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Section 1301. Purpose and Intent
The regulations provided in Article 13 – Supplemental Provisions shall apply in all districts.

Section 1302. Wireless Internetworking Node Standards

1302.A. Intent. The intent of these standards is to provide for a safe, attractive, orderly and functional placement of wireless internetworking nodes within the City.

1302.B. Application. These standards shall apply to the installation and/or placement of any wireless internetworking node, within the City of Myrtle Beach.

1302.C. Size. The device shall not exceed 20 inches in height, 14 inches in depth and 14 inches in width, exclusive of any mounting structure that blends with the surroundings.

1302.D. Installation.

1. Wireless internetworking nodes shall be installed and maintained in compliance with the International Building Code, National Electric Code and Federal Communications Commission guidelines and regulations and all local regulations, directives and codes.

2. Installation of any wireless internetworking node shall require the issuance of any applicable permits such as building and/or electrical. A permit shall not be issued without Community Appearance Board approval.

1302.E. Landscaping. Any landscaping that is disturbed or altered to facilitate the installation of a support structure for a wireless internetworking node will be returned as near as possible to the original state before the installation.

Section 1303. Standards for State Homes for the Handicapped or Disabled
Refer to the South Carolina Code of Laws for standards for state homes for the handicapped or disabled.

Section 1304. Public Art Standards

1304.A. Purpose. It is the intent of the City to provide opportunities for artists and sponsors of art and artists to create noncommercial, publicly accessible exhibits of a social, cultural or historical significance that beautify and appeal to all segments of the community.

1304.B. Publicly Accessible Art on Private Property shall be exterior to any structures and visible from public property. Art or Artwork encompasses all forms of original creations of visual art, or permanent, including, but not limited to:

1. Paintings of all media, including both portable and permanently affixed works;

2. Sculpture of any form and in any material or combination of materials, to include statues, monuments, fountains, arches, or other structures intended for
ornamentation or commemoration. Also included are reliefs, mobiles, kinetic, electronic and neon, sculptures;

3. Wagons, old boats and other ornamental objects that are integrated into the theme of an approved landscape plan.

4. Visual art such as inscriptions, stained glass, fiber works, carvings, mosaics, photographs, drawings, collages, textile works, and prints. Also included are crafts both decorative and utilitarian in clay, fiber, wood, metal, glass, stone, plastic and other materials; and

5. Artist-designed streetscapes, landscapes and earthworks, including the artistic placement of natural materials or other functional art objects.

1304.C. Approval Required. Approval of the Community Appearance Board and a permit from the zoning administrator are required.


1. An application and plan shall be submitted to the City. The zoning administrator shall not design or redesign the artwork, and shall determine, within 30 days of receipt, if the application is for a sign based on section 1304.E - Art Exhibits as Signage.
   a. The plan must address the artist’s qualifications, training and/or experience, the artistic conception, the site selection, surface preparation, media proposed, the resistance of vandalism or weather, the time frame for completion, durability, maintenance, public access, appropriateness, safety, security, and the legal responsibility of maintenance. If a copyrighted image is used, the artist must provide signed releases concerning copyright infringement.
   b. The plan must address the appropriateness of the proposed design in terms of its scale, form, artistic content and design with respect to and in the context of its immediate and general architectural, geographical, historical, social, and cultural environment.
   c. The plan must include the building owner’s signed permission, and building owners signed agreement for maintenance to run concurrent with the lease, in the event of vandalism or deterioration.
   d. If on public property, the plan must include the City Council’s consent by way of encroachment permit and appropriate insurance by the artist/sponsor for the installation of the artwork. Upon completion, all art placed on public property becomes the property of the City.

2. Once the zoning administrator has determined that the application is not for a sign and is in compliance with the requirements set forth herein, the application shall be forwarded to the Community Appearance Board and the Cultural Arts Advisory Committee. The application and plan shall be the subject of a public hearing by the Community Appearance Board and the Cultural Arts Committee no earlier than 45 days from the date of submission, and that hearing shall provide public notice of the subject matter to adjacent property owners as in other matters affecting public land use actions. At that hearing after taking evidence and testimony, the
Community Appearance Board may approve or deny the application based upon the standards contained herein and the guidelines of 604.A.5 - Advertising Features. No reviewing party may design or redesign the publicly accessible art as submitted.

For plan review, the reviewers shall determine compliance with the following provisions:

a. In furtherance of the City’s goal of a wholesome and welcoming public atmosphere, and in exercise of its reasonable restrictions in time, place and manner of public expression, publicly accessible art may display themes associated with viewpoint, history, culture or belief, provided however no publicly accessible art shall display or make reference to specified anatomical areas or specified sexual activities as defined in state law or city ordinances; or display or reference to any overt or implied sexual themes, scatological message or violently graphic image or text inappropriate for viewing by a minor child.

b. Gang affiliation symbols, defamatory or denunciatory art shall not be permitted.

c. Publicly accessible art shall be within the bounds of basic decency and respect for all persons, regardless of race, creed, color, gender or national origin.

1304.E. Art Exhibits as Signage. All artwork containing an advertising message, announcement, declaration, insignia, surface or space erected or maintained in view of the public thereof with the purpose of commercial identification, advertisement or promotion of the commercial person, business entity, product or service shall be considered a sign to be governed by Article 8 – Sign Regulations of the Ordinance.

1304.F. Mural Standards.

1. Site Selection. Sound brick, plaster, concrete walls or wood and aluminum covered by sealed marine grade plywood can be used as the surface for a mural. Murals can either be painted directly on the final surface, or on panels, which are fixed to the wall either before or after painting. Unless the surface is plaster, the mural surface shall be smoothed to accept appropriate primer and paint. The site must be secured so that there is no water seepage from roof or ground level.

2. Wall Preparation. Where applicable, the surface must be pressure washed to remove any dirt and existing paint, and the surface must be completely dry before proceeding to scrape the wall to remove any additional loose material and ensure a smooth, solid surface. Appropriate spackle or another type of filler shall be used to fill cracks and to level uneven surfaces. The surface shall be lightly sanded to even out the filled areas and to ensure the primer will adhere. The surface shall be entirely primed before application of paint.

3. Paint. The paint materials and methods should be included in the plan and should be appropriate for the purpose. Where applicable, an anti-graffiti topcoat shall be rolled on top of the mural after it has been completed to prevent fading of colors due to sun exposure.
4. Maintenance. The property owner is responsible for maintenance and shall annually inspect the mural for deterioration. The zoning administrator shall inform the property owner of the need for repair or maintenance.

Section 1305. Awning and Canopy Standards.
Awnings and canopies are allowed in all districts subject to the following regulations:

1305.A. Except in the Amusement (A) zoning district, translucent or any other type of material that allows internal light to illuminate any part of the awning or canopy is prohibited.

1305.B. Awnings and canopies are permitted to extend over public rights-of-way in the Amusement (A) and Mixed Use (MU) districts; provided they do not extend beyond the back edge of the curb line or more than a distance of eight feet inside the right-of-way line, further provided that these structures do not rely on public property for structural support nor interfere with pedestrian or vehicular traffic. Any architectural element that protrudes or encroaches in a permitted fashion must maintain a minimum 9-foot clearance from grade.

Section 1306. Standards for Temporary Uses and Structures.
All temporary manufactured structures shall be erected in compliance with all building codes and standards adopted by the City. The zoning administrator is authorized to approve the issuance of a permit of temporary use as follows:

1306.A. Open lots for Christmas trees, in the Highway Commercial (HC1 and HC2) districts for the period from November 1st to January 2nd of each year. Permitted Christmas tree lots may have one permitted sign, no larger than 4’ X 4’, for each public right-of-way on which the permitted Christmas Tree Lot fronts.

1306.B. Sales, social, cultural or charitable non-profit events:

1. Except for the month of May as provided herein, any licensed non-restaurant business is eligible to erect a tent or other temporary structure for hosting or sponsoring a charitable fundraising event, merchandise sales, customer appreciation event, social activities and food and beverage sales or distribution on site; provided however, no business location may host more than 2 such events in a calendar year, and the events are separated by not less than 30 days.

2. Any licensed restaurant business is eligible to erect a tent or other temporary structure for hosting or sponsoring a charitable fundraising event, merchandise sales, customer appreciation event, social activities and food and beverage sales or distribution on site; provided however, the business location may not host more than 2 such events in a calendar year and my only vend food and beverages during the month of May, and the events are separated by not less than 30 days.

3. Charitable organizations registered with the South Carolina Secretary of State are eligible to engage upon their property or a host property in a fundraising event, including merchandise, food and beverage sales, with or without a tent or temporary structure; provided however, the charitable organization may not hold
more than 2 such events in a calendar year at any location, and may only vend food and beverages during the month of May, and the events are separated by not less than 30 days.

4. Restrictions:
   a. Applications and permit fee must be submitted 48 hours in advance. The application can be obtained from the Department of Construction Services.
   b. The event may not exceed 72 hours.
   c. The event should not require the deployment of public resources or affect traffic unduly due to temporary use impact, scope or purpose.
   d. Event signage or banners are permitted, of not more than 32 square feet and shall only be displayed during the event, and taken down at the end of the event.
   e. The event may have the outside sale or display of merchandise and costumed employees, provided however, no person on public or private property may actively solicit attendance or attention from the driving public.
   f. No more than 25% of the parking area can be used for non-parking uses; provided however, there is no parking area restriction on the charitable temporary use if the sponsoring or hosting business is closed and the event does not cause off-site parking problems.
   g. The permit does not address the sale, service or consumption of alcoholic beverages, and may not be interpreted to have any bearing on the subject. The applicant is solely responsible for compliance with state and local alcohol laws.
   h. Charitable events may be required to provide verification of status. The hosting property owner or business license holder must submit an authorization from a responsible party of the charitable organization when applying for a permit on their behalf.
   i. In consideration of current demands on public resources made during the month of May and except as limited herein, no temporary zoning use permit may be issued from May 1st through midnight of May 31st every year, if such permit overlaps or coincides with an unpermitted rally that is held forth as occurring on specified days and is reasonably perceived by the administration as being held in furtherance of or to take advantage of an unpermitted rally, to include either 5 days before or 5 days after the time of the rally as set forth.

1306.C. Yard sales in Single-family (R) districts shall last no more than 12 hours and shall be permitted no more than 4 times in a calendar year.

1306.D. Religious meetings in tents or other temporary structures in the Amusement (A) district, for a period not to exceed 7 days, and not more than 3 times in a calendar year.

1306.E. Temporary structures may be permitted as a temporary office during construction of buildings and projects, provided that such structure be removed prior to issuance of final certificate of occupancy.

1306.F. Temporary manufactured structures may be used for commercial uses during active construction of a permanent structure on the same site. The temporary manufactured structure shall be removed upon completion of the permanent
structure or upon the lapse or expiration of the building permit for the permanent structure.

