



CITY OF CREEDMOOR

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ERNIE ANDERSON
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ARCHER WILKINS

ORDINANCE# 2018-O-02

AN ORDINANCE AMENDING THE CITY OF CREEDMOOR DEVELOPMENT ORDINANCE ARTICLES 3 AND 10; THE CODE OF ORDINANCES CHAPTER 93; AND THE FEE AND RATE SCHEDULE.

WHEREAS, the City of Creedmoor Planning Department has initiated text amendments in ARTICLE 3: DEFINITIONS; ARTICLE 10: USES WITH ADDITIONAL STANDARDS AND CONDITIONAL USES; CODE OF ORDINANCES CHAPTER 93: STREETS AND SIDEWALKS; AND THE CITY OF CREEDMOOR FEE AND RATE SCHEDULE in response to recent changes in the North Carolina General Statutes and in order to clarify ambiguous language or correct contextual errors; and

WHEREAS, the Board of Commissioners, on January 16, 2018 adopted RESOLUTION 2018 – R – 01, an initial scheduling resolution for ZTA-2018-01; and

WHEREAS, a public meeting was held by the City of Creedmoor Planning Board on February 8, 2018 to consider these text amendments, and the Planning Board unanimously found ZTA-2018-01 consistent with the goals of the City of Creedmoor’s CITY PLAN 2030; and

WHEREAS, the Board of Commissioners held a public hearing on February 20, 2018 to consider said request, and gave the public an opportunity to be heard; and

WHEREAS, the Board of Commissioners concur with the Planning Board’s consistency findings and have approved, by resolution, a statement of consistency and briefly explained why the board considers the action taken to be reasonable and in the public interest.

NOW, THEREFORE, IT SHALL BE ORDAINED by the Board of Commissioners of the City of Creedmoor:

Section 1. That the Creedmoor Development Ordinance be amended as follows:

See Exhibit A.

Section 2. That the City of Creedmoor Code of Ordinances will be amended as follows:

See Exhibit B.

Section 3. That the City of Creedmoor Fee and Rate Schedule shall be amended as follows:

FEE AND RATE SCHEDULE

New Microcell, Small, Concealed, Co-Location, or Upgrade Other than Substantial Modification

Application Fee (First through fifth permits)	100.00 each
Application Fee (Sixth through twenty-fifth permits)	\$50.00 each
Consulting Fee (if necessary)	\$500.00 each

Section 4. The Clerk is hereby authorized to insert such amendments into the official Creedmoor Development Ordinance and the City of Creedmoor Code of Ordinances kept on file in the Office of the Clerk and with the Planning/Zoning/Subdivision Administrator.

Section 5. This ordinance amendment shall become effective upon adoption.

BE IT IS SO ORDAINED this the 20th day of February, 2018.

CITY OF CREEDMOOR BOARD OF COMMISSIONERS


Robert V. Wheeler, Mayor

Attest:


Kathleen J. McCorkle, City Clerk



EXHIBIT A

ARTICLE 3: DEFINITIONS

WIRELESS FACILITY – Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- b. Wireline backhaul facilities.
- c. Coaxial or fiber optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WIRELESS FACILITY (MICRO) – A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

WIRELESS FACILITY (SMALL) – A wireless facility that meets both of the following qualifications:

- a. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
- b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

WIRELESS FACILITY (SUBSTANTIAL MODIFICATION) – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

ARTICLE 10: USES WITH ADDITIONAL STANDARDS AND CONDITIONAL USES

10.1-32 WIRELESS TELECOMMUNICATION FACILITIES, MICRO WIRELESS and SMALL CELL WIRELESS.

