City of Carroll

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MEMO TO: Honorable Mayor and City Council Members

FROM: Mike Pogge-Weaver, City Manager MSP-W

DATE: July 31, 2020

SUBJECT: Policy 0715 – Small Wireless Facility Antenna/Tower Right-of-Way Siting
Policy 0716 – Small Wireless Facility Design Guidelines

In September 2018, a Federal Communications Commission (FCC) Order required that all local jurisdictions comply with various rules and recommendations on the exercise of local aesthetic, zoning, public works, and fee schedules when dealing with small cell (Small Wireless Facility) installations. One requirement of the FCC Order was that communities had until April 15, 2019 to approve and publish a set of Small Wire Facility regulations, which the City of Carroll did.

Since that time, the City has held discussions with various cellular providers on the guidelines (Policies 0715 and 0716). The staff worked with these providers to address their concerns with the initial set of regulations and to ensure the policies conform with the federal Telecommunications Act of 1996 and Iowa law (Iowa Code Chapter 8C: Iowa Cell Siting Act). Staff believe some changes are necessary and that the revised policy balances the needs of the City and various cellular providers along with being consistent with applicable Federal and State regulations ensuring that development activity does not endanger public health, safety, or welfare. The City intends that the revisions will ensure that the installation, augmentation and relocation of Small Wireless Facility installations in the public rights-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants under the federal Telecommunications Act and Iowa Code Chapter 8C: Iowa Cell Siting Act, relating to the Siting of Small Wireless Facilities with the rights, safety, privacy, property and security of residents of the City.

Additionally, the revised Policy 0715 now incorporates some design and aesthetic requirements. For that reason, the recommendation is that Policy 0716 – Small Wireless Facility Design Guidelines be suspended at this time. Staff is recommending that Policy 0716 only be suspended due to the FCC order and to preserve the City's right in the future to reimplement some or all of the design and aesthetic requirements contained in Policy 0716.

RECOMMENDATION: Mayor and City Council consideration and approval of a resolution approving a revision to Policy 0715 – Small Wireless Facility Antenna/Tower Right-of-Way Siting and suspending Policy 0716 – Small Wireless Facility Design Guidelines.

RESOLUTION NO. _____

A RESOLUTION APPROVING POLICY 0715 – SMALL WIRELESS FACILITY ANTENNA/TOWER RIGHT-OF-WAY SITING

WHEREAS, Policy 0715 – Small Wireless Facility Antenna/Tower Right-of-Way Siting has been deemed necessary to ensuring that development activity does not endanger public health, safety, or welfare; and

WHEREAS, Policy 0715 – Small Wireless Facility Antenna/Tower Right-of-Way Siting was originally adopted by the City of Carroll on April 15, 2019; and

WHEREAS, the Carroll City Council finds that it is necessary to make certain revisions to Policy 0715 – Small Wireless Facility Antenna/Tower Right-of-Way Siting; and

WHEREAS, the revised Policy 0715 – Small Wireless Facility Antenna/Tower Right-of-Way Siting is attached hereto as Exhibit "A"; and

WHEREAS, it is determined that the approval of the attached Small Wireless Facility Antenna/Tower Right-of-Way Siting is in the best interest of the City of Carroll, Iowa.

NOW, THEREFORE, BE IT RESOLVED that the current Policy 0715 - Small Wireless Facility Antenna/Tower Right-of-Way Siting is replaced with the revised version attached as Exhibit "A", be authorized and approved.

PASSED AND APPROVED by the Carroll City Council of the City of Carroll, Iowa this 10th day of August, 2020.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

BY:_____
Eric P. Jensen, Mayor

ATTEST:

By:_____
Laura A. Schaefer, City Clerk

RESOLUTION NO. _____

A RESOLUTION SUSPENDING POLICY 0716 – SMALL WIRELESS FACILITY DESIGN GUIDELINES

WHEREAS, Policy 0716 – Small Wireless Facility Design Guidelines was deemed necessary to ensuring that development activity does not endanger public health, safety, or welfare; and

WHEREAS, Policy 0716 – Small Wireless Facility Design Guidelines was deemed necessary due to a September 2018 Federal Communications Commission Order; and

WHEREAS, Policy 0716 – Small Wireless Facility Design Guidelines was originally adopted by the City of Carroll on April 15, 2019; and

WHEREAS, Policy 0715 – Small Wireless Facility Antenna/Tower Right-of-Way Siting adopted on August 10, 2020 incorporates some basic design and aesthetic requirements; and

WHEREAS, to preserve the City's right in the future to reimplement some or all of the design and aesthetic requirements contained in Policy 0716, this policy is only being suspended at this time.

