

ORDINANCE 2018-15

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF SANDWICH, ILLINOIS PROVIDING FOR REGULATION OF THE INSTALLATION OF CERTAIN SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

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

WHEREAS, the City of Sandwich (the City) is an Illinois municipality in accordance with the Constitution of the State of Illinois of 1970; and

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

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

WHEREAS, upon review of the Municipal Code of the City of Sandwich, the City Council finds that it is in the best interest of the City to amend Article III of Chapter 70 in order to comply with requirements of the Act.

NOW, THEREFORE, be it ordained by the corporate authorities of the City of Sandwich as follows:

Section 1. Chapter 70, Article III of the City Code, entitled "Construction of Utility Facilities in the Right-of-Way," is hereby amended to include the following revisions:

ARTICLE III. - CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

Sec. 70-81. - Purpose and scope.

- (a) *Purpose.* The purpose of this article is to establish policies and procedures for constructing facilities on 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 this article, the city intends to exercise its authority over the rights-of-way in the city and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by small wireless facilities utility facilities, 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 the city's utilities and of other utilities lawfully located in rights-of-way or public property;
 - (4) Protect against environmental damage, including damage to trees, from the installation of 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 facilities are installed;
 - (7) Preserve open space, particularly the tree-lined parkways that characterize the city's residential neighborhoods;
 - (8) Prevent visual blight from the proliferation of facilities in the rights-of-way; and
 - (9) Assure the continued safe use and enjoyment of private properties adjacent to facilities locations.
- (c) *Facilities subject to this article.* This article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the city. A facility lawfully established prior to the effective date of this article may continue to be maintained, repaired and operated by the wireless provider or utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.
- (d) *Franchises, licenses, or similar agreements.* The city, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their 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 the city enter into such an agreement. In such an agreement, the city may provide for terms and conditions inconsistent with this article.
- (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 the 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 this article and the provisions of any franchise, license or similar agreement between the 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 articles.* This article supersedes all articles or parts of articles 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 this article, the utility shall comply with the requirements of this article 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 this article and may exercise the power described in section 70-100 to vary the standards, conditions, and requirements expressed in this article 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 and welfare.

Sec. 70-82. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any term not defined in this section shall have the meaning ascribed to it in 92 Ill. Admin. Code 530.30, unless the context clearly requires otherwise.

AASHTO means the American Association of State Highway and Transportation Officials.

ANSI means the American National Standards Institute.

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

Applicant means a person applying for a permit under this article.

ASTM means the American Society for Testing and Materials.

Backfill means the methods or materials for replacing excavated material in a trench or pit.

Bore or *boring* means to excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

Cable operator means that term as defined in 47 USC 522(5).

Cable service means that term as defined in 47 USC 522(6).

Cable system means that term as defined in 47 USC 522(7).

Carrier pipe means the pipe enclosing the liquid, gas or slurry to be transported.

Casing means a structural protective enclosure for transmittal devices such as carrier pipes, electrical conductors, and fiber optic devices.

Clear zone means 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.

Coating means protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

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

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

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

Conductor means wire carrying electrical current.

Conduit means a casing or encasement for wires or cables.

Construction or *construct* means the installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

Cover means the depth of earth or backfill over buried utility pipe or conductor.

Crossing facility means a facility that crosses one or more right-of-way lines of a right-of-way.

Director of public works means the city director of public works or the director's designee.

Disrupt the right-of-way means, for the purposes of this article, 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.

Emergency means any immediate maintenance to the facility 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.

Encasement means provision of a protective casing.

Engineer means the city engineer or the engineer's designee.

Equipment means materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

Excavation means the making of a hole or cavity by removing material, or laying bare by digging.

Extra heavy pipe means pipe meeting ASTM standards for this pipe designation.

Facility means 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, small wireless facilities as

defined in this article, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this article. For purposes of this article, the term "facility" shall not include any facility owned or operated by the city.

Freestanding facility means a facility that is not a crossing facility or a parallel facility, such as a monopole, utility pole, antenna, transformer, pump, or meter station.

