	PLAN COMMISSION AGENDA ITEM EXECUTIVE SUMMARY			
	Project Title/Address:	General Amendment: Small Cell Wireless Facilities		
	City Staff:	Russell Colby, Community Development Division Mgr.		
	PUBLIC HEARING 8/7/18	X	MEETING 8/7/18	X
APPLICATION:		General Amendment		
ATTACHMENTS AND SUPPORTING DOCUMENTS:				
Application for General Amendment		Staff Memo		
SUMMARY:				
<p>Earlier this year, the Illinois legislature passed, and the Governor signed, Public Act 100-585. The Act is intended to streamline the process for wireless carriers to deploy 5G technology throughout the state by imposing a common set of rules for the installation of antennas in public right-of-way.</p> <p>In summary, the act requires the City to accommodate 5G antennas, known as Small Cell Antennas, in locations along streets or within public utility easements, provided the installation complies with the standards in the Act.</p> <p>The Act was signed by the Governor in April 2018, and provided a deadline of August 2018 to adopt local regulations. In order to meet the deadline, the City proceeded with amending the Public Utilities section of the City Code, Title 13, in July. Ordinance 2018-M-28 created a new chapter of the code specifically addressing the permitting and regulation of Small Cell Wireless Facilities (Chapter 13.24).</p> <p>The City is now proposing to update the Zoning Ordinance to comply with the Act and to add language that corresponds with the regulations added to Title 13 of the City Code. The proposed amendment will:</p> <ul style="list-style-type: none"> • Identify a “Small Cell Wireless Facility” as a type of “Communication Antenna”. • Create exemptions for “Communication Towers” supporting Small Cell Wireless Facilities, provided they comply with the requirements of Chapter 13.24 of the City Code. 				
SUGGESTED ACTION:				
<p>Conduct the public hearing and close if all testimony has been taken.</p> <p>Staff has placed this item on the meeting portion of the agenda for a vote should the Plan Commission feel that they have enough information to make a recommendation.</p>				
INFO / PROCEDURE – GENERAL AMENDMENT APPLICATIONS:				
<ul style="list-style-type: none"> • See Sec. 17.04.320 regarding General (Text) Amendments. A General Amendment (or Text Amendment) is an application requesting a change to the Zoning Ordinance, Title 17 of the City Code. A change may be requested to a numerical standard (such as a setback requirement) or to any other text of the Zoning Ordinance. Often, a General Amendment is proposed to change the standards that apply to a specific zoning district or a specific land use or business category. Changes to the text apply to all properties in the City that are located in the same zoning district or fall within the same category of land use or business. A General Amendment application may also involve changes to procedures or application requirements that are listed in the Zoning Ordinance. • Public hearing is required. No mailed notice to surrounding property owners. • Findings: 6 items of information for Plan Commission to consider in making a recommendation; all items need not be in the affirmative to recommend approval. 				

CITY OF ST. CHARLES
TWO EAST MAIN STREET
ST. CHARLES, ILLINOIS 60174-1984

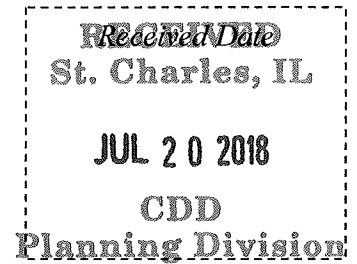


COMMUNITY & ECONOMIC DEV./PLANNING DIVISION

PHONE: (630) 377-4443 FAX: (630) 377-4062

GENERAL AMENDMENT APPLICATION

CITYVIEW	
Project Name:	Small Cell Wireless Facilities
Project Number:	2018 -PR- 011
Application Number:	2018 -AP- 029



Instructions:

To request an amendment to the text of the St. Charles Zoning Ordinance (City Code Title 17), complete this application and submit it with all required attachments to the Planning Division.

City staff will review submittals for completeness and for compliance with applicable requirements prior to establishing a meeting or public hearing date for an application.

The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.

Applicant:	Name	City of St. Charles	Phone	630-377-4443
	Address	2 E. Main St. St. Charles, IL 60174	Fax	.
			Email	rcolby@stcharlesil.gov

Attachment Checklist

If multiple zoning or subdivision applications are being submitted concurrently, do not submit duplicate checklist items or plans. Fee must be paid for each application.

- APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance (\$500)
- REIMBURSEMENT OF FEES AGREEMENT:**
An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.
- REIMBURSEMENT OF FEES INITIAL DEPOSIT:**
Deposit of funds in escrow with the City. (For a General Amendment application only: \$1,000 deposit.)
- FINDINGS:** Fill out the attached form or submit responses on a separate sheet.

□ **WORDING OF THE REQUESTED TEXT AMENDMENT**

What is the amendment regarding?

Small Cell Wireless Facilities, to correspond with recently adopted City Code Chapter
13.24 "Small Wireless Facilities"

What sections are proposed for amendment?

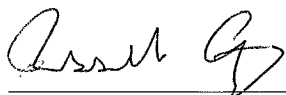
Chapters(s): 17.12, 17.16, 17.20, 17.22, 17.30

Section(s): Various sections

The wording of the proposed amendment: Insert below or attached wording on a separate page.

See attached summary. Final wording of the amendment is subject to review and change
prior to Plan Commission public hearing.

I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.



Applicant

7/20/18

Date

Community & Economic Development

Phone: (630) 377-4443



Staff Memo

TO: Chairman Todd Wallace
And the Members of the Plan Commission

FROM: Russell Colby, Community Development Division Manager

RE: General Amendment for Small Cell Wireless Facilities

DATE: August 3, 2018

Background

Earlier this year, the Illinois legislature passed, and the Governor signed, Public Act 100-585. The Act is intended to streamline the process for wireless carriers to deploy 5G technology throughout the state by imposing a common set of rules for the installation of antennas in public right-of-way, including public utility easements.

In summary, the act requires the City to accommodate 5G antennas, known as Small Cell Antennas, in locations along streets or within public utility easements, provided the installation complies with the standards in the Act. The City's ability to regulate Small Cell Antennas through zoning is limited by the Act, as discussed later in this memo.

"5G" is a term used to refer to the fifth generation of wireless technology that is much faster than the current standard of 4G. 5G networks are expected to be deployed by wireless providers over the next few years. The technology is anticipated to replace some wired communication services to buildings.

The City already has a number of Small Cell Antennas installed in right-of-way on City utility poles. These antennas primarily fill service gaps in 4G coverage between traditional cell towers. Full deployment of 5G technology will require many Small Cell Antennas be installed, with antennas placed every 500 to 1000 ft. Placement will depend on population density in a given area that could be served by the same antenna (estimated to be one antenna per 7 to 12 households).

In response to the Act, the Public Works and Community & Economic Development Departments contracted with attorney Michael Marrs of Klein, Thorpe and Jenkins, Ltd., to review existing City Code and make recommendations for changes so that our codes were both compliant with the Act and provided the City with regulations for permitting and placement of Small Cell Antennas in right-of-way (to the extent permitted in the Act).

Amendment to Public Utilities Title of the City Code

The Act was signed by the Governor in April 2018, and provided a deadline of August 2018 to adopt local regulations. In order to meet the deadline, the City proceeded with amending the Public Utilities section of the City Code, Title 13, in July. Ordinance 2018-M-28 created a new chapter of the code specifically addressing the permitting and regulation of Small Cell Wireless Facilities (Chapter 13.24).

The new code chapter outlines permitting requirements, height limitations, and general design standards for the purpose of minimizing the impact of Small Cell Antenna installations in right-of-way. The code also addresses issues of ownership, maintenance and insurance. A separate Design Guidelines document for Small Cell Antenna Installations has been developed and is under review by the Public Works Department.

The ordinance adopting the new City Code chapter and a draft of the Design Guidelines are attached.

The City is now proposing to update the Zoning Ordinance to comply with the Act and to add language that corresponds with the regulations added to Title 13 of the City Code.

Important Considerations:

- Although 5G Small Cell Antennas could be placed on private property, in most situations, the providers will want to utilize street right-of-way, due to low lease costs (which are capped by the Act), easy access for installation and servicing of the antenna, and the ability to install a coordinated network in mass over a large area by working with a single owner entity. Additionally, in most right-of-way locations, existing poles may be available for attachment (including wood overhead electric distribution systems, standalone street lighting poles or traffic control structures). Also, electric power for the antenna is usually present or nearby.
- The City of St. Charles, as an electric utility provider and owner of the electric distribution network within the City, is in a better position to directly regulate 5G Small Cell Antenna installations in a coordinated manner than other Illinois cities that may be served by Com Ed or another electric provider that owns the local distribution network.

