



**COMMITTEE OF THE WHOLE MEETING**  
**MONDAY, JUNE 18, 2018**  
(Immediately following the Village Board Meeting)

**AGENDA**

**CALL TO ORDER**

**ROLL CALL**

**AUDIENCE COMMENTS**

**TRUSTEE COMMENTS**

**DISCUSSION**

1. Welcome Signs
2. Small Wireless Facilities

**EXECUTIVE SESSION**

1. Collective Bargaining

**ADJOURN**

Initials \_\_\_\_\_

A handwritten signature in blue ink, appearing to be "SJB", written over a horizontal line.

# Memorandum



**To:** Steve Bosco, Village Administrator  
**From:** David Hansen, Administrative Intern  
**Date:** 6-14-18  
**Re:** Welcome Sign Lettering and Logo Color

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When the entryway welcome signs were initially installed, the lettering was a combination of blue and brown. After installation, there were concerns that the lettering was not visible enough. To increase visibility the phrases "Village of" and "Crossroads on the Fox" and the word "Aurora" were changed to white to make the wording on the signs more visible. At the Village Board meeting on December 18, 2017, staff gave an update to the Village Board regarding the visibility of the lettering on the sign as some Village Board members had voiced concerns that the word "Aurora" was now the most visible word on the sign and that it did not emphasize North Aurora effectively. At the meeting, staff showed what the sign would look like with all white lettering.

During the discussion, the Village Board thought that the white lettering was visible, but the current blue lettering was more in line with the Village's branding colors. Some Village Board members thought all white lettering would be the best solution while others thought keeping the current sign lettering, "North" in blue and "Aurora" in white. The discussion concluded with the Village Board asking staff to supply a few different options that they could choose from. Staff met internally as well as with the paint company and have provided five options for the Village Board to choose from. Staff is looking for Village Board feedback to help determine what color the entryway welcome signs lettering and logo should be painted.

Attached is an example of the current entryway sign. Also attached are five lettering color options for the entryway welcome signs.

