

ORDINANCE NO. 18 - \_\_\_\_\_

**AN ORDINANCE REPEALING AND REPLACING  
CHAPTER 13 (REGULATIONS FOR TELECOMMUNICATION  
FACILITIES, RADIO, SATELLITE AND TELEVISION ANTENNA TOWERS AND  
DISHES) OF TITLE 6 (ZONING REGULATIONS)  
OF THE NAPERVILLE MUNICIPAL CODE**

**WHEREAS**, the Mayor and the City Council of the City of Naperville, Illinois, have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety and welfare of its citizens; and

**WHEREAS**, the City of Naperville supports the goal of ensuring reliable wireless services in our communities and the advancement of technology in the telecommunications industry; and

**WHEREAS**, the City of Naperville desires to enact an ordinance that updates its codes to establish reasonable standards for installations of telecommunication facilities, radio, satellite and television antenna towers and dishes;

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in the exercise of its home rule powers that:**

**SECTION 1:** Chapter 13 (Regulations for Telecommunication Facilities, Radio, Satellite and Television Antenna Towers and Dishes) of Title 6 (Zoning Regulations) of the Naperville Municipal Code is hereby repealed in its entirety and replaced in its entirety with the underlined language as follows:

**CHAPTER 13 - REGULATIONS FOR TELECOMMUNICATION FACILITIES**

**SECTION:**

**6-13-1: - PURPOSES:**

The purposes of this Chapter are to:

1. Provide for the appropriate location and development of communications Towers and Antennas on public and private properties to serve the residents and businesses of the City;

2. Minimize adverse visual effects of Towers and Antennas through careful design, siting, and landscape screening;
3. Avoid situations where Towers and Antennas can adversely impact municipal utility security, operation and maintenance efforts;
4. Maximize use of any new and existing Communications Facilities so as to minimize the need to construct new Communications Facilities and minimize the total number of such facilities throughout the City;
5. Enhance the ability to provide all modes of communication services to the community quickly, effectively and efficiently;
6. Avoid potential damage to property caused by such facilities by ensuring such structures, facilities and equipment are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or are determined to be structurally unsound;
7. Ensure that said Communications Facilities do not compromise public safety communications; and
8. Establish standards for the siting, design, permitting, construction, operation, inspection, maintenance, repair, modification, removal and replacement of Communications Facilities in recognition of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, § 6409(a) (2012) (Spectrum Act), codified at 47 U.S.C. § 1455(a), and Federal Communications Commission regulations promulgated thereunder, including Federal Communications Commission’s Report and Order of October 21, 2014, FCC 14-153 (rel. Oct. 21, 2014).

**6-13-2: - DEFINITIONS:**

As used in this Chapter, the following terms shall have the meanings indicated:

<p><u>ALTERNATIVE TOWER STRUCTURE:</u></p>	<p><u>Structures such as clock Towers, bell Towers, light poles, utility poles, sign poles, flag poles and similar alternative design mounting structures that are used to support and/or Camouflage the presence of Towers, Antennas and Small Cell Sites. For the purpose of this Chapter, all Alternative Tower Structures shall be treated and regulated as “Towers”.</u></p>
<p><u>ANTENNA:</u></p>	<p><u>Any exterior transmitting or receiving device mounted on a Tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, video programming, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication</u></p>

	signals. For purposes of this Chapter, "Antenna" shall include "personal wireless facilities", as referenced in Section 704 of the Telecommunications Act of 1996.
<u>CAMOUFLAGE:</u>	The use of placement location, shape, color, and texture to cause an object such as a Communications Facilities to appear to become a part of something else, usually a structure, such as a building, wall or roof. Camouflage does not mean "invisible", but rather appearing as part or exactly like the structure used as a mount.
<u>CELL-ON-WHEELS:</u>	Portable self-contained Communications Facilities that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A Cell-On-Wheels is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure. Cell-on-light-truck is similar in concept.
<u>COMMUNICATIONS FACILITIES:</u>	The plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, Antennas, dishes, Towers, power supply, Communications Support Facilities including but not limited to base stations (as defined in the Federal Communications Commission's regulations), radios and signal processing, telephone switches, GPS, Internet and electrical equipment, Alternative Tower Structures, electronics and other appurtenances used to transmit, receive, distribute, provide or offer communications services.
<u>COMMUNICATIONS SUPPORT FACILITIES:</u>	Support buildings, structures, platforms and equipment cabinets containing electrical and mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, Radio Frequency spectrum, satellite or similar facilities.
<u>FAA:</u>	The Federal Aviation Administration.
<u>FCC:</u>	The Federal Communications Commission.