How the Act addresses zoning and size restrictions:

- The Act limits Small Cell Antenna structures to the higher of 45 ft. or 10 ft. higher than the tallest utility pole within 300 ft. of the installation location. For comparison, traditional cell towers are typically in the range of 125 to 150 ft. tall.
- The Act limits Small Cell Wireless Antennas to a maximum size: 6 cubic feet for the antenna and all exposed elements, and 25 cubic feet for other equipment attached to the pole.
- In all zoning districts that are exclusively non-residential, the Act requires that Small Cell Antenna installations be permitted uses, both in and outside of right-of-way.
 - This would include the City's commercial districts- BL, BC, BR; Office Research District- OR, and Industrial districts- M1, M2.
- In all other zoning districts, the Act requires that Small Cell Antennas be permitted uses if collocated on an existing antenna or any other structure in right-of-way (including utility easements); in all other situations, they can be subject to the City's normal zoning review and approval process.
 - This would apply to all residential districts and the Downtown districts- CBD-1, CBD-2.

- Within designated Historic Districts, the Act permits additional design restrictions on Small Cell Antennas to require stealth installations (where the antenna is concealed in light pole structure, for example) or installations that otherwise blend in with the surrounding area.
 - The City’s Historic District includes most of downtown, bound by: 7th St. on the west, State Street and Park Avenue on the north, 6th Ave. on the east, and Indiana Ave. and Indiana Street on the south.

Proposed Zoning Ordinance Amendment

The Zoning Ordinance, Chapter 17.30 “Definitions”, currently lists use categories for a “Communication Antenna” and a “Communication Tower.” The “antenna” is the transmitter or receiver component, while the “tower” is the support structure. Both are subject to standards in Chapter 17.22 “General Provisions” that place limitations on height and setbacks.

- “Communication Antennas” are listed as permitted or accessory uses in all zoning districts. The intent of permitting Communication Antennas in all zoning districts was to encourage antennas to be attached to otherwise allowable structures, such as buildings or light poles, to reduce the need for standalone support structures or towers.
- “Communication Towers” are:
 - Permitted Use in M1, M2, PL
 - Special Use in all residential districts, BC, BR, OR
 - Not permitted in BL or CBD-1/CBD-2

The proposed amendment will:

- Identify a “Small Cell Wireless Facility” as a type of “Communication Antenna”.
- Create exemptions for “Communication Towers” supporting Small Cell Wireless Facilities, provided they comply with the requirements of Chapter 13.24 of the City Code.

The amendment text is shown in redline on the following pages.

Ordinance Amendment Redline

Chapter 17.30 (Definitions), Section 17.30.020 (Use Definitions)- Changes shown in red:

Communication Antenna.

Any exterior apparatus designed for telephone, personal wireless services, broadband, radio or television communications through the sending and/or receiving of electromagnetic waves. This use includes Small Wireless Facilities, as defined in and regulated by chapter 13.24 of this Code.
 (Ord. 1996-Z-12 § 2.)

Communication Tower.

A structure designed and constructed primarily for the purpose of supporting one or more Communication Antennas, including self-supporting lattice towers, guy towers and monopole towers. This use includes radio and television transmission towers, personal communications service (PCS), microwave towers, common-carrier towers, cellular telephone towers, and the like. This use does not include any structure erected solely for a residential, non-commercial individual use, such as television reception antennas, satellite dishes or non-commercial wireless antennas (amateur radio). This use includes Wireless Support Structures supporting Small Wireless Facilities, as defined in and regulated by chapter 13.24 of this Code, when designed and constructed primarily for the purpose of supporting one or more Small Wireless Facilities.
 (Ord. 2008-Z-20 § 5; Ord. 1996-Z-12 § 2.)

Existing Permitted and Special Use Tables (changes shown in red): Footnotes will be added to the Tables to permit Communication Towers in non-residential districts, when constructed in compliance with Chapter 13.24 of the City Code.

Table 17.12.-1 RESIDENTIAL DISTRICTS -- PERMITTED AND SPECIAL USES															
Zoning Districts															
Use	RE-1	RE-2	RS-1	RS-2	RS-3	RS-4	RT-1	RT-2	RT-3	RT-4	RM-1	RM-2	RM-3	BT	Use Standards
Communication Antenna	A	A	A	A	A	A	A	A	A	A	A	A	A		Section 17.22.020
Communication Tower	S	S	S	S	S	S	S	S	S	S	S	S	S		Section 17.22.020

(No changes to this table)

Table 17.14.-1 PERMITTED AND SPECIAL USES								
Zoning Districts								
Use	BL	BC	BR	CBD-1	Downtown Overlay		CBD-2	Use Standards
					CBD-1	CBD-2		
Communication Antenna	P	P	P	P			P	Section 17.22.020
Communication Tower ¹		S	S					Section 17.22.020

¹ Communication Towers that are Wireless Support Structures supporting Small Wireless Facilities, as defined in Section 13.24.003 (Definitions) of this Code, are permitted uses in any Right-of-Way within the City, and, in conformance with State law, are permitted uses in the BL, BC and BR Zoning Districts when all other applicable zoning requirements and the requirements of Chapter 13.24 are met.

Table 17.16.-1 OFFICE RESEARCH, MANUFACTURING AND PUBLIC LANDS PERMITTED AND SPECIAL USES					
Use	Zoning Districts				Use Standards
	OR	M-1	M-2	PL	
Communication Antenna	P	P	P	P	Section 17.22.020
Communication Tower ¹	S	P	P	P	Section 17.22.020

¹ Communication Towers that are Wireless Support Structures supporting Small Wireless Facilities, as defined in Section 13.24.003 (Definitions) of this Code, are permitted uses in any Right-of-Way within the City, and, in conformance with State law, are a permitted use, as opposed to a special use, in the O-R District when all other applicable zoning requirements and the requirements of Chapter 13.24 are met.

Chapter 17.22 (General Provisions), Section 17.22.020 (Accessory Buildings and Structures) subsections 17.22.030.E and F- *Changes shown in red:*

E. Communication Antennas

1. General Requirements:

- a. Communication Antennas shall conform to the applicable yard and setback requirements of the zoning district except as modified by Table 17.22-3
- b. Communication Antennas shall be concealed through location on a roof or site so as to limit their visibility from public streets and adjoining property, to the extent possible without impairing the antenna's ability to receive a signal.
- c. Communication Antennas shall be permanently installed on a building, in the ground or on a foundation, not on a portable or movable structure.

- d. Communication Antennas, except for non-commercial wireless antennas (amateur radio), shall not extend more than twenty (20) feet above the height of the principal building on the lot.
- e. Cables and lines serving ground-mounted Communication Antennas shall be located underground.
- f. All exposed surfaces and supports of Communication Antennas shall be kept clean and painted. The Building Commissioner may require repair or removal of antennas that are damaged, deteriorated or no longer in use.
- g. No additional signs or advertising are allowed on Communication Antennas except for logos affixed by service providers or antenna manufacturers.

2. Small Satellite Dish Antennas

Small Satellite Dish Antennas as defined in this Title shall comply with the General Requirements for Communication Antennas.

3. Large Satellite Dish Antennas

Large Satellite Dish Antennas as defined in this Title shall comply with the General Requirements for Communication Antennas, in addition to the following:

- a. Large Satellite Dish Antennas shall be screened in accordance with Section 17.26.120, Screening of Large Satellite Dish Antennas.
- b. There shall be not more than one (1) Large Satellite Dish Antenna per single-family, two-family, or townhouse dwelling unit. For all other uses, there shall not be more than one (1) Large Satellite Dish Antenna per building on a lot.
- c. Large Satellite Dish Antennas shall not be mounted on a building containing single family, two-family, or townhouse dwelling units.
- d. Large Satellite Dish Antennas shall not exceed a dish diameter of twelve (12) feet or an overall height of twelve (12) feet.
(Ord. 2008-Z-20 § 2.)

4. Small Wireless Facilities

Communication Antennas that are Small Wireless Facilities, as defined in Section 13.24.003 (Definitions) of this Code shall, in addition, comply with the regulations set forth in Chapter 13.24 (Small Wireless Facilities).