[Amended August 27, 2013 per NC Session Law 2013-185]

[Amended February 20, 2018 per NC Session Law 2017-159]

- A. Zoning Districts: All zoning districts
- B. Types of Micro and Small Wireless Facilities. The General Statutes provide exceptions to the standards in the UDO for small and micro wireless facilities located in public rights-of-way (PROW). Small and / or micro wireless facilities (i) located outside the PROW or (ii) not meeting the dimensional standards of the definition of "Micro Wireless Facility" and "Small Wireless Facility" in Art. 3 must comply with the general Development Standards for Telecommunications Towers. The types of wireless facilities referred to in the previous sentence are called Microcellular wireless telecommunication facilities ("Micro Cells") for convenience.
- C. Development Standards for Micro Cells :
 1. Microcellular wireless telecommunication facilities are permitted on buildings and other existing structures (other than off-premise signs) which do not require an increase in height to accommodate the facility. Electric distribution poles may be extended in height in the Single Family Residential (SFR), Traditional Neighborhood Development Overlay (TNDO) [single family residential portions only] or Residential Main Street Transitional (R/MST) zoning districts 50 feet including the antenna. Such extensions shall qualify as an existing structure for purposes of this section. In all other zoning districts, electric distribution poles (including antennas) may be extended to 60 feet in height.
 2. All antennas associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be flush-mounted against the side of the building or structure and camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted.
 3. Antennas associated with a microcellular wireless telecommunication facility mounted on a utility pole must be mounted atop the pole or flush mounted against the sides of the pole, and shall be colored to match or complement the color of the utility pole and shall be mounted in as unobtrusive a manner as possible.
 4. Antennas associated with a microcellular wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.
 5. Equipment enclosures associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be mounted inside the building or structure, attached to an exterior surface, or placed underground or on a concrete pad on the ground outside the building or structure. If mounted on an exterior surface, the enclosures shall be colored or camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted. If placed on a concrete pad on the ground, the enclosures shall be screened so as to make them unobtrusive.
 6. Equipment enclosures associated with a microcellular wireless telecommunication facility mounted on a utility pole, must be mounted on the utility pole; provided, however, if combiners are used to allow co-location by sharing of an antenna or antenna array and pole-mounting of equipment enclosures cannot be accommodated on the pole, the combiner and additional equipment enclosures may be placed underground or on a concrete pad on the ground. If placed on a concrete pad on the ground, such additional

equipment enclosures shall be screened so as to make them unobtrusive.

7. All cabling and wiring connecting antennas, equipment enclosures, and other components of a microcellular wireless telecommunication facility shall be colored or concealed in a manner as to render them unobtrusive.
 8. Microcellular wireless telecommunication facilities located in a local historic district or on a historic landmark shall require a certificate of appropriateness from the historic resources commission.
 9. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
 10. A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the City in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.
 11. As part of its application each applicant for a microcellular wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility upon abandonment or cessation of operations. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the City for all costs it incurs to perform any work required of the applicant by the agreement that the applicant fails to perform. A \$5,000.00 cash bond, or other security acceptable to the City, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.
 12. Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the City shall give 30 days' written notice of its intention to do so to the permittee at its last known address.
 13. Reserved.
- D. Development Standards for Small Wireless Facilities in the PROW.
1. Small/micro wireless facilities meeting the definitions in Art. 3 are excepted from the Development Standards in sub-sections C. 1., 3., 5., 7., 10., 11., and 12 if the facilities (i) meet the height requirement of Table 1 and are located (ii) in City-owned rights-of-way or (iii) outside of the rights-of-way on property that is not zoned Single Family Residential (SFR), Traditional Neighborhood Development Overlay (TNDO) [single family residential portions only] or Residential Main Street Transitional (R/MST).

Table 1: Small Wireless Facility Height Requirements

<i>New, modified or replacement utility pole Town utility pole (Height in Feet)</i>	<i>Height of small wireless facility above utility pole, wireless support structure or Town utility pole</i>	<i>Total Height (in feet)</i>
50 above ground level	10 feet	60

EXCEPTION for properties zoned SFR, TNDO [single family residential only] or R/MST where utilities are underground: New modified or replacement utility poles, City utility poles and wireless support structures may be no taller than 40 feet.

