

## **Chapter 105 – WIRELESS TELECOMMUNICATIONS FACILITIES (WTFs)**

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## Chapter 105 – WIRELESS TELECOMMUNICATIONS FACILITIES (WTFs)

### ARTICLE I. – IN GENERAL

#### Sec. 105-01. – Purpose.

The purpose of this chapter is to establish a comprehensive set of zoning and siting requirements for antennas and wireless telecommunications facilities. These regulations are intended to provide for the managed development of antennas and wireless telecommunications facilities in a manner that recognizes and enhances the community benefits of wireless telecommunications technology and reasonably accommodates the needs of citizens and wireless telecommunications service providers in accordance with federal and state rules and regulations. At the same time, these regulations are intended to protect neighbors from potential adverse impacts of such facilities, including but not limited to noise, traffic, aesthetic and other impacts over which the city has purview, and to preserve the visual character of the established community through appropriate design, siting, screening, maintenance and location standards. (La. Const. Art. VI, §17).

#### Sec. 105-02. – Abbreviations and Definitions.

The following abbreviations are used within this Chapter and in Article 22 of the Shreveport Unified Development:

“COC” is an abbreviation for “Certificate of Completion.”

“MPC” is an abbreviation for the Shreveport “Metropolitan Planning Commission” of Caddo Parish.

“MPE” is an abbreviation for “maximum permissible exposure.”

“ROW” is an abbreviation for City public “Right-of-Way” and/or “Rights-of-Way.”

“RF” is an abbreviation for “radio frequency.”

“SUP” is an abbreviation for “Special Use Permit.”

“UDC” is an abbreviation for the Shreveport “Unified Development Code.”

“WTF” is an abbreviation for “Wireless Telecommunications Facility.”

“WTFs” is an abbreviation for “Wireless Telecommunications Facilities.”

“WTFP” is an abbreviation for “Wireless Telecommunications Facility Permit.”

“WTFPs” is an abbreviation for “Wireless Telecommunications Facility Permits.”

The following words, terms, phrases and abbreviations in this Chapter and as may be referenced in the Shreveport Unified Development Code shall have the meaning given below unless the context indicates otherwise. These meanings shall apply whether a word is in italics or not, capitalized or not, or is singular or plural.

**Antenna.** Any system of wires, poles, rods, panels, reflecting discs or similar devices used for the transmission or reception of radio frequency electromagnetic waves when such system is external and attached to the exterior of a structure or pole.

**Antenna, building – or structure – mounted.** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank or structure, other than a telecommunication tower.

**Antenna, ground-mounted.** An antenna with its support structure placed directly on the ground.

**Antenna structure, monopole.** A ground-mounted antenna structure, often tubular in shape, made of metal, reinforced concrete or wood, which is at least 17 feet in height. A retractable monopole is a

monopole antenna structure which is capable of being lowered, either manually or electronically, a vertical distance of at least 30% of its fully extended height.

**Base station** has the same meaning as provided in 47 C.F.R. §1.40001(b)(1), as may be amended, which defines that term as follows:

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless telecommunications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. §1.40001(b)(9) or any equipment associated with a tower.

1. The term includes, but is not limited to, equipment associated with wireless telecommunications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).
3. The term includes any structures other than a tower that, at the time the relevant application is filed under this section, supports or houses equipment described in subsections 1 and 2 of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
4. The term does not include any structure that, at the time the relevant application is filed under this section, does not support or house equipment described in subsections 1 and 2 of this definition.

As an illustration and not a limitation, the FCC's definition refers to any structure that actually supports wireless equipment even though it was not originally intended for the purpose. Examples include, but are not limited to, wireless facilities mounted on buildings, utility poles and transmission towers, light standards or traffic signals. A structure without wireless equipment replaced with a new structure designed to bear the additional weight from wireless equipment constitutes a base station.

**Co-location** has the same meaning as provided in 47 C.F.R. §1.40001(b)(2), as may be amended, which defines that term as "[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the FCC's definition effectively means "to add" new equipment to an existing facility and does not necessarily refer to more than one wireless facility installed at a single site.

**Distributed antenna system** or **DAS** means a network of one or more antennas and related fiber optic nodes typically mounted to or located at streetlights poles, utility poles, sporting venues, arenas or convention centers which provide access and signal transfer for wireless service providers. A distributed antenna system also includes the equipment location, sometimes called a "hub" or "hotel" where the DAS network is interconnected with one or more wireless service provider's facilities to provide the signal transfer service.

**Eligible facilities** request has the same meaning as provided in 47 C.F.R. §1.40001(b)(3), as may be amended, which defines that term as "[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) [c]ollocation of new transmission equipment; (ii) [r]emoval of transmission equipment; or (iii) [r]eplacement of transmission equipment."

**Eligible support structure** has the same meaning as provided in 47 C.F.R. §1.40001(b)(4), as may be amended, which defines that term as "[a]ny tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the state or local government under this section."

**Enclosure building, shed, or shelter** means a building, shed, fence, or other enclosure used to house equipment associated with a wireless telecommunications facility.

**Equipment cabinet** means a cabinet used to house equipment associated with a wireless telecommunications facility.

**Existing** has the same meaning as provided in 47 C.F.R. §1.40001(b)(4), as may be amended, which provides that “[a] constructed tower or base station is existing for purposes of [the FCC’s Section 6409(a) regulations] if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.”

