ORDINANCE NO. 2867

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF HIGHLAND, ILLINOIS, BY THE ADDITION OF CHAPTER 20, ENTITLED "PUBLIC RIGHTS-OF-WAY" ESTABLISHING STANDARDS FOR ACCESS TO, AND USE OF, THE PUBLIC RIGHTS-OF-WAY THROUGHOUT CITY OF HIGHLAND, ILLINOIS

WHEREAS, the City of Highland, Madison County, Illinois (hereinafter "City"), is a non-home rule municipality duly established, existing and operating in accordance with the provisions of the Illinois Municipal Code (Section 5/1-1-1 et seq. of Chapter 65 of the Illinois Compiled Statutes); and

WHEREAS, City has the authority to adopt ordinances and to promulgate rules and regulations governing the use of public right-of-way that protect the public health, safety, general welfare, and economic welfare of its residents; and

WHEREAS, City uses the public rights-of-way within its corporate limits to provide essential public services to its residents and businesses, including traffic control signals, water service, electric service, telephone service (land-line and cellular), internet service, cable television service, video service, sanitary sewer, storm sewer, and other essential public services; and

WHEREAS, other utility service providers, including electricity, telephone (land-line and cellular), natural gas, internet, cable television and video service providers have placed, or from time to time may request to place, certain utility facilities in the public rights-of-way within City; and

WHEREAS, legislatures and regulatory agencies at the State and federal levels have implemented changes in the regulatory framework to enhance competition in the providing of various utility services; and

WHEREAS, the combination of legislative and regulatory changes and the development of new technologies has led additional service providers to seek opportunities to provide services throughout City; and

WHEREAS, these regulatory and technological changes have resulted in demands for access to and use of the public rights-of-way in City as new service providers, particularly cellular telephone service, internet service, cable television service, video service, and communication service, attempt to provide new or additional services to compete with incumbent service providers; and

WHEREAS, unlike prior deregulations of utility services in which incumbent service providers have been required to make their transmission and/or distribution systems available to competitors, cellular telephone service, internet service, cable television service, video service, and communication service providers seeking to compete with incumbent service providers are seeking to install their own facilities for delivering competing services; thereby increasing the number of service providers seeking access to and use of the public rights-of-way in City; and

WHEREAS, the public rights-of-way within City are a limited public resource held in trust by City for the benefit of its residents and 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, the corporate authorities of City find and determine that it is necessary to, and in the best interests of, the public health, safety, general welfare, and economic welfare to establish uniform standards and regulations for access to and use of the public rights-of-way in City by cellular telephone service providers, internet service providers, cable television service providers, video service providers, communication service providers, utility service providers and other persons and entities that desire to place infrastructure, structures, facilities or equipment of any kind in the public rights-of-way, so as to: (i) prevent interference with the use of streets, sidewalks, alleys and other public ways and places by City and the general public; (ii) protect against visual and physical obstructions to vehicular and pedestrian traffic; (iii) prevent interference with the facilities and operations of City's utilities and of other utilities lawfully located in public rights-of-way or property; (iv) protect against environmental damage, including damage to trees, from the installation of utility facilities; (v) preserve the character of the neighborhoods in which facilities are installed; (vi) prevent visual blight; (vii) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations; (viii) preserve space on telephone poles and other infrastructure for needed safety equipment and services; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of: (i) the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq*., including, without limitation, Sections 11-20-5, 11-20-10, 11-42-11, 11-42-11.2, 11-80-1, 11-80-3, 11-80-6, 11-80-7, 11-80-8, 11-80-10, and 11-80-13; (ii) Section 4 of the Telephone Company Act, 220 ILCS 65/4; (iii) the Illinois Highway Code, including, without limitation, Articles 7 and 9 thereof, 605 ILCS 5/1-101 *et seq*.; (iv) the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/1 *et seq*. and (v) the Cable and Video Competition Law of 2007, 220 ILCS 5/21-100 *et seq*.; and

WHEREAS, this Ordinance establishes generally applicable standards for construction on, over, above, along, upon, under, across, or within the public right-of-way, and for the use of and repair of the public right-of-way; and

WHEREAS, in the enactment of this ordinance, City has considered a variety of standards for construction on, over, above, along, under, across, or within, use of and repair of the public right-of-way, including, but not limited to, the standards relating to Accommodation of Utilities on Right-of-Way of the Illinois State Highway System promulgated by the Illinois Department of Transportation and found at 92 Ill. Adm. Code § 530.10 *et seq*.; and

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

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

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

WHEREAS, City hereby finds that it is in the best interest of City, the public, the utilities, and/ or the business entities of any kind using the public rights-of-way to establish a comprehensive set of construction standards and requirements to achieve various beneficial goals, including, without limitation, enhancing the planning of new utility facilities; enhancing the planning of new small wireless facilities; minimizing interference with, and damage to, rights-of-way and the streets, sidewalks, and other structures and improvements located in, on, over and above the rights-of-way; and reducing costs and expenses to the public.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND, ILLINOIS AS FOLLOWS:

Section 1. Recitals. The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Adoption. The Municipal Code of the City of Highland, Illinois, shall be amended by the addition of Chapter 20 that will read as follows:

CHAPTER 20. PUBLIC RIGHTS-OF-WAY

ARTICLE I - STANDARDS FOR ACCESS TO, AND USE OF, THE PUBLIC RIGHTS-OF-WAY THROUGHOUT CITY

20-1-1 Purpose and Scope.