NOW, THEREFORE, BE IT RESOLVED that Policy 0716 – Small Wireless Facility Design Guidelines adopted on April 15, 2019 is suspended and the Carroll City Council reserves the right to reimplement some or all of the design and aesthetic requirements in the future after due notice and action by the Carroll City Council.

PASSED AND APPROVED by the Carroll City Council of the City of Carroll, Iowa this 10th day of August, 2020.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

BY:_____
Eric P. Jensen, Mayor

ATTEST:

By:_____
Laura A. Schaefer, City Clerk

CITY OF CARROLL

POLICIES AND PROCEDURES MANUAL

Subject	**Policy No.**
Small Wireless Facility Antenna/Tower Right-of-Way Siting	0715
Responsible Division(s), Office(s)	**Related Policies & Procedures**
Public Works Department Building Department	Policy 0716 – Small Wireless Facility Design Guidelines
Effective/Revision Date	**Approvals(s)**
April 15, 2019 Revised August 10, 2020	Michel J. Pogge-Weaver

This policy has been established to define the general requirements for the installation of small wireless facilities within the rights-of-way in the City of Carroll. See attached for the full policy.

CITY OF CARROLL

DEPARTMENT OF PUBLIC WORKS

Small Wireless Facilities

POLICY TITLE: Small Wireless Facility Antenna/Tower Right-of-Way Siting

POLICY NO.: 0715

PURPOSE:

1. This policy has been established to define the general requirements for the installation of small wireless facilities within the rights-of-way in the City of Carroll. The policy creates requirements for the siting and design of wireless communication structures, facilities, and related utilities. As such the provisions of this policy are intended to regulate and guide the installation of small wireless facility antennas and related accessory structures on infrastructure and to regulate and guide the installation of new communication towers when needed. It is the desire of the City to encourage the development of an aesthetically pleasing local environment. It is also the intent of the City to guide, direct, and regulate the expansion of wireless technology, as it provides a valuable service to City residents and businesses. It is not the City's goal to unreasonably discriminate among providers of functionally equivalent services nor to have the effect of prohibiting, either directly or indirectly, the provisions of small wireless services. It is the City's goal to encourage wireless providers to construct new facilities disguised through techniques of camouflage design, as defined in this Policy. It is the intent of this Policy to achieve the following objectives:
    1) To minimize the adverse visual effects of communication structures through careful design, siting, locating and screening.
    2) To locate and engineer communications support structures in a manner which minimizes potential damage to adjacent properties from structural failure.
    3) To allow for the reasonable location and efficient use of communication structures through the co-location of carriers.
    4) To allow for the equitable allocation of space within public rights-of-way.
2. This policy has been adopted by Carroll pursuant to recent changes in federal law, FCC orders, and state law with regard to a city's role as regulator of their rights-of-way.
3. This chapter is not intended to, nor shall it be interpreted or applied to:

(1) prohibit or effectively prohibit any wireless telecommunications service provider's ability to provide wireless services;

(2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service;

(3) unreasonably discriminate among providers of functionally equivalent services;

(4) deny any request for authorization to place, construct or modify wireless telecommunications service facilities on the basis of environmental effects of radio frequency emissions so long as such wireless facilities comply with the FCC's regulations concerning such emissions;

(5) prohibit any collocation or modification that the City may not deny under federal or state law; or

(6) otherwise authorize the City to preempt any applicable federal or state law.

4. Based on the foregoing, City of Carroll finds and determines that the preservation of public health, safety and welfare requires that this Policy be enacted and be effective immediately upon adoption.

POLICY:

A. Application for Permit:

In order to perform work in the City's ROW, any desiring entity must submit an Application for a ROW Permit. This would include but is not limited to the installation of a Small Wireless Facility, which is in, over or under Carroll City Rights-of-way. Upon issuance of a ROW Permit by the City, the Applicant agrees to abide by the terms and conditions of the ROW Permit.

B. Permit Fee:

Before any Small Wireless Facility ROW Permit is issued, the Applicant may be required to pay a ROW Permit fee in accordance with a fee schedule established from time to time and approved by the Engineering Department. The City reserves the right to do a rate study at a future date to establish the ROW Permit Fee for a Small Wireless Facility ROW Permit. Furthermore, the City, as a regulator, reserves the right to apply annual rate fee increases.

