

CITY OF LE ROY
COUNTY OF McLEAN, STATE OF ILLINOIS

ORDINANCE NO. 18-06-02-90

**AN ORDINANCE AMENDING THE RIGHT-OF-WAY MANAGEMENT ORDINANCE TO
PROVIDE FOR REGULATION OF THE INSTALLATION OF CERTAIN SMALL
WIRELESS FACILITIES IN THE RIGHT-OF-WAY**

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY THIS
18th Day of June, 2018

PRESENTED: **June 18, 2018**

PASSED: **June 18, 2018**

APPROVED: **June 18, 2018**

RECORDED: **June 18, 2018**

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In Pamphlet Form

Voting "Aye" 8

Voting "Nay" 0

The undersigned being the duly qualified and Acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned *ordinance* and that such *ordinance* was presented, passed, approved, recorded and published as above stated.

(SEAL)



Vicki Moreland
City Clerk of the City of
Le Roy, McLean County, Illinois

Dated: **June 18, 2018**

**CITY OF LEROY
McLEAN COUNTY, ILLINOIS**

ORDINANCE NO. 18-06-02-90

**AN ORDINANCE AMENDING THE RIGHT-OF-WAY MANAGEMENT ORDINANCE
TO PROVIDE FOR REGULATION OF THE INSTALLATION OF
CERTAIN SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY**

WHEREAS, the **City of Le Roy** (the "**City**") is an Illinois Municipal Corporation organized and operating pursuant to authority granted by the Constitution and Laws of the State of Illinois;

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

WHEREAS, the City is further authorized to adopt the amendments contained herein pursuant to its authority to regulate the public right-of-way under section 11-80-1 *et seq.*, of the Illinois Municipal Code; and

WHEREAS, the City uses the public right-of-way within its City limits to provide essential public services to its residents and businesses. The public right-of-way within the City is a limited public resource held by the City for the benefit of its citizens and the City 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 wireless facilities on City-owned structures in the public right-of-way. 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 City is authorized, under existing State and federal law, to enact appropriate regulations and design standards relative to small wireless facility installations in the public right-of-way; and

WHEREAS, in anticipation of continued increased demand for placement of small wireless facility installations within the public right-of-way and in accordance with the Small Wireless Facilities Deployment Act, the City Board finds that it is in the best interests of the public health, safety and general welfare of the City to adopt the ordinance below in order to establish generally applicable standards for the use of such facilities and installations within the public right-of-way in the City so as to, among other things: (i) preserve the character of the neighborhoods in which small wireless facilities are installed; (ii) minimize any adverse visual impact of small wireless facilities and prevent visual blight in the neighborhoods in which facilities are installed; (iii) codify the application and permitting procedure for the installation of small wireless facilities in the City; (iv) establish the annual recurring rates for small wireless facilities; and (v) codify the removal, relocation, or modification requirements for small wireless facilities placed in the City right-of-way.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of LeRoy, McLean County, Illinois, as follows:

SECTION I: The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section. The findings and recitals herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION II: That Chapter 7 of Article 7 of the City Code, entitled “Construction of Utility Facilities in the Right-of-Way,” is hereby amended as follows (additions in underline, deletions in ~~strike through~~) with all existing provisions of Chapter 7 of Article 7 not set forth below continuing in full effect as currently written:

Construction of Utility Facilities in the Right-of-Way

7.7.1. Purpose and Scope.

b) Intent. In enacting this Chapter, the City intends to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by establishing uniform standards to address issues presented by small wireless facilities and utility facilities, including without limitation:

- 4) Protect against environmental damage, including damage to trees, from the installation of ~~utility~~ facilities;
- 9) Assure the continued safe use and enjoyment of private properties adjacent to ~~utility~~ facilities locations.

c) Facilities Subject to This Chapter. This Chapter applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Chapter may continue to be maintained, repaired and operated by the wireless provider or utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

h) Sound Engineering Judgment. The City shall use sound engineering judgment when administering this Chapter and may exercise the power described in Section 7-7-22 to vary the standards, conditions, and requirements expressed in this Chapter when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

7-7-2. Definitions.