Frontage road means roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access to a highway.

Hazardous materials means any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the city engineer 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.

Highway means a specific type of right-of-way used for vehicular traffic, including rural or urban roads or streets. The term "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.

Highway Code means the Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

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

Holder means 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.

ICC means the Illinois Commerce Commission.

IDOT means the Illinois Department of Transportation.

Jacking means pushing a pipe horizontally under a roadway by mechanical means with or without boring.

Jetting means pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

Joint use means the use of pole lines, trenches or other facilities by two or more utilities.

J.U.L.I.E. means the Joint Utility Locating Information for Excavators utility notification program.

Major intersection means the intersection of two or more major arterial highways.

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

Monopole means a structure composed of a single spire, pole, or tower designed and principally used to support antennas or related equipment and that is not a utility pole.

Municipally-owned infrastructure means an infrastructure in the public right-of-way within the boundaries of the city, including, but not limited to, streetlights, traffic signals, towers, structures, or buildings owned, operated or maintained by the city.

Occupancy means the presence of facilities on, over or under right-of-way.

Parallel facility means a facility that is generally parallel or longitudinal to the centerline of a right-of-way.

Parkway means any portion of the right-of-way not improved by street or sidewalk.

Pavement cut means the removal of an area of pavement for access to facility or for the construction of a facility.

Permittee means that entity to which a permit has been issued pursuant to sections 70-84 and 70-85.

Petroleum products pipelines means pipelines carrying crude or refined liquid petroleum products, including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

Practicable means that which is performable, feasible or possible, rather than that which is simply convenient.

Pressure means the internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

Prompt means that which is done within a period of time specified by the city. If no time period is specified, the period shall be 30 days.

Public entity means a legal entity that constitutes or is part of the government, whether at local, state or federal level.

Restoration means the repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

Right-of-way or *rights-of-way* means 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 the city has the right and authority to authorize, regulate or permit the location of facilities other than those of the city. The term "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.

Roadway means that part of the highway that includes the pavement and shoulders.

Sale of telecommunications at retail means 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.

Security fund means that amount of security required pursuant to section 70-91.

Shoulder means 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.

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

Sound engineering judgment means a decision consistent with generally accepted engineering principles, practices and experience.

Telecommunications.

- (1) The term "telecommunications" 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. The term "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.
- (2) The term "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. The term "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. The term "telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 USC 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the city through an open video system as defined in the Rules of the Federal Communications Commission (47 CFR 76.1500 and following), as now or hereafter amended.

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.

Telecommunications retailer means and includes every person engaged in making sales of telecommunications at retail as defined herein.

Trench means a relatively narrow open excavation for the installation of an underground facility.

Utility means the individual or entity owning or operating any facility as defined in this article.

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

Vent means a pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

Video service means that term as defined in section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

Water lines means pipelines carrying raw or potable water.

Wet boring means boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

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

Wireless infrastructure provider means any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is

not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the city.

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

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

Wireless services provider means a person who provides wireless services.

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

Sec. 70-83. - Annual registration required.

Every wireless provider or utility that occupies a right-of-way within the city shall register on January 1 of each year with the city engineer, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on its behalf ~~of the utility~~ in connection with emergencies involving the utility's facilities in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in section 70-89, in the form of a certificate of insurance.

Sec. 70-84. - Permit required; applications and fees.

- (a) *Permit required.* No person shall construct (as defined in this article) any facility on, over, above, along, upon, under, across, or within any city right-of-way which:
- (1) Changes the location of the facility;
 - (2) Adds a new facility;
 - (3) Disrupts the right-of-way (as defined in this article); or
 - (4) Materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the city engineer and obtaining a permit from the city therefor, except as otherwise provided in this article. 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.

No application, approval, or permit shall be required for routine maintenance, the replacement of small 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, or the installation, placement, maintenance, operation, or replacement of micro-wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable safety codes. The city may require a permit to work within the right-of-way for activities that affect traffic patterns or that require lane closures.