(a) A ROW Permit Application fee of $500, covering all fees associated with an application that includes up to five Small Wireless Facilities, with an additional $50, for each Small Wireless Facility beyond five.

C. Definitions:

Act means the Iowa Cell Siting Act, Chapter 8C, of the Iowa Code, as amended.

Antenna means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicant means any person engaged in the business of providing wireless services or the wireless telecommunications infrastructure required for wireless telecommunications services and who submits an application.

Application means a request submitted by an applicant to an authority to construct a new tower, for the initial placement of transmission equipment on a wireless support structure, for the modification of an existing tower or existing base station that constitutes substantial change to an existing tower or existing base station, or any other request to construct or place transmission equipment that does not meet the definition of an eligible facilities request.

Authority, used as a noun, means a state, county, or city governing body, board, agency, office or commission authorized by law to make legislative, quasi-judicial, or administrative decision relative to an application. *"Authority"* does not include any of the following"

a. State courts having jurisdiction over land us, planning, or zoning decisions made by an authority.

b. The utilities division of the department of commerce.

c. Any entities, including municipally owned utilities established under or governed by Title IX, subtitle 4, of the Code, that do not have zoning or permitting jurisdiction.

Base Station means a structure or equipment at a fixed location that enables wireless communications licensed by the federal communications commission or authorized wireless communications between user equipment and a communications network.

"Base station" does not mean a tower or equipment associated with a tower

"Base station" includes but is not limited to equipment associated with wireless communications services such as private, broadcast, and public safety services and unlicensed wireless services and fixed wireless services such as microwave backhaul.

"Base station" includes but is not limited to radio transceivers, antennas, coaxial or fiberoptic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Base station" includes a structure other than a tower that, at the time the relevant application is filed with the state or local government, supports or houses equipment described in this subsection that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

"Base station" does not include any structure that at the time the relevant application is filed with the state or local government does not support or house equipment described in this subsection.

Camouflage Design means structures and associated equipment taking on the appearance of a piece of art, a natural feature, an architectural structural component or other similar element and which aesthetically blends with the surrounding building environment. Examples of camouflage design include, but are not limited to: architecturally screened roof-mounted antennas; antennas integrated into architectural elements; antennas designed to look other than an antenna; antennas integrated into existing buildings, sports field lights, highway signs, water towers, etc.; and towers designed to blend into the surrounding environment or to look other than a tower, such as flag poles, trees, clock towers, monuments, and church steeples. All such designs are subject to the review and approval of the Engineering Department.

City-Owned Infrastructure means City of Carroll's structures in public rights-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. The use of traffic signal poles and/or mast arms as well as City buildings by any utility is strictly forbidden, without prior written permission from the City Engineer or his/her designee, as to review with applicable criteria from the Act.

Collocation means the mounting or installation of additional transmission equipment on a support structure already in use for the purpose of transmitting or receiving radio frequency signals for communications purposes.

Collocated Small Wireless Facility Installation means a single telecommunication tower, pole, mast, cable, wire or other structure supporting multiple antennas, dishes, transmitters, repeaters, or similar devices owned or used by more than one public or private entity.

A. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying the residential parcel on which the radio or television antenna is located; with an antenna height no higher than the height of the poles and antennas in the surrounding area;

B. A ground or building mounted citizens band radio antenna, including any mast, if the height (post and antenna) does not exceed the height of the poles and antenna in the surrounding area;

C. A ground or building mounted receive-only radio or television satellite dish antenna, which does not exceed thirty-six inches in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridgeline of the primary structure on said parcel.

D. Mobile services providing public information coverage of news events of a temporary nature.

E. Hand-held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar personal-use devices.

F. Government-owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights no higher than the height of the poles and antennas in the surrounding area.

G. Telecommunication facilities, including multiple antennas, in compliance with the applicable sections of this chapter, located on an industrial parcel and utilized for the sole use and purpose of a research and development tenant of said parcel, where it is found by the planning director to be aesthetically compatible with the existing and surrounding structures

Communications Facility means collectively, the equipment at a fixed location or locations within the Public ROW that enables Communications Services, including:

(i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and

(ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.

Communication Structure means any communications tower, antenna, and related accessory structure used in the transmission or reception of microwave energy, analog data transfer techniques, radio frequency energy, and other digital data transfer techniques.