The following definitions are added to Section 2 of this Chapter:

“Antenna” - Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of any type of wireless communications services.

“Collocate” or “collocation” – To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

“Communications service” - 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(33), as amended; or wireless service other than mobile service.

“Communications service provider” - 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.

“Facility” - All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, small wireless facilities, as defined in this Chapter, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Chapter. For purposes of this Chapter, the term “facility” shall not include any facility owned or operated by the City.

“Freestanding Facility” - A facility that is not a crossing facility or a parallel facility, such as a monopole, utility pole, antenna, transformer, pump, or meter station.

"Historic district" or "historic landmark" - 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 City 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.

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

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

"Small Wireless Facility" - 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" - The individual or entity owning or operating any facility that is not a small wireless facility as defined in this Chapter.

"Utility Pole" - 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.

"Wireless Facility" – Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. "Wireless facility" includes small wireless facilities. "Wireless facility" does not include: (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 structure or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

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

"Wireless provider" – A wireless infrastructure provider or a wireless service provider.

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

"Wireless services provider" – A person who provides wireless services.

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

7-7-3. Annual Registration Required.

Every wireless provider or utility that occupies right-of-way within the City shall register on January 1 of each year with the Street Superintendent, providing the registrant's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on its behalf ~~of the utility~~ in connection with emergencies involving the ~~utility's~~ registrant's facilities in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 7-7-9 of this Chapter, in the form of a certificate of insurance.

7-7-4. Permit Required; Applications and Fees.

a) Permit Required. No person shall construct (as defined in this Chapter) any facility on, over, above, along, upon, under, across, or within any City right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Chapter), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the City Engineer [Director of Public Works] and obtaining a permit from the City therefore, except as otherwise provided in this Chapter.

No application, approval, or permit shall be required for routine maintenance, the replacement of small wireless facilities that are substantially similar, the same size or smaller, if the wireless provider notifies the City at least 10 days prior to the planned replacement, or the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable safety codes. The City may require a permit to work within the right-of-way for activities that affect traffic patterns or that require lane closures.

b) Permit Application. All applications for permits pursuant to this Chapter shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly. The application for a small wireless facility, along with supporting information and notices, must be submitted to the Street Superintendent.

c) Minimum General Application Requirements. The application shall be made by the wireless provider or utility or ~~its~~ the duly authorized representative and shall contain, at a minimum, the following:

- 1) The ~~utility's~~ applicant's name and address and telephone and telecopy numbers;
- 2) The applicant's name and address, if different than the wireless provider or utility, its telephone, telecopy numbers, e-mail address, and its interest in the work;
- 5) Evidence that the wireless provider or utility has placed on file with the City:
 - i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - 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 City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for

emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;

- 6) Evidence of insurance as required in Section 7-7-9 of this Chapter; and
- 7) Evidence of posting of the security fund as required in Section 7-7-11 of this Chapter;
- 8) Any request for a variance from one or more provisions of this Chapter _____ (See Section 7-7-22).
- 9) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations; and
- 10) Such additional information as may be reasonably required by the City.

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

- 1) In the case of the installation of a new electric power, communications, ~~telecommunications~~, cable television service, video service or natural gas distribution system, evidence that any “Certificate of Public Convenience and Necessity” or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- 7) Applications for small wireless facilities must also include the following:
 - i) Drawings and site plans for each proposed small wireless facility covered by the application;
 - ii) The location where each proposed small wireless facility or utility pole will be installed and photographs of the location and its immediate surroundings;
 - iii) A site specific structural analysis and engineering drawing for each proposed small wireless facility covered by the application, prepared and stamped by a professional engineer, which demonstrates the utility pole or municipally-owned infrastructure is safely capable of supporting the small

wireless facility in all reasonably foreseeable weather conditions without creating a risk to public health and safety. The structural analysis will also describe the method by which the facility is designed to fail and demonstrate that any structural failure to the facility shall not cause harm to any residential structure;