- (b) *Permit application.* All applications for permits pursuant to this article 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. The application for a small wireless facility, along with supporting information and notices, must be submitted to the City Engineer.
- (c) *Minimum general application requirements.* The application shall be made by the wireless provider or utility or the duly authorized representative and shall contain, at a minimum, the following:
- (1) The applicant's name and address and telephone and telecopy numbers;
 - (2) The applicant's name and address, if different than the wireless provider or utility, its telephone and telecopy numbers, e-mail address, and its interest in the work;
 - (3) The names, addresses and telephone and telecopy 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 and the uses to which the facility 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 wireless provider or utility has placed on file with the city:
 - a. 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
 - b. 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 70-89;
 - (8) Evidence of posting of the security fund as required in section 70-91;
 - (9) Any request for a variance from one or more provisions of this article (see section 70-102); and
 - (10) Such additional information as may be reasonably required by the city.

(d) *Supplemental application requirements for specific types of facilities.* In addition to the requirements of subsection (c) of this section, the permit application shall include the following items, as applicable to the specific facility that is the subject of the permit application:

- (1) In the case of the installation of a new electric power, communications, 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 state 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 state environmental protection agency, division of water pollution control, have been satisfied; or
- (5) In the case of petroleum products pipelines, state the types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.
- (6) Applications for small wireless facilities must also include the following:

(i) Drawings and site plans for each proposed small wireless facility covered by the application;

(ii) The location where each proposed small wireless facility or utility pole will be installed and photographs of the location and its immediate surroundings;

(iii) A site specific structural analysis and engineering drawing for each proposed small wireless facility covered by the application, prepared and stamped by a professional engineer, which demonstrates the utility pole or municipally-owned infrastructure is safely capable of supporting the small wireless facility in all reasonably foreseeable weather conditions without creating a risk to public health and safety. The structural analysis will also describe the method by which the facility is designed to fail and demonstrate that any structural failure to the facility shall not cause harm to any residential structure;

(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;

(vi) Certification that the collocation complies with section 96 below; and

(vii) Applications must include the screening and stealth concealment methods used for each proposed small wireless facility covered by the application.

- (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 applicant in writing to the city within 30 days after the change necessitating the amendment.
- (f) *Application fees.* Unless otherwise provided by franchise, license, or similar agreement or as otherwise specifically provided for in subsections 70-84 (g) or (h) for small wireless facilities, applications for permits pursuant to this article shall be accompanied by a fee in the amount of as set by the city council. 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.
- (g) *Application fees for small wireless facilities.* All applications for the collocation of a single small wireless facility on an existing utility pole or wireless support structure shall be accompanied by a fee in the amount of \$650.00. All applications for the collocation of more than one small wireless facility on an existing utility pole or wireless support structure shall be accompanied by a fee in the amount of \$350.00 for each small wireless facility addressed in said application. An application for the installation of a small wireless facility that will require a new utility pole must be accompanied by a fee in the amount of \$1,000.00.
- (h) *Consolidated applications for small wireless facilities.* Applications for small wireless facilities may be submitted on a consolidated basis provided they involve the same type of small wireless facility and the same type of structure. The city may, at its discretion, remove small wireless facility collocations from the consolidated application and treat them separately for purposes of deeming the application incomplete or denied.

Sec. 70-85. - Action on permit applications.

- (a) *Application deadlines for small wireless facilities.* Applications are deemed complete if the city does not notify the application otherwise within thirty (30) days of receipt of the application.

If the application to collocate a small wireless facility is to be placed on an existing utility pole, the city will notify the applicant of its approval or denial within ninety (90) days. If the city fails to notify the applicant within that timeframe, the application will be deemed approved. If the application to collocate a small wireless facility requires the installation of a new utility pole, the city will notify the applicant of its approval or denial within one hundred twenty (120) days. If the city fails to notify the applicant within that timeframe, the application will be deemed approved.