Communications Structure Site means a tract or parcel of land that contains the wireless communication structure, accessory building(s), on-site parking, and may include other uses associated with and necessary for wireless communication and transmission.

Corridor of Commerce Zone is defined as the following areas that are along or within the described areas or within 150 feet of described areas:

- Highway 30 starting 250 feet west of the center of the intersection of Highway 30 and Highway 71 east along the center of Highway 30 to 250 feet east of the center of the intersection of Highway 30 and Grant Road.
- The area within the following described area: Starting at the center of the intersection of N West Street and W 7th Street, then east along the centerline of W 7th Street to the center of the intersection of W 7th Street and N Clark Street, then south along the centerline of N Clark Street to the center of the intersection of N Clark Street and the Union Pacific Railroad right-of-way, then west along the centerline of the Union Pacific Railroad right-of-way to the center of the intersection of the Union Pacific Railroad right-of-way and the extension of N West Street, then north along the centerline of N West Street centerline back to the original center of the intersection of N West Street and W 7th Street.

Facilities means any and all equipment, structures, materials or tangible components located in the rights-of-way and used to provide a service, including without limitation: all plants, whether inside or outside, fiber strands or optic lines, electronic equipment, amplification equipment, optic equipment, transmission and distribution structures, antennas of any type, lines, termination equipment, pipes, poles, ducts, mains, conduits, inner ducts, regenerators, repeaters, underground lines, vaults, manholes, pull boxes, splice closures, wires and cables, and all other like equipment, fixtures and appurtenances used in connection with transmitting, receiving, distributing, offering, and/or providing such service. Facilities shall include, as the context dictates, wireless telecommunication facilities, as defined herein.

Height means maximum height of the small wireless facility, excluding antenna, above established grade measured at the base of the structure.

Landscape Screening means a boundary or barrier of plant material formed by a row or series of shrubs, bushes, or trees that are planted with the intent of forming a relatively dense hedge or screen to provide an area with privacy, enclosure, division, delineation, protection, or for aesthetics; or that prevent passage from between any combination of individual shrubs, bushes, or trees.

Lattice Tower means an antenna support tower that is self-supporting with multiple legs and cross-bracing of structural steel

License Area means locations in city zones where Small Wireless Facilities are permitted to be installed and operated pursuant to the requirements of this policy.

Micro Wireless Facility means a Small Wireless Facility with dimensions no larger than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that has an exterior antenna, if any, that is no more than eleven inches in length.

Modification means any collocation, removal, or replacement of an antenna or any other transmission equipment associated with the supporting structure.

Monopole means a structure composed of a single spire, pole or tower designed and used to support antennas or related equipment and that is not a utility pole, a wireless support structure, or a City-owned infrastructure.

Provider means any person including a franchisee who is providing or is in the process of seeking permission to provide a service to citizens of the City through the placement of facilities or structures either owned or leased in and thereby occupying the Rights-of-way, as defined herein.

Replacement means exchanging of transmission equipment; not to include the structure on which the equipment is located.

Rights-of-way or ROW means the surface and space above and below any real property in which the City has a real property interest and/or which have been dedicated to the public or is hereafter dedicated to the public and maintained under public City or by others at the direction of the public City and located within the City including, but not limited to, public: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, public ways and similar public property and areas.

Small Wireless Facility means a wireless facility that meets the following requirements:

1. Each antenna is no more than six cubic feet in volume
2. (a)All other equipment associated with the small wireless facility is cumulatively no more than twenty-eight cubic feet in volume

   (b) For purposes of this subparagraph, volume shall be measured by the external displacement of the primary equipment enclosure, not the internal volume of such enclosure. An associated electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, cutoff switch, cable, conduit, and any equipment that is concealed from public view within or behind an existing structure or concealment may be located outside of the primary equipment enclosure and shall not be included in the calculation of the equipment volume.

Small Wireless Facility Installation means all equipment required for the operation and maintenance of so-called "small cell" wireless communications systems that transmit and/or receive signals but are not "Major Telecommunications Facilities," including antennas, microwave dishes, power supplies, transformers, electronics, and other types of equipment required for the transmission or receipt of such signals.

Structure means anything constructed or erected with a fixed location below, on, or above grade, including, without limitation, service cabinets, junction boxes, foundations, fences, retaining walls, awnings, balconies, poles, buildings and canopies.

Structure Height means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the cell site shall be used in calculating the height.

