

ORDINANCE

ORDINANCE ADOPTING WIRELESS TELECOMMUNICATION FACILITIES

WHEREAS, the County of McHenry ("County") is empowered to take and have the care and custody of all of the real estate owned by the County pursuant to 55 ILCS 5/5-1015; and

WHEREAS, the County is empowered to consent to the use of its rights-of-ways by public utility companies and others pursuant to 605 ILCS 5/9-113; and

WHEREAS, telecommunications providers, considered public utilities, have placed, or from time to time may request to place, certain telecommunication facilities on County-owned infrastructure or in the County Highway rights-of-ways; and

WHEREAS, on November 6, 2008, the McHenry County Board enacted 0-200811-82-068, the 10.12. McHenry County Access Control and Right-of-Way Management Ordinance ("Access Ordinance") in order to establish generally applicable standards to regulate the placement, removal, relocation, modification, or abandonment of utilities and facilities within the rights-of-ways of County Highways through the rules, requirements, and regulations established by the Access Ordinance and the specifications, requirements and conditions contained in the Permit Procedures and Requirements Manual; and

WHEREAS, wireless telecommunication facilities are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to commuters, homes, businesses, and schools and growing demand for wireless telecommunication services has resulted in increasing requests nationwide and locally from the wireless industry to place small cell, distributed antenna systems and other wireless telecommunication facilities on utility and street light poles and other structures in the public rights-of-ways; and

WHEREAS, the County has the power, under State and Federal law, to approve appropriate regulations and restrictions relative to small cell, distributed antenna systems and other wireless telecommunication facility installations; and

WHEREAS, the County Board finds and determines that it is necessary to and in the best interests of the public health, safety and general welfare to adopt the ordinance below in order to establish generally applicable and acceptable standards for construction, installation, use, maintenance and repair of such facilities and installations on County-owned infrastructure and within the County rights-of-ways, so as to, among other things, (i) prevent interference with the facilities and operations of the County's utilities/operations and of other utilities lawfully located in public rights-of-ways or property, (ii) provide specific regulations and standards for the placement and siting of wireless telecommunication facilities on County-owned infrastructure and within public rights-of-ways in the County, (iii) preserve the character of the neighborhoods in which facilities are installed, (iv) minimize any adverse visual impact of wireless telecommunication facilities and prevent visual blight, (v) facilitate the location of wireless telecommunication facilities in permitted locations on County-owned infrastructure and within the County Highway rights-of-ways, and (vi) assure the continued safe use and enjoyment of private properties adjacent to wireless telecommunication facilities locations.

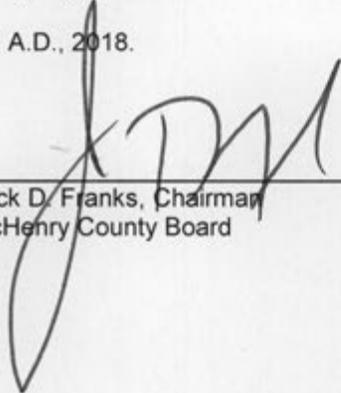
NOW THEREFORE BE IT ORDAINED, by the County Board, McHenry County, Illinois that the Wireless Telecommunications Facilities Ordinance is hereby approved as attached hereto and hereby made a part hereof subject to the McHenry County State's Attorney approval; and

BE IT FURTHER ORDAINED, that the McHenry County Code is amended by adding a new Ordinance, 10.16. (Wireless Telecommunication Facilities Ordinance); and

BE IT FURTHER ORDAINED, that the County Clerk is hereby authorized to distribute a certified

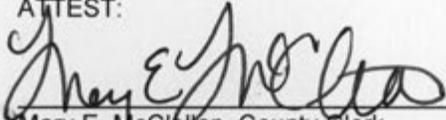
copy of this Ordinance to the Director of Transportation/County Engineer.

DATED at Woodstock, Illinois, this 15th day of May, A.D., 2018.



Jack D. Franks, Chairman
McHenry County Board

ATTEST:



Mary E. McClellan, County Clerk

ATTACHMENTS:

- small wireless facilities-final ordinance 05.09.18 (PDF)

CHAPTER 10.16: WIRELESS TELECOMMUNICATION FACILITIES ORDINANCE

§ 10.16.010 TITLE.

This Ordinance shall be known as, and may be referred to as the "Wireless Telecommunication Facilities Ordinance".
(Ord. , passed)

§ 10.16.020 DEFINITIONS.