- (b) *City review of permit applications.* Completed permit applications, containing all required documentation, shall be examined by the city engineer on a nondiscriminatory basis. If the

application does not conform to the requirements of applicable ordinances, codes, laws, rules, or regulations that concern public safety, the city engineer shall notify the applicant of the basis for a denial, including specific code provisions upon which the denial is based. The applicant may cure the deficiencies and resubmit a revised application without paying additional application fees. When reviewing applications for small wireless facilities, the city will approve or deny the revised application within thirty (30) days after the applicant resubmits the application or it will be deemed approved. If the city engineer is satisfied that the proposed work conforms to the requirements of this article and applicable ordinances, codes, laws, rules, and regulations, the city engineer shall issue a permit. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the city engineer, that the construction proposed under the application shall be in full compliance with the requirements of this article.

(c) *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 this article 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 days prior to the commencement of work requiring no excavation and not less than 30 days prior to the commencement of work requiring excavation. The city engineer 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 engineer fails to provide such specification of location to the telecommunications retailer within either ten days after service of notice to the city by the telecommunications retailer in the case of work not involving excavation for new construction; or 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 this article.
- (3) Upon the provision of such specification by the city, where a permit is required for work pursuant to section 70-84, 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.

(d) *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 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.

Sec. 70-86. - 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 this article 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 to a utility shall be valid for a period longer than six months unless construction is actually begun within that period and is thereafter diligently pursued to completion. Collocation of small wireless facilities must be completed within one hundred eighty (180) days after the issuance of the permit. If collocation is not complete, the permit will be void. Permits for small wireless facilities are valid for five (5) years from the time of issuance.
- (c) *Pre-construction meeting required.* No construction shall begin pursuant to a permit issued under this article 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.
- (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.

Sec. 70-87. - Revised permit drawings.

In the event that the actual locations of any facilities 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 90 days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations and depths approved in the permit. If any deviation from the permit also deviates from the requirements of this article, it shall be treated as a request for variance in accordance with section 70-102. If the city denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

Sec. 70-88. – Annual Recurring Rates for Small Wireless Facilities

The city shall charge an annual recurring rate for the collocation of small wireless facilities on municipally-owned infrastructure located in its right-of-way equal to either \$200.00 per utility pole, or the actual, direct, and reasonable costs related to the wireless provider's use of space on the city utility pole, whichever is greater. If the city elects to charge the actual, direct, and reasonable costs related to the wireless provider's use of space on the municipally-owned infrastructure, it shall adopt a fee schedule on an annual basis.

Sec. 70-89. – Insurance.

- (a) *Required coverages and limits.* Unless otherwise provided by franchise, license, or similar agreement, each wireless provider or utility occupying a right-of-way or constructing any facility 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, and employees as additional insureds on the policies listed in the following subsections:
- (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:
 - a. \$5,000,000.00 for bodily injury or death to each person;
 - b. \$5,000,000.00 for property damage resulting from any one accident;
 - c. \$5,000,000.00 for all other types of liability; and
 - d. Wireless providers must include the city as an additional insured on the commercial general liability policy;
 - (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of \$1,000,000.00 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 \$1,000,000.00 per employee and per accident.
 - (5) Property insurance for replacement costs against all risk.

If the wireless provider or 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 wireless provider or 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 mayor 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 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 wireless provider or utility may self-insure all or a portion of the insurance coverage and limit requirements required by subsection (a) of this section. A wireless provider or 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) of this section, or the requirements of subsections (b) through (d) of this section. A wireless provider or 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 wireless provider's or utility's liability.* The legal liability of the wireless provider or 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. All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company.

Sec. 70-90. - Indemnification.

By occupying or constructing facilities in the right-of-way, a wireless provider or utility shall be deemed to agree to defend, indemnify and hold the city and its elected and appointed officials and officers, employees, agents 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 wireless provider or 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 this article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this article by the city, its officials, officers, employees, agents or representatives.

