

A. What is “small cell?” Low powered cell nodes that add space and capacity to existing systems/networks.

B. METRO Act

- Small cell towers and antenna (2015/2016)
 - ✓ Not telecommunications equipment
 - ✓ Advised needed permission in addition to METRO Act permits
- Hastings, with GVMC partners, developed regulatory system for small cells

C. Current ordinance(s)

- 90-1 defines small cell
 - ✓ No other reference in Zoning Ordinance (ZO)
- 74-101 *et seq.*
 - ✓ Need for license to install small cell in right of way or any public place
 - Process
 - Pole height maximum (35’)
 - Fees as set by resolution of City Council (Tiers \$25 - \$150 monthly)
- 90-1085 ZO; wireless structures
 - ✓ Consistent with ZEA
 - ✓ Co-location permitted to 35’
 - ✓ SLU above that (other than existing)

D. That’s where things stood until earlier this year when provider-drafted legislation, PAs 365 and 366, were adopted and signed into law by Governor

- Went into effect on March 12, 2019
- Not policy issue discussion in support of old system of permitting at this time; frankly, doesn’t matter any longer

E. New Acts

- PA 366 amends ZEA
 - ✓ Expressly exempts small cells from zoning authority unless Act 365 provides the contrary

<p>3.8: With 180 prior written notice, community can require removal and relocation of facilities for public works, etc. purposes</p>	<p>Nothing comparable</p>
<p>4.8: Co-location of antennas permitted but requires local approval and payment of application fee</p>	<p>11(1): Local government may not “prohibit, regulate, or charge for collocation” except per Act</p>
<p>5.2: Duty to indemnify and hold harmless municipality for claims and damages arising out of Licensee’s use of ROW, release of hazardous materials, etc.</p>	<p>29(a): May require indemnification of local government from actions in ROW by provider</p>
<p>5.5: Licensee, as condition of permit issuance, waives and releases claims against City (e.g., inverse condemnation)</p>	<p>Nothing comparable</p>
<p>6.1: Mandates minimum insurance requirements for Licensee as well as identification of municipality and its officers and employees as “additional insureds”</p>	<p>29(b): May require insurance with additional insureds; no coverage amounts established</p>
<p>7.5: Requires posting of performance bond to ensure incidental costs and damages incurred by community (e.g., need to remove poles, etc.)</p>	<p>13(10): May require licensee to repair and return ROW to prior condition</p> <p>33(1) May only require bond if imposed on “similarly situated users” of ROW (Consumers ?) and bond to only cover costs of removal or abandonment; no performance bond held to enforce or reimburse for local government’s other costs (cannot exceed \$1,000 per small cell facility)</p>
<p>7.1: Imposition of single application fee of \$500; most communities allow applications to be “bunched”</p> <p>7.1: Model provides for tiered fees based on designated nature of ROWs. Fees, generally, begin at minimum of \$25 per month (\$300 annually) to \$150 per month (\$1,800 annually)</p> <p>7.1: Fee to be charged individually (unless waived by community) for each antenna installed on a pole</p>	<p>15(3): Limits application fees communities can charge to \$200 for collocation alone and \$300 when coupled with a new pole</p> <p>13(3): Caps the rates for new poles in ROW to \$20/annually for pre-existing poles and \$125/annually for new poles after effective date of Act</p> <p>19(2): No charge for collocation except on government-owned poles (\$30/annually)</p> <p>Significant reduction in revenue for ROW maintenance, etc.</p>
	<p>13(4): If, as of effective date of Act, existing agreement or ordinance in place to set fees, and</p>

<p>9.1: Can be terminated early by community upon finding of adverse impact on public interest; can be terminated by either party upon material breach of terms and opportunity to cure afforded</p>	<p>fee does not comply with 13(3) (above) then:</p> <ul style="list-style-type: none"> • If small cell system already installed and operational, fees, terms and charges remain in effect subject to termination provision of ordinance/agreement • If small cell system installed and operational after effective date of Act, then fees reduced to Act’s levels
<p>Some have already removed ROWs from zoning reviews premised on belief that we would regulate through licensing alone</p> <p>Zoning Ordinance reviews may be needed</p>	<p>13(5): Small cell including poles deemed a “permitted use” in ROW for zoning purposes (40 foot height restriction for new and +5 for collocation); above these heights with zoning approval if ordinance so provides</p> <p>May adopt stealthing requirements for all such users in historic, downtown and residential districts</p> <p>17: Zoning reviews in ROW severely restricted and this section also imposes new limitations in certain circumstances on communities’ zoning authority outside ROWs (imposition of shot clock, etc.) ; sets caps on fees for reviews</p>

Bottom line - Zoning review and regulatory authority over collocations are largely rubber stamps now and new poles must be approved unless we can show affirmative, material harm to the provision of public services or creation of safety risks

F. What to do?

- ATT has “helpfully” drafted an ordinance you can adopt
- GVMC conditions met early this year
- GVMC “packet” – general terms

_____, seconded by _____, moved the adoption of the following resolution:

RESOLUTION NO. _____

A RESOLUTION TO AMEND _____ RESOLUTION NO. ____ TO ESTABLISH RATES, CHARGES, AND FEES ASSOCIATED WITH WIRELESS COMMUNICATIONS EQUIPMENT, SUPPORT STRUCTURES, AND SMALL CELL WIRELESS FACILITIES AND ASSOCIATED STRUCTURES

RECITALS

- A. The State of Michigan recently adopted Public Act 365 of 2018 (“Act 365”) and Public Act 366 of 2018 (“Act 366”). Both acts take effect on March 12, 2019.
- B. Act 365 significantly impinges on the _____’s authority and control over its rights of way and other public places by mandating that the small cell wireless facilities and associated support structures be allowed to use and operate within those public spaces.
- C. Act 365 further limits the maximum amount which the _____ can charge to small cell wireless providers for use of these public resources, which are maintained and operated by the _____.
- D. Act 366 amends the State of Michigan Zoning Enabling Act with respect to wireless communications equipment and supporting structures and also small cell wireless facilities.
- E. This resolution is adopted in order to implement the rates, charges, and fees permitted to be assessed by the _____ to utilize and operate within the _____’s public rights of way and other public spaces by the providers of small cell wireless services and wireless communications services.

NOW, THEREFORE, IT IS RESOLVED THAT:

1. Resolution No. ____ is hereby amended to add the following rates, charges, and fees:

A. The zoning application fee for wireless communications equipment and support structures as defined by Act 366 shall be \$_____ (may not exceed the _____’s actual, reasonable costs to review and process the application or \$1,000.00, whichever is less).

B. The zoning application fee for non-exempt co-locating small cell wireless facilities and support structures as defined by Act 365 shall be:

(1) \$1,000.00 for a new wireless support structure or modification of an existing wireless support structure.

(2) \$500.00 for a new small cell wireless facility or modification of an existing small cell wireless facility.

C. The application fee for a permit to co-locate a small cell wireless facility and/or associated support structure shall not exceed and shall be set as follows:

(1) \$200.00 for each small cell wireless facility alone.

(2) \$300.00 for each small cell wireless facility and a new utility pole or wireless support structure to which it will be attached.

Provided that every 5 years after March 12, 2019, and without further action of the _____, the maximum fees then authorized under this subsection C shall be increased by 10% and rounded to the nearest dollar.

D. The annual permit fee for each utility pole or wireless support structure in the ROW in the _____ on which a wireless provider has approval to co-locate a small cell wireless facility shall not exceed and shall be set as follows:

(1) \$20.00 annually, unless subsection D.(2) applies.

(2) \$125.00 annually, if the utility pole or wireless support structure was erected by or on behalf of the wireless provider on or after March 12, 2019. (This subdivision does not apply to the replacement of a utility pole that was not designed to support small cell wireless facilities.)

Provided that every 5 years after March 12, 2019, and without further action of the _____, the maximum rates then authorized under this subsection D shall be increased by 10% and rounded to the nearest dollar.

2. All words, terms, and phrases used in this Resolution shall be interpreted in a manner consistent with Act 365 and Act 366.

