

CITY OF WASHINGTON

PLANNING & DEVELOPMENT DEPARTMENT

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MEMORANDUM

TO: Mayor Manier and Committee of the Whole
FROM: Jon R. Oliphant, AICP, Planning & Development Director
SUBJECT: Small Wireless Facilities Legislation/Ordinance
DATE: June 7, 2018

Summary: Public Act 100-0585 (aka the Small Wireless Facilities Deployment Act), which was recently signed into law, establishes how local entities can regulate the permitting and deployment of small wireless facilities. All Illinois authorities (with the exception of the City of Chicago) are impacted by this legislation regardless of their home rule authority. Staff seeks to provide information on the bill as background prior to seeking adoption of a zoning code text amendment in July.

Background: A small wireless facility (SWF) is defined in the legislation as “a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.”

While there is considerable ambiguity with the law, some of the primary components include:

- Local authorities cannot unreasonably discriminate against other providers and cannot regulate on the basis of environmental factors;
- SWF's are allowed by-right in all zoning districts in right-of-way (ROW) if co-located and by-right in any non-residential zoning districts in ROW if not co-located;
- Prohibits local authorities from limiting the horizontal separation distances for any SWF's;
- Establishes the maximum height of a SWF to (i) 10 feet above the utility pole or wireless support structure on which the SWF is co-located or (ii) 45 feet above ground level;
- Local authorities cannot have a direct or indirect requirement for in-kind services including the installation of fiber or conduit;
- Sets the maximum fee of \$650 per SWF, \$350 for multiple SWF's, and \$1,000 per SWF one new utility poles. Municipalities have until August 1, 2018, to adopt an ordinance or schedule of fees;
- Establishes maximum timeframes for the review and approval of SWF applications;
- Establishes that the unit of government that has the authority on a particular road has the jurisdiction to regulate the SWF in that ROW;

- Allows local authorities to require wireless providers to present a structural integrity analysis, the location of the SWF, the specifications and drawings prepared by a structural engineer, and a proposed schedule for the installation and completion of each SWF;
- Prohibits local authorities from requiring the placement of any SWF's on any specific utility pole, or category of utility poles, or require multiple antenna systems on a single utility pole. The local authority can propose that the SWF be co-located on an existing utility pole or existing wireless support structure within 100 feet of the proposed co-location, which the applicant must accept if it has the right to use the alternate structure on reasonable terms and conditions and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant; and
- Allows local authorities to require that the SWF does not interfere with the frequencies used by a public safety agency for public safety communications.

One particular ambiguous regulation in the law allows local authorities to have written design standards that are "generally applicable for decorative utility poles, or reasonable stealth, concealment, and aesthetic requirements that are identified by the authority in an ordinance." This would appear to allow cities to mandate a particular type(s) of poles and/or to require specific shielding of such equipment.

It has been recommended to establish specific ROW conditions through an ordinance and using a standardized ROW application. While the City currently has a permit application for any excavations done with ROW, staff will review that to determine if any modifications should be adopted. It is also recommended to require franchise agreements whenever possible regardless of if a franchise fee is owed.

Attached with this memo is the full public act, model ordinance drafted by the Illinois Municipal League, and the City's current telecommunications tower ordinance. It is anticipated that most Illinois municipalities that seek to adopt an ordinance on this topic will adopt one that largely uses the language in the model ordinance. A public hearing has been set for the July Planning & Zoning Commission meeting. An ordinance will be drafted prior to that meeting following the review by and discussion with the City Attorney and prior to City Council consideration in July. This would be sought leading to the August 1 deadline for the adoption of such an ordinance or schedule of fees.

Public Act 100-0585, the Small Wireless Facilities Deployment Act (the Act), previously known as Senate Bill 1451, specifies how local authorities may regulate the attachment of small wireless facilities. Following is a compilation of frequently asked questions that the Illinois Municipal League (IML) anticipates regarding this Act.

What is a small wireless facility?

A small wireless facility, commonly known as a “small cell,” enables the transmission of data and wireless communications to and from a wireless device, such as a computer, cell phone or tablet. The Act states that these small wireless facilities are critical to delivering wireless access to advanced technology, broadband and 9-1-1 services to homes, businesses and schools in Illinois.

What does the Act do?

The Act provides the regulations and process for permitting and deploying small wireless facilities throughout Illinois. It specifies how local authorities may regulate the attachment of small wireless facilities on municipal utility poles or other structures.

What happens if our municipality does not adopt an ordinance or schedule of fees prior to two months after the effective date of the Act?

In the absence of an ordinance or agreement that makes available to wireless providers the rates, fees and terms for the attachment of small wireless facilities on municipal utility poles, wireless providers may attach small wireless facilities and install utility poles on their own accord, provided they comply with the requirements of the Act.

What do we do if we begin to receive applications to attach small wireless facilities on our municipal poles before we have adopted an ordinance or a fee schedule, pursuant to the Act?

Section 15(i)(4) of the Act provides that municipalities have two months following the effective date of the Act to adopt ordinances or provide agreements consistent with the terms of the Act, and thereafter, the terms of the Act will control in the absence of an ordinance or agreement. Permit applications received prior to August 1, 2018, would be acknowledged as received on the earlier of the effective date of the ordinance adopted by the municipality or August 1, 2018.

Our municipality has already adopted the IML Small Cell Antenna/Tower Right-of-Way Siting Ordinance and/or an ordinance establishing standards for the construction of facilities on rights-of-way. What do we do about those ordinances?

The municipality should consider leaving the prior IML Small Cell Antenna/Tower Right-of-Way Siting Ordinance in effect to support any existing installations, and adopting the new Model Small Wireless Facilities Deployment Ordinance for permit applications received after adoption of the new Model Small Wireless Facilities Deployment Ordinance. As to the ordinance establishing standards for the construction of facilities on rights-of-way, municipal officials should thoroughly review the ordinance with retained legal counsel or other qualified attorney and amend as necessary to ensure compliance with the Act.



Small Wireless Facilities Frequently Asked Questions (FAQs)

June 1, 2018

Does the Act apply to requests for permits to locate on municipal property outside of the right-of-way?

The Act only requires that requests to locate on municipal property outside of the right-of-way be granted in a competitively neutral and non-discriminatory manner. If your municipality does not presently allow telecommunications carriers access to municipal property outside of the right-of-way, it need not do so.

If the community requires other right-of-way users to obtain separate permits for electric and cabling requirements for their use, are wireless providers subject to those separate permitting requirements?

Yes.

Where are the small wireless facilities permitted uses, pursuant to Section 15(c) of the Act?

Small wireless facilities are permitted uses in the right-of-way, and on property zoned exclusively for commercial or industrial use. On other property, zoning provisions apply, as do the Federal Communications Commission shot clock timelines for permitting of telecommunications facilities.

If another authority is running through the municipality, such as a county or state road/street, who has the jurisdiction to control or regulate the small wireless facilities in the right-of-way?

The unit of government that controls the right-of-way has the jurisdiction to regulate the small wireless facilities in that right-of-way.

Who can I contact if I have questions?

If you have any further questions, please feel welcome to contact:

Amelia Finch | Assistant Counsel
Illinois Municipal League
217.525.1220 phone | 217.525.7438 fax
afinch@iml.org

MUNICIPAL OFFICIALS SHOULD REVIEW THIS DOCUMENT WITH RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.

Public Act 100-0585

SB1451 Enrolled

LRB100 09256 AWJ 19412 b

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Small Wireless Facilities Deployment Act.

Section 5. Legislative intent. Small wireless facilities are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to homes, businesses, and schools in Illinois. Because of the integral role that the delivery of wireless technology plays in the economic vitality of the State of Illinois and in the lives of its citizens, the General Assembly has determined that a law addressing the deployment of wireless technology is of vital interest to the State. To ensure that public and private Illinois consumers continue to benefit from these services as soon as possible and to ensure that providers of wireless access have a fair and predictable process for the deployment of small wireless facilities in a manner consistent with the character of the area in which the small wireless facilities are deployed, the General Assembly is enacting this Act, which specifies how local authorities may regulate the collocation of small wireless facilities.

Section 7. Applicability. This Act does not apply to a municipality with a population of 1,000,000 or more.

Section 10. Definitions. As used in this Act:

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

"Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

"Applicant" means any person who submits an application and is a wireless provider.

"Application" means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

"Authority" means a unit of local government that has jurisdiction and control for use of public rights-of-way as provided by the Illinois Highway Code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way.

"Authority utility pole" means a utility pole owned or operated by an authority in public rights-of-way.

"Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

"Communications service" means cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(33), as amended; or wireless service other than mobile service.

"Communications service provider" means a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

"FCC" means the Federal Communications Commission of the United States.

"Fee" means a one-time charge.

"Historic district" or "historic landmark" means a building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the authority pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

"Law" means a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

"Micro wireless facility" means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

"Permit" means a written authorization required by an authority to perform an action or initiate, continue, or complete a project.

"Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

"Public safety agency" means the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

"Rate" means a recurring charge.

"Right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. "Right-of-way" does not include authority-owned aerial lines.

"Small wireless facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated

ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

"Utility pole" means a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. "Wireless facility" includes small wireless facilities. "Wireless facility" does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

"Wireless infrastructure provider" means any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the authority.

"Wireless provider" means a wireless infrastructure provider or a wireless services provider.

"Wireless services" means any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

"Wireless services provider" means a person who provides wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include a utility pole.

Section 15. Regulation of small wireless facilities.

(a) This Section applies to activities of a wireless provider within or outside rights-of-way.

(b) Except as provided in this Section, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities.

(c) Small wireless facilities shall be classified as permitted uses and subject to administrative review in conformance with this Act, except as provided in paragraph (5) of subsection (d) of this Section regarding height exceptions or variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zone, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

(d) An authority may require an applicant to obtain one or

more permits to collocate a small wireless facility. An authority shall receive applications for, process, and issue permits subject to the following requirements:

(1) An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or utility pole space for the authority on the wireless provider's utility pole. An authority may reserve space on authority utility poles for future public safety uses or for the authority's electric utility uses, but a reservation of space may not preclude the collocation of a small wireless facility unless the authority reasonably determines that the authority utility pole cannot accommodate both uses.

(2) An applicant shall not be required to provide more information to obtain a permit than the authority requires of a communications service provider that is not a wireless provider that requests to attach facilities to a structure; however, a wireless provider may be required to provide the following information when seeking a permit to collocate small wireless facilities on a utility pole or wireless support structure:

(A) site specific structural integrity and, for an authority utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

(B) the location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed;

(C) specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;

(D) the equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;

(E) a proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and

(F) certification that the collocation complies with paragraph (6) to the best of the applicant's knowledge.

(3) Subject to paragraph (6), an authority may not require the placement of small wireless facilities on any specific utility pole, or category of utility poles, or require multiple antenna systems on a single utility pole; however, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, an authority may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

The authority may require the applicant to provide a written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph (3).

(4) Subject to paragraph (6), an authority may not limit the placement of small wireless facilities mounted on a utility pole or a wireless support structure by minimum horizontal separation distances.

(5) An authority may limit the maximum height of a small wireless facility to 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated. Subject to any applicable waiver, zoning, or other process that addresses wireless provider requests for an exception or variance and does not prohibit granting of such exceptions or variances, the authority may limit the height of new or replacement utility poles or wireless support structures on which small wireless facilities are collocated to the higher of: (i) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the authority, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the authority, provided the authority may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or (ii) 45 feet above ground level.

(6) An authority may require that:

(A) the wireless provider's operation of the small wireless facilities does not interfere with the frequencies used by a public safety agency for public safety communications; a wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment; unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency; if a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including, but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary; the authority may terminate a permit for a small wireless facility based on such interference if the wireless provider is not making a good faith effort to remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675;

(B) the wireless provider comply with requirements that are imposed by a contract between an authority and a private property owner that concern design or

construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way;

(C) the wireless provider comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning, or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances;

(D) the wireless provider comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning, or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles;

(E) the wireless provider comply with generally applicable standards that are consistent with this Act and adopted by an authority for construction and public safety in the rights-of-way, including, but not limited to, reasonable and nondiscriminatory wiring and cabling requirements, grounding requirements, utility pole extension requirements, and signage limitations; and shall comply with reasonable and nondiscriminatory requirements that are consistent with this Act and adopted by an authority regulating the location, size, surface area and height of small wireless facilities, or the abandonment and removal of small wireless facilities;

(F) the wireless provider not collocate small wireless facilities on authority utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole; however, the antenna and support equipment of the small wireless facility may be located in the communications space on the authority utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole; for purposes of this subparagraph (F), the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers;

(G) the wireless provider comply with the applicable codes and local code provisions or regulations that concern public safety;

(H) the wireless provider comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment, and aesthetic requirements that are identified by the authority in an ordinance, written policy adopted by the governing board of the authority, a comprehensive plan, or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district; and

(I) subject to subsection (c) of this Section, and except for facilities excluded from evaluation for

effects on historic properties under 47 CFR 1.1307(a)(4), reasonable, technically feasible and non-discriminatory design or concealment measures in a historic district or historic landmark; any such design or concealment measures, including restrictions on a specific category of poles, may not have the effect of prohibiting any provider's technology; such design and concealment measures shall not be considered a part of the small wireless facility for purposes of the size restrictions of a small wireless facility; this paragraph may not be construed to limit an authority's enforcement of historic preservation in conformance with the requirements adopted pursuant to the Illinois State Agency Historic Resources Preservation Act or the National Historic Preservation Act of 1966, 54 U.S.C. Section 300101 et seq., and the regulations adopted to implement those laws.

(7) Within 30 days after receiving an application, an authority must determine whether the application is complete and notify the applicant. If an application is incomplete, an authority must specifically identify the missing information. An application shall be deemed complete if the authority fails to provide notification to the applicant within 30 days after when all documents, information, and fees specifically enumerated in the authority's permit application form are submitted by the applicant to the authority. Processing deadlines are tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information.

(8) An authority shall process applications as follows:

(A) an application to collocate a small wireless facility on an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within 90 days; however, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the authority in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application; the permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the authority; the receipt of the deemed approved notice shall not preclude the authority's denial of the permit request within the time limits as provided under this Act; and

(B) an application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within 120 days; however, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the authority in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application; the permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day

after the receipt of the deemed approved notice by the authority; the receipt of the deemed approved notice shall not preclude the authority's denial of the permit request within the time limits as provided under this Act.

(9) An authority shall approve an application unless the application does not meet the requirements of this Act. If an authority determines that applicable codes, local code provisions or regulations that concern public safety, or the requirements of paragraph (6) require that the utility pole or wireless support structure be replaced before the requested collocation, approval may be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider. The authority must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The authority shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved; however, the applicant must notify the authority in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the deficiencies cited in the denial. However, this revised application cure does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

(10) The time period for applications may be further tolled by:

(A) the express agreement in writing by both the applicant and the authority; or

(B) a local, State, or federal disaster declaration or similar emergency that causes the delay.

(11) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If an application includes multiple small wireless facilities, the authority may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The authority may issue separate permits for each collocation that is approved in a consolidated application.

(12) Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the authority and the wireless provider agree to extend this period or a delay is caused by make-ready work for an authority utility pole or by the lack of commercial

power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the authority grants an extension in writing to the applicant.

(13) The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the authority makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable codes or local code provisions or regulations in paragraphs (6) and (9). If this Act is repealed as provided in Section 90, renewals of permits shall be subject to the applicable authority code provisions or regulations in effect at the time of renewal.

(14) An authority may not prohibit, either expressly or de facto, the (i) filing, receiving, or processing applications, or (ii) issuing of permits or other approvals, if any, for the collocation of small wireless facilities unless there has been a local, State, or federal disaster declaration or similar emergency that causes the delay.

(15) Applicants shall submit applications, supporting information, and notices by personal delivery or as otherwise required by the authority. An authority may require that permits, supporting information, and notices be submitted by personal delivery at the authority's designated place of business, by regular mail postmarked on the date due, or by any other commonly used means, including electronic mail, as required by the authority.

(e) Application fees are subject to the following requirements:

(1) An authority may charge an application fee of up to \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure and up to \$350 for each small wireless facility addressed in an application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

(2) An authority may charge an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility for such collocation.

(3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section must be accompanied by the required application fee.

(4) Within 2 months after the effective date of this Act, an authority shall make available application fees consistent with this subsection, through ordinance, or in a written schedule of permit fees adopted by the authority.

(f) An authority shall not require an application, approval, or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for: (i) routine maintenance; (ii) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the authority at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements of subparagraph (D) of paragraph (2) of

subsection (d) of this Section; or (iii) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes. However, an authority may require a permit to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(g) Nothing in this Act authorizes a person to collocate small wireless facilities on: (1) property owned by a private party or property owned or controlled by a unit of local government that is not located within rights-of-way, subject to subsection (j) of this Section, or a privately owned utility pole or wireless support structure without the consent of the property owner; (2) property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation, or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or (3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Act do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed, and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Act shall be construed to relieve any person from any requirement (1) to obtain a franchise or a State-issued authorization to offer cable service or video service or (2) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Act.

