



**Agenda for Plan Commission
July 2, 2018 6:00 PM
Council Chambers, 115 S. Oakwood Avenue Geneseo, IL 61254**

Members:

Larry Meyer
Chris Barnhart
Michael Smith
Keith Kennett
Sue Garlick

Contact Person

Chairman – Chris Barnhart
Rick Mills
Building Inspector
309-944-6419

Agenda

Call to order/roll call/Quorum check

Pledge of allegiance

Public Comment – *Audience requests are limited to 3 minutes per subject. If additional time would be needed, please contact City Hall to be placed on the Agenda prior to the meeting.*

Consent Agenda

- 1.) Approval of agenda
- 2.) Approval of Minutes from 6/4/18

Motion to approve agenda and minutes from 6/4/18 meeting.

Motion to Open Public Hearing

- a. Case #18-005 Text amendment to Zoning Ordinance Chapter 4 referring to Structures Prohibited in the Utility Easements.
- b. Case 18-006 Text Amendment referring to the fee's associated with a Public Hearing request for Plan Commission and Zoning Board of Appeals to be increased from \$150.00 to \$200.00.
- c. Case 18-007 a request to create a section in the Zoning Code for Regulations Governing the Placement of Telecommunications Antennas in the Right of Way as regulated by Senate Bill 1451 (Public Act 100 – 0595), the Small Wireless Facilities Deployment Act.

Motion to Close Public Hearing

Return to Open Meeting

New Business Item

- I. Consideration to recommend to Council Case #18-005, 18-006 and 18-007 Requested text changes as follows:
 - 18-005 Chapter 4 referring to Structures Prohibited in the Utility Easements.

- 18-006 referring to the fee's associated with a Public Hearing request for Plan Commission and Zoning Board of Appeals to be increased from \$150 to \$200.
- 18-007 request to create a section in the Zoning Code for Regulations Governing the Placement of Telecommunications Antennas in the Right of Way as regulated by Senate Bill 1451 (Public Act 100-0595), the Small Wireless Facilities Deployment Act.

Old Business Items

None

Adjournment

- I. Board education and discussion
- II. General Comments
- III. Adjournment



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Plan Commission

June 4, 2018

Members:

Sue Garlick
Chris Barnhart
Larry Meyer
Keith Kennett
Michael A. Smith

Contact Person

Chris Barnhart

Rick Mills
Building Inspector
309-944-6419

Minutes

Call to order /roll call/Quorum check

Meeting called to order by Chairman Chris Barnhart at 6:00 p.m. Members answering roll call: Kennett and Garlick and Meyer. Smith was absent. Also, in attendance was Recorder Phlypo, Building Inspector Mills, Dan & Joanne Rocha and Rich and Linda Brown.

Pledge of allegiance

Public Comment- *Audience requests are limited to 3 minutes per subject. If additional time would be needed, please contact City Hall to be placed on the Agenda prior to the meeting.*

None

Consent Agenda

1) Approval of agenda and minutes from February 26, 2018.

Motion by Kennett, second by Meyer to approve the agenda and minutes from February 26, 2018.

Voice Vote. 4 Ayes. 0 Nays. 1 Absent.

Motion Carried.

Motion by Meyer, second by Kennett to open the Public Hearing at 6:03 PM to discuss the following case:

Case #18-003 a request for a Conditional Use Permit to allow the owner/occupant to convert their single-family dwelling to a duplex dwelling, the plan of the owners is to occupy one of the apartments and rent out the other.

Voice Vote. 4 Ayes 0 Nays. 1 Absent.

Motion Carried.

Owners of the property stated that there would be no expansion on the outside of the dwelling. They will need 4 parking spots and currently only have 3, they will be removing a tree and a shed to create the 4th parking spot needed.

Adjacent property owner Brown feel that part of the shed is on their property. Inspector Mills stated that there are no utility easements in that area. Chairman Barnhart stated that where the property lines are at is not a part of the decision before the Plan Commission at this time. This will have to be resolved between the property owners and a survey. Board Member Meyers stated that your property can be used right up to the property line.

Motion by Kennett, second by Meyer to close the Public Hearing at 6:14 PM.

Voice Vote. 4 Ayes. 0 Nays. 1 Absent.

Motion Carried.

New Business:

1. Case #18-003 Dan & Joanne Rocha requested a conditional use permit to allow them to convert their single-family dwelling to a duplex dwelling with the owner occupying one of the apartments and rent out the other.

Motion by Kennett, second by Garlick to recommend to City Council the approval of Case #18-003 a request for a conditional use permit to allow the owner/occupant to convert their single-family dwelling to a duplex dwelling, owner occupying one of the apartments and rent out the other.