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

v) A proposed schedule for the installation and completion of each small wireless facility covered by the application;

vi) Certification that the collocation complies with Section 7-7-16 below; and

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

e) Applicant's Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the ~~utility~~ applicant in writing to the City within thirty (30) days after the change necessitating the amendment.

f) Application Fees. Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee in the amount of \$500.00. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

g) Application Fees for Small Wireless Facilities. All applications for the collocation of a single small wireless facility on an existing utility pole or wireless support structure shall be accompanied by a fee in the amount of \$650. All applications for the collocation of more than one small wireless facility on an existing utility pole or wireless support structure shall be accompanied by a fee in the amount of \$350 for each small wireless facility addressed in said application. An application for the installation of a small wireless facility that will require a new utility pole must be accompanied by a fee in the amount of \$1,000.

(h) Consolidated Applications for Small Wireless Facilities. Applications for small wireless facilities may be submitted on a consolidated basis provided they involve the same type of small wireless facility and the same type of structure. The City may, at its discretion, remove

small wireless facility collocations from the consolidated application and treat them separately for purposes of deeming the application incomplete or denied.

7-7-5. Action on Permit Applications.

a) Application Deadlines for Small Wireless Facilities. Applications are deemed complete if the City does not notify the applicant otherwise within 30 days of receipt of the application.

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

b) City Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the Street Superintendent ~~within a reasonable time after filing on a nondiscriminatory basis.~~ If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, ~~and~~ or regulations that concern public safety, the Street Superintendent shall ~~reject such application in writing, stating the reasons therefore~~ notify the applicant of the basis for a denial, including specific code provisions upon which the denial was based. The applicant may cure the deficiencies and resubmit a revised application without paying additional application fees.

When reviewing applications for small wireless facilities, the City will approve or deny the revised application within 30 days after the applicant resubmits the application or it will be deemed approved. If the Street Superintendent is satisfied that the proposed work conforms to the requirements of this Chapter and applicable ordinances, codes, laws, rules, and regulations, the Street Superintendent shall issue a permit ~~therefore as soon as practicable.~~ In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Street Superintendent, that the construction proposed under the application shall be in full compliance with the requirements any Chapter.

7-7-6. Effect of Permit.

b) Duration. No permit issued ~~under this Chapter~~ to a utility shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion. Collocation of small wireless facilities must be completed within 180 days after the issuance of the permit. If collocation is not complete, the permit will be void. Permits for small wireless facilities are valid for 5 years from the time of issuance.

c) Pre-construction meeting required. No construction shall begin pursuant to a permit issued under this Chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other facilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

7-7-8. Annual Recurring Rates for Small Wireless Facilities.

The City shall charge an annual recurring rate for the collocation of small wireless facilities on municipally-owned infrastructure located in its right-of-way equal to either \$200 per utility pole, or the actual, direct, and reasonable costs related to the wireless provider's use of space on the City utility pole, whichever is greater. If the City elects to charge the actual, direct, and reasonable costs related to the wireless provider's use of space on the municipally-owned infrastructure, it shall adopt a fee schedule on an annual basis.

7-7-9. Insurance.

a) Required Coverages and Limits. Unless otherwise provided by franchise, license, or similar agreement, each wireless provider or utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraph 1 and 2 below:

- 1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverages) and products-completed operations coverage with limits not less than:
 - i) Five million dollars (\$5,000,000) for bodily injury or death to each person;
 - ii) Five million dollars (\$5,000,000) for property damage resulting from any one accident;
 - iii) Five million dollars (\$5,000,000) for all other types of liability;

iv) Wireless providers must include the City as an additional insured on the commercial general liability policy;

~~2) Automobile liability for owned, non-owned, and hired vehicles with a combined single limit of one million dollars (\$1,000,000) for personal injury and property damage for each accident;~~

~~3) Employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per employee and per accident.~~

2) Worker's compensation with statutory limits; and

3) Property insurance for replacement costs against all risks.

