

ORDINANCE NO. 2018- 19

AN ORDINANCE ADOPTING CHAPTER 86, ARTICLE IV, DIVISION 4 OF THE CODE OF ORDINANCES FOR THE VILLAGE OF STICKNEY, REGARDING THE REGULATION AND LICENSING OF SMALL CELL FACILITIES IN THE VILLAGE OF STICKNEY, COUNTY OF COOK, STATE OF ILLINOIS.

WHEREAS, the Village of Stickney (the "Village") is a home rule unit of local government as is provided by Article VII, Section 6 of the Illinois Constitution of 1970 and, as such, may exercise various powers and perform numerous functions pertaining to its government and affairs in any manner not otherwise prohibited by law; and

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

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

WHEREAS, growing demand for personal wireless telecommunications services has resulted in increasing requests nationwide and locally from the wireless industry to place small cell facilities, distributed antenna systems and other personal wireless telecommunication facilities (collectively, "Cellular Equipment") on utility and street light poles and other structures in the public right-of-way; and

WHEREAS, while State and federal law limit the authority of local governments to enact laws that unreasonably discriminate among providers of functionally equivalent services, prohibit or have the effect of prohibiting the provision of telecommunications services by wireless service providers, the Village is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to Cellular Equipment installations in the public right-of-way; and

WHEREAS, in anticipation of continued increased demand for placement of Cellular Equipment installations within the public right-of-way, Village President (the "President") and the Board of Trustees of the Village (the "Village Board" and with the President, the "Corporate Authorities") find that it is in the best interests of the public health, safety and general welfare of the Village and its residents to amend the Code of Ordinances of the Village of Stickney, Illinois (the "Village Code") as set forth herein in order to clarify the standards for the construction, installation, use, maintenance and repair of Cellular Equipment facilities, systems and installations within the public rights-of-way in the Village so as to, among other things: (i) prevent interference with the facilities and operations of the Village's utilities and of other utilities lawfully located in public rights-of-way or property; (ii) provide specific regulations and standards for the placement and siting of personal wireless telecommunication facilities within public rights-of-way in the Village; (iii) preserve the character of the neighborhoods in which facilities are installed; (iv) minimize any adverse visual impact of personal wireless telecommunication facilities and prevent visual blight in the neighborhoods in which facilities are installed; (v) facilitate the location of personal wireless telecommunication facilities in permitted locations within the public rights-of-way in the

Village; and (vi) assure the continued safe use and enjoyment of private properties adjacent to personal wireless telecommunication facilities; and

WHEREAS, in order for the Village to properly license, regulate and inspect Cellular Equipment, the Village must adopt certain procedures and charge certain licensing fees and inspection fees; and

WHEREAS, the Corporate Authorities have determined that it is in the best interests of the public health, safety and welfare and to ensure the efficient operation of government to adopt certain rules and regulations as well as fees related to the licensing, regulating and inspecting of Cellular Equipment and the installation and maintenance of same in order to adequately reimburse the Village for the financial burden of licensing, regulating and inspecting Cellular Equipment; and

WHEREAS, in light of the foregoing, the Corporate Authorities have determined that it is necessary, advisable and in the best interests of the Village and its residents to adopt Chapter 86, Article IV, Division 4 of the Code of Ordinances, for the Village of Stickney, Illinois (the "Village Code") to establish certain rules and regulations as well as fees related to the licensing, regulating and inspecting of Cellular Equipment and the installation and maintenance of same in order to adequately reimburse the Village for the financial burden of licensing, regulating and inspecting Cellular Equipment and to authorize the Mayor and other Village officials to take all action necessary to carry out the intent of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS, as follows:

**ARTICLE I.
IN GENERAL**

SECTION 1: RECITALS.

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

SECTION 2: PURPOSE.

The purpose of this Ordinance is to adopt Chapter 86, Article IV, Division 4 for inclusion in the Village Code to establish certain rules and regulations as well as fees related to the licensing, regulating and inspecting of Cellular Equipment and the installation and maintenance of same in order to adequately reimburse the Village for the financial burden of licensing, regulating and inspecting Cellular Equipment and to authorize the Mayor and other Village officials to take all action necessary to carry out the intent of this Ordinance.

