

ORDINANCE NO. 16-02

AN ORDINANCE ESTABLISHING TITLE VI OF THE HEBRON, NORTH DAKOTA ZONING ORDINANCE OF 1982 REGARDING WIRELESS TELECOMMUNICATION SYSTEMS WITHIN THE CITY OF HEBRON, MORTON COUNTY, NORTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEBRON, MORTON COUNTY, NORTH DAKOTA, THAT TITLE VI OF THE HEBRON, NORTH DAKOTA ZONING ORDINANCE OF 1982 IS HEREBY ESTABLISHED AND ENACTED AS FOLLOWS:

VI. WIRELESS TELECOMMUNICATION SYSTEMS

6.1 WIRELESS TELECOMMUNICATION EQUIPMENT

I. Purpose and Intent.

The purpose of this title is to establish predictable and balanced regulations for the siting and screening of wireless telecommunication equipment in order to accommodate the growth of wireless communication systems within the City, while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. To accomplish the above-stated objectives and to ensure that the placement, construction, or modification of wireless telecommunications facilities complies with all applicable federal and state laws, the City of Hebron adopts this comprehensive wireless telecommunications Ordinance.

By enacting this Ordinance, it is the City's intent to ensure that Hebron has sufficient wireless infrastructure to support its public safety communications and has access to reliable wireless communications services. This Ordinance encourages the use of public right of way, stealth design, and existing structures for telecommunication infrastructure in order to minimize impacts on surrounding areas.

II. Definitions.

For the purposes of this Ordinance, the following definitions apply:

- (A) **Abandonment:** Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this ordinance.
- (B) **Accessory Equipment:** Any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment building, cabinets and storage sheds, shelters or similar structures.

- (C) Antenna: Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (D) Base Station: The equipment and non-tower supporting structure at a specific site authorized to communicate between user equipment and a communications network, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.
- (E) Collocation: Shall mean and refer to the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- (F) Concealed Wireless Facility: Any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.
- (G) Eligible Facilities Request: A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment but does not include a substantial modification.
- (H) Equipment Compound: An area surrounding or near the base of a wireless support structure within which are located wireless facilities.
- (I) Existing Structure: A wireless support structure, erected prior to the application for an eligible facilities request, collocation or substantial modification under this ordinance that is capable of supporting the attachment of wireless facilities. The term includes but is not limited to, electrical transmission towers, buildings and water towers. The term shall not include any utility pole.
- (J) Fall Zone: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- (K) (FCC): Shall mean and refer to the Federal Communications Commission or its successor.
- (L) Monopole: A single, freestanding pole-type structure supporting one or more antennas. For the purposes of this Ordinance, a monopole is not a tower or a utility pole.
- (M) Ordinary Maintenance: Ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and

structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include substantial modifications.

- (N) Replacement Pole: A pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.
- (O) Site: For towers or monopoles other than towers or monopoles in public right-of-way, referring to the current boundaries of the leased or owned property surrounding the tower, monopole, any access, or utility easements currently related to the site, and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- (P) Substantial Modification: The mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:
 - 1) Increases the existing vertical height of a wireless support structure by:
 - a) More than ten percent (10%) or one additional antenna array not more than twenty (20') feet higher for towers not with a public right-of-way, or
 - b) More than ten percent (10%) or ten (10'), whichever is greater, for towers within public right-of-way and all base stations
 - 2) Increases the existing width of a wireless support structure by:
 - a) More than twenty (20') feet or the tower width at the level of the appurtenance, whichever is greater, for towers not with public right-of-way, or
 - b) Six (6') feet for towers with public right-of-way and all base stations
 - 3) The request defeats the existing concealment elements of a tower or base station.

- 4) The request violates a prior condition of approval that does not conflict with the other standards for a substantial change.
- (Q) Tower: A lattice-type structure, guyed or freestanding, that supports one or more antennas.
- (R) Utility Pole: A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.
- (S) Water Tower: A water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.
- (T) Wireless Facility or Wireless Facilities: The set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.
- (U) Wireless Support Structure: A freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility poles.
- (V) Wireless Transmission Equipment: Any equipment that facilitates transmission for any authorized wireless communication service including backup power.

III. Approvals Required for Wireless Facilities and Wireless Support Structures.

- (A) *Administrative Review and Approval.* The following types of applications are subject to the review process as provided in section IV. No other type of Land Development Code review beyond what is listed in section IV is necessary:
 - (1) New wireless support structures that are less than one hundred (100) feet in height, in any Industrial District;
 - (2) Concealed wireless facilities that are forty (40) feet or less in height, in any residential or commercial district;
 - (3) Monopoles or replacement poles located on public property or within utility easements or rights-of-way, in any zoning district; and
 - (4) Collocations applied under FCC statute 6409(a) that are not substantial modifications.