F. Communication Towers

1. All setbacks shall be measured from the base of the tower to the property line or street right-of-way. If a tower is to be placed on a leased portion of a larger lot owned by someone other than the tower owner, setbacks shall be measured from the boundaries of such larger lot.
 - a. In residential districts, Communication Towers shall be set back from all property lines by a minimum distance of one hundred percent (100%) of the height of the tower, plus ten (10) feet.
 - b. In non-residential districts, Communications Towers must meet the setback requirements for the underlying zoning district, and shall be set back from any residential district a minimum distance of five hundred (500) feet.
 - c. Communications Towers that are Wireless Support Structures supporting Small Wireless Facilities, as defined in Section 13.24.003 (Definitions) of this Code, are permitted in any Right-of-Way in conformance with the requirements of Chapter 13-24, without regard to setbacks from private property lines.

2. Height shall be measured from grade level at the tower base to the highest point on the tower.
 - a. In residential districts, the maximum height shall be one hundred (100) feet.
 - b. In non-residential districts, the maximum height shall be one hundred fifty (150) feet.
(Ord. 2008-Z-20 § 2.)
 - c. The height of Communication Towers that are Wireless Support Structures on which Small Wireless Facilities are collocated is limited by Section 13.24.008 (Height Limitations) of this Code.

Findings of Fact

1. The Consistency of the proposed amendment with the City's Comprehensive Plan.

To the extent permitted by State Statute, the City has developed regulations for the permitting and installation of Small Cell Wireless Facilities in order to protect the community character and aesthetics as outlined in the Comprehensive Plan.

2. The Consistency of the proposed amendment with the intent and general regulations of this Title.

The proposed amendment supports the purpose statements listed in Ch. 17.02 of the Zoning Ordinance.

3. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change in policy.

The proposed amendment reflects a change in policy in response to State Statute that preempts the City's Home Rule Authority.

4. The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.

Providing regulations for the permitting and installation of Small Cell Wireless Facilities is in the public interest.

5. The extent to which the proposed amendment creates nonconformities.

The proposed amendment will not create non-conformities.

6. The implications of the proposed amendment on all similarly zoned property in the City.

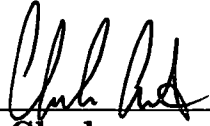
The amendment applies to zoning districts as specified under the State Statute.

City of St. Charles, Illinois

Ordinance No. 2018-M-28
**Ordinance Amending The Municipal Code of the City of
St. Charles Relative to the Permitting, Regulation and
Deployment of Small Wireless Facilities**

**Adopted by the
City Council
of the
City of St. Charles
July 16, 2018**

**Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, July 23, 2018**



City Clerk

(SEAL)



AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF ST. CHARLES RELATIVE TO THE PERMITTING, REGULATION AND DEPLOYMENT OF SMALL WIRELESS FACILITIES

ORDINANCE NO. 2018-M-28

WHEREAS, the City of St. Charles ("City") is a municipal corporation duly organized and existing under the laws of the State of Illinois; and

WHEREAS, the public rights-of-way within City limits are used to provide essential public services to City residents and businesses. The public rights-of-way within the City are a limited public resource held by the City for the benefit of its citizens and the City has a custodial duty to ensure that the public rights-of-way are used, repaired and maintained in a manner that best serves the public interest; and

WHEREAS, growing demand for personal wireless telecommunications services has resulted in increasing requests nationwide and locally from the wireless industry to place small cell antenna facilities, distributed antenna systems, and other small wireless telecommunication facilities on utility and street light poles and other structures both within the public rights-of-way and in other locations; and

WHEREAS, the City is authorized under the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, and Illinois law to adopt ordinances pertaining to the public health, safety and welfare; and

WHEREAS, the City is further authorized to adopt the amendments contained herein pursuant to its authority to regulate the public right-of-way under Article 11, Division 80 of the Illinois Municipal Code (65 ILCS 5/11-80-1 *et seq.*); and

WHEREAS, the City is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small cell antenna facilities, distributed antenna systems, and other small personal wireless telecommunication facility installations both within the public rights-of-way and in other locations within the jurisdiction of the City; and

WHEREAS, Public Act 100-585, known as the Small Wireless Facilities Deployment Act, approved by the Governor on April 12, 2018, with an effective date of June 1, 2018, acts to impose certain additional requirements on municipalities, including the City, regarding the permitting, construction, deployment, regulation, operation, maintenance, repair and removal of certain defined small wireless facilities both within public rights-of-way and in other locations within the jurisdiction of the City; and

WHEREAS, the City is uniquely situated compared to many municipalities in that it operates its own electric utility and maintains its own electric utility poles. Such

operation and maintenance requires special consideration by the City and wireless providers relative to the placement of small wireless facilities on City-owned and maintained electric utility poles; and

WHEREAS, in conformance with the requirements of the Small Wireless Facilities Deployment Act, and in anticipation of a continued increased demand for placement of small wireless facilities of the type regulated by the Small Wireless Facilities Deployment Act both within the public rights-of-way and in other locations within the jurisdiction of the City, the Mayor and City Council finds that it is in the best interests of the public health, safety and general welfare of the City to adopt the code amendments below in order to establish generally applicable standards consistent with the Small Wireless Facilities Deployment Act (Public Act 100-585) for the design, permitting, location, construction, deployment, regulation, operation, maintenance, repair and removal of such small wireless facilities both within the public rights-of-way and in certain other locations within the jurisdiction of the City so as to, among other things: (i) prevent interference with the facilities and operations of the City's electric and other City utilities, and of other utilities lawfully located in public rights-of-way or in other locations within the City; (ii) preserve the character of the neighborhoods in which such small wireless facilities are installed; (iii) minimize any adverse visual impact of small wireless facilities and prevent visual blight in the neighborhoods in which such facilities are installed; (iv) ensure the continued safe use and enjoyment of private properties adjacent to small wireless facilities; (v) provide appropriate aesthetic protections to designated areas and historic landmarks or districts within the City; and (vi) ensure that the placement of small wireless facilities does not negatively impact public safety and the City's public safety technology.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ST. CHARLES, DUPAGE AND KANE COUNTIES, ILLINOIS:

SECTION 1: The recitals above shall be and are incorporated in this Section 1 as if fully restated herein.

SECTION 2: Title 13 (Public Utilities) of the Municipal Code of the City of St. Charles is amended by adding a new Chapter 13.24 (Small Wireless Facilities), to read in its entirety as follows:

13.24 – Small Wireless Facilities

- 13.24.001 – Purpose**
- 13.24.002 – Interaction with other code provisions and laws**
- 13.24.003 – Definitions**
- 13.24.004 – Zoning**
- 13.24.005 – Permits; application process**
- 13.24.006 – Construction**
- 13.24.007 – Permit duration**
- 13.24.008 – Height limitations**

- 13.24.009 – General requirements**
- 13.24.010 – Stealth, concealment and design standards**
- 13.24.011 – Reservation of city utility pole space**
- 13.24.012 – Applicability of existing agreements**
- 13.24.013 – Collocation on city owned infrastructure**
- 13.24.014 – Notice of sale or transfer**
- 13.24.015 – Abandonment**
- 13.24.016 – Dispute resolution**
- 13.24.017 – Indemnification**
- 13.24.018 – Insurance**
- 13.24.019 – Maintenance of small wireless facilities**
- 13.24.020 – Revocation of permit**
- 13.24.021 – Exceptions to applicability**

13.24.001 - Purpose

Consistent with the requirements of the Small Wireless Facilities Deployment Act (Public Act 100-585), and in anticipation of a continued increased demand for placement of small wireless facilities of the type regulated by the Act both within the public rights-of-way and in other locations within the jurisdiction of the City, the City Council has found it to be in the best interests of the public health, safety and general welfare of the City to adopt the code amendments set forth in this chapter in order to establish generally applicable standards for the design, permitting, location, construction, deployment, regulation, operation, maintenance, repair and removal of such small wireless facilities both within the public rights-of-way and in other locations within the jurisdiction of the City so as to, among other things:

- A. Prevent interference with the facilities and operations of the City's electric and other City utilities, and of other utilities lawfully located both within public rights-of-way and in other locations within the jurisdiction of the City;
- B. Preserve the character of the neighborhoods in which such small wireless facilities are installed;
- C. Minimize any adverse visual impact of small wireless facilities and prevent visual blight in the neighborhoods in which such facilities are installed;
- D. Ensure the continued safe use and enjoyment of private properties adjacent to small wireless facilities;
- E. Provide appropriate aesthetic protections to any designated historic landmarks or districts within the City; and
- F. Ensure that the placement of small wireless facilities does not negatively impact public safety and the City's public safety technology.