**ARTICLE II.
ADOPTION OF CHAPTER 86 ARTICLE IV, DIVISION 4 FOR INCLUSION IN THE
VILLAGE CODE**

SECTION 3.0 ADOPTION OF CHAPTER 86, ARTICLE IV, DIVISION 4.

The Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by adopting Chapter 86, Article IV, Division 4 as follows:

**CHAPTER 86. UTILITIES, ARTICLE IV. CONSTRUCTION OF UTILITIES IN THE
RIGHT OF WAY, DIVISION 4. SMALL CELL ANTENNAS/TOWERS IN THE RIGHT
OF WAY**

Division 4. Small Cell Antennas and Towers in the Right of Way.

Sec. 86-330. Definitions.

For the purposes of this Division, the following terms will have the following meaning:

Alternative Antenna Structure shall mean an existing pole or other structure within the public right-of-way that can be used to support an antenna and is not a utility pole or a Village-owned infrastructure.

Antenna shall mean communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

Applicant shall mean any person or entity submitting an application to install personal wireless telecommunication facilities or structures to support the facilities within a public right-of-way.

Village-Owned Infrastructure shall mean infrastructure in public right-of-way within the boundaries of the Village, including, but not limited to, streetlights, traffic signals, towers, structures, or buildings owned, operated or maintained by the Village.

Distributed Antenna System ("DAS") shall mean a network or facility to which all the following apply: (1) it distributes radio frequency signals to provide Wireless Service; (2) it meets the size limitations of a Small Cell Facility; and (3) it consists of all the following: (a) remote antenna nodes deployed throughout a desired coverage area; (b) a high-capacity signal transport medium connected to a central hub site; and (c) equipment located at the hub site to process or control the radio frequency signals through the antennas.

Facility shall mean all structures, devices, objects and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable antennas, Distributed Antenna Systems, Small Cell Facilities, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across or within rights-of-way governed by this Division. For purposes of this Division, the term "facility" shall not include any facility owned or operated by the Village, unless otherwise provided herein.

Landscape Screening shall mean the installation at grade of plantings, shrubbery, bushes or other foliage intended to screen the base of a personal wireless telecommunication facility from public view.

Monopole shall mean a structure composed of a single spire, pole or tower designed and used to support antennas or related equipment and that is not a utility pole, an alternative antenna structure, or a Village-owned infrastructure.

Personal Wireless Telecommunication Antenna shall mean an antenna that is part of a personal wireless telecommunications facility.

Personal Wireless Telecommunication Equipment shall mean equipment, exclusive of an antenna, that is part of a personal wireless telecommunications facility.

Personal Wireless Telecommunications Facility shall mean an antenna, equipment, and related improvements used, or designed to be used, to provide wireless transmission of voice, data video streams, images, or other information including, but not limited to, cellular phone service, personal communication service, paging and Wi-Fi antenna service.

Replace or replacement shall mean to substitute a new facility, in its entirety, for an existing facility.

Right-of-Way shall mean land dedicated or utilized for a street, trail, sidewalk, utility, railroad or other similar purpose.

Small Cell Facility shall mean a Personal Wireless Telecommunications Facility consisting of an antenna and related equipment either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area. Generally, these installations are single-service provider installations. Small Cell Facilities used to provide Wireless Service shall conform to the following size limitations: (1) each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of not more than six (6) cubic feet in volume; and (2) all other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, and that is not a utility pole, an alternative antenna structure, or a Village-owned infrastructure. Except as otherwise provided for by this Ordinance, the requirements for a tower and associated antenna facilities shall be those required in this Ordinance.

Utility Pole shall mean an upright pole designed and used to support electric cables, telephone cables, telecommunication cables, cable service cables, which are used to provide lighting, traffic control, signage or a similar function.

Variance or variation shall mean a grant of relief by the Superintendent of Public Works or his/her designee.

Wi-Fi Antenna shall mean an antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

Wireless Service shall mean any telecommunications service using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided using Distributed Antenna Systems or Small Cell Facilities.

Sec. 86-331. Permit Required; Permit Application.