- (B) *Conditional Use.* Any application for wireless facilities and/or wireless support structures not subject to administrative review and approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Conditional Use Permit from the City Council in accordance with the standards for granting a Conditional Use Permit set forth in section V. Valid conditions include but are not limited to drainage, landscaping, maintenance, lighting, fencing, access, indemnification, and compliance with all generally applicable laws. Any application submitted under FCC statute 332(c)(7) shall be reviewed for a Conditional Use Permit.
- (C) *Exempt from All Approval Processes.* The following are exempt from all Hebron zoning approval processes and requirements:
 - (1) Ordinary maintenance of existing wireless facilities and wireless support structures, as defined in this Ordinance; and
 - (2) Wireless facilities placed on utility poles.

IV. Administrative Review and Approval Process.

- (A) *Content of Application Package-For New Sites.* All administrative review application packages must contain the following:
 - (1) Administrative review application form signed by applicant;
 - (2) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms;
 - (3) Site plans detailing proposed improvements. Drawings must depict improvements related to the applicable requirements including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements;
 - (4) A statement by applicant setting forth the number of carriers that the proposed tower will be designed to hold;
 - (5) An application fee to be set by the City Council; and
 - (6) An amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

- (7) An amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(B) *Content of Application Package-For Other Sites/Facilities.* All administrative review application packages must contain the following:

- (1) Administrative review application form signed by applicant;
- (2) A completed application for collocations shall identify which FCC statutory term the applicant is seeking approval for;
- (3) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas;
- (4) For substantial modifications, drawings depicting the improvements along with their dimensions;
- (5) An application fee to be set by the City Council; and
- (6) An amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer upon completion of the project. Any engineering fees and/or cost outstanding after payment of the escrowed funds shall be the responsibility of applicant.
- (7) An amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(C) *Procedure and Timing.*

TIMELINE

30 DAYS-	Applicant notified of application completeness
60 DAYS-	Total Review and Process for FCC statute 6409(a) Collocations
90 DAYS-	Total Review and Process for FCC statute 332(c)(7) Collocations
150 DAYS-	Total Review and Process for New Sites

- (1) Applications for New Sites That Are Subject to Administrative Review and Approval. Within one hundred fifty (150) calendar days of the receipt

of an application for new sites that are subject to administrative review and approval under this Ordinance, the City Engineer will:

- (a) Review the application for conformity with this Ordinance.
- (b) Make a final decision to approve or disapprove the application; and
- (c) Advise the applicant in writing of its final decision. If the City Engineer denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.
- (d) Failure to issue a written decision within one hundred fifty (150) calendar days may result in relief to the applicant as delineated by existing FCC regulations.

2. Applications for a FCC statute 6409(a) Collocation Subject to Administrative Review and Approval. Within sixty (60) days of the receipt of an application for a collocation, the City Engineer will:

*	Notification of Application Completeness	-	30 days
*	Time for Applicant to Cure Deficiencies	-	10 days
*	Total Review and Process Completed	-	60 days*

*Note: Circumstances such as 60th day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

- a) Review the application for conformity with this Ordinance. An application under this section is considered complete unless the City Engineer notifies in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within sixty (60) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the sixty (60) calendar days deadline for review shall be extended by the same period of time;

- b) Make a final decision to approve or disapprove the collocation application; and
 - c) Advise the applicant in writing of its final decision. If the City Engineer denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.
 - d) Failure to issue a written decision within ninety (90) calendar days may result in relief to the applicant as delineated by existing FCC regulations.
3. Building Permit. Upon approval of the application and grant of the zoning approval, the applicant must apply for a building permit. The applicant must apply for a building permit within 12 months of issuance of the zoning approval. This deadline may be extended for 6 additional months by submitting a letter requesting said extension, and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the City Council may grant or deny said extension of the deadline to apply for a building permit.

Once a building permit has been issued, any and all construction set forth therein must be substantially completed within 12 months of the issuance of the Building Permit. This deadline may be extended for 6 additional months by submitting a letter requesting said extension, and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the City Council may grant or deny said extension of the deadline to substantially complete construction.

A building permit application fee shall be set by the City Council, and applicant shall pay an additional amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City and paid to the City Engineer upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of the applicant. Applicant shall also pay an amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

4. The City Engineer shall set the inspections schedule for the site, and notify the applicant of said schedule. Applicant shall strictly comply with all required inspections.

5. Upon substantial completion of the project detailed in the building permit, the applicant shall notify the City Engineer who shall conduct a final inspection of the site. If the City Engineer is satisfied that the construction meets all required building code and other applicable project standards he shall issue applicant a certificate of occupancy.