ROLL CALL

Ayes 4 Barnhart, Kennett, Meyer, Garlick

Nays

Absent 1 Smith

Motion Carried.

Consideration to appoint a new Chairman.

Current Chairman Barnhart opened up the opportunity for other board members to be the Chair. All Board Members present agreed to continue at this time with Barnhart as the Chairman.

No Action at this time

Old Business –

Board Member Meyer stated that he had spoke to John Seei about the proposed shed that he would like to construct within 3 feet of the utility easement on his property due to the natural water flow through the back yard. Inspector Mills reported that next month's meeting would include a text amendment to include a process to grant a variance through the Zoning Board of Appeals. Right now, there is no process in place and no provision to approve a variance.

Board Education and Discussion -

None

General Comments -

None

Adjournment

Motion by Kennett, second by Meyer to adjourn the meeting at 6:32 p.m.

4 Ayes. 0 Nays. 1 Absent.

Motion Carried.

Respectfully submitted by

Recording Secretary

Loree K. Phlypo



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Plan Commission meeting

July 2, 2018

The format of the packet is looking different this month due to all of the cases being of the nature of requesting a change to the verbiage within the zoning ordinance.

Case 18-005: The city employees and council have been asked to allow an accessory building to be installed within a utility easement. It is clear within section 9-4-3 (E) in the zoning ordinance that no structures are allowed within a utility easement.

*"9-4-3: Accessory Buildings – E. Location on Lot. No accessory building shall be erected in any front yard. Accessory buildings shall be no closer than five feet (5') from all lot lines adjoining lots which are in any residential district and at least ten feet (10') from alley lines. It shall not encroach upon the required side yard. **No accessory building is permitted on easement areas.**"*

The City Council heard the request from the citizen and they were informed that the Zoning Board does not have a means to allow a variance to this section of the ordinance. The council then requested that the Plan Commission hold a public hearing on this matter and review if this is an area that we should allow variances to be applied for and be reviewed by the ZBA. With some of the utilities being in the rear yard of the homes in some of the additions within the city this has become an issue when people are installing yard sheds without permits. Any yard shed that is over 120 square feet requires a building permit but these are not always acquired and caught. With the new push to purchase these pre-built sheds people do not understand that they still need a permit if it is over the 120 square feet. Below I have included the definition for accessory building that is listed in our ordinance.

Definition: ***"ACCESSORY BUILDING, STRUCTURE, OR USE:***
A subordinate building, structure, or use which is customarily and incidental to the principal building or use and which is located on the same lot or parcel of land with the principal building or use. Parking lots or spaces shall not be considered as accessory uses under this definition. Accessory buildings shall not be used for dwelling purposes."

The Plan Commission is asked to review this information and make a decision on what to pass on to council for their recommendation for the information to move forward with an ordinance that would allow this variance request or to continue to not allow structures within the utility easements. If a request is allowed what kind of information would need to be in the application for this variance request like having all utility companies signing off on the request before it is heard by the ZBA or anything like this that the PC would like to see in this application. City staff has requested comments from the most common utility companies that are represented in the area.

CITY OF GENESEO

ORDINANCE No. O-18-09

**AN ORDINANCE AMENDING THE CITY OF GENESEO
ZONING ORDINANCE**

**ADOPTED BY THE
CITY COUNCIL OF THE
CITY OF GENESEO**

THIS _____ DAY OF _____, 2018

**APPROVED BY THE
MAYOR**

_____, 2018

Published in pamphlet form
by authority of the City Council
of the City of Geneseo,
Henry County, Illinois,
this ____ day of _____, 2018.

ORDINANCE NO. O-18-09

**AN ORDINANCE AMENDING THE CITY OF GENESEO
ZONING ORDINANCES**

WHEREAS, the City of Geneseo, County of Henry, State of Illinois has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, including the use of land within its corporate boundaries, and to protect the public health, safety, and welfare of its citizens; and

WHEREAS, the City as duly adopted a Zoning Ordinance and now desires to update and amend Section 9-11-5 of its Zoning Ordinance concerning authorized variances and accessory buildings; and

WHEREAS, a notice of public hearing concerning the proposed text amendments to the Zoning Ordinance was duly published on _____, 2018 and a public hearing concerning the proposed amendments to the zoning code was held before the Plan Commission on _____, 2018; and

WHEREAS, the Plan Commission recommended approval of the proposed amendments; and

WHEREAS, the City hereby finds that it is in the best interest of the City and the welfare of the inhabitants to so amend the Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GENESEO, HENRY COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I: The Recitals set forth above are incorporated herein and made a part hereof.