(h) Agreements between authorities and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, that are in effect on the effective date of this Act remain in effect for all small wireless facilities collocated on the authority's utility poles pursuant to applications submitted to the authority before the effective date of this Act, subject to applicable termination provisions. Such agreements entered into after the effective date of the Act shall comply with the Act.

(i) An authority shall allow the collocation of small wireless facilities on authority utility poles subject to the following:

(1) An authority may not enter into an exclusive arrangement with any person for the right to attach small wireless facilities to authority utility poles.

(2) The rates and fees for collocations on authority utility poles shall be nondiscriminatory regardless of the services provided by the collocating person.

(3) An authority may charge an annual recurring rate to collocate a small wireless facility on an authority utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct, and reasonable costs

related to the wireless provider's use of space on the authority utility pole. Rates for collocation on authority utility poles located outside of a right-of-way are not subject to these limitations. In any controversy concerning the appropriateness of a cost-based rate for an authority utility pole located within a right-of-way, the authority shall have the burden of proving that the rate does not exceed the actual, direct, and reasonable costs for the applicant's proposed use of the authority utility pole. Nothing in this paragraph (3) prohibits a wireless provider and an authority from mutually agreeing to an annual recurring rate of less than \$200 to collocate a small wireless facility on an authority utility pole.

(4) Authorities or other persons owning or controlling authority utility poles within the right-of-way shall offer rates, fees, and other terms that comply with subparagraphs (A) through (E) of this paragraph (4). Within 2 months after the effective date of this Act, an authority or a person owning or controlling authority utility poles shall make available, through ordinance or an authority utility pole attachment agreement, license or other agreement that makes available to wireless providers, the rates, fees, and terms for the collocation of small wireless facilities on authority utility poles that comply with this Act and with subparagraphs (A) through (E) of this paragraph (4). In the absence of such an ordinance or agreement that complies with this Act, and until such a compliant ordinance or agreement is adopted, wireless providers may collocate small wireless facilities and install utility poles under the requirements of this Act.

(A) The rates, fees, and terms must be nondiscriminatory, competitively neutral, and commercially reasonable, and may address, among other requirements, the requirements in subparagraphs (A) through (I) of paragraph (6) of subsection (d) of this Section; subsections (e), (i), and (k) of this Section; Section 30; and Section 35, and must comply with this Act.

(B) For authority utility poles that support aerial facilities used to provide communications services or electric service, wireless providers shall comply with the process for make-ready work under 47 U.S.C. 224 and its implementing regulations, and the authority shall follow a substantially similar process for make-ready work except to the extent that the timing requirements are otherwise addressed in this Act. The good-faith estimate of the person owning or controlling the authority utility pole for any make-ready work necessary to enable the pole to support the requested collocation shall include authority utility pole replacement, if necessary.

(C) For authority utility poles that do not support aerial facilities used to provide communications services or electric service, the authority shall provide a good-faith estimate for any make-ready work necessary to enable the authority utility pole to support the requested collocation, including pole replacement, if necessary, within 90 days after receipt of a complete application. Make-ready work, including any authority utility pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant at the wireless provider's sole cost and expense.

Alternatively, if the authority determines that applicable codes or public safety regulations require the authority utility pole to be replaced to support the requested collocation, the authority may require the wireless provider to replace the authority utility pole at the wireless provider's sole cost and expense.

(D) The authority shall not require more make-ready work than required to meet applicable codes or industry standards. Make-ready work may include work needed to accommodate additional public safety communications needs that are identified in a documented and approved plan for the deployment of public safety equipment as specified in paragraph (1) of subsection (d) of this Section and included in an existing or preliminary authority or public service agency budget for attachment within one year of the application. Fees for make-ready work, including any authority utility pole replacement, shall not exceed actual costs or the amount charged to communications service providers for similar work and shall not include any consultants' fees or expenses for authority utility poles that do not support aerial facilities used to provide communications services or electric service. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the wireless provider, at its sole cost and expense.

(E) A wireless provider that has an existing agreement with the authority on the effective date of the Act may accept the rates, fees, and terms that an authority makes available under this Act for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted 2 or more years after the effective date of the Act as provided in this paragraph (4) by notifying the authority that it opts to accept such rates, fees, and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the authority's utility poles pursuant to applications submitted to the authority before the wireless provider provides such notice and exercises its option under this subparagraph.

(j) An authority shall authorize the collocation of small wireless facilities on utility poles owned or controlled by the authority that are not located within rights-of-way to the same extent the authority currently permits access to utility poles for other commercial projects or uses. The collocations shall be subject to reasonable and nondiscriminatory rates, fees, and terms as provided in an agreement between the authority and the wireless provider.

(k) Nothing in this Section precludes an authority from adopting reasonable rules with respect to the removal of abandoned small wireless facilities. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of the facility must remove the small wireless facility within 90 days after receipt of written notice from the authority notifying the owner of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the authority to the owner at the last known address of the owner. If the small

wireless facility is not removed within 90 days of such notice, the authority may remove or cause the removal of the such facility pursuant to the terms of its pole attachment agreement for authority utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery. An authority may require a wireless provider to provide written notice to the authority if it sells or transfers small wireless facilities subject to this Act within the jurisdictional boundary of the authority. Such notice shall include the name and contact information of the new wireless provider.

(1) Nothing in this Section requires an authority to install or maintain any specific utility pole or to continue to install or maintain utility poles in any location if the authority makes a non-discriminatory decision to eliminate above-ground utility poles of a particular type generally, such as electric utility poles, in all or a significant portion of its geographic jurisdiction. For authority utility poles with collocated small wireless facilities in place when an authority makes a decision to eliminate above-ground utility poles of a particular type generally, the authority shall either (i) continue to maintain the authority utility pole or install and maintain a reasonable alternative utility pole or wireless support structure for the collocation of the small wireless facility, or (ii) offer to sell the utility pole to the wireless provider at a reasonable cost or allow the wireless provider to install its own utility pole so it can maintain service from that location.

Section 20. Local authority. Subject to this Act and applicable federal law, an authority may continue to exercise zoning, land use, planning, and permitting authority within its territorial boundaries, including with respect to wireless support structures and utility poles; except that no authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not otherwise owned or controlled by the authority, other than to comply with applicable codes and local code provisions concerning public safety. Nothing in this Act authorizes the State or any political subdivision, including an authority, to require wireless facility deployment or to regulate wireless services.

Section 25. Dispute resolution. A circuit court has jurisdiction to resolve all disputes arising under this Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority utility poles within the right-of-way, the authority shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per authority utility pole, with rates to be determined upon final resolution of the dispute.

Section 30. Indemnification. A wireless provider shall indemnify and hold an authority harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the authority improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Act. A wireless provider has no obligation to indemnify or hold harmless against any

liabilities and losses as may be due to or caused by the sole negligence of the authority or its employees or agents. A wireless provider shall further waive any claims that they may have against an authority with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

Section 35. Insurance.

(a) Except for a wireless provider with an existing franchise to occupy and operate in the rights-of-way, during the period in which the wireless provider's facilities are located on the authority improvements or rights-of-way, the authority may require the wireless provider to carry, at the wireless provider's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; or (iii) commercial general liability insurance with respect to its activities on the authority improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of authority improvements or rights-of-way, including coverage for bodily injury and property damage. An authority may require a wireless provider to include the authority as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the authority in a commercial general liability policy as reasonably required by the authority.

(b) A wireless provider may self-insure all or a portion of the insurance coverage and limit requirements required by an authority. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the naming of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the authority evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limits required by the authority.

Section 40. Home rule. A home rule unit may not regulate small wireless facilities in a manner inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 90. Repeal. This Act is repealed on June 1, 2021.

Section 100. The Counties Code is amended by changing Section 5-12001.2 as follows:

(55 ILCS 5/5-12001.2)

Sec. 5-12001.2. Regulation of telecommunications facilities; Lake County pilot project. In addition to any other requirements under this Division concerning the regulation of telecommunications facilities and except as provided by the Small Wireless Facilities Deployment Act, the following applies to any new telecommunications facilities in Lake County that are not AM telecommunications towers or facilities:

(a) For every new wireless telecommunications facility requiring a new tower structure, a telecommunications carrier shall provide the county with documentation consisting of the proposed location, a site plan, and an elevation that sufficiently describes a proposed wireless facility location.

