

CITY OF HIGHLAND PARK

ORDINANCE NO. 076-2018

AN ORDINANCE AMENDING CHAPTERS 53 AND 150 OF “THE HIGHLAND PARK CODE OF 1968,” AS AMENDED, REGARDING STANDARDS FOR SMALL WIRELESS SERVICES FACILITIES

WHEREAS, as a home rule municipality operating and existing under the laws and the Illinois Constitution of 1970, the City has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and governing the use of public rights-of-way and that protect the public health, safety, and welfare of its citizens; and

WHEREAS, the City has previously adopted, and has amended from time to time, generally applicable standards for construction on, over, above, along, upon, under, across, or within, use of and repair of, the public right-of-way, which are contained in Chapter 53 of “The Highland Park Code of 1968,” as amended (“*City Code*”); and

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

WHEREAS, due to changes in technology and changes in the law, including the adoption of the Illinois Small Wireless Facilities Deployment Act, Public Act 100-0585, and codified at 50 ILCS 835 (“*SWF Act*”), the City has considered amending the City Code to address small wireless facilities; and

WHEREAS, the SWF Act contains a variety of standards and requirements governing the deployment of small wireless facilities (as defined in the SWF Act), including on structures located in the rights-of-way (as defined in the SWF Act) and owned by various utilities and municipalities for use in the provision of wireless services by wireless services providers (as defined in the SWF Act); and

WHEREAS, the City Council finds and determines that it is necessary to and in the best interests of the public health, safety and general welfare to amend the City's uniform standards and regulations for access to and use of the public rights-of-way in the City by utility service providers and other persons and entities that desire to place structures, facilities or equipment in the public rights-of-way, so as to: (i) prevent interference with the use of streets, sidewalks, alleys and other public ways and places by the City and the general public; (ii) protect against visual and physical obstructions to vehicular and pedestrian traffic; (iii) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in public rights-of-way or property; (iv) protect against environmental damage, including damage to trees and stormwater runoff, from the installation of utility facilities; (v) preserve open space, particularly the tree-line parkways that characterize the City's residential neighborhoods; (vi) preserve the character of the neighborhoods in which facilities are installed; (vii) prevent visual blight; and (viii) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations; and

WHEREAS, the City Council finds that it is necessary and desirable for the City to amend Chapter 53 of the City Code to establish application requirements and standards for proposed placement of small wireless services facilities in the rights-of-way in the City, and to amend Section 150.414 of the City Code to clarify the applicable review procedures for proposed small wireless facilities; and

WHEREAS, a public hearing by the Plan and Design Commission to consider the proposed amendments to Section 150.414 of the City Code was duly advertised on September 5, 2018 in the *Lake County News Sun*, and was held on September 25, 2018; and

WHEREAS, on September 25, 2018, the Plan and Design Commission approved findings of fact (Public Hearing No. 18-09-ZTA-002) in support of the proposed amendments to Section 150.414 of the City Code, in accordance with and pursuant to Section 150.1506 of the City Code; and

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

WHEREAS, in the enactment of Chapter 53 of the City Code, the City has considered a variety of standards for construction on, over, above, along, under, across, or within, use of and repair of the public right-of-way, including, but not limited to, the standards relating to Accommodation of Utilities on Right-of-Way of the Illinois State Highway System promulgated by the Illinois Department of Transportation and found at 92 Ill. Adm. Code § 530.10 *et seq.*; and

WHEREAS, the City Council hereby finds that it is in the best interest of the City to amend the current provisions contained in Chapter 53 and 150 of the City Code and to include the amendments contained in this Ordinance, through the exercise of its home rule and statutory powers;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HIGHLAND PARK, LAKE COUNTY, STATE OF ILLINOIS, as follows:

SECTION ONE: RECITALS. The foregoing recitals are incorporated into, and made a part of, this Ordinance by this reference as findings of the City Council.

