

## Chapter 5 - STREETS AND SIDEWALKS

### ARTICLE 1. - GENERAL PROVISIONS

#### 5.1.01. - Supervision.

All public streets, sidewalks and other public ways in the City shall be under the supervision of the Superintendent of Public Works. He shall be charged with the enforcement of all provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinances.

#### 5.1.02. - Constructions.

It shall be unlawful to construct or lay any pavement on any public street, sidewalk, or other public way, or to repair the same, without first having secured a permit in accordance with the provisions of Chapter 14 of the Municipal Code.

All street and sidewalk pavements shall be in conformity with the requirements of Chapter 17 of the Municipal Code.

#### 5.1.03. - Bond.

Each applicant shall file a bond in the amount of five thousand dollars (\$5,000.00) with surety to be approved by the Council, conditioned to indemnify the municipality for any loss or damage resulting from the work undertaken or the manner of doing the same.

#### 5.1.04. - Injury to New Pavements.

It shall be unlawful to walk upon or drive any vehicle or animal upon, or injure any newly laid street or sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft newly-laid pavement.

#### 5.1.05. - Repairs and Defects.

All public streets and sidewalk pavement shall be kept in good repair. Such repair work, whether done by the City or by the abutting owner, shall be under the supervision of the Superintendent of Public Works.

#### 5.1.06. - Obstruction.

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, sidewalk or public way, except as may be specifically authorized by ordinance.

#### 5.1.07. - Barricades.

Any person, firm or corporation laying or repairing any pavement on a street, sidewalk or other public place, or making an excavation in any such place, or maintaining any opening or excavation in any such place, shall maintain suitable barricades to prevent injury to any person or vehicle by reason of the work; such barricades

shall be protected by lights at night-time; any defects in any such pavement shall be barricaded to prevent any injury to persons or property and shall be the responsibility of the Superintendent of Public Works.

#### 5.1.08. - Private Use.

It shall be unlawful for any person, firm or corporation to use any street, sidewalk or other public place, as space for the display or sale of goods or merchandise; or to write or mark any signs or advertisements on any such pavements.

#### 5.1.09. - Encroachments.

It shall be unlawful to erect or maintain any building structure which encroaches upon any public street or property.

#### 5.1.10. - Deposits on Streets.

It shall be unlawful to deposit on any street any material which may be harmful to the pavement thereof, or any waste materials, or any glass, or other articles which may bring injury to any person, animal or property.

Lawful materials may be deposited in streets preparatory to delivery or use provided such deposit does not reduce the usable width of roadway at a point to less than eighteen (18) feet and provided that such material shall not be permitted to remain on such street for more than twenty-four hours. Garbage, refuse and ashes may also be deposited as provided by that section of this City Code relating to garbage, refuse and ashes.

Any such material, other than garbage, refuse and ashes, shall be guarded by lights if the same remains upon any street after nightfall.

#### 5.1.11. - Deposits on Sidewalks.

It shall be unlawful to deposit on any public sidewalk any material other than merchandise or articles intended for immediate delivery into the adjacent premises.

#### 5.1.12. - Drains.

It shall be unlawful to obstruct any drain in any public street; further, it shall be unlawful to dispose of any depositing in or upon any sidewalk, street or gutter, any organic or inorganic material which may obstruct an aforementioned drain.

#### 5.1.13. - Poles and Wires.

It shall be unlawful to erect or maintain any poles or wires on or over any public street, or other public way, without having first secured permission from the Council.

This section shall not apply to any public utility which has entered into prior agreements with the City for said type of construction.

#### 5.1.14. - Excavations.

It shall be unlawful to make any excavation in or tunnel under any public street, sidewalk or other public place in the City without having first secured a permit therefor. Applications for such permits shall be made to the City Clerk, and shall specify the intended location and purpose of the excavation. Such permit shall be issued Superintendent of Public Works.

Any person making any such excavation shall refill the same properly and shall restore the surface to its condition before the excavation was made, as soon as possible. All such excavations, refills and resurfacing shall be made subject to the supervision and direction of the Superintendent of Public Works.

#### 5.1.15. - Street Openings.

- A. No person shall excavate in or tunnel under any street pavement, roadway right-of-way, sidewalk, crosswalk, alley, parkway, or any part thereof without first having secured a proper permit from the Superintendent of Public Works.
- B. No permit as specified in this Section shall be issued unless the applicant shall first have deposited with the city clerk a bond in the penal sum of \$3,500 with surety conditioned to indemnify the City from any and all costs occasioned by the failure of the applicant properly to replace said pavement, roadway right-of-way, sidewalk, crosswalk, alley, parkway, or parts thereof, to the same condition as existed prior to the commencement of the work authorized in the permit. Furthermore, no permit shall be issued unless the applicant shall first have filed with the city clerk a Certificate of Civil Liability, in the sum of \$100,000 per person, \$300,000 per occurrence, and \$25,000 property damage and all costs, expense or liability of any liability of any kind whatsoever which the City may suffer, or be put, or which may be recovered from it by reason of the issuance of such permit.
- C. Whenever any street, pavement, roadway right-of-way, side crosswalk, alley, parkway, or part thereof, is damaged or disturbed by the erection or alteration of any building abutting thereon by reason of the construction there, or placing underground utilities, such as sanitary sewers or water mains, the same shall be restored to a condition as good and serviceable as prior to the beginning of the work by and at the expense of the owner of the building involved, or his contractor, or the owner of the utility involved, or his contractor.
- D. Any person to whom a building or street opening permit is issued, shall erect and maintain such substantial and suitable fences, railings, or barricades, to guard all excavations, embankments or obstructions along or in any street, roadway right-of-way, sidewalk, crosswalk, alley or parkway abutting upon or adjacent to such lot or tract as the Building Commissioner deems necessary for the protection of the lives and limbs of the public; and, shall place and maintain proper and sufficient red lights or lanterns to protect the public during hours of darkness. Such lights shall be placed at each end of every such obstruction or excavation, and at intervals of not more than 23 meters (15 feet) along same.
- E. It shall be unlawful for any person without legal cause to remove, extinguish, diminish, or disturb such lights, or remove or disturb such barricades.

#### 5.1.16. - Barbed Wire Fences, Etc.

It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire or with any similar material designed to cause injury to persons, or any wire charged with electric current.

## ARTICLE 2. - DRIVEWAYS

### 5.2.01. - Permit Required.

No person, firm or corporation shall construct or make additions to a driveway for vehicles or animals across any sidewalk or entering into any street right-of-way in the City without having obtained a permit therefor.

Applications for such permits shall be made to the City Clerk. Applications for permits for construction of driveways for commercial or manufacturing use in areas zoned as commercial shall be accompanied by a fee of \$25.00. Such permit shall be issued by the Superintendent of Public Works, and all such work shall be subject to the supervision and directions of the Superintendent of Public Works.

No permit for the construction of a driveway for commercial use, or the habitual use of any other than the owner or occupant of the premises served, shall be issued except upon the order of the Council.

### 5.2.02. - Grade Surface.

No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction, in the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk.

It shall be unlawful to have the surface finish of any driveway where the same crosses the sidewalk constructed of such materials as to render it slippery and hazardous for pedestrians, or to have the grade of such portion vary from the grade of the sidewalk, or be other than level.

### 5.2.03. - Materials.

Driveways across sidewalks shall be constructed of concrete.

### 5.2.04. - Repair.

It shall be the duty of every person maintaining a driveway to keep the same in good repair where it crosses the sidewalk, and free from construction and openings.

### 5.2.05. - Bond.

No permit for the construction of a commercial driveway, or driveway for the habitual use of the public or any other than the owner or occupant of the premises served, across any public sidewalk shall be issued, and no such driveway shall be maintained unless there is first filed with the City Clerk a bond in the sum of five thousand dollars (\$5,000.00) with sureties to be approved by the Council, conditioned to indemnify the City for any loss, damage or liability suffered or incurred by reason of the existence, construction or use of such driveway.

### 5.2.06. - Elimination of Unpaved Driveways.

All unpaved driveways in the City shall be paved in accordance with the standards of the City's Subdivision Regulations upon the occurrence of the lease, sale or other ownership transfer of the property with an unpaved driveway.

No real estate transfer stamps shall be issued by the City Clerk until such time as the Building Commissioner certifies that the driveway is paved. If weather conditions or other unavoidable circumstances prevent the driveway from being paved by closing of the sale, the Clerk shall issue transfer stamps only if the seller and/or buyer (i) post a cash bond with the City equal to 125% of the estimated driveway construction cost and (ii) execute an agreement whereby the buyer agrees to perform such work by date certain (in which case the bond will be returned to the buyer), and authorizes the City or its contractors to enter upon the property for purposes of performing the work in the event buyer fails or refuses to perform such work after a 30-day written notice from the City to do so.