Sec. 70-91. - 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 this article;

- (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 this article; and
 - (3) The payment by the 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 the permittee in violation of this article, including, without limitation, any damage to public property or restoration work the permittee is required by this article 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 this article 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) Provide a location convenient to the city and within the state at which it can be drawn.
- (c) *Amount.* The dollar amount of the security fund shall be sufficient to provide for the reasonably 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 the city engineer, and may also include reasonable, directly related costs that the city estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the city, with each phase consisting of construction of facilities 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 engineer 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 for any single phase.
- (d) *Withdrawals.* The city, upon 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 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 this article that the city determines can be remedied by an expenditure of an amount in the security fund.

- (e) *Replenishment.* Within 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 this article 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 this article 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.

Sec. 70-92. - Permit suspension and revocation.

- (a) *City right to revoke permit.* The city may revoke or suspend a permit issued pursuant to this article for one or more of the following reasons:
 - (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
 - (2) Noncompliance with this article;
 - (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
 - (4) Permittee's failure to construct the facilities 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 this article stating the reasons for the revocation or suspension and the alternatives available to the permittee under this section 70-92.
- (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 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 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 20 days' notice to the permittee, remove the subject facilities or equipment; or
 - (3) After not less than 30 days' notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the city.

The permittee shall be liable, in all events, to the city for all costs of removal.

Sec. 70-93. - Change of ownership or owner's identity or legal status.

- (a) *Notification of change.* A utility shall notify the city no less than 30 days prior to the transfer of ownership of any facility 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 this article, 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.

Sec. 70-94. - 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. Admin. Code 545);
 - (7) Flagger's Handbook;
 - (8) Work Site Protection Manual for Daylight Maintenance Operations; and
 - (9) Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way.
- (b) *Interpretation of municipal standards and principles.* If a discrepancy exists between or among differing principles and standards required by this article, the city engineer shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the city engineer shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

Sec. 70-95. – Public Safety and Traffic control.

- (a) *Public safety.* The placement of any antenna, wireless facility or small wireless facilities located in the city right-of-way may not interfere with the frequencies used by public safety agencies for public safety communications. Unacceptable interference will be determined in accordance with industry standards and the Federal Communications Commission's regulations addressing unacceptable interference to public safety spectrum. If an antenna, wireless facility or small wireless facility causes such interference, the owner must take all steps necessary to correct and eliminate the interference at its own costs. The city may terminate a permit for any antenna, wireless facility or small wireless facility based on such interference if the interference is not corrected.

The city may reserve space on its utility pole for future public safety or electric utility uses. This reservation of space may preclude the collocation of a small wireless facility where the city determines that hat utility pole cannot accommodate both uses.

- (b) *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.
- (c) *Warning signs, protective devices, and flaggers.* The wireless provider or 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.
- (d) *Interference with traffic.* All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

- (e) *Notice when access is blocked.* At least 48 hours prior to beginning work that will partially or completely block access to any residence, business or institution, the wireless provider or utility shall notify the 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 70-101, the wireless provider or utility shall provide such notice as is practicable under the circumstances.
- (f) *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.

Sec. 70-96. - Location of facilities.

- (a) *General requirements.* In addition to location requirements applicable to specific types of facilities, all facilities, regardless of type, shall be subject to the general location requirements of this subsection.
 - (1) *No interference with city facilities.* No utility facilities shall be placed in any location if the city engineer determines that the proposed location will require the relocation or displacement of any of the city's utility facilities or will otherwise interfere with the operation or maintenance of any of the city's utility facilities or planned city facilities.
 - (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 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 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.* 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.
 - (6) The city is not required to install or maintain any specific utility pole or to continue to install or maintain utility poles in any location if it makes a non-discriminatory decision to eliminate above-ground utility poles of a particular type. For city utility poles with collocated small wireless facilities in place when the city makes a decision to eliminate above-ground utility poles, the city will, at its discretion, either maintain the utility pole or install and maintain an alternative utility pole for the collocation of the small wireless facility, or offer to sell the utility pole to the wireless provider.
- (b) *Parallel facilities located within highways.*
 - (1) *Overhead parallel facilities.* An overhead parallel facility may be located within the right-of-way lines of a highway only if:
 - a. 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;