If the wireless provider or utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

c) Copies Required. The wireless provider or utility shall provide copies of any of the policies required by this Section to the City within ten (10) days following receipt of a written request therefor from the City.

e) Self-Insurance. A wireless provider or utility may self-insure all or a portion of the insurance coverage and limit requirements required by this Section. A wireless provider or utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under this Section. A wireless provider or utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

f) Effect of Insurance and Self-Insurance on Wireless Provider or Utility's Liability. The legal liability of the wireless provider or utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

7-7-10. Indemnification.

By occupying or constructing facilities in the right-of-way, a wireless provider or utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable

attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a franchise, license, or similar agreement; provided, however, that the wireless provider or utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Chapter by the City, its officials, officers, employees, agents or representatives.

7-7-15. Public Safety and Traffic Control.

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

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

a) b) Minimum Requirements. The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

b) c) Warning Signs, Protective Devices, and Flaggers. The wireless provider or utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the rights-of-way.

e) d) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

d) e) Notice When Access is Blocked. At least forty-eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the

wireless provider or utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 7-7-21 of this Chapter, the wireless provider or utility shall provide such notice as is practicable under the circumstances.

e) ~~f)~~ Compliance. The wireless provider or utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to ~~the utility's~~ its attention by the City.

7-7-16. Location of Facilities.

a) General Requirements. In addition to location requirements applicable to specific types of ~~utility~~ facilities, all ~~utility~~ facilities, regardless of type, shall be subject to the general location requirements of this subsection.

~~6)~~ The City is not required to install or maintain any specific utility pole or to continue to install or maintain utility poles in any location if it makes a non-discriminatory decision to eliminate above-ground utility poles of a particular type. For City utility poles with collocated small wireless facilities in place when the City makes a decision to eliminate above-ground utility poles, the City will, at its discretion, either maintain the utility pole or install and maintain an alternative utility pole for the collocation of the small wireless facility, or offer to sell the utility pole to the wireless provider.

e) Freestanding Facilities.

~~1)~~ The City may restrict the location and size of any freestanding facility located within a right-of-way.

~~2)~~ The City may require any freestanding facility located within a right-of-way to be screened from view.

~~1)~~ Small Wireless Facilities.

~~(i)~~ The City may not require the placement of a small wireless facility on a specific utility pole or category of poles. However, should the application necessitate the installation of a new utility pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing support structure within 100 feet of the proposed collocation. Should the applicant reject the proposed relocated collocation, it must provide a written certification describing the property rights, technical limits or

material cost reasons the alternative location will not satisfy the wireless provider's needs. The City may require any monopole, utility pole or other freestanding facility located within a right-of-way to be screened from view in compliance with the appearance standards described below.

(ii) If all existing monopoles, utility poles and other aboveground facilities are located on one side of the right-of-way, all new monopoles, utility poles and other freestanding facilities shall be located on the same side of the right-of-way as the existing aboveground facilities. If there exist above ground facilities on both sides, new freestanding facilities shall be located on the side where the above ground facilities most closely match the scale of the new freestanding facility.

2) Other Facilities.

(i) The City may restrict the location and size of any monopole, utility pole or other freestanding facility located within a right-of-way. No freestanding facility located within a right-of-way may be constructed or modified so that the height of the free standing facility is higher by more than ten feet or more than 10%, whichever is greater, than any other existing, freestanding facility located within the right-of-way within three hundred (300) feet of the proposed facility, measured along the center line of the respective right-of-way. Where there are no other freestanding facilities located within three hundred (300) feet of the proposed facility, the maximum height of the freestanding facility shall be forty five (45) feet.

(ii) The City may require any monopole, utility pole or other freestanding facility located within a right-of-way to be screened from view.