2. Exceptions to 10.1-32:
 For facilities meeting the requirements of sub-section D.1 above, no application, permit or fee is required under the zoning ordinance for:
 - (i). Routine Maintenance or
 - (ii). The replacement of small wireless facilities with small wireless facilities or
 - (iii). Installation, placement, maintenance or replacement of micro wireless facilities that are suspended between existing utility poles or City utility poles or
 - (iv) Communication services providers authorized to occupy City rights-of-way who are paying taxes under N.C. Gen. Stat. § 105-164.4 (a) (4c) or (6).

3. City may deny an application only on the basis that it does not meet any of the following:
 - (i) the City's applicable codes;
 - (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment;
 - (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way;

4. The application must include a sworn, notarized attestation that the small wireless facilities collocated on utility poles, City utility poles, or wireless support structures shall be:
 - (i) Activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, and
 - (ii) Collocation shall commence within six months of the permit issuance date, and
 - (iii) If not, the permit may be revoked.

5. Applicants may file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this Ordinance. City may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The City may issue a separate permit for each collocation that is approved.

6. a. Wireless services providers are required to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date

that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.

b. This section applies to rights-of-way controlled by the N.C. Dept. of Transportation and the Town.

EXHIBIT B

CHAPTER 93: Streets and Sidewalks

- 93.01 Use and regulation
- 93.02 Obstructing
- 93.03 Excavation and repair
- 93.04 General Conditions for Use of Rights-of-Way
- 93.05 Permit Required
- 93.06 Application Requirements
- 93.07 Additional Requirements for Wireless Support Structures, Wireless Communication Facilities and any other Wireless Communication Facility, Small Wireless Facility or Micro Wireless Facility
- 93.08 Acceptance and improvement of public streets
- 93.09 Refusal to disperse
- 93.10 Enforcement Provisions
- 93.11 Definitions

§ 93.01 USE AND REGULATION.

(A) It shall be unlawful for any person to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner or occupant of the private property, any trash, refuse, garbage, building material, cans, bottles, broken glass, paper, or any type of litter.

(B) It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter upon any street or other public place within the city, or upon private property.

(C) Every owner, lessee, tenant, occupant or other person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as access areas and incident to the carrying on of the principal business of any commercial establishment or premises and which parking or access areas abut or lie within ten feet of any public street or other public way, shall keep and maintain the areas clean and free from trash, litter, rubbish and any materials liable to be blown, deposited or cast upon the street or other public way.

(D) Suitable receptacles may be provided in parking or access areas within the meaning of division (C) of this section. The receptacles shall be plainly marked and shall be constructed to prevent scattering of any trash, litter, rubbish or other materials deposited therein.

(E) It shall be unlawful for any person to consume any malt beverages or unfortified wine, as defined by G.S. § 18B-101, on or within the rights-of-way of any street, boulevard, alley or sidewalk, in city parks and buildings, or on any other property owned or occupied by the city.

Penalty, see § 10.99

§ 93.02 OBSTRUCTING.

(A) Except as provided in Chapter 94 of this title, it shall be unlawful for crowds or assemblages of persons to congregate on the streets or sidewalks of the city in such a way as to unnecessarily interfere with pedestrian or vehicular traffic.

(B) Before building or remodeling at any place in close proximity to a sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.

(C) It shall be unlawful for any person, firm or corporation to construct or erect, or cause to be constructed or erected, any structure, and particularly any awning or similar structure, over any sidewalk or any part of any sidewalk of the city, unless the structure is at least seven feet above the surface of the sidewalk.

(D) It shall be unlawful for any person, firm or corporation to repair a motor vehicle on a paved street of the city, except in case of emergency.

(E) It shall be unlawful to allow or permit any gate to open upon or otherwise encroach upon any street or sidewalk.

Penalty, see § 10.99

§ 93.03 EXCAVATION AND REPAIR.