### ARTICLE 3. - TREES AND SHRUBBERY

#### 5.3.01. - Definitions.

- A. *Street Trees*. "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between proper lines on either side of all streets, avenues, or ways within the City.
- B. *Park Trees*. "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- C. *City Tree Superintendent*. There is hereby created and established a City Tree Superintendent for the City of Country Club Hills. The Superintendent of Public Works shall serve as the City Tree Superintendent.

#### 5.3.02. - Duties and Responsibilities.

It shall be the responsibility of the Tree Superintendent to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs along streets and in other public areas. Such a plan will be presented annually to the City Council and upon their acceptance and approval, shall constitute the official comprehensive City Tree Plan for the City of Country Club Hills. The Superintendent, when requested by the City Manager, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

#### 5.3.03. - Planting.

It shall be unlawful to plant a tree or shrub within a public street or parkway without first having secured a permit therefor. Applications for such permits shall be made to the city Clerk and shall be referred to the Tree Superintendent before issuance. All trees and shrubs so planted shall be placed subject to the directions and approval of the Tree Superintendent.

All plantings shall be governed by the following:

1. It shall be unlawful to plant any trees or shrubs that would obstruct, become a general nuisance or in any way obstruct traffic or views thereof.
2. Poplar, Cottonwood, Russian Olive, Fruit Trees and other trees not recommended for planting by the Morton Arboretum shall not be permitted.
3. Trees which should be planted more often include Black Maple, Blue Ash, White Oak and European Beech. Silver Maple, Chinese Elms and similar varieties, shall be used only when approved, and shall be alternately planted with hardwood trees.
4. Trees shall be spaced evenly along all public streets at forty (40') feet intervals where permissible and no closer than thirty (30') feet.  
  
Corner trees shall be placed at least forty (40') feet from intersections. All trees shall be placed at least twenty (20') feet from fire hydrants.
5. All trees shall be planted at least four (4') feet from the edge of the street or equidistant from sidewalk and street or curb.
6. In newly developed areas where the developer is planting the trees, one softwood or conifer tree and one hardwood tree shall be allowed per lot or alternate lots, whichever meets the distance apart requirements, preventing sections of the City having all softwood or all conifer trees therein.

#### 5.3.04. - Maintenance.

All trees shall be maintained in a healthy state (alive, disease and insect free) by the property owner.

All foliage, branches and suckers of trees shall be pruned to a height of eight (8') feet from street level or ground level, whichever is greater.

All diseased or dead trees shall be removed by the owner at his expense when tree is so designated by the Tree Superintendent or his duly authorized agents.

If any of the above is not maintained as indicated, the Tree Superintendent, upon proper notification, shall remove, trim or spray or cause to be removed, trimmed or sprayed to correct said infringements of the above, at the owner's expense.

#### 5.3.05. - Removal.

It shall be unlawful to remove or cut down any tree or shrub in any such public place without having secured a permit therefor. Applications for such permits shall be made to the city Clerk and approved by the Tree Superintendent before issuance.

#### 5.3.06. - Injury.

It shall be unlawful to injure any tree or shrub planted or growing in any such public place.

#### 5.3.07. - Advertisements or Notices.

It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any such public place.

#### 5.3.08. - Utilities.

It shall be unlawful to attach any wire or rope to any tree or shrub in any public street, parkway or other public place without the permission of the Tree Superintendent.

Any person or company which maintains poles and wire in the streets, or in other public places, shall in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places so far as may be possible and shall keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the Tree Superintendent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

#### 5.3.09. - Tree Topping.

It shall be unlawful as a normal practice for any person, firm or City Department to top any Street Tree, Park Tree or any other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning practices are impractical may be exempt from this ordinance by determination of the City Tree Superintendent.

#### 5.3.10. - Removal of Stumps.

All stumps of Street Trees and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

#### 5.3.11. - Excavations.

In making excavations in streets or other public places proper care shall be taken to avoid injury to the roots of any tree or shrub, wherever possible.

#### 5.3.12. - Interference with Tree Superintendent.

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Superintendent, or any of his agents, while engaging in and about planting, cultivating, mulching, pruning, spraying or removing any Street Trees, Park Trees or trees on private grounds, as authorized in this ordinance.

#### 5.3.13. - Arborists License and Bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing Street or Park Trees within the city without first applying for and obtaining a license, provided however that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license is issued, each applicant shall first file evidence of possession of liability insurance for bodily injury and property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

### ARTICLE 4. - CONSTRUCTION OF UTILITY FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

#### 5.4.01. - Purpose and Scope.

- a) *Purpose.* The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.
- b) *Intent.* In enacting this Article, the City of Country Club Hills intends to exercise its authority over the rights-of-way in the City of Country Club Hills and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:
  - (1) Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
  - (2) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
  - (3) Prevent interference with the facilities and operations of the City of Country Club Hills's utilities and of other utilities lawfully located in rights-of-way or public property;
  - (4) Protect against environmental damage, including damage to trees, from the installation of utility facilities;
  - (5) Protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
  - (6) Preserve the character of the neighborhoods in which facilities are installed;
  - (7) Preserve open space, particularly the tree-lined parkways that characterize the City of Country Club Hills's residential neighborhoods;
  - (8) Prevent visual blight from the proliferation of facilities in the rights-of-way; and
  - (9) Assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.
- c) *Facilities Subject to This Article.* This Article applies to all facilities on, over, above, along, upon, under, across, or within the public rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement. This Article shall not apply to any facilities constructed by others to be owned by the City.
- d) *Franchises, Licenses, or Similar Agreements.* The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Article.
- e) *Effect of Franchises, Licenses, or Similar Agreements.*
  - (1) *Telecommunications Providers.* In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
  - (2) *Utilities Other Than Telecommunications Providers.* In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful

renewal or extension thereof.

- f) *Conflicts with Other Ordinances.* This Article supersedes all ordinances or parts of ordinances adopted prior hereto that are in conflict herewith to the extent of such conflict.
- g) *Conflicts with State and Federal Laws.* In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.
- h) *Sound Engineering Judgment.* The City shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

#### 5.4.02. - Definitions.

As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

*AASHTO.* American Association of State Highway and Transportation Officials.

*ANSI.* American National Standards Institute.

*Applicant.* A person applying for a permit under this Article.

*ASTM.* American Society for Testing and Materials.

*Backfill.* The methods or materials for replacing excavated material in a trench or pit.

*Bore or Boring.* To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

*Cable Operator.* That term as defined in 47 U.S.C. 522(5).

*Cable Service.* That term as defined in 47 U.S.C. 522(6).

*Cable System.* That term as defined in 47 U.S.C. 522(7).

*Carrier Pipe.* The pipe enclosing the liquid, gas or slurry to be transported.

*Casing.* A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

*City.* The City of Country Club Hills, Illinois.

*City's Design Manual.* The City of Country Club Hills's construction specifications and requirements embodied in a booklet or manual.

*Clear Zone.* The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

*Coating.* Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

*Code.* The Municipal Code of the City of Country Club Hills and ordinances enacted by the City of Country Club Hills.

*Conductor.* Wire carrying electrical current.

*Conduit.* A casing or encasement for wires or cables.

*Construction or Construct.* The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

*Cover.* The depth of earth or backfill over buried utility pipe or conductor.

*Crossing Facility.* A facility that crosses one or more right-of-way lines of a right-of-way.

*Director of Public Works.* The Director of the City of Country Club Hills Department of Public Works, or his designee.

*Disrupt the Right-of-Way.* For the purposes of this Article, any work that obstructs the right-of-way or causes an adverse effect on the ability of persons, other companies with facilities in the right-of-way, or vehicles to use the right-of-way for its intended use or which may damage, destroy or injure vegetation in the right-of-way. Such work shall include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, but shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a road.

*Emergency.* Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

*Encasement.* Provision of a protective casing.

*Engineer.* The City Engineer or his designee.

*Equipment.* Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

*Excavation.* The making of a hole or cavity by removing material, or laying bare by digging.

*Extra Heavy Pipe.* Pipe meeting ASTM standards for this pipe designation.

*Facility.* All structures, devices, objects, and materials including, but not limited to, track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, poles, conduits, grates, covers, pipes, cables, vaults, boxes, cabinets and other equipment enclosures, power pedestals and appurtenances thereto located on, over, above, along, upon, under, across, or within rights-of-way under this Article, but excepting therefrom all structures, devices, objects or materials owned by the City.

