

AN ORDINANCE TO AMEND CHAPTER 58, STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, ADDING ARTICLE IV, UTILITIES OF THE CITY OF LILBURN RELATING TO THE REGULATIONS OF SMALL CELL WIRELESS FACILITIES AND ANTENNAS IN PUBLIC RIGHTS OF WAY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and City Council of the City of Lilburn are charged with the protection of public health, safety, and welfare of the citizens of Lilburn, Georgia; and

WHEREAS, the installation, expansion, modification, collocation, maintenance, replacement, removal, and aesthetics of small cell wireless technologies and their support structures in the City right-of-way can have significant impacts upon: (1) other uses within the right-of-way; (2) safety of the traveling public; (3) property values of adjacent parcels; (4) the aesthetic character of the City; and (5) the public health, safety, and welfare of citizens utilizing the roads and nearby properties; and

WHEREAS, the City seeks to encourage where feasible the installation, use, modification, and collocation of small cell technologies on existing support structures over the construction of new small cell wireless technology support structures; and

WHEREAS, the Federal Telecommunications Act allows local governments to provide for reasonable regulations over the location, expansion, height, and maintenance of telecommunications facilities so long as service is not prohibited; and

WHEREAS, the City has created certain requirements for applicants to local small cell technologies, including small cell wireless technology support structures within the City rights-of-way which ensure adequate wireless coverage while preserving the health, safety, and welfare of the citizens of the City, as well as preserving the aesthetics and value of properties in the City.

NOW, THEREFORE, the Mayor and City Council do hereby amend the Code of Ordinances of the City of Lilburn, Chapter 58, by adding the following sections:

SECTION I:

Chapter 58, relating to Streets, Sidewalks, and Other Public Places, is hereby amended by adding Article IV to regulate utilities on City property, and will read as follows:

Article IV. Utilities.

Division 1. – In General

Secs. 58-106 – 58-119. – Reserved.

Division 2. – Small Wireless Facilities

(a) Purpose and Compliance.

O.C.G.A. § 32-4-92(a)(10) / 32-4-42(6) authorizes the City of Lilburn, Georgia (the “City”) to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way. Finally, the Georgia Streamlining Wireless Facilities Antennas Act, O.C.G.A. Title 36, Chapter 66C (the “SWFAA”) addresses the placement of small wireless facilities in the public rights of way of the City.

The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications, and reasonable conditions regarding the placement of small wireless facilities in the public rights of way. These requirements, specifications, and conditions are adopted in order to protect the public health, safety, and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights of way and their uses in the City.

The objective of this ordinance is to (i) implement the SWFAA, and (ii) ensure the use of the public rights of way is consistent with the design, appearance, and other features of nearby land uses, protect the integrity of historic, cultural, and scenic resources, and does not harm residents’ quality of life.

(b) Definitions.

(1) “Antenna” means: (i) communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or (ii) Communications equipment similar to equipment described in part (i) used for the transmission, reception, or transmission and reception of surface waves. Such term shall not include television broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

(2) “Applicable Codes” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the State of Georgia or the City or are otherwise applicable in the City.

(3) “Applicant” means any person that submits an application.

- (4) "Application" means a written request submitted by an applicant to the City for a permit to:
(i) collocate a small wireless facility in a right of way; or (ii) install, modify, or replace a pole or decorative pole in a right of way on which a small wireless facility is or will be located.
- (5) "Authority Pole" means a pole owned, managed, or operated by or on behalf of the City. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.
- (6) "Collocate" or "Collocation" means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.
- (7) "Communications Facility" means the set of equipment and network components, including wires and cables and associated equipment and network components, used by a communications service provider to provide communications services.
- (8) "Communications Service Provider" means a provider of communications services.
- (9) "Communication Services" means cable service as defined in 47 U.S.C. § 522(6); telecommunications service as defined in 47 U.S.C. § 153(53); information service as defined in 47 U.S.C. Section 153(24), as each such term existed on January 1, 2019; or wireless services.
- (10) "Consolidated Application" means an application for the collocation of multiple small wireless facilities on existing poles or support structures or for the installation, modification, or replacement of multiple poles and the collocation of associated small wireless facilities.
- (11) "Decorative Pole" means an authority pole that is specially designed and placed for aesthetic purposes.
- (12) "Electric Supplier" means any electric light and power company subject to regulation by the Georgia Public Service Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state.
- (13) "Eligible Facilities Request" means an eligible facilities request as set forth in 47 C.F.R. § 1.40001(b)(3), as it existed on January 1, 2019.
- (14) "FCC" means the Federal Communications Commission of the United States.
- (15) "Fee" means a one-time, nonrecurring charge based on time and expense.
- (16) "Historic District" means: (i) any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the secretary