All terms from the McHenry County Access Control and Right-of-Way Management Ordinance shall be applicable to this Ordinance unless otherwise stated. As used in this Ordinance, the following terms shall have the following meanings:

ALTERNATIVE ANTENNA STRUCTURE: An existing pole or other structure within the public rights-of-ways that can be used to support an antenna and is not a utility pole or a County-owned infrastructure (see also Wireless Support Structure).

APPLICANT: Any person who submits an application or is a wireless provider requesting to install or maintain wireless telecommunication facilities on County-owned infrastructure or within a public right-of-way.

COLLOCATE or COLLOCATION: To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

COUNTY: McHenry County, Illinois.

COUNTY-OWNED INFRASTRUCTURE: Infrastructure including, but not limited to, streetlights, traffic signals or towers owned, operated or maintained by the County.

COUNTY ENGINEER: The appointed head of the McHenry County Division of Transportation.

DISTRIBUTED ANTENNA SYSTEM (DAS): A type of wireless telecommunication facility consisting of a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area.

MONOPOLE: A structure composed of a single spire, pole or tower used to support antennas or related equipment.

PUBLIC SAFETY AGENCY: The functional division of the federal government, the State of Illinois, a unit of local government, or a special purpose district located in whole or in part within the County, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

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RIGHT-OF-WAY: The area on, below, or above a public roadway, highway, street, public sidewalk, associated surface and/or subsurface drainage system, alley, or utility easement, either as dedicated or prescriptive, for compatible use.

SMALL CELL ANTENNA: A Wireless Telecommunication Facility consisting of an antenna and related equipment, either installed singly or as part of a network, to provide coverage or enhance capacity in a limited defined area.

TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy wires, anchors, or monopole towers.

UTILITY POLE: An upright pole used to support electric cables, telephone cables, telecommunication cables and related facilities owned and maintained by a Public Utility Company as defined by the Illinois Commerce Commission.

VARIANCE: A grant of relief from specific limitations of this Ordinance.

WI-FI ANTENNA: An antenna used to support Wi-Fi broadband internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

WIRELESS SUPPORT STRUCTURE: A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. A wireless support structure does not include a utility pole.

WIRELESS TELECOMMUNICATION ANTENNA: An antenna that is part of a wireless telecommunication facility.

WIRELESS TELECOMMUNICATION EQUIPMENT: Equipment, exclusive of an antenna, that is part of a wireless telecommunications facility.

WIRELESS TELECOMMUNICATION FACILITY: An antenna, and equipment used, or designed to be used, to provide wireless transmission of voice, data, images, or other information including, but not limited to, cellular phone service, personal communication service, paging, and Wi-Fi antenna service.

§ 10.16.030 REGULATIONS AND STANDARDS.

Wireless telecommunication facilities: 1) shall be permitted to be placed in rights-of-ways as attachments directly to existing or new utility poles, alternative antenna structures, new or replacement utility poles, or County-owned infrastructure, however not including signage or their support elements, subject to the regulations and standards set forth herein; 2) shall be permitted to be placed outside of rights-of-ways as attachments directly to existing County-

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owned utility poles pursuant to a separate agreement between the wireless telecommunication facility and the County and shall be subject to the regulations and standards set forth herein.

A. *Height Requirements.* The maximum height of a wireless telecommunication facility attached to a utility pole, alternative antenna structure, or County-owned infrastructure is limited to ten (10) feet above the utility pole, wireless support structure, or County-owned infrastructure on which the wireless telecommunication facility is collocated. The height of a new or replacement utility pole or wireless support structure on which wireless telecommunication facilities are collocated shall be limited to the higher of: (i) ten (10) feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless telecommunication facilities, that is in place on the date the application is submitted to the County, that is located within three hundred (300) feet of the new or replacement utility pole or wireless support structure and, that is in the same rights-of-ways within the jurisdictional boundary of the County; or (ii) forty-five (45) feet above ground level.

B. *New Utility Pole(s).* With respect to an application for the collocation of a wireless telecommunication facility associated with a new utility pole, the County may propose that the wireless telecommunication facility be collocated on an existing utility pole or existing wireless support structure within fifty (50) feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

C. *New Towers.* No new monopole or other tower to support wireless telecommunication facilities shall be installed within County rights-of-ways unless the County Engineer finds, based on clear and convincing evidence provided by the applicant, that locating the wireless telecommunication facilities in the rights-of-ways is necessary to close a significant gap in the applicant's services or to otherwise provide adequate services to customers, and that the proposed wireless telecommunication facility is the least intrusive means to do so.