(b) The county shall have 7 days to review the facility proposal and contact the telecommunications carrier in writing via e-mail or other written means as specified by the telecommunications carrier. This written communication shall either approve the proposed location or request a meeting to review other possible alternative locations. If requested, the meeting shall take place within 7 days after the date of the written communication.

(c) At the meeting, the telecommunications carrier shall provide the county documentation consisting of radio frequency engineering criteria and a corresponding telecommunications facility search ring map, together with documentation of the carrier's efforts to site the proposed facility within the telecommunications facility search ring.

(d) Within 21 days after receipt of the carrier's documentation, the county shall propose either an alternative site within the telecommunications facility search ring, or an alternative site outside of the telecommunications search ring that meets the radio frequency engineering criteria provided by the telecommunications carrier and that will not materially increase the construction budget beyond what was estimated on the original carrier proposed site.

(e) If the county's proposed alternative site meets the radio frequency engineering criteria provided by the telecommunications carrier, and will not materially increase the construction budget beyond what was estimated on the original carrier proposed site, then the telecommunications carrier shall agree to build the facility at the alternative location, subject to the negotiation of a lease with commercially reasonable terms and the obtainment of the customary building permits.

(f) If the telecommunications carrier can demonstrate that: (i) the county's proposed alternative site does not meet the radio frequency engineering criteria, (ii) the county's proposed alternative site will materially increase the construction budget beyond what was estimated on the original carrier proposed site, (iii) the county has failed to provide an alternative site, or (iv) after a period of 90 days after receipt of the alternative site, the telecommunications carrier has failed, after acting in good faith and with due diligence, to obtain a lease or, at a minimum, a letter of intent to lease the alternative site at lease rates not materially greater than the lease rate for the original proposed site; then the carrier can proceed to permit and construct the site under the provisions and standards of Section 5-12001.1 of this Code.

(Source: P.A. 98-197, eff. 8-9-13; 98-756, eff. 7-16-14.)

MODEL SMALL WIRELESS FACILITIES DEPLOYMENT ORDINANCE
AN ORDINANCE PROVIDING FOR THE REGULATION OF AND APPLICATION FOR SMALL WIRELESS FACILITIES

WHEREAS, the Illinois General Assembly has recently enacted Public Act 100-0585, known as the Small Wireless Facilities Deployment Act (the Act), which becomes effective on June 1, 2018; and

WHEREAS, the City of [INSERT NAME OF CITY/TOWN/VILLAGE] (the City) is an Illinois municipality in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the City is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small wireless facilities, distributed antenna systems and other personal wireless telecommunication facility installations in the public right-of-way as long as it does not conflict with State and federal law; and

WHEREAS, the Act sets forth the requirements for the collocation of small wireless facilities by local authorities.

NOW, THEREFORE, be it ordained by the corporate authorities of the City of [INSERT NAME OF CITY/VILLAGE/TOWN] as follows:

Section 1. Purpose and Scope.

Purpose. The purpose of this Ordinance is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City's jurisdiction, or outside the rights-of-way on property zoned by the City exclusively for commercial or industrial use, in a manner that is consistent with the Act.

Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations.

Section 2. Definitions.

For the purposes of this Ordinance, the following terms shall have the following meanings:

Antenna – communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes – uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

Applicant – any person who submits an application and is a wireless provider.

Application – a request submitted by an applicant to the City for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

Collocate or collocation – to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service – cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

Communications service provider – a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC – the Federal Communications Commission of the United States.

Fee – a one-time charge.

Historic district or historic landmark – a building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the City pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law – a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

Micro wireless facility – a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Municipal utility pole – a utility pole owned or operated by the City in public rights-of-way.

Permit – a written authorization required by the City to perform an action or initiate, continue, or complete a project.

Person – an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

Public safety agency – the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate – a recurring charge.

Right-of-way – the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include City-owned aerial lines.

Small wireless facility – a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility pole – a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless facility – equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless infrastructure provider – any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the City.

Wireless provider – a wireless infrastructure provider or a wireless services provider.

Wireless services – any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

Wireless services provider – a person who provides wireless services.

Wireless support structure – a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

Section 3. Regulation of Small Wireless Facilities.

Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (9) regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

Permit Required. An applicant shall obtain one or more permits from the City to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

- (1) Application Requirements. A wireless provider shall provide the following information to the City, together with the City's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
 - a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
 - b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
 - c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
 - d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
 - e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
 - f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
 - g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the City, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.
- (2) Application Process. The City shall process applications as follows:
 - a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

- b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the City fails to approve or deny the application within 90 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Ordinance.

- c. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 120 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Ordinance.

- d. The City shall deny an application which does not meet the requirements of this Ordinance.

If the City determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

The City shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the City denies an application.

The applicant may cure the deficiencies identified by the City and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve

or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the application to submit a new application with applicable fees, and recommencement of the City's review period.

The applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

- e. Pole Attachment Agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the City and the applicant shall enter into a Master Pole Attachment Agreement, provided by the City for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the City and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

- (3) Completeness of Application. Within 30 days after receiving an application, the City shall determine whether the application is complete and notify the applicant. If an application is incomplete, the City must specifically identify the missing information. An application shall be deemed complete if the City fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the City's permit application form are submitted by the applicant to the City.

Processing deadlines are tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing information.

- (4) Tolling. The time period for applications may be further tolled by:
 - a. An express written agreement by both the applicant and the City; or
 - b. A local, State or federal disaster declaration or similar emergency that causes the delay.
- (5) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the City shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the City may remove small wireless facility collocations from the application and treat separately small wireless

facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The City may issue separate permits for each collocation that is approved in a consolidated application.

- (6) Duration of Permits. The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the City makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable City codes or any provision, condition or requirement contained in this Ordinance.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable City code provisions or regulations in effect at the time of renewal.

- (7) Means of Submitting Applications. Applicants shall submit applications, supporting information and notices to the City by personal delivery at the City's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

Collocation Requirements and Conditions.

- (1) Public Safety Space Reservation. The City may reserve space on municipal utility poles for future public safety uses, for the City's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the City reasonably determines that the municipal utility pole cannot accommodate both uses.
- (2) Installation and Maintenance. The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Ordinance. The wireless provider shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.
- (3) No interference with public safety communication frequencies. The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety

spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

The City may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

- (4) The wireless provider shall not collocate small wireless facilities on City utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

However, the antenna and support equipment of the small wireless facility may be located in the communications space on the City utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

- (5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.
- (6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a City ordinance, written policy adopted by the City, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
- (7) Alternate Placements. Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the City, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

- (8) Height Limitations. The maximum height of a small wireless facility shall be no more than 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

- a. 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the City, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the City, provided the City may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
- b. 45 feet above ground level.

- (9) Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a [SPECIAL USE PERMIT, VARIANCE OR ADMINISTRATIVE WAIVER] in conformance with procedures, terms and conditions set forth in [INSERT APPROPRIATE SECTION(S) OF ZONING ORDINANCE].
- (10) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- (11) Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
- (12) Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- (13) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days

after issuance of the permit. Otherwise, the permit shall be void unless the City grants an extension in writing to the applicant.

Application Fees. Application fees are imposed as follows:

- (1) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
- (2) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
- (4) The City shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - a. routine maintenance;
 - b. the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with subsection d. under the Section titled Application Requirements; or
 - c. the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.
- (5) Wireless providers shall secure a permit from the City to work within rights-of-way for activities that affect traffic patterns or require lane closures.

Exceptions to Applicability. Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:

- (1) property owned by a private party or property owned or controlled by the City or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;
- (2) property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

- (3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Ordinance shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

Pre-Existing Agreements. Existing agreements between the City and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on City utility poles, that are in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the City's utility poles pursuant to applications submitted to the City before June 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into after June 1, 2018, shall comply with this Ordinance.

A wireless provider that has an existing agreement with the City on the effective date of the Act may accept the rates, fees and terms that the City makes available under this Ordinance for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the City that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the City's utility poles pursuant to applications submitted to the City before the wireless provider provides such notice and exercises its option under this paragraph.

Annual Recurring Rate. A wireless provider shall pay to the City an annual recurring rate to collocate a small wireless facility on a City utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the City utility pole.

If the City has not billed the wireless provider actual and direct costs, the fee shall be \$200 payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

Abandonment. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the City notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the City may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or

through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the City if it sells or transfers small wireless facilities within the jurisdiction of the City. Such notice shall include the name and contact information of the new wireless provider.

Section 4. Dispute Resolution.