of the interior of the United States in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part 1; (ii) any area designated as a historic district under Article 2 of Chapter 10 of Title 44, the Georgia Historic Preservation Act'; or (iii) any area designated as a historic district or property by law prior to April 26, 2019.

- (17) "Law" means and includes any and all federal, state, or local laws, statutes, common laws, codes, rules, regulations, orders, or ordinances.
- (18) "Micro Wireless Facility" means a small wireless facility not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.
- (19) "Permit" means a written authorization, in electronic or hard copy format, required to be issued by the City to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole or decorative pole upon which a small wireless facility is collocated.
- (20) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.
- (21) "Pole" means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way, including without limitation a replacement pole and an authority pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.
- (22) "Rate" means a recurring charge.
- (23) "Reconditioning Work" means the activities associated with substantially painting, reconditioning, improving, or repairing authority poles.
- (24) "Replace," "Replacement," or "Replacing" means to replace a pole or decorative pole with a new pole or a new decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. § 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.
- (25) "Replacement Work" means the activities associated with replacing an authority pole.
- (26) "Right of Way" means, generally, property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road; provided, however, that such term shall apply only to property or an interest therein that is under the ownership or control of the City and shall not include property or any interest therein acquired for or

devoted to an interstate highway or the public rights, structures, sidewalks, facilities, and appurtenances of buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of public roads or research pertaining thereto or scenic easements and easements of light, air, view and access.

- (27) "Small Wireless Facility" means radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications: (i) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters; concealment elements; telecommunications demarcation boxes; grounding equipment; power transfer switches; cut-off switches; and vertical cable runs for connection of power and other services. Such term shall not include a pole, decorative pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.
- (28) "State" means the State of Georgia.
- (29) "Support Structure" means a building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.
- (30) "Wireless Infrastructure Provider" means any person, including a person authorized to provide telecommunications services in this state, that builds, installs, or operates small wireless facilities, poles, decorative poles, or support structures on which small wireless facilities are or are intended to be used for collocation but that is not a wireless services provider.
- (31) "Wireless Provider" means a wireless infrastructure provider or a wireless services provider.
- (32) "Wireless Services" means any services provided to the public using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

(33) “Wireless Services Provider” means a person that provides wireless services.

(34) “Wireline Backhaul Facility” means an aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with small wireless facility to a network.

(c) Permitted Use; Application and Fees.

(1) A permit is required to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

(2) Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way shall submit an application to the City of Lilburn Planning Department for a permit. Applications are available from the City of Lilburn Planning Department. Any material change to information contained in an application shall be submitted in writing to the City of Lilburn Planning Department within 30 days after the events necessitating the change.

(3) Any person who intends to submit an application to the City pursuant to this ordinance shall meet with the City of Lilburn Planning Department at least 30 days prior to submitting an application for a permit. The purpose of such meeting shall be to inform the City, in good faith, when the applicant expects to commence deployment of small wireless facilities and poles within the City, the number of small wireless facilities and poles it expects to deploy during the 24-months after commencement, and the expected timing of such deployments.

(4) Permit applications must contain a demonstration that the proposed facilities meet the following objective design guidelines:

a. Intent and purpose. Small cell facilities in the public rights of way and utility poles installed or repurposed in the public rights of way for deployment of small cell facilities shall be designed in such a manner to maximize the visual impact on the surrounding neighborhood. The objective design standards contained in this code section regulating the location context, color, design, and concealment of the proposed small cell facility shall apply, unless a waiver of the objective design standards contained herein is approved by the Mayor and City Council.

b. Permittees shall not place or maintain signage on communications facilities, including small cell facilities or utility poles for deployment of small cell facilities, in public rights of way, unless otherwise required by federal or state law, provided, however, existing structures that lawfully support signage before being repurposed may continue to support signage as otherwise permitted by law.