(A) No person shall make any excavation or opening or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other public place for the purpose of laying or placing therein any pipe, wires or poles or for any other purposes unless a written permit has been issued under § 93.05.

(1) However, a permit shall not be required where the work is performed under a contract with the city.

[NOTE: Replaced by notice requirements in section 93.02] (B) All persons desiring a permit to make an opening in any street or sidewalk, as set forth in division (A) of this section, shall obtain a permit under § 93.05, .

(C) When any part of any street, sidewalk, alley or other public place of the city shall be torn or dug up for any purpose, the person making the excavation or opening shall, have the duty of refilling the excavation or opening, and the refilling shall be done in accordance with the standards and specifications of the city.

(D) It shall be unlawful for any person, firm or corporation who obtains a permit under the divisions of this section to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place without placing and maintaining proper guard rails three feet from the ground and signal lights or other warning at, in or around

the same, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care, from injuries on account of the excavation or work.

(E) It shall be unlawful for any person, firm or corporation to drag, run or cause to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt or other type of permanently paved street of the city which shall be likely in any way to injure or cut the surface of the street.

(F) No person shall injure, tamper with, remove, paint upon or deface any bridge, culvert, ditch and drain, sign, signpost, street light, traffic signal, bulletin board or other municipal property upon the streets and sidewalks or elsewhere, except employees of the city in the performance of their duties.

(G) No person shall begin to construct, reconstruct, repair, alter or grade any driveway on the public streets unless a written permit therefor has been issued by some officer of the city vested with that authority.

(H) It shall be unlawful for any individual to operate a motor vehicle, as the same is defined by the general statutes, upon any sidewalk in the city except across a lawfully constructed driveway.

§93.04 GENERAL CONDITIONS FOR USE OF RIGHT-OF-WAY

(A) Rights-of-way in the City may be controlled by N.C. Department of Transportation (DOT), private parties and/or the City. The City issues and/or monitors work and/or encroachments in the City's rights-of-way. The City may also issue permits for work on City property in DOT's rights-of-way. Encroachment permits, or agreements are required to attach or use any City property. Wireless telecommunication facility encroachments in the PROW require review by the Planning Department. (See CDO §10.1-32). ALL PROW encroachments must be reviewed by the Public Works Department, including attachments to City utility poles, replacement of City utility poles and "make ready" requests are reviewed by the Public Utilities Department.

(B) The right to perform work in the PROW and the ability to maintain facilities in the PROW are allowed subject to the conditions below, as supplemented by those set forth in other sections of this ordinance, standards adopted by the department, and requirements contained in permits and/or other authorizations.

1. An encroachment permit does not convey any legal right, title, or interest in the public way. Persons doing work in the public way and users may need to obtain approvals from persons with property interests in the property.
2. A permit or authorization does not limit the City's exercise of its regulatory, police, government, legislative, or contracting authority. City retains all rights to use all portions of public rights-of-way for its purposes not prohibited by law. If a permit or authorization conflicts with the terms of another permit or authorization or with the City code, the stricter of the applicable provisions shall control. The stricter provision shall not control, however, if a later-issued permit, authorization or ordinance

explicitly and specifically states that particular terms are to override prior, less strict terms in an authorization.