**Federal Communications Commission (“FCC”)** is an independent United States government agency responsible for the regulation of interstate and international communications by radio, television, wire, satellite, and cable.

**Height of a wireless telecommunications facility** means the vertical distance measured from the natural undisturbed ground surface below the center of the base of said facility to the top of the facility itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted facilities the height of the facility includes the height of the portion of the building on which it is mounted. In the case of crank-up or other similar towers whose height can be adjusted, the height of the facility shall be the maximum height to which it is capable of being raised.

**Monopole** means a single freestanding pole, post, or similar non-lattice structure used to support antennas and equipment associated with a wireless telecommunications facility.

**Mount** means to attach, fix, or otherwise place antenna(s) to or on a structure or building.

**Necessary or Necessity or Need** all mean what is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in the effect of prohibiting the provision of service as intended and described in the narrative of the Application. *Necessary, necessity* or *need* does not mean what may be desired, preferred or the most cost-efficient approach and is not related to an applicant’s specific chosen standards.

**Personal wireless service facilities** has the same meaning as provided in 47 U.S.C.. § 332(c)(7)(C)(ii), as may be amended, which defines the term as “facilities for the provision of personal wireless services.”

**Personal wireless services** has the same meaning as provided in 47 U.S.C.. § 332(c)(7)(C)(i), as may be amended, which defines the term as “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”

**Public right-of-way** means any property owned by the City or dedicated for public use as roadways, alleys, streets, avenues, bridges, drainage, and other similar uses.

**Public safety facilities** mean facilities used only for public safety functions such as police, fire and emergency operations.

**Radio frequency (“RF”)** is a rate of oscillation, which corresponds to the frequency of radio waves, and the alternating currents which carry radio frequency, electromagnetic, or other wireless signals.

**Related equipment** means all equipment ancillary to the antenna used for transmission and reception of radio frequency, electromagnetic, or other wireless signals. Such equipment may include, but is not limited to, cable, conduit and connectors.

**Roof-mounted or building-mounted antenna** means an antenna directly attached or affixed to the roof of, on the facade, or elsewhere on an existing building, tank or similar structure other than a wireless telecommunications facility.

**Section 6409(a)** means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended from time to time.

**Section 6409(a) modification** means any eligible facilities request that does not cause a substantial change and submitted for approval pursuant to Section 6409(a) and the FCC's regulations at 47 C.F.R. § 1.40001 et seq.

**Significant gap** means a gap in a wireless provider's own personal wireless services that is demonstrably significant based on scientifically valid and reliable data and other substantial evidence.

**Site** has the same meaning as provided in 47 C.F.R. § 1.40001(b)(6), as may be amended, which provides that "[f]or towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground."

**Small Wireless Facility** means a wireless facility that meets the following qualifications:

1. all equipment associated with the facility, including antennas and electronics, would fit within an enclosure no larger than three (3) cubic feet, and cumulatively in the aggregate for multiple arrays and associated equipment on a single structure, six (6) cubic feet; and
2. all equipment enclosures associated with the co-location on any single structure, including all associated equipment on the ground associated with an antenna on the structure, and all associated equipment physically on the structure shall be limited cumulatively to no more than seventeen (17) cubic feet in volume.

Further, small wireless facilities shall comply with the design standards, including concealment requirements, pursuant to sub-section 22.9 of the Shreveport UDC. Collocations under this definition shall be limited to those that cause no new ground disturbance.

**Stealth facility** means any wireless telecommunications facility which is designed to blend into the surrounding environment by means of screening, concealment, or camouflage. The antenna and related equipment are either not readily visible beyond the property on which they are located, or, if visible, appear to be part of the existing natural or built environment rather than as a wireless telecommunications facility.

**Substantial change** has the same meaning as provided in 47 C.F.R. § 1.40001(b)(7), as may be amended, which defines that term differently based on the particular facility type and location. For clarity, the definition in this chapter organizes the FCC's criteria and thresholds for a substantial change according to the facility type and location.

1. For towers outside the public rights-of-way, a substantial change occurs when:
  - a. The proposed co-location or modification increases the overall height more than ten percent (10%) or the height of one additional antenna array not to exceed twenty (20) feet (whichever is greater); or
  - b. The proposed co-location or modification increases the width more than twenty (20) feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
  - c. The proposed co-location or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
  - d. The proposed co-location or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.

2. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
  - a. The proposed co-location or modification increases the overall height more than ten percent (10%) or ten (10) feet (whichever is greater); or
  - b. The proposed co-location or modification increases the width more than six (6) feet from the edge of the wireless tower or base station; or
  - c. The proposed co-location or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
  - d. The proposed co-location or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10%) larger in height or volume than any existing ground-mounted equipment cabinets; or
  - e. The proposed co-location or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
3. In addition, for all towers and base stations wherever located, a substantial change occurs when:
  - a. The proposed co-location or modification would defeat the existing concealment elements of the support structure as determined by the City Engineer; or
  - b. The proposed co-location or modification violates a prior condition of approval; provided, however, that the co-location need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.
4. As to all measurements set forth herein, the following principles shall govern:
  - a. The thresholds for height increases are cumulative limits.
  - b. For sites with horizontally separated deployments, the cumulative limit is measured from the originally permitted support structure without regard to any increases in size due to wireless equipment not included in the original design.
  - c. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date of passage of Section 6409(a).