a) Purpose. The purpose of Article I of this Chapter is to establish policies and procedures for cellular telephone service providers, internet service providers, cable television service providers, video service providers, communication service providers, utility service providers and other persons and entities that desire to place infrastructure, structures, facilities or equipment of any kind in the public rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

b) Intent. In enacting Article I of this Chapter, City intends to exercise its authority over the rights-of-way in City and, in particular, the use of the public ways and property by service providers and/or utility service providers, by establishing uniform standards to address issues presented by utility facilities, service providers and/or utility service providers, including without limitation:

1) Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

2) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

3) Prevent interference with the facilities and operations of City's services and utilities and of other services and utilities lawfully located in rights-of-way or public property;

4) Protect against environmental damage, including damage to trees, from the installation of infrastructure for service providers and/or utility service providers, and utility facilities;

5) Protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;

6) Preserve the character of the neighborhoods in which infrastructure for service providers and/or utility service providers, and utility facilities, are installed;

7) Preserve open space, particularly the tree-lined streets and parkways that characterize City's residential neighborhoods;

8) Prevent visual blight from the proliferation of infrastructure for service providers and/or utility service providers, and utility facilities, in the rights-of-way;

9) Assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations; and

10) Preserve adequate space on telephone poles and other infrastructure for needed safety equipment and services.

c) Facilities Subject to this Article I of this Chapter. Article I of this Chapter applies to all infrastructure and facilities for service providers and/or utility service providers, and utility facilities, on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of City. Any infrastructure for service providers and/or utility service providers, and utility facilities, lawfully established prior to the effective date of Article I of this Chapter may continue to be maintained, repaired and operated by the service provider and/or utility as presently constructed and located, except as may be otherwise provided in any applicable federal law, state law, franchise, license or similar agreement.

d) Franchises, Licenses, or Similar Agreements. City, in its discretion and as limited by law, may require service providers and/or utilities to enter into a franchise, license or similar agreement for the privilege of locating their infrastructure for service providers and/or utility service providers, and utility facilities, on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that City enter into such an agreement. In such an agreement, City may provide for terms and conditions inconsistent with Article I of this Chapter.

e) Effect of Franchises, Licenses, or Similar Agreements.

1) Utilities Other Than Telecommunications Providers. In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with City, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

2) Telecommunications Providers. In the event of any conflict with, or inconsistency between, the provisions of Article I of this Chapter and the provisions of any franchise, license or similar agreement between City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

f) Conflicts with Other Chapters. Article I of this Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

g) Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of Article I of this Chapter, the utility shall comply with the requirements of Article I of this Chapter to the maximum extent possible without violating federal or State laws or regulations.

h) Sound Engineering Judgment. The City shall use sound engineering judgment when administering Article I of this Chapter and may vary the standards, conditions, and requirements expressed in Article I of this Chapter when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety, general welfare, and economic welfare of City.

20-1-2 Definitions.

As used in Article I of this Chapter and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

(1) "AASHTO" - American Association of State Highway and Transportation Officials.

(2) "ANSI" - American National Standards Institute.

(3) "Applicant" - A person applying for a permit under Article I of this Chapter.

(4) "ASTM" - American Society for Testing and Materials.

(5) "Backfill" - The methods or materials for replacing excavated material in a trench or pit.

(6) “Bore” or “Boring” - To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

(7) “Cable operator” - That term as defined in 47 U.S.C. 522(5).

(8) “Cable service” - That term as defined in 47 U.S.C. 522(6).

(9) “Cable system” - That term as defined in 47 U.S.C. 522(7).

(10) “Carrier Pipe” - The pipe enclosing the liquid, gas or slurry to be transported.

(11) “Casing” - A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

(12) “City” - The City of Highland, Illinois.

(13) “Clear Zone” - The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

(14) “Coating” - Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

(15) “Code” - The Municipal Code of the City of Highland, Illinois.

(16) “Conductor” - Wire carrying electrical current.

(17) “Conduit” - A casing or encasement for wires or cables.

(18) “Construction” or “Construct” - The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

(19) “Cover” - The depth of earth or backfill over buried utility pipe or conductor.

(20) “Crossing Facility” - A facility that crosses one or more right-of-way lines of a right-of-way.

(21) “Director of Planning and Zoning” - The City Director of Planning and Zoning or his or her designee.

(22) “Disrupt the Right-of-Way” - For the purposes of Article I of this Chapter, any work that obstructs the right-of-way or causes a material adverse effect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage

to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

(23) "Emergency" - Any immediate maintenance to the infrastructure for service providers and/or utility service providers, and utility facilities, required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

(24) "Encasement" - Provision of a protective casing.

(25) "Engineer" - The City Engineer or his or her designee.

(26) "Equipment" - Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

(27) "Excavation" - The making of a hole or cavity by removing material, or laying bare by digging.

(28) "Extra Heavy Pipe" - Pipe meeting ASTM standards for this pipe designation.

(29) "Facility" and/or "Facilities" - All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under Article I of this Chapter. For purposes of Article I of this Chapter, the term "facility" shall not include any facility owned or operated by City.

(30) "Freestanding Facility" - A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

(31) "Frontage Road" - Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access to a highway.

(32) "Hazardous Materials" - Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Director of Planning and Zoning, or his or her designee, to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

(33) "Highway Code" - The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

(34) "Highway" - A specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

(35) "Holder" - A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

(36) "IDOT" - Illinois Department of Transportation.

(37) "ICC" - Illinois Commerce Commission.

(38) "Infrastructure" - All infrastructure as the term is commonly understood, including: devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under Article I of this Chapter. For purposes of Article I of this Chapter, the term "infrastructure" shall not include any infrastructure owned or operated by City.

(39) "Jacking" - Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

(40) "Jetting" - Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

(41) "Joint Use" - The use of pole lines, trenches or other facilities by two or more utilities.