V. Conditional Use Permit Process.

- (A) Any wireless facility or wireless support structures not meeting the requirements of Section III.A or III.C above, may be permitted in all zoning districts upon the granting of a Conditional Use Permit, subject to:
 - (1) The submission requirements of Section V.B;
 - (2) The applicable standards of Section VI; and
 - (3) The requirements of Conditional Use Permits (as set forth in Section 2.5 of Title II of Hebron, North Dakota Zoning Ordinance of 1982, as amended).
- (B) *Contents of Conditional Use Permit Application Package.* All Conditional Use Permit application packages must contain the following:
 - (1) Conditional Use Permit application form signed by applicant;
 - (2) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue Conditional Use Permit application. Such submissions need not disclose financial lease terms;
 - (3) Written description and scaled drawings of the proposed wireless support structure or wireless facility, including structure height, ground and structure design, and proposed materials;
 - (4) Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the wireless support structure;
 - (5) Line-of-sight diagram or photo simulation, showing the proposed wireless support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas;
 - (6) A statement that the proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates, provided space is available and consistent with Section VI(A)(1)(a) of this Ordinance;

- (7) Notice of the filing of the application with the City Auditor must be mailed to surrounding property owners within ¼ mile of proposed project site;
- (8) Notice of the filing of the application with the City Auditor must be published twice in the official newspaper of the City, if the proposed site is within City limits, or twice in the official newspaper of the City and the official newspaper of Morton County if the proposed site is within the City's extraterritorial zoning jurisdiction;
- (9) An application fee to be set by the City Council; and
- (10) An amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer once the project is completed. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.
- (11) An amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(C) *Procedure and Timing for New Site.*

TIMELINE

*	Notification of Application Completeness	-	30 days
*	Time Applicant Has to Cure Deficiencies	-	30 days
*	Total Review and Process Complete	-	150 days*

- * Note: Circumstances such as 150th day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

Within one hundred fifty (150) calendar days of the receipt of an application under Section V. of this Ordinance, the City Engineer will:

- (1) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with Section 2.5 of Title II of the Zoning Ordinance of the City of Hebron of 1982. An

application under this section is deemed to be complete unless the City Engineer notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time;

- (2) Make a final decision to approve or disapprove the application; and
- (3) Advise the applicant in writing of its final decision. If the City Council denies an application, it must provide written justification of the denial.
- (4) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

(D) *Procedure and Timing for 332(c)(7) Collocations.*

TIMELINE

*	Notification of Application Completeness	-	30 days
*	Time Applicant Has to Cure Deficiencies	-	10 days
*	Total Review and Process Complete	-	90 days*

- * Note: Circumstances such as 90th day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

Within ninety (90) calendar days of the receipt of an application under Section V. of this Ordinance, the City Engineer will:

- (1) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with Section 2.5 of Title II of the Zoning Ordinance of the City of Hebron of 1982, as amended. An application under this section is deemed to be complete unless the City Engineer notifies the applicant in writing, within thirty

(30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within ninety (90) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the ninety (90) calendar days deadline for review shall be extended by the same period of time;

- (2) Make a final decision to approve or disapprove the application; and
- (3) Advise the applicant in writing of its final decision. If the City Council denies an application, it must provide written justification of the denial.
- (4) Failure to issue a written decision within ninety (90) calendar days shall constitute an approval of the application.

(E) Building Permit. Upon approval of the application and grant of the Conditional Use Permit, the applicant must apply for a building permit. The building permit fee shall be set by the City Council. The applicant must apply for the building permit within 12 months of issuance of the Conditional Use Permit. This deadline may be extended for 6 additional months by submitting a letter requesting said extension, and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the City Council may grant or deny said extension of the deadline to apply for a building permit.

Once a building permit has been issued, any and all construction set forth therein must be substantially completed within 12 months of the issuance of the Building Permit. This deadline may be extended for 6 additional months by submitting a letter requesting said extension, and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the City Council may grant or deny said extension of the deadline to substantially complete construction.

A building permit application fee shall be set by the City Council, and applicant shall pay an additional amount to be determined by the City Engineer to cover engineering inspection and fees related to the project. Said amount shall be held in escrow by the City and paid to the City Engineer upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of the applicant.

Applicant shall also pay an amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

- (F) The City Engineer shall set the inspections schedule for the site, and notify the applicant of said schedule. Applicant shall strictly comply with all required inspections.
- (G) Upon substantial completion of the project detailed in the building permit, the applicant shall notify the City Engineer who shall conduct a final inspection of the site. If the City Engineer is satisfied that the construction meets all required building code and other applicable project standards, he shall issue applicant a certificate of occupancy.

