EXHIBIT A

CITY OF SPRINGFIELD

CITY MANAGER'S OFFICE

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March 7, 2017

(Submitted via EFCS)

Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: Comment on Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies
WT Docket No. 16-421

Dear FCC Secretary:

Thank you for allowing the City of Springfield, Oregon ("City") the opportunity to submit comment regarding the Petition for Declaratory Ruling filed by Mobilitie, LLC, on November 15, 2016 ("Mobilitie Petition"). The purpose of this comment is to (1) provide information requested by the Commission in the Public Notice dated December 22, 2016, and (2) to express the City's opposition to the Mobilitie Petition.

The City opposes the Mobilitie Petition and its proposed preemption of local government fees associated with use of public right-of-way (PROW). Mobilitie framed its petition to the FCC as necessary to allow deployment of small cell infrastructure, but in its applications and proposals to the City of Springfield, Mobilitie has asserted a right not just to deploy small cell equipment in the PROW, but to place 120'-150' tall high visibility wireless telecommunication system (WTS) towers in the PROW. These towers would conflict with the City's responsibility to safely manage the PROW for Springfield citizens by creating hazards to traffic safety if constructed in close proximity to the roadway in the PROW. If the Mobilitie Petition is granted, the City and other local governments will be severely inhibited in their ability to control and manage the PROW as a proprietary business function of the City.

Many wireless providers in the City of Springfield, including T-Mobile and Verizon Wireless, have recently been expanding or upgrading WTS facilities in the City to pave the way for 5G. Primarily, the City has seen applications for new standalone 100' or taller WTS towers located on private property. These towers pay market rental rates to the private owners of those sites. It does not appear to be interfering at all with the

deployment of wireless technology in the City of Springfield for private property owners to charge market rent to wireless providers. Rather than following the same process for siting WTS towers used by other providers in the City, Mobilitie asserts a right to locate their facilities in the PROW. Mobilitie also asks the FCC to preempt the City from charging similar rental rates for use of City property as a private owner would charge. Essentially, Mobilitie is asking FCC to give them competitive advantage over other wireless providers whose facilities are located on private property, by requiring that the cost of such towers be subsidized by local taxpayers for the profit of Mobilitie. The City of Springfield is opposed to such an attempt to use the PROWs for private profit through preemption of the City's authority of its own PROW.

In the public notice seeking comment on the Mobilitie Petition, the Commission has requested local governments provide input on the application process for small cell deployment and other wireless facilities, the fees charged for such facilities, and the rejection rate for these facilities and the reasons for rejections. Attached to this comment, please find excerpts from the City of Springfield's Municipal and Development Code dealing with wireless telecommunication systems and structures and devices in the right-of-way: Springfield Municipal Code Sections 3.224 through 3.324, governing placement, location, replacement and removal of devices and structures in the PROW; Springfield Development Code Section 4.3-145, establishing development standards for WTS facilities on public and private property; and Springfield Municipal Code Sections 4.600-4.624 and 4.700-4.716, governing utility licenses and utility license fees and taxes, respectively.

Wireless Telecommunication System Application Process.

All telecommunications utilities that provide service to customers in Springfield or have facilities or equipment physically located within the City of Springfield must obtain a utility license from the City. Utility licenses are generally granted in less than 30 days. A utility license is valid for five years and may be renewed. A utility license authorizes a telecommunications utility to provide service or maintain equipment in the City of Springfield, but does not grant specific permission for any particular facility on public or private property.

The Springfield Development Code contains special standards for wireless telecommunication system facilities. See SDC 4.3-145 attached. The Code exempts small cell and DAS installations on utility poles within the City's PROW from requiring land use approval under the Development Code. WTS facilities not falling under this exception require land use approval. "High visibility," and "moderate visibility," WTS towers (traditional cell towers and camouflaged "monopine" cell towers) require Discretionary Use approval and Site Plan Review. Low visibility and stealth WTS facilities only require Site Plan Review except where exempted from land use approval

altogether. Oregon law requires a final decision on these applications to be made within 120 days (ORS 227.178).

For WTS facilities in the PROW, the City requires an encroachment permit or placement permit authorizing entry into the PROW in addition to an executed PROW Use Agreement specifying the terms and conditions under which the provider may maintain facilities in the ROW and imposing insurance and indemnification requirements. An encroachment permit typically is granted within 30 days or less. An encroachment permit authorizes a single facility at a single location. Alternately, a provider may file a telecommunications placement plan describing all facilities it intends to install in the PROW. Thereafter, encroachment permits for individual installations under that plan are reviewed through an expedited process in which all permits are deemed approved within 48 hours of submission, unless the City notifies the provider otherwise.

In 2013, the City significantly amended and updated the Development Code regarding wireless telecommunication system facilities. Since new code provisions were adopted, no WTS facility applications for Discretionary Use or Site Plan Approval have been denied by the City of Springfield, nor have any applications exceeded the 120-day timeline for approval unless permission was granted by the applicant.

Fees Charged to Telecommunications Utility/Providers.

Oregon law limits a city's ability to charge fees for land use permits or zone changes to "an amount no more than the actual or average cost to provide that service." In the City's Master Fees and Charges Schedule, adopted by City Council, the relevant fees imposed by the City for WTS facilities and/or small cell deployments include the following:

- Telecommunication License Application Fee and renewal, $50.
- Discretionary use application for high and moderate visibility WTS facilities, $4,070 within city limits; $6,139 outside city limits, but within the City's Urban Growth Boundary (UGB); and $401 for postage.
- Site plan review for high, moderate, and low visibility WTS and stealth facilities that are not exempt from the Development Code, $4,857 within city limits; $5,042 within the UGB; and $166 postage.
- Encroachment permits for all structures and devices in the PROW, $301.
- Comprehensive telecommunications placement plan review, $757.

In addition to these application fees, the City taxes all utilities, including telecommunications utilities, 5% of their gross revenues for services provided to City

customers or using facilities located within the City of Springfield. This tax is not dependent on a utility operating in the PROW. The Mobilitie Petition objects to this form of tax specifically as violating 47 U.S.C. Section 253(c). The City of Springfield's gross revenue tax is not a fee "for use of the public rights of way" and therefore it does not fall under 47 U.S.C. Section 253(c). However, even if it were tied to use of the right-of-way, a gross receipts tax is entirely "fair and reasonable compensation," and because it is assessed at the same level to all telecommunications providers, it is "competitively neutral and non-discriminatory." The Mobilitie Petition on this point should be denied given that the FCC does not have the authority to preempt non-discriminatory local taxes.

The City also may charge rent for attachments to City-owned poles or structures in the PROW or on other public property. These rent charges are a propriety power of the City as a landowner and cannot be preempted by the FCC under its authority in Section 253(c).

The Mobilitie Petition also asserts that FCC should require local governments to prove that their fees are identical across all providers and disclose all fees collected. The City imposes uniform fees and taxes for use of the PROW per the City's Master Fees and Charges Schedule, as noted above, which is adopted by the Springfield City Council through public process. Instead of participating in that public process to determine what fees should be charged by the City, Mobilitie would require the City to affirmatively provide proof to Mobilitie that its fees and charges are justified. This shifting of the burden from a provider to the City would consume staff resources at the expense of local taxpayers.

Under the City's utility fee ordinance, a provider operating in the PROW may negotiate with the City for an alternate fee structure to the 5% gross receipts tax through license agreement or PROW use agreement. By City ordinance, any charges assessed under these voluntary agreements offset the 5% taxes owed. These license agreements and PROW use agreements are public records under Oregon law that are required to be disclosed to the public, except to the extent that *the wireless providers themselves* designate these agreements as "trade secrets." The Mobilitie Petition urges FCC to require cities to disclose contractual details in these PROW use agreements and license agreements potentially in violation of other state and federal laws that protect trade secrets. For that reason, such a requirement would place the City in a "no win" situation of choosing which laws to violate: FCC regulations under the Telecommunications Act, or state and federal laws protecting trade secrets. This is yet another example of Mobilitie's attempt to gain a competitive advantage over other wireless providers, at the cost of the taxpayers of the City of Springfield.

