

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
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- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Permit for road connections, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. Provided, however, that the chief of police may give written permission to obstruct the street when necessary for construction purposes provided adequate safety measures are provided to protect people traveling on the street. (1982 Code, § 12-101)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-102. Trees projecting over streets, etc., regulated.¹ It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1982 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited.¹ It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1982 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of § 14-409 and the building code.² (1982 Code, § 12-104, modified)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the mayor and board of commissioners after a finding that no hazard will be created by such banner or sign. (1982 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1982 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk, or public grounds, any refuse, glass, tacks, mud, intoxicating liquor containers, grass, leaves, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1982 Code, § 12-107, modified)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1982 Code, § 12-108)

¹Municipal code reference

Trees over sidewalks and obstructing intersections: § 16-413.

²Municipal code reference

Building code: title 12, chapter 1.

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1982 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. No permit shall be issued unless applied for no later than 10 days prior to the proposed date of the parade and unless approved by the city recorder, the chief of police, and the street superintendent. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. This section shall not apply to single individuals who wish to peacefully deliver unamplified speech or written materials on sidewalks or to small groups that use public property, such as parks, where their activity does not interfere with vehicular traffic. (1982 Code, § 12-110, as amended by Ord. #578, Dec. 1985, and Ord. #956, Jan. 2018)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle, bicycle or skateboard across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1982 Code, § 12-111, as amended by Ord. #650, Feb. 1993)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1982 Code, § 12-112)

16-113. Permit for road connections, etc. It shall be unlawful for any person to construct or connect any new street, road, or way onto or into any existing city street, road, or way before obtaining a permit from the city building and property inspector. There shall be no charge for the permit.

An application for a permit under this section shall be first approved by the city road superintendent and the city planning commission. The permit

shall be withheld or denied only for the reason that the proposed construction would result in a health or safety hazard or create an unsafe condition. (1982 Code, § 12-113)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1982 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1982 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1982 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder or street superintendent may increase the amount of the deposit to an amount considered adequate to cover the said cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1982 Code, § 12-204, modified)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1982 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, but shall be paid for promptly upon the completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the

recorder or street superintendent shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1982 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$250,000 for each person and \$600,000 for each accident, and for property damages not less than \$85,000 for any one (1) accident. (1982 Code, § 12-207, modified)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder or street superintendent. (1982 Code, § 12-208)

16-209. Supervision. The street superintendent or building inspector shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1982 Code, § 12-209)

CHAPTER 3**ACCEPTANCE OF PUBLIC STREETS****SECTION**

16-301. Acceptance of streets.

16-301. Acceptance of streets. No street, road, or way shall henceforth be accepted as a public street by the street department of the City of Sweetwater, Tennessee, unless its location and width of right-of-way has been approved by the municipal planning commission and unless its condition meets the standards established by the planning commission for all new streets within the corporate limits. (1982 Code, § 12-301)

CHAPTER 4**UTILITIES****SECTION**

16-401. No utilities to be laid in unaccepted streets.

16-402. No utilities to be laid outside corporate limits.

16-401. No utilities to be laid in unaccepted streets. No department or board of the city shall lay or permit to be laid or connected any water, sewer, gas, or electric line in any street, road, way, or within a designated easement for said utilities not accepted as a public street by the street department. (1982 Code, § 12-302, modified)

16-402. No utilities to be laid outside corporate limits. No department or board of the city shall lay or permit to be laid or connected to the public utilities of Sweetwater any water, sewer, gas, or electric line in any street, road, or way henceforth opened outside the corporate limits without approval by the municipal planning commission. In determining the designation of an approved street, the standards established by the municipal planning commission for streets outside the corporate limits shall apply. (1982 Code, § 12-304, modified)

CHAPTER 5

TREES AND LANDSCAPING

SECTION

- 16-501. Purpose and intent.
- 16-502. Tree board.
- 16-503. Terms of office.
- 16-504. Operations.
- 16-505. Duties and responsibilities.
- 16-506. Compensation.
- 16-507. Street tree species to be planted.
- 16-508. Spacing.
- 16-509. Distance from curb and sidewalk.
- 16-510. Utilities.
- 16-511. Public tree care.
- 16-512. Tree topping.
- 16-513. Trees projecting over streets and sidewalks, and trees etc., obstructing the view at intersections.
- 16-514. Dead or diseased tree removal on private property.
- 16-515. Removal of stumps.
- 16-516. Interference with city tree board.
- 16-517. Right to appeal decision of city tree board.
- 16-518. Violation.

16-501. Purpose and intent. The purpose and intent of this chapter is to encourage the conservation, protection, and management of trees on public property within the City of Sweetwater because of the unique benefits they provide the community in assisting the natural control of solar heat, soil conservation, flood control, air pollution and noise; in providing a haven for birds and wildlife; in providing citizens with relief from aesthetic degradation of the man-made environment; in helping to increase the economic appeal of a community; and encouraging proper species planting, maintenance and care of trees and shrubs on private property. (Ord. #717, July 2000)

16-502. Tree board. There shall be created a Tree Board for the City of Sweetwater, consisting of eleven (11) members to be nominated by the mayor and approved by the board of commissioners. This board shall consist of a representative from the Sweetwater Utility Board, a representative from the parks and recreation department, a representative from the code enforcement office and eight(8) private citizens. (Ord. #717, July 2000, as amended by Ord. #763, Nov. 2003, and Ord. #905, Sept. 2013)

16-503. Terms of office. The representatives from the Sweetwater Utility Board, the parks and recreation department, and the code enforcement office shall be named and elected by the mayor and board of commissioners at its organizational meeting following city elections and will serve until the next such meeting. The terms of the established six (6) private citizen members of the tree board shall remain the same. In order to effect the terms of this section, the mayor and board of commissioners shall, no later than its next regular meeting following of the ordinance comprising this section, elect two (2) more private citizen members of the tree board. Their terms shall be retroactive to July 1, 2013, one for an initial period of one (1) year and the other for an initial period of two (2) years as the mayor and board of commissioners shall designate. Upon expiration of these initial terms, each such member shall be nominated and elected to serve a four (4) year term thereafter on a regular cycle. All eleven (11) members of the tree board may succeed themselves in office and there shall be no limitation on the number of terms an individual may serve. (Ord. #763, Nov. 2003, as replaced by Ord. #905, Sept. 2013)

16-504. Operation. The tree board shall choose its own officers, make its own rules and regulations and keep a record of its proceedings. (Ord. #717, July 2000)

16-505. Duties and responsibilities. The duties of the tree board shall include, but not be limited to the following:

1. Prepare a tree plan for the community.
2. Coordinate tree-related activities.
3. Conduct an Arbor Day ceremony.
4. Provide tree information to the community.
5. Maintain a recommended tree list for the community.
6. Recognize groups and individuals completing tree projects.
7. Coordinate publicity concerning trees and tree programs.
8. Coordinate donations of trees or money to purchase trees.
9. Adopt rules and regulations pertaining to the tree program.
10. Perform other tree related duties and opportunities that arise from time to time.
11. Recommend any ordinances to the mayor and board of commissioners that the tree board finds appropriate. (Ord. #717, July 2000)

16-506. Compensation. The tree board will serve without compensation. (Ord. #717, July 2000)

16-507. Street tree species to be planted. The tree board will compile a tree species list that will include three species size classes; small, medium and large. (Ord. #717, July 2000)

16-508. Spacing. The spacing of street trees will be in accordance with the three species size classes recommended by the tree board, and no trees may be planted closer together than the following; small trees, twenty (20) feet; medium trees, thirty (30) feet; large trees forty (40) feet, except in special plantings designed or approved by the tree board. (Ord. #717, July 2000)

16-509. Distance from curb and sidewalk. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes recommended by the Sweetwater Tree Board. No trees may be planted closer to any curb or sidewalk according to the following specifications: small trees, two (2) feet; medium trees, four (4) feet; large trees six (6) feet. (Ord. #717, July 2000)

16-510. Utilities. No street trees other than those species listed as small trees in the Sweetwater Tree Board's tree list may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within ten (10) lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. #717, July 2000)

16-511. Public tree care. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the property lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City of Sweetwater may remove, cause, or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with §§ 16-507 and 16-510 of this chapter. Provided: Nothing contained in this section shall relieve the owner of abutting property of the responsibility to prune, maintain, and remove trees lying within the right-of-way of the street. (Ord. #717, July 2000)

16-512. Tree topping. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. It shall be unlawful as a normal practice for any person firm or city department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or related causes; certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter. (Ord. #717, July 2000)

16-513. Trees projecting over streets and sidewalks, and trees, etc., obstructing the view at intersections.¹ It shall be unlawful for any property owner or occupant to allow any tree limbs on his property to project over any street or alley at a height of less than fourteen (14) feet, or over any sidewalk at a height of less than eight (8) feet. It shall be unlawful for any property owner or occupant to have or to maintain on his property any tree, shrub, sign, or obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. These obstructions shall not reach a mature height above two (2) feet. No street trees shall be planted closer than ten (10) feet of any fireplug. Property owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. In the event of failure of the owners to comply with such provisions, the city shall have the authority to remove such trees, and the whole cost thereof, plus 15% for inspection and other incidental costs in connection therewith, shall be paid by the owner or owners of said lot or parcel of land, and said costs shall be billed to the owner or owners of the property. If the bill is not fully paid within one hundred twenty (120) days after the mailing of said bill, a ten-percent (10%) penalty shall be added, and it shall be placed on the tax roll of the City of Sweetwater as a lien upon the property and collected in the same manner as other city taxes are collected. (Ord. #717, July 2000)

16-514. Dead or diseased tree removal on private property. The city shall have the right to cause the removal of any trees that are dead or diseased on private property within the city when such trees constitute a hazard to life and property.

The city shall determine which tree or trees are to be removed. The owner of the trees will be notified in writing of such proposed removal stating the reason for the removal and the location of said tree or trees to be removed. If the owner desires to contest the removal of said tree or trees, he shall, within ten (10) days from the date of notice, request in writing, a hearing before the city. If it is determined after said hearing that said tree or trees are to be removed, the removal shall be done by said owners at the owner's expense within sixty (60) days after the date of the decision to remove. In the event the owner fails to comply with such order to remove, the city shall then proceed to remove said tree or trees, and to charge removal costs to the owner of the property as provided in § 16-513. (Ord. #717, July 2000)

¹Municipal code references

Trees over streets etc.: § 16-102.

Trees obstructing intersections: § 16-103.

16-515. Removal of stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. #717, July 2000)

16-516. Interference with city tree board. It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while they are involved in carrying out the duties authorized in this chapter. (Ord. #717, July 2000)

16-517. Right to appeal decision of city tree board. Any party shall have a right to appeal the decision of the city tree board. If the owner does wish to contest the decision of the city tree board, he shall, within ten (10) days from the date of the hearing before the city tree board, request in writing, a hearing before the city commission for a review and/or hearing on said decision. (Ord. #717, July 2000)

16-518. Violation. The violation of any provision of this chapter is declared to be a misdemeanor. (Ord. #717, July 2000)

CHAPTER 6

PROPERTY NUMBERING

SECTION

- 16-601. Property numbering.
- 16-602. Structure marking.
- 16-603. Time limits.

16-601. Property numbering. That the City of Sweetwater hereby adopts the numbering system in current use by E-911, and that such shall be the official property designation within the limits of the City of Sweetwater. (Ord. #683, July 1996)

16-602. Structure marking. Every owner of property improved by a building or structure of any nature within the City of Sweetwater shall cause to be placed on the structure or between the structure and the public thoroughfare, the numbers contained in the street address of the property, arranged in the either vertical or horizontal fashion of such a size and at such a location that they are visible and legible from the public thoroughfare, and clearly indicate the structure which they indicate. Such numbers shall be in the arabic style of common usage, and roman numbers or written numbers shall not be used. (Ord. #683, July 1996)

16-603. Time limits. Property owners shall have a period of sixty (60) days in which to comply with the requirements of this chapter, and thereafter each day that they fail to comply may be considered as a separate offense. Newly constructed structures shall be required to comply with this requirement within sixty (60) days after completion of the building. (Ord. #683, July 1996)

CHAPTER 7

STANDARDS FOR SMALL WIRELESS COMMUNICATION

SECTION

- 16-701. Definitions.
- 16-702. Purpose and scope.
- 16-703. Permitted use, application requirements, and fees.
- 16-704. Application review.
- 16-705. Requirements for small wireless facilities in the right-of-way.
- 16-706. Violation of this chapter.
- 16-707. Construction of provisions.
- 16-708. Severability.
- 16-709. Conflict.
- 16-710. Survivability.

16-701. Definitions. The following definitions are strictly intended for the purpose of the wireless communication provisions herein. Where definitions duplicate or conflict with other city code or zoning code definitions, the following definitions shall apply to small wireless communication applications only.

(1) "Aesthetic plan" means any publicly available written resolution, regulation, policy, site plan, or approved plat establishing generally applicable aesthetic requirements within the city or designated area within the city. An aesthetic plan may include a provision that limits the plan's application to construction or deployment that occurs after adoption of the aesthetic plan. For purposes of this part, such a limitation is not discriminatory as long as all construction or deployment occurring after adoption, regardless of the entity constructing or deploying is subject to the aesthetic plan.