1306.G. A hospital or medical facility may have one mobile imaging or other similar type of diagnostic unit for every two acres on site, so long as the following conditions are met:
1. Said unit is not present on site for more than three (3) consecutive and not to exceed a total of two hundred twenty (220) days in a given twelve (12) month period.
2. The primary facility shall submit a site plan for CAB review and approval that shall use landscaping screening as set forth in this Code of Ordinances for structures.
3. Any site that abuts a residential use shall set the mobile unit no closer than 50 feet from the shared property line with the residential use.
4. Operating hours will be limited to no earlier than 7:00 a.m. and no later than 7:00p.m.
5. Except in times of disaster response and recovery, any medical facility that abuts a residential property will be limited to mobile imaging and/or diagnostic units that do not use gasoline, diesel, or other liquid-fuel-powered generators for operation of the facility.

1306.H. Trucks, wagons, tractor-trailers or similar vehicle or appurtenance may be utilized for the purpose of conducting on-premises storage and/or sale in the Wholesale/Manufacturing Wholesale/Manufacturing (WM), Entertainment (E) and Airport (AP) districts only. This shall not restrict the loading and unloading operations normally associated with such vehicles, provided that such operations are concluded within 48 hours of initiation. This subsection shall not apply to uses permitted in subsection 1306.A – Open Lots For Christmas Trees, 1306.B - Social, Cultural Or Charitable Non-Profit Events and 1306.C – Yard Sales herein or to truck-based produce sales that are exempt from city licensing requirements.

1306.I. Under a Governor-declared State of Emergency, temporary single-family housing, including but not limited to FEMA Trailers, may be erected in any zoning district. Such housing shall meet the regulations of the International Building Code or the National Manufactured Housing Construction and Safety Standards Act of 1974. Such housing shall be removed within 6 months unless an extension is granted by City Council.

Section 1307. Reserved

Section 1308. Standards for Extended Stay Recreational Parks with Rental Periods in Excess of 30 days.
Extended stay recreational vehicle parks shall be designed for, and limited to, use by self-contained (nondependent) recreational vehicles.

1308.A. Recreational vehicles shall not be permanently attached to the site and the wheels may not be removed. Units must be capable of moving with permit on highways.

1308.B. Recreational vehicles shall meet all American National Standards Institute standards for park trailer recreational vehicles.
Article 13. SUPPLEMENTAL PROVISIONS

1308.C. A maximum of 45 percent of any Campground (CG) park may be used as an extended stay recreational vehicle park.

1308.D. A minimum area for an individual RV (recreational vehicle) site shall be 2,250 square feet.

1308.E. Minimum Setbacks, measured to the border of any individual site:
   1. Minimum setback of 25 feet from any street, except when abutting Ocean Boulevard, Kings Highway, or U.S. 17 the minimum shall be 50 feet.
   2. Minimum setback from any adjacent property 25 feet, except when abutting any property zoned Single-family (R), Multifamily (RM), or residential Planned Unit Development (PUD) the minimum shall be 50 feet.

1308.F. Temporary hookups must be provided. Permanent utility hookups are prohibited.

1308.G. The recreational vehicle park shall provide emergency sanitary facilities as follows: For each 100 extended stay recreational sites (or fraction thereof), two flush toilets, two showers and two lavatories for each gender.

1308.H. Minimum Landscaping:
   1. Along interior streets one tree is required per 15 linear feet of street. Trees may be clustered, but no more than three per cluster.
   2. In the required setback from any external boundary, berming three feet in height, plus two trees (ten--12 feet in height) are required per 15 feet of external boundary and one shrub (deciduous or evergreen), minimum of five feet in height is required per five feet of any linear boundary. If existing trees and other vegetation are retained in sufficient quantities to accomplish the buffering the zoning administrator may allow the existing vegetation to be substituted therefore.

1308.I. The following structures may be allowed on each recreational vehicle site provided the accessory structures do not block the removal of the recreational vehicle from the site, are not permanently attached to the recreational vehicle
   1. One covered porch (may be screened) or wooden open deck with maximum dimensions of ten feet wide by thirty feet long.
   2. One storage shed to be provided by the park. All sheds shall be the same size and constructed of the same material for each site in the recreational vehicle park. Maximum size six feet by eight feet by ten feet high.

1308.J. Only breakaway lattice skirting shall be used at the base of a recreational vehicle.

1308.K. All other regulations of Article 16 – Area, Height and Dimensional Requirements and all other conditions set forth in section 1501.BB - Campgrounds shall be followed.
1309. Standards For Regulated Adult Business:

1309.A. Purpose; definition.
1. It is the purpose of this ordinance to regulate through zoning adult businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult businesses within the City. The provisions of this ordinance have neither the purpose not the effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access to the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

2. A regulated adult business shall be defined as any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

1309.B. Location Provisions.
Regulated adult businesses are prohibited from being located on any lot or parcel within five hundred feet (500 ft) of Mr. Joe White Avenue, Grissom Pkwy, or Highway 501, but shall be permitted only in the following zones: WM. This prohibition and the requirements of 1309.B.1 through 5 cannot be the subject of an administrative appeal, or request for special exception, conditional use, or variance.

1. It shall be unlawful to establish, operate or cause to be operated a regulated adult business in this City within five hundred feet (500) feet of any zoning district within which residential uses are permitted by a local government. Measurements for this subparagraph (1) shall be made in a straight line without regard to intervening structures or objects, from the closest part of the structure containing the regulated adult business to the closest point on the boundary line of the residential zoning district.

2. It shall be unlawful to establish, operate, or cause to be operated a regulated adult business in this City within five hundred (500) feet of any residential structure on a lot under the jurisdiction of a local government. The purpose of this subparagraph, a residential structure is hereby defined as a single-family house or mobile home, a townhouse, a duplex or a multifamily structure. Measurements for this subparagraph (2) shall be made in a straight line without regard to intervening structures or objects, from the closest part of the structure containing the regulated adult business to the closest point on the property line of the parcel containing the residential structure.

3. It shall be unlawful to establish, operate, or cause to be operated a regulated adult business within five hundred (500) feet of any house of worship, day care center, public or private elementary or secondary education school, public park, public library, cemetery, or any motion picture establishment which regularly shows G or PG rated movies to the general public on a lot under the jurisdiction of a local government. Measurements for this subparagraph (3) shall be made in a straight line without regard to intervening
structures or objects, from the closest part of the structure containing the regulated adult business to the closest point on the property line of the parcel containing the house of worship, day care center, public or private elementary or secondary education school, public park, public library, cemetery, or any motion picture establishment.

4. It shall be unlawful to establish, operate, or cause to be operated a regulated adult business within five hundred (500) feet of any other adult entertainment establishment or regulated sexually oriented business on a lot under the jurisdiction of a local government. Measurements for this subparagraph (4) shall be made in a straight line without regard to intervening structures or objects, from the closest parts of the structures containing the the two regulated adult business.

5. A regulated adult business lawfully operating in a lawful location is not rendered unlawful by the subsequent location of any use or zoning district listed in subparagraphs (1) – (4) that would otherwise render its location unlawful for a regulated adult business. This provision applies only to the regulated adult business that was operating in a particular lawful location when the subsequent disqualifying use or zoning district arrived, and only for so long as that particular regulated adult business continues to lawfully operate in that location.

1309.C. Definition of anatomical areas. For the purposes of this Section, specified anatomical areas are defined in Section 1309.D. Regulated Sexually Oriented Adult Business.

1309.D. Parking requirements. Regardless of the zoning district within which it is located, a regulated adult business shall be required to provide one on-premises parking space for each 100 square feet of gross floor space within its building.

1309.E. Signs and other visible messages. All regulated uses shall be permitted signs and or visible messages based on the allowable sign area of the zoning district in which they are located; provided:

1. **Signs.**
   a. Sign copy shall be limited to verbal description of material or services available on the premises; and
   b. Sign copy may not include any graphic or pictorial depiction of material or services available on the premises.

2. **Other visible messages.** Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.

1309.F. Prohibited conduct. Nothing contained in this section 1309 shall be construed to permit any activity or conduct with is prohibited or regulated in Chapter 14 of the Code of Ordinances of the City of Myrtle Beach.

1310. Standards for Regulated Sexually Oriented Adult Business:

1310.A Purpose; definitions
1. It is the purpose of this ordinance to regulate through zoning sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access to the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

2. A regulated sexually oriented business shall be defined as any business activity, club or other establishment, within which is permitted the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities. Regulated sexually oriented businesses shall include, but are not limited to those uses as defined hereinafter.

3. Definitions.

“Adult Bookstore or Adult Video Store” means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact disks, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishment meets any one or more of the following criteria:

a. At least 25% of the establishment’s display merchandise consists of said items, or

b. At least 25% of the retail value (defined as the price charged to customers) of the establishment’s displayed merchandise consists of said items, or

c. At least 25% of the establishment’s revenues derive from the sale or rental, for any form of consideration, of said items, or

d. The establishment maintains at least 25% of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in “floor space” maintained for the display, sale, or rental of said items); or

e. The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in “floor space” maintained for the display, sale, or rental of said items); or

f. The establishment regularly offers for sale or rental at least one thousand (1,000) of said items; or

g. The establishment maintains and “adult arcade,” which means any place to which the public is permitted or invited wherein coin-operated or slug-
operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons, per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

“Adult Cabaret” means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

“Adult Motion Picture Theater” means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” are regularly shown to more than five persons for any form of consideration.

“Characterized by” means describing the essential character or quality of an item. As applied in this article, no business shall be classified as an adult entertainment establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

“Floor Space” means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

“Nudity” means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

“Regional Shopping Mall (Enclosed)” means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large “anchor” stores, such as department stores. The common walkway or “mall” is enclosed, climate-controlled and lighted, usually with an inward orientation of the stores facing the walkway.

“Regularly” means the consistent and repeated doing of an act on an ongoing basis.

“Regulated sexually oriented business” means an “adult bookstore or adult video store,” an “adult cabaret,” an “adult motion picture theater,” a “semi-nude model studio,” or a “sex paraphernalia store.”

“Semi-Nude or Semi-Nudity” means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks, including the glutal cleft. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the
human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

“Semi-Nude Model Studio” means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

a. By a college, junior college, or university supported entirely or partly by taxation;
b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
c. In a structure:
   i. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
   ii. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

“Sexual Device” means any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted disease or for preventing pregnancy.

"Sex Paraphernalia Store" means a commercial establishment that regularly features sexual devices and regularly advertises or holds itself out in any medium, as an establishment that caters to adult sexual interests. This definition shall not be construed to include any:

a. pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services; or
b. any establishment located within an enclosed regional shopping mall.

“Specified Anatomical Areas” means and includes:

a. Less than completely and opaquely covered: human genitals, pubic region, buttock including the gluteal cleft; and female breast below a point immediately above the top of the areola; and
b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified Sexual Activity” means any of the following:

a. intercourse, oral copulation, masturbation or sodomy; or
b. excretory functions as part of or in connection with any of the activities described in (a) above.
Regulated sexually oriented businesses are prohibited from being located on any lot or parcel within five hundred feet (500 ft) of Mr. Joe White Avenue, Grissom Pkwy, or Highway 501, but shall be permitted only in the following zones: WM. This prohibition and the requirements of 1310.B.1 through 5 cannot be the subject of an administrative appeal, or request for special exception, conditional use, or variance.