(42) "J.U.L.I.E." - The Joint Utility Locating Information for Excavators utility notification program.

(43) "Major Intersection" - The intersection of two or more major arterial highways.

(44) "Occupancy" - The presence of facilities and/or infrastructure on, over, above, along, upon, under, and/or across right-of-way.

(45) "Parallel Facility" - A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

(46) "Parkway" - Any portion of the right-of-way not improved by street or sidewalk.

(47) "Pavement Cut" - The removal of an area of pavement for access to facility or for the construction of a facility.

(48) “Permittee” - That entity to which a permit has been issued pursuant to Sections 20-1-4 and 20-1-5 of Article I of this Chapter.

(49) “Person” - an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

(50) “Practicable” - That which is performable, feasible or possible, rather than that which is simply convenient.

(51) “Pressure” - The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

(52) “Petroleum Products Pipelines” - Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

(53) “Prompt” - That which is done within a period of time specified by City. If no time period is specified, the period shall be thirty (30) days.

(54) “Public Entity” - A legal entity that constitutes or is part of the government, whether at local, State or federal level.

(55) “Restoration” - The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

(56) “Right-of-Way” or "Rights-of-Way"- Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. “Right-of-way” or "Rights-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

(57) “Roadway” - That part of the highway that includes the pavement and shoulders.

(58) “Sale of Telecommunications at Retail” - The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

(59) “Security Fund” - That amount of security required pursuant to Section X.

(60) “Service Provider(s) and/or Utility Service Provider(s)” - cellular telephone service providers, internet service providers, cable television service providers,

video service providers, communication service providers, utility service providers and other persons and entities that desire to place infrastructure, structures, facilities or equipment of any kind in the public rights-of-way within the City's jurisdiction.

(61) "Shoulder" - A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

(62) "Sound Engineering Judgment" - A decision(s) consistent with generally accepted engineering principles, practices and experience.

(63) "Telecommunications" - This term includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

(64) "Telecommunications Provider" - Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

(65) "Telecommunications Retailer" - Means and includes every person engaged in making sales of telecommunications at retail as defined herein.

(66) "Trench" - A relatively narrow open excavation for the installation of an underground facility or infrastructure.

(67) "Utility" - The individual or entity owning or operating any facility or infrastructure as defined in Article I of this Chapter

(68) "Vent" - A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

(69) "Video Service" - That term as defined in section 21-201 (v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

(70) "Water Lines" - Pipelines carrying raw or potable water.

(71) "Wet Boring" - Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

20-1-3 Annual Registration Required.

Every service provider and/or utility service provider, and utility that occupies right-of-way within City shall register on January 1 of each year with the Director of Planning and Zoning, providing the service provider and/or utility service provider, and utility's name, address and regular business telephone and email address, the name of one or more contact persons who can act on behalf of the service provider and/or utility service provider, and utility in connection with emergencies involving the facilities and infrastructure in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 20-1-8 of Article I of this Chapter, in the form of a certificate of insurance.

20-1-4 Permit Required; Applications and Fees.

a) Permit Required. No person shall construct (as defined in Article I of this Chapter) any facility or infrastructure on, over, above, along, upon, under, across, or within any City right-of-way which (1) changes the location of the facility or infrastructure, (2) adds a new facility or infrastructure, (3) disrupts the right-of-way (as defined in Article I of this Chapter), or (4) materially increases the amount of area or space occupied by the facility or infrastructure on, over, above, along, under across or within the right-of-way, without first filing an application with the City Director of Planning and Zoning and obtaining a permit from City therefor, except as otherwise provided in Article I of this Chapter. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

b) Permit Application. All applications for permits pursuant to Article I of this Chapter shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

c) Minimum General Application Requirements. The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

1) The utility's name and address and telephone number and email address;

2) The applicant's name and address, if different than the utility, its telephone number, e-mail address, and its interest in the work;

3) The names, addresses and telephone numbers, and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;

4) A general description of the proposed work and the purposes and intent of the facility or infrastructure and the uses to which the facility or infrastructure will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;

5) Evidence that the utility has placed on file with the City:

   i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and

   ii) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;

6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;

7) Evidence of insurance as required in Section 20-1-8 of Article I of this Chapter;

8) Evidence of posting of the security fund as required in Section 20-1-10 of Article I of this Chapter;

9) Any request for a variance from one or more provisions of Article I of this Chapter (See 20-1-21); and

10) Such additional information as may be required by the City.

d) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection c) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;

2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;

3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;

4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and the Metropolitan Water Reclamation District, and City of Highland, Illinois Code, have been satisfied; or

5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

e) Applicant's Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within thirty (30) days after the change necessitating the amendment.

f) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to Article I of this Chapter shall be accompanied by a fee in the amount of $100.00. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

20-1-5 Action on Permit Applications.

a) City Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the City Director of Planning and Zoning within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, and regulations, the City Director of Planning and Zoning shall reject such application in writing, stating the reasons therefor. If the City Director of Planning and Zoning is satisfied that the proposed work conforms to the requirements of

Article I of this Chapter and applicable ordinances, codes, laws, rules, and regulations, the City Director of Planning and Zoning shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the City Director of Planning and Zoning, that the construction proposed under the application shall be in full compliance with the requirements of Article I of this Chapter.

b) Additional City Review of Applications of Telecommunications Retailers.

1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by Article I of this Chapter for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The City Director of Planning and Zoning shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.

2) In the event that the City Director of Planning and Zoning fails to provide such specification of location to the telecommunications retailer within either: (i) ten (10) days after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction, or (ii) twenty-five (25) days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under Article I of this Chapter.