- A. Permit required. Permits, applications, and fees related to personal wireless facilities and applications for the same in the right of way shall be governed by of this Division; however, where this Division is silent related to certain building permit fees or licensing fees, Chapter 18 (Building and Building Regulations) and any other applicable provisions of the Village Code shall control. No person shall construct any facility on, over, above, along, upon, under, across or within any Village right-of-way which: (1) changes the location of the facility; (2) adds a new facility; (3) disrupts the right-of-way; 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 Building Department and obtaining a permit from the Village therefor, except as otherwise provided in this Division. No permit shall be required for the installation and maintenance of service connections to customers' premises where there will be no disruption of a right-of-way. All applications shall go through site review and approval with the Superintendent of Public Works or his/her designee.
- B. Permit application. All applications for permits pursuant to this Division shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may designate.
- C. Minimum general application requirements. The application shall be made by the Applicant or its duly authorized representative and shall contain, at a minimum, the following:
1. The Applicant's name, address and telephone and facsimile numbers and a statement of the Applicant's interest in the work;
 2. The names, addresses, telephone and facsimile numbers and e-mail addresses of all professional consultants, if any, advising the Applicant with respect to the application;
 3. 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. The scope of work shall also indicate the type of equipment or facilities being installed and whether the equipment or facilities are new, a swap-out or exchange of facilities or equipment, or an upgrade to existing facilities and equipment.

4. Evidence that the Applicant has placed on file with the Village:
 - i. A written traffic control plan demonstrating the protective measures and devices that will be employed, which shall be consistent with IDOT's Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - ii. An emergency contingency plan, which shall specify the nature of potential emergencies including, without limitation, construction and hazardous materials emergencies and the intended response by the Applicant. The intended response shall include notification to the Village and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Division, unless the Village finds that additional information or assurances are needed.
 5. Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans and specifications comply with applicable laws, codes, rules and regulations;
 6. Evidence of insurance as required by Section 86-258;
 7. Any request for a variance from one or more provisions of this Division;
 8. Such additional information as may be reasonably required by the Village; and
 9. 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 another entity with jurisdictional authority.
- D. 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 Village within thirty (30) calendar days after the change necessitating the amendment.
- E. Application fees. Unless otherwise provided by the applicable franchise, license or similar agreement, all applications for permits pursuant to this Division shall be accompanied by a fee as reasonably determined by the Village each year. 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 Law (35 ILCS 645/15, et seq.).

Sec. 86-332. Permitted Placement; Application and Fees for Personal Wireless Service in the Right of Way.

A. Personal wireless telecommunication facilities will be permitted to be placed in right-of-way within the jurisdiction of the Village as attachments to existing utility poles, alternative antenna structures, or Village-owned infrastructure subject to the following regulations:

1. *Number Limitation and Co-Location.* The Superintendent of Public Works or his/her designee may regulate the number of personal wireless telecommunications facilities allowed on each utility pole or unit of Village-owned infrastructure except that no more than two (2) personal wireless telecommunications facilities will be permitted on utility poles or Alternative Antenna Structure of ninety (90) feet or less. Additionally, no more than three (3) personal wireless telecommunications facilities will be permitted on utility poles or Alternative Antenna Structures in excess of ninety (90) feet and less than one-hundred and twenty (120) feet. This Ordinance does not preclude or prohibit co-location of personal wireless telecommunication facilities on towers or monopoles that meet the requirements as set forth elsewhere in this Division or as required by federal law. In all cases, the Applicant shall provide the longitude and latitude for the location(s) for which the Applicant is applying to place the personal wireless telecommunications facilities described in this Division.
2. *Non-Interference and compliance with applicable codes.* Personal wireless telecommunications facilities operating under a federal license shall not interfere in any way with any Village-owned or operated equipment or facilities or any FCC licensed or unlicensed users already having equipment on the facility, radio or other equipment at any time and shall not interfere in any way with FCC licensed or unlicensed users already having equipment on the facility, radio or other equipment placed in the right-of-way. Personal wireless telecommunications facilities shall comply with all applicable rules and requirements of the Federal Communications Commission and all applicable electrical codes and all other applicable codes.
3. *Separation and Clearance Requirements.* Personal wireless telecommunication facilities may be attached to a utility pole, alternative antenna structure, monopole, or Village-owned infrastructure only where such pole, structure, or infrastructure is located no closer than twenty-five (25) feet from any residential building, excluding garages, and no closer than three hundred (300) feet from any other personal wireless telecommunication facility. These requirements shall not apply to Village-owned equipment or facilities. A separation or lesser clearance may be allowed by the Superintendent of Public Works or his/her designee as an administrative variance to this Division when the Applicant establishes that the lesser separation or clearance is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise

provide adequate services to customers, and the proposed antenna or facility is the least intrusive means to do so within the right-of-way.