1. It shall be unlawful to establish, operate, or cause to be operated a regulated sexually oriented business in this City within five hundred feet (500) feet of any zoning district within which residential uses are permitted by a local government. Measurements for this subparagraph (1) shall be made in a straight line without regard to intervening structures or objects, from the closest part of the structure containing the adult entertainment establishment to the closest point on the boundary line of the residential zoning district.

2. It shall be unlawful to establish, operate, or cause to be operated a regulated sexually oriented business in this City within five hundred (500) feet of any residential structure on a lot under the jurisdiction of a local government. For the purpose of this subparagraph, a residential structure is hereby defined as a single-family house or mobile home, a townhouse, a duplex or a multifamily structure. Measurements for this subparagraph (2) shall be made in a straight line without regard to intervening structures or objects, from the closest part of the structure containing the adult entertainment establishment to the closest point on the property line of the parcel containing the residential structure.

3. It shall be unlawful to establish, operate, or cause to be operated a regulated sexually oriented business within five hundred (500) feet of any house of worship, day care center, public or private elementary or secondary education school, public park, public library, cemetery, or any motion picture establishment which regularly shows G or PG rated movies to the general public on a lot under the jurisdiction of a local government. Measurements for this subparagraph (3) shall be made in a straight line without regard to intervening structures or objects, from the closest part of the structure containing the regulated sexually oriented business to the closest point on the property line of the parcel containing the house of worship, day care center, school, park, library, cemetery, or motion picture establishment.

4. It shall be unlawful to establish, operate, or cause to be operated an adult entertainment establishment in this City within five hundred fifty (500) feet of any other regulated sexually oriented business or regulated adult businesses on a lot under the jurisdiction of a local government. Measurements for this subparagraph (4) shall be made in a straight line without regard to intervening structures or objects, from the closest parts of the structures containing the two adult businesses.

5. An regulated sexually oriented business lawfully operating in a lawful location is not rendered unlawful by the subsequent location of any use or zoning district listed in subparagraphs (1)-(4) that would otherwise render its location unlawful for an adult entertainment establishment. This provision applies only to the particular regulated sexually oriented business that was operating in a particular lawful location when the subsequent disqualifying use or zoning district arrived, and only for so long as that particular regulated sexually oriented business continues to lawfully operate in that location.

1310.C. Parking requirements. Regardless of the zoning district within which it is located, a regulated sexually oriented business shall be required to provide one on-premises parking space for each 100 square feet of gross floor space within its building.
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1310.D. Signs and other visible messages. All regulated uses shall be permitted signs and or visible messages based on the allowable sign area of the zoning district in which they are located; provided:
1. Signs.
   a. Sign copy shall be limited to alphanumeric description of material or services available on the premises; and
   b. Sign copy shall not include any graphic or pictorial depiction of material or services available on the premises.
2. Other visible messages. Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.

1310.E Nonconforming sexually oriented businesses. Notwithstanding any conflicting provisions of Article 7 - Nonconformities of this Zoning Ordinance, any regulated sexually oriented business which was lawfully operating in the City immediately prior to the effective date of this ordinance that is thereafter found to be in violation of Section 310 - Regulated Sexually Oriented Adult Business shall be deemed a nonconforming use. Any sexually oriented business which is lawfully operating within Horry County immediately prior to the date it is annexed into the City that is thereafter found in violation of Section 310 - Regulated Sexually Oriented Adult Business shall also be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section at the time of annexation shall be permitted to continue for a period not to exceed two years from the initial date of nonconformity. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of ninety days or more it may not be re-established. If two or more sexually oriented businesses are within 500 feet of one another and are otherwise in a permitted location, the sexually oriented business which was first established and continually operating at its present location shall be considered the conforming use and the later-established business shall be considered nonconforming. A sexually oriented business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a church, house of worship, day care center, school, playground, public swimming pool, or public park within 500 feet of the sexually oriented business.

Section 1311. WIRELESS COMMUNICATIONS FACILITIES

1311.A. Intent. The purpose of this Wireless Communications Facilities Ordinance is to provide for public health, safety and welfare by ensuring that tourists, residents, businesses and public safety operations have reliable access to wireless communications networks and state of the art mobile broadband communications services while also ensuring that this objective is accomplished according to the City of Myrtle Beach's zoning, planning and design standards. To accomplish the above stated objectives and to ensure that the placement, construction, or modification of wireless facilities complies with all applicable local, state and federal laws, the City of Myrtle Beach adopts this single, comprehensive ordinance. By enacting this ordinance, it is the City of Myrtle Beach's intent to ensure that there is sufficient
wireless infrastructure to support public safety communications, to ensure access to reliable wireless communications services and to provide standards relative to the construction and location of wireless facilities necessary to support the needs of the wireless communication industry and the various wireless users within the City.

This Ordinance is further established to:
1. Provide for the appropriate location and development of wireless facilities to serve the tourists, residents and businesses of the City;
2. Minimize adverse visual effects of wireless facilities through careful design, siting and vegetative screening;
3. Avoid potential damage to adjacent properties from structure failure through engineering and careful siting of wireless support structures; and
4. Maximize use of any new or existing wireless support structure by encouraging collocation of multiple antennas on a single wireless support structure where consistent with other goals of this ordinance.

1311.B. Applicability.
1. Generally. The standards established herein shall apply to all wireless facilities not excluded in 1311.C below. Except for landscaping and screening review, including the security fence, the scope of Community Appearance Board review as to location, appearance and placement are preempted by this ordinance.
2. Waivers. Any design or placement standards set forth herein may be waived, subject to a finding that a special exception should be granted; or a finding that an application must be granted under applicable law, and that there is no alternative that would permit the provision of services as required by law while conforming more closely to the requirements of the Code. In the case of any waiver, City may establish conditions so that any wireless facility conforms to the requirements of the Code as closely as possible.

1311.C. Exemptions and Uniform Conditions.

1. Exemptions. The following categories of wireless facilities are exempt from all City of Myrtle Beach zoning approval processes and requirements:

a. Any wireless support structure and/or antenna below 65 feet when measured from ground level which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission and used exclusively for amateur radio operations.

b. Any device designed for end-user over-the-air reception, not transmission, of television broadcast signals, multi-channel multi-point distribution service, or direct broadcast satellite service; or for end user reception of signals from an Internet service provider and end user transmission of signals to an Internet service provider, so long as:
   i. If a "dish" antenna, the dish is one meter (39.37") or less in diameter.
   ii. For other antennas, the antenna is one meter or less in diameter or diagonal measurement.
   iii. The antenna is mounted on a mast no higher than necessary to maintain line of sight contact with a transmitter.
c. Any wireless facility located on property owned, leased or otherwise controlled by the City of Myrtle Beach, provided a license or lease authorizing the wireless facility has been approved by the governing body. Wireless facilities within the right-of-way on, or proposed to be placed upon structures within the right-of-way that are not owned, leased or otherwise controlled by the City of Myrtle Beach are not exempt.

d. Except where the same are on or affect a historic property, or an environmentally sensitive area, wireless facilities placed mid-strand between two existing utility poles, where the cumulative volume of all equipment associated with the wireless facilities does not exceed 2.5 cubic feet; the installation does not touch or interfere with other facilities; does not cause excessive strand sag; and does not require excavation, replacement of the strand, or modification or replacement of the utility poles.

e. Removal or replacement of equipment on an existing wireless support structure or base station that does not change the physical dimensions of the wireless support structure or base station, or make the wireless support structure or base station more visible to the ordinary observer.

f. Ordinary maintenance of existing wireless facilities and wireless support structures, as defined in this ordinance.

g. In all zoning districts except those zoned Residential, wireless facilities placed on existing wireless support structures outside of the rights-of-way that do not extend more than fifteen (15') feet above the wireless support structure or three (3') feet from the sides of the existing wireless support structure.

h. A COW, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the City of Myrtle Beach designees; except that such facility must comply with all federal and state requirements and must be removed at the conclusion of the emergency.

2. Uniform Conditions.

a. Nothing in this Ordinance shall be interpreted to excuse compliance with, or to be in Lieu of any other requirement of state or Local Law, except as specifically provided herein. Without limitation, the provisions of this Ordinance do not permit placement of wireless facilities in the rights of way without a valid franchise or license authorizing such placement, or permit placement of wireless facilities on private property without the permission of the property owner.

b. From and after adoption of this provision, any application for approval of a wireless facility or modification of a wireless facility (other than a modification pursuant to 1311.F.2 Eligible Facilities Requests), and any approval, shall include concealment elements designed to minimize the visual impact of the facility. Where practicable and consistent with the surrounding area, the wireless facility shall be a concealed wireless facility.

c. A wireless facility shall be treated as a utility, for purposes of:

i. Section 902, Landscaping Regulations

ii. Section 903. L, Tree Protection During Clearing, Grubbing and Development

iii. Section 1702. C. 2 Utility lines; and

iv. Section 1902, Sustainability and Conservation Development.

1311.D. Administrative Review and Special Exceptions

1. Administrative Review and Approval. The following types of applications are subject to the review process as provided in Section 1311. F Application and Review. Except for the requirements in section 1311. D. 1 Administrative Review and Approval, no other type of zoning or site plan review is necessary. The decision of the Zoning Administrator on administrative review shall be subject to appeal to the Board of Zoning Appeals.
a. Monopoles in any Industrial District. Industrial Districts shall include the following zoning districts: AP, LI, and WM.

b. Replacement Towers in any zoning district that maintain or decrease the footprint and physical dimensions of the tower being replaced, and do not defeat any concealment elements associated with the tower.

c. Monopoles within a utility easement or right-of-way, in any zoning district, subject to the following additional requirements:

i. The utility easement or right-of-way shall be a minimum of seventyfive (75') feet in width.

ii. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are at least seventy (70') feet or greater in height.

iii. The height of the monopole may not exceed by more than twenty (20') feet the height of existing utility transmission and/or support structures. If those structures are no longer occupied or are removed, the monopole must also be removed.

iv. Monopoles and the base station equipment shall be set back a minimum of twenty-five (25') feet from all boundaries of the easement or right-of-way or match the setback of the existing utility structures, whichever is greater.

v. Notwithstanding the requirements of section 1311.J, single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed.

d. Concealed wireless support structures or concealed wireless facilities in all MUH, MUM, HC, C (except those listed in 1311.D.1.a Monopoles in any Industrial District), MP, CG, and BP zones, and in commercial portions of a PUD.

e. COWs in any zoning district, but only permitted in the case of equipment failure, equipment testing, equipment maintenance and/or replacement; or in the case of emergency or extraordinary service demand situations, upon good cause shown to the Zoning Administrator, or where the placement is permitted, and complies with, applicable FCC regulations for temporary placement of wireless facilities. Except as FCC regulations may require, placement of COWs shall be limited to ninety (90) days unless extended in writing by the Zoning Administrator. COWs are also allowed during events in which Special Event permits have been issued and shall be limited to the duration of the Special Event Permit.

f. Eligible Facilities Requests, as defined in the Federal Communications regulation 47 C.F.R. §1.40001 (b) (3), implementing federal law, 47 u.s.c. §1455.

g. Wireless facilities placed on electrical transmission towers, including the right to extend and/or replace existing electrical transmission towers not suitable to accommodate wireless facilities by a height not ten (10') feet greater than the height of the existing electrical transmission tower.

h. Pre-approved designs, where the application is for placement in the area for which the designs have been approved.