3) Upon the provision of such specification by the City, where a permit is required for work pursuant to Section 20-1-4 of Article I of this Chapter, the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.

c) Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007. Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances, and regulations.

20-1-6 Effect of Permit.

a) Authority Granted; No Property Right or Other Interest Created. A permit from the City authorizes a permittee to undertake only certain activities in accordance with Article I of

this Chapter on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights-of-way.

b) Duration. No permit issued under Article I of this Chapter shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

c) Pre-construction meeting required. No construction shall begin pursuant to a permit issued under Article I of this Chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners. The requirement for a pre-construction meeting may only be waived by City.

d) Compliance with All Laws Required. The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules, and regulations.

20-1-7 Revised Permit Drawings.

In the event that the actual locations of any facilities or infrastructure deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities or infrastructure deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of Article I of this Chapter, it shall be treated as a request for variance in accordance with Section 20-1-21 of Article I of this Chapter. If the City denies the request for a variance, then the permittee shall either remove the facility or infrastructure from the right-of-way or modify the facility or infrastructure so that it conforms to the permit and submit revised drawings or plans therefor.

20-1-8 Insurance.

a) Required Coverages and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility or infrastructure in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, lawyers, and employees as additional insureds on the policies listed in paragraphs 1 and 2 below:

1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverages) and products-completed operations coverage with limits not less than:

   i) Five million dollars ($5,000,000) for bodily injury or death to each person;

   ii) Five million dollars ($5,000,000) for property damage resulting from any one accident; and

   iii) Five million dollars ($5,000,000) for all other types of liability;

2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million dollars ($1,000,000) for personal injury and property damage for each accident;

3) Worker's compensation with statutory limits; and

4) Employer's liability insurance with limits of not less than one million dollars ($1,000,000) per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

b) Excess or Umbrella Policies. The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

c) Copies Required. The utility shall provide copies of any of the policies required by this Section to the City within ten (10) days following receipt of a written request therefor from the City.

d) Maintenance and Renewal of Required Coverages. The insurance policies required by this Section shall contain the following endorsement:

> "It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Manager of such intent to cancel or not to renew."

Within ten (10) days after receipt by the City of said notice, and in no event later than ten (10) days prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

e) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection a), or the requirements of Subsections b), c) and d) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection a) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

f) Effect of Insurance and Self-Insurance on Utility's Liability. The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

g) Insurance Companies. All insurance provided pursuant to this section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois.

20-1-9 Indemnification.

By occupying or constructing facilities or infrastructure in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents, lawyers, and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by Article I of this Chapter or by a franchise, license, or similar agreement.

20-1-10 Security.

a) Purpose. The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:

1) The faithful performance by the permittee of all the requirements of Article I of this Chapter;

2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to Article I of this Chapter; and

3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-

performance by permittee in violation of Article I of this Chapter including, without limitation, any damage to public property or restoration work the permittee is required by Article I of this Chapter to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to Article I of this Chapter or any other applicable law.

b) Form. The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:

1) Provide that it will not be canceled without prior notice to the City and the permittee;

2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and

3) Shall provide a location convenient to the City and within the State of Illinois at which it can be drawn.

c) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by City Director of Planning and Zoning, and may also include related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities or infrastructure proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities or infrastructure in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the City Director of Planning and Zoning may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.

d) Withdrawals. The City, upon fourteen (14) days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:

1) Fails to make any payment required to be made by the permittee hereunder;

2) Fails to pay any liens relating to the facilities that are due and unpaid;

3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or

4) Fails to comply with any provision of Article I of this Chapter that the City determines can be remedied by an expenditure of an amount in the Security Fund.

e) Replenishment. Within fourteen (14) days after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection c) of this Section.

f) Interest. The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection c) of this Section.

g) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of Article I of this Chapter or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

h) Rights Not Limited. The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by Article I of this Chapter or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

In addition, only the City shall have the right to waive the requirement for a Security Fund from any permittee, and permittee must obtain written confirmation from the City that the City has elected to waive the requirement for a Security Fund. Further, any agreement between City and permittee to waive the Security Fund is not perpetual, and permittee must apply for a waiver of the Security Fund from the City for each use of the public right-of-way.

20-1-11 Permit Suspension and Revocation.

a) City Right to Revoke Permit. The City may revoke or suspend a permit issued pursuant to Article I of this Chapter for one or more of the following reasons:

1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;

2) Non-compliance with Article I of this Chapter;

3) Permittee's physical presence or presence of permittee's facilities or infrastructure on, over, above, along, upon, under, across, or within the rights-of-way that presents a direct or imminent threat to the public health, safety, general welfare, or economic welfare of City; or

4) Permittee's failure to construct the facilities or infrastructure substantially in accordance with the permit and approved plans.

b) Notice of Revocation or Suspension. The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to Article I of this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 20-1-11.

c) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;

2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within five (5) working days after receipt of the written notice of revocation; or

3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within ten (10) days after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.

d) Stop Work Order. In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within Subsection a) of this Section.

e) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection c) of this Section, the City or its designee may, at the option of the City: (1) correct the deficiencies; (2) upon not less than twenty (20) days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (30) days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

20-1-12 Change of Ownership or Owner's Identity or Legal Status.

a) Notification of Change. A utility shall notify the City no less than thirty (30) days prior to the transfer of ownership of any facility or infrastructure in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and applicable laws, ordinances, rules and regulations, including Article I of this Chapter, with respect to the work and facilities in the right-of-way.

b) Amended Permit. A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right-of-way.

c) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

20-1-13 General Construction Standards.

a) Standards and Principles. All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

1) Standard Specifications for Road and Bridge Construction;

2) Supplemental Specifications and Recurring Special Provisions;

3) Highway Design Manual;

4) Highway Standards Manual;

5) Standard Specifications for Traffic Control Items;

6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);

7) Flagger's Handbook; and

8) Work Site Protection Manual for Daylight Maintenance Operations.

b) Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by Article I of this Chapter, the City Director of Planning and Zoning shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the City Director

of Planning and Zoning shall state which standard or principle will apply to the construction, maintenance, or operation of a facility or infrastructure in the future.