Telecommunications Pedestal or Pedestal means a ground-level housing for a passive connection point for underground cables. Technicians require access to connection points. Pedestals are used for CATV (known as a cable box in such a situation), telephone, PONS, and other telecommunications systems. A pedestal is generally a sheet metal or plastic housing that encloses a passive termination block. The pedestal is usually about 3 feet high and has a diameter of less than one foot, with a circular, rectangular, oval, or "rounded rectangle" cross-section. The pedestal either has an access panel or removable housing.

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

Utility Pole means a pole or similar structure owned or utilized in whole or in part by a public utility, municipality, wireless service provider, or electric utility that is designed specifically for and used to carry lines, cable, transmission equipment, or wires for

telephone, wireless service, cable television, or electricity service, or for lighting, the vertical portion of support structures for traffic control signals or devices, signage, information kiosks, or other similar functions.

Variance or Variation means a grant of relief by the City Engineer or his/her designee.

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

Wireless facility(ies) means equipment at a fixed location that enables the transmission of wireless communications or information of any kind between user equipment and a communications network, except that "wireless facility" does not include coaxial or fiberoptic cable that is not immediately adjacent to, or directly associated with, a particular antenna.

D. Standards and Regulations:

Small Wireless Facilities will be permitted to be placed in ROW within the jurisdiction of the City as attachments to existing utility poles, alternative antenna structures, or City-owned infrastructure subject to the following regulations.

A. **Aesthetics.** Except within the Corridor of Commerce Zone, a Small Wireless Facility shall reasonably match the aesthetics of an existing utility pole or wireless support structure that incorporates decorative elements.
    a. **Cabling and Wiring Concealed** Whenever technically feasible, cabling and other wiring shall be concealed within a Pole, or otherwise camouflaged to appear to be an integrated part of a Pole.

B. **Aesthetics within the Corridor of Commerce Zone.** Within the Corridor of Commerce Zone, metal poles shall be used with the pole, equipment, wires, and all other attachments all black in color; provided, however, in the event that it is not technically feasible for a particular piece of equipment to be black, it shall be a color that is as dark as possible. Antennas and equipment are encouraged to be below around and/or internal to the pole. Required regulatory signage shall be except from the all black in color requirement.
    a. **Cabling and Wiring Concealed** Whenever technically feasible, cabling and other wiring shall be concealed within a Pole, or otherwise camouflaged to appear to be an integrated part of a Pole.
    b. **Exceptions.** Small wireless facility installed entirely in an alley and that are set back a minimum of 100 feet from the center line of all adjacent roadways are permitted to follow the Aesthetic standards as if it was not in the Corridor of Commerce Zone.

C. **Number Limitation and Co-Location.** The **City Engineer** or his/her designee may regulate the number of **Small Wireless Facilities** allowed on each utility pole or

unit of City-owned infrastructure. This Policy does not preclude or prohibit co-location of **Small Wireless Facilities** on towers or monopoles that meet the requirements as set forth elsewhere in this section or as required by federal law.

D. **Separation and Clearance Requirements for Existing Decorative Poles. Small Wireless Facilities** may be attached to a utility pole, alternative antenna structure, monopole, or City-owned infrastructure including decorative only where such pole, structure or infrastructure is located evenly behind the curb. This supports The FCC Order that creates a One-Touch-Make-Ready ("OTMR") regiment for pole attachments.

E. **Separation and Clearance Requirement New Small Wireless Facilities**. For new **Small Wireless Facilities** it is encouraged that they be placed no closer than a distance equal to one hundred (100) per cent of the height of such facility to any residential building and no closer than Three Hundred (300) feet from any other Small Wireless Facility for each carrier. A new small wireless facility shall be installed on the nearest lot line and not in front of the building or structure on the lot. A new small wireless facility maybe permitted in a location that is not at a lot line and in front of a building or structure by the City Engineer or his/her designee as an administrative variance to this Policy when the Applicant establishes that the lesser separation or clearance is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed antenna or facility is the least intrusive means to do so within the ROW.

F. **City-Owned Infrastructure**. The City's preference is that Small Wireless Facilities be installed on non-City-owned infrastructure whenever possible. If the facility is attached to City-owned infrastructure then the Small Wireless Facilities can only be mounted to City-owned infrastructure including, but not limited to, streetlights or towers, if authorized by a ROW Permit or other agreement between the owner and the City.