SECTION TWO: DEFINITIONS. Section 53.102, titled "Definitions," of Chapter 53, titled "Construction of Utility Facilities in the Public Rights-of-Way," of Title V, titled "Public Utilities," of the City Code is hereby amended to read as follows:

"Sec. 53.102 Definitions.

As used in this Chapter and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term

not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

* * *

ANTENNA. Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

* * *

COLLOCATE or COLLOCATION. To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

* * *

FREESTANDING FACILITY. A facility that is not a crossing facility or a parallel facility, such as an antenna, vault, box, cabinet, equipment enclosure, pedestal, transformer, pump, or meter station.

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SMALL WIRELESS FACILITY or SWF. A small wireless facility as defined in the SWF Act.

* * *

SWF ACT. The Illinois Small Wireless Facilities Deployment Act, 50 ILCS 835/1 et seq., as may be amended.

* * *

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

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WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. “Wireless Facility” includes small wireless facilities. “Wireless Facility” does not include the structure or improvements on, under, or within which the equipment is collocated or wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or

coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

WIRELESS INFRASTRUCTURE PROVIDER. Any entity authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the City.

WIRELESS PROVIDER. A Wireless Infrastructure Provider or a Wireless Services Provider.

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

WIRELESS SERVICES PROVIDER. An entity that provides wireless services.

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

SECTION THREE: PERMIT REQUIRED. Section 53.202, titled "Permit Required; Application and Fees," of Chapter 53, titled "Construction of Utility Facilities in the Public Rights-of-Way," of Title V, titled "Public Utilities," of the City Code is hereby amended to read as follows:

"53.202 Permit Required; Application and Fees.

- (A) Permit Required. No person shall construct ~~(as defined in this Chapter)~~ 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 Chapter)~~, 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 Director of Public Works and obtaining a permit from the City therefor, except as otherwise provided in this Chapter. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way. Small wireless facilities shall also be subject to the permit requirements of Section 53.501 of this Chapter 53.
- (A) Permit Application. All applications for permits pursuant to this Chapter shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably

believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly. Small wireless facilities shall also be subject to the application requirements of Section 53.501 of this Chapter 53.

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

- (1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control, and the North Shore ~~Sanitary~~ **Water Reclamation** District, have been satisfied; ~~or~~
- (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure and the design standard to be followed; or
- (6) In the case of small wireless facilities, applications shall address all items required by Section 53.501 of this Chapter 53.

* * *

- (E) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee in the amount set forth in the Annual Fee Resolution. 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. Application fees for small wireless facilities shall also be subject to the requirements of Section 53.501 of this Chapter 53.

* * *

SECTION FOUR: EFFECT OF PERMIT. Section 53.204, titled “Effect of Permit,” of Chapter 53, titled “Construction of Utility Facilities in the Public Rights-of-Way,” of Title V, titled “Utilities,” of the City Code is hereby amended to read as follows:

“Sec. 53.204 Effect of Permit.

* * *

- (B) Duration. No permit issued under this Chapter 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; **provided, however, that permits for small wireless facilities shall be subject to the duration provided for SWF permits in Section 53.501 of this Chapter 53.**

* * *

SECTION FIVE: LOCATION OF FACILITIES. Section 53.305, titled “Location of Facilities,” of Chapter 53, titled “Construction of Utility Facilities in the Public Rights-of-Way,” of Title V, titled “Utilities,” of the City Code is hereby amended to read as follows:

“53.303 Location of Facilities.

- (F) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection.
- (1) No Interference with City Facilities. No utility facilities shall be placed in any location if the City Director of Public Works 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.
 - (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 Limitation 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) Cooperation. Any utility seeking to place a facility in the City shall comply with the City's reasonable requests to place facilities on public property where possible, and shall comply with City direction with respect to the location and screening of equipment and facilities.**
- (5)(6) 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.

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(I) Small wireless facilities shall be subject to the additional requirements of Section 53.501 of this Chapter 53."

SECTION SIX: SMALL WIRELESS FACILITIES. Chapter 53, titled "Construction of Utility Facilities in the Public Rights-of-Way," of the City Code is hereby amended to add a new Article V, which Article V hereafter reads as follows:

"ARTICLE V - SMALL WIRELESS FACILITIES.