The Circuit Court of [INSERT NAME OF COUNTY] shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the City shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

Section 5. Indemnification.

A wireless provider shall indemnify and hold the City harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the City improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Ordinance and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the City or its employees or agents. A wireless provider shall further waive any claims that they may have against the City with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

Section 6. Insurance.

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- (i) property insurance for its property's replacement cost against all risks;
- (ii) workers' compensation insurance, as required by law;

OR

- (iii) commercial general liability insurance with respect to its activities on the City improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of City improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the City as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the City in a commercial general liability policy prior to the collocation of any wireless facility.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the City. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the City.

Section 7. Severability.

If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 8. Effective Date.

This Ordinance shall be in full force and effect on [insert date].

PASSED THIS _____ day of _____, 201__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 201__.

Mayor/Village President

ATTEST:

City/Village Clerk

MUNICIPAL OFFICIALS SHOULD REVIEW THIS DOCUMENT WITH RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.

TELECOMMUNICATIONS TOWERS

§ 154.501 TITLE

This Code shall be known as the Telecommunications Towers Code of the City of Washington, Illinois, and may be so cited and pleaded and shall be referred to herein as the Telecommunications Towers Code.

§ 154.502 PURPOSE

The primary intent of this Division is to regulate personal wireless service facilities, including antennae, mounts, and equipment to be located within the City of Washington. This Code is not intended to, nor does it apply to, amateur radio communications and amateur radio antennae. Therefore, the purpose of this Division shall be to:

- (A) Comply with all federal and state regulations regarding the placement, use, and maintenance of PWSFs.
- (B) Encourage the continued improvement of wireless telecommunications service in the city.
- (C) Minimize, to the extent permitted by law, the proliferation of visual and safety impacts of PWSFs throughout the City.
- (D) Promote both proper maintenance and renovation of PWSFs.
- (E) Encourage the use of co-location of PWSFs by multiple providers so as to reduce the number of high towers needed within the City of Washington.
- (F) Recognize the commercial communication requirements of all sectors of the business and residential community.

§ 154.503 DEFINITIONS

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

ABOVE GROUND LEVEL. The actual height of the PWSF from the sidewalk level or equivalent established grade to the highest part of the mount or the antenna, whichever is higher.

ANTENNA. A whip (omni-directional antenna), panel (direction antenna), disc (parabolic antenna), or similar device used for transmission and/or reception of radio frequency signals.

ANTENNA ARRAY. An antenna array is one or more whips, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antennae (whips), directional antennae (panels), and parabolic antennae (discs). The antenna array does not include the mount as defined herein.

APPLICANT. A person or entity with an application before the City for a permit for a PWSF.

CAMOUFLAGE. A way of painting and mounting a PWSF that requires minimal changes to the host structure in order to accommodate the facility.

CARRIER. A company licensed by the Federal Communications Commission (FCC) that provides wireless services. For purposes of this Title, a tower builder shall not be considered a carrier.

CELL SITE. A generic term for a PWSF.

CELLULAR. A mobile telephone service operating in the 800 MHz spectrum.

CO-APPLICANT. Any person and/or entity joining with an applicant in an application for a permit for a PWSF, including the owner(s) of the PWSF, owner(s) of the subject property, and any proposed tenant(s) for the PWSF.

CO-LOCATION. The use of a common tower or structure by two or more wireless license holders or by one wireless license holder for more than one type of communications technology for purposes of maintaining two or more PWSFs.

COMMERCIAL COMMUNICATIONS TOWER. Any television, radio or communications tower which is not a facility designed or used for the provision of personal wireless services, as defined by Section 704 of the Telecommunications Act of 1996. Commercial Communications Towers do not include Amateur Radio/Citizens Radio Antennae, which shall meet the requirements of Sections 154.210 through 154.217 of the Zoning Code.

COMMERCIAL MOBILE RADIO SERVICES (CMRS). Per Section 704 of the Telecommunications Act of 1996, any of several technologies using radio signals at various frequencies to send and receive voice, data, and video. According to the FCC, these services are "functionally equivalent services." Section 704 of the Telecommunications Act prohibits unreasonable discrimination among functionally equivalent services.

CONCEAL. To enclose a PWSF within a natural or man-made feature resulting in the facility being either invisible or made part of the feature enclosing it.

DESIGN. The appearance of PWSFs such as their materials, colors, and shape.

DISGUISE. To design a PWSF to appear to be something other than a PWSF.

ENHANCED SPECIALIZED MOBILE RADIO (ESMR). Private land mobile radio with telephone services.

EQUIPMENT CABINET/EQUIPMENT SHELTER. An enclosed structure at the base of the mount within which are housed the equipment for the PWSF, such as batteries and electrical equipment.

FALL ZONE. The area on the ground within a prescribed radius from the base of a PWSF. The fall zone is the area within which there might be a potential hazard from falling debris or collapsing material.

FEDERAL COMMUNICATIONS COMMISSION (FCC). An independent federal agency charged with licensing and regulating wireless communications at the national level.

FUNCTIONALLY EQUIVALENT SERVICES. Cellular, PCS, Enhanced Specialized Mobile Radio, Specialized Mobile Radio, and Paging. Section 704 of the Telecommunications Act prohibits unreasonable discrimination among functionally equivalent services.

HEIGHT. The distance measured from sidewalk level or equivalent grade, which for purposes of this ordinance will be called above ground level, to the highest point of a PWSF, including the antenna array.

LATTICE TOWER. See Tower, Lattice.

LICENSED CARRIER. A company authorized by the FCC to construct and operate a commercial mobile radio services system. A licensed carrier must be identified for every PWSF application.

LOCATION. The area where a PWSF is located or proposed to be located.

MICROCELL. Any PWSF that is designed to generate lower power density than that limited by the FCC "Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation."

MITIGATION. The reduction or elimination of visual impacts by the use of one or more methods:

- (1) Concealment.
- (2) Camouflage.
- (3) Disguise.

MODIFICATION. The changing of any portion of a PWSF from its description in a previously approved permit. The FCC definitions for "modification" are different from local government rules.

MONOPOLE. The shape of mount that is self-supporting with a single shaft of wood, steel, or concrete, and antennae at the top and/or along the shaft.

MOUNT. The structure or surface upon which antennae are mounted, e.g.:

- (1) Roof-mounted. Mounted on the roof of a building.

- (2) Side-mounted. Mounted on the side of a building.
- (3) Ground-mounted. Mounted on the ground.
- (4) Structure-mounted. Mounted on a structure other than a building.

PERSONAL WIRELESS SERVICE FACILITY (PWSF). A facility for the transmission or reception of personal wireless services, as defined by Section 704 of the Telecommunications Act of 1996. A PWSF includes any unstaffed facility for the transmission or reception of personal wireless services, usually consisting of an antenna array, transmission cables, equipment shelter, and a mount.

PERSONAL WIRELESS SERVICES. Any personal wireless service defined in the Federal Telecommunications Act which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging as well as unlicensed wireless services, and common carrier wireless exchange access services.

PUBLIC PROPERTY. Site or property owned or controlled by the City of Washington, Northern Tazewell Fire Protection District, Northern Tazewell Water District, School Districts 50, 51, 52 or 308, Tazewell County, Washington District Library, Washington Fire Department, Washington Park District, or Washington Township.

RADIO FREQUENCY (RF) ENGINEER. Someone with a background in electrical engineering or microwave engineering who specializes in the study of radio frequencies.

RADIO FREQUENCY RADIATION. The emissions from PWSFs that can, in excessive amounts, be harmful to humans. RF emissions are byproducts of the RF signal (RFR).

RADIO FREQUENCY SIGNAL. The actual beam or radio waves sent and received by a PWSF. A signal is the deliberate product of a PWSF. The RF emission is the byproduct.

SECURITY BARRIER. A locked, impenetrable wall, fence, or berm that completely seals an area from unauthorized entry or trespass.

SEPARATION. The distance between one carrier's antenna array and another carrier's antenna array.

SITE. That portion of a subject property where a PWSF is to be placed. Any acceptable location may have several potential sites within it.

SITING. The method and form of placement of PWSFs on a specific area of a subject property.

SPECIALIZED MOBILE RADIO (SMR). A form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier. Used primarily for data, delivery vans, truckers, or taxis within a small, definable geographic area.

STANDARDS. Rules or measures by which acceptability is determined. PWSFs are measured by visibility or safety. Wireless planning regulates PWSFs based on location (or where the PWSF site can go), siting (or how the PWSF is placed within its setting), and design (or what the PWSF looks like).