- c. A small cell facility shall not have any type of lighted signal, lights, or illuminations unless required by applicable codes, local codes or regulations, a permit issued by the City, or state and federal laws and regulations as permitted by the City.
 - d. A small cell facility shall not be located within 300 feet of another small cell facility within the same right of way. Collocated communications facilities may be located as close as 150 feet to another small cell facility within the same right of way. Two or more facilities may be collocated on the same pole.
 - e. Design standards for new utility poles or replaced utility poles for deployment of small cell facilities shall meet the design standards contained in this code section unless waived by the Mayor and City Council.
- (5) Each application shall be submitted by the applicable wireless provider or its duly authorized representative and shall contain the following:
- a. The applicant's name, address, telephone number, and email address, including emergency contact information for the applicant;
 - b. The names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to filing the application;
 - c. A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;
 - d. Detailed construction drawings regarding the proposed use of the right of way;
 - e. To the extent the proposed facility involves collocation on a pole or support structure, a structural report performed by a duly licensed engineer evidencing that the pole or support structure will structurally support the collocation (or that the pole or support structure may and will be modified to meet structural requirements) in accordance with applicable codes;
 - f. For any new aboveground facilities, visual depictions or representations if not included in the construction drawings;

- g. Information indicating the horizontal and approximate vertical location, relative to the boundaries of the right of way, of the small wireless facility for which the application is being submitted;
 - h. If the application is for the installation of a pole, a certification that complies with O.C.G.A. § 36-66C-6(k);
 - i. If the small wireless facility will be collocated on a pole or support structure owned by a third party, a certification that the wireless provider has permission from the owner to collocate on the pole or support structure; and
 - j. If the applicant is not a wireless services provider, a certification that a wireless service provider has requested in writing that the applicant collocate the small wireless facilities or install, modify, or replace the pole or decorative pole at the requested location.
- (6) Each proposed location shall require a separate application and a separate application fee as called for in this Section, in addition to any other fees called for in this ordinance.
- (7) The City of Lilburn Planning Department shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.
- (8) Applications for permits shall be approved except as follows:
 - (a) In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which: (i) the applicant has the right to collocate subject to reasonable terms and conditions; and (ii) such collocation would not impose technical limitations or significant additional costs. The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.
 - (b) The City of Lilburn may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).
 - (c) For applications for new poles in the public right of way in areas zoned for residential use, the City of Lilburn may propose an alternate location in the public right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the City of Lilburn Planning Department's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the

assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

- (9) A permit issued under this section shall authorize such person to occupy the public rights of way to: (i) collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and (ii) install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).
- (10) Upon the issuance of a permit under this ordinance, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights of way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal. The maximum annual payments shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).
- (11) Any person issued a permit shall pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.
- (12) The City may revoke a permit issued pursuant to this Section if the wireless provider or its equipment placed in the public right of way under that permit subsequently is not in compliance with any provision of this ordinance or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the City may proceed according to this ordinance.
- (13) If a wireless provider occupies the public rights of way without obtaining a permit required by this Section or without complying with the SWFAA, the City may, at the sole discretion of the City, restore the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty not to exceed \$1,000.00. The City may suspend the ability of the wireless provider to receive any new permits from the City under this Section until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

- (14) All accepted applications for permits shall be publically available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).
- (15) An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.
- (16) Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).
- (17) Issuance of a permit authorizes the applicant to: (i) undertake the collocation, installation, modification or replacement approved by the permit and (ii) operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of 10 years.
- (18) Permits shall be renewed following the expiration of the term identified in (34)(14) upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).
- (19) If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights of way, then the City shall, within 60-days of receipt of the completed application: (i) provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or (ii) notify the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the City shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

(d) Removal; Relocation; Reconditioning; Replacement; Abandonment.