SECTION II: The City of Geneseo Zoning Ordinance, Section 9-11-5(B), subparagraph (1), is hereby amended as follows: (additions underlined, deletions marked with strikethrough):

B. The Board may grant the following variances:

1. Vary the yard regulations where there is an exception or unusual physical condition of a lot, which condition is not generally prevalent in the neighborhood and which condition when related to the yard regulations of this Title would prevent a reasonable or sensible arrangement of

ORDINANCE NO. O-18-09

buildings on the lot, including the placement of accessory buildings. Applicants for a side or rear yard variance must be able to show the distance of the proposed improvement from the lot line by way of lot corner stakes in the neighborhood. Notwithstanding the foregoing, a variance may be granted for the parking or storage of recreational vehicles in side yards. A variance may be granted to permit an accessory building to be located within an easement. Before granting such a variance, the Board shall consider such factors as the closeness of neighboring buildings and uses, adequate light, sunshine and airspace, and fire hazard potential. With respect to accessory buildings located within easements, the Board shall also consider the intended construction and the ability to access the easement in the event of an emergency. The Board may impose conditions upon the grant of the variance such as, but not limited to, the nature of construction.

SECTION III: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION IV: All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION V: This ordinance shall take effect immediately upon its passage and approval.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GENESEO, HENRY COUNTY, ILLINOIS ON THIS _____ DAY OF _____, 2018

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

AND APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2018.

KATHY CARROLL-DUDA
MAYOR FOR THE CITY OF GENESEO

(Seal)

LOREE K. PHLYPO
CITY CLERK

ORDINANCE NO. O-18-09

Published in pamphlet form by authority of the City Council of the City of Geneseo, Henry County, Illinois, this 11 day of July, 2018.

State of Illinois)
County of Henry)

I, Loree K. Phlypo, certify that I am the duly appointed and acting City Clerk of the City of Geneseo, Henry County, Illinois.

I further certify that on July 10, 2018, the Corporate Authorities of such municipality passed and approved Ordinance No. O-18-09, entitled:

**AN ORDINANCE AMENDING SECTION 92.55 OF THE CITY CODE OF ORDINANCES
CONCERNING THE REMOVAL OF SNOW**
which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. O-18-09, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on July 11, 2018 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

Dated at Geneseo, Illinois, this __, day of _____, 2016.

(Seal)

Loree K. Phlypo
City Clerk



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Plan Commission meeting

July 2, 2018

Case 18-006: City staff has requested that the Plan Commission and the City Council review the application fee for the application for public hearings to be heard from the ZBA and the PC. The current application fee for these applications is \$150. The cost for the public hearing notices to be posted in the local paper keeps going up. This along with the letters that we mail to the neighbors within 250 feet of the property and the cost that is associated with them are taking up most of the \$150 fee if not all of it. The average for the fees to the paper for the past five notices that we have put in is \$87.50 with the last notice costing us \$100. These public hearings also cost the city money in salaries for staff to review the request, gather information and create the packets for the different boards. City staff also attend the meetings that are hosted by the different boards. The city staff would like to see this fee raised to \$200 and the packet includes an ordinance with the new language for the change to sections 9-11-6 D and 9-13-1 D of the City of Geneseo Zoning Ordinance. The city of Moline charges \$250 for their public hearing fees. The last time that the city raised this fee was in 2000 and it was raised from \$50 to \$150.

CITY OF GENESEO

ORDINANCE No. O-18-_____

**AN ORDINANCE AMENDING SECTIONS 9-11-6:D
AND 9-13-1:D OF THE CITY OF GENESEO
ZONING ORDINANCE**

**ADOPTED BY THE
CITY COUNCIL OF THE
CITY OF GENESEO**

THIS _____ DAY OF _____, 2018

**APPROVED BY THE
MAYOR**

_____, 2018

Published in pamphlet form
by authority of the City Council
of the City of Geneseo,
Henry County, Illinois,
this ____ day of _____, 2018.

ORDINANCE NO. O-18-_____

**AN ORDINANCE AMENDING SECTIONS 9-11-6:D
AND 9-13-1:D OF THE CITY OF GENESEO
ZONING ORDINANCE**

WHEREAS, Sections 9-11-6:D and 9-13-1:D of the City's zoning ordinance currently sets the application fee at \$150; and

WHEREAS, the City desires to increase the amount of said application fee to \$200; and

WHEREAS, the proposed text amendment was considered at a duly noticed hearing before the Plan Commission and the Plan Commission recommended approval of the text amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GENESEO, ILLINOIS, AS FOLLOWS:

SECTION I: The recitals set forth above are hereby incorporated into a made a part of this Ordinance.