3. The City and its officials, officers, and employees are not liable for any direct, indirect, or consequential damages that result when facilities in the public way are damaged during the construction, installation, inspection, maintenance, use or repair of public improvements that have received City funding or that are installed pursuant to a contract with the City.
4. Users and persons who cause work to be done in the public way shall pay for all damage that results, directly or indirectly, from work performed for their benefit in the PROW, and for the installation, repair, maintenance, and operation of their facilities in the PROW.
5. An encroachment permit creates no third-party rights against the City and is intended only for the benefit of the person receiving the permit or authorization.
6. Persons doing work in the PROW shall not interfere with existing City utilities, such as infrastructure for electricity, water and sewer, the natural and constructed stormwater system, and traffic signals and associated lines, or the repair or replacement of such systems. Persons doing work in the PROW shall apply for an encroachment permit at least ten working days to locate and mark any existing City utility lines prior to initiating work. The application shall accurately describe the portion of the street to be affected. Damage to City utilities or other infrastructure shall be paid for by the person or user contracting for the work that resulted in such damage. If an encroachment permit is not required, persons doing work in the PROW shall also give the City public works department ten working days' notice to locate and mark any existing City utility lines prior to initiating work. In addition, persons will give the department a second notice 24-hours before doing any work in the ROW as required by section 93.04(15) below.
7. Persons and users performing work in the public way shall ensure worker, traffic, and pedestrian safety and shall ensure that all work is performed in accordance with industry standards. Compliance with all federal, state, and local regulations, and all federal, state, local and industry codes and standards is required. These include but are not limited to compliance with the Occupational Safety and Health Act; compliance with the Manual of Uniform Traffic Control Devices, National Electrical Code and National Electrical Safety Code; compliance with fiber optic installation standards and telecommunication industry standards; compliance with plumbing and pipe installation codes and standards; and compliance with standards and codes for traffic safety and lane closures. Persons and users shall provide all equipment and personnel necessary to meet applicable regulations, codes, and standards and shall furnish additional equipment or personnel if requested by the City.

8. The Public Works Department shall have the discretion to approve, deny, alter, and condition all proposed locations of facilities in the public way, and to determine whether placement, if allowed, shall be above ground or below ground.
9. Wires, fiber, and similar conduit shall be located underground. A user that wishes to place such facilities above ground shall demonstrate to the City's satisfaction why above ground placement is necessary. The City recommends that Facilities shall be located in existing ducts if such ducts are available and practicable to use. Applicants shall take reasonable steps to procure the right to use existing ducts.
10. A user shall demonstrate to the Public Works Department's satisfaction that sufficient space exists in the public way for its proposed facilities without interfering with existing or planned public projects, and that placement of the facilities will not unduly disrupt use of the public way or negatively impact the condition of the public way.
11. The City may require a user to post written notice of proposed work or activities along the public way impacted and/or to distribute notices to individual properties located along the public way.
12. Users shall give the department all information it requests regarding the installation of facilities upon completion. Such information may include, but is not limited to as-built or other maps, which shall be furnished in the form required by the Public Works Department, and changes to planned locations that were necessary to avoid pre-existing infrastructure.
13. A person or user that conducts excavation or other activities that disturb the public rights-of-way or plantings within the public rights-of-way or facilities within the public way shall restore the area to a functional condition equivalent to that it was in prior to the disturbance. The restoration shall include but is not limited to installation of pavement, resurfacing nearby areas, grading other surface areas, restoring below ground areas, planting and landscaping, replacing curb ramps to current standard, and repairing improvements and facilities.
14. Users shall contact the Public Works Department at least 24 hours prior to actual work performed in the right-of-way except in the case of an emergency.
15. To the extent permitted by North Carolina law, the City may require a performance bond for work to be done in the PROW. A user shall at its own cost relocate its facilities within a time determined in the discretion of the City if the City determines in its discretion that the facilities were placed in the PROW without first obtaining permission from the City, and the facilities:
 - a. Interfere with the use of the public way, or the provision of services to City residents; or
 - b. Interfere with the repair or maintenance of any City-maintained utility; or
 - c. Will impede the construction of a project funded in part with public funds, or a project to be dedicated to the public upon completion.

§93.05 PERMIT REQUIRED.(A) Prior to performing work or placing facilities within a public right-of-way in the City, a user must obtain an encroachment permit issued by the City Public Works Department. (Encroachment permits are also called work permits.) A user shall acquire an encroachment permit from the Public Works Department for the following activities.