3. All resolutions and parts of resolutions in conflict herewith are, to the extent of such conflict, hereby repealed.

4. This Resolution shall take immediate effect.

RESOLUTION NO. _____ DECLARED ADOPTED.

Dated: _____, 2019

By: _____

By: _____

CERTIFICATION

I, _____, the Clerk of the _____, certify the foregoing is a true and complete copy of a resolution adopted by the _____ at a _____ meeting held on _____, 2019, in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan, 1976, as amended, the minutes of the meeting were kept and will be or have been made available as required by said Act.

Regulatory Ordinance

Sec. _____. Small cell wireless facilities.

(a) *Definition.* For purposes of this section, the following words, terms and phrases shall be defined as follows:

Act shall mean Public Act 365 of 2018, as amended, the Small Wireless Communications Facilities Deployment Act

Co-locate means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Co-location" has a corresponding meaning. Co-locate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

Public right-of-way or *ROW* means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

(i) A private right-of-way.

(ii) A limited access highway.

(iii) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

(iv) Railroad infrastructure.

Small cell wireless facility means a wireless facility that meets both of the following requirements:

(i) Each antenna is located inside an enclosure of not 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 would fit within an imaginary enclosure of not more than 6 cubic feet.

(ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Utility pole means a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

Wireless facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:

(i) The structure or improvements on, under, or within which the equipment is co-located.

(ii) A wireline backhaul facility.

(iii) Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures and who, when filing an application with the _____ under this section, provides written authorization to perform the work on behalf of a wireless services provider.

Wireless provider means a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the MPSC.

Wireless services means any services, provided using permitted or unpermitted spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

Wireless services provider means a person that provides wireless services.

Wireless support structure means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

All other terms and phrases used herein shall be defined consistent with the Act.

(b) *Permit Required.* A wireless provider may not co-locate a small cell wireless facility or install, modify, or replace a utility pole or wireless support structure on which a small cell wireless facility will be co-located within the public right-of-way without first applying for and receiving a small cell wireless permit from the _____ in a form and subject to such terms and conditions as are acceptable to the _____.

(c) *Permitting Process.* The processing of an application for a permit under this section is subject to all of the following:

(1) An application in such form as prepared by the _____ shall be completed and submitted as set forth in this section.

(2) The _____ may require an applicant to provide information and documentation to enable the _____ to make a compliance determination with regard to the criteria in this section involving, without limitation, subsection (d)(3). The _____ may also require a certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility.

(3) If the proposed activity will occur within a shared ROW or an ROW that overlaps another ROW, a wireless provider shall provide, to each affected jurisdiction, to which an application for the activity is not submitted, notification of the wireless provider's intent to locate a small cell wireless facility within the ROW. The _____ may require proof of other necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained.

(4) The _____ may require an applicant to attest that the small cell wireless facilities will be operational for use by a wireless services provider within 1 year after the permit issuance date, unless the _____ and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site.

(5) An applicant may, at the applicant's discretion, file a consolidated application and receive a single permit for the co-location of up to 20 small cell wireless facilities within the _____. The small cell wireless facilities within a consolidated application must consist of substantially similar equipment and be placed on similar types of utility poles or wireless support structures. The _____ may approve a permit for 1 or more small cell wireless facilities included in a consolidated application and deny a permit for the remaining small cell facilities.

(6) The application for a permit under this section shall be accompanied by an application fee as set by resolution of the _____ from time to time.

(7) The permit application shall be accompanied by a map(s) for any proposed small cell wireless facilities which shall be legible, to scale, labeled with streets, and contain sufficient detail to precisely identify the proposed small cell wireless facilities' locations and surroundings. Where applicable, the required map(s) shall include and identify any requested pole height(s), all attachments and detailed drawings of any attachment.

(8) The permittee shall field-stake all proposed locations for small cell wireless facilities which shall be subject to the advance approval of the _____, _____ County Road _____ and/or the Michigan Department of Transportation as applicable. All approved small cell wireless facilities' locations shall be on a per pole/equipment/other basis.

(9) Once precise locations have been approved, the permittee shall provide latitude and longitude coordinates for the small cell wireless facilities' locations to the _____'s engineering department as well as detailed as-built drawings within 90 days of the completion of installation.

(10) The permittee shall be responsible to obtain such other permits and approvals as otherwise required by law.

(d) *Determination.*

(1) Within 25 days after receiving an application, the _____ shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically identify all missing documents or information.

(2) Upon receipt of a complete application, the _____ shall approve or deny the application and notify the applicant in writing within the following period of time after the completed application is received:

(A) For an application for the co-location of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:

(i) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(ii) Add 15 days if, before the otherwise applicable 60-day or 75-day time period elapses, the _____ notifies the applicant in writing that an extension is needed and the reasons for the extension.

(B) For an application for a new or replacement utility pole that meets the height requirements of section 13(5)(a) of the Act and associated small cell facility, 90 days, subject to the following adjustments:

(i) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(ii) Add 15 days if, before the otherwise applicable 90-day or 105-day time period elapses, the _____ notifies the applicant in writing that an extension is needed and the reasons for the extension.

If the _____ fails to comply with this subsection, an application otherwise complete is considered to be approved subject to the condition that the applicant provide the _____ not less than 7 days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval and the applicant shall be responsible to comply with all provisions of this section and the Act.

The _____ and an applicant may extend a time period under this subsection by mutual agreement.

(3) The _____ may deny a completed application for a proposed co-location of a small cell wireless facility or installation, modification, or replacement of a utility pole that meets the height requirements in section 13(5)(a) of the Act if the proposed activity would do any of the following:

(A) Materially interfere with the safe operation of traffic control equipment.

(B) Materially interfere with sight lines or clear zones for transportation or pedestrians.

(C) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

(D) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the _____.

(E) With respect to drainage infrastructure under the jurisdiction of the _____, either of the following:

(i) Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.

(ii) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.

(F) Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by the _____ by ordinance or otherwise that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location. [Add spacing requirement for all ground-mounted equipment and new utility poles of not less than _____ linear feet from ground-mounted equipment and _____ utility poles.; see, e.g.: https://www.denvergov.org/content/dam/denvergov/Portals/705/documents/guidelines/PWES-016.0-Small_Cell_Infrastructure_Design_Guidelines.pdf]

(G) Fail to comply with applicable codes.

(H) Fail to comply with any provision of this section.

(I) Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the _____.

(4) Within 1 year after a permit is granted, a wireless provider shall complete co-location of a small cell wireless facility that is to be operational for use by a wireless services provider, unless the _____ and the applicant agree to extend this period or the delay is caused by the lack of commercial power or communications facilities at the site. If the wireless provider fails to complete the co-location within the applicable time, the permit is void, and the wireless provider may reapply for a permit.

(5) Approval of an application authorizes the wireless provider to do both of the following:

(A) Undertake the installation or co-location.

(B) Subject to relocation requirements that apply to similarly situated users of the ROW and the applicant's right to terminate at any time, maintain the small cell wireless facilities and any associated utility poles or wireless support structures covered by the permit for so long as the site is in use and in compliance with the initial permit under this act.

(6) The _____ may propose an alternate location within the ROW or on property or structures owned or controlled by the _____ within 75 feet of the proposed location to either place the new utility pole or co-locate on an existing structure. The applicant shall use the alternate location if, as determined by the applicant, the applicant has the right to do so on reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs. The _____ may request written confirmation of any decision rendered by the applicant under this subsection and the specific basis for the same.

(7) Nothing herein shall prohibit the _____ from requiring a separate ROW access permit for work that will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

(8) As a condition of the issuance of a permit, the applicant shall obtain and maintain a bond, in the amount of \$1,000.00 per small cell wireless facility, in a form reasonably satisfactory to the _____, for the small cell wireless facilities as applicable to similarly situated users of the ROW for one or more of the following purposes:

(A) To provide for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determines should be removed to protect public health, safety, or welfare.

(B) To repair the ROW as provided under the Act.

(C) To recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received 60-day advance notice from the authority of the noncompliance.