TOWER. Any ground, roof or otherwise mounted pole, spire, antenna, antenna array, mount, structure, or combination thereof which exceeds thirty-five (35) feet in height. The height of an antenna or antenna array shall not include the height of any pre-existing structure or equipment constructed pursuant to a valid building permit.

TOWER, GUYED. A monopole or lattice tower that is anchored to the ground or to another surface by diagonal cables.

TOWER, LATTICE. A type of mount that is usually ground-mounted and self-supporting with multiple legs and cross-bracing of structural steel.

UNLICENSED WIRELESS SERVICES. Commercial mobile services that can operate on public domain frequencies and therefore need no FCC license for their sites.

WIRELESS COMMUNICATIONS. Any form of signaling by wireless, including personal wireless services, that require a transmitter, a receiver, and a path - sometimes straight, sometimes indirect - between them.

§ 154.504 CO-LOCATION REQUIREMENTS

All PWSFs erected, constructed, or located within the City shall comply with the following requirements:

- (A) Proposals for a PWSF tower shall not be approved unless the City Council finds that the antenna or antenna array and other telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or structure within a one-mile radius of the proposed tower due to one or more of the following reasons:
 - (1) The planned equipment, if installed, would exceed the structural capacity of any existing or approved towers or structures, as documented by a qualified licensed structural engineer, and all the existing and approved towers cannot be reinforced, modified or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - (2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at a tower or structure as documented by a qualified licensed professional engineer and interference cannot be prevented at a reasonable cost.
 - (3) Existing or approved towers and the structures within a one-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified licensed professional engineer.

- (4) Other unforeseen reasons that make it unfeasible to locate the planned equipment on an existing or approved tower or structure.
- (B) Any proposed PWSF tower shall be designed, structurally, electrically, in all respects, to accommodate both the applicant's antenna and equipment and comparable antenna and equipment for at least two (2) additional users if the tower is over 100 feet in height, or at least one additional user if the tower is from sixty (60) to 100 feet in height. Towers must be designed to allow for future rearrangement of antennae upon a tower and to accept antennae mounted at varying heights.

§ 154.505 PRE-EXISTING PERSONAL WIRELESS SERVICE FACILITIES

- (A) A PWSF for which a permit has been issued prior to the effective date of this ordinance shall be deemed a permitted use, subject to the conditions of that permit. When a PWSF for which no permit has been obtained (unpermitted PWSF) is identified by The City of Washington to be attached to a mount approved for another use or PWSF, the unpermitted PWSF must apply for a separate permit, even when (i) sharing a legal mount, (ii) already in operation, and (iii) duly licensed by the Federal Communications Commission. The issuance of permit renewals or other new permits for such facilities shall be in accordance with the provisions of this Division. Unpermitted PWSFs will be considered out of compliance with this Division and subject to abatement.
- (B) Any PWSF or mount hereafter damaged or destroyed due to any reason or cause whatsoever may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefor, but without otherwise complying with this Division, unless the cost of repairing the PWSF or mount to its former use, physical dimensions, and location would be fifty percent (50%) or more of the cost of a new mount of like kind and quality, then the mount may not be repaired or replaced, except in full compliance with this Division.
- (C) Placement of an attached array or a microcell on a legally non-conforming structure shall not be considered an expansion of the non-conforming structure. However, placement of any attached array, microcell, or any other portions of a PWSF on an existing structure, whether legally non-conforming or in, as well as out of, compliance, shall require a permit to be obtained for the PWSF under the terms of this Division.
- (D) Unpermitted Facilities, Mounts or Equipment Ineligible for Co-location: No issuance of any permit under this Division shall occur for a request to co-locate, attach, or share an existing PWSF site, mount, or facility, when such existing site, mount, or facility is found to have one or more PWSFs without permits required by the City of Washington and the laws that the City is authorized to implement and enforce.

§ 154.506 SPECIFICATION OF LAND USE CLASSIFICATIONS

Notwithstanding anything in the Zoning Code to the contrary, PWSFs shall be a permitted use or a special use in all zoning districts, provided that such PWSFs comply with the standards of this Division and the permits under which PWSFs are regulated.

§ 154.507 TIERED PERMIT PROCESS

- (A) It shall be unlawful for any person, firm, or corporation to erect, construct in a place, place or re-erect, replace, or repair any CMRF, including any PWSF, without first making application to the City of Washington and securing a permit under one of the following "tiers."
- (B) The City of Washington City Planner shall receive all PWSF applications and assign each application to one of the following "tiers."
 - (1) Tier One
 - (a) This tier is limited to applications for a building permit that comply with the following:
 - (i) Any antenna or antenna array added to an existing building or structure located on Public Property provided that the antenna or antenna array extends no more than ten (10) feet higher than the existing building or structure.
 - (ii) Meets all Standards for Safety in Section 154.508 of this Division.
 - (b) Tier One applications need not meet all Standards for Location, Siting, and Design in Section 154.508 of this ordinance.
 - (c) Applicants shall review maps available at the City of Washington showing Public Property locations.
 - (d) Tier One Review and Approval/Reassignment to Tier Two: All Tier One applications shall be reviewed by the City Planner or his or her designee. The City Planner may:
 - (i) Review and direct the Building and Zoning Supervisor to grant a building permit.
 - (ii) Review and direct the Building and Zoning Supervisor to reassign the application for a Tier Two review.
 - (iii) Review and deny the application.
 - (2) Tier Two

- (a) This tier is limited to applications for a building permit that comply with the following:
 - (i) Proposed for Public Property but not approved under Tier One as provided in Section 154.507(B)(1), excluding those which include the construction of a tower, which shall be reviewed under Tier Three; or
 - (ii) Limited to an antenna or antenna array if added to an existing building, structure, excluding single- and two-family dwellings, but including streetlights, utility poles, traffic signal poles, existing monopoles or towers, or other structures not inconsistent with the proposed PWSF.
- (b) Tier Two applications shall meet all Standards for Location, Siting, Design, and Safety set forth in Section 154.508 of this ordinance.
- (c) Applicants shall review maps available at the City of Washington showing Public Property locations.
- (d) Tier Two Review and Approval/Reassignment to Tier Three/Denial: All Tier Two applications shall be reviewed by the City Planner or his or her designee. The City Planner may:
 - (1) Review the application and direct the Building and Zoning Supervisor to grant a building permit.
 - (2) Review the application and consult with the applicant concerning submission of a modified request under Tier Two or an application for special use under Tier Three.
 - (3) Review and deny the request.
- (3) Tier Three
 - (a) All applications that do not qualify as either Tier One or Tier Two shall be considered Tier Three applications, which shall not be a permitted use in any zoning district, but shall be permitted only as a special use.
 - (b) Tier Three applications shall meet all Standards for Location, Siting, Design, and Safety in Section 154.508 of this ordinance.
 - (c) All PWSFs requiring Tier Three applications shall be a special use within each zoning district and reviewed, approved, or denied as provided in this Division and Sections 154.120 through 154.126 of the Zoning Code.

- (1) Tier Three Review and Recommendation to the Planning and Zoning Commission and City Council for approval/denial: All Tier Three applications shall be reviewed by the City Planner for a special use permit. The City Planner shall prepare a report to the Planning and Zoning Commission. The Planning and Zoning Commission shall act on these applications in accordance with Sections 154.120 through 154.126 of the Zoning Code by preparing written recommendations to the City Council.
- (d) All recommendations of the Planning and Zoning Commission shall be forwarded to the City Council for final action. The City Council may accept, deny or modify the Planning and Zoning Commission recommendation in accordance with Sections 154.120 through 154.126 of the Zoning Code.

§ 154.508 STANDARDS

The approval of any PWSF which does not meet the requirements of Tier One applications shall be subject to meeting or exceeding all of the following standards:

(A) Location Standards.

- (1) Preferred Sites: All applicants seeking to erect a PWSF in the City of Washington shall make a good faith effort to locate the equipment at a Preferred Site. Prior to making application to erect a PWSF at a site other than a Preferred Site, the applicant shall discuss potential Preferred Sites with the City Planner to determine whether any potential Preferred Sites are feasible. The application to erect a PWSF at a site other than a Preferred Site shall include a signed affidavit from the applicant indicating that no Preferred Sites are feasible for this proposed PWSF. If the City Planner had recommended specific Preferred Sites, the affidavit shall set forth all reasons that each Preferred Site proposed by the City Planner is not feasible. Preferred Sites shall mean the following:
 - (a) Rooftops on any building other than single- and two-family dwellings.
 - (b) Utility poles, including telephone poles, utility distribution and transmission poles, street, and traffic signal poles.
 - (c) Other kinds of poles, including Civil Defense mounts, public field light standards, and private parking or storage lot light standards.
 - (d) Wooded areas where the height above ground level of the PWSF does not exceed the tree line by more than ten (10) feet.
 - (e) Steeples on churches already having steeples or on newly constructed steeples.
 - (f) On Public Property as defined in Section 154.503.