(2) "Administrative review" means ministerial review of an application by the authority relating to the review and issuance of a permit, including review by the appropriate city administration, department of planning, development and tourism, street department and Sweetwater Utility Board staff to determine whether the issuance of a permit is in conformity with the applicable provisions of this chapter and compatible with existing and planned utilities.

(3) "Antenna" means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of wireless services. This definition does not apply to broadcast antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

(4) "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 authority, including any amendments adopted by the authority, or otherwise are applicable in the jurisdiction.

(5) "Applicant" means any person who submits an application under this chapter.

(6) "Application" means a written request, on a form provided by the authority, for a permit to deploy or colocate small wireless facilities in the public ROW.

(7) "Authority" means the city of or any agency, subdivision or any instrumentality thereof.

(8) "Batch application" means applications for multiple facilities submitted simultaneously by a single provider.

(9) "City" means the City of Sweetwater or any agency, subdivision or any instrumentality thereof.

(10) "Colocate" means to install or mount a small wireless facility in the public ROW on an existing support structure, an existing tower, or on an existing pole/PSS to which a small wireless facility is attached at the time of the application. "Colocation" has a corresponding meaning.

(11) "Communications facility" means, collectively, the equipment at a fixed location or locations within the public ROW that enables communications services, including: (a) radio transceivers, antennas, coaxial fiber-optic or other cabling, power supply (including backup battery), wireless facilities, and comparable equipment, regardless of technological configuration; and (b) all other equipment associated with any of the foregoing. A communications facility does not include the pole/PSS, tower or support structure to which the equipment is attached.

(12) "Communications service" means "cable service" as defined in 47 U.S.C. § 522(6), "broadband service" as defined in 47 U.S.C. § 153(24), or "telecommunications service" as defined in 47 U.S.C. § 153(53).

(13) "Communications service provider" means a "cable operator" as defined in 47 U.S.C. § 522(5), a "telecommunications carrier" as defined in 47 U.S.C. § 153(51), a "provider of information service" as defined in 47 U.S.C. § 153(24), a "video service provider" as defined in Tennessee Code Annotated, § 7-59-303, or a wireless provider.

(14) "Decorative pole" means a pole that is specially designed and placed for aesthetic purposes.

(15) "Discretionary review" means review of an application by the authority relating to the review and issuance of a permit that is other than an administrative review.

(16) "Facility height" means the height of a PSS, in combination with associated wireless facility, shall be the vertical distance from the highest point of the wireless facility and its PSS to either: (a) the surface grade at the base of the PSS; or (b) the surface grade of the nearest adjacent street, whichever is higher.

(17) "Fee" means a one (1) time, non-recurring charge.

(18) "FCC" means the Federal Communications Commission of the United States.

(19) "Historic district" means a property or area zoned as a historic district or zone pursuant to Tennessee Code Annotated, § 13-7-404.

(20) "Laws" mean, collectively, any and all federal, state, or local law, statute, common law, code, rule, regulation, order or ordinance.

(21) "Ordinary maintenance and repair" means inspections, testing and/or repair that maintain functional capacity, aesthetic and structural integrity of a communications facility and/or the associated support structure or pole/PSS, that does not require blocking, damaging or disturbing any portion of the public ROW.

(22) "Period light" means a style of lighting fixture designed to replicate the style of light used in the city's downtown historic district while also meeting the city's standards for illumination.

(23) "Permit" means a written authorization (in electronic or hard copy format) to install, at a specified location(s) in the public ROW, a communications facility, tower or a pole to support a communications facility.

(24) "Permittee" means an applicant that has received a permit under this chapter.

(25) "Person" means an individual, corporation, limited liability company, partnership association, trust, or other entity or organization, including a governmental entity.

(26) "Pole" means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the public right-of-way. A "pole" does not include a tower and does not include a structure that supports electric transmission lines.

(27) "Potential support structure for a small wireless facility" or "PSS" means a pole or other structure used for wireless communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for the colocation of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this part.

(28) "Provider" means a communications service provider or a wireless services provider, and includes any person that owns and/or operates within the public ROW any communications facilities, wireless facilities, poles built for the sole or primary purpose of supporting communications facilities, or towers.

(29) "Public right-of-way" or "public ROW" means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this chapter shall include public utility easements, but only to the extent the authority has the authority to permit use of the area or public utility easement for communications facilities or poles, towers and support structures that

support communications facilities. The term does not include a federal interstate highway.

(30) "Public utility easement" means, unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. "Public utility easement" does not include an easement dedicated solely for authority use or where the proposed use by the provider is inconsistent with the terms of any easement granted to the authority.

(31) "Replace" or "replacement" means, in connection with an existing pole, support structure, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this chapter and any other applicable authority code, in order to address limitations of the existing structure to structurally support collocation of a communications facility.

(32) "Small wireless facility" means a wireless facility that meets both of the following qualifications: (a) each antenna could fit within an enclosure of no more than six (6) cubic feet in volume; and (b) all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume regardless of whether the facility is ground-mounted or pole-mounted. For purposes of this section "other wireless equipment" does not include an electric meter concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and "small wireless facility" includes a micro wireless facility.

(33) "Staff" means employees of the City of Sweetwater responsible for the administration of requests associated with this chapter.

(34) "State" means the State of Tennessee.

(35) "Support structure" means a structure in the public ROW to which a wireless facility is attached at the time of the application.

(36) "TDOT" means the Tennessee Department of Transportation.

(37) "Tower" means an structure in the public ROW built for the sole or primary purpose of supporting a wireless facility. A tower does not include a pole or a support structure.

(38) "Wireless facility" means the equipment at a fixed location or locations in the public ROW that enables wireless services. The term does not include:

(a) The support structure, tower or pole on, under, or within which the equipment is located or collocated; or

(b) Coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A small wireless facility is one (1) type of a "wireless facility."

(39) "Wireless services" means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

(40) "Wireless services provider" means a person who provides wireless services. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-702. Purpose and scope. (1) The purpose of this chapter is to provide policies and procedures for the placement of small wireless facilities upon property-permitted facilities within covered areas of the City of Sweetwater.

(2) It is the intent of this chapter to establish uniform standards including, but not limited to:

(a) Prevention of interference with the use of streets, sidewalks, alleys, traffic or light poles and other public ways and places;

(b) Prevention of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(c) Prevention of interference with other facilities and operations of facilities lawfully located in covered areas or public property;

(d) Preservation of the character of neighborhoods where facilities are installed;

(e) Preservation of the character of historic structures, or historic areas including, but not limited to, structures or areas listed on the National Register of Historic Places or locally designated historic districts; and

(f) Facilitation of the rapid deployment of small wireless facilities to provide the citizens with the benefits of advanced wireless services. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-703. Permitted use, application requirements, and fees.