13.24.002 - Interaction with other code provisions and laws

A. Other Code Provisions. The provisions of this chapter are intended to supplement general requirements and standards relative to the siting of telecommunication facilities and generally applicable requirements for construction within public rights-of-way set forth elsewhere within this code, including but not limited to the regulations set forth in chapter 13.22 (Construction of Utility Facilities in the Rights-of-Way) and chapter 13.08 (Electricity). In the event of a conflict, however, the provisions of this chapter shall control in all matters involving small wireless facilities, as defined below.

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

13.24.003 - Definitions

As used in this chapter, the following terms shall have the following meanings:

"Act" means the Small Wireless Facilities Deployment Act (Public Act 100-585).

"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 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.

"Authority" means the City or other 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.

"City" means the City of St. Charles, DuPage and Kane Counties, Illinois.

"City utility pole" means a utility pole owned or operated by the City 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, whether existing or new.

"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 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" 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 twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that has an exterior antenna, if any, no longer than eleven (11) inches.

"Permit" means a written authorization required by the City or other permitting 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.

"Public Utility" shall have the same meaning as set forth in Section 3-105 of the Public Utilities Act, 220 ILCS 5/3-105.

"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 six (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 six (6) cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than twenty-five (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.

"Structural Engineer" means a person licensed under the laws of the State of Illinois to practice structural engineering.

"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 City.

"Wireless provider" means a wireless infrastructure provider and/or a wireless services provider. This does not include, and expressly excludes, any person who is providing service to or for a private niche market.

"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.

13.24.004 – Zoning

Small wireless facilities shall be classified as permitted uses and shall not be subject to zoning review, if collocated in rights-of-way in any zoning district, or outside rights-of-way in the following zoning districts:

BL Local Business District;

BC Community Business District;

BR Regional Business District;

O-R Office/Research District;

M-1 Special Manufacturing District; and

M-2 Limited Manufacturing District.

In all other zoning districts, the City's normal zoning approvals, processes and restrictions shall apply, if zoning approval, processes or restrictions are required by the City's zoning ordinance.

13.24.005 - Permits; Application Process

Unless otherwise specifically exempted in this chapter, a permit to collocate a small wireless facility within the City is required in all cases. Permits are subject to the following:

A. **Permit Applications:** Permit applications for the collocation of small wireless facilities shall be made on a form provided by the City for such purpose. In addition to any generally applicable information required of other communications service providers or for other installations in the public right-of-way, applicants must, when requesting to collocate small wireless facilities on a utility pole or wireless support structure, provide the following information:

1. Site specific structural integrity and, for a City 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;

2. The location where each proposed small wireless facility or utility pole would be installed and digital 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. The photographs shall include a digital photo simulation of the proposed location providing “before and after” views demonstrating the true visual impact of the proposed small wireless facilities on the surrounding environment;

3. 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;

4. The equipment type and model numbers for the antennas and all other equipment associated with the small wireless facility;

5. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved;

6. Certification that, to the best of the applicant’s knowledge, the collocation complies with the written design standards established by the City, and with the various other requirements set forth in this chapter and code;

7. Copies of all licenses, permits and approvals required by or from the City (i.e. zoning approval, where required), other agencies and units of government with jurisdiction over the design, construction, location and operation of said small wireless facility. The applicant shall maintain such licenses, permits and approvals in full force and effect and provide evidence of renewal or extension thereof when granted; and

8. In the event the small wireless facility is proposed to be attached to an existing utility pole or wireless support structure owned by an entity other than the City,

legally competent evidence of the consent of the owner of such pole or wireless support structure to the proposed collocation.

B. Means of Submission: Permit applications, along with all supporting information, for the collocation of small wireless facilities shall be submitted by personal delivery or by other means approved by the City.

C. Multiple Applications for Same Location: Multiple applications for collocation on the same utility pole or wireless support structure shall be processed based on a first fully complete application, first-served basis.

D. Permit Application Fees: All applications for collocation of small wireless facilities shall be accompanied by a nonrefundable application fee in the following amounts:

Request to collocate a small wireless facility that includes the installation of a new utility pole	\$1,000.00
Request to collocate a single small wireless facility on an existing utility pole or wireless support structure	\$650.00
Request to collocate multiple small wireless facilities on existing utility poles or wireless support structures addressed in a single application	\$350.00 per small wireless facility

E. Permit review timelines:

1. Completeness of Application: Requests for the collocation of small wireless facilities shall be reviewed for conformance with the requirements of the Act, this chapter, and other applicable provisions of this code. Within thirty (30) days after receiving an application, the City must determine whether the application is complete and notify the applicant. If an application is incomplete, the City must specifically identify the missing information. Processing deadlines are tolled from the time the City sends a notice of incompleteness to the time the applicant provides the missing information.

An application shall be deemed complete if the City fails to provide notification to the applicant within thirty (30) days of the date when all documents, information, and fees specifically enumerated in the City's permit application form are submitted by the applicant to the City.

2. Existing Pole or Wireless Support Structure: Requests for the collocation of small wireless facilities on an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and either approved or denied within ninety (90) days of submission of a completed application. A permit application shall be deemed approved if the City fails to approve or deny the application within ninety (90) days, subject to the following: 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 seventy-five (75) days after the submission of a completed application. The permit shall be deemed approved on the later of the ninetieth (90th) day after submission of the completed application, or the tenth (10th) day after receipt of the deemed approved notice by the City. Receipt of a deemed approved notice by the City shall not preclude the City from denying the permit within the allowed time limit.

3. New Utility Pole: Requests for the collocation of small wireless facilities that include the installation of a new utility pole shall be processed on a nondiscriminatory basis and either approved or denied within one hundred and twenty (120) days of submission of a completed application. A permit application shall be deemed approved if the City fails to approve or deny the application within one hundred twenty (120) days, subject to the following: 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 one hundred five (105) days after the submission of a completed application. The permit shall be deemed approved on the later of the one hundred twentieth (120th) day after submission of the completed application, or the tenth (10th) day after receipt of the deemed approved notice by the City. Receipt of a deemed approved notice by the City shall not preclude the City from denying the permit within the allowed time limit.

F. Tolling: The time limitations for approval or denial of applications shall be tolled by notice to an applicant that its application is incomplete as set forth above, upon mutual agreement of the parties, or by a local, State or federal disaster declaration or similar emergency that causes a delay.

G. Pole Replacement: Permit approval shall be conditioned on the replacement of a utility pole or wireless support structure at the applicant's sole cost where such replacement is deemed necessary for compliance with the requirements of this chapter or code relative to the siting of small wireless facilities, or other applicable codes and regulations that concern public safety.

H. Denial: The City shall deny an application that does not meet the requirements of this chapter. The reasons for any denial of a permit shall be provided in a written notice

of denial sent to the applicant, and shall include the specific code provisions or application conditions on which the denial is based.

I. **Resubmittal After Denial:** In the case of a permit denial, an applicant may cure the deficiencies identified in the notice of denial and resubmit a revised application once within thirty (30) days after the notice of denial is sent without payment of an additional application fee. The City shall have thirty (30) days to approve or deny the resubmitted application or it is deemed approved, if the applicant has notified the City of its intention to proceed with the permitted activity on a deemed approved basis, which notification may be submitted with the resubmitted application. Review of a resubmitted application is limited to the deficiencies cited in the original notice of denial. This subsection does not apply if a revised application is not resubmitted within thirty (30) days, or curing any deficiencies in the original application requires review of a new location, new or different structure for collocation, new antennas, or other wireless equipment associated with the small wireless facility. In such cases, a new application and application fee are required.

J. **Consolidated Applications:** Consolidated applications for small wireless facilities for the collocation of up to twenty-five (25) small wireless facilities shall be allowed if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. Each consolidated application shall provide all the information required by this chapter for each small wireless facility at each location. If such an application includes incomplete information for one or more small wireless facility collocations, or includes requests for small wireless facilities that do not qualify for consolidated treatment, or that are otherwise denied, the City may remove such collocation requests from the application and treat them as separate requests. Separate permits may be issued for each collocation approved in a consolidated application.

