



## Legislation Details (With Text)

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<b>Type:</b>	Ordinance	<b>Status:</b>	Passed
<b>File created:</b>	3/22/2018	<b>In control:</b>	City Council
<b>On agenda:</b>	4/3/2018	<b>Final action:</b>	4/3/2018
<b>Title:</b>	Pass an ordinance repealing and replacing Sections 6-13, 9-1A, 9-1B, 9-1C, 9-1E-7, 9-1F-1, 9-1F-23 of Naperville Municipal Code pertaining to telecommunications facilities on both private and public properties and in the right-of-way		
<b>Sponsors:</b>			
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Ordinance Title 6, 2. Ordinance Title 9		

Date	Ver.	Action By	Action	Result
4/3/2018	1	City Council	passed	Pass

### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Pass an ordinance repealing and replacing Sections 6-13, 9-1A, 9-1B, 9-1C, 9-1E-7, 9-1F-1, 9-1F-23 of Naperville Municipal Code pertaining to telecommunications facilities on both private and public properties and in the right-of-way

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Trevor Dick, AICP, LEED AP, Development Manager

#### **BOARD/COMMISSION REVIEW:**

Section 6-13 was approved by the Planning and Zoning Commission on March 7, 2018.

#### **BACKGROUND:**

As technology advances in the communications industry, the demand of Naperville residents and businesses for quicker and easier access to the digital world has continued to increase. Staff recently observed this demand through requests from local service providers to install macrocell towers, small cell facilities, and fiber optic cables on both private and public properties and in the right-of-way. In 2017, the City contracted with Magellan Advisors to develop a Citywide Telecommunications Strategic Business Plan. Magellan has completed its evaluation of the City and is expected to issue a report of its findings this month. It is anticipated that the report will be on the Council's agenda in April, at which time Council will be asked to receive the report and provide direction concerning Magellan's recommendations.

One of the priority work items that Magellan identified was to update current City ordinances pertaining to telecommunication facilities given the continued march of new technology and requests. The City's primary ordinances bearing on the siting of telecommunications/wireless facilities are

contained in Title 6, Chapter 13, which contains zoning regulations applicable to telecommunications facilities, towers, and dishes for wireless services and Title 9, Chapter 1, which is applicable to use of public rights-of-way for telecommunications facilities. Working with Magellan Advisors, staff has drafted comprehensive amendments to both Title 6, Chapter 13 and Title 9, Chapter 1.

### **DISCUSSION:**

The full text of the proposed amendments to Sections 6-13, 9-1A, 9-1B, 9-1C, 9-1E-7, 9-1F-1, 9-1F-23 of Naperville Municipal Code are appended hereto as Exhibit 1.

Here is a summary of key amendments:

#### Section 6-13:

- Updated definitions to reflect current terminology, technology and applicable federal and state regulations for communications facilities.
- Removed exemption for commercially owner or operated facilities located on public property unless City Council exempts them through a lease or license.
- Clarified the applicability, procedures and standards of the variance process.
- Removed redundant or outdated requirements and added new requirements to reflect current practices in Naperville and best practices of other municipalities (Aurora, IL and Santa Monica, CA).
- Added Section 6-13-11 to provide detailed submittal requirements for applications for communication facilities; this Section sets clear expectations and provides guidance to help applicants submit complete and accurate application materials.

#### Section 9-1:

- Updated definitions to reflect current terminology, technology and applicable federal and state regulations for communications facilities.
- Eliminated obsolete language.
- Provided clarity regarding use of light poles for small cell facilities, including prohibition of small cell facilities on decorative light poles and utility poles, and height limitations for antennas.
- Imparted aesthetic requirements, including landscaping with buffer or plant materials.
- Incorporated a Dig Once Policy (9-1B-24) to minimize the number and scale of excavations when installing telecommunications infrastructure in rights-of-way.
- Added language addressing placement of fiber optic cable and the installation of in-kind fiber for the City's fiber network.

The proposed amendments have been reviewed and approved by Magellan Advisors and by all impacted City Departments including the Information Technology Department, Department of Utilities - Electric, Department of Utilities- Water/Wastewater, Department of Public Works, TED - Engineering and Legal Department. Staff has also shared the proposed amendments with representatives from AT&T, Verizon, WOW and Comcast for review and feedback. AT&T and Verizon provided some comments, which have been addressed or incorporated in the attached amendments where possible.

The proposed amendments are intended to simplify and improve the regulations for communication facilities and present them in a user-friendly manner; they include updates to the current language in response to new technology and demand in the digital world. These updates would allow the City to properly regulate and process future requests for new and modified communication facilities in the

City and ensure that the City is ready for 5G rollout.

On March 21, 2018, City Council conducted the first reading of the telecommunications ordinances.

**FISCAL IMPACT:**

The fiscal impact will be contingent upon the fees that are assessed related to licensing and the in-kind services obtained by the City. There is not expected to be a significant difference in fiscal impact compared to the current code provisions.