2. Conditions for approval. For applications fitting one of the categories described in 1311.D.1., Administrative Review and Approval, the Zoning Administrator may approve an application if it finds:

a. the application has the necessary certifications;

b. the wireless facility proposed will satisfy all applicable safety codes;

c. for facilities other than an eligible facilities request, the application includes a showing that the installation is not speculative, and will meet an immediate service requirement; and
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d. for facilities other than an eligible facilities request, the placement and design otherwise comply with the requirements of the City Code, including but not limited to those provisions with respect to collocation.

3. Special Exceptions. Any application for wireless facilities and/or wireless support structures not subject to administrative review and approval pursuant to this Ordinance, and which are not exempt from this ordinance, shall be permitted in any zoning district upon the granting of a special exception from the Board of Zoning Appeals. Regardless of the provisions of section 502. E. Meetings and Notices, in cases involving a special exception for permitting of a wireless facility, the applicant shall publish, in a newspaper of local and general circulation, a legal notice of the application for the special exception that shall appear not less than three (3) times, and shall be published not less than seven (7) days before the application is scheduled to appear on the Board of Zoning Appeals' agenda, identifying the applicant, specifying the proposed location of the facility and the location, date and time of the zoning hearing, and the City shall notify by mail all property owners within 500 feet of the boundaries of the property on which the wireless facility is proposed. Financial cost of the published notice and the mailing notification are to be paid by the applicant prior to the Board of Zoning Appeals meeting at which the request is to be heard. Advertising and conspicuous notice requirements of 502. E. Meetings and Notices shall also apply.

1311.E. Prohibited Uses. Subject to Section 1311. B. 2, Waivers, the following uses shall not be permitted:

1. Advertising. Advertising messages or signs shall not be affixed to any wireless support structure, but this does not prohibit signage required by law or inclusion of non-commercial banners, or use of traffic signs as part of the design for a concealed wireless facility.

2. Speculation. No speculative wireless facilities or wireless support structures shall be permitted.

3. Wireless support structures that are not concealed facilities. Wireless facilities on wireless support structures that are not concealed facilities in any R, RM, MH, CS, or IR zones except as allowed in 1311.D.1.c Monopoles within a utility easement or right-of-way.

4. Wireless facilities in underground areas. Wireless facilities in rights-of-way or on wireless support structures in areas where utilities are underground except pre-approved designs or concealed wireless facilities where the concealed wireless facility would be of a design and can be placed consistent with existing permitted structures, or can be placed within existing permitted structures. This section does not preclude rooftop or building-side placement of wireless facilities in underground areas.

1311.F. Application and Review.

1. Content of Application Package. Except as specified herein, and with respect to applications that are not submitted pursuant to 1311.F.2 Eligible Facilities Requests, all application packages must contain the following:

a. Administrative review application form signed by applicant;

b. A copy of the lease or letter of authorization from the property owner evidencing the applicant's authority to pursue the zoning application. Such submissions need not disclose financial Lease terms. In the rights-of-way, the application must identify the franchise it holds which it contends permits the occupancy of the rights-of-way to install a wireless facility. If not issued by the City, a copy of the franchise should be provided. If access to City-owned or controlled property other than the rights-of-way is sought, a copy of the lease or other agreement which permits the use of the property must be identified. Alternatively, where there is no lease, agreement or
franchise in place, the applicant must affirm that it desires, and is willing to enter into a franchise and other required agreements with the City, and must submit any required application form for the same.

c. A description of the project, including and identifying:
   i. All facility related support and protection equipment; and
   ii. The type of facility, number of antennas, height of top of antenna(s), radio frequency range, wattage output of equipment, and a statement of compliance with current FCC requirements related to RF emissions for the project, which takes into account as may be required by FCC regulations existing facilities at or in proximity to the site.
   iii. For facilities subject to a special exception, or for uses proscribed by Section 1311.E, Prohibited Uses, a showing that denial of the application would prohibit or have the effect of prohibiting the provision of personal wireless service, within the meaning of 47 U.S.C. § 332(c)(7), or otherwise violate applicable law, under circumstances such that the City is required to issue a permit.
   iv. For uses proscribed by Section 1311.E, Prohibited Uses, a showing that there are no other options for placement on or off the rights-of-way.

d. For new sites only, documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this Ordinance.

e. For modifications to wireless support structures or other structures, written verification from a licensed professional engineer certifying that the host wireless support structure or structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas and other equipment, extensions and appurtenances associated with the modification, and that the modification will not cause the facility to violate existing fall zone requirements.

f. Identification of the owner(s) of the wireless support structure and all antennas and equipment to be located on the site. The owners include anyone who owns any interest in the wireless facility, or through any arrangement, controls the wireless facility.

g. Copies of all pertinent licensing and/or certifications required by federal or state licensing authorities, which are required for said operators of said wireless support structure or facility. To the extent any such applications are still pending, to the extent the applicant meets all other requirements of this Ordinance, the application may be approved subject to the condition that such approvals are provided prior to the issuance of a building permit.

h. For applications other than pre-approved designs, and for any application requiring a special exception, a current map showing the locations of all existing wireless support structures and proposed wireless support structures and any other existing wireless support structures within one (1) mile of the proposed location (measured from the base of the proposed wireless facility); and a current map showing all wireless facilities owned or controlled by applicant, or any wireless service provider that will be providing service via the proposed wireless facility that are within fifteen hundred (1500) feet of the proposed facility.

i. If the application is for a wireless facility that is being installed as one part of a planned deployment in the City, a description of the deployment, and an identification of all other work that will be associated with that deployment, including but not limited to, a description of additional wireless facilities that will be installed; wireline connections that may be required; and a timeline for construction of the wireless facilities. The deployment should be described as planned even if applications for the
elements of the network have not been submitted to the City or other agencies with authority over the project.

j. Site plans at a scale no less than one (1) inch= one hundred (100’) feet, and include at least the following:
   i. For facilities that will not be located in a public right of way in whole or in part, a boundary survey of the proposed wireless support structure location site. The site of the wireless support structure shall meet all survey requirements of the City of Myrtle Beach Regulations for Final Plats; for facilities that will be located within the rights of way, a drawing showing the precise location of the proposed facility and its relationship to other utility structures.
   ii. Drawings must depict improvements related to the applicable requirements including property boundaries, setbacks, existing improvements, elevation sketch, and dimensions of all elements of the wireless facility and base station (including any associated accessory equipment, fencing and parking), and landscape plan. For a modification, the drawings should include drawings of the wireless support structure and base station as approved by the City (or as the facility existed on February 22, 2012, if approved prior to that date); and detailed drawing of the modifications proposed to the wireless support structure or base station).
   iii. For new facilities installed on new or existing structures exceeding 55’ in height, the location of any existing structure within fifty (50’) feet of the proposed wireless support structure or those existing structures that may be within the fall zone of any proposed wireless support structure;
   iv. For new facilities only, an identification of the setbacks/fall zone for any wireless support structure exceeding 5.5’ in height; and
   v. Screening and Landscaping, subject to approval by the Community Appearance Board.
   k. Elevation drawings and/ or photographs of all elements of the proposed wireless facility and appurtenances, and composite elevations from the street(s) showing the proposed project and all buildings on the site.
   l. Specifications for any proposed wireless facility, including description of design characteristics and materials of the structure which will support the wireless facility.
   m. A Line of site analysis, photo simulations, photo-montage, story, poles, elevations and/ or other visual or graphic illustrations which shows the potential visual and aesthetic impacts of the proposed project. 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 properties from perspective points to be determined in consultation with the community development department prior to preparation. The City may also require the simulation analyzing stealth designs, and/or on- site demonstration mockups before the public hearing. For pre-approved designs, the City may waive the requirements of this section in whole or in part on request, except that a line of site analysis must be provided.
   n. Except for pre-approved designs, where the application would involve installation of a new wireless support structure, evidence that no existing wireless support structure or other existing structure can be used to accommodate the applicant's proposed use and also meet its coverage and capacity objectives in the stated geographical area; or a showing that because of the technology utilized, the installation of the wireless support structure will be less intrusive than collocation or location on another structure.
   o. Except for pre-approved designs, or rooftop mounted designs, if a wireless support structure is to be located within an R, RM, RMH-MH, PRC, or IR district, or a residential portion of a PUD, the application shall include evidence that facilities
located within a commercial zone cannot be used to accommodate the applicant's proposed use and also meet its coverage and capacity objectives in the stated geographical area. In the case of a monopole request the application shall also include evidence that concealed poles cannot be used to accommodate the applicant's proposed use and also meet its coverage and capacity objectives in the stated geographical area.

p. Except for pre-approved designs, a statement that any proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates, provided space is available; or alternatively, a showing that given the nature of the wireless support structure proposed, collocation is not practical.

q. Special Exception applications must also meet the requirements set forth in section 503.c Special Exceptions.

r. For any application seeking approval of COW, pursuant to subsection 1311.C.1.h. A COW, the other documentation required are those items set forth in subsection 1311.F.1. Content of Application Package subsections g, h, j, m, n, o, and q.

s. Complete applications and fees associated with any permit that the applicant contends must be acted upon by the same date as the wireless application must be filed on the same date as the wireless application, and if any is not included, or the application for any permit is incomplete, all applications may either be denied or declared incomplete.