**Tower** has the same meaning as provided in 47 C.F.R. § 1.40001(b)(9), as may be amended, which defines that term as “[a]ny structure built for the sole or primary purpose of supporting any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless telecommunications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.” Examples include, but are not limited to, monopoles, mono-trees and lattice towers.

**Transmission equipment** has the same meaning as provided in 47 C.F.R. § 1.40001(b)(8), as may be amended, which defines that term as “[e]quipment that facilitates transmission for any [FCC]-licensed or authorized wireless telecommunications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless telecommunications services including, but not limited to, private, broadcast, public safety services, as well as fixed wireless services, such as microwave backhaul.”

**Wireless telecommunications facility (“WTF”)** means an unstaffed facility, generally consisting of antennas, an equipment cabinet or enclosure building, shed, or shelter, and related equipment, which receives and/or transmits radio frequency, electromagnetic, or other wireless signals for the purpose of transmitting voice or data.

**Wireless Telecommunications Facility Permit (“WTFP”)** means the official document or permit by which an Applicant is allowed to file for a Building Permit to construct and use a Wireless Telecommunications Facility (WTF), in accordance with the requirements of Article 22 of the Shreveport UDC and/or this Chapter 105 of the Shreveport City Code.

**Sec. 105.03. – Chapter Applicability and Severability.**

- A. ***Territorial and General Applicability.*** This Chapter applies to property within the City of Shreveport, Louisiana. In its interpretation and application, the provisions of this Chapter are held to be the minimum requirements for the promotion and protection of the public health, safety, and welfare.
- B. ***Severability.*** If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

Secs. 105-04. – 105.19. Reserved

**ARTICLE II. – GENERAL REGULATIONS****Sec.105-20. – Permits required.**

A person who proposes to install or operate a wireless telecommunications facility on public or private property shall first obtain approval, as set forth below.

- A. ***WTF Special Use Permit.*** With the exception of any facility eligible for a WTF Section 6409(a) permit, a WTF Special Use Permit (SUP) issued in accordance with the procedures set forth in Articles 5 and 6 of the Shreveport Unified Development Code shall be required for the installation of a wireless telecommunications facility, monopole or any other antenna structure constructed by or for a service provider.
- B. ***WTF Section 6409(a) Permit.*** A WTF Section 6409(a) permit shall be required for any Section 6409(a) modification to ensure all prior conditions of approval related to concealment or reasonably related to public health and safety are met.
- C. ***Building permit.*** A building permit shall be required for each antenna or antenna structure, unless it is specifically exempted.
- D. ***Right of way permit.*** A right of way permit shall be required for accessing, working, or staging within the public right of way or on public property.

**Sec. 105-21. – Application submittal requirements.**

A. Applications for wireless telecommunications facilities shall submit the following information:

<b>SCHEDULE 105-04. APPLICATION SUBMITTAL REQUIREMENTS</b>	<b>Facilities requiring WTF Special Use Permits (SUP)</b>	<b>Facilities requiring WTF Section 6409(a) Permits</b>
<b>Submittal Information Required for Applications</b>		
A completed wireless telecommunications facility permit application form, together with all applicable fees	●	●
Application materials for a WTF special use permit, as provided in Article 22 of the Shreveport UDC.	●	NA
Vicinity map depicting major roads and highways and including topographic areas within both a 200 foot radius and a 1,000 foot radius from the proposed WTF	● S-1	●
Site plan including and identifying:	●	●
a. All facility-related support and protection equipment;	● S-2	● S-3
b. A description of general project information, including the type of facility, number of antennas, height to top of antenna(s), radio frequency range, wattage output of equipment, and a statement of compliance with current FCC requirements.	●	●
c. Indication of the fall zone as a shaded circle.	●	●
d. Elevations of all proposed telecommunications structures and appurtenances, and composite elevations from the street(s) showing the proposed project and all buildings on the site.	●	●
e. Landscape plan depicting existing vegetation, vegetation to be removed, and proposed paintings by type, size, and location.	● S-4	●
Photo simulations, photo-montage, story poles, elevations and/or other visual or graphic illustrations necessary to determine potential visual impact of the proposed project.	●	NA
Visual impact demonstrations shall include accurate scale and coloration of the proposed facility. The visual simulation shall show the proposed structure as it would be seen from surrounding locations. The city may also require the simulation analyzing stealth designs, and/or on-site demonstration mock-ups before the public hearing.	●	NA
<b>KEY:</b>		
●	Listing information required	
NA	Listing information not required	
S	Additional information required (following schedule)	