- b. 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;
 - c. 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;
 - d. No pole is located in the ditch line of a highway; and
 - e. 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.* An underground parallel facility may be located within the right-of-way lines of a highway only if:
- a. The facility is located as near the right-of-way line as practicable and not more than eight feet (2.4 m) from and parallel to the right-of-way line;
 - b. A new facility 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
 - c. In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than five feet (1.5 m) from the right-of-way line and any above ground appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.
- (c) *Facilities crossing highways.*
- (1) *No future disruption.* The construction and design of crossing facilities installed between the ditch lines or curblines 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) *Ninety degree crossing required.* Crossing facilities shall cross at or as near to a 90 degree angle to the centerline as practicable.
 - (4) *Overhead power or communication facility.* An overhead power or communication facility may cross a highway only if:
 - a. It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Admin. Code 305);
 - b. Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
 - c. Overhead crossings at major intersections are avoided.
 - (5) *Underground power or communication facility.* An underground power or communication facility may cross a highway only if:

- a. The design materials and construction methods will provide maximum maintenance-free service life; and
 - b. Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) *Markers.* The city may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current federal regulations. (49 CFR 192.707 (1989).)
- (d) *Facilities to be located within particular rights-of-way.* The city may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.
- (e) *Freestanding facilities.*

(1) Small Wireless Facilities

- a. The city may not require the placement of a small wireless facility on a specific utility pole or category of poles. However, should the application necessitate the installation of a new utility pole, the city may propose that the small wireless facility be collocated on an existing utility pole or existing support structure within one hundred (100) feet of the proposed collocation, it must provide a written certification describing the property rights, technical limits or material costs reasons the alternative location will not satisfy the wireless provider's needs. The city may require any monopole, utility pole or other freestanding facility located within a right-of-way to be screened from view in compliance with the appearance standards described below.
- b. If all existing monopoles, utility poles, and other above-ground facilities are located on one side of the right-of-way, all new monopoles, utility poles and other freestanding facilities shall be located on the same side of the right-of-way as the existing above-ground facilities. If there exist above-ground facilities on both sides, new freestanding facilities shall be located on the side where the above-ground facilities most closely match the scale of the new freestanding facility.

(2) Other Facilities.

- a. The city may restrict the location and size of any monopole, utility pole or other freestanding facility located within a right-of-way. No freestanding facility located within a right-of-way may be constructed or modified so that the height of the freestanding facility is higher by more than ten (10) feet or more than ten percent (10%) whichever is greater, than any other existing, freestanding facility located within the right-of-way within three hundred (300) feet of the proposed facility, measured along the center line of the respective right-of-way. Where there are no other freestanding facilities located within three hundred (300) feet of

the proposed facility, the maximum height of the freestanding facility shall be forty-five (45) feet.

- b. The city may require any monopole, utility pole or other freestanding facility located within a right-of-way to be screened from view.
- c. If all existing monopoles, utility poles, and other above-ground facilities are located on one side of the right-of-way, all new monopoles, utility poles and other freestanding facilities shall be located on the same side of the right-of-way as the existing above-ground facilities. If there exist above-ground facilities on both sides, new freestanding facilities shall be located on the side where the above-ground facilities most closely match the scale of the new freestanding facility.

(3) **Height Restrictions for Small Wireless Facilities.** Small wireless facilities are limited to a maximum height of ten (10) feet above the utility pole or wireless structure on which it is collocated. The height limit of a new or replacement utility pole or wireless support structure on which small wireless facilities are collocated is limited to the higher of: (i) ten (10) feet higher than the tallest existing utility pole within three hundred (300) feet of the new or replacement utility pole or wireless support structure that is in the same right-of-way; or (ii) forty-five (45) feet above ground level. The city shall designate which interesting right-of-way within three hundred (300) feet of the proposed utility pole or wireless support structure shall control the height limitation.

(f) *Facilities installed above ground.* Above ground facilities may be installed only if:

- (1) No other existing facilities 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 municipally-owned infrastructure shall be used wherever practicable; the installation of additional utility poles or monopoles is strongly discouraged.