(iii) If all existing monopoles, utility poles and other aboveground facilities are located on one side of the right-of-way, all new monopoles, utility poles and other freestanding facilities shall be located on the same side of the right-of-way as the existing aboveground facilities. If there exist above ground facilities on both sides, new freestanding facilities shall be located on the side

where the above ground facilities most closely match the scale of the new freestanding facility.

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

g) Facilities Installed Above Ground. Above ground facilities may be installed only if:

- 3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards municipally-owned infrastructure shall be used wherever practicable; the installation of additional utility poles or monopoles is strongly discouraged.

7-7-17. Design and Appearance Standards.

a) Residential Design Standards.

Purpose: ensure visually acceptable facility design and to provide discretion on required and preferred design of small wireless facilities.

Applicability: These design standards shall apply to each Facility located in a district zoned for residential uses:

- 1) Applicants must use architectural treatments and stealth techniques to reduce potential visual impacts from all small wireless facilities.
- 2) All new utility poles installed for the purpose of mounting a facility must be stealth or camouflaged to blend into the surrounding environment. Examples of stealth of camouflage designs are presented in Figure 1 below.

- 3) Small wireless facilities and all ancillary equipment associated with the facility must not emit sound.
- 4) Cables must be routed directly from the ground through the pole and equipment enclosures must completely enclose or hide cabling. No exposed cable is allowed.
- 5) No flashing lights or unnecessary, non-essential stickers are allowed to be placed on any facility. Stickers must be designed in the same color as the pole to which they are attached.
- 6) In no case shall equipment block the sidewalk or pedestrian pathway. All installations must maintain accessibility requirements and standards.
- 7) All newly installed equipment must be painted with graffiti-resistant paint to match pole color and surroundings.
- 8) Colors and materials for small wireless facilities shall be chosen to minimize the visibility of the facility.
- 9) Antennas attached to existing poles or municipally-owned infrastructure shall be painted and textured to match the existing structure.
- 10) Any ground-mounted facility shall be painted with non-reflective matte finish paint using color shades that are comparable or blend with surrounding natural elements such as soil, trees, or grasslands. Any ground-mounted facility shall be screened from the yard of the property in front of which it is located using year-round landscaping materials. The owner of the ground-mounted facility shall guarantee the landscaping materials for a period of one-year from planting.
- 11) All disturbed pavement and landscaping shall be replaced and areas of bare or disturbed soils must be re-vegetated. If replacement landscape is determined to be infeasible the City may accept mitigation funds to use elsewhere. The owner of the ground-mounted facility shall guarantee the restoration work or reseeded for a period of one-year.
- 12) No facility may display any signage or advertisements unless expressly allowed by the City in a written approval, recommended under FCC regulations or required by law or permit condition. Every facility shall at

all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center. All required or permitted signage must face toward the street or otherwise placed to minimize visibility from adjacent sidewalks and structures.

Figure 1. Sample Stealth Designs for Small Cell Utility Poles:

Integrated Concealment Poles

Universal Antenna Mounting Systems to accommodate multiple antenna configurations

Cable Concealment Shroud to Hide RF cabling

Structurally engineered to accommodate multiple RAD Centers

Various lighting options available to meet your unique needs

Fluted and Smooth Profiles available

Externally-mounted and recessed meter options available

Various Heights, Diameters and Finishes Available

Integrated Equipment (RRUs, Battery Back-Up Units, Rectifiers, Diplexers, Triplexers, etc.) allows you to protect and HIDE IN PLAIN SIGHT

Tapered and Non-Tapered Poles Available

12" 14" 16" 17" 20" 24"

SHOWN: 17" Fluted Integrated Pole

SHOWN: 12" Smooth Pole (PON-M Radios)



b) Design Standards in Special Aesthetic/Economic Purpose Zones.

Purpose: to protect and promote the City's unique character in a manner consistent with State and federal laws and regulations.