Sec. 53.501 Small Wireless Facilities.

- (G) Purpose. The purpose of this Section is to establish standards for the location, installation, and maintenance of small wireless facilities in compliance with the SWF Act and City standards. Small wireless facilities shall be subject to the requirements of this Section, this Chapter 53, and federal law.**
- (H) Definitions. Words or phrases in this Section that are not defined in Section 53.102 of this Code shall have the meanings ascribed to them in the SWF Act.**
- (I) Permit Required. No SWF may be installed within the City unless a permit is first obtained in accordance with the provisions of this Chapter 53.**
- (J) Permit Application. All applicants for a permit to install a SWF within the City must submit a written permit application to the Director of Public Works by personal delivery, on a form provided by the City. The permit**

application must include the following information and the information required by Section 53.202, as applicable:

- (1) Contact Information. The names and contact information of the wireless services provider and the wireless infrastructure provider, if any.
- (2) Description. A description and depiction of the wireless services provider's existing SWFs located within the City.
- (3) Location and Photographs. The location at which each proposed SWF or utility pole would be installed, including photographs of the location and its surroundings, depicting the utility poles or structures on which each proposed SWF would be mounted or the location at which a utility pole would be installed.
- (4) Specifications and Drawings. Specifications and drawings prepared by a licensed professional structural engineer for each proposed SWF as it is proposed to be installed, with a certification that each SWF complies with all applicable size and location standards.
- (5) Structural Analysis. A site-specific structural analysis of each proposed location, completed by a licensed professional engineer, that examines the acceptability of the site for factors such as pole loading from existing utility equipment and conductors as well as the SWF.
- (6) Equipment and Model Numbers. The equipment type and model numbers for the antennas and all other wireless equipment associated with each proposed SWF.
- (7) Number. The total number of SWFs the wireless services provider estimates it will seek within the City.
- (8) Schedule. A proposed schedule for the installation and completion of each proposed SWF, if approved.
- (9) Proof of Insurance. Proof of insurance coverage of the types and amount set forth in Section 53.206 of this Code.
- (10) Certification of SWF Act Compliance. A certification that the proposed SWF complies with Subsection 15(d)(6) of the SWF Act and this Chapter 53.
- (11) Application Fees. An application fee in the amount established in the Annual Fee Resolution.
- (12) Owner and Co-Owner Certification. A certification from the owner or co-owner of the utility pole or wireless support structure that the

owner or co-owner has approved installation of a SWF on the utility pole or wireless support structure.

(K) Review of Application. Applications will be reviewed in accordance with the following process, except that the Director of Public Works may alter the review process for an application as appropriate based on the elements of that application.

(1) Determination of Completeness. Within 30 days after an application is filed, the Director of Public Works must determine whether the application is complete. The Director of Public Works must notify the applicant of his or her determination. If an application is not complete, then the Director of Public Works must identify the missing information.

(2) Processing Time Period. The Director of Public Works must process a complete application to collocate (i) a SWF on an existing utility pole or wireless support structure within 90 days, and (ii) a SWF on a new utility pole within 120 days.

(3) Approvals; Permits; Duration. The Director of Public Works must approve an application and issue a permit if it meets all requirements of the SWF Act and applicable City Code requirements. All collocation under the permit must be completed within 180 days after issuance of the permit, unless otherwise mutually agreed or for reasons authorized under the SWF Act. A permit is valid for five years.

(4) Renewal. When the permit expires, the City will renew the permit unless the City determines the SWF does not conform to any application federal, state, or local code or regulation. The wireless provider must provide all reports, plans, and other documents and data necessary for the City to determine conformance of the SWF.

(5) Denial. The Director of Public Works must deny an application if it does not meet all requirements of the SWF Act and applicable requirements of the City Code. The Director of Public Works must notify the applicant of the denial and the reason or reasons for the denial.