## Current Signs

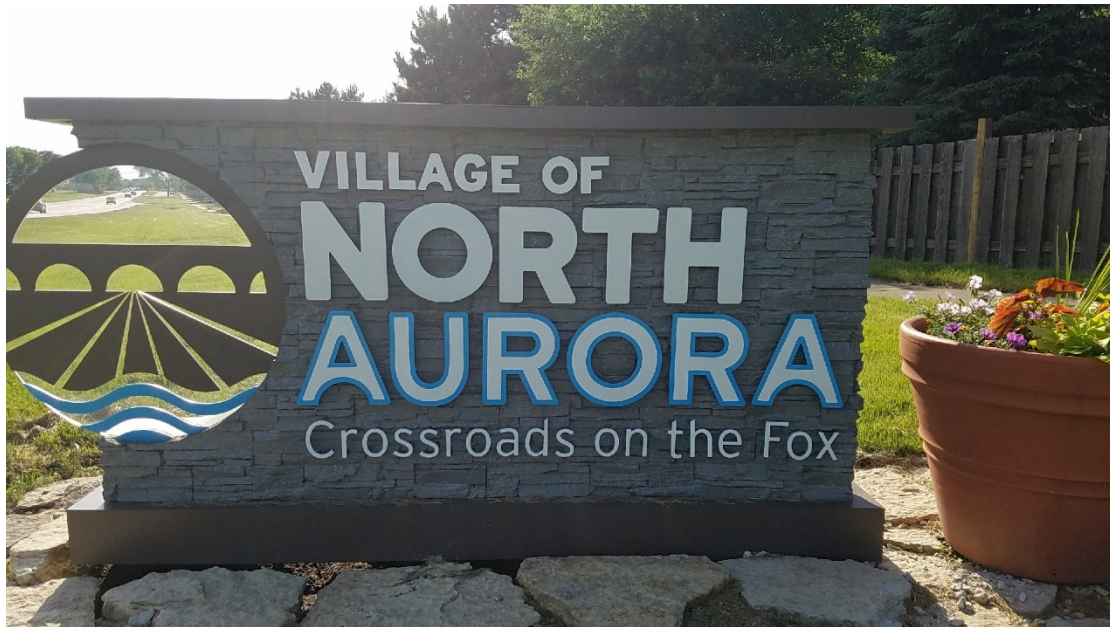


## Option 1 - "North Aurora" in White Lettering

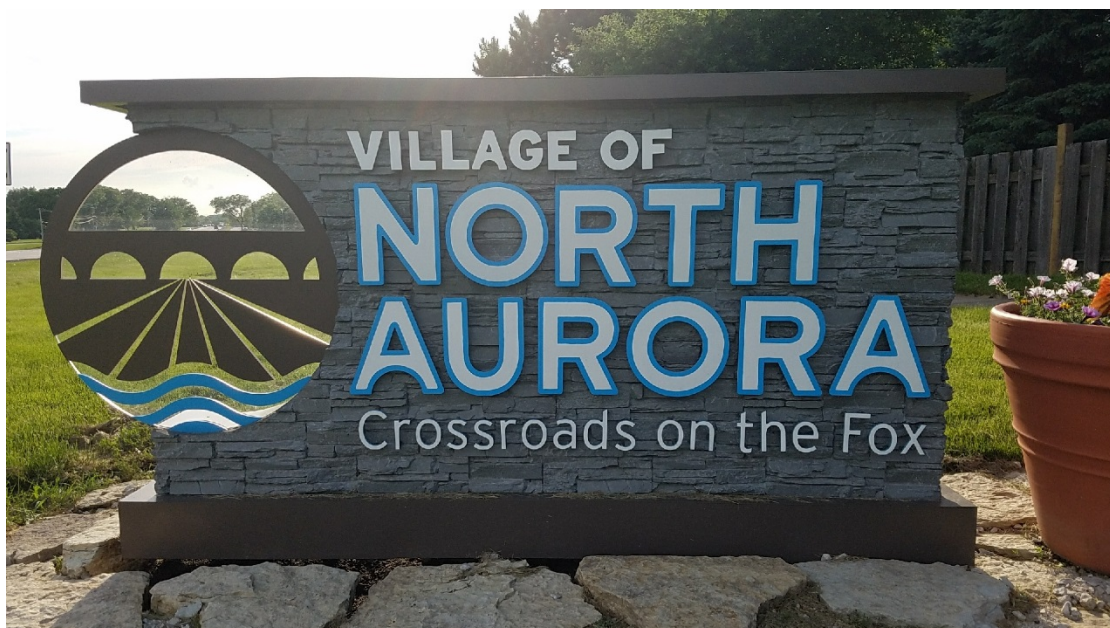




**Option 2** – “North” in white; “Aurora” in white outlined in blue

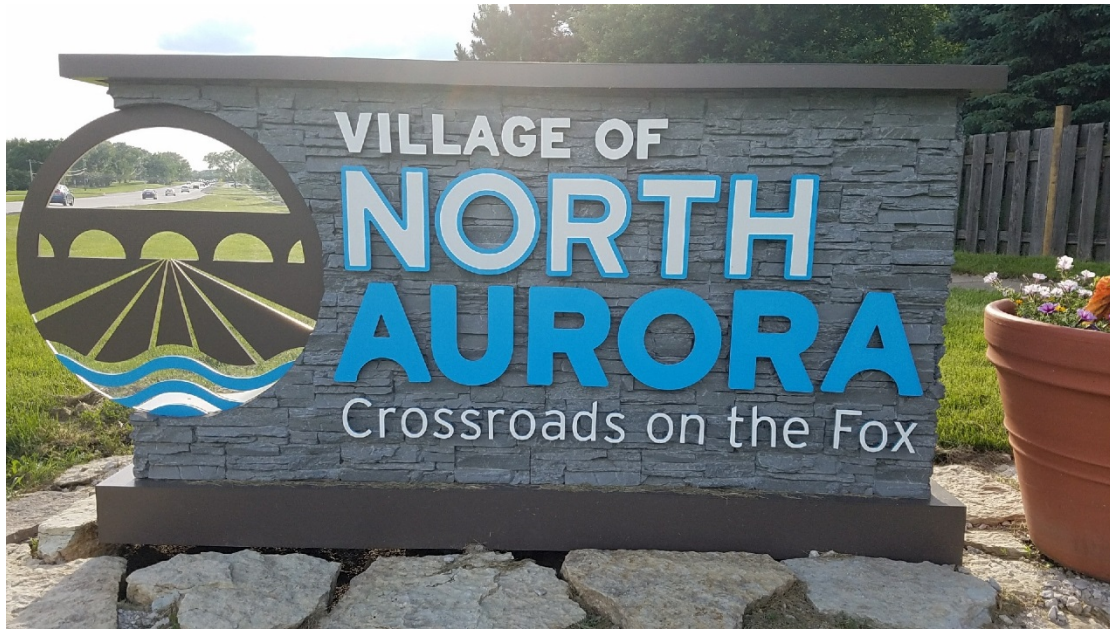


**Option 3** – “North Aurora” in white and outlined in blue





**Option 4** - “North” in white and outlined in blue; “Aurora” in blue



**Option 5** - “North Aurora” in Blue Lettering



# Memorandum



**To:** Steve Bosco, Village Administrator  
**From:** David Hansen, Administrative Intern  
**Date:** 6-14-18  
**Re:** Small Wireless Facilities Deployment Act

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## State Law

The State of Illinois recently passed the Small Wireless Facilities Deployment Act. This act went into effective June 1<sup>st</sup>, 2018 and states that local authorities have two months to create and adopt an ordinance that makes the rates, fees, and terms for collocation of small wireless facilities available to wireless providers. The act provides the regulations and process for permitting and deploying small wireless facilities throughout the State and specifies how local authorities may regulate the attachment of small wireless facilities on municipal utility poles or other structures. Per the act, small wireless facilities are permitted uses in the right-of-way, and on property zoned exclusively for commercial and industrial use.

## Small Wireless Facilities Definition

A small wireless facility is commonly known as a “small cell”. Small cells enable the transmission of data and wireless communication to and from a wireless device such as cell phone, computer, or tablet. A small cell refers to an antenna that could fit inside a closure of no more than 6 cubic feet (1.82 feet). The antenna can be inside or outside of a closure. Any other wireless equipment that is attached directly to a utility pole can be no more than 25 cubic feet (2.92 feet) in volume.

## State and Village Regulations

The State has some regulations that communities must abide to when creating an ordinance such as application requirements (specs overview, location, equipment type, proposed schedule, etc.), notifying the applicant when application is complete (within 30 days), and the length of time for approval or denial (90 days if on existing pole; 120 days if new pole needs to be installed). However, the Village can control certain features as long as it stays within the parameters of the Small Wireless Facilities Deployment Act. Some features that the Village can determine include:

- Application fees, but cannot exceed the application maximums specified by the State (\$650 for application, \$350 for additional small cells in same application, \$1000 if application includes new pole installation)

- Annual rates, but cannot exceed the application maximums specified by the State (\$200 per year per small cell)
- Issue separate permits for each collocation that is approved in a consolidated application
- Propose the small cell to be placed on an existing pole or structure within 100 feet of the applicants proposed location (cannot require it, only can propose)