(1) Permitted use. The following uses within the Public ROW shall be permitted uses. (a) Colocation of a small wireless facility that conforms with all standards including the design standards of § 16-705(1)(c).

(b) Modification of a NS/pole or support structure or replacement of a pole for colocation of a communications facility where the modification or replacement conforms with all standards including the design standards of § 16-705(1)(c).

(c) New PSS/poles that receive, proper administrative approval and conform with all standards including the design standards of § 16-705(1)(c).

(d) Construction of a communications facility, other than those set forth in this chapter, involving the installation of coaxial, fiber-optic or other cabling, that is installed underground or aboveground between two (2) or more existing PSS/poles or an existing PSS/pole and an existing

tower and/or existing support structure, and related equipment and appurtenances.

(2) Permit required. No person may construct, install, and/or operate wireless facilities that occupy the right-of-way without first filing an application and obtaining a small wireless facility permit from the city. Any small wireless facility permit shall be reviewed, issued and administered in a non-discriminatory manner, shall be subject to such reasonable conditions as the city may from time to time establish for effective management of the right-of-way, and otherwise shall conform to the requirements of this chapter and applicable law.

(3) Compliance with permit. (a) Policies and procedures. The city is authorized to establish such written policies and procedures consistent with this chapter, as the city reasonably deems necessary for the implementation of this chapter.

(b) Police powers. The city, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the city under applicable federal, state and local laws and regulations. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications. The authority and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements. All work that does not comply with the permit, the approved plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee. The authority may stop work in order to assure compliance with the provisions of this chapter.

(4) Emergency work. Notwithstanding the foregoing, in the event of an emergency, a provider or its duly authorized representative may work in the public ROW prior to obtaining a permit, provided that the provider shall attempt to contact the authority prior to commencing the work and shall apply for a permit as soon as reasonably possible, but not later than the next business day after commencing the emergency work. For purposes of this subsection, an "emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

(5) Effect of permit. A permit from the authority authorizes an applicant to undertake only the activities in the public ROW specified in the application and permit and in accordance with this chapter and any general conditions included in the permit. Unless otherwise expressly stated, a permit does not authorize attachment to or use of existing PSS/poles, towers, support structures or other structures in the public ROW; a permittee or provider must obtain all necessary approvals from the owner of any PSS/pole, tower, support structure or other structure prior to any attachment or use. A permit does not

create a property right or grant authority to the applicant to interfere with other existing uses of the public ROW.

(6) Other permits needed. In addition to obtaining a permit for installation of a communications facility, PSS/poles built for the sole or primary purpose of supporting communications facilities, or towers in the public ROW, an applicant must obtain all other required permits, including, but not limited to: building permits, electrical permits, TDOT permits, etc.

(7) No substitute for other required permissions. No small wireless facility permit includes, means or is, in whole or in part, a substitute for any other permit or authorization required by the laws and regulations of the city for the privilege of transacting and carrying on a business within the city or any permit or agreement for occupying any other property of the city.

(8) No waiver. The failure of the city to insist on timely performance or compliance by any permittee holding a small wireless facility permit shall not constitute a waiver of the city's right to later insist on timely performance or compliance by that permittee or any other permittee holding such small wireless facility permit. The failure of the city to enforce any provision of this chapter on any occasion shall not operate as a waiver or estoppel of its right to enforce any provision of this chapter on any other occasion, nor shall the failure to enforce any prior ordinance or city charter provision affecting the right-of-way, any wireless facilities, or any user or occupant of the right-of-way act as a waiver or estoppel against enforcement of this chapter or any other provision of applicable law.

(9) Safe condition. The provider shall, at its sole cost and expense, keep and maintain its communications facilities, PSS/poles, support structures and towers in the public ROW in a safe condition, and in good order and repair. If the authority determines communications facilities are in disrepair or the appearance is not kept in a satisfactory manner, the authority may require maintenance or removal of the communications facilities.

(10) Permit duration. Any small wireless facility permit for construction issued under this chapter shall be valid for a period of ninety (90) days after issuance, provided that the ninety (90) day period may be extended for up to an additional nine (9) months upon written request of the applicant (made prior to the end of the initial ninety (90) day period) if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.

(11) Ordinary maintenance and repair. A small wireless facility permit shall not be required for ordinary maintenance and repair. The provider or other person performing the ordinary maintenance and repair shall obtain any other permits required by applicable laws and shall notify the authority in writing at least ten (10) business days prior to performing the ordinary maintenance and repair.

(12) Small wireless facility permit applications required information.
The application shall be made by the provider or its duly authorized representative and shall contain the following:

(a) The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the applicant.

(b) The names, addresses, telephone numbers and e-mail addresses of all consultants, contractors and subcontractors, if any, acting on behalf of the applicant with respect to the filing of the application or who may be involved in doing any work on behalf of the applicant.

(c) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this chapter. The applicant shall state whether the applicant believes the proposed work is subject to administrative review or discretionary review.

(d) A site plan for each proposed location with a diagram or engineering drawing depicting the design for installation of the small wireless facility with sufficient detail for the city to determine that the design of the installation and any new PSS or an modification of a PSS is consistent with all generally applicable safety and design requirements, including the requirements of the Manual on Uniform Traffic Control Devices.

(e) The location of the site(s), including the latitudinal and longitudinal coordinates of the specific location of the site(s) using WGS84 as the coordinate system of reference with coordinates specified in decimal degrees to no less than three (3) significant digits or provide digitized spatial data (shape files) of the exact point of the proposed location.

(f) If applicable, the identification of any third party upon whose PSS the applicant intends to collocate and a copy of the authorization for use of the property from the PSS/pole, tower or support structure owner on or in which the communications facility will be placed or attached. If authorization is not complete at time of application, the application may proceed; however, the authorization information shall be provided within the given application review time and before final approval can be issued.

(g) The applicant's identifying information and the identifying information of the owner of the small wireless facility, and certification by the applicant or the owner that such person agrees to pay applicable fees and rates, repair damage, and comply with all nondiscriminatory, and generally applicable public ROW requirements for deployment of an associated infrastructure that is not a small wireless facility and the contact information for the party that will respond in the event of an emergency related to the small wireless facility.