<b>SCHEDULE 105-04.</b> <b>APPLICATION SUBMITTAL REQUIREMENTS</b>  <b>Submittal Information Required for Applications</b>	<b>Facilities requiring WTF Special Use Permits (SUP)</b>	<b>Facilities requiring WTF Section 6409(a) Permits</b>
Noise and acoustical information for the base transceiver station(s), equipment buildings, and associated equipment such as air conditioning units and back-up generators. Such information shall be provided by a qualified firm or individual, approved by the city, and paid for by the project applicant.	●	●
A radio frequency (RF) analysis conducted and certified by a state licensed/registered RF engineer or qualified consultant to determine the maximum potential RF power density of the proposed WTF at full buildout, along with a comparison of the maximum RF exposure calculations at ground level with the FCC's RF safety standards. The engineer shall use accepted industry standards for evaluating compliance with FCC guidelines for human exposure to RF, such as OET Bulletin 65, or any superseding reports/standards. The RF analysis shall be provided by a qualified firm or individual, approved by the city, and paid for by the project applicant.	●	●
A cumulative impact analysis for the proposed facility and other WTFs on the project site or within (a) 1,000 feet and (b) 300 feet of the proposed WTF site. The analysis shall include all existing and proposed WTFs on or near the site, dimensions of all antennas and support equipment on or near the site, power rating for all existing and proposed back-up equipment, and a report estimating the ambient RF fields and maximum potential cumulative electromagnetic radiation at, and surrounding, the proposed site that would result if the proposed WTF were operating at full buildout.	●	NA
Statement by the applicant of willingness to allow other carriers to co-locate on their facilities wherever technically and economically feasible and aesthetically desirable.	●	NA
A signed copy of the proposed property lease agreement, exclusive of the financial terms of the lease, including provisions for removal of the WTF and appurtenant equipment within 90 days of its abandonment and provisions for city access to the WTF for removal where the provider fails to remove the WTF and appurtenant equipment within 90 days of its abandonment pursuant to this ordinance. The final agreement shall be submitted at the building permit stage.	●	NA
<b>KEY:</b> ● Listing information required NA Listing information not required S Additional information required (following schedule)		

<b>SCHEDULE 105-04.</b> <b>APPLICATION SUBMITTAL REQUIREMENTS</b>  <b>Submittal Information Required for Applications</b>	<b>Facilities requiring WTF Special Use Permits (SUP)</b>	<b>Facilities requiring WTF Section 6409(a) Permits</b>
<p>An evidence of <i>needs</i> report detailing operational and capacity <i>needs</i> of the provider's system within the city and the immediate area adjacent to the city. The report shall detail how the proposed WTF is technically <i>necessary</i> to address current demand and technical limitations of the current system, including technical evidence regarding significant gaps in the provider's coverage, if applicable, and that there are no less intrusive means to close that significant gap. Such report shall be evaluated by a qualified firm or individual, chosen by the city, and paid for by the project applicant. The qualified firm or individual chosen by the city may request additional information from the applicant to sufficiently evaluate the proposed project.</p>	●	NA
<p>A security plan, including emergency contact information, main breaker switch, emergency procedures to follow.</p>	●	●
<p>A description of the anticipated maintenance program and back-up generator power testing schedule.</p>	●	●
<p>A written statement and supporting information regarding alternative site selection and co-location opportunities in the service area. The application shall describe the preferred location sites within the geographic service area, a statement why each alternative site was rejected, a contact list used in the site selection process, and a statement and evidence of refusal regarding lack of co-location opportunities.</p>	●	NA
<p>A copy of the original Special Use Permit (SUP) or other regulatory approval for the wireless telecommunications facility, if any such approval is claimed by applicant.</p>	●	NA
<p>Additional information determined to be necessary in order to properly assess a particular application.</p>	●	NA
<p><b>Additional Information Required (KEY):</b></p>		
<p><b>S-1:</b> In addition, the vicinity map shall depict the distance of the proposed WTF from existing residentially designated or zoned areas, existing residences, schools, major roads and highways, and all other WTF sites and facilities (including other providers' locations) within a 1,000 feet radius shall be delineated on the vicinity map.</p>		
<p><b>S-2:</b> The number, size and content of plans shall be determined by the City Engineer.</p>		
<p><b>S-3:</b> The site plan shall also include all of the listed information for the facility as it existed on February 22, 2012, the date of passage of Section 6409(a).</p>		
<p><b>S-4:</b> If deemed necessary, the City Engineer may require a report by a licensed landscape architect to verify project impacts on existing vegetation. This report may recommend protective measures to be implemented during and after construction. Where deemed appropriate by the City Engineer, a landscape plan may be required for the entire parcel and leased area.</p>		

**Sec. 105-22. – Findings.**

The MPC and/or the City Engineer considering a WTF Section 6409(a) Permit or a WTF Special Use Permit or may approve the permit only upon making the finding, in addition to the findings which may be otherwise required for the particular permit, that each applicable requirement in Section 105-23 (General land use and design standards) and Section 105-66 (Discontinuance of use) have been satisfied, or an exception has been granted under Section 105-26 (Exceptions).

**Sec. 105-23. – General land use and design standards.**

Within the boundaries of the City of Shreveport, all wireless telecommunications facilities must comply with the land use and design standards established by Article 22 of the Shreveport Unified Development Code.