(9) It is a condition of any permit issued under this section that:

(A) A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall defend, indemnify, and hold harmless the _____ and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, its contractors, its subcontractors,

and the officers, employees, or agents of any of these. A wireless provider has no obligation to defend, indemnify, or hold harmless the _____, or the officers, agents, or employees of the _____ or governing body against any liabilities or losses due to or caused by the sole negligence of the _____ or the _____ or its officers, agents, or employees.

(B) A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall obtain insurance, in an amount and of a type reasonably satisfactory to the _____, naming the _____ and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the _____'s insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this subsection. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the _____ evidence demonstrating, to the _____'s satisfaction, the wireless provider's financial ability to meet the _____'s insurance coverage and limit requirements.

It is the policy of the _____ to encourage the co-location of small cell wireless facilities first, outside of public rights-of-way and, secondarily, within the public rights-of-way. The co-location of uses shall be a condition of approval of any permit granted for a new wireless support structure or utility pole in the public right-of-way; provided, however, that the co-location requirement may be waived if the pole or support structure is disguised or stealthed so as to blend with the immediate environment (e.g., streetlights, power poles, etc.).

(e) *METRO Act permit.* No person shall install or operate "telecommunications facilities," as defined in the Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended (the "act") without first obtaining a permit in accordance with that act from the _____, including any part of a small cell wireless facility, utility pole, or wireless support structure constituting telecommunication facilities.

(f) *Design parameters.* The following minimal design parameters shall apply to small cell wireless facilities, utility poles and wireless support structures in the _____'s public rights-of-way:

(1) A wireless provider may, as a permitted use not subject to zoning review or approval, but still subject to approval by the _____ under this section, co-locate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the ROW consistent with the following:

(A) A utility pole in the ROW installed or modified on or after the effective date of the Act shall not exceed 40 feet above ground level, unless a taller height is agreed to by the _____ consistent with all applicable laws.

(B) A small cell wireless facility in the ROW installed or modified after the effective date of the Act shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

(2) Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the ROW or obstruct the legal use of the _____'s ROW or uses of the ROW by other utilities and communications service providers.

(3) A wireless provider may co-locate a small cell wireless facility or install, construct, maintain, modify, operate, or replace a utility pole that exceeds the height limits under subsection (1), or a wireless support structure, in, along, across, upon, and under the ROW only upon issuance of a permit in accordance with this Section and upon receiving zoning approvals required by the _____.

(4) The following design and concealment measures shall apply to the co-location of any small cell wireless facility or utility pole in an historic, residential, or downtown district:

(A) Equipment on a supporting structure may not exceed an aggregate width of four feet (centered on pole) and shall be secured a minimum of ten feet from the ground surface or 18 feet where equipment may overhang the back of curb line. Ground level equipment or shelters are not permitted.

(B) Small cell wireless facilities shall be located no closer than 18 inches from an existing sidewalk/face of curb or 18 inches from a proposed future sidewalk/face of curb location.

(C) Small cell wireless facilities shall be located no closer than ten feet from any driveway.

(D) Small cell wireless facilities shall be located in line with a side lot line and not in front of a residence.

(E) Unless otherwise required by the Federal Communications _____ (FCC), the Federal Aviation Administration (FAA), or applicable codes poles shall either maintain a galvanized silver, gray or concrete finish or, subject to any applicable standards of the FAA, FCC or such codes, be painted a neutral color so as to reduce visual obtrusiveness.

(F) At all pole sites related equipment shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and environment to the extent reasonably practical.

(G) All poles shall be of monopole design and construction unless the _____ approves an alternate design. Disguising or stealthing poles is encouraged.

Any such requirements shall not have the effect of prohibiting any wireless provider's technology.

(5) A wireless provider shall comply with any _____ requirements that prohibit communications service providers from installing structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities if each of the following apply:

(A) The _____ has required all cable and utility facilities, other than _____ poles, along with any attachments, or poles used for street lights, traffic signals, or other attachments necessary for public safety, to be placed underground by a date that is not less than 90 days before the submission of the wireless provider's application.

(B) The _____ does not prohibit the replacement of _____ poles by a wireless provider in the designated area.

(g) *Modification of design parameters.* Upon the written request of an applicant for a permit, the _____ may modify or waive the design parameters of subsection (f)(4) and (f)(5) in its discretion following a hearing and based on its review of factors affecting the public health, safety and welfare including, but not limited to, the following: the presence of existing poles or other structures or equipment in the immediate vicinity; the ability to reasonably comply with the design parameters set forth in subsection (f)(4) and (f)(5); the visual and aesthetic impact of the proposed pole, antenna or facilities on the adjacent area; the existing and planned character of the adjacent area; public comment; the scale and scope of the poles, antennas or facilities relative to the existing character of the area; whether granting the modification will adversely impact public safety; and the recommendations of _____ department heads (if any). Following its review, the _____ may grant, deny or grant with conditions a request to modify or waive the design parameters and shall provide its decision and the basis for the same to the applicant in writing. All applications for a waiver or modification of the design parameters as set forth herein shall be addressed in a uniform and nondiscriminatory manner. The applicant shall be responsible to pay all costs of the _____ associated with the request to modify or waive the design parameters.

(h) *Repair of ROW.* As a condition to the issuance of a permit under this section, a wireless provider is required to repair all damage to the ROW directly caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and to return the ROW to its functional equivalent before the damage. If the wireless provider fails to make the repairs required by the _____ within 60 days after written notice, the _____ may make those repairs and charge the wireless provider the reasonable, documented cost of the repairs

(i) *Discontinuance of Use.* Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, a wireless provider shall notify the _____ in writing. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The _____ may impose reasonable and nondiscriminatory requirements and specifications for the wireless provider to return the property to its pre-installation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the _____ may complete the removal and assess the costs of removal against the wireless provider. A permit under this section for a small cell wireless facility expires upon removal of the small cell wireless facility.

(j) *Revocation of Permit.* The _____ may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of subsection (d)(3).

(k) *Compliance with applicable law.* The permittee shall be responsible to comply with all applicable legal requirements and to obtain any permits or approvals otherwise required by law relative to the installation or operation of small cell wireless facilities in the _____'s public rights-of-way (e.g., electrical permits). The _____, in reviewing and authorizing a permit under the act and/or a permit referred to in this section, and the permittee, in the establishment and operation of any small cell wireless facilities, shall comply with all applicable federal and state laws.

(l) *Fees.* Fees for the permits as authorized under the Act shall be as provided for in the Act or those documents and as periodically authorized by resolution of the _____; provided, however, that for installations of utility poles designed to support small cell wireless facilities or co-locations of small cell wireless facilities installed and operational in the ROW before the effective date of the Act, the fees, rates, and terms of an agreement or ordinance for use of the ROW remain in effect subject to the termination provisions contained in the agreement or ordinance.

Regulatory Ordinance

Sec. _____. Small cell wireless facilities.

(a) *Definition.* For purposes of this section, the following words, terms and phrases shall be defined as follows:

Act shall mean Public Act 365 of 2018, as amended, the Small Wireless Communications Facilities Deployment Act

Co-locate means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Co-location" has a corresponding meaning. Co-locate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

Public right-of-way or *ROW* means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

(i) A private right-of-way.

(ii) A limited access highway.

(iii) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

(iv) Railroad infrastructure.

Small cell wireless facility means a wireless facility that meets both of the following requirements:

(i) Each antenna is located inside an enclosure of not 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 would fit within an imaginary enclosure of not more than 6 cubic feet.

(ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Utility pole means a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

Wireless facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:

(i) The structure or improvements on, under, or within which the equipment is co-located.

(ii) A wireline backhaul facility.

(iii) Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures and who, when filing an application with the _____ under this section, provides written authorization to perform the work on behalf of a wireless services provider.

Wireless provider means a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the MPSC.

Wireless services means any services, provided using permitted or unpermitted spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

Wireless services provider means a person that provides wireless services.

Wireless support structure means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

All other terms and phrases used herein shall be defined consistent with the Act.

(b) *Permit Required.* A wireless provider may not co-locate a small cell wireless facility or install, modify, or replace a utility pole or wireless support structure on which a small cell wireless facility will be co-located within the public right-of-way without first applying for and receiving a small cell wireless permit from the _____ in a form and subject to such terms and conditions as are acceptable to the _____.