For the foregoing reasons, the City of Springfield urges the Commission to protect the rights of local governments to manage their own PROW and reject the Mobilitie Petition.

Sincerely,

Gino Grimaldi
City Manager

Springfield Municipal Code

EXCERPTED SECTIONS FROM CHAPTER 3 PUBLIC IMPROVEMENTS

3.224 Placement of Devices or Structures in the Public Way.

(1) No structure or device shall be placed in, upon, over or under the public way unless the owner of such structure or device shall have received a placement permit authorizing the placement of such structure or device. Any violation of this provision shall be an infraction within the meaning of chapter 5 of this code.

(2) Unless otherwise specified in a placement permit license, public way use agreement, or franchise agreement, all structures and devices shall be constructed, installed and located in accordance with the following terms and conditions:

(a) Where existing utility poles exist, telecommunication facilities shall be installed on utility poles to the extent there is useable space.

(b) Where useable space does not exist on existing utility poles and cannot be made available consistent with the provisions of the Springfield Development Code, or where existing telephone, electric utilities, cable facilities or telecommunications facilities are located underground, telecommunications facilities shall be installed underground within a non-conductive duct or conduit including, if capacity exists, within an existing underground duct or conduit.

(c) Whenever any new or existing telephone, electric utilities, cable facilities or telecommunications facilities are required to be located or relocated underground within a public way, the public works director may direct that any other licensee or franchisee that currently occupies the same public way concurrently relocate its facilities underground at its expense, if underground location of such facilities is required by the provisions of article 32 of the Springfield Development Code; provided, however, that nothing in this subsection shall require the relocation of electrical transmission lines and backbone distribution features covered by section 32.120(2) of the Springfield Development Code.

(d) Whenever new telecommunications facilities will exhaust the capacity of a public way reasonably to accommodate future telecommunications carriers, the licensee or franchisee placing such facility may be required to provide additional ducts, conduits, maintenance holes and other facilities for nondiscriminatory access to future telecommunications carriers at its expense.

(e) The utility placing such facilities shall remove and relocate such facilities within 120 days after receiving notice in writing to do so from the city. Such removal or relocation shall be without cost or expense to the city whenever the city shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

(i) The construction, repair, maintenance or installation of any city or other public improvement in or upon the public ways;

(ii) The construction, installation or improvement of public way by a private developer as a condition of property development;

(iii) The operations of the city or other governmental entity in or upon the public rights-of-way;

(iv) The public interest.

(f) When removal or relocation is required for the convenience or benefit of any private person, or non-governmental agency or instrumentality, utility shall be entitled to reimbursement for the reasonable cost thereof from such person, agency or instrumentality, to the extent permitted by law.

(g) All structures and devices placed underground shall be locatable underground facilities within the meaning of ORS 757.541(6). [Section 3.224 amended by Ordinance No. 5891, enacted May 18, 1998; further amended by Ordinance No. 6106, enacted December 6, 2004.]

3.226 Location of Structures or Devices in the Right-of-Way.

(1) For the purpose of this chapter, these terms shall be defined as follows:

Excess Capacity. The volume or capacity in any existing or future duct, conduit, maintenance hole, handhole or other utility facility within the public way that is or will be available for use for additional telecommunications facilities, including that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the public utility commission, to allow its use by a telecommunications carrier for a pole attachment.

Overhead Facilities. Utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

Underground Facilities. Utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

Usable Space. The total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the public utility commission.

(2) Prior to placing a structure or device in the right-of-way, the owner of such structure or device shall secure a placement permit, which permit shall also serve as an encroachment permit.

(3) Applications for placement permits shall be on the form prescribed by the public works director and accompanied by the fee therefor, in an amount fixed by the council by resolution.

(4) Applications shall not be complete unless accompanied by the following:

(a) A copy of the applicant's utility license, public way use agreement or franchise agreement;

(b) Preliminary engineering plans, specifications and a map of the facilities located in or to be located within the public ways in the city, all in sufficient detail to identify:

(i) The location and route requested for applicant's proposed facilities,

(ii) The location of all existing overhead and underground public utility, telecommunication, cable, water sewer drainage and other facilities in the public way which may be affected along the proposed route,

(iii) The location(s), if any, for interconnection with the facilities of other utilities,

(iv) A description of the facility to be placed;

(c) If the applicant is proposing to install overhead facilities within the public ways, evidence that useable space is available for locating its facilities on existing utility poles along the proposed route, or a duly executed pole attachment agreement with an owner of existing poles;

(d) Identification of any adverse circumstances affecting the use of the public way, and a description of efforts to mitigate such circumstances;

(e) Four copies of a work plan and schedule showing when and how the placement shall be accomplished;

(f) If applicable, a certificate of insurance, as required under section 3.210(1);

(g) If applicable, a state or county permit for work in the state or county right-of-way within the corporate limits of the city;

(h) Evidence that the applicant is a subscriber to the Oregon Utility Notification Center;

(i) Any other information deemed necessary by the public works director.

(5) The amount of security deposit required in section 3.210 and the temporary storage fee required in section 5.052(2)(a), if applicable, will be determined during the plan checking process and will be due at the time the permit is issued.

(6) At the election of the applicant, the applicant may file a comprehensive telecommunications placement plan which describes all facilities it presently intends to install. Such plan is subject to approval of the public works director and may be modified from time to time by the applicant with the approval of the public works director. The fee for review of such plan shall be fixed by the council by resolution.

(7) If an applicant has on file an approved comprehensive telecommunications placement plan, any application for a placement permit hereunder which is consistent with such approved plan shall be deemed approved unless the public works director notifies the applicant, within 48 hours of submission, that the application is disapproved, stating the reasons for disapproval.

(8) If an applicant does not have on file an approved plan, the public works director shall grant a placement permit under such terms and conditions as he/she shall deem appropriate if he/she shall find that the applicant has demonstrated:

(a) Compliance with requirements of applicable state and federal laws and regulations;

(b) The capacity of the public ways to accommodate the applicant's proposed facilities;

(c) The capacity of the public ways to accommodate additional utility facilities if the license is granted;

(d) The absence or minimization of damage or disruption of public or private facilities, improvements, service, travel or landscaping if the license is granted;

(e) The minimization of the cost and disruption occasioned by construction within the public ways;

(f) Measures taken to address any adverse effect on public health, safety and welfare if the license is granted;

(g) The availability of alternate routes and/or locations for the proposed facilities;

(h) Such other factors as may demonstrate that the grant to use the public ways will serve the community interest.

(9) The permit shall authorize the placement of such device or structure by boring or jacking only, unless the public works director shall determine it is in the best interests of the city to allow the placement by open trenching.

(10) Upon completion of all work, the permit holder shall notify the utilities coordinator of the city of Springfield by completing and returning the permit status report, accompanied by as-built drawings in such form as shall be determined by the public works director.

(11) A holder of a utility license, a party to a franchise agreement or public way use agreement, including a utility making a payment in lieu of taxes, may apply to the public works director for an annual placement permit covering underground individual service connections. Such annual permit, if granted, shall require the applicant to:

(a) Provide 48 hours notice of work through the utility notification system;

(b) Conduct all work pursuant to the requirements of sections 3.212 through 3.222 of the code;

(c) Supply as-built drawings, in such form as the city shall require, for each installation or connection;

(d) Provide a monthly report to the city listing all activities performed pursuant to the permit;

(e) Provide and maintain a list describing the sizes and types of facilities to be placed pursuant to the permit;

(f) Designate an individual responsible for coordinating these activities with the city and for responding to the city should additional information be required.

The annual placement permit shall not be applicable to any installation requiring a cut in the right-of-way between curb lines.

The public works director shall deny such permit if the applicant is in violation of any of the provisions of this chapter or if the applicant has on three or more occasions in the 12 months preceding the date of application conducted any operations in the public way in violation of the provisions of this chapter. Such permit, if granted, shall be subject to revocation upon a finding by the public works director that the permittee has, on three or more occasions in the immediately preceding 12 months, conducted operations in the public way in violation of the provisions of this chapter. [Section 3.226 amended by Ordinance No. 5891, enacted May 18, 1998; further amended by Ordinance No. 6106, enacted December 6, 2004.]