D. *Permit Submittal.* Prior to installation, a wireless provider must obtain a permit from the County to collocate a wireless telecommunication facility on County-owned infrastructure or in the County Highway rights-of-ways. The following shall be required as part of the application: (i) site specific structural integrity and make-ready analysis prepared by a professional structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989; (ii) an exhibit or drawing showing the location where each proposed wireless telecommunication facility would be installed; (iii) photographs of the location and its immediate surroundings depicting the utility poles or alternative antenna structures on which each proposed wireless telecommunication facility would be mounted; (iv) specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed wireless telecommunication facility covered by the application as it is proposed to be installed; (v) a proposed schedule for the installation and completion of each wireless telecommunication facility covered by the application, if approved; and (vi) certification that the collocation complies to the best of the applicant's knowledge with the frequency interference requirements established in this Ordinance. Said

application shall be submitted to the McHenry County Division of Transportation, 16111 Nelson Road, Woodstock, IL 60098 or electronically.

E. *Attachment Limitations.* No wireless telecommunication antenna or facility shall be attached to a utility pole, alternative antenna structure, or County-owned infrastructure unless all of the following conditions are satisfied:

1. *Antenna Size.* The wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, shall be located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet. Applicant shall provide written proof by way of design drawings and details at time of application submittal that show the volume limitation has been met.

2. *Equipment Volume of Above-Ground Wireless Telecommunication Facility.* The total combined volume of all above-ground equipment and appurtenances comprising a wireless telecommunication facility, exclusive of the antenna itself, shall not cumulatively exceed twenty-five (25) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunication demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services. Applicant shall provide written proof by way of design drawings and details at time of application submittal that show the volume limitation has been met.

3. *Wireless Telecommunication Equipment.* The base of the wireless telecommunication equipment, antenna or appurtenances of a wireless telecommunication facility shall be located at a height no lower than ten (10) feet above grade and at a location and height that meets the requirements of the American Disabilities Act (ADA).

4. *Wiring and Cabling.* Wires and cables connecting the antenna to the remainder of the wireless telecommunication facility shall be installed in accordance with the edition adopted by the County of the National Electric Code and National Electrical Safety Code. In no event shall wiring and cabling serving the wireless telecommunication facility interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.

5. *Grounding.* The wireless telecommunication facility shall be grounded in accordance with the requirements of the edition adopted by the County of the National Electrical Code.

6. *Guy Wires.* No guy or other support wires shall be used in connection with a wireless telecommunication facility, unless the wireless telecommunication facility is proposed to be attached to an existing utility pole, alternative antenna structure, or County-owned infrastructure that incorporated guy wires prior to the date that an applicant has applied for a permit.

7. *Pole Extensions.* Extensions to utility poles, alternative antenna structures and County-owned infrastructure utilized for the purpose of connecting a wireless telecommunication antenna and its related wireless telecommunication equipment shall be fabricated from material similar to the support pole, and shall have a degree of strength capable of supporting the antenna and any related appurtenances and cabling, and capable of withstanding wind forces and ice loads in accordance with the structural integrity standards as set forth in §10.16.030(E)(8) of this Ordinance. An extension shall be securely bound to the support pole, alternative antenna structure or County-owned infrastructure in accordance with applicable engineering standards for the design and attachment of such extensions.

8. *Structural Integrity.* The wireless telecommunication facility, including the wireless telecommunication antenna, pole extension and all related wireless telecommunication equipment shall be designed to withstand wind forces and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for utility poles, in the American National Standards Institute (ANSI), in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA), by the Electronics Industry Association (EIA) for steel wireless support structures, and the applicable industry standards for other existing structures.

F. *Signage.* Other than signs required by Federal law or regulations or identification and location markings, installation of signs on a wireless telecommunication facility is prohibited.

G. *Frequency Interference.* Operation of the wireless telecommunication facilities shall not interfere with the frequencies used by any public safety agency for public safety communications, including, but not limited to, streetlight and traffic signal transmissions. In the event that an interference with the frequencies used by any public safety agency is detected, at any time, the wireless provider is required to, at its own expense, either: (i) reconfigure its antenna system's frequency so that it does not interfere; or (ii) cease transmitting/receiving from

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said unit; or (iii) remove the entirety of the installation immediately upon notification of said interference. In the event a relocation is required, the applicant will be required to apply for a new permit for a wireless telecommunication facility with no assurances or guarantees regarding the issuance of a permit.