4. *Village-Owned Infrastructure.* Personal wireless telecommunication facilities can only be mounted to Village-owned infrastructure including, but not limited to, streetlights, traffic signal, towers, or buildings, if authorized by a license or other agreement between the owner or Applicant and the Village.
5. *New Towers.* No new monopoles or other towers to support personal wireless telecommunication facilities in excess of sixty (60) feet are permitted to be installed on right-of-way within the jurisdiction of the Village unless the Village Board finds, based on clear and convincing evidence provided by the Applicant, that locating the personal wireless telecommunications facilities on the right-of-way is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed new monopole or other tower within the right-of-way is the least intrusive means to do so.
6. *Attachment Limitations.* No personal wireless telecommunication antenna or facility within the right-of-way will be attached to a utility pole, alternative antenna structure, tower, or Village-owned infrastructure unless all of the following conditions are satisfied:
 - a. *Surface Area of Antenna.* The personal wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, cannot have a surface area of more than seven (7) cubic feet in volume.
 - b. *Size of Above-Ground Personal Wireless Telecommunication Facility.* The total combined volume of all above-ground equipment and appurtenances comprising a personal wireless telecommunication facility, exclusive of the antenna itself, cannot exceed thirty-two (32) cubic feet.
 - c. *Personal Wireless Telecommunication Equipment.* The operator of a personal wireless telecommunication facility must, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than eight (8) feet above grade.
 - d. *Personal Wireless Telecommunication Services Equipment Mounted at Grade.* In the event that the operator of a personal wireless telecommunication facility proposes to install a facility where equipment or appurtenances are to be installed at grade, screening must be installed to minimize the visibility of the facility. Screening must be installed at least three (3) feet from the equipment installed at-grade and eight (8) feet from a roadway.
 - e. *Height.* The top of the highest point of the antenna cannot extend more than ten (10) feet above the highest point of the utility pole,

alternative antenna support structure, tower or Village-owned infrastructure. If necessary, the replacement or new utility pole, alternative support structure or Village-owned infrastructure located within the public right-of-way may be no more than ten to seventy (10 – 70) feet higher than existing poles adjacent to the replacement or new pole or structure, or no more than ninety (90) feet in height overall, whichever is less, and shall be of a similar look and structure of other poles within a five hundred (500) foot area.

- f. *Color.* A personal wireless telecommunication facility, including all related equipment and appurtenances, must be a color that blends with the surroundings of the pole, structure, tower or infrastructure on which it is mounted and use non-reflective materials which blend with the materials and colors of the surrounding area and structures. Any wiring must be covered with an appropriate cover.
- g. *Antenna Panel Covering.* A personal wireless telecommunication antenna may include a radome, cap, or other antenna panel covering or shield, to the extent such covering would not result in a larger or more noticeable facility and, if proposed, such covering must be of a color that blends with the color of the pole, structure, tower, or infrastructure on which it is mounted.
- h. *Wiring and Cabling.* Wires and cables connecting the antenna to the remainder of the facility must be installed in accordance with the electrical code currently in effect in the Village. No wiring and cabling serving the facility will be allowed to interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.
- i. *Grounding.* The personal wireless telecommunication facility must be grounded in accordance with the requirements of the electrical code currently in effect in the Village.
- j. *Guy Wires.* No guy or other support wires will be used in connection with a personal wireless telecommunication facility unless the facility is to be attached to an existing utility pole, alternative antenna support structure, tower, or Village-owned infrastructure that incorporated guy wires prior to the date that an Applicant has applied for a permit.
- k. *Pole Extensions.* Extensions to utility poles, alternative support structures, towers, and Village-owned infrastructure utilized for the purpose of connecting a personal wireless telecommunications antenna and its related personal wireless telecommunications equipment must have a degree of strength capable of supporting the antenna and any related appurtenances and cabling and capable of withstanding wind forces and ice loads in accordance with the applicable structural integrity standards as set forth in subsection (l) below. An extension must be securely bound to the

utility pole, alternative antenna structure, tower, or Village-owned infrastructure in accordance with applicable engineering standards for the design and attachment of such extensions.