K. **Alternate Locations:** If an applicant is seeking to install a new utility pole as part of its application, the City may propose that the small wireless facility be located on an existing utility pole or existing wireless support structure within one hundred (100) feet of the proposed collocation. The applicant shall accept the proposed alternate location so long as it has the right to use the location on reasonable terms and conditions, unless the alternate location imposes technical limits or additional material costs as determined by the applicant. If the applicant refuses an alternate location based on the foregoing, the applicant shall provide legally competent evidence in the form of a written certification, under oath, describing the property rights, technical limits or material cost reasons that prevent the alternate location from being utilized.

L. **Exemptions:** No application, permit approval or fee shall be required from a communications service provider authorized to occupy the right-of-way when the work in question is for:

1. Routine maintenance not requiring replacement of wireless facilities if the wireless provider notifies the City in writing at least forty-eight hours prior to the planned maintenance;

2. The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City in writing at least ten (10) days prior to the planned replacement and includes equipment specifications, including (i) equipment type and model numbers, for the replacement of equipment consistent with the equipment specifications information required on a permit application for original installation; and (ii) information sufficient to establish that the replacement is substantially similar. The wireless provider shall provide all information necessary and requested by the City to establish that the replacement is substantially similar. The City has the sole right and responsibility to determine if a proposed small wireless facility is substantially similar to the existing small wireless facility; or

3. 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.

The foregoing shall not exempt communications service providers from City permitting requirements where traffic patterns are affected or lane closures are required.

13.24.006 – Construction

Collocations for which permits are approved shall be completed within one hundred eighty (180) days of issuance of the permit, unless the City agrees to extend the period or a delay is caused by make-ready work for a City utility pole or by the lack of commercial power or backhaul availability at the site, provided the applicant has made a timely request within sixty (60) days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed three hundred sixty (360) days after issuance of the permit. Permits that are not completed within applicable timelines shall be void absent an extension granted in writing by the City.

13.24.007 - Permit Duration

Permits issued for small wireless facilities pursuant to this chapter shall be valid for a period of five (5) years. Permits are subject to renewal at the end of the five (5) year permit period for a successive five (5) year term so long as the installation complies with the applicable code provisions in force at the time of renewal. A finding by the City at the time of a request for renewal that an installation does not comply with the applicable code provisions in force at the time of the renewal request shall be in writing. If the Act is repealed or found unconstitutional by a court of competent jurisdiction, all permits granted by the City under this chapter shall terminate at the end of their current term.

13.24.008 - Height Limitations

A. **Antenna Installations:** The maximum permitted height of a small wireless facility is ten (10) feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

B. **New Poles:** The maximum permitted height of new or replacement utility pole or wireless support structure on which a small wireless facility is collocated is the higher of:

1. Ten (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, and that is located within three hundred (300) feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the City. The City may designate which intersecting right-of-way within three hundred (300) feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

2. Forty-five (45) feet above ground level.

C. **Waiver Process:**

A Wireless provider may receive a waiver from the Director of Public Works from the maximum permitted height of a new pole set forth in this section, if the wireless provider can establish that:

1. Because of a particular unusual condition, a particular hardship or practical difficulty to the wireless provider would result, as distinguished from a mere inconvenience, and such hardship or difficulty has not been created by the wireless provider; and

2. Existing utility poles or wireless support structures, or a new utility pole at the maximum permitted height for a new pole allowed by this section cannot accommodate the wireless facility at a height necessary to function effectively, under reasonable terms and conditions; and

3. The use of existing utility poles or other wireless support structures, or a new utility pole at the maximum permitted height for a new pole allowed by this section, is not technically feasible.

13.24.009 - General Requirements

A. **Public Safety Technology:** A wireless provider's operation of a small wireless facility may not interfere with the frequencies used by a public safety agency for public safety communications. A wireless provider must 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 is 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 licenses 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 City 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. The burden to establish the good faith effort shall be on the wireless provider, which shall timely deliver to the City all information necessary to demonstrate its efforts to resolve the interference consistent with the Code of Federal Regulations sections cited above. Failure to remedy the interference as required herein shall constitute a public nuisance and the small wireless facility may be abated through the procedures for abatement of such nuisances set forth in this code.

B. A wireless provider shall not construct or maintain any small wireless facility that:

1. Obstructs, impedes or hinders the usual travel or public safety on a right-of-way;
2. Obstructs the legal use of right-of-way by utility users;
3. Violates nondiscriminatory applicable codes;
4. Violates or conflicts with chapter 13.22 (Construction of Utility Facilities in the Rights-of-way) or other applicable regulations set forth in this code or otherwise adopted by the City, except to the extent such chapters, sections or regulations may be modified by the provisions of this chapter; or
5. Violates the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 *et seq.*)

C. Contractual Requirements: Wireless providers shall comply with all requirements imposed by a contract between the City and any private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

D. Ground-Mounted Equipment: Wireless providers shall comply with the ground mounted equipment spacing requirements within rights-of-way as set forth in chapter 13.22 (Construction of Utility Facilities in the Rights-of-Way) of this code, including subsection 13.22.015.I. E. Undergrounding:

1. The wireless provider shall comply with City code provisions or regulations concerning undergrounding requirements, if any, that prohibit the installation of new or the modification of existing utility poles or equipment in the right-of-way.

2. A Wireless Provider may receive a waiver from the Director of Public Works to allow small wireless facilities to be located above ground in an area where City ordinances or regulations prohibit or restrict above ground facilities if the wireless provider can establish that:

a. Underground equipment is not technically feasible and there is no reasonable alternative or location that is more aesthetically favorable to adjacent property owners and to effective use and management of the right-of-way; and

b. An above ground small wireless facility at the proposed location is necessary at the proposed location to provide coverage in a specified area; and

c. An above ground small wireless facility at the proposed location will not disrupt traffic or pedestrian circulation or constitute a safety hazard; and

d. An above ground small wireless facility at the proposed location will not interfere with public safety uses or frequencies; and

e. Space exists within the public right-of-way to accommodate the above ground small wireless facility at the proposed location; and

f. An above ground small wireless facility at the proposed location will not create a safety hazard; and

g. The above ground small wireless facility is located and designed in such a way so as to minimize its visual impact on adjacent properties; and

h. In any historical area, that the above ground small wireless facility will not detrimentally affect the historical nature of the area.

3. Screening for Ground Mounted Facilities. Where a ground-mounted facility is allowed, such equipment shall be screened around the perimeter in accordance with a landscape plan sealed by a professional landscape engineer. Plant materials shall include a mixture of deciduous and coniferous planting materials. The owner or wireless provider shall be responsible for maintenance of all landscaping as provided in the approved landscape plan.

4. Future Undergrounding: The City may, from time to time, make a decision to eliminate above-ground utility poles of a particular type generally, such as electric utility poles, in all or a significant portion of the City. In the event that such a utility pole has a

collocated small wireless facility in place at the time of such a decision, the City shall either:

a. Continue to maintain the utility pole, or install and maintain a reasonable utility pole or wireless support structure for the collocation of the small wireless facility; or

b. 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.

F. Collocation Limits: Wireless providers 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 subsection, 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. Code Compliance: Wireless providers shall comply with applicable codes and local code provisions or regulations that concern public safety.

13.24.010 - Stealth, Concealment and Design Standards

Every small wireless facility installation shall comply with the following standards:

A. General Stealth, Concealment and Design Standards: Installations shall comply with any stealth, concealment, design and aesthetic standards applicable to utility installations in the public right-of-way, as set forth in chapter 13.22 (Construction of Utility Facilities in the Rights-of-Way) of this code, as well as any written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment, design and aesthetic requirements that are otherwise identified by the City in an ordinance, written policy adopted by the City Council, in the City's comprehensive plan, or in a written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

B. Historic Districts and Landmarks: For areas designated as historic districts, or on buildings or structures designated as historic landmarks pursuant to chapter 17.32

(Historic Preservation) of this code, in addition to the stealth, concealment and design requirements referenced above, the following additional restrictions/conditions apply to the installation of small wireless facilities:

1. Small wireless facilities and wireless support structures shall be comprised of materials that are consistent with the surrounding elements so as to blend architecturally with any buildings or structures designated as historic landmarks or located within a designated historic district, and shall be designed to blend with the surrounding historical landmarks and/or district in design and color.