- (g) In C-3, I-1, I-1A, and I-2 zoning districts.
- (2) Avoidance Sites: A PWSF shall not be located in an Avoidance Site unless the applicant can demonstrate that this regulation "has the effect of prohibiting service" as that term is defined in the Telecommunications Act of 1996. Avoidance Sites shall mean the following:
 - (a) Flood-prone areas, as mapped by the Federal Emergency Management Agency on a Flood Insurance Rate Map.
 - (b) Wetlands, water bodies, and watercourses, as mapped by the Illinois Department of Natural Resources.
 - (c) Visual and community entrance corridors, including any location within two hundred fifty (250) feet of the following arterial roads: Business Route 24 (including McClugage Road, Washington Road, Peoria Street, and Walnut Street), Cummings Lane, Main Street, U.S. 24 and other corridors as mapped by the City of Washington.
 - (d) CE, R-1A, R-1, and R-2 zoning districts, except in the case of Public Property.
 - (3) Prohibited sites: No Tower with a height exceeding thirty-five (35) feet above ground level shall be permitted in the area bounded by Jefferson Street on the north, Elm Street on the east, Holland Street on the south, and Wood Street on the west, nor within 250 feet of any property designated by the City of Washington as an Historic District or Historic Landmark.
 - (4) Use or lease of property for PWSFs shall not be subject to the requirements of the Subdivision Code. A plat of survey shall accompany permit applications where the applicant proposes to lease the property.
 - (5) For purposes of determining whether the application complies with zoning district development regulations, the dimensions of the entire lot shall control.
- (B) Siting Standards. PWSFs shall meet the following siting standards:
- (1) To the greatest extent possible, PWSFs shall be concealed within existing structures or located where camouflaged conditions surround them, or located on inconspicuous mounts.
 - (2) Wherever possible, PWSFs shall be placed within trees, but no antenna should extend higher than ten (10) feet above the average tree height.

- (3) Placement on existing roofs or non-wireless structures shall be favored over ground-mounted PWSFs.
 - (4) Wherever possible, roof-mounted PWSFs shall not project more than ten (10) additional feet above the height of a legal building.
 - (5) Wherever possible, side-mounted PWSFs shall not project more than twenty (20) inches from the face of the mounting structure.
- (C) Design Standards. PWSFs shall meet the following design standards:
- (1) Color. All PWSFs shall be painted or be complementary with trees, sky and other surroundings.
 - (2) Size. The silhouette of the PWSF shall be reduced to minimize visual impact.
 - (3) PWSFs near residences shall either:
 - (a) Provide underground vaults for equipment shelters, or
 - (b) Place equipment shelters within enclosed structures.
 - (4) Equipment: The following types of equipment are discouraged and may not be utilized unless the applicant demonstrates that this regulation has the "effect of prohibiting service" as that term is defined in the Telecommunications Act of 1996: Roof-mounted monopoles, lattice towers, or guyed towers; ground-mounted lattice towers; and ground-mounted guyed towers.
 - (5) Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be impregnated with rot-resistant substances.
 - (6) Height of PWSFs shall be kept to a minimum and shall not exceed 125 feet above ground level unless the applicant obtains a variance of height in addition to any required special use permit.
- (D) Safety Standards. PWSFs shall meet the following safety standards:
- (1) All PWSFs shall comply with tornado design standards as contained in the Washington Building Code or EIA-TIA 222 (latest version), whichever is stricter.
 - (2) Roof mounts on buildings shall have railings to protect workers.
 - (3) All transmission cables and cable trays deployed horizontally above the ground between a mount and a structure, or between mounts, shall be at least eight (8) feet above the ground at all points.

- (4) All construction of PWSFs shall be in compliance with the National Electrical Code.

§ 154.509 FALL ZONE; SETBACK REQUIREMENTS

- (A) Fall Zone: No PWSF shall be located any closer to a habitable structure or outdoor area where people congregate than its fall zone. For purposes of this section, the fall zone shall be one hundred ten percent (110%) of the height of the PWSF. This provision shall apply only to Tier Three applications.
- (B) Setback
- (1) All PWSFs including mounts and equipment shelters shall comply with the minimum building and landscape/screening setback requirements of the applicable zoning district as set forth in the City of Washington Zoning Code; provided, however, that the following setbacks apply to the height of the tower above ground level or, if the tower is attached to a building, the height from the point of attachment:
- (a) At a preferred site, no tower shall be set back a distance less than its height, unless the applicant provides an affidavit from a professional engineer that the tower is designed to break at a point no lower than the midpoint of the tower, in which case the tower shall be set back a distance not less than half its height.
- (b) At any site except a preferred site, no tower shall be set back a distance less than its height.
- (c) No tower shall be set back a distance less than its height from the nearest overhead electrical power line which serves more than one dwelling or place of business.
- (2) Structural elements such as peripheral anchors, guy wires, or other supporting devices shall be located no closer than ten (10) feet from any property line.
- (3) The antenna array for an attached PWSF is exempt from the setback requirements of this Division and from the setback requirements for the zoning district in which they are located, provided that no such antenna array shall extend more than five (5) feet horizontally from the attachment structure at the point of attachment.
- (4) On parcels with a principal building housing a principal use, all components of the PWSF shall be located behind the rear building line.

§ 154.510 FEES

The City shall charge reasonable fees to evaluate applications. Such fees shall include, but shall not be limited to, the following:

- (A) Application Fee. The basic application fee shall be one thousand dollars (\$1,000.00).
- (B) Special Fee. The City may retain independent technical consultants and experts as it deems necessary to properly evaluate applications for individual PWSFs. The special fee shall include, but shall not be limited to, the hourly rate of the independent technical consultant or expert the City deems necessary to properly evaluate applications for PWSFs.
- (C) Any other fee imposed under the provisions of the Code of Ordinances.

§ 154.511 ADDITIONAL TIER THREE APPLICATION REQUIREMENTS

- (A) In addition to the application requirements listed in Section 154.507, under a Tier Three application, the applicant must demonstrate that no existing tower or other structure can accommodate the applicant's proposed PWSF by providing a written statement from an Illinois licensed engineer certifying that the applicant will be prohibited from providing personal wireless services unless the proposed PWSF is constructed. The application must also demonstrate that the fees, costs, or contractual provisions imposed by the owner of the structure in order to share an existing tower or other mount or to adapt an existing tower or other mount for sharing are unreasonable, based on market information provided with the application. Costs exceeding new tower development are presumed to be unreasonable. In addition, Tier Three applications shall contain the following information:
 - (1) A report from a qualified Illinois licensed professional engineer including:
 - (a) Written findings evidencing compliance with each provision of this Division as well as the applicable zoning regulations; and
 - (b) Description of the tower height and design, including a cross section in elevation; and
 - (c) Height above ground level for all potential mounting positions for co-located antennae and the minimum separation distances between antennae; and
 - (d) Description of the tower's capacity, including the number and type of antennae that it can accommodate; and
 - (e) Documentation of the steps the applicant will take to avoid interference with established public safety telecommunications; and
 - (f) Engineer's stamp and registration number; and (g) Other information as necessary to evaluate the request.

- (2) Architectural drawings depicting the constructed tower with camouflaging treatment set in the surrounding area. These drawings shall include at least one perspective from each of the north, south, east and west.
 - (3) An overhead map of the City showing the subject tower's location as well as the location of each of the applicant's existing and planned future tower sites.
 - (4) An agreement committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use. For purposes of this requirement, the applicant shall sign an agreement available at the office of the City Planner. A copy of this agreement shall be presented for recording by the Tazewell County Recorder of Deeds.
 - (5) A certificate of liability insurance demonstrating minimum liability coverage of \$1,000,000 per accident.
 - (6) Before the issuance of a building permit, the following supplemental information shall be provided:
 - (a) A statement demonstrating that the proposed tower complies with regulations administered by the Federal Aviation Administration; and
 - (b) A statement demonstrating that the proposed tower complies with the emission standards promulgated by the Federal Communications Commission; and
 - (c) Report from a qualified Illinois licensed professional engineer that demonstrates the tower's compliance with all other applicable structural and electrical standards.
- (B) Each Tier Three application for a PWSF shall also contain at least two alternative proposals for the PWSF proposed in the application. The alternatives need not be totally different from the proposed PWSF; however, the alternatives should contain measurable differences, such as:
- (1) Height: An alternative can be identical to the proposed PWSF except to be for a shorter height.
 - (2) Number: An alternative could be for two or more PWSFs that are shorter than the proposed PWSF.
 - (3) Location: An alternative could be located on a different property than the proposed PWSF.