(h) The applicant's certification of compliance with surety bond, insurance or indemnification requirements (as set forth in §§ 16-705(3)(h) and 16-705(3)(i)); rules requiring maintenance of infrastructure deployed in the public ROW; rules requiring relocation or timely removal of infrastructure in the public ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in the public ROW under emergency conditions (as set forth in §§ 16-703(4) and 16-705(3)(f)), if any, that the city imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in the public ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in the public ROW under emergency conditions, if any, that the city imposes on a general and nondiscriminatory basis upon entities that are entitled to deploy infrastructure in the public ROW.

(i) The applicant's certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the structural integrity and weight-bearing capacity of the PSS/pole and small wireless facility. Those standards relevant to engineering must be certified by a licensed professional engineer.

(j) To the extent the proposed facility involves collocation on a PSS/pole, tower or support structure, a structural report performed by a duly licensed engineer evidencing that the PSS/pole, tower or support structure will structurally support the collocation (or that the PSS/pole, tower or support structure will be modified to meet structural requirements) in accordance with applicable codes.

(k) A statement that all wireless facilities shall comply with all applicable codes.

(l) Detailed construction drawings regarding the proposed facility; and

(m) For any new aboveground facilities, accurate visual depictions or representations, if not included in the construction drawings.

(13) Proprietary or confidential information in application. Applications are public records that may be made publicly available pursuant to the Tennessee Public Records Act (Tennessee Code Annotated, §§ 10-7-101, et seq.). Notwithstanding the foregoing, applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each portion of such materials accordingly, and the authority shall treat the information as proprietary and confidential, subject to the Tennessee Public Records Act (Tennessee Code Annotated, §§ 10-7-101, et seq.). The authority's determination that the applicant's request for confidential or proprietary treatment of application materials is reasonable. The authority shall not be

required to incur any costs to protect the application materials from disclosure, other than the authority's routine procedures for complying with the Tennessee Public Records Act (Tennessee Code Annotated, §§ 10-7-101, et seq.).

(14) Batch application. An applicant may simultaneously submit an application for multiple small wireless facilities in a single application. A batch application may include not more than twenty (20) applications for small wireless facilities, or may file a single, consolidated permit application covering such communications facilities, provided that the proposed communications facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the authority. If the applicant files a consolidated application, the applicant shall pay the application fee as stated in § 16-703(20)(b) batch applications require a pre-application meeting with the city planner.

(15) Multiple permit applications at same location. If the city receives multiple applications seeking to deploy or colocate small wireless facilities at the same location in an incompatible manner, then the city may deny the later filed application.

(16) Approval or denial of application; response time. The city responds to the applications for permit per the timelines prescribed in federal law and in Tennessee Code Annotated, § 13-24-409(b), as may be amended, regarding the approval or denial of applications, and the city shall respond to applications per the specific requirements of Tennessee Code Annotated, § 13-24-409(b)(3), as may be amended. The city reserves the right to require a surcharge as indicated in Tennessee Code Annotated, § 13-24-409(b)(7)(F)(i), as may be amended, for high-volume applicants.

(17) Bridge and/or overpass special provision. (a) If the applicant's site plan includes any colocation design that includes attachment of any facility or structure to a bridge or overpass, then the applicant must designate a safety contact. After the applicant's construction is complete, the applicant shall provide to the safety contact a licensed professional engineer's certification that the construction is consistent with the applicant's approved design, that the bridge or overpass maintains the same structural integrity as before the construction and installation process, and that during the construction and installation process neither the applicant nor its contractors have discovered evidence of damage to or deterioration of the bridge or overpass that compromises its structural integrity. If such evidence is discovered during construction, then the applicant shall provide notice of the evidence to the safety contact.

(b) Any bridge on a state or federal route or state-owned structure will require review and permission from the TDOT-structures division. Any local bridge twenty feet (20') or greater in length must also have a review by the Tennessee Department of Transportation Structures Division and have a letter from the division stating that the proposed attachment(s) will not cause structural damage or reduce the weight limit

of the bridge. Review and possible permits will be required by the appropriate railroad when any bridge owned by the railroad, any bridge over the railroad, any tunnel under the railroad, and any structure on railroad ROW that is proposed to have any attachments. Railroad review and possible permits will be required when there is any proposal to cross over or under any railroad ROW, whether attached to a bridge or not with any device or line of any type. Additionally all bridges within the city that have attachment proposals shall be reviewed by the street department and Sweetwater Utility Board.

(18) Material changes. Unless otherwise agreed to in writing by the authority, any material changes to an application, as determined by the authority in its sole discretion, shall be considered a new application for purposes of the time limits set forth in § 16-704, unless otherwise provided by applicable laws.

(19) Information updates. Except as otherwise provided herein, any amendment to information contained in a permit application shall be submitted in writing to the city within thirty (30) days after the change necessitating the amendment.

(20) Fees and charges. (a) Small wireless facility permit application fee. Every applicant shall pay a one (1) time permit application fee of two hundred dollars (\$200.00) at the time of their first application.

(b) Batch application. For every batch application, an applicant shall pay a permit application fee of one hundred dollars (\$100.00) for each of the first five (5) small cell facilities, and fifty dollars (\$50.00) each for every facility thereafter for a maximum of twenty (20) small cell facilities per application.

(c) ROW use rate. In exchange for the privilege of non-exclusive occupancy of the public ROW, the provider shall pay the authority one hundred dollars (\$100.00) per installation per year. The public ROW use fee shall be due and payable within thirty (30) days of issuance of the applicable permit(s) required under this chapter and annually thereafter.

(d) Other fees. The applicant or provider shall be subject to any other generally applicable fees of the authority or other government body such as those required for electrical permits, building permits, or other permits, which the applicant or provider shall pay as required in the applicable laws, as well as attachment fees for the use of authority owned PSS/poles, towers, support structures, ducts, conduits or other structures in the public ROW, as set forth in attachment agreements authorizing such use.

(e) No refund. Except as otherwise provided in a small wireless facility permit, the provider may remove its communications facilities, PSS/poles or towers from the public ROW at any time, upon not less than thirty (30) days prior written notice to the authority, and may cease paying to the authority any applicable recurring fees for such use, as of

the date of the actual removal of the facilities and complete restoration of the public ROW. In no event shall a provider be entitled to a refund of fees paid prior to removal of its communications facilities, PSS/poles or towers. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-704. Application review. (1) Review of small wireless facility applications. The authority shall review the application, and if the application conforms to applicable laws and this chapter, particularly the provisions of this section, the authority shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

(a) Within thirty (30) days of receiving an application, the authority will notify the applicant whether the application is incomplete, and identify the missing information. The applicant may resubmit the completed application within thirty (30) days without additional charge, in which case the authority shall have thirty (30) days from receipt of the resubmitted application to verify the application is complete, notify the applicant that the application remains incomplete or in the authority's sole discretion, deny the application; and

(b) Make its final decision to approve or deny the application within thirty (30) days for a colocation, and sixty (60) days for any new structure, after the application is complete (or deemed complete in the event the authority does not notify applicant that the application or resubmitted application is incomplete).