**Sec. 105-24. – Interference.**

To the extent allowed under applicable federal rules and regulations, the operator of a wireless telecommunications facility shall correct interference problems experienced by any person or entity with respect to equipment such as television, radio, computer, and telephone reception or transmission that are caused by the facility. If a federal agency with jurisdiction over such matters finds that a facility is operating in violation of federal standards, the operator shall bring the facility into conformance with such standards within the conformance period established by the federal agency. In the event that the federal agency does not establish a conformance period, the operator shall bring the facility into conformance within thirty (30) days of notification by the federal agency. The operator is under an affirmative duty to promptly provide the City Engineer with a copy of any notice of such violation issued by any federal agency. Any violation of the provisions of this section shall be grounds for the city to terminate any permit granted hereunder and/or to order the immediate service termination of the facility. The operator shall be responsible for all labor and equipment costs for determining the source of the interference, all costs associated with eliminating the interference (including but not limited to filtering, installing radio frequency cavities, installing directional antennas, powering down systems and engineering analysis), and all costs arising from third party claims against the city attributable to such interference.

**Sec. 105-25. – Public health.**

No wireless telecommunications facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to the public health.

To that end, no facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the FCC's maximum permissible exposure (MPE) limits for general population/ uncontrolled RF exposure in all sectors for electric and magnetic field strength and power density for transmitters or any more restrictive standard subsequently adopted or promulgated by the city, parish, state or federal government. Absolute compliance with FCC Office of Engineering Technology (OET) Bulletin 65, as amended, is mandatory, and any violation of this section shall be grounds for the city to immediately terminate any permit granted hereunder, or to order the immediate service termination of any nonpermitted, noncomplying facility constructed within the city.

**Sec. 105-26. – Exceptions.**

In accordance with 47 U.S.C. § 332(c)(7), the City Engineer or the MPC may grant an exception to any requirement of this article that is not met upon finding that:

- (a) The applicant has demonstrated and confirmed that the wireless telecommunications facility is necessary to close a significant gap in the wireless provider's personal wireless service; and

- (b) There is no less intrusive means to close that significant gap that more closely meets the purpose, intent and findings of this chapter; and
- (c) Strict compliance precludes the reasonable accommodation of the communication needs of the operator as set forth in federal and/or state rules and regulations.

**Sec. 105-27. – Standard conditions of approval.**

Unless modified by the approval authority, the following conditions of approval shall apply to any WTF affirmatively approved or approved by operation of law through issuance of a WTF special use permit, or building permit:

- (a) **Permit term.** Any validly issued WTF special use permit for a wireless facility will automatically expire at 12:01 a.m. local time exactly ten (10) years and one (1) day from the issuance date.
- (b) **Compliance with laws.** The permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations and other rules. All wireless telecommunications facilities shall comply with the applicable provisions of this section and this chapter as well as the Building Code, Electrical Code, Plumbing Code, Mechanical Code, Fire Code, the latest version of TIA ANSI 222 and rules and regulations imposed by state and federal agencies. All wireless telecommunications facilities shall meet current standards and regulations of the Federal Communications Commission, Louisiana Public Service Commission, and any other agencies with authority to regulate wireless telecommunications service providers. If existing standards or regulations are changed, the applicant shall bring its facility into compliance with the new standards within ninety (90) days of the effective date of such standards, unless the federal or state agency mandates a different compliance schedule. Changes to approved projects are subject to review and approval by the City Engineer or other applicable city decision-making body. Failure to comply with adopted new state or federal requirements shall be grounds for permit revocation.
- (c) **Inspections – Emergencies.** The city or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The city reserves the right to enter or direct its designee to enter the facility and support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
- (d) **Contact information for responsible parties.** The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the City Engineer upon permittee's receipt of the City Engineer's written request, except in an emergency determined by the city when all such contact information for responsible parties shall be immediately provided to the City Engineer upon that person's verbal request.
- (e) **Indemnities.** The permittee and, if applicable, the owner of the private property upon which the tower/and or base station is installed shall defend, indemnify and hold harmless the city of Shreveport, its agents, officers, officials and employees (1) from any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs of mandamus and other actions or proceedings brought against the city or its agents, officers, officials or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (2) from any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, law suits or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors or independent contractors. Further, permittees shall be strictly liable for interference caused by their facilities with the city's communications systems. The permittee shall be responsible for costs of determining the source of

the interference, all costs associated with eliminating the interference, and all costs arising from third party claims against the city attributable to the interference. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. It is expressly agreed that the city shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or permittee (as applicable) shall reimburse city for any costs and expenses directly and necessarily incurred by the city in the course of the defense.

- (f) **Adverse impacts on adjacent properties.** Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification and removal of the facility. Any natural screening afforded by site conditions, including, but not limited to, the presence of trees, landscaping, topographical features, or structures on the site that shield the WTF from view, shall be considered stealthing elements.
- (g) **General maintenance.** The site and the facility, including but not limited to all landscaping, fencing and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval and the most recent version of TIA ANSI 222 as regards the physical condition of the WTF.
- (h) **Graffiti removal.** All graffiti on facilities must be removed at the sole expense of the permittee within forty-eight (48) hours after notification from the city.
- (i) **RF exposure compliance.** All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the wireless telecommunications facility, permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/ uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.
- (j) **Optional build-out period.** As a condition of approval, the approval authority may establish a reasonable build-out period for the approved facility.
- (k) **Lapse.** The permit shall automatically lapse if there is a discontinuance of the exercise of the entitlement granted by the permit for six consecutive months or more.
- (l) **Testing.** Testing of back-up generators and other noise producing equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
- (m) **Utilities undergrounded.** Extensions of electrical and telecommunications land lines to serve the wireless telecommunications facility shall be underground.
- (n) **Right of Way Permit.** Permittee must obtain a right of way permit for any work, staging, operations, or construction access in the city right of way or on public property. The permit shall require the applicant to comply with, but not be limited to, the following requirements:
  - 1. The contractor shall be responsible for keeping mud and other debris off the public right of way within and adjacent to the project.
  - 2. The public right of way shall not be used to store materials or to park construction equipment, trailers or other such vehicles.
  - 3. The contractor shall submit a traffic control plan for any lane closures or operations within the public right of way.