(6) Extensions of Time. The time period for applications may be tolled by express written agreement of the applicant and the City, or due to a local, state, or federal disaster declaration or similar emergency that causes the delay.

(L) Guidance on SWF Locations. Based on various factors including, among others, public safety, existing utility poles and wireless facilities, and potential adverse impacts, the applicant must consider collocation in the following locations, with the items listed from most preferable to least preferable:

- (1) Public Utilities' Poles. Utility poles owned or maintained by ComEd or other public utilities.
 - (2) City Poles. City-owned utility poles other than streetlight poles or standards (whether existing or to be installed) in the following order of priority: (i) within an arterial street right-of-way; (ii) within a parking lot or on other property related to a governmental or institutional use; and (iii) within a collector street right-of-way.
 - (3) Privately-Owned Poles. Privately-owned utility poles, but only in locations approved by the City.
 - (4) City Light Poles. City-owned streetlight poles or standards (whether existing or to be installed) in the following priority: (i) within an arterial street right-of-way; (ii) within a parking lot or on other property related to a governmental or institutional use; and (iii) within a collector street right-of-way.
 - (5) Other Poles. Utility poles, regardless of ownership, located in a rear yard (or abutting easement) of any residential dwelling.
- (M) Decorative Utility Poles; Concealment of SWF. If the Director of Public Works determines that a SWF proposed by the applicant would have an unduly adverse impact on the abutting area unless the SWF is collocated on a decorative pole or is concealed, then the Director of Public Works may require, as a condition of approval of that SWF, a decorative utility pole or concealment. The Director of Public Works or a designee may meet with the applicant to determine the plans for the SWF under that circumstance. If an agreement on plans cannot be reached, then the Director of Public Works may deny the permit for that proposed SWF.
- (N) Prohibited Locations. SWFs are prohibited at the following locations except as otherwise required by applicable law:
- (1) Residential Property. On any property classified in a residential district under Chapter 150 of this Code.
 - (2) Private Property. On any privately-owned property except with the approval of the City.
 - (3) Government Property. On any property owned or controlled by a unit of local government that is not located within rights-of-way, except with the permission of the local government and approval of the City.
 - (4) Poles with Equipment. On any utility pole that includes equipment such as capacitor banks, transformers, cable terminals, cable rises, fuses, or disconnects.

(O) Size, Height, and Location of Components.

- (1) Volume. No element of a SWF may exceed six cubic feet in volume.
- (2) Overall Height. No element of a SWF may extend above 45 feet above grade.
- (3) Height Above Pole. No element of a SWF may extend more than 10 feet above a utility pole.
- (4) Height of New Utility Pole or Wireless Support Structure. A new or replacement utility pole or a new wireless support structure on which a SWF will be collocated may not exceed the higher of: (a) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place as of the date the application is submitted to the City, that is located within 300 feet of the new or replacement utility pole or wireless support structure, and that is in the same right-of-way within the City; or (b) 45 feet above ground level. No SWF installed on a new utility pole or wireless support structure may extend above that 45-foot height.
- (5) New Utility Pole Location. No new utility pole may be constructed for a SWF within 100 feet of an existing utility pole that the applicant may use on reasonable terms and conditions and without undue technical limits or undue additional costs.

(P) Color. Antennas and equipment cabinets must be in colors harmonious with, and that blend with, the utility pole or wireless support structure to which they are attached, as well as with the natural features, buildings and structures surrounding such antenna and supporting structures, as determined by the Director of Public Works. Any wiring or cables must be covered with an appropriate cover.

(Q) Landscaping. The immediate area around any ground-mounted equipment or cabinets must be landscaped in a manner that largely screens the equipment and cabinets.

(R) Safety Requirements.

- (1) Mounting Strength. The strength and sufficiency of the support structure for the SWF, and the mounting of the antenna and related equipment, must be verified and stamped by a licensed structural engineer on the drawing required under Section 53.501(D)(4) of this Code.
- (2) Guy Wires Prohibited. No guy wire or other support wires may be used in connection with a SWF antenna or its related equipment except for preexisting guy wires or other support wires on a preexisting wireless support structure.