- Create language that notifies staff when the small cell is inactive and not in use

#### Right of Way (ROW) Implications

Per Act, small wireless facilities can be placed in any Village right-of-way including residential areas. Staff plans to work with the wireless provider and propose small cells to be placed on street lights and other utility poles in the surrounding areas to mitigate new poles being placed and installed in right-of-ways. Staff is currently in the process of reviewing the provisions of the Act and how it applies to the Right-of-Way Ordinance.

#### Zoning Implications

Per the Act, small wireless facilities must be classified as permitted uses and subject to administrative review, but not subject to zoning review or approval if they are on property zoned exclusively for commercial or industrial use. Staff is currently in the process of reviewing the provisions of the Act and how it applies to the Zoning Ordinance. At a minimum, the Zoning Ordinance will have to include small wireless facilities as a permitted use in the Business Districts, Office Districts and Industrial Districts and will address the maximum height requirements of the law. Future text amendments will be first taken to the Plan Commission for public hearing for review then to the Village Board for review and approval.

#### Recommendations

Staff has determined that this Act will impact the right-of-way (ROW) and zoning codes. The Village Board will need to adopt a Small Wireless Facilities ordinance to govern facilities in the ROW and text changes in the Village zoning code. The Illinois Municipal League (IML) created a model ordinance regulating small cells in the ROW. Staff is recommending adoption of the attached ordinance that incorporates the model IML ordinance and includes the following provisions:

- \$650 application fee; \$350 fee for each additional small cells in same application (State allows up to 25 collocations in each application)
- \$1000 application fee if application includes a new pole installation
- Abandonment language that notifies Village staff when the small cell is abandoned as well as requires the vendor to remove the collocation within 90 days otherwise the Village has the permission to remove it
- An annual \$200 recurring rate for each collocated or standalone facility

- Issue separate permits for each collocation that is approved in a consolidated application
- Village has 30 days to notify the applicant if application is complete
- Village has 90 days to approve or deny application that refers to an existing utility pole or small wireless facility and 120 days to approve or deny application with a new utility pole

In addition, staff will be presenting zoning code text amendments to the Village's Plan Commission on July 10<sup>th</sup> that will adopt the State requirements of making small cell facilities a permitted use on private non-residential properties (i.e. commercial, industrial, etc.). The proposed zoning code change will also require a variance for any facility that exceeds the maximum height set by the State law.