SECTION II:

Section 9-11-1:D of the City Zoning Ordinance is hereby amended as follows: The City Clerk's office shall receive a fee of ~~two one hundred fifty~~ dollars (\$~~150~~200.00) with applications for conditional uses, variances, and expansions of nonconforming uses. No fee shall be received with applications for other meetings or hearings of the Zoning Board of Appeals.

Section 9-13-1:D of the City Zoning Ordinance is hereby amended as follows: The City Clerk's office shall receive a fee of ~~two one hundred fifty~~ dollars (\$~~150~~200.00) from the party or parties proposing or recommending a change in the district regulations or district boundaries.

SECTION III: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,

such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION IV: All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION V: This ordinance shall take effect immediately upon its passage and approval.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GENESEO, HENRY COUNTY, ILLINOIS ON THIS _____ DAY OF _____, 2018

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

AND APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2018.

KATHY CARROLL-DUDA
MAYOR FOR THE CITY OF GENESEO

(Seal)

LOREE K. PHLYPO
CITY CLERK

Published in pamphlet form by authority of the City Council of the City of Geneseo, Henry County, Illinois, this _____ day of _____, 2018.

State of Illinois)
County of Henry)

I, Loree K. Phlypo, certify that I am the duly appointed and acting City Clerk of the City of Geneseo, Henry County, Illinois.

I further certify that on _____, 2018, the Corporate Authorities of such municipality passed and approved Ordinance No. _____, entitled:

**AN ORDINANCE AMENDING SECTIONS 9-11-6:D
AND 9-13-1:D OF THE CITY OF GENESEO
ZONING ORDINANCE**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. _____, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on _____, 2018 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

Dated at Geneseo, Illinois, this __ day of _____, 2018.

(Seal)

Loree K. Phlypo
City Clerk



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Plan Commission meeting

July 2, 2018

Case 18-007: Small Wireless Facilities. In April of this year, the City Council passed an ordinance for the installation of small cell facilities within the city limits of Geneseo. After this took place, the State of Illinois enacted what is called the Small wireless Facilities Deployment Act. Within this act, the State requires that if a Municipality has an ordinance on this subject that it is required to be within the Zoning ordinance. The ordinance that Council passed back in April was an ordinance that modified the city code and not the Zoning Ordinance. The request by the City Council is to review this new ordinance that will be added to the Zoning Ordinance regulating the installation of these small cell wireless facilities within the city. This ordinance and application is a modification of an ordinance put out by the Illinois Municipal League.

April 06

Ordinance O-18-10

**AN ORDINANCE PROVIDING FOR THE REGULATION OF AND
APPLICATION FOR SMALL WIRELESS FACILITIES**

WHEREAS, the Illinois General Assembly has recently enacted Public Act 100-0585, known as the Small Wireless Facilities Deployment Act (the Act), which becomes effective on June 1, 2018; and

WHEREAS, the City of Geneseo is an Illinois municipality in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the City is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small wireless facilities, distributed antenna systems and other personal wireless telecommunication facility installations in the public right-of-way as long as it does not conflict with State and federal law; and

WHEREAS, the Act sets forth the requirements for the collocation of small wireless facilities by local authorities.

NOW, THEREFORE, be it ordained by the corporate authorities of the City of Geneseo as follows:

Section 1. Purpose and Scope.

Purpose. The purpose of this Ordinance 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 exclusively for commercial or industrial use, in a manner that is consistent with the Act.

Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations.

Section 2. Definitions.

For the purposes of this Ordinance, the following terms shall have the following meanings:

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 local 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 – 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(53), 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 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 local 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 public rights-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 – the 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.

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.

Section 3. Regulation of Small Wireless Facilities.

Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (9) regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

Permit Required. An applicant shall obtain one or more permits from the City to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

- (1) Application Requirements. A wireless provider shall provide the following information to the City, together with the City's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
 - a. 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;
 - b. 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. This should include a depiction of the completed facility;
 - c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
 - d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
 - e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
 - f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
 - g. In the event that 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.
- (2) Application Process. The City shall process applications as follows:

- a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
- b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the City fails to approve or deny the application within 90 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. 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 Ordinance.

- c. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 120 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. 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 Ordinance.

- d. The City shall deny an application which does not meet the requirements of this Ordinance.

If the City determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

The City shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the City denies an application.