3.228 Relocation or Removal of Facilities.

Within 30 days following written notice from the city, a licensee or franchisee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any facilities within the right-of-way whenever the city manager or designee shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

(1) The construction, repair, maintenance or installation of any city or other public improvement in or upon the right-of-way;

(2) The operations of the city or other governmental entity in or upon the right-of-way;

(3) The vacation of a public street. [Section 3.228 added by Ordinance 5891, May 18, 1998.]

3.230 Removal of Unauthorized Facilities.

Within 30 days following written notice from the city, any licensee or franchisee, utility, telecommunications carrier, or other person that owns, controls or maintains any unauthorized system, facility or related appurtenances within the public ways of the city shall, at its own expense, remove such facilities or appurtenances from the public ways of the city. If such person fails to remove such facilities or appurtenances, the city may cause the removal and charge the owner for the costs incurred, plus 40 percent overhead, or $200.00, whichever is greater. A system or facility is unauthorized and subject to removal in the following circumstances:

(1) Upon expiration or termination of the grantee's license or franchise;

(2) Upon abandonment of a facility within the public ways of the city;

(3) If the system or facility was constructed or installed without the prior grant of a license or franchise;

(4) If the system or facility was constructed or installed without the prior issuance of a required permit;

(5) If the system or facility was constructed or installed at a location not permitted by the grantee's license or franchise;

(6) Any such other reasonable circumstances deemed necessary by the city manager or designee. [Section 3.230 added by Ordinance No. 5891, enacted May 18, 1998.]

3.232 Failure to Relocate.

If a license holder or franchisee is required to relocate, change or alter the facilities hereunder and fails to do so, the city may cause such to occur and charge the grantee for the costs incurred, plus 40 percent overhead, or $200.00, whichever is greater. [Section 3.232 added by Ord. 5891, May 18, 1998.]

3.234 Emergency Removal or Relocation of Facilities.

The city retains the right and privilege to cut or move any facilities located within the public ways of the city, as the city may determine to be necessary, appropriate or useful in response to any public health or safety emergency. [Section 3.234 added by Ordinance No. 5891, enacted May 18, 1998.]

EXCERPTED SECTIONS FROM CHAPTER 4 UTLITIES

UTILITY LICENSE

4.600 Definitions.

Terms used in this chapter shall have the following meanings:

Affiliate. A person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

Cable Acts. The Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, as amended by The Telecommunications Act of 1996 and as hereafter amended.

Cable operator. An entity providing or offering to provide "cable service" within the city as that term is defined in the Cable Acts.

Cable service. Shall have the same meaning as defined in the Cable Acts.

FCC or Federal Communications Commission. The federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

Gross revenue. Gross revenue shall mean all inflows or enhancements of assets or settlements of its liabilities (or a combination of both) of whatsoever kind and nature derived by the utility and, any affiliates, subsidiaries or parent of the utility on account of goods or services from the utility's ongoing operations within the city, including any and all subsidies, discounts, rebates or other considerations or forbearances by the utility associated with the delivery of such goods and services within the city, but excluding gross revenues earned in interstate commerce or on the business of the United States Government and proceeds from the sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another when the utility purchasing is not the ultimate consumer.

Internet service. A service that includes computer processing applications, provides the user with additional or restructured information, or permits the user to interact with stored information through the Internet or a proprietary subscriber network. "Internet service" includes provision of Internet electronic mail, access to the Internet for information retrieval, and hosting of information for retrieval over the Internet or the graphical subnetwork called the world wide web. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

Licensee. Any entity required to be licensed hereunder, whether or not granted a license.

Person. Any individual or entity engaging in activities regulated by this chapter.

Public safety radio system. A radio system whose licensing and use of radio transmitters by state and local government and non-government entities is regulated by the Federal Communications Commission as engaged in public safety activities.

Public street. Any highway, street, alley or other public right-of-way dedicated for motor vehicle travel under the jurisdiction and control of the city.

Public utility easement. Any easement granted to the city, acquired, established, dedicated or devoted for access for public utility facilities for construction, operations, and maintenance purposes.

Public way. Includes all public streets owned by the city and public utility easements granted to the city, as those terms are defined herein, but only to the extent of the city's right, title, interest or authority to grant permission to occupy and use such streets and easements.

Tax administrator. The finance director of the city or designee.

Telecommunications carrier. Includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications service.

Telecommunications facilities or system. The plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications service.

Telecommunications provider. Includes every person who provides telecommunications service over telecommunications facilities.

Telecommunications service. The providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming or any other information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium and without regard to the nature of the transmission protocol employed, but does not include:

(1) Cable television services;

(2) Private telecommunications network services;

(3) Over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto;

(4) Direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996;

(5) Services provided solely for the purpose of providing Internet service to the consumer;

(6) Public safety radio systems;

(7) Mobile service within the meaning of 47 U.S.C. Section 153(33) (2012); and

(8) Services to devices exclusively utilizing electromagnetic spectrum unlicensed by the Federal Communications Commission.

Utility. Any public utility as defined in ORS 757.005(1), excluding a municipal utility, any telecommunications utility as defined in ORS 759.005(1), any telecommunications carrier, telecommunications provider or other entity providing telecommunications service, electricity, heating services, or stormwater or wastewater collection.

Utility facilities. The plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the public ways of the city and used or to be used for the purpose of providing utility services. The term shall include all such things owned by the utility and all such things as the utility shall

have a property interest in, including things held by the utility or on its behalf under a lease, rental agreement or indefeasible right of use for a term of years.

Utility services. All services provided by a utility to customers located within the city limits of the city of Springfield or provided to customers wherever located using facilities physically located within the city limits of the city of Springfield. [Section 4.600 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007; further amended by Ordinance No. 6270, enacted July 5, 2011; further amended by Ordinance No. 6311, enacted March 3, 2014; further amended by Ordinance No. 6323, enacted July 21, 2014.]

4.602 Utility License Required.

A utility license shall be required of any utility who desires to provide service to persons in the city or to persons or areas outside the city using facilities located in the city. No utility shall provide services within the city nor shall such utility provide services outside the city using facilities located within the city unless licensed as provided herein. Any violation of the provisions of this chapter shall be a civil infraction as defined in Springfield Municipal Code section 5.602 subject to enforcement in accordance with Chapter V of this code. Carriers who utilize facilities of another licensed carrier for the distribution of their services shall be required to have a separate license. The purpose of licensing is to:

(1) Provide the city with accurate and current information concerning the utilities who offer utility services within the city, or that own or operate utility facilities within the city;

(2) Assist the city in enforcement of this chapter;

(3) Assist the city in the collection and enforcement of any municipal taxes, franchise fees, license, permit or other fees or charges that may be due the city;

(4) Assist the city in monitoring compliance with local, and, to the extent authorized by law, with state and federal laws. [Section 4602 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.604 License Application.

Any utility that is required to have a utility license shall file an application, using the form provided for such purpose, with the public works department which shall include the following information:

(1) The identity of the license applicant, including all affiliates of the applicant.

(2) A description of the utility services that are or will be offered or provided by licensee.

(3) Information to establish that the applicant has obtained or has applied for all other governmental approvals and permits to construct and operate the facilities and to offer or provide the services. Such approvals include, without limitation, any land use decisions. In the event any other required government approval is not obtained any license granted hereunder shall be subject to modification to reflect the absence of such approval.

(4) All fees, deposits or charges required pursuant to this chapter. [Section 4.604 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.606 Determination by the City.

Within 90 days after receiving a complete application under section 4.604 hereof, the public works director shall, if the application conforms with the requirements of this code, issue the license. If the application is denied, the denial shall be in writing and state the reasons for denial. [Section 4.606 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.608 Utility License.

(1) The license granted hereunder shall authorize and permit the licensee, subject to the provisions of the Springfield Municipal Code, and other applicable provisions of state or federal law, to operate the utility and provide the utility services covered by the license. The license shall authorize the licensee to place facilities in, and occupy, the public ways of the city for so long as the licensee shall comply with the provisions of this code, and continue to hold any and all licenses and permits required by state or federal law for the provision of such services as covered by this license; provided, however that all work, construction, placement or operation of such facilities shall be in compliance with this code. Nothing in such license shall authorize the licensee to provide other or different services than those authorized by the license or to use the facilities or property of the city other than

public ways, or the facilities or property of another, including agencies such as the Springfield utility board, which use, if any shall be subject to agreement with the owner of such facility or property and any applicable provisions of law. Nothing in such license shall operate or be construed as an approval of such business or a regulation of the practices of such business.