G. **Construction Requirements**. All Small Wireless Facility installations shall comply with the following:

1. All needed traffic control shall comply with the most recent version of the Manual on Uniform Traffic Control Devices.
2. Any needed lane closures on arterial roadways shall not start before 9:00 A.M. and end no later than 3:00 P.M. Lane closures must be approved by the City with appropriate lane closure details.
3. Small Wireless Facilities shall be installed on non-decorative facilities/poles wherever possible.
4. Providers are encouraged to use pole designs that are similar to other poles installed for Small Wireless Facilities within a Three Hundred (300) foot radius of the proposed pole.

5. Installations shall foster an aesthetically pleasing environment, prevent visual blight, protect and preserve public safety and general welfare, and maintain the character of residential and nonresidential areas consistent with the adopted plans and compliance of applicable State and Federal legislation.
6. All disturbed or damaged ROW shall comply with the ROW Management Ordinance section called Right-of-Way Restoration.
7. Whenever possible, and to the discretion of the City Engineer or his/her designee, the City requires the use of flush to the ground mounted equipment to reduce operational hindrances; including but not limited to snow removal, grass/weed trimming, and pedestrian transportation hazards.
8. It will be the responsibility of the Permittee to work with property owners to identify location of any existing lawn irrigation system within the public right of way. Any damage to these systems is the responsibility of the Permittee to repair.
9. Installations shall maintain a minimum distance of 15 feet from existing trees in the ROW.
10. Only equipment necessary for the installation of Small Wireless Facilities can sit on the right of way. Large trucks must stay on a hard surface at all times. No equipment can be left on the right of way overnight.
11. Work **cannot** take place during City snow/ice operations.

H. **Height Limitations.** Except within the Corridor of Commerce Zone, a new, replacement, or modified utility pole or wireless support structure installed in a public right-of-way for the purpose of siting a wireless facility shall not exceed the greater of: ten feet in height of the tallest utility pole existing on or before July 1, 2017, located within five hundred feet of the new, replacement, or modified utility pole in the same public right of way; or forty feet in height above ground level, unless the Engineering Department finds, based on clear and convincing evidence provided by the applicant, that the proposed height is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed new, replacement, or modified utility pole or wireless support structure is the least intrusive means to do so.

I. **Height Limitations within the Corridor of Commerce Zone.** It is the City's strong preference that utility poles and wireless support structures in the City's Corridor of Commerce Zone should not exceed 25 feet in height, and applicants are encouraged to limit the height of new, replacement, or modified utility poles and wireless support structures in the Corridor of Commerce Zone to 25 feet to the extent technically feasible. Poles located in areas listed in the below exceptions are outside of this City preference. Following the requirements of the Act, a new, replacement, or modified utility pole or wireless support structure installed in a

public right-of-way for the purpose of siting a wireless facility shall not exceed the greater of: ten feet in height of the tallest utility pole existing on or before July 1, 2017, located within five hundred feet of the new, replacement, or modified utility pole in the same public right of way; or forty feet in height above ground level, unless the Engineering Department finds, based on clear and convincing evidence provided by the applicant, that the proposed height is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed new, replacement, or modified utility pole or wireless support structure is the least intrusive means to do so.

a. **Exceptions.** Small wireless facility installed entirely in an alley and that are set back a minimum of 100 feet from the center line of all adjacent roadways are permitted to follow the Height Limitations as if it was not in the Corridor of Commerce Zone.

J. **Attachment Limitations.** No small wireless telecommunication antenna or facility within the Rights-of-way will be attached to a utility pole, alternative antenna structure, tower, or City-owned infrastructure unless all of the following conditions are satisfied:

a. **Surface Area of Antenna**: The small wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, cannot be more than six (6) cubic feet in volume.

b. **Size of Above-Ground Small Wireless Facility**: The total combined volume of all other equipment associated with the Small Wireless Facility, exclusive of antennas and other equipment excluded from the calculation of equipment volume pursuant to Section 8.C.2.12(b) of the Act, cannot exceed twenty-eight (28) cubic feet in volume.

c. **Small Wireless Facility Equipment**: The operator of a Small Wireless Facility must, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than 12 feet above grade.

d. **Height:** A Small Wireless Facility, excluding antennas, shall not exceed the height of the pole it is being attached to.

