

**STATE OF GEORGIA  
CITY OF ROSWELL**

First Reading: September 26, 2016  
Second Reading: October 10, 2016

**AN ORDINANCE TO AMEND CHAPTER 21, TELECOMMUNICATIONS AND  
CABLE SERVICES, ARTICLE 21.2, STANDARDS FOR WIRELESS  
COMMUNICATION FACILITIES, ADDING SECTION 21.2.25 SMALL CELL  
TECHNOLOGY, OF THE CODE OF ORDINANCES OF THE CITY OF ROSWELL**

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

**WHEREAS**, the installation, expansion, maintenance, and aesthetics of new Small Cell Wireless Technology and their Support Structures (as hereinafter defined) in City right-of-way can have significant impacts upon: (1) other uses within the right-of-way; (2) safety of the travelling public; (3) property values of adjacent parcels; (4) the historic and 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 ensure the safe and efficient integration of facilities necessary for the provision of wireless communication services, including data, throughout the City; and

**WHEREAS**, the City seeks to ensure the ready availability of reliable wireless communication services to the public to support personal communications, economic development and the general welfare; and

**WHEREAS**, the City seeks to encourage where feasible the installation, use, modification and co-location of Small Cell Technologies on existing support structures over the construction of new Small Cell Wireless Technology Support Structures or Towers; 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 locate Small Cell Technologies, including Small Cell Wireless Technology Support Structures within the City right-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 aesthetic and historic nature of certain areas in the City;

**NOW THEREFORE**, the Mayor and City Council do hereby amend the Code of Ordinances of the City of Roswell, Chapter 21, by adding the following sections:

1.

(A) **21.2.25 Small Cell Technology** As used in this section the terms below are defined as follows:

(1) "Accessory Equipment" means any equipment (other than an Antenna) serving or being used in conjunction with Small Cell Technology or Small Cell Technology Wireless Support Structures and includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures, whether mounted on a Small Cell Technology Wireless Support Structure or on the ground.

(2) "Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(3) "Application" means a formal request submitted to the City to construct a Small Cell Technology Wireless Support Structure or to Co-locate Small Cell Technology(ies). An Application shall be deemed complete when all documents, information, and fees specifically enumerated in the City's regulations, ordinances and forms pertaining to the location, construction or operation of Small Cell Technologies are submitted by the applicant to the City. The City shall comply with the timeframes set forth in O.C.G.A. §45-5-1(b) regarding review and approvals of such Applications.

(4) "Co-location" means the placement or installation of new Small Cell Wireless Technology on an existing pole or Small Cell Technology Wireless Support Structure of the City, a certified utility or other entity legally existing in the public right of way. Such term includes the placement of accessory equipment on such pole or wireless support structure within an existing equipment compound, if any.

(5) "Equipment Compound" means an area surrounding or adjacent to the base of a Small Cell Technology Support Structure within which Accessory Equipment is or may be located.

(6) "Small Cell Technology" means (1) individual small cell wireless antennas; or (2) networks of spatially separated small cell wireless antenna nodes connected to a common source via transport medium that provides wireless service within a geographic area.

(7) "Small Cell Technology Wireless Support Structure" means a free-standing structure (node or pole), designed to support or capable of supporting Small Cell Technology wireless facilities.

(8) "Stealth Design" means a method of concealing or reducing the visual impact of Small Cell Technology and/or a Small Cell Technology Wireless Support Structure by use of incorporating features or elements of the installation or into the installation intended to minimize the visual impact of or otherwise blend such Small Cell Technology, Accessory Equipment and/or Small Cell Technology Wireless Support Structure into the surrounding environment; or otherwise minimize the visual impact of the structure.

(9) "Substantial Change" shall mean anything that:

(a) Increases height by more than 10% or 10 feet (right of way), whichever is greater, as measured from structure as it exists;

- (b) Increases or adds to appurtenances that protrude from body of structure more than 5 feet in width;
- (c) Involves installing ground cabinets or involves installation of pole or support structure mounted cabinets at a height twelve (12) feet or lower.
- (d) Involves excavation or deployment outside the current "site." "Site" shall be defined as the current boundaries of the leased or owned property surrounding the support structure and any access or utility easements (private property) or the area in proximity to the structure and other transmission equipment already deployed on the ground (right-of-way).