(2) The city reserves the right, in every event, without limitation, to:

(a) Construct, install, maintain and operate any public improvement, work or facility in, on, over or under the public ways;

(b) Perform or authorize or direct the performance of any work that the city may find desirable or convenient in, on, over or under any public way; or

(c) Vacate, alter, or close any public way; provided, however, that no vacation shall obligate a utility to remove or abandon any facility located within such public way; or

(d) Require, in the public interest, the removal or relocation, temporarily or permanently, of facilities maintained by the utility in the public ways of the city, pursuant to the provisions of Chapter 3 of this code.

(3) Whenever the city shall perform or cause or permit to be performed, any work in the public way or the vicinity of the public way where such work may disturb or interfere with a utility's facilities, the city shall, or shall require its permittee, to notify, in writing, the utility sufficiently in advance of such contemplated work to enable utility to take such measures, including removal or relocation of such facilities, as may be deemed necessary to protect such facilities, at its own expense.

(4) Cable Service.

(a) Any licensee providing cable service shall provide public, educational and governmental channel capacity as provided in the Cable Acts. Unless otherwise provided in a public way use agreement, such channel capacity shall be substantially equivalent to that provided in the community by any other provider of cable service at the time the license is granted.

(b) Any licensee providing cable service shall, unless otherwise provided in a public way use agreement, as a condition of its license, file and comply with a plan for making service available to a reasonable proportion of all residential addresses within the city within a reasonable time of the commencement of service. [Section 4.608 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.610 Nonexclusive Grant.

No license granted hereunder shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the city for delivery of utility services or any other purposes. [Section 4610 added by Ordinance 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.612 Rights Granted.

No license granted hereunder shall convey any right, title or interest in the public ways, but shall be deemed a license only to provide utility services and use and occupy the public ways for the limited purposes and term stated in the grant. Further, no license shall be construed as any warranty of title. [Section 4612 added by Ordinance 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.614 Term of Grant.

A license granted hereunder shall be in effect for a term of five years. [Section 4614 added by Ordinance 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.616 Coordination of Activities.

All holders of a license shall be obliged to coordinate their activities affecting the public ways and shall be obliged to participate in coordination meetings to be held by the city not less than annually for the purpose of facilitating such cooperation and coordination. [Section 4.616 (formerly section 4.618) added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.618 Amendment of Grant.

A new license application and grant shall be required of any utility that desires to extend additional or different services in the city which are not included in a license previously granted under this chapter. [Section 4.618 (formerly section 4.622) added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.620 Renewal Applications.

A licensee that desires to renew its license shall, not more than 180 days nor less than 90 days before expiration of the current license, file an application with the city for renewal of its license which shall include the information required pursuant to section 4.604. [Section 4.620 (formerly section 4.624) added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.622 Renewal Determinations.

Within 90 days after receiving a complete application under section 4.620 hereof, the public works director shall issue a written determination applying the following standards, as applicable, and, if the application conforms with the requirements of this code, grant the application:

(1) Compliance with requirements of applicable state and federal laws and regulations.

(2) The applicant's compliance with the requirements of this chapter and any public way use agreement. If the renewal application is denied, the written determination shall include the reasons for non-renewal. [Section 4.622 added by Ordinance No. 6203, enacted July 16, 2007.]

4.624 Obligation to Cure As a Condition of Renewal.

No license shall be renewed until any existing violations or defaults in the licensee's performance of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the licensee has been approved by the city. [Section 4.624 added by Ordinance No. 6203, enacted July 16, 2007.]

UTILITY LICENSE – FEES AND COMPENSATION

4.700 Purpose.

It is the purpose of sections 4.700 through 4.714 to provide for the payment and recovery of all direct and indirect costs and expenses of the city related to the enforcement and administration of this chapter. [Section 4.700 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.702 Application and Review Fee.

(1) Any applicant for a license, including a renewal or amendment of an existing license, shall pay a fee fixed by resolution of the council.

(2) The application and review fee shall be deposited with the city as part of the application filed.

(3) An applicant whose license or franchise application has been withdrawn, abandoned or denied within 60 days of its application and review fee written request, shall be refunded the balance of its deposit under this section, less:

(a) The non-refundable portion of the application and review fee, as fixed by resolution of the council; or

(b) All ascertainable costs and expenses incurred by the city in connection with the application, whichever is greater. [Section 4.702 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.704 Other City Costs.

In addition to the application and review fee, all license or franchise grantees shall, within 30 days after written demand therefor, reimburse the city, to the extent permitted by law, for all direct and indirect costs and expenses incurred by the city in connection with any issuance, modification, amendment, renewal or transfer of the license or franchise or any license or franchise agreement. [Section 4.704 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007.]

4.706 Fee for Use of Public Ways.

(1) All persons not parties to a franchise or public way use agreement, and occupying the public ways for placement of utility facilities but not providing utility service within the city shall pay a fee, in an amount fixed by resolution of the council for each foot or portion thereof occupied, subject to limitations in other state or federal laws.

(2) All persons subject to the fee imposed by subsection (1) who are parties to a franchise or public way use agreement shall be entitled to a credit against the fee due under subsection (1) in the amount of the payments made pursuant to such franchise or public way use agreement.

(3) This fee shall be in addition to, and not in lieu of, any taxes, fees or charges provided under this municipal code.

(4) Unless otherwise agreed such fee shall be paid quarterly, on or before the 45th day following the end of the calendar quarter. [Section 4.706 added by Ordinance No. 6311, enacted March 3, 2014; amended by Ordinance No. 6323, enacted July 21, 2014.]

4.707 Tax for Providing Utility Service.

(1) All persons providing utility services in the city shall pay to the city of Springfield a utility tax in the amount of five percent of gross revenues, as herein defined, subject to limitations in other state or federal laws.

(2) All persons subject to the tax imposed by subsection (1) who are parties to a franchise or public way use agreement shall be entitled to a credit against the tax due under subsection (1) in the amount of the payments made pursuant to such franchise or public way use agreement.

(3) All utilities owned and operated by the city of Springfield, except a municipal utility as defined in ORS 757.005(1), shall pay to the city of Springfield a utility tax fixed by resolution of the council.

(4) This tax shall be in addition to, and not in lieu of, any fees or charges provided under this municipal code.

(5) Unless otherwise agreed such tax shall be paid quarterly, on or before the 45th day following the end of the calendar quarter. With each payment, the persons subject to the tax shall furnish a statement setting forth the amount and calculation of payment. The statement shall detail the revenues received from their operation within the city and shall specify the nature and amount of all exclusions and deductions from such revenues they have claimed in calculating the amount of the utility tax. [Section 4.707 added by Ordinance No. 6323, enacted July 21, 2014; amended by Ordinance No. 6338, June 1, 2015.]

4.710 Compensation for City Property.

If the right is granted, by lease, license, franchise or other manner, to use and occupy city property other than the public ways for the installation of facilities, the compensation to be paid shall be fixed by the city and shall be separate and distinct from any taxes or fees imposed in sections 4.702 through 4.708. [Section 4.710 (formerly 4.708) added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007; further amended by Ordinance No. 6311, March 3, 2014.]

4.714 Penalties and Interest for Late Payment.

If any tax or fee provided for herein shall not be timely paid, a penalty in the amount of 10 percent of such fee shall be assessed and due as of the date the underlying tax or fee was due. Interest on taxes, fees and penalties shall accrue at the rate of one and one-half percent per month, commencing with the 15th day after the tax, fee or penalty shall be due. [Section 4.714 added by Ordinance No. 5891, enacted May 18, 1998; amended by Ordinance No. 6203, enacted July 16, 2007; further amended by Ordinance No. 6311, enacted March 3, 2014.]