H. *Permission to Use Utility Pole or Alternative Antenna Structure.* The applicant of a wireless telecommunication facility shall submit to the County a written copy of the approval from the owner of a utility pole or an alternative antenna structure to mount the wireless telecommunication facility at that specific location as part of the application for issuance of a permit by the County.

I. *Permission to Use Private Land.* The applicant of a wireless telecommunication facility is also responsible for obtaining approval from the owner of any private land on which a utility pole or an alternative antenna structure is located (such as when a public highway is by prescriptive easement) to mount the wireless telecommunication facility at that specific location. The County shall not be responsible for verifying whether or not said approval is required.

J. *Municipal Approval.* When installing or collocating a wireless telecommunication facility on County-owned infrastructure, within County rights-of-ways that are also within a municipal boundary, the applicant shall submit to the County a written copy of the approval from the local municipality to mount the wireless telecommunication facility at that specific location as part of the application for issuance of a permit by the County.

K. *Restoration.* Upon completion of the work authorized by permit under this Ordinance, the applicant shall restore all disturbed or damaged areas of the rights-of-ways to, at a minimum, their original condition. Said restoration shall include, but is not limited to, any special landscaping or enhanced areas that existed in the rights-of-ways prior to the commencement of the permitted work, repairs to shoulders, ditches, parkways, curbs, and pavements. The County shall bear no responsibility for costs associated with such restoration.

L. *Replacement of County-Owned Infrastructure.* If the County determines that applicable codes or public safety regulations require the County-owned infrastructure to be modified or replaced to support the requested collocation, the County may require the applicant to modify or replace the County-owned infrastructure at no cost to the County.

M. *Adjustments or Relocations of Facilities.* The applicant shall be responsible for making adjustments, revisions, relocations and/or removal of its facilities or abandoned facilities on County-owned infrastructure or within the County rights-of-ways due to any County construction/reconstruction or maintenance work.

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N. *Damage to County Property.* The applicant shall be financially responsible for any damage to County property caused by the installation, maintenance, or operation of their equipment.

O. *Abandonment and Removal.* Any wireless telecommunication facility located on County-owned infrastructure or within the County rights-of-ways that is not operated for a continuous period of twelve (12) months, shall be considered abandoned and the applicant of the facility shall remove same within ninety (90) days after receipt of written notice from the County notifying the applicant of such abandonment. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the County to such applicant at the last known address of such applicant. In the case of wireless telecommunication facilities attached to County-owned infrastructure, if such facility is not removed within ninety (90) days of such notice, the County may cause the removal of such facility and applicant shall be responsible for any costs associated with the removal.

P. *County Wireless Telecommunication Facilities.* This Ordinance shall not apply to wireless telecommunication facilities owned by the County.

Q. *Service Connections.* Other related improvements including, but not limited to, buried electrical service, and buried fiber optic or cable connections that are needed to service the wireless telecommunication facility and are installed within County rights-of-ways beyond the physical utility pole or alternative antenna structure require additional and separate permits. These types of connections would be applied for by the respective utility provider providing that service or connection (e.g. ComEd, ATT, etc.).

R. *Application Fee.* Unless otherwise provided by franchise, license, or similar agreement, or Federal, State or local law, all applications for permits pursuant to this Ordinance shall be accompanied by a fee set forth in Appendix A to this Ordinance for each wireless telecommunication facility addressed in the application. Said fee shall be based on whether the wireless telecommunication facility is being collocated on an existing utility pole or an alternative antenna structure or the wireless telecommunication facility included the installation of a new utility pole or alternative antenna structure.

S. *Annual Recurring Rate.* The applicant shall pay to the County an annual recurring rate set forth in Appendix A to this Ordinance for each permitted location to collocate or install wireless telecommunication facilities on a County-owned infrastructure within rights-of-ways. The applicant shall pay to the County amounts as agreed upon pursuant to a separate agreement

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between the wireless telecommunication facility and the County on a County-owned utility pole outside of rights-of-ways.

T. *Insurance Coverage.* A Certificate of Insurance meeting the coverage limits and insurance company ratings, as specified in the Illinois Department of Transportation Standard Specifications, shall be submitted, at no cost to the County, and shall name "McHenry County, the McHenry County Division of Transportation, its elected and appointed officials, its employees and agents" as additional insured parties. The Certificate shall also include proof of evidence of Worker's Compensation Insurance coverage. The insurance shall include commercial general liability insurance with respect to the applicant's activities to afford minimum protection limits consistent with the County's requirements of other users of County-owned infrastructure or County rights-of-ways, including coverage for bodily injury and property damage.