<u>GUY TOWER:</u>	<u>A communications Tower that is supported in whole or in part by guywires and ground anchors.</u>
<u>HEIGHT OR TOTAL HEIGHT:</u>	<u>Unless otherwise provided in this Chapter, shall mean the distance measured vertically from the bottom of the base of the structure being measured (e.g. Tower) mounted at either roof or ground level, whichever is applicable, to the highest point on the structure, including the base pad and any Antennas.</u>
<u>INTERFERENCE:</u>	<u>The disruption of communications broadcast signals from any other broadcast transmitting or receiving equipment whether located on the site or not. For the purposes of this Chapter, Interference is defined in the rules and regulations of the Federal Communications Commission.</u>
<u>LATTICE OR SELF-SUPPORTING TOWER:</u>	<u>A communications Tower that has open framed supports on three (3) or four (4) sides and is constructed without guywires and ground anchors.</u>
<u>MONOPOLE:</u>	<u>A communications Tower consisting of a single pole constructed without guywires or ground anchors, and is serving a single purpose of supporting Antennas and other Communications Facilities.</u>
<u>PERSONAL WIRELESS SERVICES:</u>	<u>Any of the technologies as defined by Section 704(a)(7)(c)(i) of the federal Telecommunications Act of 1996, including cellular, PCS, enhanced specialized mobilized radio, and paging.</u>
<u>RECEPTION WINDOW:</u>	<u>A location at which a communication signal can be received or sent by a functioning Antenna or Satellite Dish.</u>
<u>SATELLITE DISH:</u>	<u>A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow disk, cone, or horn. Such device transmits and/or receives radio or electromagnetic waves between earth based and/or orbitally based satellites. This definition includes, but is not limited to, Satellite Dishes included as "personal wireless facilities", as referenced in Section 704 of the Telecommunications Act of 1996, as well as what are commonly referred to as satellite earth stations,</u>

	<u>television reception only Antennas and satellite microwave Antennas.</u>
<u>SMALL CELL SITE:</u>	<u>An umbrella term for low-powered radio access nodes, including those that operate in licensed spectrum and unlicensed carrier-grade Wi-Fi. Types of small cells include femtocells, picocells and microcells – broadly increasing in size from femtocells (smallest) to microcells (largest).</u>
<u>TOWER:</u>	<u>Any structure that is designed and constructed primarily for the purpose of supporting one or more Antennas, including self-supporting Lattice Towers, Guy Towers, Monopole Towers, and Alternative Tower Structures.</u>
<u>UNAFFILIATED USER:</u>	<u>A person or entity under a shared use agreement specified in Subsection 6-13-5.2 of this Chapter, of not less than a five-year term, which person or entity does not directly or indirectly own or control, and is not directly owned or controlled by, or is not under common ownership or control with another user of the same Tower.</u>
<u>WIRELESS COMMUNICATIONS FACILITY:</u>	<u>A type of Communications Facility consisting of Antenna, transmission equipment (as defined in the Federal Communications Commission’s regulations), Towers, base stations, 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. Different types include Small Cells, Distributed Antenna System, and facilities used for larger coverage radius such as Towers, faux trees, and Antennas on buildings and water tanks.</u>

**6-13-3: PUBLIC PROPERTY:**

Publicly owned or operated Communications Facilities (e.g. public safety) located on property owned, leased or otherwise controlled by the City shall be exempt from the requirements of this Chapter. All other Communications Facilities, including commercially owned or operated Communications Facilities, located on property owned, leased or otherwise controlled by the City are not exempt unless so provided in a license or lease authorizing the operation of such a facility that has been approved by the City Council.

1. Communications Facilities located within any public right-of-way shall comply with Title 9, Chapter 1 of this Code.

#### **6-13-4: PERMITTED USES:**

Subject to receipt of a building permit pursuant to Title 5, Chapter 2, Article A of this Code, the following uses are permitted by right, provided that the requirements set forth in this Chapter including Section 6-13-10, "General Requirements", are complied with.