2. No ground-mounted equipment enclosures shall be permitted within a designated historic district except as approved by the City as stealth installations.

3. Small wireless facilities shall be mounted on high mast poles within designated historic district, if available, as opposed to on City-owned ornamental street lights.

4. Small wireless facilities shall not be mounted upon City-owned ornamental street lights except in cases where the equipment enclosure is concealed within the base of the ornamental street light, and the antenna and its related shroud is incorporated in a seamless enclosure on the top of the ornamental street light, pursuant to applicable City design standards and as approved by the Director of Public Works.

C. Historic District or Landmark Limitations:

1. Any stealth, concealment and design standards in a historic district or on a historic landmark, including restrictions on a specific category of utility poles, may not have the effect of prohibiting any provider's technology. Such stealth, concealment and design measures shall not be considered a part of the small wireless facility for purposes of the size restrictions of a small wireless facility.

2. This subsection shall not be construed to limit the City'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.

13.24.011 - Reservation of City Utility Pole Space

The City may reserve space on City-owned utility poles for future public safety uses or for City electric utility uses. Such reservation may preclude collocation of small wireless facilities if the City reasonably determines that the City's utility pole cannot accommodate both uses.

13.24.012 - Applicability of Existing Agreements

A. Existing Installations: Subject to any applicable termination provisions, where an existing agreement is in place between the City and a wireless provider relating to the collocation of small wireless facilities on City utility poles on June 1, 2018, such agreement may, in the discretion of the City, remain in effect for all small wireless facilities collocated on the City's utility poles pursuant to applications submitted prior to June 1, 2018.

B. Applications Received Between June 1, 2018 and June 1, 2020: Subject to any applicable termination provisions, where an existing agreement is in place between the City and a wireless provider relating to the collocation of small wireless facilities on City utility poles on June 1, 2018, such agreement may, in the discretion of the City, remain in effect for all small wireless facilities collocated on the City's utility poles pursuant to applications submitted after June 1, 2018, but prior to June 1, 2020, until June 1, 2020 or receipt by the City from the wireless provider of a notice that it is opting to accept the rates, fees and terms of this chapter and the Act received after June 1, 2020, whichever is later.

C. Applications Received After June 1, 2020: Subject to any applicable termination provisions, where an existing agreement is in place between the City and a wireless provider relating to the collocation of small wireless facilities on City utility poles on June 1, 2018, such agreement shall remain in effect for all small wireless facilities collocated on the City's utility poles pursuant to applications submitted after June 1, 2020, until receipt by the City of a notice from the wireless provider that it is accepting the rates, fees, terms and conditions of this chapter.

13.24.013 - Collocation on City Owned Infrastructure

A. Fee: The annual fee to collocate a small wireless facility on a City-owned utility pole located in a right-of-way shall be the higher of:

1. \$200/year per small wireless facility; or

2. The actual, direct, and reasonable costs related to the wireless providers use of space on the pole.

B. Exception: Small wireless facilities collocated on City-owned utility poles located outside of public right-of-way are not subject to the rate limitations in this section.

C. Attachment Agreement: An attachment agreement in a form approved by the City is required for any collocation upon any City owned utility pole or wireless support structure.

13.24.014 - Notice of Sale or Transfer

A wireless provider shall, prior to any sale or transfer of ownership or control of a small wireless facility located within the jurisdiction of the City, provide written notice to the City of such sale or transfer of control. Such notice shall include the name and contact information of the new wireless provider. Small wireless facilities shall be relabeled within six (6) months of sale or transfer with updated ownership and contact information.

13.24.015 - Abandonment

A. A small wireless facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of the facility shall remove the small wireless facility within ninety (90) days after receipt of written notice from the City notifying it of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at its last known address. If the small wireless facility is not removed within ninety (90) days after receipt of such notice, such wireless facility shall be deemed to be a nuisance and the City may remove or cause the removal of such facility, and recover or place a lien for its costs, pursuant to the terms of its pole attachment or other agreement for City utility poles or through the procedures for abatement of nuisances set forth in this code.

B. In the event the City suspects that the wireless provider is no longer using the small wireless facilities to provide wireless service, it may send the wireless provider written notice that requires the wireless provider to remove the small wireless facility or provide proof that the small wireless facility is operational and still being used within thirty (30) days, and informs the wireless provider that failure to provide proof or to remove the small wireless facility will result in the City removing the small wireless facility at the wireless provider's cost.

13.24.016 - Dispute Resolution

The Circuit Court of Kane County shall have exclusive jurisdiction to resolve all disputes arising under the Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on City 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 pole, with rates to be determined upon final resolution of the dispute.

13.24.017 – Indemnification

Other than for liabilities and losses due to or caused by the sole negligence of the City or its employees or agents, 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 infrastructure or improvements, or right-of-way associated with such infrastructure or improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and

privileges granted under this chapter and the Act. A wireless provider proceeding under this chapter waives any claims it may have against the City with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

13.24.018 – Insurance

At all times during the period in which a wireless provider's facilities are located on City infrastructure, improvements or in right-of-way, the wireless provider shall, at its own sole cost and expense, carry the following insurance coverages with limits in conformance with the City's standard insurance requirements for all contractors:

- A. Property insurance for its property's replacement cost against all risks;
- B. Workers' Compensation insurance within statutory limits as required by law; and
- C. Commercial general liability insurance with respect to its activities on the City infrastructure, 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 shall provide certificates of insurance and proof of inclusion of the City in a commercial general liability policy to the City prior to the collocation of any small wireless facility, and shall keep updated certificates and proof of inclusion on file with the City at all times that the provider maintains small wireless facilities within the City.

- D. A wireless provider may self-insure all or a portion of the insurance coverage and limits 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 that the City be named an additional insured. A wireless provider that self-insures shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance limits required by the City.

13.24.019 - Maintenance of Small Wireless Facilities

- A. A wireless provider shall maintain all small wireless facilities installed within the City in a condition that maintains the safety, integrity and aesthetics of such facilities. Small wireless facilities shall not appear to be unkempt. In the event of a failure to properly maintain such facilities, the City shall notify the wireless provider, in writing, who shall have thirty (30) days to correct the identified maintenance violation. If not corrected within such period, the City reserves the right to take such action as it deems necessary, including revocation of the permit. Maintenance and replacement of small wireless facilities shall be performed by the wireless provider at the wireless provider's sole cost and expense.

B. In the event of an emergency involving an imminent threat to life or property, the City may take corrective action to eliminate such emergency at the wireless provider's expense.

13.24.020 - Revocation of Permit

A. A permit to collocate a small wireless facility may be revoked for one or more of the following reasons:

1. The wireless provider obtained approval by means of fraud or made a misrepresentation of a material fact with respect to the permit application, or any required documentation or submittal.

2. The wireless provider failed to construct the small wireless facility in accordance with the approved plans.

3. The wireless provider failed to comply within any material condition of a permit issued.

4. The wireless provider substantially expanded or altered the use or the structure of the small wireless facility beyond what was requested in the permit application or approved, without the approval of the City.

5. The wireless provider failed to notify the City of the replacement of small wireless facilities as required by this chapter.

6. A substantial change of law has occurred affecting the wireless provider's authority to occupy or use the property upon which the small wireless facility is located.

7. The small wireless facility interferes with vehicular or pedestrian use of the public right of way.

8. The wireless provider has failed to make a safe and timely restoration of the right-of-way or the property upon which the small wireless facility is located.

9. The wireless provider has failed to properly maintain the small wireless facility as required by this chapter.

10. The wireless provider has failed to abate interference with public safety communications 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.

11. The small wireless facility has been abandoned and the wireless provider has failed to remove the small wireless facility as provided in this chapter.

B. Written notification of the permit revocation shall be sent by certified mail or shall be personally delivered to the wireless provider setting forth the basis for the revocation. The wireless provider shall, within fourteen days of the notice of revocation, file a written response with the Director of Public Works setting forth the reasons why the permit should not be revoked along with such evidence in opposition to the revocation as the wireless provider determines necessary. Failure to file a response with the Director of Public Works shall be deemed an admission of the facts set forth in the notification of written notification and shall result in automatic revocation of the permit. The Director of Public Works shall render findings and a decision within twenty-one days of the date of receipt of the wireless provider's response, if any.