e. **Color:** Except in the Corridor of Commerce Zone, a Small Wireless Facility, including all related equipment and appurtenances, must be a color that blends with the surroundings of the pole, structure tower or infrastructure on which it is mounted and use non-reflective materials which blend with the materials and colors of the surrounding area and structures. Any wiring must be covered with an appropriate cover.

f. **Color** within the Corridor of Commerce Zone: All poles, equipment, wires, and all other attachments shall be all black in color; provided, however, in the event that it is not technically feasible for a particular piece of equipment to be black, it shall be a color that is as dark as possible.

i. **Exceptions.** Small wireless facility installed entirely in an alley and that are set back a minimum of 100 feet from the center line of all adjacent roadways are permitted to follow the color standards as if it was not in the Corridor of Commerce Zone.

g. **Texture:** Small wireless facility poles shall match the texture of existing poles in the area unless other textures are approved in advance by the City.

h. **Wiring and Cabling:** Wires and cables connecting the antenna to the remainder of the facility must be installed in accordance with the electrical code currently in effect. No wiring and cabling serving the facility will be allowed to interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.

i. **Grounding:** The Small Wireless Facility must be grounded in accordance with the requirements of the electrical code currently in effect in the City.

j. **Guy Wires:** No guy or other support wires will be used in connection with a Small Wireless Facility unless the facility is to be attached to an existing utility pole, alternative antenna support structure, tower or City-owned infrastructure that incorporated guy wires prior to the date that an applicant has applied for a permit.

k. **Pole Extensions:** No pole extensions to utility poles, alternative support structures, towers and City-owned infrastructure are allowed.

l. **Structural Integrity:** The Small Wireless Facility, including the antenna, and all related equipment must be designed to withstand a wind force and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code (2017 Edition) for utility poles, Rule 250-B and 250-C standards governing wind, ice, and loading forces on utility poles, and the 2019 American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel wireless support structures and the applicable industry standard for other existing structures. For any facility attached to City-owned infrastructure or, in the discretion of the City, for a utility pole, tower, or alternative antenna structure, the operator of the facility must provide the City with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation must be prepared by a professional structural engineer licensed in the State of Iowa.

m. **Signage.** Other than signs required by federal law or regulations or identification and location markings, installation of signs, posts, markers or the like on a Small Wireless Facility is prohibited without written permission of the City Engineer or his/her designee.

n. **Screening.** If screening is required, it must be natural landscaping material or a fence subject to the approval of the City and must comply with all regulations of the City. Appropriate landscaping must be located and maintained and must provide the maximum achievable screening, as determined by the City, from view of adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than six (6) feet in height. Landscape screening when permitted in the rights-of-way must be provided with a clearance of three (3) feet in all directions from the facility. The color of housing for ground-mounted equipment must blend with the surroundings. For a covered structure, the maximum reasonably achievable screening must be provided between such facility and the view from adjoining properties and public or private streets.

K. **Permission to Use Utility Pole or Alterative Antenna Structure.** The operator of a Small Wireless Facility must submit to the City written copies of the approval from the owner of a utility pole, monopole, or an alternative antenna structure, to mount the Small Wireless Facility on that specific pole, tower, or structure, prior to issuance of the City permit.

L. **Licenses and Permits.** The operator of a Small Wireless Facility must verify to the City that it has received all concurrent licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility have been obtained and will be maintained within the corporate limits of the City.

a. The City reserves the right to deny any future projects with the Licensee if the General Terms and Conditions or Special Provisions of this License have not been stratified.

M. **Abandonment and Removal.** Any Small Wireless Facility located within the corporate limits of the City that is not operated for a continuous period of twelve (12) months, shall be considered abandoned and the owner of the facility must remove same within ninety (90) days of receipt of written notice from the City notifying the owner of such abandonment. At this time of notification is when the owner of the facility would confirm or deny said abandonment and provide justification to maintain the facility as is. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the City to such owner at the last known address of such owner. In the case of Small Wireless Facilities attached to City owned infrastructure, if such facility is not removed within ninety (90) days of such notice, the City may remove or cause the removal of such facility through the terms of the applicable license agreement or through whatever actions are provided by law for removal and cost recovery.

N. **Noise and Emission Standards.**

a. **Noise**. The incorporation of ambient noise suppression measures is required. The maximum allowable noise emitted by the Small Wireless

Facility shall not exceed 30 dB measured at a distance of 3 feet from any portion of the facility.