(c) *Permitting Process.* The processing of an application for a permit under this section is subject to all of the following:

(1) An application in such form as prepared by the _____ shall be completed and submitted as set forth in this section.

(2) The _____ may require an applicant to provide information and documentation to enable the _____ to make a compliance determination with regard to the criteria in this section involving, without limitation, subsection (d)(3). The _____ may also require a certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility.

(3) If the proposed activity will occur within a shared ROW or an ROW that overlaps another ROW, a wireless provider shall provide, to each affected jurisdiction, to which an application for the activity is not submitted, notification of the wireless provider's intent to locate a small cell wireless facility within the ROW. The _____ may require proof of other necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained.

(4) The _____ may require an applicant to attest that the small cell wireless facilities will be operational for use by a wireless services provider within 1 year after the permit issuance date, unless the _____ and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site.

(5) An applicant may, at the applicant's discretion, file a consolidated application and receive a single permit for the co-location of up to 20 small cell wireless facilities within the _____. The small cell wireless facilities within a consolidated application must consist of substantially similar equipment and be placed on similar types of utility poles or wireless support structures. The _____ may approve a permit for 1 or more small cell wireless facilities included in a consolidated application and deny a permit for the remaining small cell facilities.

(6) The application for a permit under this section shall be accompanied by an application fee as set by resolution of the _____ from time to time.

(7) The permit application shall be accompanied by a map(s) for any proposed small cell wireless facilities which shall be legible, to scale, labeled with streets, and contain sufficient detail to precisely identify the proposed small cell wireless facilities' locations and surroundings. Where applicable, the required map(s) shall include and identify any requested pole height(s), all attachments and detailed drawings of any attachment.

(8) The permittee shall field-stake all proposed locations for small cell wireless facilities which shall be subject to the advance approval of the _____, _____ County Road _____ and/or the Michigan Department of Transportation as applicable. All approved small cell wireless facilities' locations shall be on a per pole/equipment/other basis.

(9) Once precise locations have been approved, the permittee shall provide latitude and longitude coordinates for the small cell wireless facilities' locations to the _____'s engineering department as well as detailed as-built drawings within 90 days of the completion of installation.

(10) The permittee shall be responsible to obtain such other permits and approvals as otherwise required by law.

(d) *Determination.*

(1) Within 25 days after receiving an application, the _____ shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically identify all missing documents or information.

(2) Upon receipt of a complete application, the _____ shall approve or deny the application and notify the applicant in writing within the following period of time after the completed application is received:

(A) For an application for the co-location of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:

(i) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(ii) Add 15 days if, before the otherwise applicable 60-day or 75-day time period elapses, the _____ notifies the applicant in writing that an extension is needed and the reasons for the extension.

(B) For an application for a new or replacement utility pole that meets the height requirements of section 13(5)(a) of the Act and associated small cell facility, 90 days, subject to the following adjustments:

(i) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.

(ii) Add 15 days if, before the otherwise applicable 90-day or 105-day time period elapses, the _____ notifies the applicant in writing that an extension is needed and the reasons for the extension.

If the _____ fails to comply with this subsection, an application otherwise complete is considered to be approved subject to the condition that the applicant provide the _____ not less than 7 days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval and the applicant shall be responsible to comply with all provisions of this section and the Act.

The _____ and an applicant may extend a time period under this subsection by mutual agreement.

(3) The _____ may deny a completed application for a proposed co-location of a small cell wireless facility or installation, modification, or replacement of a utility pole that meets the height requirements in section 13(5)(a) of the Act if the proposed activity would do any of the following:

(A) Materially interfere with the safe operation of traffic control equipment.

(B) Materially interfere with sight lines or clear zones for transportation or pedestrians.

(C) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

(D) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the _____.

(E) With respect to drainage infrastructure under the jurisdiction of the _____, either of the following:

(i) Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.

(ii) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.

(F) Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by the _____ by ordinance or otherwise that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location. [Add spacing requirement for all ground-mounted equipment and new utility poles of not less than _____ linear feet from ground-mounted equipment and _____ utility poles.; see, e.g.: https://www.denvergov.org/content/dam/denvergov/Portals/705/documents/guidelines/PWES-016.0-Small_Cell_Infrastructure_Design_Guidelines.pdf]

(G) Fail to comply with applicable codes.

(H) Fail to comply with any provision of this section.

(I) Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the _____.

(4) Within 1 year after a permit is granted, a wireless provider shall complete co-location of a small cell wireless facility that is to be operational for use by a wireless services provider, unless the _____ and the applicant agree to extend this period or the delay is caused by the lack of commercial power or communications facilities at the site. If the wireless provider fails to complete the co-location within the applicable time, the permit is void, and the wireless provider may reapply for a permit.

(5) Approval of an application authorizes the wireless provider to do both of the following:

(A) Undertake the installation or co-location.

(B) Subject to relocation requirements that apply to similarly situated users of the ROW and the applicant's right to terminate at any time, maintain the small cell wireless facilities and any associated utility poles or wireless support structures covered by the permit for so long as the site is in use and in compliance with the initial permit under this act.

(6) The _____ may propose an alternate location within the ROW or on property or structures owned or controlled by the _____ within 75 feet of the proposed location to either place the new utility pole or co-locate on an existing structure. The applicant shall use the alternate location if, as determined by the applicant, the applicant has the right to do so on reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs. The _____ may request written confirmation of any decision rendered by the applicant under this subsection and the specific basis for the same.

(7) Nothing herein shall prohibit the _____ from requiring a separate ROW access permit for work that will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

(8) As a condition of the issuance of a permit, the applicant shall obtain and maintain a bond, in the amount of \$1,000.00 per small cell wireless facility, in a form reasonably satisfactory to the _____, for the small cell wireless facilities as applicable to similarly situated users of the ROW for one or more of the following purposes:

(A) To provide for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determines should be removed to protect public health, safety, or welfare.

(B) To repair the ROW as provided under the Act.

(C) To recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received 60-day advance notice from the authority of the noncompliance.

(9) It is a condition of any permit issued under this section that:

(A) A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall defend, indemnify, and hold harmless the _____ and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, its contractors, its subcontractors,

and the officers, employees, or agents of any of these. A wireless provider has no obligation to defend, indemnify, or hold harmless the _____, or the officers, agents, or employees of the _____ or governing body against any liabilities or losses due to or caused by the sole negligence of the _____ or the _____ or its officers, agents, or employees.

(B) A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall obtain insurance, in an amount and of a type reasonably satisfactory to the _____, naming the _____ and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the _____'s insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this subsection. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the _____ evidence demonstrating, to the _____'s satisfaction, the wireless provider's financial ability to meet the _____'s insurance coverage and limit requirements.

It is the policy of the _____ to encourage the co-location of small cell wireless facilities first, outside of public rights-of-way and, secondarily, within the public rights-of-way. The co-location of uses shall be a condition of approval of any permit granted for a new wireless support structure or utility pole in the public right-of-way; provided, however, that the co-location requirement may be waived if the pole or support structure is disguised or stealthed so as to blend with the immediate environment (e.g., streetlights, power poles, etc.).

(e) *METRO Act permit.* No person shall install or operate "telecommunications facilities," as defined in the Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended (the "act") without first obtaining a permit in accordance with that act from the _____, including any part of a small cell wireless facility, utility pole, or wireless support structure constituting telecommunication facilities.

(f) *Design parameters.* The following minimal design parameters shall apply to small cell wireless facilities, utility poles and wireless support structures in the _____'s public rights-of-way:

(1) A wireless provider may, as a permitted use not subject to zoning review or approval, but still subject to approval by the _____ under this section, co-locate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the ROW consistent with the following:

(A) A utility pole in the ROW installed or modified on or after the effective date of the Act shall not exceed 40 feet above ground level, unless a taller height is agreed to by the _____ consistent with all applicable laws.

(B) A small cell wireless facility in the ROW installed or modified after the effective date of the Act shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

(2) Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the ROW or obstruct the legal use of the _____'s ROW or uses of the ROW by other utilities and communications service providers.