- I. *Structural Integrity* The personal wireless telecommunication facility, including the antenna, pole extension and all related equipment must be designed to withstand a wind force and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for utility poles, Rule 250-B and 250-C standards governing wind, ice, and loading forces on utility poles, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel wireless support structures and the applicable industry standard for other existing structures, which are hereby adopted for the purpose of this Division. For any facility attached to Village-owned infrastructure or, in the discretion of the Village, for a utility pole, tower, or alternative antenna structure, the operator of the facility must provide the Village with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation must be prepared by a professional structural engineer licensed in the State of Illinois.
7. *Signage.* Other than signs required by federal law or regulations or identification and location markings, installation of signs on a personal wireless telecommunication facility is prohibited.
 8. *Screening.* Screening requirements shall be treated consistently with the landscape requirements herein with the exception that the fence height shall be a minimum of six (6) feet and a maximum of eight (8) feet. Appropriate landscaping must be located and maintained and must provide the maximum achievable screening, as determined by the Village, from view of adjoining properties and public or private streets. Landscape screening when permitted in the right-of-way must be provided with a clearance of three (3) feet in all directions from the facility. The color of housing for ground-mounted equipment must blend with the surroundings. For a covered structure, the maximum reasonably achievable screening must be provided between such facility and the view from adjoining properties and public or private streets. In lieu of the operator installing the screening, the Village, at its sole discretion, may accept a fee from the operator of the facility for the acquisition, installation, or maintenance of landscaping material by the Village.
 9. *Permission to Use Utility Pole or Alternative Antenna Structure.* The operator of a personal wireless telecommunication facility must submit to the Village written copies of the approval from the owner of a utility pole, monopole, or an alternative antenna structure, to mount the personal wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the Village permit.

10. Licenses and Permits. The operator of a personal wireless telecommunication facility must verify to the Village that it has received all concurrent licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility have been obtained and will be maintained within the corporate limits of the Village.
11. Variance Requirements. Each location of a personal wireless telecommunication facility within a right-of-way must meet all of the requirements of this Division, unless a variance has been obtained. An Applicant requesting a variance from one or more of the provisions of this Variance must do so in writing to the Superintendent of Public Works as a part of the permit application. The request shall identify each provision of this Division from which a variance is requested and the reasons why a variance should be granted.
 - a. The Superintendent of Public Works shall decide, on an individual basis, whether a variance is authorized for each provision of this Division identified in the variance request. The Superintendent of Public Works may authorize a variance only if the Applicant requesting the variance has demonstrated that:
 - i. One or more conditions not under the control of the Applicant (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
 - ii. 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.
 - b. As a condition for authorizing a variance, the Superintendent of Public Works may require the Applicant requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Division, but which carry out the purposes of this Division.
 - c. Any Applicant aggrieved by any order, requirement, decision or determination, including the denial of a variance, made by the Superintendent of Public Works under the provisions of this Division shall have the right to appeal to the Village Board, or such other board or commission as may be designated by the Village Board. The application for appeal shall be submitted in writing to the Village Clerk within thirty (30) calendar days after the date of such order, requirement, decision, or determination. The Village Board shall commence its consideration of the appeal at the Village Board's next regularly scheduled meeting occurring at least seven (7) calendar days after the filing of the appeal. The Village Board shall timely decide the appeal.