(B) Placement of Small Cell Technologies in the Right-of-Way: The following standards shall apply for the placement of Small Cell Technology in the public right-of-way or public road:

- (1) In order to initially place Small Cell Technology within the City right-of-way, an applicant shall submit an Application as defined herein and may concurrently obtain a Small Cell Technology Permit from the City of Roswell City Administrator or his/her designee. Such Application shall contain all information required by O.C.G.A. §46-5-1(b) (1) for telephone companies, if applicable (if not applicable, Applicant shall give reasons for such), a conceptual siting map of initial Small Cell Technology deployment within the City of Roswell, the type of Stealth Design the Applicant intends to utilize and a verified statement of the services to be provided through use of such Small Cell Technology. Provided the Application and initial Small Cell Technology Permit are approved, any subsequent Small Cell Technology deployments within the City rights-of-way complying with the provisions of this ordinance shall be permitted, by a Small Cell Encroachment Permit through the City of Roswell Transportation Department.
- (2) Any Small Cell Technology in a City right-of-way shall be co-located on the property of the City of Roswell, a certified utility or other entity already legally existing in the public right-of-way, unless an administrative variance is granted. An administrative variance may be approved if the Applicant can demonstrate that no co-location opportunities exist, utilizing the same factors as in subsection (B) (4) of this Section. Any proposal for adding Small Cell Technology onto existing Small Cell Technology Structures must not be in conflict with City's Clean Pole Policy and shall include certifications of the ability of such structure to hold such Small Cell Technology.

An applicant may apply for an administrative variance from the co-location requirement from the City Administrator or designee if a Substantial Change will take place or if the applicant seeks the placement of a new Small Cell Wireless Support Structure within the area of the public right-of-way. A denial of such an administrative variance may be appealed to the Mayor and City Council. Routine maintenance of Small Cell Technology or a Small Cell Wireless Support Structure within the public ROW, after a Small Cell Technology Application and/or Small Cell Encroachment Permit has been approved will require a Small Cell Encroachment Permit from the City. Emergency repairs to deal with system outage, pole or support structure damage or a public hazard shall be carried out with advanced notice to the Transportation Department and any lane closures and work zones shall be in accordance with Manual on Uniform Traffic Control Devices (MUTCD) Standards. A Small Cell Encroachment Permit *shall be applied for* within two (2) business days from the commencement of such emergency work



(3) An Application fee for Small Cell Technology within the City of Roswell right-of-way of two-hundred dollars \$200.00 shall be required for review of a Small Cell Technology Application and issuance of the initial Small Cell Encroachment Permit. After approval of the initial Small Cell Technology Application and Small Cell Encroachment Permit, a Small Cell Technology Encroachment Permit fee of one-hundred dollars (\$100.00) shall be required for processing, review and issuance of Small Cell Technology Encroachment Permits for other installations within the City of Roswell. The annual fee of 3% of gross revenues or four hundred dollars (\$400.00) for each City owned pole or node; or three-hundred dollars (\$300.00) for use of any other Small Cell Technology Wireless Support Structure within the rights-of-way, as such fees are applicable, shall be required for use of the City rights-of-way for each Small Cell Technology. Fees for Administrative Variances or appeals to Mayor and Council shall be one-hundred dollars (\$100.00) each unless amended by Resolution of the Mayor and Council.

(4) Small Cell Technology Permit approvals for Small Cell Technologies on an existing Small Cell Wireless Support Structures, additional approvals, and the review process, including timelines, shall be in accordance with any applicable State and Federal law. In reviewing the Small Cell Technology Permit Application, the City Administrator or his/her designee or the Transportation Department Director shall insure compliance with the existing permits and laws and shall have the authority to assess the location(s) applied for and condition the approval on reasonably alleviating aesthetic and safety concerns, if any. The condition of such approval may include a requirement for Stealth Design for the co-located Small Cell Technology which Stealth Design may be, by way of example only and is not limited to, the positioning or direction of the Small Cell Technology or Accessory Equipment away from the right of way.