Attached is a draft of the Small Wireless Facilities ordinance.



VILLAGE OF NORTH AURORA



VILLAGE OF NORTH AURORA  
KANE COUNTY, ILLINOIS

Ordinance No. \_\_\_\_\_

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**ORDINANCE AMENDING TITLE 12, CHAPTER 12.20**  
**BY ADDING PROVISIONS FOR THE REGULATION OF**  
**SMALL WIRELESS FACILITIES**

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Adopted by the  
Board of Trustees and President  
of the Village of North Aurora  
this \_\_\_\_ day of \_\_\_\_\_, 2018

Published in Pamphlet Form  
by authority of the Board of Trustees of the  
Village of North Aurora, Kane County, Illinois,  
this \_\_\_\_ day of \_\_\_\_\_, 2018  
by \_\_\_\_\_.

Signed \_\_\_\_\_

**VILLAGE OF NORTH AURORA**

**ORDINANCE NO.**

**AN ORDINANCE AMENDING TITLE 12, CHAPTER 12.20**  
**BY ADDING PROVISIONS FOR THE REGULATION OF**  
**SMALL WIRELESS FACILITIES**

**WHEREAS**, the Illinois General Assembly has recently enacted Public Act 100-0585, known as the Small Wireless Facilities Deployment Act (the Act), which becomes effective on June 1, 2018; and

**WHEREAS**, the Village of North Aurora (the Village) is an Illinois municipality in accordance with the Constitution of the State of Illinois of 1970; and

**WHEREAS**, the Village is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small wireless facilities, distributed antenna systems and other personal wireless telecommunication facility installations in the public right-of-way as long as it does not conflict with State and federal law; and

**WHEREAS**, the Act sets forth the requirements for the collocation of small wireless facilities by local authorities.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of North Aurora, Kane County, Illinois, as follows:

1. The recitals set forth above are adopted and incorporated herein as the material and significant findings of the President and the Board of Trustees as if fully stated herein.

2. Title 12, Chapter 12.20 (Construction of Facilities in the Rights-of-Way), Section 12.20.010, Subsection C is hereby amended as follows:

C. Facilities Subject to this Chapter. This chapter applies to all facilities established or to be established on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the village, except for Micro Wireless Facilities and Small Wireless Facilities as defined and regulated pursuant to Chapter 12.25. A facility lawfully established prior to the effective date of this chapter may continue to be maintained, repaired and operated as presently constructed and located, except that, if any existing facility is expanded, extended, replaced or upgraded, such expansion, extension, replacement or upgrade shall be done in compliance with this chapter. Further, if a facility lawfully established prior to the effective date of this chapter is subject to a franchise agreement that establishes regulations pertaining to facilities in the rights-of-way, the franchise agreement shall apply until the franchise agreement expires or the parties agree to terminate the provisions of such franchise agreement pertaining to facilities in the rights-of-way.

3. Title 12 (Streets, Sidewalks and Public Places) is hereby amended by adding Chapter 12.25 as follows:

See the code provisions attached hereto and incorporated herein by reference as Exhibit "A".

**VILLAGE OF NORTH AURORA**

4. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

5. This Ordinance shall take immediate full force and effect from and after its passage, approval, publication and such other acts as required by law.

Presented to the Board of Trustees of the Village of North Aurora, Kane County, Illinois this \_\_\_\_\_ day of \_\_\_\_\_, 2018, A.D.

Passed by the Board of Trustees of the Village of North Aurora, Kane County, Illinois this \_\_\_\_\_ day of \_\_\_\_\_, 2018, A.D.