(c) The authority shall advise the applicant in writing of its final decision.

(2) Review deadline. If the authority fails to act on an application within the sixty (60) day review period (or within the thirty (30) day review period for an amended application), the applicant may provide notice that the time period for acting has lapsed and may pursue final approval.

(3) Compensation. Every permit shall include as a condition the applicant's agreement to pay such lawful public ROW use fees, business license taxes, and administrative fees as are permitted under applicable Tennessee and federal law. The applicant shall also pay all applicable ad valorem taxes, service fees, sales taxes, or other taxes and fees as may not or hereafter be lawfully imposed on other businesses within the city.

(4) Conferences. Staff will review submissions to determine if colocation or other alternative sites will meet the needs of the applicant(s) and the City of Sweetwater. Conferences will be scheduled to resolve specific issues related to requests when safety is a concern, multiple providers are requesting to locate at/near the same location, proposed locations may be affected by planned construction or the authority believes that an alternative design might allow for colocation on existing infrastructure rather than installation of a new pole. The review and conference will take place within the given time

constraints of application review. (as added by Ord. #976, Sept. 2019
Ch7_02-07-22)

16-705. Requirements for small wireless facilities in the right-of-way. (1) Administrative review. Pursuant to § 16-703, the authority shall perform an administrative review of permit applications according to the following location, design and installation standards:

(a) Public ROW construction and installation requirements. The authority shall not issue a permit unless the applicant, or a provider on whose behalf the applicant is constructing communications facilities, PSS/poles or towers, has received all other applicable permits.

(b) Location of new facilities.

(i) The provider shall not locate or maintain its communications facilities, PSS/poles and towers so as to unreasonably interfere with the use of the public ROW by authority, by the general public or by other persons authorized to use or be present in or upon the public ROW.

(ii) Pedestrian and vehicular paths shall not be impeded.

(iii) The provider shall not locate or maintain its communication facilities, PSS/poles and towers within a sight distance triangle as described in Article IV (4,11 — Vision Clearance) or the zoning code.

(iv) The provider shall not locate or maintain its communication facilities, PSS/poles and towers so as to block the visibility of traffic control devices (signal heads, video detection cameras, preemption receivers, or signs). The equipment shall not block the access to traffic control equipment or block the view of traffic from existing traffic surveillance cameras.

(v) The provider shall refer to the "Manual on Uniform Traffic Control Devices for Streets & Highways" for offsets, setbacks and the American Association of State Highway Transportation Officials (AASHTO) Design Guidelines for line of sight requirements based on speed limit and other factors at each proposed location. These requirements will be applied in locating above ground PSS/poles over eighteen inches (18") in diameter and equipment cabinets over two feet (2') in height.

(vi) Identification requirements. For the purpose of geo-referencing, each pole shall provide a unique identifier as determined by the authority placed in a visible location.

(vii) Facilities must meet the National Electric Code standards for separation from other utilities.

(c) Design standards/aesthetic plan. In an attempt to blend into the built environment, all small wireless facilities, new or modified utility poles, PSSs for the collocation of small wireless facilities and associated

equipment shall be consistent in size, mass shape and color to similar facilities and equipment in the immediate area, and its design for the PSS shall, unless otherwise specifically stated below, meet the adopted aesthetic plan, subject to following requirements:

(i) Colocation. Colocation is recommended when possible except in the case of an existing decorative pole period light. Should the wireless provider not be able to colocate, the wireless provider shall provide justification in the application.

(ii) Replacing an existing city-owned PSS. City-owned PSS may be replaced for the colocation of small wireless facilities. When replacing a PSS, any replacement PSS must reasonably conform to the design aesthetics of a PSS that is appropriate for that location and must continue to be capable of performing a greater function or, at a minimum, the same function in a comparable manner as it performed prior to replacement.

(A) When a city-owned PSS is replaced, the replacement PSS becomes the property of the city subject to Tennessee Code Annotated, § 13-24-408(e), as amended on the date of replacement.

(B) The city reserves the right to require a streetlight on the new PSS.

(iii) New poles. Any new PSS that is not a colocation or a replacement of an existing PSS must be approved by the city planner and planning commissioner. New PSSs shall not be permitted to be installed in the rights-of-way in areas in which no utility poles, streetlight poles or PSSs exist at the time of application without prior approval by the city planner and planning commission.

(iv) Consistency. New small wireless facilities, antennas, and associated equipment shall conform with the design standards of the district in which it is located as listed below. (See § 16-705(1)(c)(iv).)

(v) Districts. (See zoning map with historic overlays.)

(A) General commercial.

(1) Facility height:

(2) Maximum ten feet (10') in height above the tallest existing PSS in place in a public ROW that is located within five hundred feet (500') of the new PSS in the public ROW or fifty feet (50') above ground level, whichever is greater.

(3) For a PSS installed in a residential neighborhood, forty feet (40') above ground level.

(4) Pole requirements: Pole type shall be approved by the city planner.

(5) Pole diameter: Pole diameter shall be approved by the city planner.

(6) Size: Antenna fit within an enclosure or no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.

(7) Color: Pole color shall be approved by the city planner.

(B) General residential.

(1) Facility height: Twenty-five feet (25') maximum.

(2) Pole requirements: Decorative pole and base or tapered steel pole.

(3) Pole diameter: Max. six inches (6") at height of five feet (5') on pole.

(4) Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.

(5) Color: Black powder-coated.

(C) Historic residential.

(1) Facility height: Twenty-five feet (25') maximum.

(2) Pole requirements: Decorative pole and base.

(3) Pole diameter: Max. six inches (6") at height of five feet (5') on pole.

(4) Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.

(5) Color: Black powder-coated.

(D) Historic commercial.

(1) Facility height: Twenty-five feet (25') maximum.

(2) Pole requirements: Decorative pole and base.

(3) Pole diameter: Max. six inches (6") at height of five feet (5') on pole.

(4) Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.

(5) Color: Black powder-coated.

(E) School zones & parks.

(1) Facility height: Twenty-five feet (25') maximum.

(2) Pole requirements: Decorative pole and base or tapered steel pole.

(3) Pole diameter: Max. six inches (6") at height of five feet (5') on pole.

(4) Size: Antenna fit within an enclosure of no more than six (6) cubic feet in volume and all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.

(5) Color: Black powder-coated.

(vi) Overlapping districts. If a proposed location is located within multiple, overlapping districts, the stricter requirements shall rule.

(vii) Concealment & undergrounding measures.

(A) All conduit, wires and other wireless hardware shall be located inside to the pole.

(B) Unless otherwise agreed to in writing by the authority or otherwise required by applicable laws, whenever any existing electric utilities or communications facilities are located underground within a public ROW, the provider with permission to occupy the same portion of the public ROW shall locate its communications facilities underground at its own expense.

(C) Compliance with underground facilities. Subject to waivers as determined by the Sweetwater Regional Planning Commission, an applicant must comply with existing requirements to place all electric, cable and communications facilities underground in a designated area of a public ROW, as determined by the city's subdivision regulations.

(D) Limits on use of ground-mounted equipment for wireless facilities. Ground-mounted equipment, limited to housing equipment and other supplies in support of the operation of the wireless facility, shall be placed in an underground vault. Where above-ground placement is necessary, a conference and approval by the authority is required. Stealth design shall be employed for above-ground equipment.

(viii) Attachment to and replacement of decorative poles.

(A) Notwithstanding anything to the contrary in this chapter, an applicant may not install a small wireless facility on an existing decorative pole.

(B) Notwithstanding anything to the contrary in this chapter, an applicant may not replace a decorative pole with a new decorative pole unless the authority has determined, in its sole discretion, that each of the following conditions has been met:

(1) The application qualifies for issuance of a permit under this chapter.

(2) The attachment and/or the replacement pole is in keeping with the aesthetics of the decorative pole/period light, and

(C) Notwithstanding anything to the contrary in this chapter, an applicant may not replace a decorative pole with a new decorative pole or install new above-ground communications facilities in the downtown historic district or the historic residential district unless the authority has determined, in its sole discretion, that each of the following conditions has been met:

(1) The application qualifies for issuance of a permit under the chapter.

(2) The attachment and/or the replacement pole is in keeping with the aesthetics and character of the district.

(3) The attachment meets guidelines of the U.S. Secretary of the Interior Standards for the Preservation of Historic Properties, and

(4) The proposed support structure and wireless facility receives a certificate of appropriateness from the historic zoning commission.

(ix) Lighting requirements. Whether an applicant shall be required to provide lighting on a proposed PSS and, if lighting is required, the type, height and power of such lighting shall be determined by the city planner and planning commission. Design

must replicate existing lighting by district according to § 16-705(1)(c)(iv).

(x) Limits on number and location. The limits on the number and location of support structures that may be installed or used:

(A) Where sufficient pedestrian lighting is present, no new freestanding support structures shall be allowed.

(B) Where sufficient pedestrian lighting is present, only replacement structures shall be allowed which include an appropriately designed light pole fixture.

(C) Where insufficient pedestrian lighting exist, a new pedestrian-scale decorative light pole may be considered for installation as a small cell support structure.

(xi) Aesthetic approach for different types of facilities. Colocations on existing structures shall use a design that limits visual clutter and conceals conduit, mounting brackets and other hardware. No facilities or associated equipment shall be allowed to extend more than twenty-four inches (24") horizontally from a PSS.

(xii) Additional criteria regarding the location, type and/or design of small cell facilities and utility poles shall be subject to change. All changes shall be made available to the public for thirty (30) days prior to their effective date. This chapter shall apply to all applications that have not been finally approved prior to its adoption. No changes to these standards be retroactive. Facilities approved and for which small wireless facility permits have been issued prior to the effective date of a guideline changed after adoption of this chapter shall not be affected.

(2) Discretionary review. Unless otherwise provided in this chapter, approval from the Sweetwater Regional Planning Commission shall be required for any wireless provider that seeks to construct or modify a PSS or wireless facility that is determined to not comply with the height, diameter, design, color standards and expectations set forth in § 16-705(7).

(3) Construction standards. In performing any work in, or affecting the public ROW, the provider, and any agent or contractor of the provider, shall comply with the provisions of this chapter and all other applicable municipal ordinances, and shall conform to the requirements of the following publications, as from time to time amended: The Rules of Tennessee Department of Transportation Right-of-Way Division, the National Electrical Code and the National Electrical Safety Code, AASHTO Design Guidelines and Manual Uniform Traffic Control Devices, as might apply.

(a) General safety and compliance with laws. The permittee shall employ due care during the installation, maintenance or any other work in the public ROW, and shall comply with all safety and public

ROW-protection requirements of applicable laws, applicable codes, and any generally applicable authority guidelines, standards and practices, and any additional commonly accepted safety and public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable laws).

(b) Interference. The permittee shall not interfere with any existing facilities or structures in the public ROW, and shall locate its lines and equipment in such a manner as not to interfere with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any public ROW. The city's street department and police department must also be notified and concur with lane closures on all streets, including state routes.

(c) Utility locates. Before beginning any excavation in the public ROW, the permittee shall comply with "Tennessee 811 - CALL BEFORE YOU DIG" requirements.

(d) Restoration requirements. (i) The provider, or its agent or contractor, shall restore, repair and/or replace any portion of the public ROW that is damaged or disturbed by the provider's communications facilities, PSS/poles, towers or work in or adjacent to the public ROW. Restoration of pavement, sidewalks, landscaping, grass, etc. shall be in accordance with the right-of-way excavation permit application.

(ii) If the provider fails to timely restore, repair or replace the public ROW as required in this subsection, the authority or its contractor may do so and the provider shall pay the authority's costs and expenses related to such work, including any delay damages or other damages the authority incurs arising from the delay.

(e) Traffic control. Unless otherwise specified in the permit, the permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the authority.

(f) Removal, relocation and abandonment. (i) Within thirty (30) days following written notice from the authority, the provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its communications facilities, PSS/poles, support structures or towers within the public ROW or utility easement,

including relocation of above-ground communications facilities underground consistent with the provisions of this chapter, whenever the authority has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any authority improvement, the operations of the authority in, under or upon the public ROW, or otherwise is in the public interest. The provider shall be responsible to the authority for any damages or penalties it may incur as a result of the provider's failure to remove or relocate communications facilities, PSS/poles, support structures or towers as required in this subsection.

(ii) The authority retains the right and privileges to cut or move any communications, PSS/pole, support structure or tower located within the public ROW of the authority, as the authority may, determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the authority shall notify the provider and give the provider an opportunity to move its own facilities prior to cutting or removing the communications facility PSS/pole, support structure or tower. In all cases, the authority shall notify the provider after cutting or removing the communications facility, PSS pole, support structure or tower as promptly as reasonably possible.

(iii) A provider shall notify the authority of abandonment of any communications, PSS/pole, support structure or tower at the time the decision to abandon is made, however, in no case shall such notification be made later than thirty (30) days prior to abandonment. Following receipt of such notice, the provider shall remove its communications facility, PSS/pole, support structure or tower at the provider's own expense, unless the authority determines, in its sole discretion, that the communications facility, PSS/pole, support structure or tower may be abandoned in place. The provider shall remain solely responsible and liable for all of its communications facilities, PSS/poles, support structures and towers until they are removed from the public ROW unless the authority agrees in writing to take ownership of the abandoned communications facilities, PSS/poles, support structures or towers.

(iv) If the provider fails to timely protect, support, disconnect, remove, relocate, change or alter any of its communications facilities, PSS/poles, support structures or towers or remove any of its abandoned communications facilities, PSS/poles, support structures or towers as required in this subsection, temporarily or permanently, the authority or its contractor may do so and the provider shall pass all costs and

expenses related to such work including any delay damages or other damages the authority incurs arising from the delay.

(g) As-built maps. As the city controls and maintains the public ROW for the benefit of its citizens, it is the responsibility of the city to ensure that such public ROWs meet the highest possible public safety standards. Upon request by the city and within thirty (30) days of such a request, a permittee shall submit to the street department and Sweetwater Utility Board (or shall have otherwise maintained on file with the department) as-built maps and engineering specifications depicting and certifying the location of all its existing small wireless facilities within the right-of-way, provided in standard electronic or paper format in a manner established by the city planner or his or her designee. Permittees must also submit shape files for location specific data to the city's geographic information system division. Such maps data are and shall remain confidential documents and are exempt from public disclosure under the Tennessee Public Records Act (Tennessee Code Annotated, §§ 10-7-101, et seq.) to the maximum extent of the law. After submittal of the as-built maps as required under this section, each permittee having small wireless facilities in the public ROW shall, upon written request by the city, update such maps as required under this chapter.

(h) Insurance requirements. Each permittee shall at all times during the entire term of the small wireless facilities permit maintain and require each contractor and subcontractor to maintain insurance with a reputable insurance company authorized to do business in the State of Tennessee and which has an A.M. Best rating (or equivalent) no less than "A" indemnifying the city from and against any and all claims for injury, or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of permittee's wireless facilities in the rights-of-way. The amounts of such coverage shall not be less than the following:

(i) Worker's compensation and employer's liability insurance. Tennessee statutory requirements.

(ii) Comprehensive general liability. Commercial general liability occurrence form, including premises operations; independent contractors contractual liability; products completed operations: X.C.U coverage; and personal injury coverage with limits no less than one million dollars (\$1,000,000.00) per occurrence combined single limit and ten million dollars (\$10,000,000.00) in the aggregate.

(iii) Commercial automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this chapter with limits no

less than one million dollars (\$1,000,000.00) per occurrence combined single limit each accident.

(iv) Commercial excess or umbrella liability. Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.

(v) The city shall be designated as an additional insured for ongoing and completed operations under each of the insurance policies required by this section except worker's compensation and employer's liability insurance. Permittee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this section. Permittee shall provide the city with at least thirty (30) days advance written notice of any material changes or cancellation of any required insurance policy or in the case of non-payment of premium, at least ten (10) days written notice of cancellation.

(vi) Permittee shall impose similar insurance requirements as identified in this section on its contractors and subcontractors.

(i) Indemnification. Each permittee, its consultant, contractor, and subcontractor shall, at its sole cost and expense, indemnify, defend and hold harmless the city, its elected and appointed officials, employees and agents at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the permittee, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation operation, maintenance, removal or abandonment of permittee's wireless system or wireless facilities in the rights-of-way.

Each permittee shall defend any actions or proceedings against the city in which it is claimed that personal injury, including death, or property damage was caused by the permittee's construction, installation, operation, maintenance or removal of permittee's wireless system or wireless system or wireless facilities in the rights-of-way. The obligation to indemnify and hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities damages, reasonable attorney's fees, reasonable expert fees, court costs and all other reasonable costs of indemnification.

(j) Use of conduit. Permittees using space in ducts, conduits and on PSS/poles must comply with the terms of this code, unless expressly exempted by the authority.

(k) Right to inspect. Upon just and reasonable cause, the city shall have the right to inspect all of the small wireless facilities including aerial facilities and underground facilities, to ensure general health and safety with respect to such facilities and to determine compliance with

the terms of this chapter and other applicable laws and regulations, any permittee shall be required to cooperate with all such inspections and to provide reasonable and relevant information requested by the city, as part of such inspection(s).

(l) Application fees and bonds. Unless otherwise provided by applicable laws, all applications pursuant to this chapter shall be accompanied by the fees required under § 16-703(20). Unless otherwise provided as part of permitting or agreed to in writing by the authority, a performance bond or other form of surety acceptable to the authority equal to at least one hundred percent (100%) of the estimated cost of the work within the public ROW shall be provided before the applicant commences work. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-706. Violation of this chapter. In the event a reasonable determination is made that a person has violated any provision of this chapter, or a small wireless facility permit, such person shall be provided written notice of the determination and the specific detailed reasons therefor. Except in the case of an emergency, the person shall have thirty (30) days to commence to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the city, in its reasonable judgment, may extend the time period to cure, provided that the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the city may take all actions authorized by this chapter and or Tennessee law and regulations. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-707. Construction of provisions. If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason found to limit the minimum time within which an act must be performed or exceed the maximum time allowed to perform an act provided by the "Competitive Wireless Broadband Investment, Deployment, and Safety Act of 2018," Tennessee Code Annotated, §§ 13-24-401, et seq., or other law, such provision shall be construed to allow or prohibit the act done within the time provided by said statute and not be found or deemed invalid because of such inconsistency. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-708. Severability. If any section, subsection, sentence, clause, phrase or word or this chapter is for any reason held to be illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this chapter, or any part thereof, invalid. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-709. Conflict. In case of conflict between this chapter or any part hereof and the whole or part of any existing ordinance of the city, the provision that establishes the higher standard shall prevail. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)

16-710. Survivability. In the event any permittee sells, conveys, converts or transfers its ownership or interest(s) in any small wireless facility and/or any other equipment associated with any of the communications facilities governed by this chapter and/or any pole/PSS, tower or support structure to which the equipment is attached, all of the provisions of this chapter shall apply to and govern the successor owner to whom such facility, equipment, pole/PSS, tower or support structure is transferred, including, but not limited to, any purchaser from a bankruptcy trustee, a non-judicial foreclosure or a judicial sale. (as added by Ord. #976, Sept. 2019 *Ch7_02-07-22*)