20-1-14 Traffic Control.

a) Minimum Requirements. The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

b) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, State, and local requirements for protection of the public and the utility's workers when performing any work on the rights-of-way.

c) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

d) Notice When Access is Blocked. At least forty-eight (48) hours prior to beginning work that will partially or completely block access to any person, residence, business or institution, the utility shall notify the person, resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 20-1-20 of Article I of this Chapter, the utility shall provide such notice as is practicable under the circumstances.

e) Compliance. The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

20-1-15 Location of Facilities.

a) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection.

1) No Interference with City Facilities or Infrastructure. At the discretion of the City Manager or the City Manager's Designee, no utility facilities or infrastructure shall be placed in any location if the City Director of Planning and Zoning determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or infrastructure or will otherwise interfere with the operation or maintenance of any of the City's utility facilities or infrastructure.

2) Minimum Interference and Impact. The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.

3) No Interference with Travel. No utility facility or infrastructure shall be placed in any location that interferes with the usual travel on such right-of-way.

4) No Limitations on Visibility. No utility facility or infrastructure shall be placed in any location so as to limit visibility of or by users of the right-of-way.

5) Size of Utility Facilities or Infrastructure. The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

b) Parallel Facilities or Infrastructure Located Within Highways.

1) Overhead Parallel Facilities or Infrastructure. An overhead parallel facility or infrastructure may be located within the right-of-way lines of a highway only if:

i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;

ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;

iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;

iv) No pole is located in the ditch line of a highway; and

v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.

2) Underground Parallel Facilities and Infrastructure. An underground parallel facility or infrastructure may be located within the right-of-way lines of a highway only if:

i) The facility or infrastructure is located as near the right-of-way line as practicable and not more than eight (8) feet (2.4 m) from and parallel to the right-of-way line;

ii) A new facility or infrastructure may be located under the paved portion of a highway only if other locations are impracticable or

inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and

iii) In the case of an underground power or communications line, the facility or infrastructure shall be located as near the right-of-way line as practicable and not more than five (5) feet (1.5 m) from the right-of-way line and any above-grounded appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.

c) Facilities or Infrastructure Crossing Highways.

1) No Future Disruption. The construction and design of crossing facilities or infrastructure installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.

2) Cattle Passes, Culverts, or Drainage Facilities. Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.

3) 90 Degree Crossing Required. Crossing facilities shall cross at or as near to a ninety (90) degree angle to the centerline as practicable.

4) Overhead Power or Communication Facility or Infrastructure. An overhead power or communication facility or infrastructure may cross a highway only if:

i) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);

ii) Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone;

iii) Overhead crossings at major intersections are avoided; and

iv) It complies with National Electric Safety Code.

5) Underground Power or Communication Facility or Infrastructure. An underground power or communication facility or infrastructure may cross a highway only if:

i) The design materials and construction methods will provide maximum maintenance-free service life;

ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation; and

iii) It complies with National Electric Safety Code.

6) Markers. The City may require the utility to provide a marker at each right-of-way line where an underground facility or infrastructure other crosses a highway. Each marker shall identify the type of facility or infrastructure, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

d) Facilities or Infrastructure to be Located Within Particular Rights-of-Way. The City may require that facilities or infrastructure be located within particular rights-of-way that are not highways, rather than within particular highways.

e) Freestanding Facilities or Infrastructure.

1) The City may restrict the location and size of any freestanding facility or infrastructure located within a right-of-way.

2) The City may require any freestanding facility or infrastructure within a right-of-way to be screened from view.

f) Facilities or Infrastructure Installed Above Ground. Above ground facilities or infrastructure may be installed only if:

1) No other existing facilities or infrastructure in the area are located underground;

2) New underground installation is not technically feasible; and

3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

g) Facility or Infrastructure Attachments to Bridges or Roadway Structures.

1) Facilities or infrastructure may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility or infrastructure are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of

which are completely separated from the bridge or roadway structure. Facilities or infrastructure transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

2) A utility shall include in its request to accommodate a facility or infrastructure installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility or infrastructure attachment to a bridge or roadway structure will be based upon the following considerations:

i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;

ii) The type, length, value, and relative importance of the highway structure in the transportation system;

iii) The alternative routings available to the utility and their comparative practicability;

iv) The proposed method of attachment;

v) The ability of the structure to bear the increased load of the proposed facility or infrastructure;

vi) The degree of interference with bridge maintenance and painting;

vii) The effect on the visual quality of the structure; and

viii) The public benefit expected from the utility service as compared to the risk involved.

h) Appearance Standards.

1) The City may prohibit the installation of facilities or infrastructure in particular locations in order to preserve visual quality.

2) A facility or infrastructure may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

20-1-16 Construction Methods and Materials.

a) Standards and Requirements for Particular Types of Construction Methods.

1) Boring or Jacking.

i) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the City Director of Planning and Zoning from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.

iii) Borings with Diameters Greater Than 6 Inches. Borings over six inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (25 mm).

iv) Borings with Diameters 6 Inches or Less. Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.

v) Tree Preservation. Any facility or infrastructure located within the drip line of any tree designated by the City to be preserved or protected shall be bored under or around the root system. This determination shall be made by the City Manager or City Manager's Designee.