Applicability: These design standards shall apply to (a) each area, district, neighborhood or zone expressly designated in the [City's/City's] Comprehensive Plan as having special aesthetic or economic impacts on the welfare of the community; and (b) each redevelopment area designed under the Tax Increment Allocation Redevelopment Act or the Business District Development and Redevelopment Act:

- 1) Siting of small wireless facilities in special aesthetic/economic purpose zones must respect the existing character or design ordinance of established zone.
- 2) Applicants must include proposed stealth and concealment measures in their applications.
- 3) Effective camouflage so as to disguise the facility so that it appears to be something other than a facility and is at the same time compatible with its surroundings (for example, designed to look like a tree).
- 4) Small wireless facilities must be designed so that the facilities silhouette, mass and color are masked in such a way as to be virtually indistinguishable from their background.
- 5) Examples of stealth of camouflage designs are presented in Figure 1.

c) Design Standards in Historic Districts.

Purpose: to promote the educational, cultural, economic and general welfare of the City by identifying, preserving, protecting, enhancing and encouraging the continued utilization and the rehabilitation of such areas, properties, structures, sites and objects having a special historical interest or value to the City and its citizens.

Applicability: These design standards apply in any historic district or on any historic landmark:

- 1) Districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places are to be avoided, to the greatest extent possible. Local landmarked buildings, properties, sites, or historic districts that are so recognized by an ordinance that meets the requirements of the certified Local Government Program of the

Illinois State historic Preservation Office are also to be avoided, to the greatest extent possible.

- 2) Applicants must include proposed stealth and concealment measures in their applications.
- 3) Applicant must implement said City-approved design concepts, and the use of camouflage or stealth materials as necessary in order to achieve compliance with historic preservation review.
- 4) Prior to submitting an application, where the Applicant submits an application to site facilities in a historic district, the Applicant must meet with the City to discuss any potential design modifications appropriate for the installation.
- 5) When siting a facility in a historic district, wireless provider must avoid removing, obscuring or altering any historic material or significant architectural features. Rehabilitation and make-ready work must not destroy the distinguishing character of the property or its environment.
- 6) Deteriorated architectural features should be repaired rather than replaced, wherever possible by means such as rust removal, calking, limited paint removal and reapplication of paint.

d) General Design Standards.

Applicability: These design standards apply to all small wireless facilities:

- 1) All small wireless facilities not governed by the preceding design standards must be placed so as to minimize visibility. The small wireless facility, including all ancillary equipment and appurtenances, must be a color that blends with the surroundings of the utility pole or municipally-owned 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 concealed within the freestanding facility or covered with an appropriate cover.
- 2) The City may discourage the installation of facilities in particular locations in order to preserve visual quality.
- 3) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners.

- 4) A facility may not be installed in a manner which defeats any existing concealment elements of the utility pole or municipally-owned infrastructure to which it is attached.
- 5) Facilities under common ownership or operated on the same radio frequency shall be separated as far as practicable.

7-7-19. Removal, Relocation, or Modifications of Utility Facilities.

a) Notice. Within ninety (90) days following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way. Wireless providers are required to provide the City with written notice of its intent to sell or transfer small wireless facilities. Such notice must include the name and contact information of the new wireless provider.

~~d) Abandonment of Facilities. Upon abandonment of a facility within the right of way of the City, the utility shall notify the City within ninety (90) days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the City Engineer [Director of Public Works] determines that such removal will be in the best interest of the public health, safety, and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.~~

- 1) Small Wireless Facilities. As used in this section, a small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of an abandoned small wireless facility shall notify the City within ninety (90) days of it being abandoned and the owner of that small wireless facility must remove the small wireless facility within 90 days after sending such written notice to the City. The City may direct the wireless provider to remove all or any portion of the facility if the City Engineer [Director of Public Works] determines that such removal will be in the best interest of the public health, safety and welfare. If the small wireless facility is not removed within 90 days of such notice, the City may remove or cause the removal of the facility pursuant to the terms of its pole attachment agreement for City utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

- 2) Other Utility Facilities. As used in this section, a facility that is not operated for a continuous period of 12 months shall be considered abandoned. Upon abandonment of a facility within the rights-of-way of the City, the utility shall notify the City within ninety (90) days. The owner of the abandoned facility must remove the facility within 90 days after sending such written notice to the City. The City may direct the utility to remove all or any portion of the facility if the City Engineer[Director of Public Works] determines that such removal will be in the best interest of the public health, safety and welfare. If the facility is not removed within 90 days of such notice, the City may remove or cause the removal of the facility pursuant to the terms of its pole attachment agreement for City utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

SECTION III: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent and only to the extent they are in conflict herewith.