4. The contractor shall obtain approval in writing from the City Engineer prior to commencing work in the public right of way on weekends or holidays.
  5. The contractor shall be responsible for repairing any damage to city property and to restore city property to city standards.
  6. The contractor shall be responsible for paying any permit and/or inspection fees, as applicable.
- (o) **Other approvals.** The permittee shall obtain all other applicable permits, approvals, and agreements necessary to install and operate the WTF in conformance with federal, state, and local laws, rules, and regulations.
- (p) **Modifications.** No changes shall be made to the approved plans without review and approval in accordance with this chapter.
- (q) **Performance and maintenance agreement.** The property owner(s) and the permittee shall enter into a performance and maintenance agreement with the city. The agreement shall be signed and notarized and submitted to the City Engineer to be recorded against the property when located on private property. The agreement shall run with the property to ensure that future property owner(s) are aware of the requirement for ongoing maintenance of the existing and approved landscaping. The terms of the agreement shall:
1. Ensure compliance with this chapter and all applicable conditions of approval;
  2. Require the facility to be appropriately maintained;
  3. Ensure new landscaping is installed and existing landscaping is maintained, preserved and protected, as indicated on the plans; and
  4. Require the property owners to defend, indemnify, and hold harmless the city.
- (r) **Performance bond.** Prior to issuance of a building or electrical permit, the permittee shall file with the city, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to 115% of the cost of physically removing the wireless telecommunications facility and all related facilities and equipment on the site, based on the higher of two contractor's quotes for removal that are provided by the permittee. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the city council. Reimbursement shall be paid when the security is posted and during each administrative review.
- (s) **Conflicts with improvements.** For all wireless telecommunications facilities located within the public right-of-way, the permittee shall remove or relocate, at its expense and without expense to the city, any or all of its wireless telecommunications facilities when such removal or relocation is deemed necessary by the city by reason of any change of grade, alignment or width of any public right of way, for installation of services, water pipes, drains, storm drains, power or signal lines, traffic control devices, public right of way improvements, or for any other construction, repair or improvement to the public right of way.
- (t) **City access.** The city reserves the right of its employee, agents, and designated representatives to inspect permitted facilities and property upon reasonable notice to the permittee. In case of an emergency or risk of imminent harm to persons or property within the vicinity of permitted facilities, the city reserves the right to enter upon the site of such facilities and to support, disable, or remove those elements of the facilities posing an immediate threat to public health and safety. The city shall make an effort to contact the permittee, prior to disabling or removing wireless telecommunications facility elements.

Secs. 105-28. – 105.39.

Reserved

**ARTICLE III. – 6409(A) MODIFICATIONS****Sec. 105-40. – Required findings.**

The City Engineer may issue a WTF Section 6409(a) permit only upon finding that the proposed Section 6409(a) modification:

- (a) Constitutes an eligible facilities request; and
- (b) Would not result in a substantial change.

**Sec. 105-41. – Effect on existing Special Use Permit (SUP).**

Notwithstanding any other requirement of this Code, the City Engineer shall be authorized to issue a WTF Section 6409(a) permit, even if issuance of such a permit would have the effect of amending an existing Special Use Permit (SUP).

**Sec. 105-42. – Conditions of approval for Section 6409(a) modifications.**

WTF Section 6409(a) permits are subject to the following conditions, unless modified by the City Engineer:

- (a) **No permit term extension.** The city's grant or grant by operation of law of a WTF Section 6409(a) permit constitutes a federally mandated modification to the underlying permit or approval for the subject tower or base station. The city's grant or grant by operation of law of a WTF Section 6409(a) permit will not extend the permit term for any WTF Special Use Permit (SUP) or any other underlying regulatory approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
- (b) **No waiver of standing.** The city's grant or grant by operation of law of a WTF Section 6409(a) modification does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) modification.
- (c) **Permit term.** Any validly issued WTF special use permit for a wireless facility will automatically expire at 12:01 a.m. local time exactly ten (10) years and one (1) day from the issuance date.
- (d) **Code compliance.** The permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations and other rules.
- (e) **Inspections – emergencies.** The city or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The city reserves the right to enter or direct its designee to enter the facility and support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
- (f) **Contact information for responsible parties.** The permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the City Engineer upon permittee's receipt of the City Engineer's written request, except in an emergency determined by the city when all such contact information for responsibility parties shall be immediately provided to the City Engineer upon that person's verbal request.
- (g) **RF exposure compliance.** All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations

- of the wireless telecommunications facility, permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/ uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.
- (h) **Optional build-out period.** As a condition of approval, the approval authority may establish a reasonable build-out period for the approved facility.
  - (i) **Lapse.** The permit shall automatically lapse if there is a discontinuance of the exercise of the entitlement granted by the permit for six consecutive months or more.
  - (j) **Testing.** Testing of back-up generators and other noise equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
  - (k) **Utilities undergrounded.** Extensions of electrical and telecommunications land lines to serve the wireless telecommunications facility shall be undergrounded where existing land lines serving the facility are underground.
  - (l) **Right-of-Way (ROW) permit.** Permittee must obtain a right-of-way (ROW) permit for any work, staging, operations, or construction access in the city public right-of-way or on public property. The permit shall require the applicant to comply with, but not be limited to, the following requirements:
    1. The contractor shall be responsible for keeping mud and other debris off the public ROW within and adjacent to the project.
    2. The public ROW shall not be used to store materials or to park construction equipment, trailers or other such vehicles.
    3. The contractor shall submit a traffic control plan for any lane closures or operations within the public ROW.
    4. The contractor shall obtain approval in writing from the city engineer prior to commencing work in the public ROW on weekends or holidays.
    5. The contractor shall be responsible for repairing any damage to city property and to restore city property to city standards.
    6. The contractor shall be responsible for paying any permit and/or inspection fees, as applicable.
  - (m) **Other approvals.** The permittee shall obtain all other applicable permits, approvals, and agreements necessary to install and operate the WTF in conformance with federal, state, and local laws, rules, and regulations.
  - (n) **Modifications.** No changes shall be made to the approved plans without review and approval in accordance with this chapter.

#### **Sec. 105-43. – Streamlined process for maintenance and modifications to small wireless facilities.**

- A. The requirement of a WTFP for small wireless facilities located in commercial and industrial zoning districts may be waived by the City Engineer if the Application is reviewed and verified to be for: (i) routine maintenance; (ii) the replacement of a small wireless facility with another small wireless facility that is substantially similar or smaller in size, weight and height; and (iii) the existing small wireless facility is in compliance with the requirements of this Chapter and of the Shreveport UDC regarding stealth and/or any concealment elements, land use and design standards, RF exposure, code compliance, and undergrounded utilities.

**Sec. 105-44. – Effect of repeal of Section 6409(a).**

The City Council has adopted this article to comply with Public Law 112-96, Section 6409. This article shall become null and void if Public Law 112-96, Section 6409, is rescinded. In such event, any application that would have been subject to this Article III shall instead be subject to the requirements of Article II.

Secs. 105-45. – 105.59. Reserved

**ARTICLE IV. – PROCESS****Sec. 105-60. – Timing of review.**

The city shall advise the applicant within thirty (30) days of the filing of an application subject to this chapter whether or not the application is complete.

**Sec. 105-61. – Consultant review.**

- A. **Scope of Review.** The City Engineer and/or the MPC considering the WTF Section 6409(a) permit or WTF Special Use Permit are authorized to require the application, proposed findings, and conditions to be reviewed by a third-party consultant. The review and evaluation may include, but shall not be limited to, such items as:
1. Review and evaluation of:
    - a. application for completeness,
    - b. site plan for compliance with federal, state, and local laws, regulations, codes and City ordinances; facility related support and protection equipment; fall zone; land use and design standards; landscape plan,
    - c. vicinity map for completeness,
    - d. general project information, including type of facility, number of antennas, height to top of antennas, radio frequency range, wattage output of equipment, compliance with FCC requirements,
    - e. noise and acoustical information,
    - f. certified radio frequency (RF) analysis,
    - g. security plan,
    - h. maintenance program,
    - i. cumulative impact analysis,
    - j. information submitted to determine visual impact,
    - k. information submitted re: allowing co-location of other carriers,
    - l. evidence of needs report addressing how proposed WTF is technically necessary, and
    - m. alternative site selection and co-location opportunities in the service area.
  2. Negotiations for:
    - a. site locations on property owned by the City,
    - b. lease, lease amendment, lease renewal or lease modification,
    - c. servitudes/easements, and
    - d. franchise agreements or the functional equivalent of such.
  3. Review of WTFP Applications for Small Wireless Facilities (including maintenance and modification applications).
    - a. Consultant shall make recommendation to the City Engineer regarding the proposed maintenance and modification to existing small wireless facilities.
    - b. If maintenance and/or a modification, to an existing small wireless facility, proposed in the Application is within the allowable criteria outlined by this Chapter and/or the Shreveport UDC the Consultant shall advise the City Engineer of that fact and the WTFP may be waived (along with the WTFP Fee). NOTE: Application Processing Fees and Consultant Fees are still required.
  4. Preparation of written report to City Engineer of recommended action on application.

- B. **Payment of Consultant Fee.** The cost of the third-party consultant review shall be the responsibility of the applicant. The cost of such review shall be borne by the applicant and paid pursuant to the City's Schedule of Fees. The applicant shall submit the fee/deposit, made payable to the City of Shreveport, at the Office of the MPC.