(3) A wireless provider may co-locate a small cell wireless facility or install, construct, maintain, modify, operate, or replace a utility pole that exceeds the height limits under subsection (1), or a wireless support structure, in, along, across, upon, and under the ROW only upon issuance of a permit in accordance with this Section and upon receiving zoning approvals required by the _____.

(4) The following design and concealment measures shall apply to the co-location of any small cell wireless facility or utility pole in an historic, residential, or downtown district:

(A) Equipment on a supporting structure may not exceed an aggregate width of four feet (centered on pole) and shall be secured a minimum of ten feet from the ground surface or 18 feet where equipment may overhang the back of curb line. Ground level equipment or shelters are not permitted.

(B) Small cell wireless facilities shall be located no closer than 18 inches from an existing sidewalk/face of curb or 18 inches from a proposed future sidewalk/face of curb location.

(C) Small cell wireless facilities shall be located no closer than ten feet from any driveway.

(D) Small cell wireless facilities shall be located in line with a side lot line and not in front of a residence.

(E) Unless otherwise required by the Federal Communications _____ (FCC), the Federal Aviation Administration (FAA), or applicable codes poles shall either maintain a galvanized silver, gray or concrete finish or, subject to any applicable standards of the FAA, FCC or such codes, be painted a neutral color so as to reduce visual obtrusiveness.

(F) At all pole sites related equipment shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and environment to the extent reasonably practical.

(G) All poles shall be of monopole design and construction unless the _____ approves an alternate design. Disguising or stealthing poles is encouraged.

Any such requirements shall not have the effect of prohibiting any wireless provider's technology.

(g) *Modification of design parameters.* Upon the written request of an applicant for a permit, the _____ may modify the design parameters of subsection (f)(4) in its discretion following a hearing and based on its review of factors affecting the public health, safety and welfare including, but not limited to, the following: the presence of existing poles or

other structures or equipment in the immediate vicinity; the ability to reasonably comply with the design parameters set forth in subsection (f)(4); the visual and aesthetic impact of the proposed pole, antenna or facilities on the adjacent area; the existing and planned character of the adjacent area; public comment; the scale and scope of the poles, antennas or facilities relative to the existing character of the area; whether granting the modification will adversely impact public safety; and the recommendations of _____ department heads (if any). Following its review, the _____ may grant, deny or grant with conditions a request to modify the design parameters and shall provide its decision and the basis for the same to the applicant in writing. The applicant shall be responsible to pay all costs of the _____ associated with the request to modify the design parameters.

(h) *Repair of ROW.* As a condition to the issuance of a permit under this section, a wireless provider is required to repair all damage to the ROW directly caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and to return the ROW to its functional equivalent before the damage. If the wireless provider fails to make the repairs required by the _____ within 60 days after written notice, the _____ may make those repairs and charge the wireless provider the reasonable, documented cost of the repairs

(i) *Discontinuance of Use.* Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, a wireless provider shall notify the _____ in writing. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The _____ may impose reasonable and nondiscriminatory requirements and specifications for the wireless provider to return the property to its pre-installation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the _____ may complete the removal and assess the costs of removal against the wireless provider. A permit under this section for a small cell wireless facility expires upon removal of the small cell wireless facility.

(j) *Revocation of Permit.* The _____ may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of subsection (d)(3).

(k) *Compliance with applicable law.* The permittee shall be responsible to comply with all applicable legal requirements and to obtain any permits or approvals otherwise required by law relative to the installation or operation of small cell wireless facilities in the _____'s public rights-of-way (e.g., electrical permits). The _____, in reviewing and authorizing a permit under the act and/or a permit referred to in this section, and the permittee, in the establishment and operation of any small cell wireless facilities, shall comply with all applicable federal and state laws.

(l) *Fees.* Fees for the permits as authorized under the Act shall be as provided for in the Act or those documents and as periodically authorized by resolution of the _____; provided, however, that for installations of utility poles designed to support small cell wireless facilities or co-locations of small cell wireless facilities installed and operational in the ROW before the effective date of the Act, the fees, rates, and terms of an

agreement or ordinance for use of the ROW remain in effect subject to the termination provisions contained in the agreement or ordinance.

SMALL CELL WIRELESS PERMIT

THE CITY/VILLAGE/TOWNSHIP OF _____

and

THIS PERMIT DATED AS OF THIS ___ DAY OF _____, 20___, BY THE CITY/VILLAGE/TOWNSHIP OF _____, A MUNICIPAL CORPORATION (“CITY/VILLAGE/TOWNSHIP”), TO _____, A _____ (“PERMITTEE”).

WHEREAS, the City/Village/Township of _____ has made significant investments of time and resources in the acquisition and maintenance of the Public Rights of Way and such investment has enhanced the utility and value of the Public Rights of Way; and

WHEREAS, the Public Rights of Way within the City/Village/Township are used by and useful to private enterprises including Permittee and others engaged in providing wireless services to citizens, institutions, and businesses located in the City/Village/Township; and

WHEREAS, the right to access and/or occupy portions of such Public Rights of Way for the business of providing wireless services, is a valuable economic privilege; and

WHEREAS, beneficial competition between providers of wireless services can be furthered by the City/Village/Township’s provision of grants of location and rights to use the Public Rights of Way on non-discriminatory and competitively neutral terms and conditions; and

WHEREAS, Permittee is a private commercial enterprise engaged in installing small cell wireless facilities within the City/Village/Township; and

WHEREAS, Permittee desires to physically install and occupy portions of the Public Rights of Way to install and operate small cell wireless facilities and associated utility poles and wireless support structures; and

WHEREAS, Permittee’s private commercial enterprise will be aided if allowed to exercise a valuable benefit by using the Public Rights of Way in a manner not enjoyed by the general public; and

WHEREAS, the City/Village/Township grants this permit pursuant to its authority to manage its public spaces including, without limitation, authority under the Michigan Constitution of 1963, City/Village/Township Ordinance No. ____, as amended, and Act No. 365 of the Public Acts of 2018, as amended.

NOW THEREFORE BE IT RESOLVED, in consideration of the terms and conditions contained in this Permit, the City/Village/Township and Permittee agree:

1.0 DEFINITIONS

Except as otherwise defined herein, the following terms shall have the meanings given below:

1.1 “Act” means Public Act 365 of 2018, as amended, the Small Wireless Communications Facilities Deployment Act

1.2 “Co-locate” means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Co-location" has a corresponding meaning. Co-locate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

1.3 “Day” means any calendar day, unless a business day is specified. For the purposes hereof, if the time in which an act is to be performed falls on a day other than a business day, the time for performance shall be extended to the following business day. For the purposes hereof, the time in which an act is to be performed shall be computed by excluding the first day and including the last.

1.4 “FCC” means the Federal Communications Commission.

1.5 “Grant” when used with reference to grant or authorization of the City/Village/Township, means the prior written authorization of the City/Village/Township of _____ (and/or its various boards and commissions) unless another person or method for authorization is specified herein or under applicable law. Grant does not mean “approval” as contemplated in various FCC determinations related to subsequent co-location requests which are expressly not granted by this Permit.

1.6 “Law” or “Laws” means any federal, state or local statute, ordinance, resolution, regulation, rule, tariff, administrative order, certificate, order, or other lawful requirement in effect either at the time of execution of this Permit or at any time during the period the small cell wireless facilities or associated support structures are located in the Public Rights-of-Way.

1.7 “Person” means an individual, a corporation, a partnership, a sole proprietorship, a joint venture, a business trust, or any other form of business association or government agency.

1.8 “Public rights-of-way” or “ROW” means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

(i) A private right-of-way.

(ii) A limited access highway.

(iii) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

(iv) Railroad infrastructure.

1.9 “Small cell wireless facility” means a wireless facility that meets both of the following requirements:

(i) Each antenna is located inside an enclosure of not 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 would fit within an imaginary enclosure of not more than 6 cubic feet.

(ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

1.10 “Utility pole” means a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

1.11 “Wireless facility” means equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:

(i) The structure or improvements on, under, or within which the equipment is co-located.

(ii) A wireline backhaul facility.

(iii) Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

1.12 “Wireless services” means any services, provided using permitted or unpermitted spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

1.13 “Wireless services provider” means a person that provides wireless services.