##### 1. Antennas:

1.1. New or replacement Antennas that are fully hidden from view and contained within a structure, such as a building, roof or wall. Such installations shall result in no change to the exterior of the mounting structure after installation is complete.

1.2. Addition or replacement of Antennas on an existing Tower provided that:

1.2.1. The Total Height of the Tower including all Antennas does not exceed the greater of the Height of the existing Tower or the limitation in Section 6-13-4:2 of this Chapter in all Industrial Districts and Business Districts except for the B4, B5 and TU Districts; and

1.2.2. The Total Height of the Tower including all Antennas does not exceed the Height of the existing Tower in the B4, B5, TU and all Residential Districts.

1.3. New or replacement Antennas mounted on an existing multiple-family or nonresidential building provided that the building is at least thirty-five (35) feet in Height as measured per the Height definition in Section 6-1-6, and the Antenna will extend no more than fifteen (15) feet above the highest point of the building.

##### 2. Towers:

2.1. New, replacement or modified Towers (including Alternative Tower Structures) in all Industrial Districts and Business Districts except for the B4, B5 and TU Districts that do not exceed one hundred fifty (150) feet in Height.

3. Antennas and Towers for Private Use: New or replacement Antennas, Satellite Dishes and Towers that are installed and operated for the exclusive use of the occupants of the property on which the Tower is located are permitted in all zoning districts, provided that:

3.1. Freestanding Towers, Antennas, or Satellite Dishes mounted on a detached accessory building or structure do not exceed eighteen (18) feet in Height measured from the grade at the base of the building or structure to the highest point of building or structure including any Antennas and Satellite Dishes; and

3.2. Antennas and Satellite Dishes mounted on a principal building do not extend five (5) feet beyond the highest point of the existing building.

#### **6-13-5: CONDITIONAL USES:**

1. Conditional Use Permitted: The following uses may be permitted as a conditional use in all zoning districts subject to the provisions and procedures set forth in Section 6-3-8 of this Title, provided that the requirements set forth in this Chapter including Section 6-13-10, "General Requirements", are complied with.

1.1. Communications facilities that are not permitted under Section 6-13-4, "Permitted Uses" and are not prohibited under Section 6-13-6, "Prohibited Uses", including but not limited to new or replacement Antennas and Towers that exceed the Height limitations provided in Section 6-13-4, and new, replacement or modified Towers in all Residential Districts and in the B4, B5, and TU Districts.

2. Factors For Granting A Conditional Use: In addition to demonstrating compliance with the standards for conditional uses set forth in Section 6-3-8 of this Title, the Planning and Zoning Commission and the City Council shall also consider the following factors when evaluating the appropriateness of the proposed conditional use.

2.1. Compliance with the requirements in Section 6-13-10, "General Requirements";

2.2. Height of the proposed Communications Facilities;

2.3. Impact of Communications Facilities to the aesthetics and cohesiveness of the downtown area (e.g. properties zoned B4, B5 and TU);

2.4. Nature of uses on adjacent and nearby properties;

2.5. Design of proposed Communications Facilities that have the effect of reducing or eliminating visual obtrusiveness;

2.6. Need for the proposed facility to address wireless services coverage deficiency; and

2.7. Availability of suitable existing Communications Facilities, other structures, or alternative technologies which would eliminate the need for the proposed Communications Facilities, as discussed in Section 6-13-10:2.

### **6-13-6: PROHIBITED USES:**

1. Placement or use of Cell-On-Wheels is prohibited in all zoning districts unless otherwise authorized through a Special Event Permit pursuant to the provisions of Title 3, Chapter 4, Article C, "Special Event Permits", or through a Temporary Use Permit in the event that a Cell-On-Wheels is needed to temporarily replace an existing Communications Facility that is being repaired or modified, or in the case of response to an emergency.

2. Attachment of non-City-owned Communications Facilities to City-owned water towers are prohibited in all zoning districts.

### **6-13-7: VARIANCES:**

1. Unless otherwise provided in this Chapter, Communications Facilities that do not meet Section 6-13-10, "General Requirements" of this Chapter may be permitted upon granting

of a variance pursuant to the standards and procedures set forth in Section 6-3-6 of this Title.

**6-13-8: PLANNED UNIT DEVELOPMENTS:**

1. New Communications Facilities that are permitted by right in the underlying zoning district under this Chapter shall require an administrative adjustment to the Planned Unit Development in accordance with Section 6-4-6 of this Title, unless otherwise specified in the approved Planned Unit Development.