*Freestanding Facility.* A facility that is not a crossing facility or a parallel facility, such as, but not limited to, vaults, boxes, cabinets, equipment enclosures, antennas, transformers, pumps, or meter stations.

*Frontage Road.* Roadway, usually parallel, providing access to land adjacent to the highway where access to the land is precluded by control of access on the highway.

*Hazardous Materials.* Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the City Director of Public Works or the City Engineer to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

*Highway Code.* The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

*Holder.* A person or entity that has received authorization to offer or provide cable or video service from the Illinois Commerce Commission (the ICC) pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

*IDOT.* Illinois Department of Transportation.

*ILCC.* Illinois Commerce Commission.

*Jacking.* Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

*Jetting.* Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

*Joint Use.* The use of pole lines, trenches or other facilities by two or more utilities.

*Major Intersection.* The intersection of two or more major arterial roads.

*Occupancy.* The presence of facilities on, over or under right-of-way.

*Parallel Facility.* A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

*Parkway.* Any portion of the right-of-way not improved by street or sidewalk.

*Pavement Cut.* The removal of an area of pavement for access to facility or for the construction of a facility.

*Permittee.* That entity to which a permit has been issued pursuant to Section 6B-5-4 and 6B-5-5 of this Article.

*Petroleum Products Pipelines.* Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

*Practicable.* That which is performable, feasible or possible, rather than that which is simply convenient.

*Pressure.* The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

*Prompt.* That which is done within a period of time specified by the City. If no time period is specified, the period shall be 30 days.

*Public Entity.* A legal entity that constitutes or is part of the government, whether at local, state or federal level.

*Restoration.* The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

*Right-of-Way.* Any street, alley, other land or waterway, dedicated or commonly used for roadway or utility purposes, including utility easements in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. "Right-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the right-of-way.

*Roadway.* That part of the right-of-way that includes the pavement and shoulders.

*Sale of Telecommunications at Retail.* The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

*Security Fund.* That amount of security required pursuant to Section 5.4.10.

*Shoulder.* A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

*Sound Engineering Judgment.* A decision(s) consistent with generally accepted engineering principles, practices and experience.

*Telecommunications.* This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, specialized mobile radio services, cellular mobile telecommunications services, stationary two-way radio service, paging service or any other form of commercial mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points of wide, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. For purposes of this definition, "Private Line" means a dedicated non-traffic sensitive service for a single customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 CFR 76.1550 and following) as now or hereafter amended.

*Telecommunications Provider.* Means any person that installs, owns, operates or controls facilities in the public right-of-way used or designed to be used to transmit telecommunications in any form.

*Telecommunications Retailer.* Means and includes every person engaged in making sales of telecommunications at retail as defined herein.

*Trench.* A relatively narrow open excavation for the installation of an underground facility.

*Utility.* The individual or entity owning or operating any facility as defined in this Article.

*Vent.* A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

*Video Service.* That term as defined in section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

*Water Lines.* Pipelines carrying raw or potable water.

*Wet Boring.* Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

#### 5.4.03. - Annual Registration Required.

Every utility that occupies right-of-way within the City shall register on January 1 of each year with the Director of Public Works, or designee, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 5.4.08 of this Article, in the form of a certificate of insurance.

#### 5.4.04. - Permit Required; Applications and Fees.

- a) *Permit Required.* No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any City right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Article), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the Director of Public Works and obtaining a permit from the City therefor, except as otherwise provided in this Article. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.
- b) *Permit Application.* All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. Duplicate copies shall be submitted to the City Engineer. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.
- c) *Minimum General Application Requirements.* The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:
  - (1) The utility's name and address and telephone and telecopy numbers;
  - (2) The applicant's name and address, if different than the utility, its telephone, telecopy numbers, e-mail address, and its interest in the work;
  - (3) The names, addresses and telephone and telecopy numbers of all professional consultants, if any,

- advising the applicant with respect to the application;
- (4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
  - (5) Evidence that the utility has placed on file with the City:
    - (i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
    - (ii) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ILCC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;
  - (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
  - (7) Evidence of insurance as required in Section 5.4.08 of this Article;
  - (8) Evidence of posting of the security fund as required in Section 5.4.09 of this Article;
  - (9) Any request for a variance from one or more provisions of this Article (see Section 5.4.21); and
  - (10) Such additional information as may be reasonably required by the City.
- (d) *Supplemental Application Requirements for Specific Types of Utilities.* In addition to the requirements of Subsection (c) of this Section, the permit application shall include the following items as applicable to the specific utility that is the subject of the permit application:
- (1) In the case of new electric power, communications, telecommunications, cable service, video service or natural gas distribution system installation, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to have, or that applicant has elected to obtain, has been issued by the ILCC or other jurisdictional authority;
  - (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
  - (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied and provide copies of IEPA permits;
  - (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control, or other local or state entities with jurisdiction, have been satisfied and provide copies of IEPA permits; or
  - (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.
- (e) *Applicant's Duty to Update Information.* Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit

application shall be submitted by the utility in writing to the City within thirty (30) days after the change necessitating the amendment.

- (f) *Application Fees.* Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a fee in the amount of \$20.00 per 100 linear feet of the facility within City right-of-way, or a minimum of \$100.00. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

5.4.05. - Action on Permit Applications.

- (a) *City Review of Permit Applications.* Completed permit applications, containing all required documentation, shall be examined by City Engineer and the Director of Public Works within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the City Engineer or Director of Public Works shall reject such application in writing, stating the reasons therefor. If the City Engineer and Director of Public Works are satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the City Engineer or Director of Public Works, that the construction proposed under the application shall be in full compliance with the requirements of this Article.
- (b) *Additional City Review of Applications of Telecommunications Retailers.*
- (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The Director of Public Works shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.
  - (2) In the event that the Director of Public Works fails to provide such specification of location to the telecommunications retailer within either (i) ten (10) days after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) twenty-five (25) days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article. For purposes of determining when the ten or twenty-five day period specified in this subsection begins, service of notice to the City shall be considered to have occurred on the date that the City has received all of the documentation required to be submitted under Section 5.4.05(b)(1).
  - (3) Upon the provision of such specification by the City, where a permit is required for work pursuant to Section 5.4.04 of this Article the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.
- (c) *Additional City Review of Applications of Holders of State Authorization under the Cable and Video*

*Competition Law of 2007.* Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after the submission to the City, unless otherwise acted upon the City, provided the holder has complied with all applicable City codes, ordinances and regulations.

5.4.06. - Effect of Permit.

- a) *Authority Granted; No Property Right or Other Interest Created.* A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Article on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.
- b) *Compliance with All Laws Required.* The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and all applicable statutes, laws, ordinances, rules, and regulations.

5.4.07. - Revised Permit Drawings.

In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with Section 5.4.21 of this Article. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

5.4.08. - Insurance.

- a) *Required Coverages and Limits.* Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs (1) and (2) below:
  - (1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:
    - (i) Five million dollars (\$5,000,000) for bodily injury or death to each person;
    - (ii) Five million dollars (\$5,000,000) for property damage resulting from any one accident; and
    - (iii) Five million dollars (\$5,000,000) for all other types of liability;
  - (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million dollars (\$1,000,000) for personal injury and property damage for each accident;
  - (3) Worker's compensation with statutory limits; and
  - (4) Employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per employee

and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

- (b) *Excess or Umbrella Policies.* The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.
- (c) *Copies Required.* The utility shall provide copies of any of the policies required by this Section to the City within ten (10) days following receipt of a written request therefor from the City. In lieu of a copy of the policy, a certificate indicating that the insurance policies required by this Section have been obtained and are in force, may be submitted with the approval of the Director of Public Works.
- (d) *Maintenance and Renewal of Required Coverages.* The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until ten (10) days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City's Director of Public Works of such intent to cancel or not to renew."

Within seven days after receipt by the City of said notice, and in no event later than three days prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

- (e) *Self-Insurance.* A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection (a), or the requirements of Subsections (b), (c) and (d) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection (a) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.
- (f) *Effect of Insurance and Self-Insurance on Utility's Liability.* The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

#### 5.4.09. - Indemnification.

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees, and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the

facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the City, its officials, officers, employees, agents or representatives.