U. *No Implied Warranties.* As to objects, structures, poles, etc. which are of, under or deemed to be those belonging to the County, onto which a wireless telecommunication facility is to be considered for installation upon, no implied or expressed warranty is given, granted, inferred, etc. as to its capability to accept, support, etc. and/or provide for the needs of the wireless telecommunication facility installation. The complete responsibility for assuring the wireless support structure's ability will rest and lie entirely with the applicant. In the event the applicant's wireless support structure is deemed inadequate by the applicant, the County will be under no obligation to augment or install a new alternative antenna structure for the installation of the wireless telecommunication facility.

V. *Hold Harmless Agreement.* It is recognized that the system being created by the wireless telecommunication facilities network requires an interconnection and complete coverage in order for the system to function. It is also recognized that in the course of events, weather conditions, traffic accidents, and maintenance operations sometimes cause damage to County-owned infrastructure and wireless support structures within rights-of-ways including, but not limited to, utility poles, streetlights, traffic signals or towers. Although replacement, reconstruction or re-installation of these elements are typically accomplished in as efficiently, timely and economically a manner as possible, there is no defined timeframe in which this repair work is completed. In the event such incidents occur causing damage to these County-owned infrastructure and wireless support structures which have wireless telecommunication facilities mounted or otherwise attached to them, and in the event such accidents or occurrences cause elements of or the complete wireless telecommunication facility to be incapacitated, rendered inoperable, made irreparable, or destroyed, the County and its elected and appointed officials and employees shall be held harmless and under no obligation to replace, reconstruct or re-install the County-owned infrastructure and wireless support structures within a certain time frame nor shall there be any obligation by the County to repair, reconfigure or replace any elements of the

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wireless telecommunications facilities. Such duties and responsibilities for the repair, reconfiguration or replacement of the wireless telecommunication facility shall rest solely and at the expense of the applicant.

§ 10.16.040 VARIATIONS AND APPEALS.

Under conditions of practical difficulty and extraordinary hardships, it may be difficult to strictly comply with the requirements of this Ordinance. The purpose of a variation is to provide relief from strict compliance with the regulations and requirements of this Ordinance so long as the objectives of this Ordinance are not compromised. It is the applicant’s responsibility to clearly prove that a variation will not be contrary to the public interest and that a practical difficulty or extraordinary hardship will result if a variance is not granted.

A. *Variance Procedures.* If the County has denied a permit request or assigned conditions to the permit that the applicant disagrees with, the applicant can then make a written appeal request to the County Engineer, if the wireless telecommunication facility is being located in the County Highway rights-of-ways, or to the for a variance. The County Engineer shall review and may approve variations to the requirements of this Ordinance so that substantial justice may be done and the public interest served thereby, provided that such variations shall not have the effect of nullifying the intent and purpose of this Ordinance. The applicant must clearly prove that the variation will not be contrary to the public interest and other objectives of this Ordinance and shall prove that a practical difficulty or extraordinary hardship will result if the variance is not granted. In particular, the applicant shall establish and substantiate that the variation conforms to the requirements and standards as set forth in §10.16.040(A)(3) of this Ordinance.

1. *Variation Request Format.* A petition for any variation from the requirements of this Ordinance shall be made in writing to the County Engineer and the fees for processing of the variance as set forth in Appendix A to this Ordinance shall be paid for in advance. The request shall identify the specific requirement of the Ordinance that the applicant is requesting a variance from along with all supporting documentation.

2. *Supporting Documentation and Studies.* The County Engineer may require that additional documentation, data, engineering studies, or other information be submitted in order to provide for a complete and thorough review of a variance request. It is the applicant’s responsibility to develop and provide said additional documentation. The cost of said documentation, data, and studies shall be the sole responsibility of the applicant and no reimbursement of said costs will be made if the applicant’s variance request is approved or denied.

3. *Standards for Variation.* A variation, in the strict application of the provisions of this Ordinance, shall not be granted unless it is found that all of the following relevant requirements and conditions are satisfied. The County Engineer may grant variations whenever it is determined that all of the following have been met:

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a. The granting of a variation shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance and shall not result in undue delay or congestion, shall not be detrimental to the safety of the public, including the motoring public using the County Highway, and shall not limit the ability of the County to maintain or otherwise improve County-owned infrastructure or a County Highway.

b. There must be proof of unique or existing special circumstances or conditions where the strict application of the provisions of this Ordinance would deprive the applicant of placement of a wireless telecommunication facility.

c. There must be proof of practical difficulty or unnecessary hardship. It is not sufficient to show that greater profit or economic gain would result if the variation would be granted. Furthermore, the hardship or difficulty cannot be self-created or self-imposed; nor can it be established on this basis by the applicant who enters into an agreement with or without knowledge of the provisions of this Ordinance. The difficulty or hardship must result from the strict application of this Ordinance, and it must be suffered directly and solely by the applicant.

d. The variation is the least deviation from the requirements of this Ordinance that will mitigate the hardship or practical difficulty.