2. New Communications Facilities that would require approval of a conditional use or a variance in the underlying zoning district under this Chapter shall require approval of a major change to the Planned Unit Development unless and to the extent specifically permitted in the approved Planned Unit Developments.

**6-13-9: EXISTING COMMUNICATIONS FACILITIES:**

1. Communication Facilities operative on March 6, 2018, shall be permitted to continue in their present use as an existing building or structure pursuant to the requirements of Section 6-2-19, "Existing Buildings And Structures", of this Title.

2. Where the City has granted approval for the construction of new Communications Facilities, which have not yet been constructed or placed in operation on March 6, 2018, such facilities shall be considered existing Communications Facilities as long as such approval is valid and not expired.

**6-13-10: GENERAL REQUIREMENTS:**

The requirements set forth in this Section shall govern the location, construction, and installation of all Towers and Antennas governed by this Chapter.

1. Principal Or Accessory Use. Communications Facilities, Towers, Antennas and poles, may be considered either principal or accessory uses. The existing use of the property in question shall not preclude the installation of an Antenna or Tower on such property, provided all requirements of this Chapter are met. Where a Tower or Antenna is permitted, Communications Support Facilities in direct support of a Tower or Antenna shall also be permitted on the same lot.

2. Availability Of Suitable Existing Towers, Other Structures Or Alternative Technology. For a new Tower or an Alternative Tower Structure, the applicant shall demonstrate to the reasonable satisfaction of the Zoning Administrator or City Council, as the case may be, that no existing Tower, structure or alternative technology which does not require the use of Towers or additional structures can accommodate the applicant's proposed Tower or structures. Evidence submitted to demonstrate that no existing Tower, structure or alternative technology which does not require the use of Towers or structures can accommodate the applicant's proposed Tower or Alternative Tower Structure may consist of any of the following:

2.1. No existing Towers or structures are located within the geographic area which meet applicant's engineering requirements.



2.2. Existing Towers or structures are not of sufficient Height to meet applicant's engineering requirements and cannot be enlarged sufficiently to meet their needs.

2.3. Existing Towers or structures do not have sufficient structural strength to support applicant's proposed Antenna and related equipment.

2.4. The applicant's proposed Antenna would cause electromagnetic Interference with Antenna on existing Towers or structures, or the Antenna on the existing Towers or structures would cause Interference with the applicant's proposed Antenna.

2.5. The applicant demonstrates that there are other limiting factors that render existing Towers and structures unsuitable.

2.6. The applicant demonstrates that an alternative technology that does not require the use of Towers or structures such as Small Cell Sites, is unsuitable. Costs of alternative technology that exceed new Tower or Antenna development shall not be presumed to render the technology unsuitable.

3. Design. All Communications Facilities shall meet the following requirements:

3.1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration, be painted so as to reduce visual obtrusiveness.

3.2. Antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with, the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible, unless a different color is needed for public safety or service reliability reasons.

3.3. If an Antenna is installed on an existing building, the Antenna should be mounted on that portion of a roof or wall which faces a rear yard (not facing a public right-of-way) or behind major rooftop elements such as stair and elevator penthouses, parapets, or architectural projections.

3.4. Communications Support Facilities shall be located on the ground if feasible.

3.4.1. When the Antenna is attached to the roof of a building, associated Communications Support Facilities may be located on the roof provided that said Communications Support Facilities shall not exceed ten (10) feet in Height above the roof surface and shall be fully screened from view to their full Height in accordance with requirements of Section 6-10-3:12.

3.4.2. Communications Support Facilities located on the ground shall not exceed ten (10) in Height above grade level measured from the bottom of the facilities and support structures. Design of Communications Support Facilities shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings. Where there is sufficient space, underground vaults may be utilized for equipment associated with Communications Facilities.

3.5. Except for Alternative Tower Structures, new Towers shall be designed as a Monopole. The Zoning Administrator may approve use of other types of Tower design if the use of a Monopole is not structurally feasible.

5. Setbacks. The following setback and location requirements shall apply to all Communications Facilities, as measured from the outer perimeter of the Tower base to all adjoining lot lines:

5.1. Concealed Antenna mounted inside an existing building or structure shall be exempt from the setback requirements in this section.