#### 5.4.10. - Security.

- (a) *Purpose.* The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:
- (1) The faithful performance by the permittee of all the requirements of this Article;
  - (2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Article; and
  - (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Article or any other applicable law.
- (b) *Form.* The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:
- (1) Provide that it will not be canceled without prior notice to the City and the permittee;
  - (2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
  - (3) Shall provide a location within Cook, Will, McHenry, Lake, Kane, or DuPage Counties, Illinois at which it can be drawn.
- (c) *Amount.* The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the City, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the City may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase. The security fund for each

construction project will be \$10 per lineal foot of the project, or the company may post a yearly cash retainer or letter of credit for \$20,000 (replenished yearly), or a bond for an amount determined by the City, for all construction work to be undertaken that year.

- (d) *Withdrawals.* The City, upon fourteen (14) days' advance written notice stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:
  - (1) Fails to make any payment required to be made by the permittee hereunder;
  - (2) Fails to pay any liens relating to the facilities that are due and unpaid;
  - (3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
  - (4) Fails to comply with any provision of this Article that the City determines can be remedied by an expenditure of an amount in the Security Fund.
- (e) *Replenishment.* Within fourteen (14) days after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection (c) of this Section.
- (f) *Interest.* The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection (c) of this Section.
- (g) *Closing and Return of Security Fund.* Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.
- (h) *Rights Not Limited.* The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

#### 5.4.11. - Permit Suspension and Revocation.

- (a) *City Right to Revoke Permit.* The City may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:
  - (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
  - (2) Non-compliance with this Article;
  - (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the public rights-of-way presents a direct or imminent threat to the public health, safety,

or welfare; or

- (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.
- (b) *Notice of Revocation or Suspension.* The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section.
- (c) *Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.* Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:
- (1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;
  - (2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within five (5) working days after receipt of the written notice of revocation;
  - (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the public rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within ten (10) days after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.

- (d) *City Correction and Notice.* If the deficiency creates an imminent threat to life, health or safety, the City may correct the deficiency immediately upon verbal notice by the City to permittee.
- (e) *Stop Work Order.* In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within Subsection (a) of this Section.
- (f) *Failure or Refusal of the Permittee to Comply.* If the permittee fails to comply with the provisions of Subsection (c) of this Section, the City or its designee may, at the option of the City: (1) correct the deficiencies; (2) upon not less than twenty (20) days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (30) days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

#### 5.4.12. - Change of Ownership or Owner's Identity or Legal Status.

- (a) *Notification of Change.* A utility shall notify the City no less than thirty (30) days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.
- (b) *Amended Permit.* A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right-of-way.
- (c) *Insurance and Bonding.* All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

#### 5.4.13. - General Construction Standards.

- (a) *Standards and Principles.* All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in any applicable ordinances, rules, regulations or manuals of the City and in the following IDOT publications:
- (1) Standard Specifications for Road and Bridge Construction;
  - (2) Supplemental Specifications and Recurring Special Provisions;
  - (3) Highway Design Manual;
  - (4) Highway Standards Manual;
  - (5) Standard Specifications for Traffic Control Items;
  - (6) Illinois Manual on Uniform Traffic Control Devices (92 ILAC § 545);
  - (7) Flagger's Handbook; and
  - (8) Work Site Protection Manual for Daylight Maintenance Operations.
- (b) *Interpretation of Municipal Standards and Principles.* If a discrepancy exists between or among differing principles and standards required by this Article, the City Engineer shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the City Engineer shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

#### 5.4.14. - Traffic Control.

- (a) *Minimum Requirements.* The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual of Uniform Traffic Control Devices and this Code. The City Director of Public Works may require that additional traffic protection measures be taken, if because of the location where the work is to be performed or because of anticipated high traffic volumes, he determines additional traffic protection measures are warranted.
- (b) *Warning Signs, Protective Devices, and Flaggers.* The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.
- (c) *Interference with Traffic.* All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic. The Director of Public Works may prohibit work from being performed at specified hours or on specified days where higher than usual traffic volumes are anticipated.
- (d) *Notice When Access is Blocked.* At least forty-eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 5.4.20 of this Article, the utility shall provide such notice as is practicable under the circumstances.
- (e) *Compliance.* The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

#### 5.4.15. - Location of Facilities.

(a) *Parallel Facilities Located Within Rights-of-Way.*

- (1) *Overhead Parallel Facilities.* An overhead parallel facility may be located within the right-of-way only if overhead utility facilities already exist in the area of the right-of-way where the overhead parallel facility is proposed to be located and if:
  - (i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
  - (ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;
  - (iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
  - (iv) No pole is located in the ditch line of a highway; and
  - (v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the right-of-way or as near as possible to the right-of-way line.
- (2) *Underground Parallel Facilities.* An underground parallel facility may be located within the right-of-way only if approved by the Director of Public Works and:
  - (i) The facility is located as near the right-of-way line as practicable and not more than eight (8) feet (2.4 m) from and parallel to the right-of-way line, and five (5) feet (1.5 m) from any water main;
  - (ii) A new facility may be located under the paved portion of a roadway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
  - (iii) In the case of an underground power or communications line, the facility shall be located as approved by the Director of Public Works and any above-grounded appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.

(b) *Facilities Crossing Roadways.*

- (1) *No Future Disruption.* The construction and design of crossing facilities installed between the ditch lines or curb lines of City roadways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadway resulting from the installation of such crossing facilities.
- (2) *Culverts or Drainage Facilities.* Crossing facilities shall not be located in culverts, or drainage facilities.
- (3) *Ninety Degree Crossing Required.* Crossing facilities shall cross at or as near to a ninety (90) degree angle to the centerline as practicable, unless otherwise approved by the City Engineer.
- (4) *Overhead Power or Communication Facility.* An overhead power or communication facility may cross a right-of-way only if:
  - (i) It has a minimum vertical line clearance as required by ILCC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
  - (ii) Poles are located within one foot (0.3 m) of the right-of-way line and outside of the clear zone; and
  - (iii) Overhead crossings at major intersections are avoided.
- (5) *Underground Power or Communication Facility.* An underground power or communication facility may

cross a right-of-way only if:

- (i) The design materials and construction methods will provide maximum maintenance-free service life; and
  - (ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) *Markers.* The City may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations (49 CFR 192.707).
- (c) *Facilities to be Located within Particular Rights-of-Way.* The City may require that facilities be located within particular rights-of-way (a public utility easement, for example) that are not highways, rather than within particular highways.
- (d) *Freestanding Facilities.*
  - (1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
  - (2) The City may require any freestanding facility located within a right-of-way to be screened from view.
- (e) *Appearance Standards.*
  - (1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
  - (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees, vegetation or terrain features visible to the highway user.
- (f) *Above Ground Installation.* Above ground facilities may be installed only if:
  - (1) Existing facilities in the area are located above ground;
  - (2) New underground installation is not technically feasible as determined by the City Engineer; and
  - (3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable - the installation of additional utility poles is strongly discouraged.
  - (4) The above ground facilities installed are located so as to cause only minimal interference with the use of any right-of-way within which the facilities are installed and with the rights and reasonable convenience of property owners who adjoin said right-of-way.
  - (5) The smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner for the type of above ground facility shall be used.
  - (6) For purposes of this Article, a facility shall be considered above ground if more than ten percent of the overall height of the facility measured from the base or bottom support of the facility is located above ground.
- (g) *Facility Attachments to Bridges or Roadway Structures.*
  - (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower

supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

- (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
- (i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
  - (ii) The type, length, value, and relative importance of the roadway structure in the transportation system;
  - (iii) The alternative routings available to the utility and their comparative practicability;
  - (iv) The proposed method of attachment;
  - (v) The ability of the structure to bear the increased load of the proposed facility;
  - (vi) The degree of interference with bridge maintenance and painting;
  - (vii) The effect on the visual quality of the structure; and
  - (viii) The public benefit expected from the utility service as compared to the risk involved.

#### 5.4.16. - Construction Methods and Materials.

(a) *Standards and Requirements for Particular Types of Construction Methods.*

(1) *Boring or Jacking.*

(i) *Pits and Shoring.* Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the City Engineer and/or Director of Public Works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.

(ii) *Wet Boring or Jetting.* Wet boring or jetting shall not be permitted under the roadway.

(iii) *Borings with Diameters Greater Than 6 Inches.* Borings over six inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (25 mm).

(iv) *Borings with Diameters 6 Inches or Less.* Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.

(v) *Tree Preservation.* Any facility located within the drip line of any tree designated by the City to be preserved shall be bored under or around the root system.

(2) *Trenching.* Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with any applicable ordinances, rules, regulations or manuals of the City and the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."

(i) *Length.* The length of open trench shall be kept to the practicable minimum consistent with

requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the City Engineer and/or Director of Public Works.