4. *Action by the County Engineer.* Upon receipt of the required variance application forms, supporting documentation, data, studies, and other requested information, and upon payment of all related variance fees, the County Engineer shall review the variance request and render a decision in writing to the developer by certified mail within thirty (30) calendar days. The County Engineer may stipulate conditions or impose requirements as a condition of granting a variance from the provisions of this Ordinance.

B. *Appeals Procedure.* Objections to any formal action or decision made by the County Engineer concerning issuance of a permit or variance under this Ordinance can be appealed by the applicant to the Transportation Committee of the McHenry County Board and adjudicated through an Appeal Hearing.

1. *Appeal Hearing Request Requirements.* Requests from the applicant for an Appeal Hearing by the Transportation Committee shall be made in writing to the County Engineer within thirty (30) calendar days of receipt of the County Engineer's written variance decision. If the written request is not received within thirty (30) days, the applicant forfeits the right to an Appeal Hearing before the Transportation Committee.

2. *Appeal Hearing Date and Notice.* The Appeal Hearing shall be conducted at a regularly scheduled Transportation Committee meeting with the Appeal Hearing date set by the Chairman of the Transportation Committee upon notification by the County Engineer. The date of the Appeal Hearing shall provide for sufficient notice and review

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time. The applicant will be notified, in writing, of the date and time of the hearing no less than fifteen (15) days prior to the hearing. The hearing shall take place no later than sixty (60) days from receipt of the written request for an Appeal Hearing unless an alternate date is agreed to by the County and the applicant.

3. *Appeal Hearing Proceedings.* The Appeal Hearing is formal, but strict rules of evidence will not be followed. The Chairman of the Transportation Committee shall preside over and conduct the Appeal Hearing. All testimony provided during the Appeal Hearing shall be sworn and any documents, exhibits, etc. utilized in the Appeal Hearing shall be admitted into evidence and kept by the Committee. The meeting shall be open to the public pursuant to the requirements of the Open Meetings Act. The hearing format shall generally consist of:

- Identification of applicant, his representatives, owner, and witnesses providing testimony and staff, staff representatives, and staff witnesses providing testimony.
- Comments by the public.
- Applicant’s evidence and witness testimony followed by cross examination by the Committee and staff.
- Staff evidence and witness testimony followed by cross examination by the Committee and the applicant.
- Applicant’s rebuttal of evidence presented by staff.
- Closing statements by the applicant and staff.
- Closing of Appeal Hearing
- Deliberation and decision by Transportation Committee

4. *Decision by Transportation Committee.* The decision of the Transportation Committee shall be made in accordance with the testimony and evidence presented at the Appeal Hearing and shall take into account the standards of §10.16.040(A)(3) of this Ordinance in their decision. The Transportation Committee decision shall be considered final under this Ordinance and shall be communicated in writing to the applicant within thirty (30) calendar days. Minutes of the hearing and subsequent deliberations shall be provided to the applicant and made available for public review in accordance with the Open Meetings Act.

§ 10.16.050 SEVERABILITY.

In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or section of the Ordinance, which shall remain in full force and effect.

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§ 10.16.060 EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon its adoption by the McHenry County Board.

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APPENDIX A
WIRELESS TELECOMMUNICATION FACILITIES ORDINANCE

<u>FEE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
Application Fees:	Fee due at time of application for one (1) wireless telecommunication facility on an existing utility pole or alternative antenna structure.	\$650
	Fee due at time of application for two (2) or more wireless telecommunication facilities on existing utility poles or alternative antenna structures.	\$350 for each wireless telecommunication facility
	Fee due at time of application for each wireless telecommunication facility which includes the installation of a new utility pole or new alternative antenna structure.	\$1,000 for each wireless telecommunication facility
Annual Recurring Rate	Fee due annually on the anniversary of the date the permit was issued for any wireless telecommunication facility collocated on a County utility pole or County-owned infrastructure.	\$200 for each wireless telecommunication facility
Variance	Fee due at time of application for each wireless telecommunication facility requesting a variance.	\$2,500

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