5.2. Antennas mounted on an existing building must comply with the building setback requirements of the applicable zoning district and must be set back from a lot line abutting or across a public right-of-way from a residential use or district at a distance of not less than one hundred (100) feet.

5.3. Tower structures.

5.3.1. From a lot line abutting or across a public right-of-way from a residential use or district: a setback equal to the greater of the required building setback in the applicable zoning district or at least two hundred (200) percent of the Height of the facility shall be required.

5.3.2. From a lot line not abutting or across a public right-of-way from a residential use or district: a setback equal to the greater of the required building setback in the applicable zoning district or at least one hundred (100) percent of the Height of the facility shall be required.

5.4. Communications Support Facilities shall comply with the location, setback and bulk requirements of Section 6-2-10, "Accessory Buildings, Structures, and Use of Land".

5.5. All Towers, Alternative Tower Structures and Communications Support Facilities shall be located in a manner such that they are out of direct public view from nearby streets, sidewalks and customer parking areas (e.g. located in the rear yard behind the principal building) to the greatest extent possible; provided however, that the Zoning Administrator may waive such requirement, if deemed appropriate.

6. Separation. All freestanding Towers shall conform to the following minimum separation requirements as measured from the outer perimeter of the existing Tower base to the outer perimeter of the proposed Tower base.

6.1. Concealed Antennas and Antennas mounted on existing buildings shall be exempt from these minimum separation distances.

6.2. Between the proposed Tower and existing Towers: The minimum separation distances between the proposed Tower and existing Towers (listed in linear feet) shall be as provided in the following Table.

Proposed Tower Height	Existing Tower Height				
	≤ 50 Feet	> 50 feet and ≤ 100 feet	> 100 feet and ≤ 150 Feet	> 150 Feet and ≤ 200 Feet	> 200 Feet
≤ 50 Feet	<u>300 feet</u>	<u>500 feet</u>	<u>750 feet</u>	<u>1,000 feet</u>	<u>1,000 feet</u>
> 50 feet and ≤ 100 feet	<u>500 feet</u>	<u>750 feet</u>	<u>1,000 feet</u>	<u>1,500 feet</u>	<u>1,500 feet</u>
> 100 feet and ≤ 150 Feet	<u>750 feet</u>	<u>1,000 feet</u>	<u>1,500 feet</u>	<u>2,000 feet</u>	<u>2,000 feet</u>
> 150 Feet and ≤ 200 Feet	<u>1,000 feet</u>	<u>1,500 feet</u>	<u>2,000 feet</u>	<u>2,500 feet</u>	<u>2,500 feet</u>
> 200 Feet	<u>1,000 feet</u>	<u>2,000 feet</u>	<u>2,500 feet</u>	<u>2,500 feet</u>	<u>3,000 feet</u>

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7. Landscaping/Screening:

7.1. Towers (excluding Alternative Tower Structures) and associated Communications Support Facilities shall be landscaped with a buffer of plant materials. The buffer shall consist of a landscaped area at least five (5) feet wide around the base of the Tower and related Communications Support Facilities. At the time of planting, such buffer shall consist of shrubs or hedges planted at a maximum of four (4) feet on center, which are a minimum of four (4') in Height. The buffer shall reach at least six (6) feet in Height within two (2) years of planting. In addition to a landscaped area, a solid wood fence, wall, or comparable barrier shall be provided along all four sides of the base of the Tower and related communications support facilities to a minimum Height of six (6) feet. Said fence shall be equipped with an acceptable anti-climbing device or design.

7.1.1 For Alternative Tower Structures, the Tower structure itself shall not be required to be landscaped or screened. Any associated ground-mounted communications support facilities shall be landscaped and screened per the requirements of Section 6-13-10:7.1 above.

7.2. The landscaping requirements in this Section may be increased, reduced or waived by the Zoning Administrator based on factors including, but not limited to, visual impact of the facilities, existing trees and vegetation, and adjacency to residential properties.

8. Lighting. Towers, Antenna and poles shall not be artificially lighted unless required by the Federal Communications Commission, Federal Aviation Administration or other applicable authority. If lighting is required, the lighting alternatives and design must cause the least disturbance to the surrounding uses and views.

9. Signs. No signs shall be allowed on Communications Facilities, except warning or notification signs required by federal law or regulations, identification and location markings, or as otherwise required by this Article.