- (ii) *Open Trench and Excavated Material.* Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
- (iii) *Drip Line.* The utility shall not trench within the drip line of any tree designated by the City to be preserved.

(3) *Backfilling.*

- (i) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with any applicable ordinances, rules, regulations or manuals of the City and with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
- (ii) For a period of three years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfill area that has settled due to construction of the facility. If so ordered by the City Engineer and/or Director of Public Works, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the City Engineer and/or Director of Public Works.

(4) *Pavement Cuts.* Pavement cuts for facility installation or repair shall be permitted on a roadway only if that portion of the roadway is closed to traffic. If a variance to the limitation set forth in this paragraph is permitted under Section 5.4.21, the following requirements shall apply:

- (i) Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the City Engineer and/or Director of Public Works.
- (ii) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.
- (iii) All saw cuts shall be full depth.
- (iv) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last four (4) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or resurfacing or unless a pavement cut is necessary for a J.U.L.I.E. locate.

(5) *Encasement.*

- (i) Casing pipe shall be designed to withstand the load of the roadway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City. Casing pipes shall be installed where required and approved by the City Engineer and/or Director of Public Works.

- (ii) The venting, if any, of any encasement shall extend within one foot (0.3 m) of the right-of-way line. No at vent pipes shall be located in the area established as clear zone for that particular section of the roadway.
  - (iii) In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
  - (vi) In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;
  - (v) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- (6) *Minimum Cover of Underground Facilities.* Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
Power Lines	30 Inches (0.8 m)
Communication, Cable or Video Service Lines	24 Inches (0.6 m)
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	72 Inches (1.83 m)
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection, as approved by City Engineer or Director of Public Works

(b) *Standards and Requirements for Particular Types of Facilities.*

(1) *Electric Power or Communication Lines.*

- (i) *Code Compliance.* Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.
- (ii) *Overhead Facilities.* Overhead power or communication facilities, if otherwise permitted under this Article, shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- (iii) *Underground Facilities.*

- (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.

- (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or boring and the crossing. Encasement may be eliminated only if: (a) the crossing is installed by the use of "moles," "whip augers", or other methods which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction.
    - (3) Cable shall be grounded in accordance with the National Electrical Safety Code.
    - (iv) *Burial of Drops.* All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within ten (10) business days after placement.
  - (2) *Underground Facilities Other than Electric Power or Communication Lines.* Underground facilities other than electric power or communication lines may be installed by:
    - (i) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
    - (ii) Jacking or boring with encasement provided between the ditch lines or toes of slopes of the roadway;
    - (iii) Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction;
    - (iv) Tunneling with vented encasement, but only if installation is not possible by other means; or
    - (v) Open trench in a manner approved by City Engineer and/or Director of Public Works.
  - (3) *Gas Transmission, Distribution and Service.* Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 - Transportation of Natural Gas and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), IDOT's "Standard Specifications for Road and Bridge Construction," and all other applicable laws, rules, and regulations.
  - (4) *Petroleum Products Pipelines.* Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
  - (5) *Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.* Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the requirements of the City's Design Manual and the current "Standard Specifications for Water and Sewer Main Construction in Illinois".
  - (6) *Ground Mounted Appurtenances.* Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the City Engineer and/or Director of Public Works. With the approval of the City Engineer and/or Director of Public Works, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.
- (c) *Materials.*
- (1) *General Standards.* The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the requirements of the City's Design

Manual, and the applicable portions of IDOT's "Standards Specifications for Road and Bridge Construction", the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.

- (2) *Material Storage on Right-of-Way.* No material shall be stored in the right-of-way without the prior written approval of the City Engineer. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.
- (3) *Hazardous Materials.* The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.
- (d) *Operational Restrictions.*
  - (1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
  - (2) These restrictions may be waived by the City Engineer and/or the Director of Public Works when emergency work is required to restore vital utility services.
  - (3) Unless otherwise permitted by the City or restricted in accordance with this Article, the hours of construction are sunrise to sunset.
- (e) *Location of Existing Facilities.* Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 et seq.).

#### 5.4.17. - Vegetation Control.

- (a) *Electric Utilities—Compliance with State Laws and Regulations.* An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City of Country Club Hills as permitted by law.
- (b) *Other Utilities—Tree Trimming Permit Required.* Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.
  - (1) *Application for Tree Trimming Permit.* Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

- (2) *Damage to Trees.* Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damage or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or pruning would leave them in an unacceptable condition.
- (c) *Specimen Trees or Trees of Special Significance.* The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.
- (d) *Chemical Use.* Spraying of any type of vegetation controlling chemicals will not be permitted on rights-of-way unless approved by the City Engineer and/or Director of Public Works.

5.4.18. - Removal, Relocation, or Modifications of Utility Facilities.

- (a) *Notice.* Within ninety (90) days following written notice from the City, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.
- (b) *Removal of Unauthorized Facilities.* Within thirty (30) days following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the public rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:
- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
  - (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
  - (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
  - (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.
- (c) *Emergency Removal or Relocation of Facilities.* The City retains the right and privilege to cut or move any facilities located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.
- (d) *Abandonment of Facilities.* Upon abandonment of a facility within the public rights-of-way of the City, the utility shall notify the City within ninety (90) days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the City Engineer and/or Director of Public Works determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

#### 5.4.19. - Cleanup and Restoration.

Upon completion of all construction or maintenance of facilities, the utility shall remove all excess material and restore all turf and terrain within 10 days, and to the satisfaction of the City. This includes restoration of all disturbed areas. Restoration of roadway surfaces shall be made using materials and methods approved by the City Engineer and/or Director of Public Works. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project.

#### 5.4.20. - Maintenance and Emergency Maintenance.

- (a) *General.* Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.
- (b) *Emergency Maintenance Procedures.* Emergencies may justify non-compliance with normal procedures for securing a permit:
  - (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the roadway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
  - (2) In an emergency, the utility shall, immediately, notify the City Police Department of the situation. This notification shall include a description of the problem, work being undertaken, and what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City Police Department shall be notified immediately.
  - (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.
- (c) *Emergency Repairs.* The utility must file in writing with the Director of Public Works a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

#### 5.4.21. - Variances.

- (a) *Request for Variance.* A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Director of Public Works as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.
- (b) *Authority to Grant Variances.* The City Council shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.
- (c) *Conditions for Granting of Variance.* The City Council may authorize a variance only if the utility requesting the variance has demonstrated that:
  - (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and

- (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.
- (d) *Additional Conditions for Granting of a Variance.* As a condition for authorizing a variance, the City Council may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

#### 5.4.22. - Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost appointment of the City. Sanctions may be imposed upon a utility who does not pay the costs apportioned to it.

### ARTICLE 5. - REGULATION OF SMALL WIRELESS FACILITIES

#### 5.5.01. - Purpose and Scope.

- A. *Purpose.* The purpose of this article is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City's jurisdiction, or outside the rights-of-way on property zoned by the City as commercial or industrial zoning districts, in a manner not inconsistent with the Small Wireless Facilities Deployment Act (Public Act 100-0585).
- B. *Intent.*
1. Except as specifically provided in this Article, this Article does not limit the applicability of the provisions of Article 4 of Chapter 5, entitled "Construction of Utility Facilities in the Public Rights-of-Way", to the location and installation of small wireless facilities within the City. If the provisions of this Article and the provisions of Chapter 5, Article 4, are in conflict, this Article applies and controls.
  2. In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the wireless provider shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

#### 5.5.02. - Definitions.

As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in the Small Wireless Facilities Deployment Act (Public Act 100-0585), unless the context clearly requires otherwise.

*Antenna.* Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

*Applicable Codes.* Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or City amendments to those codes, including the National Electric Safety Code.

*Applicant.* Any person who submits an application and is a wireless provider.

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

*Collocate or Collocation.* To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

*Communications Service.* A cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153 (43), as amended; or wireless service other than mobile service.

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

*FCC.* The Federal Communications Commission of the United States.

*Fee.* A one-time charge.

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

*Law.* A federal or State statute, common law, code, rule, regulation, order or City ordinance or resolution.

*Micro Wireless Facility.* A small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

*Municipal Utility Pole.* A utility pole owned or operated by the City in a public right-of-way.

*Permit.* A written authorization required by the City to perform an action or initiate, continue, or complete a project.

*Person.* An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

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

*Rate.* A recurring charge.

*Right-of-Way.* An area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include City-owned aerial lines.

*Small Wireless Facility.* A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

*Stealth Design.* A method of camouflaging any tower, antenna, wireless facilities, or other ancillary supporting communications facility, including, but not limited to, supporting electrical, optical, or mechanical, or other equipment, which enhances compatibility with adjacent land uses and which is visually and aurally unobtrusive. Stealth design may include a repurposed structure.