2. Eligible Facilities Requests

a. An application shall be submitted for approval of eligible facilities requests containing at least the following:

i. A completed application form signed by applicant, and identifying a person who may be contacted regarding the application, and that person's mail and email addresses and telephone number.

ii. A clear statement that the request is being made as an eligible facilities request pursuant to this ordinance and complies with all requirements set forth therein.

iii. A clear description of the work proposed, including but not limited to, a description of the excavation that may be associated with the work, and a description of the base station elements or wireless support structure elements that may be modified, and the modifications that will be made; and the date(s) and time(s) during which the work will take place, which description shall demonstrate that the application qualifies as an eligible facilities request.

iv. Photographs and scale drawings showing the dimensions and location of the base station, wireless support structure and accessory facilities prior to performance of the work proposed, and photo simulations and scale drawings showing the dimensions and locations of the same after the work is performed.

v. A statement certifying that, before commencing, during performance of and upon completion of, the work proposed, the permitted wireless facility will comply with all applicable laws, regulation, practices or other requirements under federal, state or local law, including but not limited to, building and electrical codes.

vi. The certification required by 1311.F.1.e for modifications.

b. Action Upon Receipt.

i. Upon receipt of an application for approval of an eligible facilities request, the Zoning Administrator or its designee shall review such application to determine whether the application qualifies as an eligible facilities request and is complete, and shall promptly notify applicant if the application is incomplete or is not an eligible facilities request within the time frames specified in 47 C.F.R. §1.40001. An application is incomplete if it omits or withholds any required information, or fails to
provide information in sufficient detail to determine whether the application is for an eligible facilities request, or to determine whether the work will be performed in accordance with, and will result in a wireless facility that complies with applicable safety codes.

ii. Approval. If the application is an eligible facilities request and the application is complete, the Zoning Administrator shall approve the application subject to this section. This section shall be operative, and any permit issued pursuant to this section shall remain in effect only so long as federal law, 47 U.S.C. § 1455, and implementing Federal Communications Commission regulations, 47 C. F. R. § 1.40001 regulations require approval of an eligible facilities request as defined herein. By approval, the City solely intends to comply with a requirement of federal law and not to grant any property rights or interests except as compelled by federal law.

iii. Denial. If the application does not satisfy requirements for an eligible facilities request, or if applicant fails to submit a complete application after being notified that the application is incomplete by a time specified by the Administrator; or the application would otherwise result in a wireless facility that does not comply with applicable federal state or local laws, the application shall be denied within sixty (60) days of receipt unless the Zoning Administrator and applicant agree to a different date for action on the application.

iv. Exceptions; Effect of Approval. City may except particular applications from approval, or may condition approval as appropriate consistent with federal law. Without limitation, approval does not exempt applicant from, or prevent City from opposing a proposed modification that is subject to complaint under the National Historic Preservation Act or the National Environmental Protection Act.

c. Because an eligible facilities request application is for modification of a base station or tower previously approved by the City, a permit issued pursuant to this section 1311.F.2 Eligible Facilities Request, is subordinate to, and shall be of no force and effect if the approval of the underlying wireless facility is revoked or expires.

3. **Powers of Zoning Administrator.** The Zoning Administrator or appropriate designee:
   a. Shall develop the forms required for an application for wireless facilities;
   b. May issue notices of incompleteness, or deny an application for failure to submit information required;
   c. Shall review, or cause applications to be reviewed on a schedule so that applicable deadlines for action on applications are satisfied;
   d. May adopt regulations implementing this ordinance and pre-approve designs;
   e. May waive any requirements of the City Code, including procedural and notice requirements that are inconsistent with the procedural or substantive requirements of federal Laws or regulations;
   f. May request additional materials during review as needed to determine compliance with this state, federal and Local Laws and regulations; and
   g. May agree to dates for action on an application, and agree to extensions of time so Long as such agreement does not result in violation of any deadline for action on an application.

4. **Special Appeals Period.** Because federal regulations require action on permits within specified periods of time:
   a. where the City must act on the application in sixty (60) days or less an appeal must be filed within three (3) business days of the decision of the Zoning Administrator;
   b. for other applications, an appeal must be filed within seven (7) business days of the decision of the Zoning Administrator; and
c. special meetings of the Zoning Board of Appeals may be called by Zoning Administrator as may be required to comply with federal Law.

d. provided that, the Zoning Administrator may extend the time for appeal, up to the time otherwise permitted under the City Code, if there is an agreement that extends the time permitted for City action on an application. In determining the appropriate extension, the Zoning Administrator must ensure that the extension will permit timely action on the appeal by the Zoning Board of Appeals.

1311.G. Use Discontinuance and Removal. If a wireless support structure fails to be utilized for its intended and permitted purpose for a period of twelve (12) consecutive months, except in the event of damage to the structure and with notice of such damage to the Zoning Administrator, the special use permit or administrative zoning approval issued in association with such structure may be revoked by the Zoning Administrator only after first providing written notice to the owner of the wireless support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within sixty (60) days of receipt of said written notice. In the event the owner of the wireless support structure fails to reclaim the wireless support structure within the sixty (60) day period, the owner of the wireless support structure shall be required to remove the same within six (6) months thereafter. If the owner fails to remove said structure within such period, the structure is declared a public nuisance, and the City shall abate the nuisance according to law, and the cost of abatement shall be assessed against the owner who was responsible for such removal.

1311.H. Administration. Prior to the issuance of a building permit for a wireless support structure or a wireless facility, the Zoning Administrator or designee shall review the building permit application to ensure compliance with applicable zoning requirements.

1311.I. Specific Design Requirements. All wireless support structures permitted for construction, including those allowed by Special Exception, shall adhere to the following except as required by applicable law, and then must adhere to the following as closely as possible:

1. **Height.** Wireless facilities on ground-mounted wireless support structures, including concealed wireless facilities, shall be exempt from the height restrictions contained elsewhere in the Ordinance, and instead shall adhere to the requirements of section 1311.

2. **Maximum Height.** All new ground-mounted wireless support structures shall be limited to one hundred ninety-nine (179’) feet or less in height. Height is the distance from the base of the wireless support structure, at grade level, to the top of the wireless facility; provided that, wireless facilities on wireless support structures permitted in the rights of way other than concealed wireless facilities should be no higher, including the antenna, than utility poles used to support the electric distribution system or the facilities of the local exchange carrier in the same corridor.

3. **Facility Types:** The following types of ground-mounted wireless support structures are allowed in the following zoning districts:

   a. WM, AP, LM, MU-H, MU-M, MP, A, HC-1, HC-2, C-6, C-7, C-8, CG, BP, IN, and commercial portions of a PUD: Monopoles, concealed wireless facilities.

   b. R, RM, RMH-MH, PRC, and residential portions of a PUD:

      i. Concealed wireless facilities only if satisfactory evidence is provided that facilities located within a commercial zone cannot be used to accommodate the
applicant's proposed use and also meet its coverage and capacity objectives in the stated geographical area; and
ii. Monopoles only if satisfactory evidence is provided that concealed wireless facilities cannot be used to accommodate the applicant's proposed use and also meet its coverage and capacity objectives in the stated geographical area.

4. **Illumination.** Wireless support structures and base stations shall only be illuminated as required by the Federal Communications Commission (FCC) and/or the Federal Aviation Administration (FAA), unless the lighting is part of the concealments elements, as would be the case with a private light in a parking lot. If allowed under FAA and other governmental regulations, alternatives to strobe lighting shall be used at night and lighting shall be shielded to ensure that lighting is focused toward the top of the wireless support structure or base station.

5. **Color.** Excluding concealed wireless facilities, and unless otherwise required by the FCC or FAA, monopoles and towers shall have a galvanized finish or be painted with a silver or gray finish. All monopoles and towers over one hundred fifty (150') feet in height shall have a thirty-six (36") inch minimum stripe of either reflective tape and/or paint centered on the one hundred fifty (150') foot mark of the monopole or tower.

6. **Signs.**
   a. Commercial messages shall not be displayed on any non-concealed wireless facility.
   b. The only signage that is permitted upon a non-concealed wireless facility, shall be informational, and for the purpose of identifying the wireless support structure (such as ASR registration number), as well as the parties responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs that may be required by the City or under applicable law, and property manager signs (if applicable).
   c. Where signs are otherwise permitted, a concealed wireless facility may be concealed inside such signage, provided that all applicable standards for both the signage and the concealed wireless facility are met.

7. **Security.** Wireless support structures and any associated base station other than wireless support structures in the rights of way or on rooftops, or concealed wireless facilities, shall be secured by a fence or wall measuring at least eight (8') feet in height. Unless otherwise established by the Community Appearance Board, the fence shall be chain link coated in black or green vinyl.

8. **Equipment Compound.**
   a. Equipment compounds shall not be used for the storage of any excess equipment or hazardous waste (e. g. discarded batteries). No outdoor storage yards shall be allowed in an equipment compound.
   b. Equipment compounds shall not be used as habitable space.
   c. A site plan proposal shall be provided to demonstrate how potential colocation equipment cabinets, pads and/or buildings will be accommodated within the equipment compound.

9. **Setbacks/Fall Zone.**
   a. For wireless support structures other than facilities in the rights-of-way, wireless setbacks shall be equal to one (1') foot for every one (1') foot of wireless support structure height or one hundred (100%) percent of the wireless support structure's fall zone, plus a safety factor of ten (10%) percent; whichever is less. Fall zones shall be certified in the form of a letter from a licensed engineer that includes the engineer's original signature and seal.
   b. For wireless facilities other than facilities within rights-of-way, the fall zone shall not encroach onto adjacent properties unless the owner of the adjacent property signs
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a waiver. The waiver shall be a recordable waiver document and shall require the owner of the wireless support structure to indemnify and hold the City of Myrtle Beach harmless. In no case shall the fall zone encroach into a public right-of-way.

c. For wireless facilities in the rights-of-way, the elements of the wireless facility shall be set back from the curb, sidewalk and property lines consistent with other facilities of similar character and design.

10. Screening and Landscaping.

a. Any equipment compound shall be landscaped and maintained with a buffer of plant materials that effectively screens the view of all accessory structures, equipment and other improvements at ground level. The buffer shall consist of evergreens no less than twenty-four (24) inches in height at the time of planting and spaced two and one-half (21 /2) feet on center along the fenced enclosure. Such plants shall be capable of reaching a height of no less than eight (8') feet within two (2) years of planting. Buffer plantings may be modified at the discretion of the Zoning Administrator to avoid conflicts with site triangles and site lines.

b. In locations where the visual impact of the wireless support structure would be minimal, or where the requirements of this section are otherwise impracticable, the landscaping and screening requirements of this section may be reduced or waived by the appropriate approving body. The appropriate reviewing body may establish shielding requirements for base stations that are not part of an equipment compound appropriate to the location of the wireless facility and any prior zoning approvals. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible, or replaced to present a natural, undisturbed appearance in keeping with the intent of this section. For example, if the equipment compound is in a wooded area the applicant may choose to retain a natural vegetated buffer strip of undisturbed trees that is at least twenty-five (25') feet in depth, and at least six (6') feet in height, around the perimeter of the equipment compound. The appropriate approving body could waive the landscaping requirements provided the area should remain undisturbed in appearance, except where minimally necessary to allow for an access drive.

1311.J. Collocation on Existing Wireless Support Structures. To reduce the need for additional wireless support structures throughout the City of Myrtle Beach, new structures shall be engineered and constructed to accommodate a minimum number of collocations based upon their height except where these appropriate approving body finds that collocation at the site is not essential to the public interest, or that community compatibility requirements will be promoted by waiving the requirements:

1. Support structures sixty (60') feet to one hundred (100') feet shall support at least two (2) telecommunications providers.

2. Support structures greater than one hundred (100') feet but less than one hundred-fifty feet (150') shall support at least three (3) telecommunications providers.

3. Support structures greater than one hundred-fifty (150') feet in height shall support at least four (4) telecommunications providers.

1311.K. Additional Requirements for Wireless Facilities Mounted On Structures Other Than Ground-Mounted Wireless Support Structures. Building mounted wireless facilities shall meet the following additional requirements:

1. Height.

   a. The structure upon which the wireless facility is located is greater than twenty (20') feet in height.
b. As a concealment element, the height of the wireless facility shall not extend more than fifteen (15') feet above the roofline or perimeter wall (whichever is higher) of the existing structure to which it is to be mounted.