Mark Carroll \_\_\_\_\_

Laura Curtis \_\_\_\_\_

Mark Gaffino \_\_\_\_\_

Mark Guethle \_\_\_\_\_

Michael Lowery \_\_\_\_\_

Tao Martinez \_\_\_\_\_

Approved and signed by me as President of the Board of Trustees of the Village of North Aurora, Kane County, Illinois this \_\_\_\_\_ day of \_\_\_\_\_, 2018, A.D.

\_\_\_\_\_  
Dale Berman, Village President

ATTEST:

\_\_\_\_\_  
Lori Murray, Village Clerk

**CHAPTER 12.25 – CONSTRUCTION OF SMALL AND MICRO WIRELESS FACILITIES**

**12.25.010 - Purpose and Scope.**

- A. Purpose.** The purpose of this Ordinance is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Village's jurisdiction, or outside the rights-of-way on property zoned by the Village exclusively for commercial or industrial use, in a manner that is consistent with the Act.
- B. Conflicts with Other Ordinances.** This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.
- C. Conflicts with State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations.

**12.25.020 - Definitions.**

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

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

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

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

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

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

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

“Communications service provider” means a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.



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“FCC” means the Federal Communications Commission of the United States.

“Fee” means a one-time charge.

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

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

“Micro wireless facility” means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

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

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

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

“Public safety agency” means the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

“Rate” means a recurring charge.

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

“Small wireless facility” means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The

## VILLAGE OF NORTH AURORA

following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

“Utility pole” means a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

“Wireless facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

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

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

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

“Wireless services provider” means a person who provides wireless services.

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

### 12.25.030 - Regulation of Small Wireless Facilities.

**A. Permitted Use.** Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (9) regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

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

## **VILLAGE OF NORTH AURORA**

1. Application Requirements. A wireless provider shall provide the following information to the Village, together with the Village's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
  - a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
  - b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
  - c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
  - d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
  - e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
  - f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
  - g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.
  - h. In the permit application the applicant will be required to identify poles within a 225 foot radius of the proposed location.
2. Application Process. The Village shall process applications as follows:
  - a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
  - b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the Village fails to approve or deny the application within 90 days after the submission of a completed application.

## **VILLAGE OF NORTH AURORA**

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

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

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

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Ordinance.

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

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

The Village shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the Village denies an application.

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



## VILLAGE OF NORTH AURORA

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

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

- e. Pole Attachment Agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a Master Pole Attachment Agreement, provided by the Village for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.
3. **Completeness of Application.** Within 30 days after receiving an application, the Village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village.

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

4. **Tolling.** The time period for applications may be further tolled by:
  - a. An express written agreement by both the applicant and the Village; or
  - b. A local, State or federal disaster declaration or similar emergency that causes the delay.
5. **Consolidated Applications.** An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

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

6. **Duration of Permits.** The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the Village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the

## **VILLAGE OF NORTH AURORA**

applicable Village codes or any provision, condition or requirement contained in this Ordinance.

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

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

### **C. Collocation Requirements and Conditions.**

1. Public Safety Space Reservation. The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably determines that the municipal utility pole cannot accommodate both uses.
2. Installation and Maintenance. The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Ordinance. The wireless provider shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.
3. No interference with public safety communication frequencies. The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

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

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4. The wireless provider shall not collocate small wireless facilities on Village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

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

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

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

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

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

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

- a. 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the Village, that is located within 300 feet of the new or replacement utility pole or wireless

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support structure and that is in the same right-of-way within the jurisdictional boundary of the Village, provided the Village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

b. 45 feet above ground level.

9. Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a variance in conformance with procedures, terms and conditions set forth in the provisions for variances in the North Aurora Zoning Code (Title 17, Chapter 4, Section 4.1).
10. Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
11. Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
12. Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
13. Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.

### **D. Application Fees.** Application fees are imposed as follows:

1. Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.



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

**E. Exceptions to Applicability.** Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:

1. property owned by a private party or property owned or controlled by the Village or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;
2. property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or
3. property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Ordinance shall be construed to relieve any

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person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

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

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

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

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

- H. Abandonment.** A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the Village notifying the wireless provider of the abandonment.

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

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

### 12.25.040 - Dispute Resolution.

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

### **12.25.050 - Indemnification.**

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

### **12.25.060 - Insurance.**

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

- A. property insurance for its property's replacement cost against all risks;
- B. workers' compensation insurance, as required by law; or
- C. commercial general liability insurance with respect to its activities on the Village improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of Village improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the Village as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Village in a commercial general liability policy prior to the collocation of any wireless facility.

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