- (3) Grounding. A SWF antenna and related structure must be bonded to a ground rod.
- (4) Emergency Disconnection. A SWF antenna must have an emergency disconnect.
- (5) Lighting. No SWF may be lighted unless required by the Federal Aviation Administration or other federal or state agency with jurisdiction and authority.
- (6) Signs and Advertising. Unless required by federal or State law, or by a rule of a federal or State regulatory agency with jurisdiction and authority, no markings, signs, or advertising of any kind may be placed on any SWF component except unobtrusive identification or location markings.
- (7) Building Codes and Safety Standards. A SWF must meet or exceed: (1) all requirements of this Code; (2) all other applicable local and State building codes and electrical codes; (3) and industry standards as provided in the SWF Act.
- (8) Regulatory Compliance. Each SWF and wireless facility must meet or exceed current standards and regulations of the Federal Communications Commission, the Federal Aviation Administration, and any other federal or State agency with jurisdiction and authority.
- (9) Utility Worker Safety. Prior to the commencement of SWF construction, the wireless provider must provide the City with any required safety precautions for individuals working on or near the SWF. If refresher training, personal protective equipment, or tools are required for safety purposes related to a SWF collocated on a City-owned utility pole, then the wireless services provider must reimburse the City for all of its actual costs of those elements.
- (S) IDOT and Lake County Approvals. The applicant must provide proof of concurrence of IDOT or Lake County for the use of traffic signals located on State or County roads, as the case may be.
- (T) Abandonment. Any SWF that has been abandoned or is being used for a purpose other than its original purpose must be removed at the owner's expense. Abandonment includes, without limitation, any SWF that is not operated for a continuous period of 90 days, or is otherwise out of operation or repair for any reason, or used for a purpose other than its original purpose. Notice to the owner of the facility must be given in compliance with the requirements of the SWF Act, and the owner must remove the facility within 90 days after the date of such notice.

(U) Collocation on City Utility Poles.

- (1) Rates and Fees for Use of City Utility Pole. The City will set and charge nondiscriminatory rates and fees for collocation on City utility poles. The City will keep a written schedule of rates and fees in the office of the City Clerk.
- (2) Annual Rate. In addition to the rates and fees for collocation, each wireless services provider must pay an annual fee as established in the Annual Fee Resolution for each SWF located on a City utility pole in right-of-way or on City property not located in right-of-way.
- (3) Operating Agreement. Prior to commencement of SWF construction on a City-owned utility pole, the owner must develop an operating agreement satisfactory to the Director of Public Works. The agreement must include protocols for emergency response and for maintenance of the utility pole and include emergency contacts, a contact for public inquires, the utility billing address, and the legal address of the wireless services provider.

(V) SWF Equipment Replacement. The wireless provider must notify the City at least 10 days prior to a planned equipment replacement and provide the equipment specifications. The replacement equipment must be the same color, and the same size and/or smaller, than the original installation.

(W) Right-of-Way Permit. The wireless provider must secure a permit for any activities in the right-of-way that affect traffic patterns or require lane closures.

(X) General Standards.

- (1) No Interference. Every wireless provider's operation of a wireless facility must not interfere with the frequencies used by any public safety agency for public safety communications. The wireless provider must install SWFs of the type and frequency that will not cause interference with any public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.
- (2) Curing Interference. If a SWF causes interference and the wireless provider has been given written notice of the interference by the City or public safety agency, then the wireless provider, at its expense, must take all reasonable steps necessary to correct and eliminate the interference, including, without limitation, powering down the SWF and later powering it up for intermittent testing, if necessary. The City may terminate a permit for a SWF based on interference if the wireless provider is not making a good faith effort to remedy the

problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC, including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