VI. General Standards and Design Requirements.

(A) *Design*

- (1) Wireless support structures shall be subject to the following:
 - a) Shall be engineered and constructed to accommodate a minimum number of collocations based upon their height:
 - (i) Support structures fifty (50) to one hundred (100) feet shall support at least two (2) telecommunications providers;
 - (ii) Support structures greater than one hundred (100) feet but less than one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;
 - (iii) Support structures greater than one hundred fifty (150) feet in height shall support at least four (4) telecommunications carriers.
 - b) The ground lease area that support structure owner has control of surrounding the wireless support structure must be of sufficient size to accommodate accessory equipment for the appropriate number of telecommunications providers in accordance with Section VI(A)(1)(a). Consideration of the required ground lease area shall take into account the constraints of the surrounding built environment.
- (2) Concealed wireless facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically

feasible. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

- (3) Upon request of the applicant, the City Council may waive the requirement that new wireless support structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.
- (4) A letter of intent or interest on behalf of a carrier shall be included with the design that once the support structures is constructed, it is reasonably sure that an antenna will be mounted within one (1) year after completion.
- (5) A monopole or replacement pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:
 - a) The utility easement or right-of-way shall be a minimum of sixty (60) feet in width.
 - b) The height of the monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.
 - c) Monopoles and the accessory equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
 - d) Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.
 - e) Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.
 - f) Consideration of traffic safety.
- (6) A wireless communication tower utilized for any purposes shall be prohibited from locating in a front yard.

(B) *Setbacks*

- (1) Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone. If engineered fall zone documentation is not supplied by applicant, then the

setbacks shall be the height of the structure. Said setback may be reduced by the City Council upon submission of a report prepared by a registered engineer evaluating potential tower collapse. The City Council may then reduce the setback as it sees fit.

(C) *Fall Zone*

- (1) Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance shall be provided in the applicant's application for a building permit.

(D) *Height*

- (1) In residential districts, wireless support structures shall not exceed a height equal to one hundred (100) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the City Council shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the City Council.
- (2) In commercial and industrial districts, wireless support structures shall not exceed a height equal to one hundred seventy-five (175) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the City Council shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the City Council.

(E) *Aesthetics*

- (1) **Lighting and Marking.** Wireless facilities or wireless support structures shall not be lightened or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (2) **Signage.** Signs located at a wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which wireless facilities are

located (e.g., approved signage at locations on which concealed facilities are located).

- (F) *Accessory Equipment.* Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the wireless facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on the site.
- (G) *Fencing*
 - (1) Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device, as deemed appropriate by the City Council.
 - (2) The City Council may waive the requirement of Section VI.F.1 if it is deemed that a fence is not appropriate or needed at the proposed location.
- (H) *Certificate of Completion and Site Review.* Upon completion of the structures, the applicant shall schedule an inspection by the City Engineer to inspect the site and ensure it is in compliance with this Ordinance. Upon successful completion of the inspection, the City Engineer shall issue to the applicant a Certificate of Completion, and said Certificate shall be filed with the City Auditor. Any and all costs of the inspection shall be borne by the applicant.

VII. Miscellaneous Provisions.

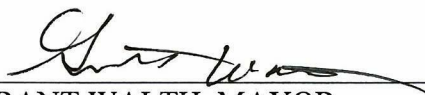
- (A) *Abandonment and Removal.* If a wireless support structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the City Council may require that such wireless support structure be removed only after first providing written notice to the owner of the wireless support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within ninety (90) days of receipt of said written notice. In the event the owner of the wireless support structure fails to reclaim the wireless support structure within the ninety (90) day period, the owner of the wireless support structure shall be required to remove the same within six (6) months thereafter. The City Council shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.
- (B) *Multiple Uses on a Single Parcel or Lot.* Wireless facilities and wireless support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

- (C) *Violations.* If at any time, a structure is found to be in violation of this Ordinance, the structure shall be declared a nuisance and shall be abated in the manner as provided by law.

VIII. Wireless Facilities and Wireless Support Structures in Existence on the Date of Adoption of this Ordinance.

- (A) Wireless facilities and wireless support structures that were legally permitted on or before the date this ordinance was enacted shall be considered a permitted and lawful use.
- (B) *Activities at Non-Conforming Wireless Support Structures.* Notwithstanding any provision of this Ordinance:
- (1) Ordinary maintenance may be performed on a non-conforming wireless support structure or wireless facility.
 - (2) Collocation of wireless facilities on an existing non-conforming wireless support structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the administrative approval process defined in Section IV; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.
 - (3) Substantial modifications may be made to non-conforming wireless support structures utilizing the conditional use permit process defined in Section V of this Ordinance.

DATED this 11th day of April, 2016.



GRANT WALTH, MAYOR

ATTEST:



ERIN BRINK, City Auditor

Introduction and First Reading: March 14, 2016

Second Reading: April 11, 2016

Final Passage: April 11, 2016