4.716 Audits and Fee Review.

The city may examine the books and records of the utility to verify the amounts due under a franchise, public way use agreement, fee under section 4.706, or a tax as provided in section 4.707. The utility shall either maintain such books and records at a location within the state of Oregon or, in the alternative, shall provide them to the city when requested, at no expense to the city. In the event such examination discloses an underpayment in the amount due to the city of more than five percent, the city may impose a penalty of 10 percent of the additional amount due, plus costs of the audit, and interest as provided herein from the original date due. [Section 4.716 added by Ordinance No. 6203, enacted July 16, 2007; further amended by Ordinance No. 6311, enacted March 3, 2014; further amended by Ordinance No. 6338, enacted June 1, 2015.]

Springfield Development Code

EXCERPT FROM SECTION 4.3-100 INFRASTRUCTURE STANDARDS – UTITILITIES

4.3-145 Wireless Telecommunications System (WTS) Facilities

A. Purpose. This Section is intended to:

1. Implement the requirements of the Federal Telecommunications Act of 1996;

2. Provide a uniform and comprehensive set of standards and review procedures for the placement, operation, alteration and removal of WTS facilities;

3. Allow new WTS facilities where necessary to provide service coverage and there is a demonstrated need that cannot be met through existing facilities;

4. Maximize the use of existing WTS facilities in order to minimize the need to construct additional facilities;

5. Encourage the siting of new WTS facilities in preferred locations;

6. Lessen impacts of new WTS facilities on surrounding residential areas; and

7. Minimize visual impacts of new WTS facilities through careful design, configuration, screening, and innovative camouflaging techniques.

B. Applicability/Conflicts.

1. Applicability. This Section applies within Springfield's city limits and its Urban Services Area. No WTS facility may be constructed, altered (to include co-locations) or replaced, unless exempt, without complying with the requirements of this Section. Exempt facilities are listed in Subsection D. below.

2. Conflicts. In cases where:

a. The development standards of this Section conflict with other Sections of this Code, these standards will prevail.

EXCEPTION: In the Glenwood Riverfront, the WTS standards regarding type and height of the antenna will apply. All other aspects of the application submittal and review process specified in this Section will apply.

b. These development standards conflict with Federal and/or State regulations, the Federal and/or State regulations will prevail.

C. Pre-Existing WTS Facilities.

1. WTS facilities that lawfully existed prior to the adoption of the Ordinance codified in this Section shall be allowed to continue their use as they presently exist.

2. Routine maintenance will be permitted on lawful pre-existing WTS facilities as specified in Subsection D.1.

3. Lawfully existing WTS facilities may be replaced as specified in Subsection D.2.

D. Exemptions. The following shall be considered exempt structures or activities, however, all other applicable Federal, State and City permits will be required:

1. Emergency or routine repairs or routine maintenance of previously approved WTS facilities.

2. Replacement of existing previously approved WTS facilities.

a. A WTS facility may be replaced if it:

i. Is in the exact location of the facility being replaced;

ii. Is of a construction type identical in height, size, lighting and painting;

iii. Can accommodate the co-location of additional antennas or arrays;

iv. Does not increase radio frequency emissions from any source; and

v. Does not intrude or cause further intrusion into a setback area.

b. Those WTS facilities that cannot meet the replacement standard in Subsection D.2.a. will be treated as new construction, requiring Type I or III review as specified in Subsection H.

3. Industrial, scientific and medical equipment operating at frequencies designated for that purpose by the Federal Communications Commission.

4. Essential public telecommunications services: military, Federal, State, and local government telecommunications facilities.

5. Amateur and citizen band radio transmitters and antennas.

6. Military or civilian radar operating within the regulated frequency ranges for the purpose of defense or aircraft safety.

7. Antennas (including, but not limited to: direct-to-home satellite dishes; TV antennas; and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations.

8. Low-powered networked telecommunications facilities including, but not limited to, microcell radio transceivers located on existing utility poles and light standards within public right-of-way.

9. Cell on Wheels (COW), which are permitted as temporary uses in nonresidential Metro Plan or 2030 Springfield Refinement Plan designations for a period not to exceed 14 days, or during a period of emergency as declared by the City, County, or State.

E. Definitions. The words and phrases used in this Section shall have the following meanings:

Antenna. Any system of wires, poles, rods, reflecting discs or similar devices designed for telephonic, radio, facsimile, data, or television telecommunications through sending and/or receiving of electromagnetic waves when the system is either external to or attached to the exterior of a structure. Antennas include, but are not limited to, devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted up and rotated through a vertical mast or tower interconnecting the boom and antenna support. All of the latter elements are part of the antenna.

Antenna Height. The vertical distance measured from the ground surface at grade to the tip of the highest point of the antenna on the proposed structure.

Antenna Support. Any pole, telescoping mast, tower, tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

Approval Authority.

1. Type I Review. Staff has the authority to approve new co-locations, equipment replacement, and applications for low visibility and stealth WTS facilities.

2. Type III Review. The Planning Commission and the City Council are the Approval Authority for applications to construct high and medium visibility WTS facilities within the city limits.

3. Type III Review. The Hearings Official, by agreement with Lane County, is the Approval Authority for high and medium visibility WTS facilities located outside the city limits but within the Springfield Urban Growth Boundary.

Camouflaged. Any WTS facility that is designed to blend into the surrounding environment. Examples of camouflaged facilities include, but are not limited to: architecturally screened roof-mounted antennas; building-mounted antennas painted to match the existing structure; antennas integrated into architectural elements; towers made to look like trees; and antenna support structures designed to look like flag poles or light poles.

Carrier. A company authorized by the FCC to build and/or operate a WTS facility.

Co-Location. The use of a single WTS tower for the placement of multiple antennas or related telecommunications equipment often involving different carriers.

Equipment Building, Shelter or Cabinet. A cabinet or building used to house associated equipment used by providers at a WTS facility. Associated equipment includes, but is not limited to, air conditioning and emergency generators.

Façade-Mounted Antenna. An antenna architecturally integrated into the façade of a building or structure.

Facility. A WTS facility.

Faux Tree. A WTS tower camouflaged to resemble a tree.

Guyed Tower. A WTS tower that is supported, in whole or in part, by guy wires and ground anchors.

High Visibility. The following WTS facilities are examples of high visibility facilities:

1. Monopoles, lattice towers and guyed towers.

2. Any WTS facilities that do not meet the definition of stealth, low visibility, or moderate visibility.

Lattice Tower. A guyed or self-supporting three or four sided, open, steel frame support structure used to support WTS equipment.

Low Visibility. The following are examples of low visibility WTS facilities that shall not exceed the height limit of the base zone and shall not increase the height of an existing WTS facility:

1. Whip antennas not exceeding 6 feet in length or height, including mounting, and measuring no more than 3 inches in diameter, located on existing structures including, but not limited to, water storage tanks, high-voltage transmission towers, utility towers and poles, sign standards, and roadway overpasses, with equipment cabinets that are screened from view.

2. Facilities, including equipment cabinets that are screened from view through the use of architectural treatments, including, but not limited to, cupolas, steeples and parapets, and are consistent with existing development on adjacent properties.

3. Additions to existing permitted low-visibility facilities, if the additions themselves meet the definition of low visibility and are designed to minimize visibility the WTS facility.

4. Changes to an existing building that are consistent with the building's architectural style and the equipment cabinets are not visible.

Maintenance. Emergency or routine repairs or replacement of transmitters, antennas, or other components of previously approved WTS facilities that do not create a significant change in visual appearance or visual impact.

Microcells. These devices provide additional coverage and capacity where there are high numbers of users within urban and suburban macrocells. The antennas for microcells are mounted at street level, typically on the external walls of existing structures, lamp-posts, and other street furniture. Microcell antennas are usually smaller than macrocell antennas, and when mounted on existing structures, can often blend into building features. Microcells provide radio coverage over distances,

typically between 100 meters and 1,000 meters, and operate at power levels substantially below those of macrocells.

Moderate Visibility. The following WTS facilities are examples of moderate visibility facilities:

1. Panel-shaped antennas not exceeding 8 feet in length or height that are flush-mounted to an existing building façade or other existing structure on at least one edge, or extend a maximum of 24 inches from the building façade or other structure at any edge, do not exceed the height of the building or other structure, and are designed to blend with the color, texture, and design of the existing building or structure, with equipment cabinets that are screened from view.