2) Trenching. Trenching for facility or infrastructure installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."

i) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the City Director of Planning and Zoning.

ii) Open Trench and Excavated Material. Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control

Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.

iii) Drip Line of Trees. The utility shall not trench within the drip line of any tree designated by the City to be preserved. This determination shall be made by the City Manager or City Manager's designee.

3) Backfilling.

i) Any pit, trench, or excavation created during the installation of facilities or infrastructure shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.

ii) For a period of three (3) years from the date construction of a facility or infrastructure is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility or infrastructure. If so ordered by the City Director of Planning and Zoning, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the City Director of Planning and Zoning.

4) Pavement Cuts. Pavement cuts for facility or infrastructure installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph 4) is permitted under Section 20-1-21, the following requirements shall apply:

i) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the City Director of Planning and Zoning.

ii) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the

temporary repair or the restoration shall be rebuilt upon notification by the City.

iii) All saw cuts shall be full depth.

iv) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last three (3) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.

5) Encasement.

i) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.

ii) The venting, if any, of any encasement shall extend within one foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.

iii) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.

iv) In the case of gas pipelines of 60 psig or less, encasement may be eliminated.

v) In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;

vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.

6) Minimum Cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in National Electric Safety

Code or other applicable State or federal code related to facility or infrastructure installed or maintained.

b) Standards and Requirements for Particular Types of Facilities or Infrastructure.

1) Electric Power or Communication Lines.

i) Code Compliance. Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code Part 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines," and the National Electrical Safety Code.

ii) Overhead Facilities. Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

iii) Underground Facilities. (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads. (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of "moles," "whip augers," or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction. (3) Cable shall be grounded in accordance with the National Electrical Safety Code.

iv) Burial of Drops. All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within ten (10) business days after placement.

2) Underground Facilities or Infrastructure Other than Electric Power or Communication Lines. Underground facilities or infrastructure other than electric power or communication lines may be installed by:

i) the use of "moles," "whip augers," or other approved methods which compress the earth to move the opening for the pipe;

ii) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;

iii) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or

iv) tunneling with vented encasement, but only if installation is not possible by other means.

3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT's "Standard Specifications for Road and Bridge Construction," and all other applicable laws, rules, and regulations.

4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).

5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois."

6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities or infrastructure, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the City Director of Planning and Zoning. With the approval of the City Director of Planning and Zoning, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

c) Materials.

1) General Standards. The materials used in constructing facilities or infrastructure within rights-of-way shall be those meeting the accepted

standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications for Road and Bridge Construction," the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.

2) Material Storage on Right-of-Way. No material shall be stored on the right-of-way without the prior written approval of the City Director of Planning and Zoning. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.

3) Hazardous Materials. The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

d) Operational Restrictions.

1) Construction operations on rights-of-way may, at the discretion of the City, may be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.

2) These restrictions may be waived by the City Director of Planning and Zoning when emergency work is required to restore vital utility services.

3) Unless otherwise permitted by the City, the hours of construction are those set forth in City Code.

e) Location of Existing Facilities or Infrastructure. Any utility proposing to construct facilities or infrastructure in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities or infrastructure within the rights-of-way to be occupied by its proposed facilities or infrastructure. The City will make its permit records available to a utility for the purpose of identifying possible facilities or infrastructure. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities and infrastructure within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq*.)

20-1-17 Vegetation Control.

a) Electric Utilities – Compliance with State Laws and Regulations. An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in

accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

b) Other Utilities – Tree Trimming Permit Required. Tree trimming that is done by any other utility with facilities or infrastructure in the right-of-way, and that is not performed pursuant to applicable Illinois laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under Article I of this Chapter.

1) Application for Tree Trimming Permit. Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

2) Damage to Trees. Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition. Damage to trees, pursuant to this Section, shall be determined by the City Manager or City Manager's designee.

c) Specimen Trees or Trees of Special Significance. The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

d) Chemical Use.

1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.

2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the City Director of Planning and Zoning that such spraying is the only practicable method of vegetation control.

20-1-18 Removal, Relocation, or Modifications of Utility Facilities or Infrastructure.

a) Notice. Within ninety (90) days following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

b) Removal of Unauthorized Facilities or Infrastructure. Within thirty (30) days following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or infrastructure or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility or infrastructure is unauthorized and subject to removal in the following circumstances:

1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;

2) If the facility or infrastructure was constructed or installed without the prior grant of a license or franchise, if required;

3) If the facility or infrastructure was constructed or installed without prior issuance of a required permit in violation of Article I of this Chapter; or

4) If the facility or infrastructure was constructed or installed at a location not permitted by the permittee's license or franchise.

c) Emergency Removal or Relocation of Facilities or Infrastructure. The City retains the right and privilege to cut or move any facilities or infrastructure located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility or infrastructure and shall notify the utility, if known, after cutting or removing a facility or infrastructure.

d) Abandonment of Facilities or Infrastructure . Upon abandonment of a facility or infrastructure within the rights-of-way of the City, the utility shall notify the City within ninety (90) days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility or infrastructure if the City Director of Planning and Zoning determines that such removal will be in the best interest of the public health, safety, general welfare, and economic welfare of City. In the event that the City does not direct the utility that abandoned the facility or infrastructure to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility or infrastructure by another utility or person.

20-1-19 Clean-up and Restoration.

The utility shall remove all excess material and restore all turf and terrain and other property within ten (10) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the City Director of Planning and Zoning. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the City Director of Planning and Zoning for good cause shown.