1.14 “Wireless support structure” means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

All other terms and phrases used herein shall be defined consistent with the Act.

2.0 DURATION OF PERMIT

This Permit shall commence on the date of execution by the City/Village/Township (“Commencement Date”) and continue thereafter in accordance with the Act. The Permittee hereby attests that the small cell wireless facilities authorized herein and associated support structures (if any) will be operational for use by the Permittee within one (1) year after the Commencement Date, unless the City/Village/Township and the Permittee agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site.

3.0 DESCRIPTION OF WORK

3.1 Installation of Small Cell Wireless Facilities. During the duration of this Permit, Permittee is authorized, on a non-exclusive basis, to co-locate small cell wireless facilities, utility poles and wireless support structures, and operate such small cell wireless facilities, in the ROW as particularly identified in and limited by Exhibit A. This Permit does not give any rights to use any poles or wireless support structures not owned by the City/Village/Township.

3.1.1 Map and List of Small Cell Wireless Network. This Permit shall apply to and allow only the co-location of small cell wireless facilities which are precisely identified on the map submitted by the Permittee as part of its application process and which is attached as Exhibit A. Where applicable, the required map(s) shall include and identify any requested pole height(s), all attachments and detailed drawings of any attachment. Once precise locations have been approved, the Permittee shall provide latitude and longitude coordinates for the locations of the small cell wireless facilities and any associated support structures to the City/Village/Township's engineering department as well as detailed as-built drawings within 90 days of the completion of installation.

3.1.2 Duty to Keep Current. Permittee shall maintain in a form acceptable to the City/Village/Township, a current map and list of the location of all small cell wireless facilities and associated support structures used by Permittee in the City/Village/Township's ROW.

3.1.3 Changes to Small Cell Wireless Facilities or Their Location on Support Structures Located on Public ROW. If Permittee proposes to install different and not comparable equipment, or if the location of the small cell wireless facilities or associated support structures deviate in any material way from the specifications attached as Exhibit A, then Permittee shall first obtain a grant for the use and installation of the equipment or for any such deviation in the location from the City/Village/Township. Permittee shall thereafter update and file with the City/Village/Township the map constituting Exhibit A.

3.2 Permitted Activities. This Permit authorizes the Permittee to do both of the following:

(A) Undertake the installation or co-location of the small cell wireless facilities.

(B) Subject to relocation requirements that apply to similarly situated users of the ROW and the Permittee's right to terminate at any time, maintain the small cell wireless facilities and any associated utility poles or wireless support structures covered by the Permit for so long as the site is in use and in compliance with the initial permit under the Act.

3.3 Restoration of Work Site Areas. As a condition of this Permit, the Permittee shall repair all damage to the ROW directly caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and shall return the ROW to its functional equivalent before the damage. If the wireless provider fails to make the repairs required by the City/Village/Township within 60 days after written notice, the City/Village/Township may make those repairs and charge the wireless provider the reasonable, documented cost of the repairs

3.4 Removal of Small Cell Wireless Facilities and Associated Support Structures. Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, the Permittee shall notify the City/Village/Township in writing. The notice shall specify when and how the Permittee intends to remove the small cell wireless facility, utility pole, or wireless support structure. The City/Village/Township may impose reasonable and nondiscriminatory requirements and specifications for the Permittee to return the property to its pre-installation condition. If the Permittee does not complete the removal within 45 days after the discontinuance of use, the City/Village/Township may complete the removal and assess the costs of removal against the wireless provider and the Permittee accepts and agrees to such process. This Permit expires upon removal of the small cell wireless facility.

3.5 Risk of Loss or Damage. Permittee acknowledges and agrees that Permittee bears all risk of loss or damage of its equipment and materials, including, without limitation, the small cell wireless facilities and any associated support structures, installed in the ROW pursuant to this Permit from any cause, and the City/Village/Township shall not be liable for any cost of repair to damaged small cell wireless facilities or associated support structures, including, without limitation, damage caused by the City/Village/Township's removal of the same as set forth and authorized in this Permit, except to the extent that such loss or damage was caused by the willful misconduct of the City/Village/Township, including without limitation, each of its commissions, boards, departments, officers, agents, employees or contractors.

3.6 Permitted Dimensions. Absent separate land use or other approvals from the City/Village/Township, the Permittee may only, as a permitted use not subject to zoning review or approvals, co-locate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the ROW consistent with the following:

(A) A utility pole in the ROW installed or modified on or after the effective date of the Act shall not exceed 40 feet above ground level, unless a taller height is agreed to by the _____ consistent with all applicable laws.

(B) A small cell wireless facility in the ROW installed or modified after the effective date of the Act shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the ROW or obstruct the legal use of the City/Village/Township's ROW or uses of the ROW by other utilities and communications service providers.

3.7 The following design and concealment measures shall apply to the co-location of any small cell wireless facility or utility pole in an historic, residential, or downtown district:

(A) Equipment on a supporting structure may not exceed an aggregate width of four feet (centered on pole) and shall be secured a minimum of ten feet from the ground surface or 18 feet where equipment may overhang the back of curb line. Ground level equipment or shelters are not permitted.

(B) Small cell wireless facilities shall be located no closer than 18 inches from an existing sidewalk/face of curb or 18 inches from a proposed future sidewalk/face of curb location.

(C) Small cell wireless facilities shall be located no closer than ten feet from any driveway.

(D) Small cell wireless facilities shall be located in line with a side lot line and not in front of a principal building.

(E) Unless otherwise required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or applicable codes poles shall either maintain a galvanized silver, gray or concrete finish or, subject to any applicable standards of the FAA, FCC or such codes, be painted a neutral color to reduce visual obtrusiveness.

(F) At all pole sites related equipment shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and environment to the extent reasonably practical.

(G) All poles shall be of monopole design and construction unless the City/Village/Township approves an alternate design. Disguising or stealthing poles is encouraged.

Any such requirements shall not have the effect of prohibiting the Permittee's technology.

4.0 PERMIT, LIMITATIONS AND RESTRICTIONS

4.1 Limited Authorization. This Permit does not authorize the placement of small cell wireless facilities or any other equipment on sites, locations, structures or facilities other than those specifically identified herein. Placement of the small cell wireless facilities and associated support structures shall comply with the terms of the City/Village/Township's conditions of access in effect as of the date of execution hereof and as are applied equally to all persons using the ROW under grant by the City/Village/Township. The Permit does not relieve Permittee of its burden of seeking any necessary permission from other agencies which may have jurisdiction regarding Permittee's proposed use. Nothing herein shall prohibit the City/Village/Township from requiring a separate ROW access permit for work that will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

4.2 Reservation of Powers. The City/Village/Township reserves any and all powers it may have, now or in the future under applicable local, state, or federal law, to regulate the small cell wireless facilities or associated support structures, their use, or the use of the ROW or of other City/Village/Township property. Nothing in this Permit shall be construed as a waiver of any codes, ordinances or regulations of the City/Village/Township or of the City/Village/Township's right to require Permittee to secure the appropriate permits or authorizations for exercising the rights set forth in this Permit.

4.3 All Permitted Activities Fees at Permittee's Sole Expense. Notwithstanding any other provision of this Permit, the construction, operation, maintenance, removal and replacement of small cell wireless facilities and associated support structures, and all other activities permitted hereunder and all fees or obligations of Permittee under this Permit, shall be Permittee's sole responsibility at Permittee's sole cost and expense.

4.4 Other Approvals. Permittee shall obtain, at its sole expense, all applicable permits or approvals as are required by City/Village/Township or any other governmental agency to perform the work and ongoing use, as described in this Permit, of facilities located in the ROW, including but not limited to a Metro Act Permit pursuant to 2002 PA 48; MCL 484.3101et seq.

4.5 No Real Property Interest Created. Neither Permittee's use of the ROW, nor anything contained in this Permit, shall be deemed to grant, convey, create, or vest in Permittee a real property interest in any portion of the ROW or any other City/Village/Township property, including but not limited to, any fee or leasehold interest in any land or easement. Permittee, on behalf of itself and any permitted successor, lessee, or assign, recognizes and understands that this Permit may create an interest subject to taxation and that Permittee, its successor, lessee or assign may be subject to the payment of such taxes.