(5) In applying for an administrative variance for a Substantial Change or new Small Cell Wireless Support Structure, the review process, including timelines, shall be in accordance with 47 U.S.C. § 332 (c) (7) of the Federal Telecommunications Act, and the FCC rules interpreting same, as well as the consideration of the following factors to determine if the administrative variance is appropriate:

- (a) Demonstrated need for the Small Cell Technologies within the geographic area requested in order to deliver adequate service;
- (b) Proof that all co-location sites within the right-of-way in the area of need are/were pursued and have been denied; or that there does not exist the ability to co-locate using an existing structure within the right-of-way. Evidence of inability to co-locate on an existing structure may include structural capacity, load evidence and other design criteria. The Applicant must demonstrate all actions taken to achieve co-location.
- (c) The character of the area in which the Small Cell Technology Wireless Support Structure is requested, including evidence of surrounding properties and uses.
- (d) Stealth Design, if any, proposed to be utilized by the Applicant, or proof that Stealth Design is either unnecessary or cannot be used.
- (e) Proof that the proposed Small Cell Technology Wireless Support Structure is the minimal physical installation that will achieve the applicant's goals.
- (f) The safety and aesthetic impact of: any proposed Small Cell Technology Wireless Support Structure, related Accessory Equipment, and/or Equipment Compound.

Notwithstanding any of the above factors, a new Small Cell Technology Wireless Support Structure within the right-of-way may not exceed forty-five (45) feet from ground level in height (Class 5) without approval of the Mayor and City Council.

(6) Within 60 calendar days, if for a Substantial Change co-location, or 120 calendar days, if for a new Small Cell Wireless Support Structure, of the date a complete application for an administrative variance is filed with the City, unless another date is specified in a written agreement between the City and the Applicant, the City Administrator shall:

- (a) Make a final decision to approve or disapprove the application;
- (b) Advise the applicant in writing of the final decision, including the specific reason(s) for a decision to deny the application based on the applicable factors in this Subsection.
- (c) Advise the Applicant of their right to appeal a denial of the application to Mayor and Council

(C) Placement of Small Cell Technologies on Private Property: Installation of Small Cell Technology on private property outside of the right of way shall follow Standards for Wireless Communication Facilities within the City Ordinance.

2.

*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.

3.

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

4.

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

5.

The above Ordinance was read and approved by the Mayor and Council of the City of Roswell, Georgia, on the 10th day of October 2016.

Attest:

Marlee Press  
Marlee Press, City Clerk

SEAL



Jere Wood  
Jere Wood, Mayor

Transportation Department - Councilmember Jerry Orlans

10. **Approval of Aesthetic Improvements along Holcomb Bridge Road/GA 400 Interchange.**

<b>RESULT:</b>	<b>APPROVED [4 TO 2]</b>
<b>MOVER:</b>	Jerry Orlans, Councilmember
<b>SECONDER:</b>	Kent Igleheart, Councilmember
<b>IN FAVOR:</b>	Nancy Diamond, Donald J. Horton, Kent Igleheart, Jerry Orlans
<b>OPPOSED:</b>	Michael Palermo, Marcelo Zapata

11. **Approval of a Resolution and Budget Amendment BA35042200-10-10-16 to purchase 0.077 acres of land located at 20 Oxbo Road for the Oxbo Realignment Project in the amount of \$215,000.**

*Resolution No. 2016-10-62*

<b>RESULT:</b>	<b>APPROVED [5 TO 1]</b>
<b>MOVER:</b>	Jerry Orlans, Councilmember
<b>SECONDER:</b>	Nancy Diamond, Councilmember
<b>IN FAVOR:</b>	Diamond, Horton, Igleheart, Orlans, Palermo
<b>OPPOSED:</b>	Marcelo Zapata

12. **Approval of a Text Amendment to the City of Roswell Code of Ordinances Chapter 21, Telecommunications and Cable Services, Article 21.2, Standards for Wireless Communication Facilities to Add Section 21.2.25 Small Cell Technology (Second Reading).**

*Ordinance No. 2016-10-19*

<b>RESULT:</b>	<b>APPROVED ON SECOND READING [UNANIMOUS]</b>
<b>MOVER:</b>	Jerry Orlans, Councilmember
<b>SECONDER:</b>	Donald J. Horton, Councilmember
<b>IN FAVOR:</b>	Diamond, Horton, Igleheart, Orlans, Palermo, Zapata