20-1-20 Maintenance and Emergency Maintenance.

a) General. Facilities or infrastructure on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

b) Emergency Maintenance Procedures. Emergencies may justify non-compliance with normal procedures for securing a permit:

1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility or infrastructure is available.

2) In an emergency, the utility shall, as soon as possible, notify the City Director of Planning and Zoning or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City police shall be notified immediately.

3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

c) Emergency Repairs. The utility must file in writing with the City a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

20-1-21 Variances.

a) Request for Variance. A utility requesting a variance from one or more of the provisions of Article I of this Chapter must do so in writing to the City Director of Planning and Zoning as a part of the permit application. The request shall identify each provision of Article I of this Chapter from which a variance is requested and the reasons why a variance should be granted.

b) Authority to Grant Variances. The City Director of Planning and Zoning shall decide whether a variance is authorized for each provision of Article I of this Chapter identified in the variance request on an individual basis.

c) Conditions for Granting of Variance. The City Director of Planning and Zoning may authorize a variance only if the utility requesting the variance has demonstrated that:

1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision;

2) All other designs, methods, materials, locations or facilities or infrastructure that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach; and

3) Other exceptional conditions which, at the sound discretion of the City Director of Planning and Zoning, would require a variance to allow the utility to perform work in a public right-of-way.

d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the City Director of Planning and Zoning may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within Article I of this Chapter but which carry out the purposes of Article I of this Chapter.

e) Right to Appeal. Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the City Director of Planning and Zoning under the provisions of Article I of this Chapter shall have the right to appeal to the City Manager or the City Manager's Designee. The application for appeal shall be submitted in writing to the City Clerk within thirty (30) days after the date of such order, requirement, decision or determination. The City Manager or City Manager's Designee shall commence his/her consideration of the appeal within seven (7) days after the filing of the appeal. The City Manager or City Manager's Designee shall timely decide the appeal.

20-1-22 Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of Article I of this Chapter shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs,

including third party claims, because the utility will not or cannot perform its duties under its permit and under Article I of this Chapter. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility or infrastructure that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

20-1-23 Enforcement.

Nothing in Article I of this Chapter shall be construed as limiting any additional or further remedies that the City may have for enforcement of Article I of this Chapter.

20-1-24 Severability.

If any section, subsection, sentence, clause, phrase or portion of Article I of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

ARTICLE II – REGULATION OF AND APPLICATION FOR SMALL WIRELESS FACILITIES

20-2-1 Purpose and Scope.

a) Purpose. The purpose of Article II of this Chapter is to establish regulations, standards, and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City's jurisdiction, or outside the rights-of-way on property zoned by the City exclusively for commercial or industrial use, in a manner that is consistent with Public Act 100-0585, known as the Small Wireless Facilities Deployment Act ("Act"). Siting and collocation of small wireless facilities outside the rights-of-way on property zoned by the City for uses other than exclusively commercial or industrial uses shall be governed by the zoning and building ordinances applicable to property zoned for such other uses.

b) Conflicts with Other Chapters. Article II of this Chapter supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

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

20-2-2 Definitions.

For the purposes of Article II of this Chapter, the following terms shall have the following meanings:

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

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

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

4. "Application" – a request submitted by an applicant to the City for: (i) a permit to collocate small wireless facilities, and/or (ii) installation of a new utility pole for collocation of small wireless facilities, as well as any applicable fee for the review of such application.

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

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

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

8. "FCC" – the Federal Communications Commission of the United States.

9. "Fee" – a one-time charge.

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

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

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

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

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

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

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

17. "Rate" – a recurring charge.

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

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

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

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

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

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

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

25. "Wireless services provider" – a person who provides wireless services.

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

20-2-3 Regulation of Small Wireless Facilities.

a) Permitted Use. Except as otherwise provided in paragraph C. (9), below (regarding Height Exceptions or Variances), small wireless facilities are hereby classified as permitted uses, subject only to administrative review, and not subject to zoning review or

approval, if they are collocated: (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use, notwithstanding any statement to the contrary in any other ordinance adopted by the City.

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

1) Application Requirements. A wireless provider shall provide the following information to the City, together with the City's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:

i. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, as such act may be amended from time to time ("SEPA");

ii. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility in that location;

iii. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the SEPA, for each proposed small wireless facility covered by the application as it is proposed to be installed;

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

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

vi. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge. For purposes of this section, the applicant's knowledge includes not only the knowledge of the person signing the certification but, also, the knowledge of all officers of the applicant and of each employee or agent of the applicant involved with the proposed small wireless facility; and

vii. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the City, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

2) Application Process. The City shall process applications as follows:

i. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

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

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City, in writing, of its intention to invoke the deemed approved remedy no sooner than seventy-five (75) days after the submission of a completed application; and prior to the ninetieth ($90^{th)}$ day after the submission of the completed application.

Unless otherwise approved or rejected by the City within ninety (90) days after the submission of the completed application, the permit shall be deemed approved on the later of the ninetieth ($90^{th)}$ day after submission of the complete application or the tenth ($10^{th)}$ day after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Ordinance.

iii. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within one hundred twenty (120) days after the submission of a completed application. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than one hundred five (105) days after the submission of a

completed application; and prior to the one hundred twentieth (120th) day after the submission of the completed application.

Unless otherwise approved or rejected by the City within one hundred twenty (120) days after the submission of the 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 the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Ordinance.

iv. The City may, on a non-discriminatory basis, deny an application which does not meet the requirements of this Ordinance. If the City determines that applicable codes, ordinances, or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the applicant and/or the wireless provider.