- (4) Siting: An alternative could be in a different place on the same property as the proposed PWSF.
- (5) Design: An alternative could be of the same height, location, and siting as the proposed PWSF, but be designed to appear differently.
- (C) Submittal Requirements for Alternatives. The materials submitted for each alternative should show only the differences between each of the alternatives and the proposed PWSF.
- (D) Comparison of Proposed PWSF and Alternatives. The City of Washington City Planner shall compare the proposed PWSF to the alternatives on the basis of the standards of Sections 154.508 and 154.125. The City Planner shall submit each application and the alternatives to the Planning and Zoning Commission for review. The Planning and Zoning Commission shall consider the alternatives along with the proposed PWSF.

§ 154.512 MODIFICATIONS

All modifications to PWSFs must be reviewed and approved by the City.

- (A) Types of Modification: A modification of a PWSF is any of the following:
 - (1) Change of ownership of the PWSF or of the subject property.
 - (2) Change in technology used for the PWSF, such as an "overlay."
 - (3) Addition or replacement of any equipment in the PWSF, excluding direct, like-for-like substitutions.
 - (4) Change in design of the PWSF.
 - (5) Addition to any PWSF for the purposes of co-location.
- (B) Applicants for modifications shall submit an application to the City for a modified PWSF. The application shall be reviewed in the same manner as any application for a PWSF.

§ 154.513 REGISTRY; ABANDONMENT

- (A) Registry. Each carrier maintaining at least one PWSF shall file the following information with the City by December 31 on an annual basis:
 - (1) Owner/lessee/intermediary/agent and carrier(s) at each PWSF site in the City.
 - (2) Location(s) by address and parcel number.
 - (3) Co-location status and capability, including if a former co-location has been removed.

- (4) A certificate of liability insurance demonstrating minimum liability coverage of \$1,000,000 per accident.
- (B) Abandonment and Removal. Any PWSF that is not operated for a continuous period of eighteen (18) months shall be considered abandoned, and the owner of such PWSF and the owner of the property upon which the PWSF is located shall remove same within ninety (90) days of notice from the City of Washington City Planner that the PWSF is abandoned. If such PWSF is not removed within said ninety (90) days, the City of Washington may have the PWSF removed at the PWSF owner's or the property owner's expense.

§ 154.514 RADIO FREQUENCY RADIATION EMISSIONS

- (A) A statement certifying that, as proposed, the entire combined facility will comply with the current FCC rules and guidelines concerning human exposure to radio frequency radiation emissions shall be provided at the time of building permit application or when a request is made by the City.
- (B) No Contravention of FCC Guidelines: A PWSF that meets the FCC guidelines shall not be conditioned or denied on the basis of radio frequency impacts.

§ 154.515 COMMERCIAL COMMUNICATIONS TOWERS

- (A) It shall be unlawful to erect, construct, place, re-erect, replace or repair any Commercial Communications Tower without first making application to the City of Washington and securing a permit to do so.
- (B) All applications to erect, construct, place, re-erect, replace or repair a Commercial Communications Tower shall be treated as Tier Three applications under Section 154.507 and shall be subject to all the rules and regulations outlined in this Division.

§ 154.516 LIGHTING; SECURITY

- (A) Lighting. A PWSF shall not be artificially lighted, except for:
 - (1) Security and safety lighting of equipment buildings if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and
 - (2) Such lighting of the PWSF as may be required by the FCC, Federal Aviation Administration (FAA), or other applicable authority installed in a manner to minimize impacts on adjacent residences. "Dual lighting" (red at night/strobe during day) shall be utilized unless otherwise recommended by FAA guidelines.
- (B) Security Barriers. A security barrier shall be required around the perimeter of the mount(s) or equipment structure, and any anchor points. In the case of a roof-mounted PWSF, the security barrier need only be around the antenna. The security barrier shall be maintained

by the operator of the PWSF or mount for the life of the installation. No security barrier is needed around side-mounted PWSFs.

§ 154.517 SIGNS/IDENTIFICATION PLAQUES

No signage shall be permitted on any PWSF other than that required for public safety purposes or by the FCC or FAA, except that each PWSF shall have a weather-proof plaque not exceeding two square feet mounted at eye level identifying the carrier, frequency, and date of permit approval.

§ 154.518 SCREENING; LANDSCAPING

- (A) Natural Vegetation. Existing natural vegetation shall be undisturbed to the greatest extent practicable.
- (B) Landscaping. Landscaping and Screening requirements of disturbed areas of the PWSF site and security barriers shall be required as follows, per Section 154.401 through 154.410 of the Zoning Code:
 - (1) Wireless communication facilities shall be landscaped and maintained with a buffer of plant materials that screens the view of the tower compound from adjacent streets and/or residential properties. The tower compound buffer shall be outside of the fence when the tower compound is fenced. The standard tower compound buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the fence surrounding the tower base and the equipment shelter. The amount of landscaping points required for a tower compound buffer shall be determined by multiplying the number of feet on perimeter of the PWSF premises by one and one-half (1.5). One hundred percent (100%) of the landscaping requirements shall apply to all towers where the tower base or the equipment shelter is visible from any adjacent street or where the tower is located within 200 feet of a residential district. Fifty percent (50%) shall apply to all others.
 - (2) Determination of required points that must be achieved through landscaping for a tower compound buffer shall be based on the overall length of the tower compound sides to be screened as measured along the outer boundary of the tower compound buffer.
 - (3) One-half (1/2) of the points for the tower compound buffer landscaping must be achieved by utilizing plants from the shade tree classification and one-half (1/2) must be from the evergreen tree classification.
- (C) Waiver by City Planner. The above standards may be waived by the City Planner where the tower base or equipment shelter is not visible from adjoining properties with CE, R1A, R-1 or R-2 zoning or where a site is located within areas designated for industrial land use by the City of Washington Comprehensive Plan or where topography or other features achieve the same degree of screening as the required buffer.

§ 154.519 ACCESS; PARKING

- (A) **Parking.** Areas sufficient for the temporary off-street parking of at least one vehicle shall be provided for each tower, self-supporting antenna and self-supporting antenna array. The type and configuration of parking may be approved by the City Planner.
- (B) **Private Access.** A copy of any road maintenance agreement shall be provided to the City of Washington for any site accessed by private easement.

§ 154.520 AIRCRAFT HAZARD

- (A) **Airport Impact Zoning.** For Tier Two or Tier Three applications, a statement certifying that, as proposed, the PWSF complies with the Peoria Regional Airport impact regulations shall be provided prior to special use permit approval.
- (B) **FAA Acknowledgement.** For Tier Two or Tier Three applications, the applicant shall provide acknowledgment from the FAA that the proposed PWSF does not exceed obstruction standards.

§ 154.521 REVIEW OF PERMIT

Permits issued under the terms of this Division may be reviewed by the City of Washington City Planner every five (5) years from the date of issuance for compliance with this ordinance and any special terms or conditions of approval. Such permits are subject to suspension or revocation at any time if it is determined that the terms of the permit and any conditions contained therein, or any rules or regulations adopted by the state or federal government concerning the use of such facilities, are being violated.

§ 154.522 INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATIONS

- (A) No new or existing PWSF shall interfere with public safety telecommunications. All applications for new PWSFs shall be accompanied by an intermodulation study that provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.
- (B) An intermodulation study shall also be submitted prior to the introduction of new services or new frequencies, or changes in existing service. The City of Washington shall be notified by the service provider at least ten (10) days prior to the introduction of new services or new frequencies, or changes in existing service, and the service provider shall allow the City to monitor interference levels during the testing process for the intermodulation study.
- (C) The City of Washington reserves the right to retain its own expert to study potential interference impacts. The cost of such an expert shall be paid by the applicant under the provisions of § 154.510 (B) of this Division.

§ 154.523 CONFLICT; SEVERABILITY CLAUSE

If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, or application thereof to any person, firm, corporation, public agency, or circumstance, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the City Council that this Chapter would have been adopted had such unconstitutional or invalid section, subsection, paragraph, sentence, clause, or phrase, or any part thereof, not then been included.

(Ord. 2274, passed 2-5-01)