4.6 All Rights Nonexclusive. Notwithstanding any other provision of this Permit, any and all rights expressly or impliedly granted to Permittee under this Permit shall be non-exclusive, and shall be subject and subordinate to the public easement for streets and any and all other deeds, easements, dedications, conditions, covenants, restrictions, encumbrances

and claims of title (collectively, “Encumbrances”) which may affect the ROW now or at any time during the term of this Permit, including without limitation any Encumbrances granted, created or allowed by the City/Village/Township at any time.

4.7 Limited Application. This Permit does not grant or approve any co-location rights to any non-party’s facilities or interests.

4.8 Compliance with Applicable Law. The Permittee shall be responsible to comply with all applicable legal requirements and to obtain any permits or approvals otherwise required by law relative to the installation or operation of small cell wireless facilities in the City/Village/Township's ROW (e.g., electrical permits). The City/Village/Township, in reviewing and authorizing a permit under the Act and/or a permit referred to herein, and the Permittee, in the establishment and operation of any small cell wireless facilities, shall comply with all applicable federal and state laws.

5.0 INDEMNIFICATION AND INSURANCE

5.1 Non-Liability of City/Village/Township Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other agent of the City/Village/Township shall be personally liable to Permittee, its successors and assigns, in the event of any default or breach by the City/Village/Township or for any amount which may become due to Permittee, its successors and assigns, or for any obligation of City/Village/Township under this Permit.

5.2 Obligation to Indemnify the City/Village/Township. Permittee, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall defend, indemnify, and hold harmless the City/Village/Township and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting or arising from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the Permittee, its contractors, subcontractors, and the officers, employees, or agents of any of these. Permittee has no obligation to defend, indemnify, or hold harmless the City/Village/Township, or the officers, agents, or employees of the City/Village/Township or governing body against any liabilities or losses due to or caused by the sole negligence of the City/Village/Township or its officers, agents, or employees.

5.3 Scope of Indemnity. Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City/Village/Township from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered in writing to Permittee by the City/Village/Township and continues at all times thereafter.

5.4 Survival of Revocation. The provisions of Sections 5.1 through 5.3, inclusive, shall survive any revocation or other discontinuance of this Permit.

6.0 INSURANCE

6.1 Amounts and Coverages. Permittee shall obtain insurance, in an amount and of a type reasonably satisfactory to the City/Village/Township as set forth below, naming the City/Village/Township and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. Permittee may meet all or a portion of the insurance coverage and limit requirements by self-insurance. To the extent it self-insures, Permittee is not required to name additional insureds under this subsection. To the extent Permittee elects to self-insure, it shall provide to the City/Village/Township evidence demonstrating, to the City/Village/Township's satisfaction, the Permittee's financial ability to meet the City/Village/Township's insurance coverage and limit requirements:

6.1.1 Workers' Compensation, with Employer's Liability limits consistent with statutory requirements for each accident.

6.1.2 Commercial General Liability Insurance with limits not less than five million dollars (\$5,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Owners and Contractors' Protective, Broadform Property Damage, Products Completed Operations.

6.1.3 Business Automobile Liability Insurance with limits not less than one million dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including owned, non-owned and hired auto coverage, as applicable.

6.2 Advance Notice of Cancellation. All policies shall be endorsed to provide: thirty (30) days advance written notice to City/Village/Township of cancellation or intended non-renewal, mailed to the following address:

6.3 Claims-Made Policies. Should any of the required insurance be provided under a claims-made form, Permittee shall maintain such coverage continuously throughout the term of this Permit and, without lapse, for a period of six (6) years beyond the Permit expiration, to the effect that, should any occurrences during the Permit term give rise to claims made after expiration of the Permit, such claims shall be covered by such claims-made policies.

6.4 Receipt of Certificates of Insurance. Certificates of insurance, in the form and with insurers reasonably satisfactory to the City/Village/Township, evidencing all coverages above shall be furnished to the City/Village/Township before commencing any operations under this Permit, with complete copies of policies promptly upon the City/Village/Township's written request.

6.5 Effect of Approval of Insurance. Approval of the insurance by the City/Village/Township shall not relieve or decrease the liability of Permittee hereunder.

7.0 PERMIT FEES

7.1 Annual Fee. The annual permit fee for each utility pole or wireless support structure in the ROW in the City/Village/Township on which Permittee has approval to co-locate a small cell wireless facility shall be set as follows unless otherwise set by resolution of the City/Village/Township from time to time:

(A) \$20.00 annually, unless subsection 7.1 (B) applies.

(B) \$125.00 annually, if the utility pole or wireless support structure was erected by or on behalf of the Permittee on or after March 12, 2019. (This subdivision does not apply to the replacement of a utility pole that was not designed to support small cell wireless facilities.)

Provided that every 5 years after March 12, 2019, and without further action of the City/Village/Township, the maximum rates then authorized under this subsection 7.1 shall be increased by 10% and rounded to the nearest dollar.

7.2 Retention of Records. Permittee shall at all times keep and maintain full, true and correct business and financial records associated with this Permit and provide such records upon reasonable request as to support the payments made under Section 7.1 above.

7.3 Other Payments and Documentation. In addition to all other fees to be paid to the City/Village/Township hereunder, Permittee shall timely pay to the City/Village/Township all applicable deposit fees, permit fees, engineering fees and other fees or amounts, required to be paid by Permittee to the City/Village/Township in connection with obtaining additional permits or performing work under this Permit, and as required by law.

7.4 Security Deposit/Bond. As a condition of the issuance of this Permit, the Permittee shall obtain and maintain a bond, in the amount of \$1,000.00 per small cell wireless facility, in a form reasonably satisfactory to the City/Village/Township, for the small cell wireless facilities for the following purposes:

(A) To provide for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determines should be removed to protect public health, safety, or welfare.

(B) To repair the ROW as provided under the Act.

(C) To recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received 60-day advance notice from the City/Village/Township of the noncompliance.

8.0 WORK STANDARDS

8.1 Performance of Work. Permittee shall use and exercise due care, caution, skill and expertise in performing all work under this Permit and shall take all reasonable steps to safeguard and maintain in clean and workmanlike manner, all work site areas, including, without limitation, any light poles located in the ROW and other existing facilities and property. All work to be undertaken by Permittee in the ROW shall at all times be performed by workers in accordance with generally accepted industry practice.

8.2 No Underground Work without Written Authorization. Permittee hereby represents, warrants and covenants that it shall perform no excavation, trenching, coring, boring, or digging into the ground or installation of any equipment or other material into the ground, or any other underground work in connection with the work to be performed under this Permit, except to the extent expressly approved by the City/Village/Township. Permittee further represents, warrants and covenants that it shall not otherwise disturb or disrupt the operation or maintenance of any sanitary sewers, storm drains, gas or water mains, or other underground conduits, cables, mains, or facilities.

8.3 Repair or Replacement of Damaged Facilities or Property. Upon written request, Permittee agrees to repair or replace to City/Village/Township's reasonable satisfaction any City/Village/Township-owned facilities or City/Village/Township-owned property that has been damaged, destroyed, defaced or otherwise injured because of the work performed by Permittee under this Permit. Permittee shall perform such work at no expense to the City/Village/Township, except to the extent such damage, destruction, defacement, or injury was caused by the sole negligence or willful misconduct of City/Village/Township.

8.4 No Interference. Permittee shall not unreasonably interfere in any manner with the existence and operation of any and all public and private facilities existing now or in the future, including but not limited to sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, electroliers, cable television, telecommunications facilities, utility, and municipal property without the express grant of the owner or owners of the affected property or properties, except as permitted by applicable laws or this Permit. Permittee shall be responsible for repair and restoration of any damage caused by such interference, to the extent caused by Permittee, to facilities belonging to the City/Village/Township. The City/Village/Township agrees to require the inclusion of the same prohibition on interference as that stated above in all similar type permits City/Village/Township may enter into after the date hereof.