2. **Setbacks.** A wireless facility and its accessory equipment shall be subject to the setbacks of the underlying zoning district. When a wireless facility is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.

3. **Visibility.**
   a. If base station equipment described at 1311.M. 5 *Base Station* subsections a-b or accessory equipment is installed on a structure other than a wireless support structure, then base station and accessory equipment visible from the street level must be of a color that is identical to, or closely compatible with, the color of the structure so as to make the base station and accessory equipment as visually unobtrusive as possible. Roof mounted wireless facilities shall be made visually unobtrusive by screening or painting to match existing air conditioning units, stairs, elevator towers or other background, and any wireless support structure, other than a concealed wireless facility, shall not be visible from street level when standing ten (10') feet from the base of a building.
   b. Building-mounted equipment cabinets and structures housing electronic equipment associated with a base station shall not be visible from street level when standing ten (10') feet from the base of a building.
   c. Wireless facilities shall not alter or change the intent of the structure or building design. Where feasible, wireless facilities shall be placed directly above, below or incorporated with vertical design elements of a structure or building to help in concealment.

4. **Standards.** All *wireless* facilities shall be designed to meet current building standards and wind load requirements.

1311.L. *Wireless Facilities and Wireless Support Structures in Existence on the Date of Adoption of this Ordinance.*
1. **Continued Lawful Use.** Wireless facilities and wireless support structures that were legally permitted on or before the date this Ordinance was enacted shall be permitted and lawful use.
2. **Activities at Non-Conforming Wireless Support Structures.** Notwithstanding any provision of this Ordinance:
   a. Ordinary maintenance may be performed on a nonconforming wireless support structure or wireless facility.
   b. Collocation or modification of wireless facilities on an existing non-conforming wireless support structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the administrative approval process defined in Section 1311.D.3 *Special Exceptions;* provided that the collocation constitutes an eligible facilities request.
   c. Other collocations or modifications may be made to non-conforming wireless support structures utilizing the special exception process defined in Section 1311.D *Administrative Review and Special Exceptions of this Ordinance.*

1311.M. **Definitions.** In addition to and not in contravention of any definitions contained in other sections of the Zoning Ordinance for Myrtle Beach, the following definitions shall apply to this Ordinance. References to federal laws or regulations refer to the same as they may be amended or renumbered:
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1. Accessory Equipment. Any equipment installed and owned by a third party used to deliver a service to a wireless facility, such as an electric meter.

2. Administrative Approval. Approval that the Zoning Administrator or designee is authorized to grant after administrative review.

3. Administrative Review. Evaluation of an application by the Zoning Administrator or designee. This process is not subject to a public hearing, but is subject to appeal.

4. Antenna. A device, dish, array or similar device used for the sending and/or receiving electromagnetic waves for FCC licensed or authorized wireless communications.

5. Base Station. A structure or equipment at a fixed location that enables FCC licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a wireless support structure as defined in this subpart or any equipment associated with a wireless support structure.
   a. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
   b. 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).
   c. The term includes any structure other than a wireless support structure that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in paragraphs 5.a-b of this section 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. However, for structures other than wireless support structures that support equipment described in paragraphs 5.a-b, including but not limited to the sides of buildings, water towers, or utility poles, the term includes only that portion of a structure specifically approved to support the wireless equipment described in paragraphs 5.a-b, and only relates to activities necessary to permit the installation, maintenance, replacement or collocation of wireless equipment described in the preceding paragraph. The exemption of a structure from review is not an approval.
   d. The term does not include any structure that, at the time the relevant application is filed with the City, does not support or house equipment described in paragraphs 5.a-b.

6. Carrier on Wheels or Cell on Wheels or Carrier on Light Truck (COW). A portable self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom or lattice type tower as the antenna support structure, and be supported with temporary guy wires.

7. Collocation. The mounting or installation of transmission equipment on a wireless support structure or structure as described in subsection 5.c for the purpose of transmitting and/ or receiving radio frequency signals for communications purposes.

8. Concealed Wireless Facility. Any wireless facility that is integrated as an architectural feature of an existing wireless support structure or any new wireless facility structure that is camouflaged or concealed so that the presence of the wireless facility is either:
   a. Virtually invisible to the casual observer, such as an Antenna behind louvers on a building, or inside a steeple or similar structure; or
b. Camouflaged, through stealth design, so as to blend in with its surroundings to such an extent that it is a casual observer would perceive it as part of the design of the structure on which it is placed, a natural element of the surrounding in which it is located, or as structure other than a wireless facility or wireless support structure, appropriate for the location proposed in light of other provisions of the Code;

c. Examples of concealed wireless facilities include, but are not limited to, wireless facilities which are disguised as flagpoles, as indigenous trees, as rocks, as public art, or as architectural elements such as dormers, steeples, and chimneys. To qualify as "concealed" design, the item in question must match the type of item that it is mimicking in size, scale, shape, dimensions, color, materials, function and other attributes as closely as possible. The elements that make a facility a concealed wireless facility are concealment elements. Without limitation, for a concealed wireless facility to be approved, the application must show that the concealment is consistent with the character of the surrounding area, considering all relevant elements, including the landscaping and shielding proposed; and must show that the concealment elements will not be defeated by weathering, or show how weathering will be addressed to maintain the concealed nature of the facility.

9. Concealment Element. Any design feature, including but not limited to painting, landscaping, shielding requirements and restrictions on location, proportions, or physical dimensions in relation to the surrounding area or Wireless Support Structure that are intended to make a Wireless Facility less visible to the casual observer. The design elements of a concealed wireless facility are concealment elements.

10. Electrical Transmission Tower. An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.

11. Eligible support structure. Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City.

12. Equipment Compound. An area surrounding or near the base of a wireless support structure within which are located wireless facilities.

13. Fall Zone. The area in which a wireless support structure exceeding fifty (50) feet in height may be expected to fall in the event of a structural failure, as measured by engineering standards.

14. Monopole. A single, self-supporting, freestanding pole-type structure built for the sole purpose of supporting one or more antennas. For the purposes of this Ordinance, a utility pole is not a monopole.

15. Ordinary Maintenance. Ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing wireless support structure upon which they are currently located. Ordinary maintenance does not include substantial changes in a wireless facility.

16. Replacement Tower. A wireless support structure of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

17. Speculative Wireless facilities. A wireless facility built by any entity not providing FCC licensed or FCC authorized wireless services without the ability to demonstrate a
binding commitment from a provider of such services to utilize the wireless facility of support structure at the time of application.

18. **Substantial Change.** Substantial change has the same meaning the term "substantial change" as defined by Federal Communications Commission regulations, 47 C.F.R. §1.40001 (b)(7).

19. **Tower.** A lattice-type structure, guyed or freestanding, that supports one or more antennas.

20. **Tree Survey.** A survey by a registered surveyor indicating the location and height of all trees within a thirty (30') foot radius of the proposed wireless support structure, as well as, on the basis of the previous findings, the calculated average height of the tree canopy within the aforementioned radius.

21. **Utility Pole.** A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

22. **Water Tower.** A water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

23. **Wireless Facility or Wireless Facilities.** A facility consisting of a base station and accessory equipment, and the wireless support structure, if any, associated with the facility. When describing a proposed wireless facility, the term includes the structure to which the wireless facility will be attached, whether or not a wireless support structure.

24. **Wireless Support Structure.** Wireless support structure has the same meaning the term "tower" as defined by Federal Communications Commission regulations, 47 C.F.R. §1.40001 (b)(9). A freestanding structure, such as a monopole or tower, built for the sole or primary purpose described above is a wireless support structure. This definition does not include utility poles.

1311.N. **Wireless Facilities In Rights of Way.** Without limiting other applicable provisions of the Code;

1. **No Hazard.** No portion of a wireless facility may be placed in the right of way a manner that:
   a. obstructs or creates a hazard for pedestrians or vehicular access, obstructs sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference;
   b. results in ground-mounted, aboveground equipment cabinets in the right of way associated with the support structure where there are no other aboveground cabinets associated with the support structure;
   c. where there are existing ground-mounted, aboveground equipment cabinets, results in installation of cabinets that are 10% larger in height or overall volume than other equipment cabinets in the same area; or proposes locations that do not have a harmonious relationship to the neighboring properties or the site; or
   d. involves placement of pole-mounted equipment (other than cabling) whose lowest point is lower than 8 feet above ground level, or if the pole mounted equipment is on a structure that is adjacent to and extends over an elevated passageway, lower than 8 feet above that passageway.

2. **Equipment Cabinets.** Equipment cabinets, whether pole-mounted or ground-mounted must provide an "enclosed" look free of protrusions and colored to "blend" into the existing area for all components of the facility. Each cabinet must have identifying
marks to identify the owner and a unique number to identify the unit. These must be as non-intrusive as possible, while still being able to be easily read from the ground.

3. **Damaged Components.** Damaged or deteriorated components must be corrected within 48 hours of notification. If a wireless facility or portions of a wireless facility are taken out of service, the components must be removed within 5 business days of being taken out of service, and affected facilities restored to their prior condition. City may grant extensions of time to comply with this requirement for good cause either on request, or under conditions where it is not reasonable to expect correction or removal within the specified periods.

4. **Placement.** Unless it is determined that another design is less intrusive or must be permitted under applicable law:
   a. Antennas located at the top of public right of way support structures shall be incorporated into the structure, or placed within shrouds of a size such that the antenna appears to be part of the support structure;
   b. Antennas placed elsewhere on a support structure shall be integrated into the structure, or be designed and placed to minimize visual impacts, particularly with respect to residential units.
   c. Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be located on one side of the utility pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on utility poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the support structure on which they are placed.
   d. Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible.

5. **Factors Considered.** As part of the review of an application for wireless facilities or the modification of structures in the rights of way to support wireless facilities, and establishing conditions on access, the City will consider the following:
   a. Placement of new support structures or equipment cabinets in the public rights of way should be avoided, except where the proposed facility will otherwise better satisfy the provisions of this ordinance.
   b. Proposed wireless facilities should maintain the integrity and character of the neighborhoods and corridors in which the facilities are located.
   c. Installations should be subject to periodic review to minimize the intrusion on the public rights of way.
   d. The City should bear no risk or Liability in connection with the wireless facilities.
   e. The wireless facilities should not incommode the public, interfere with the primary uses of the public rights of way, or hinder the ability of the city or other government agencies to improve, modify, relocate, abandon or vacate the public rights of way or any portion thereof, or to cause the improvement, modification, relocation, vacation or abandonment of facilities in the public rights of way.
   f. The wireless facilities should otherwise comply with the requirements of this Code.

