicant shall be required to pay all applicable fees associated with a Conditional Use Permit application.

E. EXISTING HOME OCCUPATIONS:

Any home occupation that was legally in existence, and not operating in violation of any local, state or federal law or regulation, as of the effective date of these regulations but, that is not in full conformity with these regulations shall be deemed a legal nonconforming use and may continue in accordance with Article 11-I-16 (Non-Conforming Uses) of the Zoning Code.

This exception does not include the following uses; vehicle repair and service of any type, repair services for large appliances, uses involving the sale/repair of firearms, ammunition and/or explosives.

Non-Conforming home occupation operators shall submit evidence of continuation of the lawful non-conforming use. Determination of legal non-conforming status may be established by the registration of the use. Failure to register a non-conforming use may cause a presumption that the use is not legally non-conforming.

City of Kerrville
Planning Department
Report

To:	Planning & Zoning Commission
Agenda Item:	4A
Planning File #:	TBD
Hearing Date:	TBD
Subject:	Pending ordinance amendment as it pertains to Wireless Telecommunications facilities

Changes in the wireless telecommunications industry as well as federal and state laws necessitate periodic review of the City's regulation of wireless telecommunication facilities (WTF's) (towers and antennae). Both the Federal Communications Act and Texas set limits for our regulation. The recent passage of SB 1004 triggers such a review. While it required that cities allow cell service providers access to rights-of-way, it left a range of options for regulation of the towers and antennae.

During discussion of this item at the September 21, 2017 Planning and Zoning Commission meeting, we presented an overview of the new state mandates, viewed samples of the types of facilities, reviewed the range of options, and asked for general direction for further research and discussion of regulations.

At this meeting, we will further discuss 1) design standards, 2) limitations within in residential areas, parks, and other key areas of our City.

Our current ordinance relative to WTF's is attached. In particular, please note that current regulations do not adequately address antennae, nor distinguish among the different types of "nodes", which is the currently used terminology in the industry, as well as in the federal and state legislation. In addition for gaining an understanding of the different types of facilities that we might address, we will review specific levels of regulation that we may consider.

Attachments:

Ordinance 2003-35 Wireless Telecommunication Facilities
Excerpts from City of Fredericksburg Wireless Telecommunications nodes regulations

Wireless Telecommunication Facility (WTF)

A *wireless telecommunication facility* is an allowed land use only by Conditional Use Permit (CUP) in all zoning districts of the City except the R-1, R-1A, RC, RM, RT, R3, GR, and GTW zoning districts.

a. Applicability – This Section applies to all construction and expansion of wireless telecommunication facilities, except as follows:

1. *Transmitting or reception antennas. parabolic antennas less than seven (7) feet in diameter. or omni-directional antennas eighteen (18) inches or less in diameter*. that:

   a. *are* used as an accessory use to a legally constructed residential or commercial building; and
   b. does not extending more than twelve (12) feet above its support structure or roof, whichever is less; and
   c. does not violate the maximum height requirement of the use or zoning district. In the event that an existing structure exceeds the maximum height of the use or district prior to the installation of said WTF and/or antenna(s), a conditional use permit is required in accordance with these regulations; and
   d. If the antenna and antenna support structure or equipment is mounted flush with the vertical exterior of the building, it projects no more than twenty four (24) inches from the surface of the building to which it is attached; and
   e. If attached to non-residential structure, the attached antenna(s) must be textured and colored so as to blend with the surface of the building.

2. Amateur radio, receive-only antennas that are less than thirty-five (35) feet in height and owned and operated by a federally licensed amateur radio station operator or used exclusively for receive-only antennas.

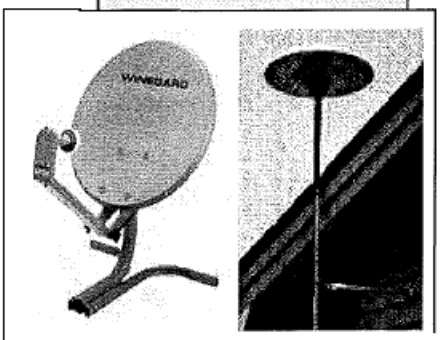
3. WTF or antenna used for public safety purposes by a public entity. Such public facilities are subject to the co-location requirements of this Ordinance, which allows commercial antennas to be mounted to such facilities only as a secondary use and is not, in the sole discretion of the public entity, deemed to compromise the security interest of said public entity.

4. Temporary wireless telecommunications facility and/or antenna in operation for a maximum of forty-five (45) days.

b. Setbacks- Wireless telecommunications facilities and/or antennas must comply with the setback requirements for the zoning district in which it is located, or be setback one hundred ten (110) percent of the total height of the WTF and/or antenna when combined, from all property lines, whichever is greater.

Wireless telecommunication facility (WTF) refers to a structure designed and constructed to support one or more antennas used by commercial wireless telecommunication or broadcasting facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), or either lattice or monopole construction. This definition includes satellite dishes, microwave-transmitting towers, and WTF's attached to or supported by buildings.

Parabolic antenna refers to an antenna consisting of a parabolic reflector and a radiating or receiving element at or near. its focus.



Parabolic antennas

c. Proximity to adjacent structures – No structure, whether existing or proposed, shall be located within an area directly adjacent to a wireless telecommunications facility to a point bounded by circle whose radius is equal to the height of said wireless telecommunications facility and/or antenna. Exceptions to this paragraph are for structures that are not intended for occupation, but service said facility.

d. Height- All wireless telecommunications facilities and antennas are subject to the normal height restrictions for the zoning district in which it is allowed. Where a conditional use is required, the allowable height is determined through review and consideration of the conditional use permit. In no case shall a proposed wireless telecommunications facility and/or antenna exceed one hundred twenty (120) feet in height within the corporate limits, except where a height variance is authorized by the Zoning Board of Adjustment to allow a tower or antenna that demonstrates a hardship that can only be remedied by locating on a proposed site within the corporate limits.

e. Design for co-location -A new wireless telecommunications facility and related equipment shall be designed and constructed to accommodate expansion for future co-location of at least three (3) additional service providers utlizing equipment of similar nature and type. Such co-location requirement shall be subject to each additional user not causing electromagnetic interfereance with existing antenna on the WTF. The applicant shall submit a notarized statement to the Administrator confirming the adherence to the co-location requirement.

f. Fencing -All free-standing or guy-wire supported wireless telecommunications facilities and/or antennas shall be enclosed by decay-resistant security fencing not less than eight (8) feet in height and also equipped with an appropriate anti-climbing device or other similar device, excluding razor wire, to prevent tower access.

g. Aesthetic standards- Wireless telecommunications facilities and/or antennas must be constructed with materials and colors that match or blend with the surrounding natural or built environments, to the maximum extent practicable. Unless otherwise required, muted (flat or non-reflective) colors, earth tones and subdued hues shall be used. If an antenna is mounted on a support structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or significantly compatible with, the color of the supporting structure so as to make the antenna and equipment as visually unobtrusive as possible.

h. Maintenance – Maintenance of the wireless telecommunications facility and/or antenna and its grounds is the responsibility of the owner/operator of the wireless telecommunications facility. The owner/operator shall prevent the facility from entering a state of disrepair due to negligence, vandalism, natural hazard or any other source of disrepair.

i. Lighting -A wireless telecommunications facility and/or antenna shall be illuminated only as necessary to comply with the Federal Aviation Administration (FAA) or other applicable State and Federal requirements. However, security lighting may be used as long as it is designed and installed to prevent glare or excessive light spillover onto adjacent properties.

WTFTree

j. Signage- Wireless telecommunications facilities and/or antennas may not be used to exhibit any permanent or temporary signs, writing, symbols or any graphic representation of any kind other than safety related signs, subject to **City Ordinance #2002-07, Sign Regulations.**

k. Historic properties- A proposed wireless telecommunications facility and/or antenna, to the greatest degree practicable, must have no unreasonable adverse impact upon a *historic district,* site, or structure that is currently listed on or eligible for listing on the National Register of Historic Places.

l. Stealth technology design -Any wireless telecommunications facility and/or antenna with appropriate *stealth technology design* approved by the Planning and Zoning Commission and the City Council through the approval of a Conditional Use Permit may be located in any zoning district.

m. Site Plan Review- Site plans shall be submitted pursuant to the provisions of **Article 11-1-13, Conditional Use Permits,** of the Zoning Code. The applicant shall notify all property owners within five hundred (500) feet of any property line for the wireless telecommunications facility site. In addition to the requirements set forth in **Article 11-1-13, Conditional Use Permits,** the following is required:

1. A wireless telecommunications facility plan that identifies the location, height and type of all telecommunication facilities in Kerrville and its extraterritorial jurisdiction (ETJ).

2. An alternatives assessment evaluating all feasible co-location alternatives to the proposed facility. No new tower will be permitted unless the applicant demonstrates that no existing tower or support structure can accommodate the applicant's proposed antenna. All proposals for new wireless telecommunications facilities shall be accompanied by a written statement by a licensed engineer that the necessary service cannot be provided by co-location for one or more of the following reasons:

   a. No existing towers or support structures, or approved but not yet constructed towers or support structures, are located within the geographic area

Historic district refers to geographically definable area possessing a significant concentration, linkage or continuity of sites, building, structures or objects united by past events, which is listed or is eligible to be listed on the National Register of Places.

Stealth technology design refers to technology that blends the wireless telecommunications facility and/or antenna into the surrounding environment; examples include, but are not limited to, architecturally screened roof-mounted antennas building mounted antennas painted and/or textured to match the existing structure, antennas integrated into architectural elements such as church spires and antenna structures designed to resemble light poles or flag poles.

required to meet the applicant's engineering requirements.

b. Existing towers or support structures are of insufficient height to meet the applicant's engineering requirements.

c. Existing towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on tl existing tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna.

e. The applicant demonstrates that there are other limiting factors that render existing structures unsuitable.

3. A *visual impact* analysis shall be submitted including views elevations looking toward the site (typically north, south, ea and west) and away from the site. The views shall include the site and the surrounding properties measured from the center point of the proposed tower or support structure out a distance equal to three (3) times the height of the propose tower. A drawing shall depict a "skyline" view showing the entire height of the proposed tower and tl structures, trees, or any other objects contributing to the skyline profile. The proposed tower, drawn to scale, shall b included in the view.

4. Certification of compliance with *Federal Communications Commission (FCC)* regulations and emission standards.

5. Notification of an impending Environmental Assessment (EA) required by the National Environmental Protection Agency (NEPA) and a copy when the assessment is completed.

6. A letter addressed to the City declaring an intent and willingness to construct a proposed tower that would allow least three (3) other service providers to locate on the towe

n. Conditional Use Criteria- In addition to the above standards, the following additional factors shall be considered by the City Council, upon recommendation of the Planning and Zoning Commission, when determining whether to grant a conditional use permit for a wireless telecommunications facility:

1. Height of the proposed tower.
2. Proximity of the tower to residential structures and residential district boundaries.

Visual impact refers to a .modification or change that could be incompatible with the scale, form, texture, or color of the existing natural or man-made landscape.

FederalCom!Titmications Commission (FCC) refers to an independent United States government agency, directly responsible to Congress. The FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC's jurisdiction covers the 50 states, the District of Columbia, and U.S. possessions.

3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography, tree cover and foliage.
5. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
6. Proposed ingress and egress to the tower and its site.
7. Availability of suitable existing towers, support structures or alternative technologies not requiring the use of towers or structures.

o. Abandonment- All providers utilizing wireless telecommunications facilities shall notify the City in writing of any wireless telecommunications facility and/or antenna located in the City or its extraterritorial jurisdiction whose use will be discontinued and the date the *abandonment* will occur. If the use of the facility is discontinued for a continuous period of six (6) months, the Administrator may declare the facility to be abandoned, which excludes any dormancy period between construction and the initial use of the facility. The facility's owner/operator will receive written notice from the City and will be instructed to either re-activate the facility's use within ninety (90) days, or dismantle and remove the facility. If re-activation or dismantling does not occur within ninety (90) days, the City may remove the facility or cause it to be removed and assess the costs to the owner/operator. In the case of a multi-use tower, this provision does not become effective until all users have abandoned the wireless telecommunications facility. However, the City may cause the abandoned portions of systems on the multi-use wireless telecommunications facility to be removed in accordance with this provision.

Abandonment means to cease or discontinue a.use or activity, but excluding temporary or short-term interruptions of a use, *e,g,* the change of tenancy or ownership, or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, orduring normal periods of vacation or seasonal closure. A use is considered abandoned if the facts show the owner's intent to discontinue the use or activity and the discontinuance of the use continues for six months or more.

EXCERPTS FROM CITY OF FREDERICKSBURG MICRO NETWORK NODES, NETWORK NODES, NODE SUPPORT, AND RELATED EQUIPMENT REGULATIONS:

III.
Requirements Regarding Size, Height, Placement, and Operation of Micro Network Nodes, Network Nodes, Node Support Poles and Related Equipment.

3.1 A network node must conform to the following requirements:

A. Antenna:

1. Each antenna that does not have exposed elements and is attached to an existing structure or pole:

   (a) Must be located inside an enclosure of not more than six cubic feet in volume;
   (b) May not exceed a height of three feet above the existing structure or pole; and
   (c) May not protrude from the outer circumference of the existing structure or pole by more than two feet.

2. If an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:

   (a) Must fit within an imaginary enclosure of not more than six cubic feet;
   (b) May not exceed a height of three feet above the existing structure or pole; and
   (c) May not protrude from the outer circumference of the existing structure or pole by more than two feet.

B. The cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:

   1. Be more than 28 cubic feet in volume; or
   2. Protrude from the outer circumference of the existing structure or a node support pole by more than two feet.

C. Ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches.

D. Pole-mounted enclosures may not be taller than five feet.

E. The following types of associated ancillary equipment are not included in the calculation of equipment volume under the above-referenced subsections (A) through (D):

1. Electric meters;
2. Concealment elements;
3. Telecommunications demarcation boxes;
4. Grounding equipment;
5. Power transfer switches;
6. Cut-off switches; and
7. Vertical cable runs for the connection of power and other services.

F. Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

G. Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.

…

3.2 Equipment Cabinets.

A network provider must ensure that the vertical height of an equipment cabinet installed as part of a network node does not exceed the height limitation set forth in section 3.1 above, subject to the approval of the pole's owner if applicable.

3.4 General Construction and Maintenance Requirements.

A network provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

(1) Obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
(2) Obstruct the legal use of a public right-of-way by other utility providers;
(3) Violate nondiscriminatory applicable codes;
(4) Violate or conflict with the municipality's publicly disclosed public right-of-way design specifications; or
(5) Violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

…

3.6 Ground Equipment.

The Network Provider may not install ground equipment where ground equipment already occupies a footprint of twenty-five (25) square feet or more.

…

A. **The Providers proposal shall comply with the following standards:**

1. Any facilities located off pole must remain in cabinetry or enclosed structure underground, except for the electric meter pedestal. Facilities on

pole shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. There shall be no external cables or electric wire/cables on pole or structures or aerial wires or cables extending from the pole or structure.

2. The electrical meter **shall not** be mounted on a City's metal pole or structure. Provider shall use 240 voltage when connecting to any City infrastructure and provide key to meter upon inspection.

3. All attachments to a pole that are projecting, or any equipment or appurtenance mounted on the ground, shall comply with TAS, ADA and shall not obstruct an existing or planned sidewalk or walkway.

4. All proposed projecting attachments to the pole shall provide a minimum vertical clearance of eight (8) feet. If any attachments are projecting towards the street side, it shall provide a minimum vertical clearance of 16 feet.

5. The color of the network nodes shall match the existing pole color such that the network nodes blend with the color of the pole to the extent possible. City reserves the right to deny a certain style of node due to its difference in color to pole.

6. There shall be no other pole, with small cell attachments permitted/under application review, within 300 feet of the subject pole.

…

A. **The Provider's proposal shall comply with the following standards:**

1. Any facilities located off pole must remain in cabinetry or enclosed structure underground. Facilities on pole shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. There shall be no external cables or electric wire/cables on pole or structures or aerial wires or cables extending from the pole or structure. Shroud poles, as shown in the below image, are encouraged.

2. The electrical meter shall not be mounted on City's poles or structures. Provider shall coordinate voltage and provide electrical wiring diagrams along with the Building Permit or Electrical Permit when connecting to any City infrastructure and provide key to meter upon inspection.

3. The pole and all attachments to the pole that are projecting, or any equipment or appurtenance mounted on the ground shall comply with TAS, ADA and shall not obstruct an existing or planned sidewalk or walkway.

4. Wooden poles are prohibited. All new poles are required to be break-away and black powder-coated. All attachments for the network nodes shall also match the color of the network support pole. All network support poles shall match the existing poles in the surrounding block or district in which the network support pole is located in order to blend into the surrounding environment and be visually unobtrusive. City reserves the right to deny a certain type of pole due to its differences.

…

5.3 Placement.

A. *Parks.* Placement of network nodes and node support poles in any Parks, Park roads, sidewalk, or property is prohibited unless such falls within the definition of Public right-of-way in Chapter 284 of the Texas Local Government Code and the placement complies with applicable Laws, private deed restrictions, and other public or private restrictions on the use of the Park.

…

A. *City Infrastructure.* Provider shall neither allow nor install network nodes or node support poles on any City property that falls outside the definition of Public Right-of-Way in Chapter 284 of the Texas Local Government Code.

B. *Residential Streets.* Provider shall neither allow nor install network nodes or node support poles in Right-of-Way that is adjacent to a street or thoroughfare that is not more than 50 feet wide and adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

C. *Historic District and Historic Shopping District Overlay, ("Historic District").* A Network Provider must obtain a certificate of appropriateness under the administrative provisions of the City's historic zoning ordinance(s) from the City's Historic Preservation Officer before collocating new Network Nodes or installing new Node Support Poles in a Historic District Overlay. As a condition for approval

of new Network Nodes or new Node Support Poles in a Historic District, the City requires reasonable design or concealment measures for the new Network Nodes or new Node Support Poles. Therefore, any request for installations in a Historic District, must be accompanied with concealment measures in the permit applications. The City requests that a Network Provider explore the feasibility of using certain camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in on Decorative Poles or in a Historic District.

D. *Historic Landmarks.* A Network Provider is discouraged from installing a Network Node or Node Support Pole within 1000 feet of a historic site or structure or Historic Landmark recognized by the City, state or federal government, as of the date of the submission of the permit.

E. *Decorative Poles.* Provider shall neither allow nor install network nodes on a Decorative Pole as defined by Chapter 284 of the Texas Local Government Code, unless approved by the City in writing. This standard shall be applicable to all the new decorative poles in the Historic District or Historic Shopping District Overlay currently, as well as any others citywide in the future. The City may only entertain proposals, if they are stealth. See examples below.

F. *Poles.* Wireless Facilities on a node support poles shall be installed not less than twenty-two (22) feet above ground level, unless otherwise approved by the Director, but in no event less than fifteen (15) except to the extent that state law controls. If any attachments are projecting towards the street side, it shall provide a minimum vertical clearance of 16 feet. Each new, modified, or replacement pole or node support pole installed in a public right-of-way shall not exceed the lesser of (1) 10 feet in height above the tallest existing pole located within 500 linear feet of the new pole in the same public right-of-way; or (2) 55 feet above ground level. *§§284.103, 284.108 Tex. Local Gov't Code.*

G. *Right-of-Way.* Node support poles and ground equipment shall be placed, as much as possible, within two feet of the outer edge of the Right-of- Way line. Node support poles and ground equipment or network nodes shall not impede pedestrian or vehicular traffic in the Right-of-Way. If a node support pole and ground equipment or network node is installed in a location that is not in accordance with the plans approved by the City and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Provider shall remove the node support poles, ground equipment or network nodes. *§§ 284.003, 284.102 Tex. Local Gov't Code.*

H. *Undergrounding Areas*. A network provider, in relation to installation for which the city has approved a permit application, must comply with undergrounding requirements, including the city's ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions that prohibit installing above-ground structures in a public right-of-way without first obtaining zoning or land use approval. Areas of the city may be designated from time to time by the city as underground areas in accordance with filed plats, or conversions of overhead to underground areas, as may be allowed by law. This subsection does not prohibit a network provider from replacing an existing structure. *§284.107, Tex. Local Gov't Code.*

B. *Camouflage.* Camouflage is required by the City in Historic Districts, as provided in this Design Manual. It is also the City's preference that all new Node Support Poles be camouflaged, except those located in an area zoned as industrial. Node Support Poles are not allowed in residential areas of districts that are zoned industrial. Companies must submit their proposal for camouflage with the permit application.

…

5.5 Signage.

A. Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the node support poles and network nodes that is visible to the public. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g. RF ground notification signs) or the City.

B. Except as required by Laws or by the utility pole owner, Provider shall not post any other signage or advertising on the node support poles and network nodes, or utility pole.

5.6 Overhead Lines Prohibited.

In Underground Utilities, Provider shall neither allow nor install overhead lines connecting to node support poles. All overhead lines connecting to the node support pole where other overhead telecommunications or utility lines are or planned to be buried below ground as part of a project shall be buried below ground.