C. If the Director of Public Works revokes the permit, the wireless provider may file a written notice of appeal with the City Clerk within twenty-one (21) days of notification of the permit revocation. Such notice shall contain a response to the decision of the Director of Public Works. The City Council shall hear the revocation appeal and render a decision on such appeal.

13.24.021 - Exceptions to Applicability

Nothing in this chapter authorizes the collocation of small wireless facilities on:

- A. Property owned by a private party without the written consent of the property owner;
- B. Property owned or controlled by a unit of local government that is not located within rights-of-way (local governments are, however, required to authorize the collocation of small wireless facilities on utility poles owned or controlled by the local government or located within rights-of-way to the same extent the local government permits access to utility poles for other commercial projects or uses);
- C. A privately-owned utility pole or wireless support structure, without the consent of the property owner;
- D. 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 (605 ILCS 5/1-101 *et seq.*);
- E. Property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code (625 ILCS 5/18c-7201), 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 (220 ILCS 5/16-102), without the consent of the rail carrier, public commuter rail service, or electric utility;

F. Facilities of 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; or

G. Small wireless facilities owned by the City.

SECTION 3: Section 13.22.015 (Location of Facilities) of Title 13 (Public Utilities), Chapter 13.22 (Construction of Utility Facilities in the Rights-of-way) of the Municipal Code of the City of St. Charles is amended by adding a new subsection (I) (Ground-Mounted Equipment Spacing Requirements), to read in its entirety as follows:

I. Ground-Mounted Equipment Spacing Requirements. Ground-mounted equipment, where necessary, shall be sited in locations approved by the Director of Public Works, in a manner that will most effectively minimize public impact, optimize safety, and incorporate aesthetic concerns.

SECTION 4: All ordinances or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 5: Except as to the Code amendments set forth above in this Ordinance, all Chapters and Sections of the City Code, as amended, shall remain in full force and effect.

SECTION 6: Each section, paragraph, clause and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 7: This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law.

ADOPTED this 16th day of July, 2018, pursuant to a roll call vote as follows:

AYES: 10

NAYS: 0

ABSENT: 0

APPROVED by me this 16th day of July, 2018, and attested to by the City Clerk this same day.


MAYOR

ATTEST:

CITY CLERK



STATE OF ILLINOIS)
COUNTY OF DUPAGE) SS
COUNTY OF KANE)

CLERK'S CERTIFICATE

I, Charles Amenta, Clerk of the City of St. Charles, in the Counties of DuPage and Kane and State of Illinois, do hereby certify that the attached and foregoing is a true and correct copy of that certain Ordinance now on file in my Office, entitled:

ORDINANCE NO. 2018-M-28

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF ST. CHARLES RELATIVE TO THE PERMITTING, REGULATION AND DEPLOYMENT OF SMALL WIRELESS FACILITIES

which Ordinance was passed by the City Council of the City of St. Charles at a Regular City Council Meeting on the 16th day of July, 2018, at which meeting a quorum was present, and approved by the Mayor of the City of St. Charles on the 16th day of July, 2018.

I further certify that the vote on the question of the passage of said Ordinance by the City Council of the City of St. Charles was taken by Ayes and Nays and recorded in the minutes of the City Council of the City of St. Charles, and that the result of said vote was as follows, to-wit:

AYES: 10

NAYS: 0

ABSENT: 0

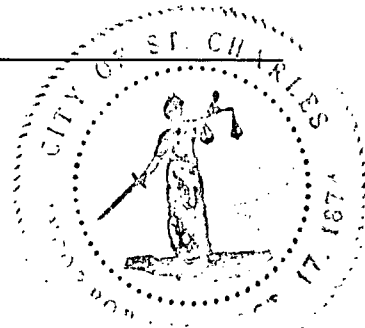
I do further certify that the original Ordinance, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of St. Charles, this 16th day of July, 2018.



City Clerk

[SEAL]



State of Illinois)
)
) ss.
Counties of Kane and DuPage)

Certificate

I, CHUCK AMENTA, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

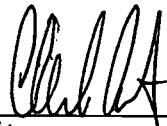
I further certify that on July 16, 2018, the Corporate Authorities of such municipality passed and approved Ordinance No. **2018-M-28** entitled

Ordinance Amending The Municipal Code of the City of St. Charles Relative to the Permitting, Regulation and Deployment of Small Wireless Facilities

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. **2018-M-28**, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on July 23, 2018, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 16th day of July, 2018.



Municipal Clerk

(S E A L)



DRAFT 7-9-18

General Guidelines and Small Wireless Facility Design, Stealth and Concealment Standards

The following general guidelines and design, stealth and concealment standards apply to the placement of small wireless facilities within the City. Small Wireless Facilities are generally regulated by Chapter 13.24 of the City Code and all terms used herein are as defined in that Chapter.

General Standards. Every small wireless facility collocation shall comply with the following standards.

- A. Small wireless facilities:
 1. Antennas shall be mounted no less than twelve (12) feet above ground level.
 2. Antennas shall, to the extent technically feasible, be designed and installed to appear hidden within the utility pole or to appear like an original part of the utility pole or wireless support structure.
 3. Each antenna not hidden within a utility pole shall be located entirely within a shroud enclosure not more than six (6) cubic feet in volume that is capable of accepting paint to match the approved color of the small wireless facility.
 4. Top-mounted antennas and their enclosures shall not extend the diameter of the utility pole or wireless support structure at the level of the antenna attachment.
 5. Side-mounted small wireless facility antennas within a shroud enclosure and side-mounted small wireless facility equipment enclosures shall be, if possible, flush mounted to the utility pole or wireless support structure at the level of the attachment. Metal flaps or “wings” shall extend from the enclosure to the utility pole or wireless support structure to conceal any gap between the between the small wireless facility and the utility pole or wireless support structure. The design of the flaps shall be integrated with the design of the small wireless facility.
 6. Small wireless facilities located on street light poles or traffic control structures shall not block light emanating from the street light fixture

or otherwise interfere with the purpose of the street light fixture or traffic control structure.

7. Small wireless facilities shall be attached to the utility pole or wireless support structure using rigid steel clamping mounts or stainless steel banding to the exterior of any metal pole. All mounts and banding shall be of the same color as the utility pole or wireless support structure, except as otherwise approved by the City Engineer. Care should be taken to integrate the mounting elements into the small wireless facility design. Through-bolting or use of lag bolts on City-owned utility poles is prohibited.
8. For attachments to existing utility poles, wires serving the small wireless facility shall be concealed within the hollow interior of the utility pole, or if concealment is not technically feasible, flush mounted to an existing utility pole in an enclosed wire chase on which the facilities are collocated. For new utility poles or wireless support structures, wires serving the small wireless facility shall be concealed within the hollow interior of the utility pole or wireless support structure.
9. All small wireless facilities shall be installed in accordance with all applicable City codes. No wiring or cabling shall interfere with any existing wiring or cabling installed by the City, a utility or a wireless services provider.
10. No guy or other support wires will be used in connection with a small wireless facility unless the small wireless facility is to be attached to an existing utility pole or wireless support structure that incorporates guy wires prior to the date the applicant has applied for a permit.
11. The small wireless facility, including the antenna, and all related equipment when attached to an existing or new utility pole or wireless support structure, must be designed to withstand a wind force and ice loads in accordance with the applicable standards established in Chapter 25 of the National Electric Safety Code for utility poles, Rule 250-B and 250-C standards governing wind, ice, and loading forces on utility poles, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel wireless support structures and the applicable industry standard for other existing structures. For any

small wireless facility attached to a City-owned utility pole or, in the discretion of the City, to a non City-owned utility pole or wireless support structure, the operator of the small wireless facility must provide the City with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation must be prepared by a professional structural engineer licensed in the State of Illinois.

12. The City will not authorize any attachments of small wireless facilities to a City-owned utility pole that negatively impacts the structural integrity of the pole. The City may condition approval of the collocation on replacement or modification of the City-owned utility pole if necessary to meet City standards.
13. Small wireless facilities shall be located in a manner that meets the Americans with Disabilities Act of 1990 and does not obstruct, impede or hinder the usual pedestrian or vehicular path of travel.
14. Small wireless facilities collocated on City-owned utility poles may not use the same power or communication source providing power and/or communication for the existing infrastructure. The wireless provider shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.
15. A four (4) inch by six (6) inch plate with the wireless provider's name, location identifying information, and emergency telephone number shall be permanently fixed to the small wireless facility equipment enclosure or shroud.