6. **Use of Terms.** Notwithstanding Art. 2 Section 203, a wireless support structure shall be treated as a utility pole for purposes of:
   a. Section 804. B., Signs Exempt from Permit Procedures;
   b. Section 807. C., Digital Billboard Exchange Program;
   c. Section 1314, Food Vending;
   d. Section 803.P, Prohibited Signs, except as specifically provided herein.
1311.O. Compliance Proof; Revocation.
1. Proof of Authorizations. No person may construct or modify a wireless facility or any portion thereof without all necessary state and federal authorizations required for such construction or modification, and without providing proof of the same to the Zoning Administrator.
2. Authorizations Must Be Maintained. No person may maintain a wireless facility in place unless required state or federal authorizations remain in force.
3. Remedies In absence of Authorizations. The Zoning Administrator may stop work that is performed without obtaining or providing proof of such authorizations; may revoke authorizations issued by City; and may require removal or alteration of any wireless facility that is constructed without such authorizations, fails to maintain necessary authorizations, or that does not comply with conditions on the authorizations that the City may enforce.

1311.P. Pre-Approved Designs.
1. Manner of Pre-Approval. Designs may be pre-approved for use on public or private property:
   a. as part of a franchise agreement authorizing placement of wireless facilities
   b. by the City, after review of designs on its own initiative or on petition of any person.
2. Petition for Approval. A petition for pre-approval shall be submitted to the Zoning Administrator, specifying the design proposed; detailed specifications for the wireless facility (including information regarding the foundation that would be required for the facility, the dimensions of the facility; and the weight of the major elements of the facility); the areas where petitioner believes the pre-approval would be appropriate; and whether the design is useable by other entities that install wireless facilities.
3. Consideration of Petition. The Zoning Administrator shall review the application considering
   a. whether the design is consistent with the design of other facilities in the areas proposed, and whether concealment elements minimize the intrusiveness of the facility and ensure that future changes in design will be subject to the City’s discretionary approval;
   b. whether it appears the proposed design can be installed safely, without undue disruption or interference with other uses of the property, or adjacent property;
   c. whether the design is proprietary, or whether similar designs could be adopted by others, so that, if approved as a standard, it the pre-approved design will result in deployment of networks that are aesthetically harmonious;
   d. the opinion of other departments and agencies whose activities may be affected by the design.
4. Recommendation to City Council. The Zoning Administrator shall recommend approval or denial to the City Council, which may approve, deny, or approve subject to conditions. Each approval shall identify areas within the City (by category or geographically) where deployment may be appropriate.
5. Amendment of Pre-Approved Designs. Zoning Administrator may recommend removal of any pre-approved design from the pre-approved list if the design no longer appears appropriate for use, considering the same factors used in the approval; and considering actual experience in deployment of the design. Removing a design from the pre-approved list does not require removal of facilities that were installed prior to the change to the pre-approved designs.

1311.Q. Use of City-Owned or Controlled Structures in the Rights of Way.
1. **Policy Statement.** The City, as a matter of policy, will negotiate agreements for use of city owned or controlled utility poles and traffic signal poles in the rights of way. While the placement of wireless telecommunications facilities on those structures is not subject to review under this section of the Code, the City finds that it is in its interests as proprietor that, the approval for use will only occur if placement is consistent with this ordinance and associated regulations, and that a proposed design is consistent with designs reviewed and approved by the City, and consistent with designs in use along the corridor where use of a City-owned or controlled utility pole or traffic signal is requested; or where it is demonstrated that placement is required by law or otherwise in the best interests of the City. In contracting for use of the structure, the City shall ensure that any use is consistent with the design of the facility to which it is to be attached, minimizes the overall impact on the structure and its surroundings, and does not in any respect interfere with current and future uses of the structure by, or as directed by, the City. Subject to lawful limits imposed by state or federal law, the agreement shall specify the compensation to the city for use of the structures. Except as prohibited by law, the person seeking the agreement shall additionally reimburse the city for all costs the city incurs in connection with its review of, and action upon, the person's request for an agreement.

2. **Conflicting Applications.** If City receives multiple, conflicting requests for placement of wireless telecommunications facilities for the same location from different entities, City, may require consolidation of wireless telecommunications facilities or, after notice to the affected entities allocate sites on any non-discriminatory basis consistent with applicable law.

3. **Compliance With RF Standards.** No permit and no agreement for use of city owned or controlled utility poles and traffic signals poles, shall be issued or effective unless it is shown that the wireless facility will comply with Federal Communication Commission ("FCC") regulations governing radio frequency ("RF") emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing RF emissions, and failure to comply shall be a treated as a material violation of the terms of any permit or lease.

4. **Non-Interference.** Before a wireless facility is attached to city owned or controlled utility poles, or modified, the owner of the wireless facility must submit a study showing that the attachment or modification will not interfere with then-existing or planned City uses of the pole, including communications uses. Any application for use must include detailed drawings and specifications so that the City may determine whether the applicant's uses will interfere with City uses.

### 1312. Special Conditions of Drinking Places and Nightclubs

1312.A Definitions applicable to Section to be used as guidance in interpretation.

*Alcoholic beverages* shall be construed to mean any spirituous, malt, vinous, fermented, brewed (whether Lager or rice beer) or other Liquors, or any compound or mixture thereof, by whatever name it is known, which contains alcohol and is used as a beverage. It shall not apply to wine when manufactured or made for home consumption and which is not sold by the manufacturer thereof or by any other person or to any beverage declared by state Law to be nonalcoholic or non-intoxicating.
Banquet or event hall means a facility, as a stand-alone structure or as an accessory part of an accommodations complex, which is primarily engaged in providing banqueting rooms, and meals, and entertainment events for persons and entities reserving the space for special occasions including, but not limited to: formal dinners, receptions, reunions, benefits, and club meetings, and may include the onsite consumption of alcohol as an accessory component of food and beverage service.

Bars, lounges, pubs, taverns or similar drinking places are as defined by SIC 5813 or NAISC 722410, and are defined as a place of social gathering and entertainment primarily engaged in the preparation and service of alcoholic beverages onsite or with an open dance floor of Less than 150 square feet.

Beer, ale, porter and wine shall be defined for purposes of this section as stated in Section 61-4-10 of the Code of Laws of South Carolina 1976, as amended from time to time.

Comedy club, dinner theatre or performing theatre or similar performance venues are characterized by a visually emphasized performance stage or area that offers patrons paying the ticket or admission fee a fixed seating/table arrangement from which one may view the performance art, such as musical groups, improvisational offering, stand-up comedy, plays, skits, ventriloquism, magic and other staged performance art to patrons, with no floor area of greater than 150 square feet for patron dance, and where food and beverage service is provided, while the business purpose is primarily performance viewing, with an accessory purpose of the service of alcoholic beverages, and or food.

Drinking place generally means any place under permitting by the DOR and licensed as a business in the city to engage in the sale or service of alcohol as defined by SIC 5813 or NAISC 722410. This industry comprises establishments known as bars, taverns, nightclubs, performance venues or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. Not included are establishments primarily engaged food service, or civic and social organizations or package stores. Included are bars, lounges, taverns, nightclubs, pubs and similarly named and licensed entities as identified herein.

Entertainment activities or opportunities means all other activities in drinking places and nightclubs that do not involve the manufacture, sale, purchase, transportation, possession, consumption or other use of alcoholic beverages or food or beverage service during permitted hours of operation, pursuant to state law. Entertainment activities may include, but are not limited to:
1. The presentation or allowance of live or recorded musical presentations or performances of any sort, including both live amplified performances and amplified recorded presentations or broadcasting,
2. Live action of performance art or prerecorded video of performance art,
3. The provision of dedicated space or areas for individual, group, customer or patron dance,
4. Consumer or product promotions,
5. Table or electronic games, light shows,
6. The use of foam or other substances in contact with patrons, independent contractors or employees as an entertainment element, or
7. The use of objects by patrons, independent contractors and employees as an entertainment element.

_Nightclub_ means an alcohol-free teen club or adult club permitted to serve alcohol, of general admission, membership admission or under a cover charge, which is a place of social gathering and nightclub entertainment activities or opportunities emphasizing live or recorded amplified music in an largely unstructured dance club atmosphere in an interior or outside deck space that is rated for greater than 150 person occupancy, with an open dance floor greater than 150 square feet and where the nightclub entertainment activities are primarily orchestrated by a nightclub entertainment promoter or house disc jockey, typically open after 10:00 p.m. and if alcohol is served, where the primary business purpose is the admission cost and sales of alcoholic beverages, and where the admission cost and alcohol sales are greater than the gross sales of food, or when alcohol is not provided, the sale of food is incidental to the primary business purpose of providing a venue for Live or recorded music and dance in the manner described.

_Primarily or primary_ means gross income from all Licensed activities on site which is 60 percent or greater, or the greater degree of frequency of conduct, as the context provides.

_Restaurant_ means a place where the primary business purpose is food sales, but which also have both DOR and a business license as a drinking place. A restaurant is operated as a bona fide eating place that maintains appropriately sized kitchen facilities in relationship to the proposed dining seating areas, and in which, during all business hours, food and beverages are prepared for and served to the customer, for consumption on or off the premises.

1312.B Conditions

1. Notwithstanding any other provision in Appendix A, nightclub uses and drinking places that primarily engage in the sale and service of alcohol are prohibited in the area commonly known as the Super Block, the site of Nance Plaza bounded by 9th Avenue North, Broadway Street and Highway 501 and Main Street.

2. Notwithstanding any other provision in Appendix A, drinking places are prohibited in any zoning district or overlay district in which is contained the area commonly known as the Super Block, the site of Nance Plaza bounded by 9th Avenue North, Broadway Street and Highway 501 and Main Street; provided however restaurants and other uses in which alcohol sales and service are an accessory use are conditionally permitted.

3. Notwithstanding any other provision in Appendix A, no business selling alcoholic beverages may be located in the described area within four hundred feet of any church, school, or playground. Such distance shall be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of such church, school, or playground, which, as used herein, shall be defined as follows:
   a. "church", an establishment, other than a private dwelling, where religious services are usually conducted;
b. "school", an establishment, other than a private dwelling where the usual processes of education are usually conducted, whether public or private; and
c. "playground", a place, other than grounds at a private dwelling, which is provided by the public or members of a community for recreation.

4. Notwithstanding any other provision in Appendix A, and in HC and MU zones where nightclubs and similar drinking places are permitted, they are only as a conditional use, with the conditions being
   a. adequate parking and
   b. not being within four hundred feet of any church, school, playground or private residence. Such distance shall be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of such church, school, playground or residence, which, as used herein, shall be defined as follows:
      i. "church", an establishment, other than a private dwelling, where religious services are usually conducted;
      ii. "school", an establishment, other than a private dwelling where the usual processes of education are usually conducted, whether public or private; and
      iii. "playground", a place, other than grounds at a private dwelling, which is provided by the public or members of a community for recreation.
   iv. Private residence means any owned or long term rental of a house, duplex, apartment, townhouse or other structure.

1313. ZONING AND LAND USE STANDARDS FOR SMOKE SHOPS AND TOBACCO STORES.

1313.A Notwithstanding any other provision of this title to the contrary, medical marijuana dispensaries, head shops, smoke shops and tobacco stores can only be conditionally permitted use only in designated zones, subject to the regulations enacted.

1313.B All dispensaries, smoke shops and tobacco stores wishing to operate within the above zones after the effective date of the ordinance codified in this chapter must obtain a conditional use permit, to be determined in final enactment.