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

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

*Wireless Infrastructure Provider.* Any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the City.

*Wireless Provider.* A wireless infrastructure provider or a wireless services provider.

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

*Wireless Services Provider.* A person who provides wireless services.

*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. Wireless support structure does not include a utility pole.

#### 5.5.03. - Regulation of Small Wireless Facilities.

Small wireless facilities shall be classified as Permitted Uses and shall not be subject to zoning review or approval if they are collocated in rights-of-way in any zoning district and outside of rights-of-way in commercial and industrial zoning districts. Applications for permits to collocate small wireless facilities on said property shall be subject to administrative review as set forth in this Article and, if applicable, approval of any request for height exceptions or other variances. Requests for approval of small wireless facilities to be located in all other zoning districts and not in rights-of-way shall be subject to zoning review and approval as set forth in the City of Country Club Hills Zoning Ordinance.

#### 5.5.04. - Permit Required; Applications and Fees.

- A. *Permit Required.* No small wireless facility shall collocate on a utility pole or similar structure or other wireless support structure without first filing an application with the Superintendent of Public Works and obtaining one or more permits from the City therefor, except as otherwise provided in this Article.
- B. *Permit Application.* All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed with the Superintendent of Public Works in such number of duplicate copies as the City may designate. Duplicate copies shall be submitted to the City Engineer. Applicants shall submit applications, the supporting information, and notices to the City to the Superintendent of Public Works by personal delivery, by regular mail postmarked on the date due or by any other commonly used means, i.e., overnight mail, or by e-mail.
- C. *Minimum General Application Requirements.* A wireless provider shall provide the following information to the City, together with the City's permit application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure.
  - 1. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
  - 2. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed, and a depiction of the completed facility;
  - 3. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
  - 4. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
  - 5. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved;
  - 6. Certification that the collocation complies with all of the collocation requirements and conditions set forth in Section 5.5.10 of this Article, to the best of the applicant's knowledge;

7. In the event the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the City, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation; and
  8. Such additional information as may be reasonably required by the City, but in no event shall the applicant be required to provide more information to obtain a permit than the City requires a communications service provider that is not a wireless provider that requests to attach facilities to a structure.
- D. *Consolidated Applications.* An applicant seeking to collocate small wireless facilities within the jurisdiction of the City, shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to twenty-five (25) small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If the consolidated application includes multiple small wireless facilities, the City has the right to remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The City may issue separate permits for each collocation that is approved in a consolidated application.
- E. *Applicant's Duty to Update Information.* Throughout the entire permit application review period and the construction period authorized by the permit, any amendments and/or revisions to information contained in the permit application shall be submitted by the applicant in writing to the Superintendent of Public Works within thirty (30) days after the change necessitating the amendment and/or revision.
- F. *Application Fees.* All applications for permits pursuant to this Article shall be accompanied by the following non-refundable applicable fees:
1. \$650.00 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure;
  2. \$350.00 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support facilities, as provided in subsection 5.5.04(D) of this Article; or
  3. \$1,000.00 for each small wireless facility addressed in an application that includes the installation of a new utility pole or wireless support structure for such collocation.
- G. *Exceptions to Application; Approval of Permit.* The City shall not require an application, approval or permit or any fees or other charges from a communications service provider authorized to occupy the rights-of-way, for:
1. Routine maintenance;
  2. The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City at least ten (10) days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements of subsection 5.5.04(C) of this Article; or
  3. The installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.
  4. Notwithstanding subsections 5.5.04(G)(1), (2) and (3), above, wireless providers shall secure a permit to work within rights-of-way for activities that affect traffic patterns or require lane closures as provided in Chapter 5, Article 4, "Construction of Utility Facilities in the Public Rights-of-Way" of the City Code.

- H. *Duration of Permit.* The duration of a permit shall be for a period of not less than five (5) years. The permit shall be renewed for a period of equivalent durations unless the City makes a finding that the small wireless facilities or modified utility pole do not comply with the applicable City code or any provision, condition or requirement contained in this Article. If the Small Wireless Facilities Deployment Act is repealed as provided in the Act, renew permits shall be subject to the applicable City Code provisions or regulations in effect at the time of renewal of the permit.

5.5.05. - Completeness of Application/Tolling of Time.

- A. *Completeness of Application.* Within thirty (30) days of receiving an application, the City shall determine whether the application is complete and notify the applicant of the status of the application. If the application is incomplete, the City shall specifically identify the missing information. An application shall be deemed complete if the City fails to notify the applicant within thirty (30) days after all documents, information and the applicable fees specifically enumerated in the Permit Application Form are submitted to the Superintendent of Public Works by the applicant.
- B. *Tolling of Time.* The processing deadlines set forth in Section 5.5.06 of this Article shall be tolled for the following reasons:
1. The application is incomplete and the City sends notice of such incompleteness to the applicant within thirty (30) days after the receipt of the application. The time for processing the application is tolled until the applicant provides the missing information.
  2. An express agreement in writing by both the applicant and the City to toll the time period for the application.
  3. A local, State or federal disaster declaration or similar emergency that causes the delay.

5.5.06. - Action on Permit Applications.

- A. *City Review of Permit Applications.* Completed permit applications, containing all of the required documentation, shall be reviewed by the City Engineer and the Superintendent of Public Works.
- B. *Application Process.* The City shall process applications as follows:
1. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
  2. An application to collocate a small wireless facility on an existing utility pole or wireless facility shall be processed within ninety (90) days after the submission of a completed application. If the City does not approve or deny the completed application within said 90 days, the application shall be deemed approved.
    - (i) If the applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City, in writing, its intention to invoke the deemed approved remedy no sooner than seventy-five (75) days after the submission of a completed application.
    - (ii) The permit shall be deemed approved on the latter of the 90<sup>th</sup> day after submission of the complete application or the 10<sup>th</sup> day after the receipt by the City of the deemed approved notice by the City.
    - (iii) The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Article.
  3. An application to collocate a small wireless facility that includes the installation of a new utility pole or

wireless support structure or a replacement of a utility pole or wireless support structure shall be processed within one hundred twenty (120) days after the submission of a completed application. If the City does not approve or deny the completed application within said 120 days, the application shall be deemed approved.

- (i) If the applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City, in writing, its intention to invoke the deemed approved remedy no sooner than one hundred five (105) days after the submission of a completed application.
- (ii) The permit shall be deemed approved on the latter of the 120<sup>th</sup> day after submission of the completed application or the 10<sup>th</sup> day after the receipt by the City of the deemed approved notice by the City.
- (iii) The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Article.

C. *Approval/Denial of Permit.* The City shall deny any permit application which does not meet the requirements of this Article.

1. If the City makes the determination that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions set forth in Section 5.5.10 of this Article, require that the existing utility pole or wireless support structure must be replaced before the requested collocation is permitted, the approval shall be conditioned on the replacement of the utility pole or wireless support structure at the applicant's expense. The replacement of the utility pole or wireless support structure shall be subject to the provisions set forth in Chapter 5, Article 4, "Construction of Utility Facilities in the Public Rights-of-Way".
2. The City shall document the basis for denial of the permit, including the specific code provisions or application conditions on which the denial is based, The documentation shall be sent to the applicant on or before the day the City denies the permit application.
3. The applicant may submit a revised application once within thirty (30) days after notice of denial is sent to the applicant without paying an additional application fee. The revised application shall cure the deficiencies identified by the City in its written denial of the original application. The City shall approve or deny the revised application within thirty (30) days of receipt of the applicant's revised application or it is deemed approved. Failure to resubmit the revised application within thirty (30) days of denial of the application, shall trigger the requirement that the applicant submit a new application with the applicable fees and the recommencement of the City's applicable review period.
  - (i) If the applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City, in writing, its intention to proceed with the permitted activity on a deemed approved basis. This notice may be submitted with the revised application.
  - (ii) Any review of the revised application by the City shall be limited to the deficiencies cited by the City in its denial of the original application.
  - (iii) The revised application procedure shall not apply if the cure for the deficiencies set forth in the denial requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

- A. **Authority Granted; No Property Right or Other Interest Created.** A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Article and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.
- B. **Compliance With All Laws Required.** The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and all applicable statutes, laws, ordinances, rules and regulations.
- C. The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Article does not authorize the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the right-of-way.