- (1) A person may remove its small wireless facilities from the public rights of according to the procedures of O.C.G.A. § 36-66C-5(e).
- (2) In the event of a removal under this Section, the right of way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If a person fails to return the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right of way to such condition and charge the person the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed \$500.00. The City may suspend the ability of the person to receive any new permits under this Section until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City will not suspend such ability of any person that has deposited the amount in controversy in escrow with the City pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

- (3) If, in the reasonable exercise of police powers, the City determines: (i) a pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway, or (ii) relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider shall relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l). If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City may take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.
- (4) The City shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).
- (5) A wireless provider must notify the City of its decision to abandon any small wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

(e) Standards.

- (1) Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use: (i) upon a receipt of a permit under this Section; (ii) subject to applicable codes; and (iii) so long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).
- (2) New, modified, or replacement poles installed in the right of way in an historic district or in an area zoned primarily for residential use shall not exceed 50 feet above ground level.
- (3) Each new, modified, or replacement pole installed in the right of way that is not in an historic district or in an area zoned primarily for residential use shall not exceed the greater of:

1. 50 feet above ground level
 2. 10 feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole;
- (4) New small wireless facilities in the public right of way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.
- (5) New small wireless facilities in the public right of way collocated on a new or replacement pole under this article may not extend above the top of such poles.
- (6) A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the City has identified that a streetlight is necessary.
- (7) Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:
- a. Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure;
 - b. Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.
 - c. Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.
 - d. Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.
- (8) Notwithstanding any provision of this ordinance to the contrary, an applicant may collocate a small wireless facility within an historic district, and may place or replace a pole within an historic district, only upon satisfaction of the following: (i) issuance of a permit under Section and (ii) compliance with applicable codes.
- (9) Notwithstanding any provision of this ordinance to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the

attachment, only upon satisfaction of the following: (i) issuance of a permit under this Section and (ii) compliance with applicable codes.

(f) Fees and rates.

As a condition to the issuance of a permit to collocate a small wireless facility or to install, modify, or replace a pole or decorative pole for collocation of a small wireless facility in the city right of way, the applicant shall pay the following fees and rates:

- (1) A fee for each application for the collocation of each small wireless facility on an existing pole assessed by the city of \$100.00 per small cell wireless facility;
- (2) A fee for each application for each replacement pole with an associated small wireless facility assessed by the city of \$250.00;
- (3) A fee for each application for each new pole with an associated small wireless facility assessed by the city of \$1,000.00 per pole with an associated small wireless facility;
- (4) An annual right of way occupancy rate assessed by the city for nonexclusive occupancy of the right of way by the applicant in the following amounts:
 - a. \$100.00 per year for each small cell wireless facility collocated on any existing or replacement pole, including an existing or replacement city pole; or
 - b. \$200.00 per year for each new pole, other than a replacement pole, with an associated small wireless facility;
- (5) An annual attachment rate for collocations on city poles of \$40.00 per year per small wireless facility, which shall be nondiscriminatory regardless of the services provided by the collocating wireless provider; and
- (6) Generally applicable nondiscriminatory fees for any permit required under generally applicable law; provided, however that an applicant shall not be required to obtain or pay any fees for a building permit, as the permit issued pursuant to this chapter serves as a building permit for the applicable poles and wireless facilities.
- (7) The monetary caps provided in this section shall increase by 2.5 percent annually beginning January 1, 2021.

SECTION II:

This code section shall be known as and may be cited as the "City of Lilburn Small Cell Ordinance."

SECTION III:

Severability. Should any court of competent jurisdiction declare any section or part of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

SECTION IV:

Repeal of Conflicting Provisions. All ordinances, parts of ordinances, or regulations in conflict herein are repealed.

SECTION V:

This Ordinance shall take effect and be in force from and after the day of its adoption, the public welfare demanding it.

The above Ordinance was read and approved by the Mayor and City Council of the City of Lilburn, Georgia, on the ____ day of ____ 2020.

Johnny D. Crist, Mayor

ATTEST:

Melissa L. Penate, City Clerk

SEAL