1. Excavation or restoration within the public way, including but not limited to construction of new portions of the public way;
2. Cutting, moving, or alteration of any pavement, paver (for example, brick or stone), pipe, conduit, pole, meter, fire hydrant, facility, or other equipment or structure owned by the City, or attachment to such objects;
3. Installation or repair of facilities within the public way including but not limited to placing facilities on other facilities already located in the public way;
4. Construction of private streets (including but not limited to paving and gutters), sidewalks, or alleys;
5. Installation or repair of facilities for the conveyance of water, sewer, or stormwater; and
6. Installation or repair of facilities for electrical, gas, video, internet, telephone, cable, telecommunications, television, or other information or data transfer service to customers within the City.
7. Work in the rights-of-way that affects traffic patterns, either permanently or temporarily.
8. The installation of any permanent structures or property in the PROW, including utilities;
9. Make Ready Work. The City shall provide estimates for any make-ready work necessary to enable a City utility pole¹ to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written agreement on the cost of the work;
10. Attachments to or replacements of City utility poles.

- (B) Attachments to City property (other than City utility poles) in DOT or other rights of way;
1. The Board of Commissioners may approve agreements for the use of City property that substitute for encroachment permits, such as the lease of space on a water tower.
 2. No sidewalk of any description shall be built by any individual, firm or corporation without a written permit from the city.
 3. No person shall move any house or building upon or across the public streets or sidewalks without a permit, and without the deposit of a good and sufficient bond to cover damage done to any street or sidewalk or to any property of any person.
 4. A permit is required before constructing, reconstructing, repairing, altering or grading any driveway on the public streets.
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§93.06 APPLICATION REQUIREMENTS

An Application must be filed with the Public Works Department for any work described in Section 93.03, including modification, change or replacement of equipment that would be different in size, weight or appearance than the existing equipment that is not otherwise exempt under this ordinance. The following information shall be submitted in an application for an encroachment permit.

- 1) Contact information for the user of the public right-of-way and contractors performing the work. Include all contractor's/trade's/professional licenses held and license numbers.
- 2) Description of the work to be performed, including the specific location or the requested make ready work.
- 3) Construction drawings demonstrating compliance with the City of Creedmoor Engineering Specifications and Standard Details, the NCDOT Subdivision Road Manual, and the latest edition of the Manual on Uniform Traffic Control Devices.4)Description of all existing infrastructure within the proposed work area and any proposed modification, improvement or movement of infrastructure.
- 5) Evidence that the owners of other utilities or encroachers near the new work have been notified.
- 6) Proposed work schedule.
- 7) Insurance. The City may require persons that do work in the PROW and users to provide insurance by a company authorized to do business in the state, including but not limited to: i) workers' compensation coverage for all employees; ii) employers' liability insurance; iii) commercial general liability; and iv) business auto policy. The City may require that the City, its officials, employees and consultants be named as additional insureds on such insurance policies; In that case the applicant shall provide a certificate of insurance. If an applicant has previously damaged City property or has not adequately repaired damaged City property during the past three years, the amount of insurance shall be as determined by the City, in part based on the scope of the work and the tenure or term of occupancy.
- 8) To facilitate the preparation and submittal of an application in compliance with this ordinance, and thereby expedite the review and permitting of an application, a pre-application meeting may be held.
- 9) No Permitting of Unidentified Facilities: No permit or authorization shall be granted for new equipment or facilities that is not expressly and individually identified at the time of the application, including the specific location and design characteristics of each facility.
- 10) Site Visit: A site visit of each facility or proposed location of a new facility may be conducted to determine the physical condition of the facility or proposed location and

to identify any issues of concern, non-compliance with applicable laws, rules and regulations, and any safety issues or concerns

11) Installations in the PROW shall be located and constructed to create the least visual impact on the immediate surrounding area and the least physical intrusion and impact on the limited space in the PROW. Such facilities / equipment shall not be constructed in a sight triangle or so close to the curb or edge of pavement that a safety hazard is created. (See CDO Sec. 2.11, Clear Sight Triangle at Street Intersection)

12) Riser Cable: All riser or other vertically run cable of any kind attached to a pole or other support structure shall be protected with non-conductive, non-degradable material matching color of pole or support structure and shall be of a color that matches the color of the pole or other support structure as closely as is reasonably possible.

