

ORDINANCE NO. 4417

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 14 OF THE
EAST PEORIA CITY CODE REGULATING THE INSTALLATION,
MAINTENANCE AND REPAIR OF UTILITY LINES ON PUBLIC RIGHT-OF-WAY**

WHEREAS, the City of East Peoria (the "City") is an Illinois municipal corporation in accordance with the Constitution of the State of Illinois of 1970; and

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

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

WHEREAS, the City has previously enacted Title 4, Chapter 14, Section 2 of the City Code to regulate the installation, maintenance and repair of utility lines in the public right-of-way within the City; and

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

WHEREAS, the Act allows the City to regulate small wireless facilities and accessories in municipal rights-of-way, and on June 19, 2018, the City adopted Ordinance No. 4395, which created Section 16.1 of the City Code regulating small wireless facilities in the public rights-of-way; and

WHEREAS, the City uses the public rights-of-way within its City limits to provide essential public services to its residents and businesses; and

WHEREAS, the public rights-of-way within the City are a limited public resource held by the City for the benefit of its citizens, and the City has a duty to ensure that the public rights-of-way are used, repaired, and maintained in a manner that best serves the public interest; and

WHEREAS, the City Council further finds that it is in the best interests of the City to update and amend Chapter 14 of Title 4 of the City Code to exclude small wireless facilities from the aforementioned Chapter because small wireless facilities are regulated under new Chapter 16.1 of Title 4;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:**

Section 1. Title 4, Chapter 14, Section 2 of the City Code of the City of East Peoria is hereby amended as follows (additions are indicated by underline; deletions by ~~strikeout~~):

4-14-2. Applicability.

Except as otherwise provided in this chapter, the regulations set forth in this chapter shall apply to any utility company or other person who installs, operates, or maintains a utility line on right-of-way.

Small wireless facilities and accessories or existing structures with small wireless facilities are governed by Chapter 16.1 of Title 4 of this Code, including any utility lines or wires that run from the small wireless facility to any underground accessory and are in the public right-of-way. Therefore, to the extent that small wireless facilities and accessories would require a permit under this chapter, these small wireless facilities and accessories are excluded from the application and permit requirements of this chapter and are further excluded from any other provisions of the chapter that are superseded by the provisions of Chapter 16.1 of Title 4 of this Code.

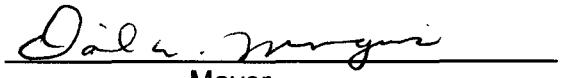
Section 2. This Ordinance is hereby ordered to be published in pamphlet form by the City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 3. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith except as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 4. This Ordinance shall be in full force and effect from and after its passage, approval, and ten (10) day period of publication in the manner provided by law.

PASSED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS 11th DAY OF October, 2018.

APPROVED:



Dale J. Morgan
Mayor

ATTEST:



Morgan R. Cadwalader
City Clerk

EXAMINED AND APPROVED:



Corporation Counsel

CITY OF EAST PEORIA

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**ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF EAST PEORIA
THE 16th DAY OF OCTOBER 2018**

**Published in pamphlet form by authority of the City Council of the City of East
Peoria, Tazewell County, Illinois, this 16th day of October, 2018.**

EFFECTIVE OCTOBER 26, 2018