9.0 REVOCAATION

9.1 The City/Village/Township may revoke this Permit for a proposed co-location of a small cell wireless facility or installation, modification, or replacement of a utility pole if the Permittee's activities cause any of the following:

(A) Material interference with the safe operation of traffic control equipment.

(B) Material interference with sight lines or clear zones for transportation or pedestrians.

(C) Material interference with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

(D) Material interference with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the _____.

(E) With respect to drainage infrastructure under the jurisdiction of the _____, either of the following:

(i) Material interference with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.

(ii) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.

(F) Failure to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by the City/Village/Township that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location. [Add spacing requirement for all ground-mounted equipment and new utility poles of not less than _____ linear feet from ground-mounted equipment and _____ utility poles.; see, e.g.: https://www.denvergov.org/content/dam/denvergov/Portals/705/documents/guidelines/PWES-016.0-Small_Cell_Infrastructure_Design_Guidelines.pdf]

(G) Failure to comply with applicable codes.

(H) Failure to comply with any provision of this article.

(I) Failure to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the City/Village/Township.

9.2 Processing. The City/Village/Township may revoke this Permit upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and/or any associated utility pole fail to meet the requirements of Section 9.1.

10.0 NOTICES

Except as otherwise expressly provided in this Permit, any notice given hereunder shall be effective only if in writing and given by delivering the notice in person, or by sending it first-class mail or certified mail with a return receipt requested, postage prepaid, or reliable commercial overnight courier, return receipt requested, with postage prepaid, to:

CITY/VILLAGE/TOWNSHIP

PERMITTEE

or to such other address as either may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Section at least ten (10) days prior to the effective date of such change.

11.0 MISCELLANEOUS

11.1 Amendments. Neither this Permit nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the parties hereto.

11.2 Representations and Warranties. Each of the persons executing this Permit on behalf of the Permittee covenants, represents and warrants that, to the best of his or her knowledge, (a) Permittees a duly authorized and existing _____, has and is qualified to do business in the State of Michigan, and has full right and authority to enter into this Permit, (b) each and all of the persons signing on behalf of Permittee are authorized to do so, (c) all statements and reports previously provided to the City/Village/Township by Permittee are true and complete in all material respects, and (d) the small cell wireless facilities and associated support structures installed pursuant to this Permit shall comply with all applicable FCC standards regarding radio frequencies and electromagnetic field emissions.

11.3 Assignment; Successors and Assigns. Neither this Permit nor any part of Permittee’s rights hereto may be assigned, pledged or hypothecated, in whole or in part, except in strict compliance with the Act.

11.4 Severability. If any provision of this Permit or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Permit, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Permit shall be valid and be enforceable to the fullest extent permitted by law.

11.5 Governing Law. This Permit shall be construed and enforced in accordance with the laws of the State of Michigan.

11.6 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Permit shall be cumulative, except as may otherwise be provided herein.

11.7 Relationship of Parties. The City/Village/Township is not, and none of the provisions in this Permit shall be deemed to render the City/Village/Township, a partner in Permittee's business, or joint venturer or member in any joint enterprise with Permittee. Neither party shall act as the agent of the other party in any respect hereunder, and neither party shall have any authority to commit or bind the other party without such party's prior written consent as provided herein. This Permit is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

PERMITTEE

_____ ,

a _____

By: _____

Title: _____

Dated: _____

CITY/VILLAGE/TOWNSHIP OF _____,

a _____

By: _____

Title: _____

Dated: _____

EXHIBITS

Exhibit A Small Cell Wireless Facilities and Associated Support Structures Plans and Specs

Revised Zoning Provisions Per Acts 365 and 366.

A. General

The co-location of a small cell wireless facility and associated support structure within a public right of way (“ROW”) is not subject to zoning reviews or approvals under this ordinance to the extent exempt from such reviews under Act 365 of 2018, as amended (“Act 365”). In such case, a utility pole in the ROW may not exceed 40 feet above ground level without special land use approval and a small cell wireless facility in the ROW shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

Co-location of a small cell wireless facility or installation of an associated support structure shall require that the wireless provider apply for and obtain a permit from the _____ consistent with the _____ Code.

Small cell wireless facilities and associated support structures not exempt from zoning reviews are only permitted in accordance with the provisions of this zoning ordinance and Act 365, and upon application for and receipt from the _____ of a permit consistent with the _____ Code.

B. Definitions

Wireless Communication Equipment: the set of equipment and network components used in the provision of wireless communication services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, coaxial and fiber optic cables, but excluding wireless communications support structures.

Wireless Communication Support Structure: a structure that is designed to support, or is capable of supporting, wireless communication equipment. A wireless communication support structure may include a monopole, lattice tower, guyed tower, water tower, utility pole or building.

Small Cell Wireless Facility: a wireless facility that meets both of the following requirements:

(i) Each antenna is located inside an enclosure of not 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 would fit within an imaginary enclosure of not more than 6 cubic feet.

(ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

C. Wireless communications equipment

Wireless communication equipment (but not a wireless communication support structures) is a permitted use and allowed in all zoning districts. Wireless communication equipment does not have to be related to the principal use of the site. Wireless communications equipment is not subject to zoning review and approval if all of the following requirements are met:

(a) The wireless communications equipment will be co-located on an existing wireless communications support structure or in an existing equipment compound.

(b) The existing wireless communications support structure or existing equipment compound is in compliance with the _____'s zoning ordinance or was approved by the appropriate zoning body or official for the _____.

(c) The proposed collocation will not do any of the following:

(i) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

(ii) Increase the width of the wireless communications support structure by more than the minimum necessary to permit co-location.

(iii) Increase the area of the existing equipment compound to greater than 2,500 square feet.

(d) The proposed co-location complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of the _____.

Notwithstanding the foregoing, wireless communications equipment otherwise exempt must still comply with all other applicable _____ codes including a requirement that the building inspector determines that the co-location will not adversely impact the structure to which it is attached.

A co-location that meets the requirements of subsections (a) and (b), above, but which does not meet subsections (c) or (d), is subject to special land use review by the Planning Commission in

accordance with _____ of the zoning ordinance and Section 514 (2-6) of Act 366 of 2018, as amended (“Act 366”). Any equipment placed in a residential district shall not be erected at a height that requires lighting. Any equipment placed adjacent to a residential district or use that requires lighting shall be a continuous red beacon at night.

Wireless communications equipment that is not attached to an existing structure (thus requiring the installation of a new wireless communications support structure), is subject to special land use review consistent with the _____ zoning ordinance and consistent with the _____ Master Plan.

D. Special Land Use Standards for Wireless Communication Facilities

1. Wireless communications support structures must be installed on a lawful lot for the zoning district in which it is located, either as a principal use, or as an accessory use related to the principal use.

2. (Existing wireless support structure requirements of each community (if any))

3. _____

4. _____

E. Special Land Use Standards for Non-Exempt Small Cell Wireless Facilities

The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with Act 365 shall be subject to special land use review and approval in accordance with the following procedures and standards:

1. The processing of an application is subject to all of the following requirements:

(a) Within 30 days after receiving an application under this section, the _____ shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 30-day period.

(b) The running of the time period tolled under subdivision (a) resumes when the applicant makes a supplemental submission in response to the _____'s notice of incompleteness.

(c) The _____ shall approve or deny the application and notify the applicant in writing within 90 days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or 150 days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and _____.

2. The Planning Commission shall base its review of the special land use request on the standards contained in Section ____; provided, however that a denial shall comply with all of the following:

(a) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.

(b) There is a reasonable basis for the denial.

(c) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

3. In addition to the provisions set forth in Section 2, in the Planning Commission's review:

(a) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.

(b) An applicant shall not be required to submit information about its business decisions with respect to any of the following:

(i) The need for a wireless support structure or small cell wireless facilities.

(ii) The applicant's service, customer demand for the service, or the quality of service.

(c) The Planning Commission may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping.

(d) The Planning Commission may impose spacing, setback, and fall zone requirements substantially similar to spacing, setback, and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.

4. The fee for zoning review of a special land use and associated site plan shall be as established by the _____ by resolution from time to time.

5. Within 1 year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the _____ and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required the zoning approval is void.