#### 5.5.08. - Permit Suspension and Revocation.

- A. *City Right to Revoke Permit.* The City may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons.
  - 1. Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
  - 2. Non-compliance with this Article;
  - 3. The wireless provider's placement or maintenance of a small wireless facility in the public rights-of-way presents a direct or imminent threat to the general public or other users of the public rights-of-way and the wireless provider fails to remedy the danger promptly after receipt of written notice from the City;
  - 4. The wireless provider's failure to construct the facilities substantially in accordance with the permit and approved plans;
  - 5. A federal or state authority suspends, denies, or revokes a wireless provider's certification or license to provide communication services; or
  - 6. The wireless provider ceases to use its small wireless facilities in public rights-of-way and has not complied with Section 5.5.19(C) of this Article.
- B. *Notice of Revocation or Suspension.* The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section.
- C. *Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.* Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:
  - 1. Immediately provide the City with evidence that no cause exists for the revocation or suspension;
  - 2. Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within five (5) working days after receipt of the written notice of revocation; or
  - 3. Immediately remove the small wireless facilities located on, over, above, along, upon, under, across, or within the public rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within ten (10) days after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this subsection.

- D. *City Correction and Notice.* If the deficiency creates an imminent threat to life, health, or safety, the City may correct the deficiency immediately upon verbal notice by the City to permittee.

- E. *Stop Work Order.* In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within subsection A of this Section.
- F. *Failure or Refusal of the Permittee to Comply.* If the permittee fails to comply with the provision of subsection (c) of this Section, the City or its designee may, at the option of the City: (i) correct the deficiencies; (ii) upon not less than twenty (20) days notice to the permittee, remove the subject facilities or equipment; or (iii) after not less than thirty (30) days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

#### 5.5.09. - Pole Application Agreement.

Within thirty (30) days after the permit application is approved to collocate a small wireless facility on a municipal utility pole, the City and applicant shall enter into a Master Pole Attachment Agreement for the initial collocation on the municipal pole. The City shall be responsible for providing said Agreement. The City and the applicant shall enter into supplements to the Master Pole Attachment Agreement for subsequent approved permits to collocate additional small wireless facilities on the municipal utility poles not included in the Master Pole Attachment Agreement.

- A. *Pre-Existing Agreements.* Existing agreements between the City and wireless providers that relate to the collocation of small wireless facilities in a right-of-way, including the collocation of small wireless facilities on City utility poles, that are in effect on June 1, 2018, shall remain in effect for all small wireless facilities collocated on the City's utility poles pursuant to applications submitted to the City before June 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into on or after June 1, 2018 shall comply with this Article.
  - 1. A wireless provider that has an existing agreement with the City on June 1, 2018 may accept the rates, fees and terms set forth in this Article for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two (2) or more years after June 1, 2018 by notifying the City that it opts to accept such rates, fees and terms. The existing agreement shall remain in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the City's utility poles pursuant to applications submitted to the City before the wireless provider provides such notice and exercises its option under this subsection.

#### 5.5.10. - Collocation Requirements and Conditions.

##### A. *Public Safety Conditions.*

- 1. *Reservation of Space.* The City has the right to reserve space on municipal utility poles for future public safety uses, for the City's electric utility uses, or both. The reservation of such space shall not preclude the collocation of a small wireless facility unless the City reasonably determines that the City utility pole cannot accommodate both uses.
- 2. *Interference With Public Safety Communication Frequencies.*
  - (i) The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.
  - (ii) The wireless provider shall install small wireless facilities of the type and frequency that will not cause

unacceptable interference with a public safety agency's communications equipment.

- (iii) Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.
- (iv) If a small wireless facility causes interference as set forth in (iii) above, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary. The wireless provider shall remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC, including 47 CFR 22.970 through 47 CFR 22.973, and 47 CFR 90.672 through 47 CFR 90.675.
- (v) The City has the right to terminate the permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the sections of the Code of Federal Regulations set forth in subsection (iv) above. Failure to remedy the interference as required in herein shall constitute a public nuisance.

B. *Public Safety Concerns.* The wireless provider shall comply with all applicable federal, state and local codes, code provisions, and regulations concerning public safety. The proposed collocation cannot materially interfere with the following:

- 1. The safe operation of traffic control equipment;
- 2. Sight lines or clear zones for transportation, pedestrians, or public safety purposes; and
- 3. Compliance with the Americans with Disabilities Act, or similar federal or state standards and regulations regarding pedestrian access or movement.

Additionally, for the safety of electrical utility workers and members of the public, the small wireless facility shall comply with the following:

- 1. Small wireless facilities collocated on the same City pole as a street light shall be on the same disconnect as the street light;
- 2. Small wireless facilities shall be grounded and otherwise fully comply with all applicable electrical codes;
- 3. Whenever conduit of small wireless facilities crosses telephone or electric power wires, wires shall be crossed and be maintained in accordance with the National Electric Code, the National Electric Safety Code and the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States in force at the time of the effective date of this Article, and as amended from time to time.

C. *Third-Party Contracts.* The wireless provider shall comply with requirements that are imposed in a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

D. *Non-Interference With Electric Distribution/Transmission System.*

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

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

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

E. *Compliance With Applicable Codes and Regulations.*

1. Design Standards. The wireless provider shall comply with the City's written design standards applicable for decorative utility poles, stealth structures, concealment and aesthetic requirements set forth in a City ordinance, written policy, comprehensive plan or other written design that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
2. Signage. The wireless provider shall comply with any applicable provisions of Chapter 15, Article 11, "Sign Standards", of the City Zoning Ordinance.
3. Ground-Mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements set forth in Chapter 5, Article 4, "Construction of Utility Facilities in the Public Rights-of-Way". Any request by the wireless provider for a variance from the applicable spacing requirements shall be subject to the procedures set forth in Section 5.4.21, "Variances", of Article 4.
4. Underground Regulations. The wireless provider shall comply with the provisions set forth in Chapter 5, Article 4, regulating undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a variance. Any request by a wireless provider for a variance to install such new utility poles or modify existing utility poles shall be subject to the procedures set forth in Section 5.4.21, "Variances", of Article 4.
5. The wireless provider shall comply with sign regulations applicable to public rights-of-way.

F. *Alternate Placements.*

1. *Existing Utility Poles.* Except as provided in this Article, a wireless provider shall not be required to collocate small wireless facilities on an existing specific utility pole or category of existing utility poles or be required to collocate multiple antenna systems on a single existing pole.
2. *New Utility Poles.* For an application for the collocation of a small wireless facility on a new utility pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation. The applicant shall be required to accept the City's proposal if the applicant 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.
  - (i) If the applicant refuses a collocation as proposed by the City, the applicant shall be required to provide a written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria set forth in this subsection.

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

1. *New or Replacement Utility Poles or Wireless Support Structures.* The height for new or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed

the higher of:

- (i) Ten (10) feet in height above the tallest existing utility pole, other than a utility pole that only supports wireless facilities that exists within the right-of-way on the date the applicant is submitted to the City, and is located within 300 feet of the new or replacement utility pole or wireless support structure and is in the same right-of-way within the jurisdictional boundary of the City; provided, however, the City may designate which intersecting right-of-way within the 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
  - (ii) Forty-five (45) feet above ground level.
2. *Height Exceptions/Variances.* If an applicant proposes a height for a new or replacement utility pole or wireless support structure in excess of the height limitations set forth above, the applicant may request a variance for the height limitation pursuant to the procedures, terms and conditions set forth in Chapter 5, Article 4, "Construction of Utility Facilities in the Public Rights-of-Way."

#### 5.5.11. - Collocation Completion Deadline.

Collocation for which a permit is granted shall be completed within one hundred eighty (180) days after the issuance of the permit by the City unless the City and the wireless provider agree to extend this time period, there is a delay caused by make-ready work for a City utility pole, or there is a lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within sixty (60) days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete the installation does not exceed three hundred sixty (360) days after the issuance of the permit. Otherwise, the permit shall be declared void unless the City grants an extension writing to the wireless provider.

#### 5.5.12. - Aerial Facilities.

- A. A wireless provider shall comply with the process for make-ready work under 47 U.S.C. 224, and its implementing regulations for collocation on City utility poles that support aerial facilities used to provide communications services or electric services.
  - 1. The City shall follow a substantially similar process for make-ready work, except to the extent that the timing requirements are otherwise set forth in this Article.
  - 2. The good-faith estimate of the person owning or controlling the City utility pole for any make-ready work necessary to enable the pole to support the requested collocation shall include City utility pole replacement, if necessary.
- B. If a utility pole does not support aerial facilities used to provide communication services or electric service, the City shall provide a good-faith estimate for any make-ready work necessary to enable the City utility pole to support the requested collocation, including pole replacement, if necessary, within ninety (90) days after the receipt of a complete application.
  - 1. Make-ready work, including any City utility pole replacement, shall be completed within sixty (60) days of written acceptance of the good-faith estimate by the applicant at the wireless provider's sole cost and expense.
  - 2. If the City determines that applicable codes or public safety regulations require the City utility pole to be replaced to support the requested collocation, the City shall require the wireless provider to replace the

City utility pole at the wireless provider's sole cost and expense.