10. Historic District. The location, construction, or installation of any Communications Facilities in the historic preservation district shall also satisfy the standards contained in Chapter 11 of this Title.

11. Nonessential Services. Communications Facilities, Towers and Antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities.

12. State Or Federal Requirements: All Communications Facilities shall comply with all applicable current standards and regulations of the Federal Communications Commission, Federal Aviation Administration and any other agency of state or federal government with the authority to regulate Communications Facilities. If such regulations are amended from time to time, the owners of Communications Facilities governed by this Chapter shall bring such facilities into compliance with such amended rules and regulations within six (6) months of the effective date of such amendment, unless a more stringent compliance schedule is mandated by the controlling state or federal agency. Failure to bring Communications Facilities into compliance with revised standards and regulations shall constitute grounds for their removal at the owner's expense as provided in Section 6-13-13, "Abandonment and Removal of Communications Facilities".

13. Building Code Requirements. Nothing in this Chapter shall exempt any Communications Facilities from compliance with the requirements of Title 5, Building Regulations.

14. No Obstruction Of Public Ways Or Property: No Communications Facilities shall extend above, across, over or under any public street, public sidewalk, or other public rights-of-way or property, and shall have no wires, or metal rods extending therefrom above, across, over or under any public street, public sidewalk, or other public rights-of-way or property.

15. Antennas, Satellite Dishes And Towers For Private Use. Antennas, Satellite Dishes and Towers permitted under Section 6-13-4:3 of this Chapter shall be exempt from the requirements of Section 6-13-10:1-7. Such facilities shall comply with the following additional requirements:

15.1. Design: All Antennas, Satellite Dishes and Towers including the base shall be of a neutral color or another color which matches or blends with the predominant color of the roof surface if roof mounted, or the color of the surroundings if ground mounted.

15.2. Location and Setbacks:

15.2.1. Freestanding Towers for private use shall comply with the bulk and setback requirements applicable to a detached accessory structure specified in the zoning district on which the property is located. A free-standing Tower shall be located in the rear yard of the lot to the extent

practical. If signals cannot be clearly received from the rear yard, the Tower may be located in the interior side yard.

15.2.2. Roof mounted or wall anchored Antennas and Satellite Dishes on a principal building or structure shall be located on that portion of a roof or wall which faces a rear yard. In the event signals cannot be clearly received by locating the Antennas and Satellite Dishes on that portion of a roof or wall which faces a rear yard, the Towers and Antennas may be installed on the side roof.

15.2.3. Roof mounted or wall anchored Antennas and Satellite Dishes on a detached accessory building or structure may be located on any side of the roof or wall.

15.3. Satellite Dish Sizes: The size of all Satellite Dish installations shall conform to the following requirements:

15.3.1. Residential, B4, B5 And TU Districts: No Satellite Dish shall be more than three (3) feet in diameter whether roof mounted, wall anchored or ground mounted.

15.3.2. Business And Industrial Districts Except For B4, B5 And TU Districts: No Satellite Dishes shall be more than seven (7) feet in diameter whether roof mounted, wall anchored or ground mounted.

15.4. Buried Wires, Rods And Connectors: All wires, rods and other connectors between an Antenna, Satellite Dish or Tower and the structure receiving services from the Antenna, Satellite Dish or Tower shall be located underground if ground mounted or securely attached to or located within the structure receiving service if roof or wall mounted.

15.5. The Zoning Administrator may reduce or waive the requirements of this Section 6-13-7:16 if strict compliance with these requirements would result in an obstructed Reception Window which is beyond the control of the owner or applicant.

## **6-13-11: APPLICATION REQUIREMENTS**

In addition to any information required for applications pursuant to Title 6, Zoning Regulations, applicants for Communications Facilities may be required to submit all, or a portion of, the following information at the discretion of the Zoning Administrator:

1. The name, address and telephone number and email address of the owner and lessee of the parcel of land as well as for the owner and operator of Communications Facilities which are the subject of the application. If the applicant is not the owner of the parcel of land, the written consent of the owner shall be evidenced in the application.
2. A scaled site plan clearly indicating the location, type and Height of the proposed facilities and other information deemed by the Zoning Administrator to be necessary to assess compliance with this article, including but not limited to:

- a) On-site and adjacent land uses (including when located in other municipalities) and all properties within the applicable separation distances set forth in Section 6-13-10:6, "Separation".
  - b) Adjacent roadways, proposed means of access, setbacks from property lines, elevation plan drawn to scale in blueprint form and other supporting blueprints of the proposed facilities and any other structures, topography, and parking.
  - c) Legal description of the parent tract and leased parcel (if applicable).
  - d) The setback distance between the proposed Tower/Antenna from each lot line.
  - e) A landscape plan showing specific landscape materials.
  - f) Method of fencing, finished color and, if applicable, the method of Camouflage or concealment and illumination.
  - g) An inventory of the applicant's existing Communications Facilities, Towers and Antennas, or sites which have been approved for Communications Facilities, Towers and Antennas, or for which applications or petitions for approval have already been filed, that are either within the jurisdiction of the City or within one (1) mile of the border thereof, including specific information about the location, Height and design of each Communications Facilities, Tower and Antenna. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this article or other organizations seeking to locate Communications Facilities within the jurisdiction of the City, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
3. Owners and/or operators of Communications Facilities shall certify that all franchises required by law for the construction and/or operation of communications services with the City have been obtained and shall file a copy of all required franchise agreements with the Zoning Administrator.
  4. Affidavit For Collocation. For a new Tower or pole with Antenna(s), a notarized statement by the applicant as to whether the Communications Facilities will accommodate collocation of additional Antennas for future users. If so, the applicant shall submit an affidavit stating that space on the proposed new Tower or pole will be made available to future users for co-location.
  5. An affidavit from the applicant addressing the following:
    - a) A description of compliance with subsections 6-13-10:2 and all applicable federal, state or local laws.
    - b) Current radio frequency coverage prediction in the area served both prior to and after construction of the proposed Communications Facilities and technical performance goals for the desired signal strength.
    - c) Drive test results which confirm or refute the areas shown on coverage maps used in planning the system used by the communications provider.
    - d) The suitability or unsuitability of the use of existing Towers, other structures or alternative technology not requiring the use of Towers or structures to provide the services to be provided through the use of the proposed new Communications Facilities, including information regarding the number of calls dropped and failed hand-offs between existing call sights within two (2) miles of the City.

- e) A description of the feasible location(s) of future Towers, poles or Antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed Tower is erected.
  - f) A written statement from an engineer(s) that the construction and placement of Communications Facilities, Tower or Antenna will not interfere with public safety communications and the usual and customary transmission or reception of radio, television or other communications services enjoyed by adjacent residential and nonresidential properties.
6. An affidavit by the owner of the parent tract (if the location is leased) agreeing to the terms relating to removal of the facilities, as described in Sections 6-13-12 and 6-13-13.
  7. Identification of the entities providing the backhaul network and capacities for Communications Facilities described in the application and other cellular sites owned or operated by the applicant in the City, updated on at least an annual basis, and the method of providing backhaul, wired or wireless.
  8. A notarized statement by a licensed structural engineer attesting to the structural integrity of the Communications Facilities and for their proposed use.
  9. Color photo simulations showing the proposed site of Communications Facilities with a photo-realistic representation of the proposed facilities as it would appear viewed from the closest residential property, public right-of-way or other adjacent land use.
  10. Any other information deemed necessary by the Zoning Administrator to determine the necessity and appropriateness of the proposed facilities.

**6-13-12: MAINTENANCE AND OPERATION OF COMMUNICATIONS FACILITIES:**

1. Operation Of Equipment: All Towers and Antennas shall be installed, operated and maintained in accordance with all applicable laws, regulations and ordinances so as not to interfere with or cause Interference with the City's use of its radio or television transmitting and/or receiving equipment whether located on the site or not.

1.1. In the event there is Interference with radio or other telecommunications transmissions, the owners of such Towers and Antennas shall promptly take all reasonable steps necessary to correct and eliminate such Interference within a reasonable period of time; provided however, if such transmissions materially interfere with the City's emergency transmitting and/or receiving equipment, such corrective steps shall be taken immediately upon notice by the City. If the owner of such Towers or Antennas fails to take immediate corrective action, the City may do so at the owner's expense.