12. Abandonment and Removal. Any personal wireless telecommunication facility located within the corporate limits of the Village that is not operated for a continuous period of twelve (12) months, shall be considered abandoned and the owner of the facility must remove same within ninety (90) calendar days of receipt of written notice from the Village notifying the owner of such abandonment. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the Village to such owner at the last known address of such owner. In the case of personal wireless telecommunication facilities attached to Village owned infrastructure, if such facility is not removed within ninety (90) calendar days of such notice, the Village may remove or cause the removal of such facility through the terms of the applicable license agreement or through whatever actions are provided by law for removal and cost recovery.
13. Reimbursements for Costs. The Applicant or telecommunications retailer shall be solely responsible for any and all costs incurred by the Village associated with the installation, repair, replacement, or removal of the Applicant or telecommunications provider's equipment. The costs shall include but are not limited to impact fees for street closures; costs related to traffic enforcement at the site where the installation, repair, replacement, or removal has occurred; any costs related to returning the right-of-way to its original state prior to the installation, repair, replacement, or removal of the Applicant or telecommunications provider's equipment.

B. Application and Annual fees.

1. Unless otherwise provided by the applicable franchise, license, or similar agreement, all applications for permits pursuant to this Division shall be accompanied by a fee as reasonably determined by the Village each year. The Applicant shall also reimburse the Village for any fees charged to the Village for professional services (engineering fees, legal fees, site review fees, etc.) related to the processing of the applications. The application fees are intended to reimburse the Village for its internal administrative costs related to processing the applications made under this Division.
2. 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 Law (35 ILCS 645/15, *et seq.*). However, such Applicants shall remain responsible for reimbursing the Village for the cost of its professional services employed in reviewing the application.
3. For the installation of a Distributed Antenna System or Small Cell Facility, a telecommunications retailer shall pay the following application fees:
 - a. Two thousand dollars (\$2,000.00) for a new facility.

- b. Two thousand dollars (\$2,000.00) for the attachment to and, if applicable, replacement of a Village-owned facility.
 - c. One thousand dollars (\$1,000.00) for the attachment to a utility-owned facility.
 - 4. A telecommunications retailer that obtained a permit and installed a Distributed Antenna System or a Small Cell Facility within the Village's jurisdiction shall pay the following annual license fees:
 - a. Three thousand six hundred dollars (\$3,600.00) for a new facility.
 - b. Three thousand six hundred dollars (\$3,600.00) per attachment to and, if applicable, replacement of a Village-owned facility.
 - c. One thousand two hundred dollars (\$1,200.00) per attachment to a utility-owned facility.
 - 5. The Village shall invoice the telecommunications retailer for such annual fee(s) due on or about January 1 of each year, and the telecommunications retailer shall pay such invoice within thirty (30) calendar days after its receipt thereof.

C. Penalty for Violations

- 1. Any and all persons or parties who violate the terms and provisions of this Division shall be subject to a minimum fine of \$750.00 per day. Each day shall be considered a new violation.
- 2. Any fine levied shall be appealable pursuant to the Illinois Administrative Review Act, 735 ILCS 5/3-101, et seq.

D. Conflict of Laws.

- 1. Where the conditions imposed by any provisions of this Division regarding the siting and installation of personal wireless telecommunication facilities are more restrictive than comparable conditions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Division will govern; however, where this Division conflicts with federal laws or state laws pre-empting the Village's home rule powers, the federal or State laws will govern.

SECTION 3.1 OTHER ACTIONS AUTHORIZED.

The officers, employees and/or agents of the Village shall take all action necessary or reasonably required to carry out, give effect to and consummate the amendments contemplated by this Ordinance and shall take all action necessary in conformity therewith. The officers, employees and/or agents of the Village are specifically authorized and directed to draft and disseminate any and all necessary forms to be utilized regarding this amendment.

**ARTICLE III.
HEADINGS, SAVINGS CLAUSES, PUBLICATION,
EFFECTIVE DATE SECTION 4. HEADINGS.**

The headings of the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this Ordinance.

SECTION 5. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable and should any provision of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.

SECTION 6. SUPERSEDER.

All code provisions, ordinances, resolutions, rules and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

SECTION 7. PUBLICATION.

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall be effective and in full force ten (10) days after its passage and approval.

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PASSED this 3rd day of April, 2018.

AYES: Trustees Hrejsa, Kapolnek, Milenkovic, Torres and White

NAYS: none

ABSENT: Trustee Savopoulos

ABSTENTION: none

APPROVED by me this 3rd day of April, 2018.

Jeff Walik, President

ATTESTED AND FILED in my
office this 3rd day of April, 2018.

Audrey McAdams, Village Clerk