13) New & Replacement wireless telecommunication facilities (poles or support structures that are not substantial modifications or routine maintenance): An application for a new or replacement pole or support structure must include detailed design criteria, including material composition, aesthetic appearance and a structural adequacy analysis with calculations which must be able to be independently verified using the information submitted by the applicant.

- A. New and replacement installations shall be consistent throughout the City limits;
- B. When feasible and in lieu of installing new poles, new installations shall precipitate replacing an existing distribution pole, secondary pole or streetlight with a pole that meets the standards set forth in this section;
- C. Installations shall be on non-conductive poles;
- D. All wireless facilities and base stations (including radios, network equipment and batteries) shall be i) enclosed in a pedestal cabinet near the pole; ii) in a pole-mounted cabinet; or iii) under a pole-mounted shroud;
- E. Equipment installations shall be on poles that meet or exceed current NESC standards and wind and ice loading requirements of the latest edition of TIA 222.

§ 93.07 Additional Requirements for Wireless Support Structures, Wireless Communications Facilities, and any Other Wireless Communication Facility, Small Wireless Facility or Micro Wireless Facilities.

An applicant shall demonstrate compliance with Sections 93.04 through 93.06 and provide the additional supplemental information specific to wireless facilities, structures and ancillary equipment.

1. To facilitate the application process and to mitigate application-related costs for applicants, depending upon the scope of the proposed work and its impact, both visual and physical as determined by the Public Works Department, applications for small / micro wireless facilities may be submitted in groups of up to twenty-

five (25) facilities in a single application.

2. No Taxpayer Subsidization: Taxpayers may not directly or indirectly subsidize applicant's costs.
3. Maximum Permitted Height: (1) On Wireless Support Structures, Utility Poles and City Utility Poles the maximum permitted height is fifty feet (50') above ground level. (2) Small Wireless Facilities may extend ten feet (10') above the height of the utility pole, City utility pole or wireless support facility on which they are collocated. (3) In the Single Family Residential (SFR), Residential/Main Street Transitional District (R/MST) and the single family residential portions of the Traditional Neighborhood Development Overlay (TNDO) zoning districts in areas where the existing utilities are installed underground the maximum height is forty feet (40') above ground level. (4) On blocks where, decorative light or utility poles are installed collocations may only occur on decorative poles if feasible. New poles shall be of the same design and materials as the decorative poles. (See Sec. 93.05 for information on encroachment on City utility poles.)
4. Absent a showing by clear and convincing evidence of the need for a less lateral distance between poles or other support structures in the PROW, the minimum lateral distance between poles or other support structures as measured in any direction shall be five hundred feet (500'), This minimum lateral distance shall not be applicable to poles or support structures that support lines or cables crossing a street.
5. Compliance with NESC and NEC: All electronic attachments to poles or other structures in the PROW shall always follow the edition of the National Electrical Safety Code (NESC) and the National Electrical Code (NEC) in effect at the later of a) the time the facility was constructed; or b) the time of the last modification of equipment on the pole or other support structure; or the edition in effect at the time of the current application.
6. Service Date: Applicants shall attest that small wireless facilities be activated and placed in service no later than one year from the date the permit is issued.
7. Abandonment.
 - A. Wireless services providers are required to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the City may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the City reasonable

evidence that it is diligently working to place such wireless facility back in service.

B. This section applies to rights-of-way controlled by the N.C. Dept. of Transportation.

§ 93.08 ACCEPTANCE AND IMPROVEMENT OF PUBLIC STREETS.

Before any new street offered for dedication to the city is accepted as such, and officially recognized as a city-maintained street, the Board must give its approval, finding that the street complies with engineering standards set by the Board, and that the best interests of the city would be served by accepting the street as a city street. The petition for acceptance of the streets must be accompanied by a City Approved Engineer's Certification.