- C. The make-ready work shall meet all of the applicable codes and/or industry standards. Make-ready work shall include all work needed to accommodate additional public safety communications needs that are identified in Section 5.5.10(A) of this Article and included in an existing or preliminary City or public service agency budget for attachment within one (1) year of the submitted application.
1. Fees for make-ready work, including any City utility pole replacement, shall not exceed actual costs or the amount charged to communication service providers for similar work. Said fees shall not include any consultants' fees or expenses for the City utility poles that do not support aerial facilities used to provide communications services or electric service.
  2. Make-ready work, including any pole replacement, shall be completed within sixty (60) days of written acceptance of the good-faith estimate by the wireless provider, at its sole cost and expense.

#### 5.5.13. - Annual Recurring Rate/Rental Fee.

The wireless provider shall pay to the City an annual recurring rate to collocate a small wireless facility on a City utility pole located in a right-of-way that equals: (i) two hundred dollars (\$200.00) per year; or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the City utility pole, if the actual, direct and reasonable costs are greater than \$200.00. The City shall have the burden of proving the actual, direct and reasonable costs.

If the City has not billed the wireless provider actual and direct costs, the fee of \$200.00 shall be payable on the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

#### 5.5.14. - Construction; Maintenance; Safety; Inspection and Restoration.

- A. The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Article and Chapter 5, Article 4. The wireless provider shall ensure that its employees, agents and contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

Specifically, the wireless provider shall comply with the following requirements and conditions:

1. The wireless provider shall maintain its small wireless facilities in a manner consistent with accepted industry practice and applicable law.
2. All safety practices required by applicable law or accepted industry practices and standards shall be used during the construction, installation, or maintenance of small wireless facilities.
3. After the completion of any placement or maintenance of a small wireless facilities in a public right-of-way, the wireless provider shall, at its own expense, restore the public right-of-way to its original condition before such work. If the wireless provider within ten (10) days, or such longer period of time as may be agreed to between the City and the wireless provider in writing, following completion of such placement or maintenance, the City may perform restoration and charge the costs of the restoration against the wireless provider.
4. The wireless provider shall use and exercise due caution, care and skill in performing work in the public

right-of-way and shall take all necessary and reasonable steps to safeguard work site areas. The persons constructing, installing and maintaining small wireless facilities must be a licensed electrician, certified to work as a lineworker, or successfully complete an accredited lineworker apprenticeship program.

5. A wireless provider shall not place or maintain its small wireless facilities so as to interfere with, displace, damage or destroy any utilities, including, but not limited to, sewers, gas or watermain, storm drains, pipes, cables or conduits of the City or any other person's facilities lawfully occupying the City's public rights-of-way.
6. The City shall have the right to make such inspections of small wireless facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this Article.

#### 5.5.15. - Insurance.

A. *Recovered Coverages and Limits.* Except for a wireless provider with an existing franchise to occupy and operate the rights-of-way, during the period in which the wireless provider's facilities are located within the City's improvements or rights-of-way, the wireless provider, at its own cost and expense, shall carry the following insurance:

1. Property insurance for its property's replacement cost against all risks;
2. Worker's compensation insurance with the statutory limits;
3. Commercial general liability insurance with respect to its activities on the City's improvements or rights-of-way, with limits not less than:
  - (i) Five million dollars (\$5,000,000) for bodily injury or death to each person;
  - (ii) Five million dollars (\$5,000,000) for property damage resulting from any one accident; and
  - (iii) Five million dollars (\$5,000,000) for all other types of liability;
4. Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million dollars (\$1,000,000) for personal injury and property damage for each accident; and
5. Employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per employee and per accident.

If the wireless provider is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

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

C. *Maintenance and Renewal of Required Coverages.* The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until ten (10) days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City's Superintendent of Public Works of such intent to cancel or not to renew."

Within seven (7) days after receipt by the City of said notice, and in no event later than three (3) days prior to said cancellation, the wireless provider shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

- D. *Self-Insurance.* The wireless provider may self-insure all or a portion of the insurance coverage and limit required by subsection A. of this Section. A wireless provider that self-insures is not required, to the extent of the insurance, to comply with the requirement for the naming of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limits required by the City.
- E. *Effect of Insurance and Self-Insurance on Wireless Provider's Liability.* The legal liability of the wireless provider to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

#### 5.5.16. - Indemnification.

A wireless provider shall indemnify and hold the City, and its elected and appointed officials and officers, employees, agents and representatives harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the City improvements or rights-of-way associated with such improvements by the wireless provider or its employees, agents or contractors arising out of the rights and privileges granted under this Article or the Small Wireless Facilities Deployment Act. The wireless provider's indemnity obligations hereunder shall not apply against any liabilities and losses as may be due to or caused by the sole negligence of the City, its employees or agents. The wireless provider shall further waive any claims that it may have against the City with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

#### 5.5.17. - Security.

The wireless provider shall comply with the Security provisions set forth in Section 5.4.10, "Security" of the City Code.

#### 5.5.18. - Change of Ownership or Owner's Identity or Legal Status.

- A. *Notification of Change.* A wireless provider shall notify the City not less than thirty (30) days prior to the transfer of ownership of any small wireless facility in the right-of-way or change in identity of the wireless provider. The new owner of the wireless provider or the small wireless facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article with respect to the work and facilities in the right-of-way.
- B. *Amended Permit.* A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by the terms and conditions of the permit and any applicable agreement between the City and the prior owner if the new owner uses the small wireless facility or allows it to remain on the City's right-of-way.
- C. *Insurance and Bonding.* All required insurance, coverage or bonding must be changed to reflect the name of the new owner upon transfer.

#### 5.5.19. - Removal, Relocation or Abandonment.

- A. *Removal by City.* Under this Article, the City is not required to install or maintain any specific utility pole or to

continue to install or maintain any specific utility pole in any location if the City determines to eliminate above-ground utility poles of a particular type generally, such as electric utility poles, in all or a significant portion of its geographic jurisdiction.

If the City determines to eliminate above-ground City utility poles of a particular type generally, and collocated small wireless facilities are in place, the City shall either: (i) continue to maintain the utility pole or install and maintain a reasonable alternative utility pole or wireless support structure for the collocation of the small wireless facility; or (ii) offer to sell the utility pole to the wireless provider at a reasonable cost or allow the wireless provider to install its own utility pole so it can maintain service from that location.

- B. *Emergency Removal or Relocation.* The City retains the right and privilege to cut or move any small wireless facilities within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If the circumstances permit, the City shall attempt to notify the wireless provider prior to cutting or removing the facility and shall notify the wireless provider after cutting or removing the facility.
- C. *Abandonment.* A small wireless facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of the facility must remove the small wireless facility within ninety (90) days after the date of the written notice from the City notifying the wireless provider of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at the last known address of the owner. If the small wireless facility is not removed within ninety (90) days of such notice, the City has the right to remove or cause the removal of the facility pursuant to the terms of its pole attachment agreement for City utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery. The City shall charge the cost of the removal against the wireless provider or any successor in interest to the wireless provider.

#### 5.5.20. - Exceptions to Applicability of this Article.

Nothing in this Article authorizes a person to collocate small wireless facilities on:

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

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Article shall be construed to relieve a person from any requirement: (i) to obtain a franchise or a State-issued authorization to offer cable service or video service; or (ii) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Article.

#### 5.5.21. - Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of the City Code.

#### 5.5.22. - Enforcement.

Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article.

#### 5.5.23. - Dispute Resolution.

The Circuit Court of Cook County, Illinois shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on City utility poles within the right-of-way, the City shall allow the collocating wireless provider to collocate on its poles at annual rates of no more than \$200.00 per year per City utility pole, with rates to be determined upon final resolution of the dispute.

### ARTICLE 6. - VIOLATIONS

#### 5.6.01. - Penalty.

Any person, firm, or corporation who violates, disobeys, commits, neglects, refuses to comply with, or resists the enforcement of any provision of this Chapter shall be subject to a penalty as prescribed in Chapter 10 of this Code. Each day a violation is permitted to exist or continues shall constitute a separate offense.