(g) *Facility attachments to bridges or roadway structures.*

- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility 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 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 installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - a. 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;
 - b. The type, length, value, and relative importance of the highway structure in the transportation system;
 - c. The alternative routings available to the utility and their comparative practicability;
 - d. The proposed method of attachment;
 - e. The ability of the structure to bear the increased load of the proposed facility;
 - f. The degree of interference with bridge maintenance and painting;
 - g. The effect on the visual quality of the structure; and
 - h. The public benefit expected from the utility service as compared to the risk involved.

(h) *Appearance standards.*

- (1) Applicants must use architectural treatments and stealth techniques to reduce potential visual impact. The city may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility 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.
- (3) Applicants must include proposed stealth and concealment measures in their applications for any facility located in a historic district or historic landmark. When siting a facility in a historic district, the wireless provider must avoid removing, obscuring or altering any historic material or significant architectural features. Rehabilitation and make-ready work must not destroy the distinguishing character of the property or its environment.

Sec. 70-97. - Construction methods and materials.

(a) *Standards and requirements for particular types of construction methods.*

(1) *Boring or jacking.*

- a. *Pits and shoring.* Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the city engineer 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.

- b. *Wet boring or jetting.* Wet boring or jetting shall not be permitted under the roadway.
 - c. *Borings with diameters greater than six 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).
 - d. *Borings with diameters six 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.
 - e. *Tree preservation.* Any facility 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.
- (2) *Trenching.* Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accordance with the applicable portions of section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."
- a. *Length.* The length of open trench shall be kept to the practicable minimum consistent with requirements for pipeline testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the city engineer.
 - b. *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.
 - c. *Drip line of trees.* The utility shall not trench within the drip line of any tree designated by the city to be preserved.

(3) *Backfilling.*

- a. Any pit, trench, or excavation created during the installation of facilities 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.
- b. For a period of three years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the city engineer, 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 engineer.

- (4) *Pavement cuts.* Pavement cuts for facility 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 subsection is permitted under section 70-102, the following requirements shall apply:

- a. Any excavation under pavements shall be backfilled and compacted as soon as practicable with crushed granular material of CA-6 or CA-10 gradation, as designated by the city engineer.
- b. 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.
- c. All saw cuts shall be full depth.
- d. For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven years, or resurfaced in the last three 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.*

- a. 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.
- b. 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.
- c. 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.
- d. In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
- e. 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.
- f. 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 the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Electric lines	30 inches (0.8 m)
Communication, cable or video service lines	18 to 24 inches (0.6 m, as determined by city)
Gas or petroleum products	30 inches (0.8 m)
Water line	Sufficient cover to provide freeze protection
Sanitary sewer, storm sewer, or drainage line	Sufficient cover to provide freeze protection

- (b) *Standards and requirements for particular types of facilities.*

(1) *Electric power or communication lines.*

- a. *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. Admin. Code 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.
- b. *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.
- c. *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:
 - i. 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
 - ii. 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.
- d. *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 business days after placement.
- (2) *Underground facilities other than electric power or communication lines.* Underground facilities other than electric power or communication lines may be installed by:
 - a. The use of moles, whip augers, or other approved methods which compress the earth to move the opening for the pipe;
 - b. Jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - c. Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - d. 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, stormwater 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, 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 engineer. With the approval of the city engineer, 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 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 engineer. 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 the 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, 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 engineer 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 section 50-64.
- (e) *Location of existing facilities.* Any utility proposing to construct facilities in the city shall contact J.U.L.I.E. and ascertain the presence and location of existing above ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The city will make its permit records available to a utility for the purpose of identifying possible facilities. 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 within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 et seq.).

Sec. 70-98. - 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 state 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 in the right-of-way and that is not performed pursuant to applicable state 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 this article.

- (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 extensively 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.
- (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 subsection (d)(2) of this section, 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 engineer that such spraying is the only practicable method of vegetation control.

Sec. 70-99. - Removal, relocation, or modifications.