#### **Sec. 105-62. – Decision.**

- A. **Basis.** The decision of the City Engineer and/or the MPC shall be in writing. A denial must be supported by substantial evidence and:
1. Cannot be based on the environmental effects of radio frequency (RF) emissions if the facility complies with the FCC's RF regulations;
  2. Cannot prohibit or have the effect of prohibiting the provision of services; and
  3. Cannot unreasonably discriminate between providers (47 U.S.C. § 332(c)(7)(B)(i) and (iv)).
- B. **Timing of decision.** The City Engineer and/or the MPC shall make its decision on a complete wireless telecommunications facility application as follows:
1. **WTF Section 6409(a) permits.** Within sixty (60) days of submission of application, as such deadline may be tolled.
  2. **All other WTF permits.** Within ninety (90) days of submission of the application for a co-location; and within one hundred fifty (150) days of submission of the application for other siting applications, unless a written waiver of these timelines is provided by the applicant.

#### **Sec. 105-63. – Compliance verification.**

No later than one (1) year after commencing operation of the facility or issuance of a certificate of completion (COC), whichever occurs first, and annually thereafter, the applicant, wireless carrier, or property owner, shall have an appropriately licensed professional conduct a noise and radio frequency emissions study of facility operations to verify compliance with all applicable local, state and federal regulations. In addition, a report shall also be submitted by an appropriately licensed professional to verify completion of any required site landscaping, equipment enclosures, and confirm that the facility appearance is in compliance with approved plans. These reports shall be submitted and reviewed by the City Engineer within five (5) days of completion of the reports. Failure to submit such compliance verification, or the submission of materials verifying a lack of compliance, will constitute grounds for the city to initiate a public hearing to consider whether permittee is fully complying with all conditions related to any permit or approval granted under this Article.

#### **Sec. 105-64. – Indemnification and liability.**

- A. **Agreement required.** The applicant and the property owner shall enter into a standard maintenance, removal and indemnification agreement subject to review and approval of the City Attorney before a building permit is issued for any wireless telecommunications facility.
- B. **Contents.** The agreement shall bind the applicant, property owner and any successors in interest to properly maintain the exterior appearance of the facility and ultimately remove the facility. It shall further bind them to pay all costs for monitoring compliance with provisions of this section and to reimburse the city for all costs incurred to perform any work, if required, because the applicant has failed to perform.
- C. **Recordation.** This agreement shall be recorded at the Caddo Parish Clerk of Court's office and shall run with the land to ensure that future property owner(s) are aware of these ongoing requirements.

#### **Sec. 105-65. – Facility maintenance.**

All wireless telecommunications facilities and related equipment, including but not limited to fences, cabinets, poles and landscaping, shall be maintained in good working condition over the life of the permit and in compliance with the latest version of TIA ANSI 222. This shall include keeping the structures

maintained to the visual standards established at the time of approval. The facility shall remain free from trash, debris, litter, graffiti and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) calendar days from the time of notification by the city or after discovery by the permittee.

**Sec. 105-66. – Discontinuance of use.**

Antennas, support structures and related equipment shall be removed within thirty (30) calendar days of the discontinuation of the use of a wireless telecommunications facility operating under a Special Use Permit (SUP) that has expired and the site shall be restored to its previous condition. The service provider shall provide the City Engineer with a notice of intent to vacate the site a minimum of thirty (30) calendar days before vacation. For facilities located on city property, this requirement shall be included in the terms of the lease. For facilities located on other sites, the property owner is responsible for removal of all antennas, structures and related equipment within thirty (30) calendar days of the discontinuation of the use.

**Sec. 105-67. – Nonconforming facilities.**

Any wireless telecommunications facility existing before the effective date of the ordinance codified in this section which is nonconforming to the provisions of this section may continue to be used. Such a facility may be operated, repaired and maintained but shall not be enlarged, expanded, relocated or modified to increase the discrepancy between the existing conditions and the requirements of this section, unless otherwise permitted by federal law.

**Sec. 105-68. – Revocation.**

- A. Permittees shall fully comply with all conditions related to any permit or approval granted under this article or any predecessors to this article. Failure to comply with any condition of approval or maintenance of the WTF in a matter that creates a public nuisance or otherwise causes jeopardy to the public health, welfare or safety shall constitute grounds for revocation. If such a violation is not remedied within a reasonable period, following written notice and an opportunity to cure, the city may schedule a public hearing before the City Council to consider revocation of the permit. The City Council revocation action may be appealed to the First Judicial District Court of Caddo Parish, Louisiana.
- B. If the permit is revoked pursuant to this section, the permittee shall remove its WTF at its own expense and shall repair and restore the site to the condition that existed prior to the WTF's installation or as required by the city within 90 days of revocation in accordance with applicable health and safety requirements. The permittee shall be responsible for obtaining all necessary permits for the WTF's removal and site restoration.
- C. At any time after ninety (90) days following permit revocation, the city may require the WTF to be removed and restoration of the premises as the city deems appropriate. The city may, but shall not be required to, store the removed WTF (or any part thereof). The WTF permittee shall be liable for the entire cost of such removal, repair, restoration, and storage. The city may, in lieu of storing the removed WTF, convert it to the city's use, sell it, or dispose of it in any manner deemed appropriate by the city.

**105-69 Appeal.**

A decision of the City Engineer and/or the MPC may be appealed to the City Council, all in accordance with the appeal procedures of Article 16 of the Shreveport Unified Development Code.