

ORDINANCE NO. 2019-09

AN ORDINANCE AMENDING 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 municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret and amend its ordinances, rules and regulations; and

WHEREAS, the Village President (the "President") and the Board of Trustees of the Village (the "Village Board" and with the President, the "Corporate Authorities") are committed to ensuring the health, safety and welfare of individuals residing in, working in and visiting the Village; and

WHEREAS, the Illinois General Assembly 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 Village in Chapter 86, Article IV, Division 4 of the Village of Stickney Code of Ordinances (the "Village Code"), previously enacted regulations related to small cell antennas/towers in the right-of-way (the "Existing Regulations"); and

WHEREAS, the Village 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, to ensure compliance with State and federal law, the Corporate Authorities find that it is in the best interest of the Village to repeal the Existing Regulations and replace them with the regulations as set forth below;

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 amend Chapter 86, Article IV, Division 4 of the Village Code as set forth herein;

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. INCORPORATION CLAUSE.

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preambles 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 amend Chapter 86, Article IV, Division 4 of the Village Code to repeal the Existing Regulations and replace them with the regulations as set forth below, and to authorize the President or his designee to take all actions necessary to carry out the intent of this Ordinance.

**ARTICLE II.
AMENDMENT OF CHAPTER 86, ARTICLE IV, DIVISION 4 OF THE MUNICIPAL CODE,
VILLAGE OF STICKNEY, ILLINOIS**

SECTION 3. AMENDMENT OF CHAPTER 86, ARTICLE IV, DIVISION 4

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by amending Chapter 86, Article IV, Division 4 by striking out any language to be removed or repealed and underlining any new language 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. Purpose and Scope

The purpose of this Ordinance is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Village's jurisdiction, or outside the rights-of-way on property zoned by the Village exclusively for commercial or industrial use, in a manner that is consistent with the Act.

This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

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

Sec. 86-331. Definitions.

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

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

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

Applicant means any person who submits an application and is a wireless provider.

Application means a request submitted by an applicant to the Village for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

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

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.

FCC means the Federal Communications Commission of the United States.

Fee means a one-time charge.

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

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

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.

Municipal utility pole means a utility pole owned or operated by the Village in public rights-of-way.

Permit means a written authorization required by the Village to perform an action or initiate, continue, or complete a project.

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

Public safety agency means the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within

this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate means a recurring charge.

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

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.

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 a similar function.

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 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 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 Village.

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

Wireless services mean 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. 86-332. Regulation of Small Wireless Facilities.

(A) Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (I) of Section 86-333 regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

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

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

(a) Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989; and

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

(c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed; and

(d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility; and

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

(f) Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge; and

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

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

- (a) The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
- (b) An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the Village fails to approve or deny the application within 90 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Ordinance.

- (c) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within 120 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Ordinance.

- (d) The Village shall deny an application which does not meet the requirements of this Ordinance.

If the Village determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

The Village shall document the basis for a denial, including the specific code provisions or application conditions on which the denial

is based, and send the documentation to the applicant on or before the day the Village denies an application.

The applicant may cure the deficiencies identified by the Village and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The Village shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the Village's review period.

The applicant must notify the Village in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

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

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

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

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

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

- (a) An express written agreement by both the applicant and the Village;
or
- (b) A local, State or federal disaster declaration or similar emergency that causes the delay.

(5) *Consolidated Applications.* An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations

each involve substantially the same type of small wireless facility and substantially the same type of structure.

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

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

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

- (7) *Means of Submitting Applications.* Applicants shall submit applications, supporting information and notices to the Village by personal delivery at the Village's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

Sec. 86-333. Collocation Requirements and Conditions.

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

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

- (C) *No interference with public safety communication frequencies.* The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

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

- (D) *Prohibited collocations.* The wireless provider shall not collocate small wireless facilities on Village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

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

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

- (E) *Compliance with codes.* The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.
- (F) *Compliance with design standards.* The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a Village ordinance, written policy adopted by the Village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
- (G) *Alternate Placements.* Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Village may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

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

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

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

- (1) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the Village, 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 jurisdictional boundary of the Village, provided the Village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

- (2) 45 feet above ground level.

- (I) *Height Exceptions or Variances.* If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a special use permit or variance in conformance with procedures, terms and conditions set forth in Section 12 of the Village of Stickney Code of Ordinances (the "Village Code").

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

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

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

- (M) *Collocation Completion Deadline.* Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days

after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.

Sec. 86.334. Application Fees.

Application fees are imposed as follows:

- (A) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
- (B) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (C) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
- (D) The Village shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - (1) Routine maintenance; or
 - (2) The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Village at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with subsection d. under the Section titled Application Requirements; or
 - (3) The installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.
- (E) Wireless providers shall secure a permit from the Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

Sec. 86-335. Exceptions to Applicability.

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

- (A) Property owned by a private party or property owned or controlled by the Village or another unit of local government that is not located within rights-of-way, or a privately-owned utility pole or wireless support structure without the consent of the property owner; or
- (B) Property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

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

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

Sec. 86-336. Pre-Existing Agreements.

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

A wireless provider that has an existing agreement with the Village on the effective date of the Act may accept the rates, fees and terms that the Village makes available under this Ordinance for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the Village that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the Village's utility poles pursuant to applications submitted to the Village before the wireless provider provides such notice and exercises its option under this paragraph.

Sec. 86-337. Annual Recurring Rate.

A wireless provider shall pay to the Village an annual recurring rate to collocate a small wireless facility on a Village utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the Village utility pole.

If the Village has not billed the wireless provider actual and direct costs, the fee shall be \$200 payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

Sec. 86-338. Abandonment.

A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility

within 90 days after receipt of written notice from the Village notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the Village to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the Village may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

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

Sec. 86-339. Dispute Resolution.

The Circuit Court of Cook County shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the Village shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

Sec. 86-340. Indemnification.

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

Sec. 86-341. Insurance.

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

- (A) Property insurance for its property's replacement cost against all risks;
- (B) Workers' compensation insurance, as required by law;

OR

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

The wireless provider shall include the Village as an additional insured on the commercial general liability policy and provide certification and documentation of

inclusion of the Village in a commercial general liability policy prior to the collocation of any wireless facility.

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

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

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.~~

~~*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.~~

~~*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.~~

~~*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:
 - ~~a. 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~~
 - ~~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 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:~~

~~1. 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~~

~~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.~~

~~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 or notices to be utilized in connection with the intent of this Ordinance.

**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 in full force and effect immediately upon passage, approval and publication, as provided by law.

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PASSED this 2nd day of July, 2019.

AYES: Trustee Hrejsa, Kapolnek, Milenkovic, Savopoulos, Torres and White

NAYS: None

ABSENT: None

ABSTENTION: None

APPROVED by me this 2nd day of July, 2019.

Jeff Walik, President

ATTESTED AND FILED in my
office this 3rd day of July, 2019.

Audrey McAdams, Village Clerk