- (3) Compliance with Contract Terms. Every wireless provider must comply with all requirements imposed by a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and to ground-mounted equipment located in right-of-way.
- (4) Spacing. Every wireless provider must comply with spacing requirements in this Section 53.501 or any other applicable City code or ordinance concerning the location of ground-mounted equipment located in the right-of-way. A wireless provider may apply for a variation of a spacing requirement.
- (5) Undergrounding. Every wireless provider must comply with all City codes and regulations regarding undergrounding of utilities and facilities that prohibit installation of new, or modification of existing, utility poles in a right-of-way. A wireless provider may apply for a variation of an undergrounding requirement.
- (6) General City Standards. Every wireless provider must comply with generally applicable City standards for construction and public safety in the rights-of-way, including, without limitation, wiring and cabling requirements, grounding requirements, utility pole extension requirements, and sign restrictions. Every wireless provider must comply with all City regulations applicable to the location, size, surface area and height of wireless facilities and the abandonment and removal of SWFs.
- (7) Poles for Electricity Distribution. No wireless services provider may collocate a SWF on a City utility pole that is part of an electricity distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the utility pole, except that the antenna and support equipment of the SWF may be located in the communications space on the City's utility pole and on the top of the utility pole if no other utility pole is available and the wireless provider complies with applicable codes for work involving the top of the utility pole. The terms "communications space," "communication worker safety zone," and "electric supply zone" shall have the meanings contained in the National Electric Safety Code.
- (8) Public Safety Codes. Every wireless provider must comply with all applicable State, County, and City codes, ordinances, and regulations that concern public safety.

(9) Decorative, Stealth, and Concealment Standards. Every wireless provider must comply with the City's generally applicable written standards for decorative utility poles, and the City's generally applicable standards regarding stealth, concealment, and aesthetics governing occupiers of the right-of-way, including the City's design or concealment measures in an historic district or regarding an historic landmark.

(10) Insurance. Every wireless provider must provide insurance as provided in Section 53.206 of this Code.

(11) Indemnification. Every wireless provider must indemnify the City as provided in Section 53.207 of this Code.

(Y) Installation and Maintenance of Wireless Facilities. Each wireless provider must construct, install, and maintain all wireless facilities in accordance with the standards set forth in this Chapter 53.

SECTION SEVEN: ZONING REGULATIONS. Section 150.414, titled "Additional Regulations for Towers and Conditional Uses for Use with Television and/or Other Transmitting and Receiving Equipment, Including Cellular Telephone and Personal Wireless Telecommunications Facilities," of Article IV, titled "Regulations for Permitted and Conditional Land Uses," of Chapter 150, titled "Zoning Code," of the City Code is hereby amended further to read as follows:

"Sec. 150.414 Additional Regulations for Towers and Conditional Uses for Use with Television and/or Other Transmitting and Receiving Equipment, Including Cellular Telephone and Personal Wireless Telecommunications Facilities.

(A) Purpose and Interpretation. The purpose of this Section is to provide specific regulations for the placement, construction, and modification of radio and/or television towers and/or other transmitting and receiving equipment, including personal wireless telecommunications facilities. The provisions of this Section are not intended and shall not be interpreted to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Section be applied in such a manner as to unreasonably discriminate between or among providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this Section are inconsistent or in conflict with any other provision of this Chapter, the provisions of this Section shall be deemed to control; **provided, however, that this Section does not apply to "small wireless facilities", as that term is defined in Section 53.102 of the Code, and no approval is required pursuant to this Chapter 150 for any small wireless facility.**

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SECTION EIGHT: PUBLICATION. The City Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

SECTION NINE: EFFECTIVE DATE. This Ordinance will be in full force and effect from and after its passage and approval in the manner provided by law.

AYES: Mayor Roteriing, Councilmen Stolberg, Stone, Kaufman, Blumberg, Knobel, Holleman

NAYS: None

PASSED: October 15, 2018

ADOPTED: October 15, 2018

PUBLISHED IN PAMPHLET FORM: October 16, 2018

ORDINANCE NO. O76-2018

ATTEST:

Nancy R. Roteriing, Mayor

Ghida S. Neukirch, City Clerk