1.2. If the owner is unable to eliminate the Interference, the owner shall remove its facilities promptly.

2. To ensure the structural integrity of Communications Facilities, the owner shall ensure that they are maintained in compliance with standards contained in applicable state or local building codes and the applicable standards published in the National Electrical Code, as amended from time to time. The owners of Towers and Antennas shall conduct inspections of such facilities on a biennial (or more frequent basis at the discretion of the owner) basis, or when otherwise requested by the City. Inspection reports shall be

submitted to the Director upon written request, and are to include any identified concerns and corrective actions taken to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Illinois.

3. The Zoning Administrator shall be authorized to enter upon the property of the owner or tenant of the Communications Facilities for purposes of inspecting same, upon prior written or verbal notice to the owner or tenant.

4. If upon inspection by the Zoning Administrator, it is determined that the Communications Facilities fail to comply with any of the applicable standards of this Code, the Zoning Administrator shall send a written notice of such violation to the owner of the Tower or Antenna and the owner of the property if such owner is different from the owner of such facilities. Said notice shall be mailed by certified mail, return receipt requested.

5. The owner of the Tower or Antenna and the owner of the property if such owner is different from the owner of such facilities, shall have thirty (30) days from the postmark date when the notice was sent, after receipt of the violation notice to bring said facilities into compliance.

6. In the event such Communications Facilities are not removed within thirty (30) days from the postmark date when the notice was sent after receipt of the notice of removal, the city may remove or cause the removal of such facilities and file a lien against the property for the costs of removal.

7. In the event that the failure of the Tower or Antenna to comply with any such standards constitutes a present danger to persons or property, the City may abate the danger, provide notice to the owner as soon as reasonably practicable and recover the costs of abatement from the owner and file a lien against the property for the costs of abatement.

8. The City may pursue any and all available legal remedies to ensure that Communications Facilities which fail to comply with this Code or which constitute a danger to persons or property are brought into compliance or removed.

9. Any delay by the City in taking enforcement action against the owner of Communications Facilities and the owner of the property if such owner is different from the owner of such facilities, shall not waive the City's right to take any action at a later time.

10. The City may, seek to have Communications Facilities removed regardless of the owner's or operator's intent to said facilities, and regardless of any permits, federal, state or otherwise, which may have been issued or granted.

11. For Communications Facilities located on properties owned, leased or otherwise controlled by the City, the City may identify maintenance concerns, which will be reported to the owner of the Communications Facilities. The City shall give the owner of the Communications Facilities thirty (30) calendar days to correct the identified maintenance concerns after which the City reserves the right to take any action it deems necessary, which could include termination of the lease or license.

### **6-13-13: ABANDONMENT AND REMOVAL OF COMMUNICATIONS FACILITIES:**



1. Communications facilities that are not operated for a continuous period of twelve (12) months shall be considered abandoned, whether or not the owner or operator intends to make use of such facilities.

2. If upon inspection by the Zoning Administrator, it is determined that Communications Facilities are abandoned, the Director shall send a written notice of such abandonment to the owner of the Communications Facilities and the owner of the property if such owner is different from the owner of said facilities. Said notice shall be mailed by certified mail, return receipt requested.

3. The owner of the Communications Facilities and the owner of the property if such owner is different from the owner of such facilities, shall have sixty (60) days after receipt of the notice to remove all of said facilities, including any and all footings and foundation.

4. If such Communications Facilities are not removed within sixty (60) days after receipt of notice from the City notifying the owners of such abandonment, the City may remove such facilities and file a lien against the property for the costs of removal.

5. The City may pursue any and all available legal remedies to ensure that abandoned Communications Facilities are removed.

6. Any delay by the City in taking action to enforce the removal of abandoned Communications Facilities against the owner of the Communications Facilities and the owner of the property (if such owner is different from the owner of such facilities), shall not waive the City's right to take any action at a later time.

7. The City may seek to have the Communications Facilities removed regardless of the owner's or operator's intent to operate such facilities, and regardless of any permits, federal, State or otherwise, which may have been issued or granted.

8. If the owner of abandoned Communications Facilities wishes to use such abandoned facilities, the owner shall first apply for and receive all applicable permits and meet all of the requirements of this Chapter as if such Communications Facilities were new facilities.

**6-13-14: SEVERABILITY:**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such judgment shall not affect the validity of the remaining portions hereof.

**6-13-15: CONFLICTS RESOLVED:**

This Chapter superseded all chapters or parts of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

**SECTION 2:** This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2018.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk