

City of Franklin Common Council

ORDINANCE # 2019-01

**AN ORDINANCE REGULATING
SMALL WIRELESS FACILITIES: DESIGN REQUIREMENTS & PERMITTING PROCESSES**

WHEREAS, the Common Council of the City of Franklin, Indiana ("City") finds that in order to protect the public health, safety and welfare of its citizens and to reasonably manage and protect the public rights-of-way and its uses in the City, it is in the best interest of the City and its citizens to establish Small Wireless Facilities: Design Requirements & Permitting Processes to provide the aesthetic requirements and other specifications and reasonable conditions that small wireless facilities and wireless support structures installed within the public rights-of-way must meet prior to and following installation.

**NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA, ORDAINS
AND ENACTS THE FOLLOWING:**

1. Exhibit A - Small Wireless Facilities: Design Requirements & Permitting Processes

REPEAL OF ORDINANCES: The provisions of all other ordinances in conflict with the provisions of this ordinance are of no further in force or effect, and are repealed upon passage and adoption of this ordinance in the manner prescribed by law.

No ordinance or part thereof, previously repealed shall be considered, re-ordained or re-enacted by virtue of this ordinance unless specifically re-enacted. The repeal of any curative or validating ordinance does not impair or affect any cure or validation already effected thereby. Nothing in this ordinance is intended to repeal ordinances not otherwise in conflict with the provisions of this ordinance.

SEVERABILITY OF PROVISIONS: If any of the terms of this Ordinance are held by a court of competent jurisdiction to be null, void or inoperative for any reason, or if any provision or term of this Ordinance is in violation of any applicable federal, state or local law, guideline, rule or regulation, all such provisions are severable and the remaining provisions shall remain in full force and effect. Nothing set forth herein is intended to waive any rights of the City of Franklin, or its governing authority or jurisdiction over property, rights-of-way, easements or personal property.

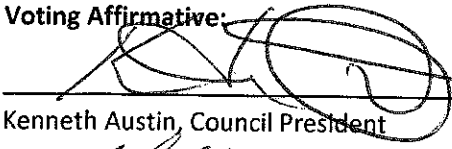
DURATION AND EFFECTIVE DATE: The provisions set forth in this ordinance become and will remain in full force and effect (until their repeal by ordinance) after the passage and adoption of this ordinance by signature of the executive in the manner prescribed by Indiana Code §36-4-6-15,16.


INTRODUCED AND FILED on the 18 day of March, 2019.

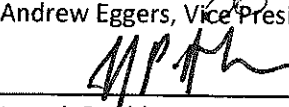
DULY PASSED on this 18 day of March 2019, by the Common Council of the City of Franklin, Johnson County, Indiana having been passed by a vote of 6 in Favor and 1 Opposed.

City of Franklin, Indiana, by its Common Council:

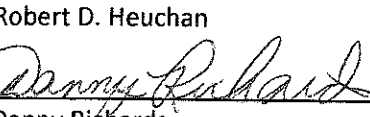
Voting Affirmative:


Kenneth Austin, Council President


Andrew Eggers, Vice President


Joseph P. Abban


Daniel J. Blankenship


Robert D. Heuchan


Danny Richards

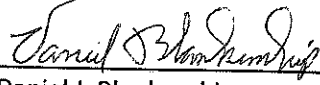

Richard L. Wertz

Voting Opposed:

Kenneth Austin, Council President

Andrew Eggers, Vice President

Joseph P. Abban


Daniel J. Blankenship

Robert D. Heuchan

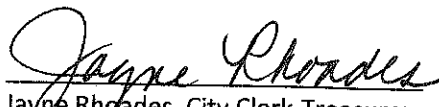
Danny Richards

Richard L. Wertz

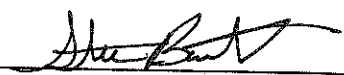
Attest:


Jayne Rhoades, City Clerk-Treasurer


Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, this 18 day of March, 2019 at 6:15 o'clock p.m.


Jayne Rhoades, City Clerk-Treasurer

This Ordinance having been passed by the legislative body and presented to me was Approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1)) [Vetoed, pursuant to Indiana Code § 36-4-6-16(a)(2)], this 18 day of March 2019 at 6:15 o'clock p.m.

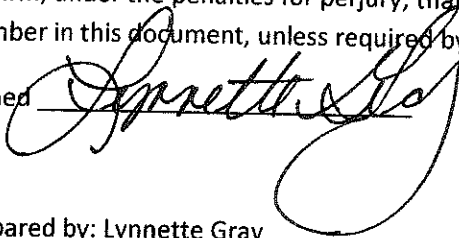

Steve Barnett, Mayor

Attest:


Jayne Rhoades, City Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

Signed



Prepared by: Lynnette Gray
Attorney No.: 11567-41

EXHIBIT A

SMALL WIRELESS FACILITIES: DESIGN REQUIREMENTS & PERMITTING PROCESSES

I. PURPOSE AND COMPLIANCE

In order to protect the public health, safety and welfare of its citizens and to reasonably manage and protect the public rights-of-way (ROW) and its uses in the City of Franklin (City), it is in the best interest of the City and its citizens to provide the aesthetic requirements and other specifications and reasonable conditions that Small wireless facilities, wireless support structures and ground mounted equipment enclosures installed within the public rights-of-way must meet prior to and following installation.

II. APPLICATION REQUIREMENTS

Prior to placing, installing, modifying, relocating or removing a small wireless facility or wireless support structure in the ROW, or to collocate a wireless facility on an existing wireless support structure in the ROW, the operator shall apply for and receive a permit from the City through the Department of Planning & Engineering.

The applicant shall schedule an appointment with the Department of Planning & Engineering staff in order to submit an application, supporting documents and fee.

The information identified below must be included for the application to be considered complete. The City may require additional information as reasonably necessary to evaluate the application and the impact of the proposed installation(s) on the public health, safety and welfare or on use or management of the ROW. Incomplete applications will not be accepted by staff nor deemed filed until all requirements are met.

A. MAP

The applicant must include an aerial map showing the location of the proposed or existing support structure to which the small wireless facility is proposed to be attached, or from which a small wireless facility is proposed to be removed.

B. CONSOLIDATED APPLICATIONS

An applicant seeking to construct, modify, collocate or replace more than one small wireless facility or more than one wireless support structure within the City may file a consolidated application for multiple small wireless facility requests or wireless support structure requests provided the requests grouped on a consolidated application only address substantially the same type of small wireless facilities or substantially the same type of wireless support structures. (Note: The City may treat each request individually during application review and processing and when issuing a determination or applying these requirements.)

C. SITE AND OTHER PLANS AND STRUCTURAL CALCULATIONS

The applicant must include fully dimensioned site plans, elevation drawings and structural calculations that depict the proposed facility with all proposed transmission equipment and other improvements, and the legal boundaries of the existing right-of-way and any associated access and utility easements. Fully dimensioned site plans shall indicate the spacing from existing curb, driveways, sidewalks, light poles and any other poles or

appurtenances.

D. FULL DESCRIPTION OF NUMBER AND DIMENSIONS OF FACILITIES AND/OR STRUCTURES TO BE INSTALLED

The applicant must include a full description of the number and dimensions of all small wireless facilities proposed to be installed and the wireless support structure, either new or existing, to be utilized for each small wireless facility. For all equipment proposed to be installed, the applicant must include: (1) the manufacturer's name and model number; (2) physical dimensions, including without limitation, height, width, depth and weight with mounts and other necessary hardware; and (3) the ambient noise level generated from the equipment, if any.

E. OWNER'S AUTHORIZATION

For any application to attach a small wireless facility to a wireless support structure that is not owned by the City, the applicant must submit evidence sufficient to show that either: (1) applicant owns the proposed support structure; or (2) applicant has obtained the owner's written authorization to file the application.

F. APPLICATION PACKET AND FEE

1. Application packet to be completed in its entirety, to include but not limited to:
 - i. Applicant information (Company, contact person, address, phone number, email address, etc.)
 - ii. Wireless provider information (Company, contact person, address, phone number, email address, etc.)
 - iii. Wireless contractor information (Company, contact person, address, phone number, email address, etc.)
 - iv. Identify which shot clock rule as established by the FCC Order, Code of Federal Regulations, or U.S. Code applies and why:
 1. Using an existing structure - 60 days
 2. Using a new structure - 90 days
 - v. Estimated start date of construction
 - vi. Estimated end date of construction
2. Insurance and bonding requirements shall be provided consistent with Ordinance 2015-02, or as amended, that regulates work in the street or street rights-of-way.
3. Number of facilities included with the application (each facility location shall be separated into separate submittal package with corresponding supporting documents related to that specific facility location).
4. Location address, latitude and longitude of the proposed affected small wireless facility or structure.
5. Application for up to five (5) facilities - \$500.00
6. Additional facilities exceeding five (5) - \$100.00 per facility
 - i. Maximum of 25 facilities per application.
7. Yearly recurring fee for attachment to city owned facilities in ROW - \$270.00 per facility per year.

III. AESTHETIC REQUIREMENTS FOR SMALL WIRELESS FACILITIES

A. ANTENNAS

1. Each small wireless antenna shall be located entirely within a shroud or canister type

enclosure.

2. The diameter of the antenna enclosure at its widest point should not be wider than two times the diameter of the top of the wireless support structure. The enclosure shall not exceed six cubic feet in volume.
3. All antenna enclosures shall either be mounted to the top of the wireless support structure pole and aligned with the centerline of the wireless support structure, or mounted to the side of the wireless support structure such that the vertical centerline of the antenna enclosure shall be parallel with the wireless support structure with the height of the side mounted antenna being at a location on the wireless support structure noted in the application and approved by the City, but at least 10 feet above ground level at its lowest point.
4. Tree "topping" or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees, shrubs or other landscaping already existing in the ROW must be noted in the application and must be approved by the City.

If the City Arborist has determined that a tree has been substantially damaged or killed as a result of work, intentional ("topping") or unintentional (roots destroyed by construction equipment, wireless support structure and/or ground cabinet), related to the installation of the small wireless facility, it shall be replaced with a minimum of a 2 ½ inch caliper qualifying street tree, as listed in the City of Franklin Subdivision Control Ordinance.

B. CABLES AND WIRES

All cables, wires and connectors related to the small wireless facility must be fully concealed on the wireless support structure and shall match the color of the wireless support structure. There shall be no external cables and wires related to the small wireless facility hanging off or otherwise exposed on the wireless support structure.

C. COLORS

All colors shall match the background of any wireless support structure that the facilities are located upon, including equipment cabinets. Notwithstanding the foregoing, in the case of existing wood utility poles, finishes of conduit shall be zinc, aluminum or stainless steel, or colored to match those metal finishes, and equipment cabinets shall be the color black.

D. EQUIPMENT ENCLOSURES/CONCEALMENT

1. Equipment enclosures, including electric meters, shall be as small as possible, but in no event larger than 28 cubic feet in volume. Ground-mounted equipment shall incorporate concealment elements into the proposed design matching color and materials of the wireless support structure, unless other materials or colors are approved by the City. Concealment may include, but shall not be limited to, landscaping, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.
2. Radio equipment shall be fully enclosed within an equipment cabinet or concealed within the antenna shroud enclosure matching the color and materials of the wireless support structure, unless other materials or colors are approved by the City.

E. SIGNAGE/LOGOS/LIGHTS/DECALS/COOLING FANS

1. Signage: The small wireless facility permittee shall post its name, location identifying

information, and emergency telephone number in an area on the cabinet of the small wireless facility that is visible to the public. Signage required under this section shall not exceed 4 inches by 6 inches, unless otherwise required by law (e.g. radio-frequency (RF) ground notification signs) or the City. If no cabinet exists, the signage shall be placed at the base of the pole.

2. **Lights:** New small wireless facilities and wireless support structures shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the camouflaging strategy such as design intended to look like a street light pole.
3. **Logos/Decals:** The small wireless facility operator/permittee shall remove or paint over unnecessary equipment manufacturer decals. The color shall match or shall be as approved by the City. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall not include advertisements and may only display information required by a federal, state or local agency. The small wireless facility operator/permittee shall utilize the smallest and lowest visibility RF warning sticker required by government or electric utility regulations. Placement of the RF sticker shall be as close to the antenna as possible.
4. **Cooling Fans:** In residential areas, the small wireless facility operator/permittee shall use a passive cooling system. In the event that a fan is needed, the small wireless facility operator/permittee shall use a cooling fan with a low noise profile.

IV. LOCATION REQUIREMENTS

A. COLLOCATION PREFERENCE

1. It is the City's strong preference that whenever an applicant proposes to place a new small wireless facility that the applicant collocate the same on existing wireless support structures.
2. If a City owned structure is to be replaced for structural reasons related to the installation of the small wireless facility, the applicant shall provide replacement structures designed and manufactured by the same vendor as the original structure in the same style and color.

B. CONSIDERATION OF ALTERNATE LOCATIONS

The City reserves the right to propose an alternate location for a small wireless facility and/or wireless support structure to the location proposed in the application within one hundred feet of the proposed location or within a distance that is equivalent to the width of the ROW in or on which the small wireless facility and/or wireless support structure is proposed, whichever is greater, which the operator shall use if it has the right to use the alternate location on reasonable terms and conditions and the alternate location does not impose technical limits or unreasonable additional costs.

C. GUIDELINES ON PLACEMENT

The City desires to promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community. Generally, a small wireless facility and/or wireless support structure shall match and be consistent with the materials and finish of the wireless support structure, adjacent City poles, and of the surrounding area adjacent to their location. If adjacent City poles include both wood poles and metal structure, the new structure shall match the materials and finish

of the metal structure. In the absence of adjacent City poles, the wireless support structure shall match the materials and finish of the adjacent utility poles.

The following additional guidelines on placement shall apply:

1. A combination wireless support structure and streetlight pole should only be located where an existing pole can be removed and replaced, or at a new location where it has been identified that a streetlight is necessary.
2. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located in a manner that does not impede, obstruct, or hinder usual public pedestrian or vehicular travel or public safety on a ROW.
3. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located in a manner that does not obstruct the legal use of a ROW by a utility provider.
4. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located in a manner that does not violate or conflict with the City Code, applicable law and regulations, or these Guidelines.
5. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located in a manner that does not violate the federal Americans with Disabilities Act.
6. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located in a manner that does not negatively impact the structural integrity of the associated wireless support structure.
7. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located in alignment with existing trees, utility poles, and streetlights.
8. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located equal distance between trees when possible, with a minimum of 15 feet separation such that no proposed disturbance shall occur within the critical root zone of any tree.
9. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located with appropriate clearance from existing utilities.
10. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located so as not to be located along the frontage of any building deemed to be of historic significance on a federal, state, or local level.
11. Small wireless facilities, wireless support structures and ground mounted equipment enclosures shall be located not within sight triangles at street intersections.
12. New wireless support structures shall not be located directly in front of any existing residential, commercial or industrial structure.
13. To the greatest extent possible, new wireless support structures shall be located in line with existing lot lines or equidistance from any two existing structures. In areas of the City where multiple structures abut each other and/or where no side lot setback requirements exist, new wireless support structures shall not be located directly in front of an entrance or window of any existing structure.

V. CONSTRUCTION REQUIREMENTS

- A. All work within the ROW, including but not limited to restoration, shall be compliant with

the standards and procedures outlined in Ordinance 2015-02, or as amended, that regulates work in the street or street rights-of-way.

- B. A separate Right-of-way Permit will not be required for work associated with an issued Small Wireless Facility Permit.

VI. PERMITTING PROCESS

- A. Applicant schedules an appointment with staff to submit application.
- B. Staff reviews for completeness and notifies applicant of any missing or incorrect information and requests revisions.
 - 1. If revisions are required, applicant supplies necessary revisions to staff, whom upon receipt, reviews for completeness.
 - 2. Step B(1) may require repeating in the event that the supplied revisions do not create a complete application.
 - 3. Incomplete applications will not be accepted by staff nor deemed filed until all requirements are met.
- C. Staff notifies the applicant that the permit is issued.
- D. Applicant obtains a copy of the issued permit.
- E. Following completion of work, the applicant/provider/contractor schedules an inspection.
 - 1. For inspections please call (317) 736-3631 at least two working days in advance. Inspections will not be scheduled for more than five days in advance.
- F. Staff will inspect the site verifying that all requirements have been met and may require corrections. If corrections are required, a correction notice will be issued.
- G. Upon completion of corrections, applicant/provider/contractor shall schedule a reinspection, consistent with Step E.
 - 1. Steps F & G may require repeating in the event that the reinspection results in the issuance of a correction notice.
- H. Staff will issue a Final Approval upon verification that all requirements have been met and all corrections have been completed and passed inspection.

VII. ENFORCEMENT

- A. Enforcement of the above shall be consistent with the enforcement standards as outlined in the City of Franklin Zoning Ordinance, which includes but not limited to stop work orders and injunctive relief, as a violation of these requirements adversely affects the public health, safety and general welfare of the community. Because monetary damages are not adequate, the City may obtain injunctive relief to address failures to comply with these design requirements and permitting processes.

VIII. DEFINITIONS

- A. **Antenna** means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of small wireless service and any commingled information services.
- B. **Antenna equipment** means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

- C. **Antenna facility** means an antenna and associated antenna equipment.
- D. **Applicant** means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.
- E. **Application** means a written submission to a siting authority requesting authorization for the deployment of a small wireless facility at a specified location.
- F. **Authorization** means any approval that a siting authority must issue under applicable law prior to the deployment of small wireless service facilities, including but not limited to zoning approval and building permit.
- G. **Collocation** means:
 - 1. Mounting or installing an antenna facility on a pre-existing structure, and/or
 - 2. Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.
- H. **Correction notice** means a written notice outlining items that are not compliant with requirements and have not passed inspection.
- I. **Deployment** means placement, construction, or modification of a small wireless facility.
- J. **Permit** – See Authorization.
- K. **Siting application** – See Application.
- L. **Siting authority** means the City of Franklin whose authorization is necessary prior to the deployment of small wireless service facilities.
- M. **Small wireless facilities** are facilities that meet each of the following conditions:
 - 1. The facilities:
 - i. are mounted on structures 50 feet or less in height including their antennas, or
 - ii. are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - iii. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
 - 2. Each antenna associated with the deployment, excluding associated antenna equipment is no more than three cubic feet in volume;
 - 3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
 - 4. The facilities do not require antenna structure registration under FCC requirements;
 - 5. The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
 - 6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards of the FCC.
- N. **Staff** means the Department of Planning & Engineering personnel responsible for review of applications and inspections associated with small wireless facilities.

- O. **Structure** means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of small wireless service (whether on its own or comingled with other types of services).