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

The applicant may cure the deficiencies identified by the City and resubmit the revised application once within thirty (30) days after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve or deny the revised application within thirty (30) days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within thirty (30) days of denial shall require the application to submit a new application with applicable fees, and recommencement of the City's review period. The application shall be reviewed after completed applications that have been submitted before it.

The applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis (if denial is not received within thirty (30) days after submission of the revised application), which notification may be submitted with the revised application.

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

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

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

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

4) Tolling. The time period for applications may be further tolled by:

i. An express written agreement by both the applicant and the City; or

ii. A local, State, or federal disaster declaration or similar emergency that causes the delay.

5) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the City shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to twenty-five (25) small wireless facilities, if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the City may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The City may issue separate permits for each collocation that is approved in a consolidated application.

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

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

7) Means of Submitting Applications. Applicants shall submit applications, supporting information, and notices to the City by personal delivery at the City Planning and Zoning Department during regular business hours, by regular mail postmarked no later than the date due, or by any other commonly used means, including electronic mail, by which the application is received by the City no later than the date due.

20-2-4 Collocation Requirements and Conditions.

1) Public Safety Space Reservation. The City may reserve space on municipal utility poles for future public safety uses, for the City's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the City reasonably determines that the municipal utility pole cannot accommodate both (or all three) uses.

2) Installation and Maintenance. The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Ordinance. The wireless provider shall ensure that its employees, agents, and/or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards, laws, and regulations.

3) No interference with public safety communication frequencies. The wireless provider's operation of the small wireless facilities shall not

interfere with the frequencies used by a public safety agency for public safety communications.

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

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

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

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

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

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

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

5) Public Safety. The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

6) Aesthetic Requirements. The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, and with reasonable stealth, concealment, and aesthetic requirements that are set forth in any City ordinance, written policy adopted by the City, the City's comprehensive plan, and any other written design plan that applies to other occupiers of the rights-of-way, including those applicable to historic landmarks and/or historic districts. Final approval of facility installation, as it applies to the aesthetic requirements of City, shall be determined by the City Manager or City Manager's Designee.

7) Alternate Placements. Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within one hundred (100) feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as reasonably determined by the applicant.

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

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

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

i. 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 to the City, 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 jurisdictional boundary of the City, provided 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

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

9) Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a special use permit or a variance in conformance with procedures, terms and conditions set forth in City Code, specifically City Zoning Ordinances.

10) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

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

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

13) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within one hundred eighty (180) days after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 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. Otherwise, the permit shall be void, unless the City grants an extension in writing to the applicant.

20-2-5 Application Fees.

Application fees are imposed as follows:

1) Applicant shall pay an application fee of six hundred fifty dollars ($650.00) for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and three hundred fifty dollars ($350.00) for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

2) Applicant shall pay an application fee of one thousand dollars ($1,000.00) for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.

4) The City shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:

   i. Routine maintenance;

   ii. The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City at least ten (10) days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the Section titled Application Requirements; or

   iii. The installation, placement, maintenance, operation, or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles, so long as such installation, placement, maintenance, operation, or replacement is in compliance with all applicable safety codes.

5) Wireless providers shall secure a permit from the City to work within rights-of-way for activities that affect traffic patterns or require lane closures.

20-2-6 Exceptions to Applicability.

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

1) Property owned by a private party or property owned or controlled by the City or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;

2) Property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation, or conservation purposes, without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

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

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

20-2-7 Pre-Existing Agreements.

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

(2) Notwithstanding the foregoing, a wireless provider that has an existing agreement with the City on the effective date of the Act may opt, instead, to accept the rates, fees, and terms that the City makes available under this Ordinance for the collocation of small wireless facilities or the installation

of new utility poles for the collocation of small wireless facilities by submitting a completed application for such small wireless facilities no sooner than two (2) years after the effective date of the Act, along with a notification to the City that the wireless provider opts to accept the rates, fees, and terms hereunder, rather than under its existing agreement. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the City's utility poles pursuant to applications submitted to the City before the wireless provider provides such notice and exercises its option under this paragraph.

20-2-8 Annual Recurring Rate.

1) A wireless provider shall pay to the City an annual recurring rate to collocate a small wireless facility on a City utility pole located in a right-of-way that equals:

   i. $200 per year; or

   ii. The actual, direct, and reasonable costs related to the wireless provider's use of space on the City utility pole.

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

   i. No later than the annual anniversary date; or

   ii. Within 10 business days after the City has provided such actual and direct costs to the wireless provider, whichever is later.

20-2-9 Abandonment.

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

2) The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at the last known address of the

wireless provider. If the small wireless facility is not removed within ninety (90) days of such notice, the City may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery, and charge the wireless provider for all costs incurred in such removal.

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

20-2-10 Dispute Resolution.

The Circuit Court of Madison County, Illinois shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the City shall allow the collocating person to collocate on its poles at annual rates of no more than two hundred dollars ($200.00) per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

20-2-11 Indemnification.

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

20-2-12 Insurance.

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

(1) Property insurance for its property's replacement cost against all risks;

(2) Workers' compensation insurance, as required by law;

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

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

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

20-2-13 Severability.

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

Section 3. This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Passed by the City Council and approved by the Mayor of the City of Highland, Illinois, and deposited and filed in the office of the City Clerk on the 16th day of July, 2018, the vote being taken by ayes and noes and entered upon the legislative record as follows:

AYES: Bellm, Nicolaides, Michaelis
NOES: None
ABSENT: Schwarz, Frey

APPROVED:

Joseph R. Michaelis, Mayor
City of Highland
Madison County, Illinois

ATTEST:

Barbara Bellm, City Clerk
City of Highland
Madison County, Illinois