B. Replacement of Existing Street Light Poles

The following standards apply when replacing an existing street light pole with a combination small wireless facility and street light pole. Such replacements should only be located where an existing street light pole can be removed and replaced, or at a new location where it has been identified that a street light is necessary. All such replacements shall meet the following standards:

1. All replacement street light poles shall be a similar design, material, and color as the replaced existing street light pole and other poles within the immediate area.

2. All replacement street light poles and pole foundations shall conform to the City's standards and specifications for street light design and construction.
3. Replacement street light poles shall be an equal distance from other street light poles based upon the average distance between existing street light poles within the designated area.
4. Street light poles shall be designed and engineered to support a luminaire and mast arm of length equal to that of the existing pole to be replaced or of a length approved by the City Engineer based upon the location of the replacement street light pole.
5. All luminaires and mast arms shall match the arc and style of the original luminaire and mast arm, unless otherwise approved by the Director of Public Works.
6. The replacement luminaire and mast arm shall be at the same height above the ground as the existing luminaire and mast arm.
7. All replacement street light poles shall have new light emitting diode (LED) light fixtures of the same manufacturer, model and light output as the removed fixture and nearby light fixtures, or as otherwise approved by the City Engineer.
8. Replacement street light poles shall have a five (5) year manufacturer's replacement warranty.
9. Replacement street light poles shall meet American Association of State Highway and Transportation Officials structural guidelines for roadway applications and the American National Standards Institute requirements for vibrations.
10. Street light pole height shall be measured from the ground to the top of the street light pole.
11. All replacement street light pole heights shall be consistent with those of existing street lights.
12. The small wireless facility components shall be sized appropriately to the scale of the street light pole.
13. A decorative transition shall be installed over the equipment enclosure upper bolts, or a decorative base cover shall be installed to match the equipment enclosure size. All hardware connections shall

be hidden from view. Each street light pole component shall be architecturally compatible to create a cohesive aesthetic.

14. Replacement street light poles shall continue to be owned by the City.

C. Installation of new wireless support structures, where allowed.

1. A new wireless support structure shall be designed to minimize the visual and aesthetic impact of the new vertical element and associated small wireless facilities upon the surrounding area and shall blend in with the surrounding streetscape with minimal visual impact. The City may require a new wireless support structure to be constructed of a specific material that will enhance the stealth and concealment of the structure.
2. New wireless support structures shall match the design, type, material and color of existing utility poles, including street light poles, within the immediate area, except as otherwise approved by the Director of Public Works.
3. Within residentially zoned areas, new wireless support structure installations shall be located where the shared property line between two residential parcels intersect the right-of-way whenever possible, unless an unsafe condition, cluttered appearance, or other violation of these standards will result.
4. New wireless support structures shall be equal distance from other utility poles based upon the average distance between existing utility poles within the designated area. If a new wireless support structure cannot be located the average distance from other utility poles, a new wireless support structure may be approved if such wireless support structure is designed as a stealth pole.
5. The centerline of a new wireless support structure shall be in alignment with existing utility poles where present, or with street or parkway trees along the same side of the right-of-way.
6. New wireless support structures shall be located a minimum of twelve (12) feet from driveway aprons.
7. New wireless support structures shall be sited outside the critical root zone of existing trees having a six (6) inch diameter at breast height located in the immediate vicinity.

8. The outside diameter of any new wireless support structure shall not exceed the diameter of existing utility poles located within 300 feet of the location of the new wireless support structure.
9. New wireless support structures shall not exceed the heights as authorized by Chapter 13.24 of the City Code
10. New wireless support structures shall be round in shape with a smooth pole shaft.
11. New wireless support structures incorporating pole-mounted small wireless facilities shall be tapered in diameter from the base to the top, with a maximum diameter of twelve (12) inches at the base and a maximum diameter of eight (8) inches at the top.
12. New wireless support structures incorporating small wireless facilities in an equipment enclosure within a base may utilize poles tapered in diameter or poles having a consistent outside diameter.
13. All new wireless support structures must be supported with a reinforced concrete foundation designed, stamped, sealed and signed by a professional engineer licensed and registered in the State of Illinois, and subject to the City Engineer's approval.
14. All anchor bolts must be concealed from public view, with an appropriate pole boot or cover powder-coated to match the wireless support structure color.
15. If multiple requests are received to install two (2) or more wireless support structures in approximately the same location, in a manner that would violate these requirements or other City requirements, the City shall resolve such conflict through whatever reasonable and nondiscriminatory manner it deems appropriate.

D. Stealth and Concealment Requirements.

Wireless providers shall comply with the design and construction standards that are generally applicable to utility installations in the public right-of-way, as set forth in Chapter 13.22 of the City Code, as well as these standards, any other written design standards for decorative utility poles, or reasonable stealth, concealment, and aesthetic requirements that are otherwise identified by the City in an ordinance, written policy adopted by the City Council, in the City's comprehensive plan, or in another written design plan

that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district. In addition:

1. The use of stealth technology in the location and construction of small wireless facilities is required whenever and wherever possible. Stealth technology means using the least visually and physically intrusive design and equipment that is not technologically or commercially impracticable under the facts and circumstances, to employ methods that blend into surroundings and not be visible; and to minimize adverse aesthetic and visual impacts on the right-of-way, property, building and/or other facilities adjacent to, surrounding and in generally the same area as the requested location of such small wireless facilities.
2. Small wireless facilities, including but not limited to antennas, equipment enclosures, mounting brackets and hardware, mounting posts, cables, and shrouds, shall be of a color that is identical to the utility pole or of a neutral color compatible with the color of the utility pole and any surrounding elements so as to camouflage or conceal their appearance, create consistency among right-of-way infrastructure, and to make such small wireless facilities as unobtrusive as possible. The City Engineer may approve compatible color schemes for antennas and small wireless facilities.
3. Mechanical equipment and devices shall be concealed underground, mounted within a concealment box designed as a decorative pole base or within unobtrusive equipment enclosures or other devices mounted directly to the pole a minimum of eight (8) feet above ground level and screened by means of City-approved banners or other approved concealment methods.
4. Small wireless facilities must be located and oriented in such a way as to minimize view blockage.
5. The wireless provider shall use the smallest suitable wireless facilities then in industry use, regardless of location, for the particular application.
6. Additional landscaping and fencing shall be required to help mitigate the effects of the installation of any ground-mounted equipment.
7. Small wireless facilities shall not be artificially lighted or marked, except as required by law.

8. Small wireless facilities, other than top-mounted antennas, shall be mounted on the side of the utility pole or wireless support structure opposite the direction of vehicular traffic along the same side of the right-of-way.
 9. Alternative measures for concealment may be proposed by the wireless provider and approved by the City Engineer, if the City Engineer determines that the optional measures will be at least as effective in concealing the small wireless facilities as the measures required above.
- E. Historic Districts and Landmarks: Historic Districts and Landmarks: For areas designated as historic districts, or on buildings or structures designated as historic landmarks pursuant to chapter 17.32 (Historic Preservation) of this code, in addition to the stealth, concealment and design requirements referenced above, the following additional restrictions/conditions apply to the installation of small wireless facilities:
1. Small wireless facilities and wireless support structures shall be comprised of materials that are consistent with the surrounding elements so as to blend architecturally with any buildings or structures designated as historic landmarks or located within a designated historic district, and shall be designed to blend with the surrounding historical landmarks and/or district in design and color.
 2. No ground-mounted equipment enclosures shall be permitted within a designated historic district except as approved by the City as stealth installations.
 3. Small wireless facilities shall be mounted on high mast poles within designated historic district, if available, as opposed to on City-owned ornamental street lights.
 4. Small wireless facilities shall not be mounted upon City-owned ornamental street lights except in cases where the equipment enclosure is concealed within the base of the ornamental street light, and the antenna and its related shroud is incorporated in a seamless enclosure on the top of the ornamental street light, pursuant to applicable City design standards and as approved by the director of public works.
- F. Historic District or Historic Landmark Limitations:

1. The above design or concealment measures with respect to a historic district or historic landmark, including restrictions on a specific category of utility 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.

2. This subsection shall not be construed to limit the City'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.

G. These standards, once adopted, may be amended at the direction of the Director of Public Works as deemed necessary without further City Council review or approval, consistent with the intent of Chapter 13.24 of the City Code.