2. WTS facilities that are camouflaged, including, but not limited to, faux trees, flag poles, and light poles; provided, that the equipment building, shelter, or cabinet for the facility is screened or camouflaged.

Monopole. A WTS facility consisting of a single pole constructed for purposes of supporting 1 or more antennas without guy wires or ground anchors.

Panel or Directional Antenna. An antenna or array of antennas designed to concentrate a radio signal in a particular area.

Residential Zoning District. Any Springfield zoning district where single-family and or multi-family dwelling units are intended to be the dominate land use.

RF. Radio frequency.

Roof-Mounted Antenna. Any antenna with its support structure placed directly on the roof of any building or structure.

Screened. Concealed from view with a sight obscuring fence, wall or vegetation.

Service Area. The area served by a single WTS facility.

Side-Mounted Antennas. Those antennas that are mounted on the side of a tower structure at any height, and including both the antennas and equipment with protective radome coatings. This term also includes microwave dish antennas, solid or not, located at 150 feet or lower on a tower structure, regardless of the dish diameter. The term does not include solid microwave dish antennas exceeding 6 feet in diameter that are located above 150 feet on a tower structure.

Small Top-Mounted Antennas. Any antenna mounted on the top of a tower structure where the antenna is 20 feet or less in height and 6 inches or less in outside diameter.

Speculation Tower. An antenna support structure designed for the purpose of providing location mounts for WTS facilities, without a binding written commitment or executed lease from a service provider to utilize or lease space on the tower at the time the application is submitted.

Stealth. WTS facilities including, but not limited to, microcells, antennas, equipment cabinets, and any other ancillary equipment that cannot be seen from any street or any adjacent property,

improved or unimproved, and that do not result in any apparent architectural changes or additions to existing buildings. The addition of landscaping, walls, fences, or grading as screening techniques does not make an otherwise visible WTS facility a stealth facility.

Telecommunications. The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Tower or WTS Tower. Any mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support antennas.

Whip Antenna. An antenna that transmits or receives signals in 360 degrees. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting.

Wireless Telecommunications System (WTS) Facility. Any facility that transmits and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission or receipt of these signals, including, but not limited to, telecommunications towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition also includes any facility that transmits radio or television signals. This definition does not apply to amateur radio stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.

F. General Standards. The Federal Telecommunications Act of 1996 establishes limitations on the siting standards that local governments can place on WTS facilities. Section 704 of the Act states that local siting standards shall not:

1) "unreasonably discriminate among providers of functionally equivalent services"

2) "prohibit or have the effect of prohibiting the provision of personal wireless services."

All applications for WTS facilities are subject to the standards in this Section to the extent that they do not violate Federal limitations on local siting standards. Where application of the standards found in this Section constitutes a violation, the least intrusive alternative for providing coverage shall be allowed as an exception to the standards.

1. Design for Co-Location. All new towers shall be designed to structurally accommodate the maximum number of additional users technically practicable.

2. Demonstrated Need for New WTS Facilities. Applications shall demonstrate that the proposed WTS facility is necessary to close a significant gap in service coverage or capacity for the carrier and is the least intrusive means to close the significant gap.

3. Lack of Coverage and Lack of Capacity. The application shall demonstrate that the gap in service cannot be closed by upgrading other existing facilities. In doing so, evidence shall clearly support a conclusion that the gap results from a lack of coverage and not a lack of capacity to achieve adequate service. If the proposed WTS facility is to improve capacity, evidence shall further justify why other methods for improving service capacity are not reasonable, available or effective.

4. Identify the Least Intrusive Alternative for Providing Coverage. The application shall demonstrate a good faith effort to identify and evaluate less intrusive alternatives, including, but not limited to, less sensitive sites, alternative design systems, alternative tower designs, the use of repeaters, or multiple facilities. Subsection F.5. defines the type of WTS facilities that are allowed in each zoning district.

5. Location of WTS Facilities by Type. Subsection E. defines various types of WTS facilities by their visual impact. These are: high visibility, moderate visibility, low visibility and stealth facilities. Table 4.3-1 lists the type of WTS facilities allowed in each of Springfield's zoning districts.

Table 4.3-1

Zoning Districts	Types Allowed
Special Heavy Industrial Heavy Industrial Light-Medium Industrial Quarry Mining Operations	High visibility Moderate visibility Low visibility Stealth
Community Commercial Campus Industrial Booth Kelly Mixed Use Major Retail Commercial Mixed Use Employment Mixed Use Commercial Medical Service Public Land and Open Space (1)	Moderate visibility Low visibility Stealth
Neighborhood Commercial General Office Low Density Residential Medium Density Residential High Density Residential Mixed Use Residential	Low visibility Stealth

(1) Moderate visibility WTS facilities in the Public Land and Open Space District are allowed only within the city limits.

6. Maximum Number of High Visibility WTS Facilities. No more than 1 high visibility facility is allowed on any 1 lot/parcel.

EXCEPTION: The Approval Authority may approve exceeding the maximum number of high visibility facilities per lot/parcel if one of the following findings is made:

a. Co-location of additional high visibility facilities is consistent with neighborhood character;

b. The provider has shown that denial of an application for additional high visibility WTS facilities would have the effect of prohibiting service because the proposed facility would fill a significant gap in coverage and no alternative locations are available and technologically feasible; or

c. The provider has shown that denial of an application for additional high visibility WTS facilities would unreasonably discriminate among providers of functionally equivalent services.

7. Separation between Towers. No new WTS tower may be installed closer than 2,000 feet from any existing or proposed tower unless supporting findings can be made under Subsections F.2., 3. and 4. by the Approval Authority.

8. WTS Facilities Adjacent to Residentially Zoned Property. In order to ensure public safety, all towers located on or adjacent to any residential zoning district shall be set back from all residential property lines by a distance at least equal to the height of the facility, including any antennas or other appurtenances. The setback shall be measured from that part of the WTS tower that is closest to the neighboring residentially zoned property.

9. Historic Buildings and Structures. No WTS facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historic register unless a finding is made by the Approval Authority that the proposed facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high or moderate visibility WTS facilities are permitted on any building or any site within a historic district. Proposed WTS facilities in the Historic Overlay District are also subject to the applicable provisions of Section 3.3-900.

10. Equipment Location. The following location standards shall apply to WTS facilities:

a. No WTS facility shall be located in a front, rear, or side yard building setback in any base zone and no portion of any antenna array shall extend beyond the property lines;

b. Where there is no building, the WTS facility shall be located at least 30 feet from a property line abutting a street;

c. For guyed WTS towers, all guy anchors shall be located at least 50 feet from all property lines.

11. Tower Height. Towers may exceed the height limits otherwise provided for in this Code. However, all towers greater than the height limit of the base zone shall require Discretionary Use approval through a Type III review process, subject to the approval criteria specified in Subsection I.

12. Accessory Building Size. All accessory buildings and structures built to contain equipment accessory to a WTS facility shall not exceed 12 feet in height unless a greater height is necessary and required by a condition of approval to maximize architectural integration. Each accessory building or structure located on any residential or public land and open space zoned property is limited to 200 square feet, unless approved through the Discretionary Use process.

13. Visual Impact. All WTS facilities shall be designed to minimize the visual impact to the greatest extent practicable by means of placement, screening, landscaping, and

camouflage. All facilities shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. The applicant shall use the least visible antennas reasonably available to accomplish the coverage objectives. All high visibility and moderate visibility facilities shall be sited in a manner to cause the least detriment to the viewshed of abutting properties, neighboring properties, and distant properties.

14. Minimize Visibility. Colors and materials for WTS facilities shall be nonreflective and chosen to minimize visibility. Facilities, including support equipment and buildings, shall be painted or textured using colors to match or blend with the primary background, unless required by any other applicable law.

15. Camouflaged Facilities. All camouflaged WTS facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with existing development on adjacent properties. The facility shall also be appropriate for the specific site. In other words, it shall not "stand out" from its surrounding environment.

16. Façade-Mounted Antenna. Façade-mounted antennas shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas shall be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not extend more than 2 feet out from the building face.