1313.C Additional zoning and land use standards for dispensaries, smoke shops and tobacco stores shall be as follows:
   1. Smoke shops, dispensaries and tobacco stores, or businesses offering paraphernalia shall not be located within 1500 feet, measured property line to property line, from a school (public or private), family day care home, child care facility, youth center, community center, recreational facility, park, church or religious institution, hospital, or other similar uses where children regularly gather.
   2. Smoke shops, dispensaries and tobacco stores or business offering paraphernalia shall not be located within 1500 feet, measured property line to property line, from another smoke shop and tobacco store.
3. It is unlawful for a dispensary, smoke shop and tobacco store or business offering paraphernalia to knowingly allow or permit a minor, not accompanied by his or her parent or legal guardian, to enter or remain within any smoke shop and tobacco store.

4. Smoke shops, dispensaries and tobacco stores or business offering paraphernalia shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the smoke shop and tobacco store. It shall be unlawful for a smoke shop and tobacco store or business offering paraphernalia to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.

1313.D. Standard conditions of approval for any conditional use permit shall, at minimum, include the following:
   1. No smoking, inhaling or ingestion shall be permitted on the premises at any time.
   2. No sales may be offered, made, solicited or conducted on the premises by minors.
   3. No self-service tobacco, tobacco product, or tobacco paraphernalia displays shall be permitted.
   4. No distribution of free or low-cost tobacco, tobacco products or tobacco paraphernalia or synthetic substances as would be defined, as well as coupons for said items, shall be permitted.

1313.E Smoke shops, dispensaries and tobacco stores or business that retail paraphernalia that are legally existing on the effective date of the ordinance codified in this chapter shall be amortized and cease operation in a time period not to exceed one (1) year from the date of enactment (January 22, 2019) establishing new regulations.

1314. Food Vending
The purpose of this ordinance is to provide standards for mobile food vendors while balancing the interests of public health, safety, and overall community wellbeing. With these amendments, City Council extends the pilot program for a second year, with additional review one year after the 2nd reading of this ordinance. Council may also review this ordinance at any time it deems necessary.

1314.A General Requirements.
   1. Mobile food units (with the exception of ice cream trucks) may be allowed as a conditional use in the following zones: HC1, E, MP, WM, and LM, and HC-2 for permanent locations only, and as indicated in paragraph 1.n, provided they meet the following requirements:
      a. Mobile food units must be affiliated with an existing permanent commercial kitchen to meet the requirements of SC DHEC regulations. This may be in the form of a brick and mortar restaurant with which they are associated. In this case, the mobile food unit is not a replacement for a restaurant, but an addition. Multiple food units may be permitted on a single parcel, but cannot exceed four per acre subject to site plan review requirements. These permanent food units (PFUs) shall not count towards the six (6) allotted permits to be issued in the pilot program or the twenty (20) permits in the second pilot year, nor is a restaurant with a permanent set-up subject to the requirements of the mobile food units as set forth in the pilot program, with the exception of fire safety regulations listed in 1.o. Such a business is subject to review by the Community Appearance Board and must adhere to that level of review scrutiny.
b. A mobile food unit may be permitted to operate on multiple parcels within the City of Myrtle Beach with one being the property on which the affiliated restaurant is located.

c. The mobile food unit meets a 15' front setback from the property line, a ten foot clearance between units, and a ten foot emergency access setback between the units and any buildings on site. If adjacent to a residential area, then the mobile food unit must meet the side and rear property setback requirements of its underlying zoning district (this does not include catering trucks). The mobile food unit must also be at least ten feet away from any fire hydrant.

d. The mobile food units are located on a parcel with no less than an improved dust free surface thirty (30) feet driveway throat length; ingress, egress, and internal circulation of vehicular traffic shall not create a hazard for traffic on an adjacent street or on the subject parcel; and, the mobile food unit is not within ten (10) feet of an entranceway to any business open to the public.

e. The maximum number of Mobile Food Units per parcel (not associated with an onsite restaurant):

   i. For parcels up to 10,000 sq ft, up to three MFUs may be permitted at a time;
   ii. For parcels more than 10,000 sq ft and less than 20,000 sq ft, up to five MFUs may be permitted at a time; and,
   iii. For parcels greater than 20,000 sq ft in size, a maximum of seven MFUs is permitted at the same time (with the exception of city sponsored events).

f. A minimum of two (2) parking spaces must be provided per mobile food unit and maintained in addition to the minimum parking required for the principal business.

g. No portion of the mobile food unit shall be allowed to occupy or obstruct access to any parking stall, or parking aisle required by the Zoning Ordinance.

h. The mobile food unit is not located within three hundred (300) feet of the principal public entrance to any food service business not owned by the vendor or property owner, which sells merchandise approved for sale in this ordinance (unless the adjacent food service business owner provides a legal affidavit agreeing to a lesser distance). If a restaurant opens within the three hundred-foot zone after the mobile food vendor has continuously operated his business in the location for at least six (6) months, the mobile food vendor may remain in that location.

i. The mobile food unit is not located within two hundred (200) feet of the principal public entrance to any Pre K-12 educational facility, unless approval from the school exists in writing and is provided upon request.

j. A maximum of six (6) permits will be issued during this pilot program and expanded to twenty (20) permits in second pilot year, renewable pursuant to business license and zoning approval as described in 1.i. Each mobile food unit may submit multiple sites for locating, subject to staff approval.

k. A list of all requested sites, including the property owners and physical addresses. The applicant must submit site plans, to scale, showing all proposed locations of the vending operation on the plans. The Zoning Administrator must find that the proposed operation complies with all applicable provisions of this Section, and that the proposed operation will not adversely affect the traffic accessibility, or health and public safety.

l. The mobile food unit must obtain an annual zoning compliance and business license. A mobile food unit permit decal issued by the City of Myrtle Beach must be affixed in a prominent location.
Article 13. SUPPLEMENTAL PROVISIONS

City of Myrtle Beach, SC

ZONING ORDINANCE

m. Mobile food vendors shall not provide furniture, objects, or structures outside of the vehicle with the exception of a trash receptacle and a temporary shade structure limited to umbrella or pop-up shade "tents" without walls, unless such items are part of the affiliated on-site restaurant or business. Umbrellas/shade structures may not be located more than eight feet from the MFU, must not be located in or interfere with the required separations between MFUs, and must not be located in the buffer area between the MFU and a fire hydrant. Trash must be removed with the mobile food unit each business day.

n. Mobile food units may locate on public City-owned property subject to vendor permits (such as Myrtle’s Market or the Historic Train Depot) and must meet the same standards as set forth for operating on private property.

o. Mobile Food Units must meet the requirements of the following safety codes: the International Fire Code (IFC); National Fire Protection Association’s NFPA 58 (Liquefied Petroleum Gas Code), NFPA 70 (National Electric Code), and NFPA 96 (Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations); and the Code of Federal Regulations 49 CFR 180.205(d) (General requirements for requalification of specification cylinders) and 49 CFR 180.209 (Requirements for requalification of specification cylinders). The Fire Marshal’s office will be responsible for inspections.

2. Applicants for all mobile food units must submit the following to receive a City of Myrtle Beach Mobile Food Permit:

a. The applicant’s permanent street address and mailing address;

b. A brief description of the nature of the business and goods to be sold;

c. SCDHEC Certification, or a letter from SCDHEC stating that certification is not required;

d. Proof of current license plate and vehicle(s) registration;

e. Color photographs of the vehicle(s) exterior in sufficient number to provide permitting officials to be familiar with all the exterior views of the mobile food unit;

f. A site plan (or plans) for the properties on which they propose to operate; and,

g. A letter and/or copy of an official lease agreement from the property owner to vend on the subject parcel and a copy of the property owner’s business license must be provided. If applicable, the vendor must provide a copy of the approved county hospitality tax application and a State sales tax number to the Zoning Administrator before a vending permit is issued.

h. A current business license will be required for the affiliated restaurant.

3. Duration and Fees (for all mobile food units):

a. The fee levied by this ordinance is for the purpose of providing such regulation as may be required by the businesses subject thereto and for the purpose of raising revenue through a privilege tax. The mobile food permits issued under this ordinance will be valid beginning on date of this ordinance’s enactment until March 31 of the ensuing year. In the following year, a permit shall be from April 1 until May 31 of the ensuing year, and from then on follow the business license renewal calendar;

b. The permitting fee for each mobile food unit is $150.00, which includes review of two vending locations. For any additional location reviews made in conjunction with an initial application, there will be a fee of $25.00 per location. There will be no location permitting fees for mobile food vending on city-owned property.

4. Permitted Merchandise: Mobile food vendors shall be limited to selling food items. The selling of non-food or non-drink items shall be limited to merchandise displaying the mobile food vendor company logo and/or branding. No items may be displayed outside of the vehicle.
5. Signage:
   a. No advertising shall be permitted on any mobile food unit except to identify the name of the product or the name of the vendor, and the posting of prices;
   b. Electronic or illuminated signs shall not be utilized;
   c. Temporary off-site signs for the mobile food units shall be prohibited;
   d. One on-site sandwich style shall be permitted per mobile food unit, maximum two (2) feet by three (3) feet in size, located within ten (10) feet of the mobile food unit, and must be located outside of all buffers and rights-of-way.

6. Prohibited conduct (for all mobile food units): No vendor shall:
   a. Vend on any street or sidewalk where vending is otherwise prohibited;
   b. Sell alcohol. Permanent food units operating in association with an onsite restaurant may sell alcohol in coordination of the affiliated restaurant;
   c. Leave any mobile food unit unattended;
   d. Store, park, or leave any mobile food unit overnight at any vending location unless the mobile food vendor has written consent from the property owner;
   e. Sell food or beverages for immediate consumption unless there is a litter receptacle and recycling bins available for the patrons' use;
   f. Leave any location without first removing and disposing of all trash or refuse remaining from sales made by the vendor;
   g. Allow any items relating to the operation of the vending business to be placed anywhere other than within, on, or under, the mobile food unit;
   h. Set up, maintain or permit the use of any crate, carton, rack, or any other device to increase the selling or display capacity of the mobile food unit with the exception of one table 3' x 5' in size (subject to site plan approval), and no taller than 4' in height is allowed;
   i. Sell anything other than permitted merchandise as detailed in this ordinance;
   j. All mobile food units shall abide by the existing noise ordinance;
   k. Allow the mobile food unit or any other item relating to the permitted vending operation to lean against or hang from any building, utility pole, or other structure.

7. Exemptions (for all mobile food units): The provisions of this section shall not apply to special events, festivals, community projects or public events which occur on a periodic basis and which are specifically approved by City Council or as an approved Special Event. This section shall not apply to activities conducted pursuant to a franchise agreement or other contract with the City of Myrtle Beach. The vendor, property owner/lessee and assigns shall be responsible for any violation of this section or any other sections of the City of Myrtle Beach Code of Ordinances. Such violations may result in the revocation or denial of a Certificate of Zoning Compliance and vending permit, and may also result in the revocation and denial of a Certificate of Zoning Compliance and for any future vending permits. If the mobile food unit receives more than 3 violations, the permit will be revoked for one year.