The only exception is during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily.

b. **Emissions.** The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

O. **New Technologies** Should, within the term of any permit, developments within the field for which the grant was made to the holder of the permit, present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the permit was originally made, the holder of the permit may petition the City Council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the permit.

P. **Safety Requirements**

a. **Prevention of failures and accidents.** Any Person who owns a Small Wireless Facility and/or Wireless Support Structure sited in the ROW shall at all times employ ordinary and reasonable care and install and maintain in use industry standard technology for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public.

b. **Compliance with applicable regulations.** Small Wireless Facilities, wires, cables, fixtures, and other equipment shall be installed and maintained in substantial compliance with the requirements of the National Electric Code (2017 Edition), all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

c. **Changes in state or federal standards and regulations.** If state or federal standards and regulations are amended and require that existing Small Wireless Facilities be modified, the owners of the Small Wireless Facilities and/or Wireless Support Structures governed by this chapter shall bring any facilities and/or structures into compliance with the revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the regulating agency. Failure to bring Small Wireless Facilities and/or Wireless Support Structures into compliance with any revised standards and regulations shall constitute grounds for removal at the owner's expense.

d. **Indemnification** Any Person who owns or operates Small Wireless Facilities or Wireless Support Structures in the ROW shall indemnify, protect, defend,

and hold the City and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the Operator who owns or operates Small Wireless Facilities and wireless service in the ROW, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in the Rights-of-Way.

e. **Surety bond or equivalent financial tool for cost of removal.** All owners must procure and provide to the City a bond, or must provide proof of an equivalent financial mechanism, to ensure compliance with all provisions of this chapter. The bond must be maintained for as long as the owner has Small Wireless Facilities and/ or Wireless Support Structures located in the ROW. The bond or equivalent financial method must specifically cover the cost of removal of unused or Abandoned Small Wireless Facilities and/ or Wireless Support Structures or damage to City property caused by an Operator or its agent of each Small Wireless Facility and/ or Wireless Support Structure in case the City has to remove or pay for its removal. Two acceptable alternatives to a bond include a funds set-aside and a letter of credit.

Q. **Severability** The various parts, sentences, paragraphs, Sections and clauses of this Chapter are hereby declared to be severable. If any part, sentence, paragraph, Section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

R. **Signage** is prohibited on all Small Wireless Facilities and wireless support structures, including stickers, logos, and other non-essential graphics and information unless required by the FCC, except for a small placard identifying the service provider and contact information, which shall be placed at 6-feet above grade, facing away from the public Rights-of-way.

S. **Conflict of Laws**

Where the conditions imposed by any provisions of this Chapter regarding the siting and installation of Small Wireless Facilities are more restrictive than comparable conditions imposed elsewhere in any other local law, policy, resolution, rule or regulation, the regulations of this Policy will govern.

T. **Waivers**

In the event that any applicant asserts that strict compliance with any provision in this Policy, as applied to a specific siting of a proposed small wireless facility, would effectively prohibit or materially inhibit the provision of wireless services, or be

technically infeasible, the City Engineer or his/her designee may grant limited waivers from strict compliance.

U. Appeals

An Authority denying an Application shall document the basis for the denial, including the specific code provisions or standards on which the denial is based, and provide the Applicant with such documentation on or before the date the Application is denied. The Applicant whose Application is denied shall have an opportunity to cure any deficiencies identified by the Authority as the basis for the denial and to submit a revised Application within thirty calendar days following the date of denial without paying an additional fee. The Authority shall not identify any deficiencies in a second or subsequent denial that were not identified in the original denial. If after the second denial of an Application or other action was taken, the following is the process.

1. If an Applicant through an action by the City Engineer or his/her designee:
   A. has been denied Registration;
   B. has been denied a Right-of-Way Permit;
   C. has had its Right-of-Way Permit revoked; or
   D. believes that the fees imposed on the user by the City do not conform to the requirements of law;

   The Applicant may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.
2. Upon affirmation by the City Council of the denial, revocation, or fee imposition, the telecommunications Right-of-Way user shall have the right to have the matter resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the City and the Person. If the parties cannot agree on an arbitrator, the matter must be resolved by a three-person arbitration panel made up of one arbitrator selected by the City, one arbitrator selected by the Person, and one arbitrator selected by the other two arbitrators. The costs and fees of a single arbitrator shall be borne equally by the City and the Person. In the event there is a third arbitrator, each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third arbitrator and of the arbitration.
3. Each party to the arbitration shall pay its own costs, disbursements, and attorney fees.