17. Roof-Mounted Antenna. Roof-mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.

18. Compliance with Photo Simulations. As a condition of approval and prior to final staff inspection of the WTS facility, the applicant shall submit evidence, e.g., photos, sufficient to prove that the facility is in substantial conformance with photo simulations provided with the initial application. Nonconformance shall require any necessary modification to achieve compliance within 90 days of notifying the applicant.

19. Noise. Noise from any equipment supporting the WTS facility shall comply with the regulations specified in OAR 340-035-0035.

20. Signage. No signs, striping, graphics, or other attention-getting devices are permitted on any WTS facility except for warning and safety signage that shall:

a. Have a surface area of no more than 3 square feet;

b. Be affixed to a fence or equipment cabinet; and

c. Be limited to no more than 2 signs, unless more are required by any other applicable law.

21. Traffic Obstruction. Maintenance vehicles servicing WTS facilities located in the public or private right-of-way shall not park on the traveled way or in a manner that obstructs traffic.

22. Parking. No net loss in required on-site parking spaces shall occur as a result of the installation of any WTS facility.

23. Sidewalks and Pathways. Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land.

24. Lighting. WTS facilities shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Approval Authority shall review any available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply with the outdoor lighting standards in Section 4.5-100, unless required by any other applicable law.

25. Landscaping. For WTS facilities with towers that exceed the height limitations of the base zone, at least 1 row of evergreen trees or shrubs, not less than 4 feet high at the time of planting, and spaced out not more than 15 feet apart, shall be provided in the landscape setback. Shrubs shall be of a variety that can be expected to grow to form a continuous hedge at least 5 feet in height within 2 years of planting. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys. In all other cases, the landscaping, screening and fence standards specified in Section 4.4-100 shall apply.

26. Prohibited WTS Facilities.

a. Any high or moderate visibility WTS facility in the Historic Overlay District.

b. Any WTS facility in the public right-of-way that severely limits access to abutting property, which limits public access or use of the sidewalk, or which constitutes a vision clearance violation.

c. Any detached WTS facility taller than 150 feet above finished grade at the base of the tower.

27. Speculation. No application shall be accepted or approved for a speculation WTS tower, i.e., from an applicant that simply constructs towers and leases tower space to service carriers, but is not a service carrier, unless the applicant submits a binding written commitment or executed lease from a service carrier to utilize or lease space on the tower.

G. Application Submittal Requirements. All applications for a WTS facility shall provide the following reports, documents or documentation:

1. Submittal Requirements for Low Visibility and Stealth Facilities (Type I review). All applications for low visibility and stealth WTS facilities shall submit the following reports and documentation:

a. Narrative. The application shall include a written narrative that describes in detail all of the equipment and components proposed to be part of the WTS facility,

including, but not limited to, towers, antennas and arrays, equipment cabinets, back-up generators, air conditioning units, lighting, landscaping and fencing.

b. Geographic Service Area. The applicant shall identify the geographic service area for the proposed WTS facility, including a map showing all of the applicant's and any other existing sites in the local service network associated with the gap the facility is meant to close. The applicant shall describe how this service area fits into and is necessary for the service provider's service network.

The service area map for the proposed WTS facility shall include the following:

i. The area of significant gap in the existing coverage area;

ii. The service area to be effected by the proposed WTS facility;

iii. The locations of existing WTS tower facilities where co-location is possible within a 5-mile radius of the proposed WTS facility.

c. Co-Location. An engineer's analysis/report of the recommended site location area is required for the proposed WTS facility. If an existing structure approved for co-location is within the area recommended by the engineer's report, reasons for not collocating shall be provided demonstrating at least one of the following deficiencies:

i. The structure is not of sufficient height to meet engineering requirements;

ii. The structure is not of sufficient structural strength to accommodate the WTS facility, or there is a lack of space on all suitable existing towers to locate proposed antennas;

iii. Electromagnetic interference for one or both WTS facilities will result from co-location; or

iv. The radio frequency coverage objective cannot be adequately met.

d. Plot Plan. A plot plan showing: the lease area, antenna structure, height above grade and setback from property lines, equipment shelters and setback from property lines, access, the connection point with the land line system, and all landscape areas intended to screen the WTS facility.

e. RF Emissions. An engineer's statement that the RF emissions at grade, or at nearest habitable space when attached to an existing structure, complies with FCC rules for these emissions; the cumulative RF emissions if co-located. Provide the RF range in megahertz and the wattage output of the equipment.

f. Description of Service. A description of the type of service offered including, but not limited to: voice, data, video and the consumer receiving equipment.

g. Provider Information. Identification of the provider and backhaul provider, if different.

h. Zoning and Comprehensive Plan Designation. Provide the zoning and applicable comprehensive plan (e.g., Metro Plan, 2030 Springfield Refinement Plan) designation of the proposed site and the surrounding properties within 500 feet.

i. FCC, FAA or Other Required Licenses and Determinations. Provide a copy of all pertinent submittals to the FCC, FAA or other State or Federal agencies including environmental assessments and impact statements, and data, assumptions, calculations, and measurements relating to RF emissions safety standards.

2. Submittal Requirements for Moderate and High Visibility Facilities (Type III Review). Applications for moderate and high visibility WTS facilities shall require all of the required materials for low visibility and stealth WTS facilities specified in Subsection G.1. In addition to the applicable Site Plan and Discretionary Use application requirements, WTS applications shall require the applicant to address the following:

a. Height. Provide an engineer's diagram showing the height of the WTS facility and all of its visible components, including the number and types of antennas that can be accommodated. Carriers shall provide evidence that establishes that the proposed WTS facilities are designed to the minimum height required from a technological standpoint to meet the carrier's coverage objectives. If the WTS facility tower height will exceed the height restrictions of the applicable base zone, the narrative shall include a discussion of the physical constraints, e.g., topographical features, making the additional height necessary. The narrative shall include consideration of the possibility for design alternatives, including the use of multiple sites or microcell technology that would avoid the need for the additional height for the proposed WTS facility.

b. Construction. Describe the anticipated construction techniques and timeframe for construction or installation of the WTS facility to include all temporary staging and the type of vehicles and equipment to be used.

c. Maintenance. Describe the anticipated maintenance and monitoring program for the antennas, back-up equipment, and landscaping.

d. Noise/Acoustical Information. Provide the manufacturer's specifications for all noise-generating equipment including, but not limited to, air conditioning units and back-up generators, and a depiction of the equipment location in relation to abutting properties.

e. Landscaping and Screening. Discuss how the proposed landscaping and screening materials will screen the site at maturity.

f. Co-Location. In addition to the co-location requirements specified in Subsection G.1.c., the applicant shall submit a statement from an Oregon registered engineer certifying that the proposed WTS facility and tower, as designed and built, will accommodate co-locations, and that the facility complies with the non-ionizing

electromagnetic radiation emission standards as specified by the FCC. The applicant shall also submit:

i. A letter stating the applicant's willingness to allow other carriers to co-locate on the proposed facilities wherever technically and economically feasible and aesthetically desirable;

ii. A copy of the original Site Plan for the approved existing WTS facility updated to reflect current and proposed conditions on the site; and

iii. A depiction of the existing WTS facility showing the proposed placement of the co-located antenna and associated equipment. The depiction shall note the height, color and physical arrangement of the antenna and equipment.

g. Lease. If the site is to be leased, a copy of the proposed or existing lease agreement authorizing development and operation of the proposed WTS facility.

h. Legal Access. The applicant shall provide copies of existing or proposed easements, access permits and/or grants of right-of-way necessary to provide lawful access to and from the site to a City street or a State highway.

i. Lighting and Marking. Any proposed lighting and marking of the WTS facility, including any required by the FAA.

j. Utilities. Utility and service lines for proposed WTS facilities shall be placed underground.

k. Alternative Site Analysis. The applicant shall include an analysis of alternative sites and technological design options for the WTS facility within and outside of the City that are capable of meeting the same service objectives as the proposed site with an equivalent or lesser visual or aesthetic impact. If a new tower is proposed, the applicant shall demonstrate the need for a new tower, and why alternative locations and design alternatives, or alternative technologies including, but not limited to microcells and signal repeaters, cannot be used to meet the identified service objectives.

l. Visual Impact Study and Photo Simulations. The applicant shall provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette, and screening for all components of the proposed WTS facility. The analysis shall include photo simulations and other information necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken.