§ 93.09 REFUSAL TO DISPERSE.

Any person refusing to disperse upon being so ordered by a police officer shall be guilty of a misdemeanor.

§ 93.10 ENFORCEMENT PROVISIONS

Failure to acquire a permit or notify the Public Works Department of work in the right-of-way may result in a stop work order. The stop work order shall be in writing and state the conditions under which work may be resumed.

The violation of a stop work order issued pursuant to this subsection shall constitute a misdemeanor punishable under Section 10-99 and may also be subject to a civil penalty in the amount of one hundred dollars (\$100.00) per day for each day the violation continues. Civil penalties authorized by this section may be assessed against the user on whose behalf work is being performed and against the contractor or subcontractor who is performing such work.

If a user, contractor, or sub-contractor has received a stop work order within the last three (3) months, the user is required to post a performance bond for up to 125% of the estimated cost of the work.

All the other provisions of Chapter 10, General Provisions of the Code of Ordinances apply to violations of this ordinance.

§ 93.11 Definitions.

The following words and terms in this division shall have the meaning given below unless the context indicates otherwise. These meanings shall apply whether a word is capitalized or not or is singular or plural.

Antenna. Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services

Application. A request that is submitted by an applicant to the town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, including town utility poles, or a wireless support structure.

Authorization means written permission from the Town to do work in the PROW or to maintain facilities in the PROW and includes but is not limited to a franchise, a license, a permit, a letter, construction drawing approval. Multiple authorizations may be required for certain activities.

Base Station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Collocation. The placement, installation, maintenance, modification, operation or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities.

Department means the Public Works Department of the Town.

Emergency means a condition that poses a clear and immediate danger to life or health, or a significant loss of property, or requires immediate repair to restore service to a group of users of such service.

Encroachment (or work) permit a written authorization allowing a user or applicant to work in the Town rights-of-way, including both temporary encroachments, such as construction and permanent encroachments, such as the installation of fixtures.

Excavate means without limitation any cutting, digging, grading, tunneling, boring, or other alteration of the surface or subsurface material or earth in the public way.

Facilities means poles, pipes, culverts, conduits, ducts, cables, wires, fiber, amplifiers, pedestals, antennae, transmission or receiving equipment, other electronic equipment, electrical conductors, manholes, appliances, signs, poles, pavement structures, irrigation systems, landscaping, monument signs, monument mailboxes and any other similar equipment, for public or private use.

Make ready work means any modification or replacement of a Town utility pole necessary for the Town utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

Micro wireless facility. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Routine Maintenance. Activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with wireless facilities of the same size.

Person means an individual, association, firm, partnership, limited liability company, joint venture, corporation, government, utility, or other organized entity able to contract for the activities described in this ordinance, whether for profit or not for profit. The term does not include the town.

Public right-of-way (PROW) means the area that is used as, or offered, dedicated, or reserved for use as a public street, highway, alley, trail, sidewalk, curb, gutter, bike lane, bridge, round-about, tunnel, causeway, or shoulder, that is in the town or in an area proposed for annexation to the town. The area also includes, without limitation, drainage areas and dedicated areas without surface improvements that are adjacent to improved areas, and areas where no roads or other improvements have been constructed but which are dedicated for one or more of the above uses. The public way encompasses the surface of the ground, and the area above and below the ground. Sometimes referred to as Town right-of-way.

Small Wireless Facility. A wireless facility that meets both of the following qualifications: (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet. (2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Substantial Modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below.

- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Town utility pole. A pole owned by a town in the town right-of-way that provides lighting, traffic control, or a similar function.

User means a person that proposes to place facilities in the public way, places such facilities, or owns or maintains such facilities.

Utility pole. A structure not owned by the Town of Selma that is designed for and used to carry lines, cables, wires, lighting facilities or small wireless facilities for telephone, cable television, or electricity, or to provide lighting or wireless services.