SECTION IV: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED by the City Council of the City of Le Roy, Illinois, upon the motion made by Kyle Merkle, and seconded by Glenn Reinhart by roll call vote on the 18th day of June, 2018 as follows

Aldermen elected 8

Aldermen Present 8

Voting Aye:

Dawn Hanafin, Rick Kline, Kyle Merkle, Brad Poindexter, Ron Legner, Hilary Neal, Glenn Reinhart, Greg Steffen

Voting Nay:

None

Absent:

None

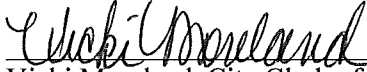
Abstain:

None

Other:


None

And deposited and filed in the office of the City Clerk in said municipality on the 18th day of June, 2018.





Vicki Moreland, City Clerk of the
City of Le Roy, Mc Lean County, Illinois

APPROVED BY the Mayor of the City of Le Roy, Illinois, this 18th day of June, 2018



Steven M. Dean, Mayor of the City of Le Roy,
Mc Lean County, Illinois

ATTEST: (SEAL)

Vicki Moreland, City Clerk of the City of Le Roy
Mc Lean County, Illinois

CERTIFICATE

I, Vicki Moreland, certify that I am the duly appointed and acting municipal clerk of the City of Le Roy, of McLean County, Illinois.

I further certify that on **June 18, 2018** the Corporate Authorities of such municipality passed and approved **Ordinance No. 18-06-02-90** entitled:

AN ORDINANCE AMENDING THE RIGHT-OF-WAY MANAGEMENT ORDINANCE TO PROVIDE FOR REGULATION OF THE INSTALLATION OF CERTAIN SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

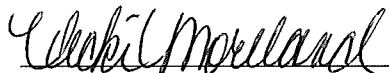
Which provided by its terms that it should be published in pamphlet form.

The pamphlet form of **Ordinance No. 18-06-02-90**, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on June 18, 2018 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Le Roy, Illinois this 18th day of June, 2018.

(SEAL)




Vicki Moreland, City Clerk of the
City of Le Roy, McLean County,
Illinois

STATE OF ILLINOIS)
) SS:
COUNTY OF MCLEAN)

I, Vicki Moreland, do hereby certify that I am the duly qualified and acting City Clerk of the City of Le Roy, McLean County, Illinois, and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

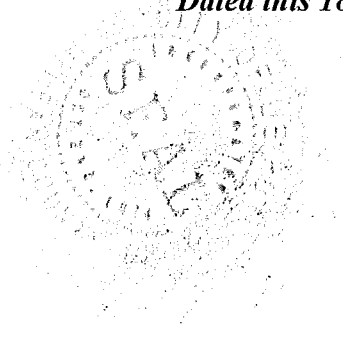
I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

AN ORDINANCE AMENDING THE RIGHT-OF-WAY MANAGEMENT ORDINANCE TO PROVIDE FOR REGULATION OF THE INSTALLATION OF CERTAIN SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY

I do further certify said *ordinance* was adopted by the City Council of the City of Le Roy at a regular meeting on the 18th day of June, 2018 and prior to the making of this certificate the said ordinance was on file with the permanent records of said City where it now appears and remains as a permanent record of said ordinance in the record books.

Dated this 18th day of June, 2018

(SEAL)


Vicki Moreland
Vicki Moreland, City Clerk of the
City of Le Roy, McLean County,
Illinois