3. Independent Consultation Report.

a. Review and approval of WTS facilities depends on highly specialized scientific and engineering expertise not ordinarily available to Springfield staff or to residents who may be adversely impacted by the proposed development of these

facilities. Therefore, in order to allow the Approval Authority to make an informed decision on a proposed WTS facility, the Director may require the applicant to fund an independent consultation report for all new moderate and high visibility facilities. The consultation shall be performed by a qualified professional with expertise pertinent to the scope of the service requested.

b. The scope of the independent consultation shall focus on the applicant's alternatives analysis. The consultant will evaluate conclusions of applicant's analysis to determine if there are alternative locations or technologies that were not considered or which could be employed to reduce the service gap but with less visual or aesthetic impact. There may be circumstances where this scope may vary but the overall objective shall be to verify that the applicant's proposal is safe and is the least impactful alternative for closing the service gap.

c. The applicant shall be informed of the Director's decision about the need for an independent consultation at the time of the Pre-Submittal Meeting that is required under Section 5.1-120C. It is anticipated that the independent consultation will be required when the applicant proposes to locate a moderate or high visibility WTS facility in a residential zoning district or within 500 feet of a residential zoning district. Other instances where a proposed WTS facility may have a visual or aesthetic impact on sensitive neighborhoods could also prompt the Director to require an independent consultation.

H. Review Process. The review process is determined by the type of WTS facility or activity that is proposed. High or moderate visibility WTS facilities, defined in Subsection E., require Type III Planning Commission or Hearings Official review. Low visibility or stealth facilities, and the co-location of new equipment of existing facilities are allowed under a Type I staff review with applicable building or electrical permits. Routine equipment repair and maintenance do not require planning review; however, applicable building and electrical permits are required.

1. Development Issues Meeting. A Development Issues Meeting (DIM) as specified in Subsection 5.1-120A. is required only for high and moderate visibility WTS facility applications. Applicable development standards as specified in Subsection F. and submittal requirements as specified in Subsection G., will be discussed at the DIM.

2. Type I Review Process. The following WTS facilities are allowed with the approval of the Director with applicable building and electrical permits:

a. Stealth and low visibility WTS facilities, as defined in Subsection E., in any zoning district.

b. Façade-mounted antennas or low powered networked telecommunications facilities, e.g., as those employing microcell antennas integrated into the architecture of an existing building in a manner that no change to the architecture is apparent and no part of the WTS facility is visible to public view.

c. Antennas or arrays that are hidden from public view through the use of architectural treatments, e.g., within a cupola, steeple, or parapet which is consistent with the applicable building height limitation.

d. New antennas or arrays including side-mounted antennas and small top-mounted antennas that are attached to an existing broadcast communication facility located in any zone. No more than 3 small top-mounted antennas shall be placed on the top of any one facility without a Type III review.

e. To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas or arrays on existing towers shall take precedence over the construction of new towers, provided the co-location is accomplished in a manner consistent with the following:

i. An existing tower may be modified or rebuilt to a taller height to accommodate the co-location of additional antennas or arrays, as long as the modified or rebuilt tower will not exceed the height limit of the applicable zoning district. Proposals to increase the height of a tower in a residential zoning district, or within 500 feet of a residential zoning district shall be reviewed under a Type III process. The height change may only occur one time per tower.

ii. An existing tower that is modified or reconstructed to accommodate the co-location of additional antennas or arrays shall be of the same tower type and reconstructed in the exact same location as the existing tower.

f. WTS facilities proposed within the public right-of-way on an existing utility or light pole in any zoning district, so long as they meet all of the following:

i. The antennas do not project more than 24 inches above the existing utility pole support structure;

ii. No more than a total of 2 antennas or antenna arrays are located on a single pole; and

iii. The equipment cabinet is no larger than 6 cubic feet and is concealed from public view by burying or screening by means other than walls or fences.

g. Co-location of antennas or arrays on existing WTS facilities.

h. The Director will use the applicable criteria specified in Subsection I. to evaluate the proposal.

3. Type III Review Process. The Planning Commission or Hearings Official review and approve a Discretionary Use application and a concurrently processed Site Plan Review application for the following WTS facilities:

a. High visibility and moderate visibility WTS facilities.

b. All other locations and situations not specified in Subsections H.2. and 3.

c. The Planning Commission or Hearings Official will use the applicable criteria specified in Subsection I. in place of the Discretionary Use criteria in Section 5.9-120 to evaluate the proposal.

4. Council Notification and Possible Review.

a. A briefing memorandum shall be prepared and submitted to the City Council upon receipt of an application for a high or moderate visibility or any other WTS facility subject to review by the Planning Commission. By action of the City Council, an application for a facility proposed within the city limits may be elevated for direct City Council review. In those instances where an application is elevated for direct review, the City Council shall be the Approval Authority and will use the applicable criteria specified in Subsection I. in place of the Discretionary Use criteria in Section 5.9-120 to evaluate the proposal.

b. By agreement with Lane County, the Hearings Official shall be the Approval Authority for applications outside of the city limits but inside of the Springfield Urban Growth Boundary. The Hearings Official will use the applicable criteria specified in Subsection I. in place of the Discretionary Use criteria in Section 5.9-120 to evaluate the proposal.

I. Approval Criteria.

1. Low Visibility and Stealth WTS Facility Applications. The Director shall approve the low visibility and stealth WTS facility applications upon a determination that the applicable standards specified in Subsection F. and the submittal requirements specified in Subsection G. are met.

2. Moderate and High Visibility WTS Facility Applications. The Approval Authority shall approve moderate visibility and high visibility WTS facility applications upon a determination that the applicable standards specified in Subsection F. and the submittal requirements specified in Subsection G. are met. Through the Discretionary Use review, the Approval Authority shall also determine if there are any impacts of the proposed WTS facility on adjacent properties and on the public that can be mitigated through application of other Springfield Development Code standards or conditions of approval as specified in Subsection J.

J. Conditions of Approval. For Type III applications, the Approval Authority may impose any reasonable conditions deemed necessary to achieve compliance with the approval criteria as allowed by Section 5.9-125.

K. Maintenance. The property owner and the carrier in charge of the WTS facility and tower shall maintain all equipment and structures, landscaping, driveways and mitigating measures as approved. Additionally:

1. All WTS facilities shall maintain compliance with current RF emission standards of the FCC, the National Electric Safety Code, and all State and local regulations.

2. All equipment cabinets shall display a legible operator's contact number for reporting maintenance problems.

L. Inspections.

1. The City shall have the authority to enter onto the property upon which a WTS facility is located to inspect the facility for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City and Federal and State law.

2. The City reserves the right to conduct inspections at any time, upon reasonable notice to the WTS facility owner. In the event the inspection results in a determination that violation of applicable construction and maintenance standards established by the City has occurred, remedy of the violation may include cost recovery for all City costs incurred in confirming and processing the violation.

M. Abandonment or Discontinuation of Use. The following requirements apply to the abandonment and/or discontinuation of use for all WTS facilities:

1. All WTS facilities located on a utility pole shall be promptly removed at the operator's expense at any time a utility is scheduled to be placed underground or otherwise moved.

2. All operators who intend to abandon or discontinue the use of any WTS facility shall notify the City of their intentions no less than 60 days prior to the final day of use.

3. WTS facilities shall be considered abandoned 90 days following the final day of use or operation.

4. All abandoned WTS facilities shall be physically removed by the service provider and/or property owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.

5. The City reserves the right to remove any WTS facilities that are abandoned for more than 90 days at the expense of the facility owner.

6. Any abandoned site shall be restored to its natural or former condition. Grading and landscaping in good condition may remain.

N. Review of WTS Facilities Standards. In the event that the Federal or State government adopts mandatory or advisory standards more stringent than those described in this Section, staff will prepare a report and recommendation for the City Council with recommendations on any necessary amendments to the City's adopted standards. (6359, 6292)