- (a) *Notice.* Within 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. Wireless providers are required to provide the city with written notice of its intent to sell or transfer small wireless facilities. Such notice must include the name and contact information of the new wireless provider.
- (b) *Removal of unauthorized facilities.* Within 30 days following written notice from the city, any utility that owns, controls, or maintains any unauthorized facility 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 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 was constructed or installed without the prior grant of a license or franchise, if required;

- (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this article; or
 - (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.
- (c) *Emergency removal or relocation of facilities.* The city retains the right and privilege to cut or move any facilities 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 and shall notify the utility, if known, after cutting or removing a facility.
- (d) *Abandonment of facilities.*
- (1) **Small Wireless Facilities.** As used in this section, a small wireless facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned small wireless facility shall notify the city within ninety (90) days of it being abandoned and the owner of the small wireless facility must remove the small wireless facility within ninety (90) days of sending such written notice to the city. The city may direct the wireless provider to remove all or any portion of the facility if the city engineer determines that such removal will be in the best interest of the public health, safety and welfare of the city. If the small wireless facility is not removed within ninety (90) days of such notice, the city may remove or cause the removal of the facility pursuant to the terms of its pole attachment agreement for city utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.
 - (2) **Other Utility Facilities.** As used in this section, a facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon abandonment of a facility within the rights-of-way of the city, the utility shall notify the city within 90 days. The owner of the facility must remove the facility within ninety (90) days of sending such written notice to the city. The city may direct the utility to remove all or any portion of the facility if the city engineer determines that such removal will be in the best interest of the public health, safety and welfare of the city. If the facility is not removed within ninety (90) days of such notice, the city may remove or cause the removal of the facility pursuant to the terms of its pole attachment agreement for city utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

Sec. 70-100. - Clean-up and restoration.

The utility shall remove all excess material and restore all turf and terrain and other property within ten 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 engineer. 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 engineer for good cause shown.

Sec. 70-101. - Maintenance and emergency maintenance.

- (a) *General.* Facilities 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 noncompliance 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 is available.
 - (2) In an emergency, the utility shall, as soon as possible, notify the city engineer or the engineer's duly authorized agent of the emergency, informing 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.

Sec. 70-102. - Variances.

- (a) *Request for variance.* A utility requesting a variance from one or more of the provisions of this article must do so in writing to the city engineer as a part of the permit application. The request shall identify each provision of this article from which a variance is requested and the reasons why a variance should be granted.
- (b) *Authority to grant variances.* The city engineer shall decide whether a variance is authorized for each provision of this article identified in the variance request on an individual basis.
- (c) *Conditions for granting of variance.* The city engineer 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; and

- (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.
- (d) *Additional conditions for granting of a variance.* As a condition for authorizing a variance, the city engineer may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this article, but which carry out the purposes of this article.
- (e) *Right to appeal.* Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the city engineer under the provisions of this article shall have the right to appeal to the city council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the city clerk within 30 days after the date of such order, requirement, decision or determination. The city council shall commence its consideration of the appeal at the council's next regularly scheduled meeting occurring at least seven days after the filing of the appeal. The city council shall timely decide the appeal.

Sec. 70-103. - Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this article 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 this article. 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 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.

Sec. 70-104. - Enforcement.

Nothing in this article shall be construed as limiting any additional or further remedies that the city may have for enforcement of this article.

Section 2. 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, by authority of the City Council of the City of Sandwich, Illinois, be published in pamphlet form. From and after ten days after said publication, this Ordinance shall be in full force and effect.

PASSED BY THE CITY COUNCIL of the City of Sandwich, Illinois, at a regular meeting thereof held on the 23rd day of July, 2018, and approved by me as Mayor on the same day.

AYES: Aldermen Chmielewski, Dell, Kelleher, Killey, McMahon, Redden & Robinson

NAYS: None

ABSENT: None

Attest:



Denise Li, City Clerk





Rick Olson Mayor

PUBLISHED BY ME IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL OF THE CITY OF SANDWICH, ILLINOIS, THIS 24th DAY OF JULY, 2018.



Denise Li, City Clerk