The applicant may cure the deficiencies identified by the City and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the City's review period.

The applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure 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.

- e. Pole Attachment Agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the City and the applicant shall enter into a Master Pole Attachment Agreement, provided by the City for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the City and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

- (3) Completeness of Application. Within 30 days after receiving an application, the City shall determine whether the application is complete and notify the applicant. If an application is incomplete, the City must specifically identify the missing information. An application shall be deemed complete if the City fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the City's permit application form are submitted by the applicant to the City.

Processing deadlines are tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing information.

- (4) Tolling. The time period for applications may be further tolled by:
 - a. An express written agreement by both the applicant and the City; or
 - b. A local, State or federal disaster declaration or similar emergency that causes the delay.
- (5) 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 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 an application includes multiple small wireless facilities, the City may 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.

- (6) Duration of Permits. The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the City makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable City codes or any provision, condition or requirement contained in this Ordinance.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable City code provisions or regulations in effect at the time of renewal.

- (7) Means of Submitting Applications. Applicants shall submit applications, supporting information and notices to the City by personal delivery at the City's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

Collocation Requirements and Conditions.

- (1) Public Safety Space Reservation. The City may reserve space on municipal utility poles for future public safety uses, for the City's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the City reasonably determines that the municipal utility pole cannot accommodate both uses.
- (2) Installation and Maintenance. 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 Ordinance. The wireless provider shall ensure that its employees, agents or 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.
- (3) No interference with public safety communication frequencies. 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.

A 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.

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.

If a small wireless facility causes such interference, 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 remedy the interference 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.

The City may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

- (4) 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.

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

For purposes of this subparagraph, 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 as published by the Institute of Electrical and Electronics Engineers.

- (5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.
- (6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a City ordinance, written policy adopted by the City, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
- (7) Alternate Placements. Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with 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, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the City, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

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

New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

- a. 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the City, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the City, provided the City may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
 - b. 45 feet above ground level.
- (9) Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a [SPECIAL USE PERMIT, VARIANCE OR ADMINISTRATIVE WAIVER] in conformance with procedures, terms and conditions set forth in [INSERT APPROPRIATE SECTION(S) OF ZONING ORDINANCE].
- (10) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by 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.
- (11) Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
- (12) Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning 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 waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- (13) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request

within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the City grants an extension in writing to the applicant.

Application Fees. Application fees are imposed as follows:

- (1) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 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 structures.
- (2) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
- (4) The City shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - a. routine maintenance;
 - b. 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 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with subsection d. under the Section titled Application Requirements; or
 - c. 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.
- (5) Wireless providers shall secure a permit from the City to work within rights-of-way for activities that affect traffic patterns or require lane closures.

Exceptions to Applicability. Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:

- (1) 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 rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;
- (2) 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

- (3) 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 Ordinance 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 Ordinance shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

Pre-Existing Agreements. Existing agreements between the City and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on City utility poles, that are in effect on June 1, 2018, 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 after June 1, 2018, shall comply with this Ordinance.

A wireless provider that has an existing agreement with the City on the effective date of the Act may accept the rates, fees and terms that the City makes available under this Ordinance 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 or more years after the effective date of the Act by notifying the City that it opts to accept such rates, fees and terms. The existing agreement remains 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 paragraph.

Annual Recurring Rate. A 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) \$200 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 City has not billed the wireless provider actual and direct costs, the fee shall be \$200 payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

Abandonment. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of 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 wireless provider. If the small wireless facility is not removed within 90 days of such notice, the City may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the City if it sells or transfers small wireless facilities within the jurisdiction of the City. Such notice shall include the name and contact information of the new wireless provider.

Section 4. Dispute Resolution.

The Circuit Court of Henry County 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 municipal utility poles within the right-of-way, the City shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

Section 5. Indemnification.

A wireless provider shall indemnify and hold the City 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 right-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 Ordinance and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the City or its employees or agents. A wireless provider shall further waive any claims that they may have against the City with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

Section 6. Insurance.

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- (i) property insurance for its property's replacement cost against all risks;
- (ii) workers' compensation insurance, as required by law;

OR

(iii) commercial general liability insurance with respect to its activities on the City improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of City improvements or rights-of-way, including coverage for bodily injury and property damage.

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 wireless facility.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the City. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name 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 limits required by the City.

Section 7. Severability.

If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 8. Effective Date.

This Ordinance shall be in full force and effect on July 10, 2018.

PASSED THIS _____ day of _____, 201__.

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

APPROVED THIS _____ day of _____, 201__.

Mayor

ATTEST:

City Clerk

PUBLIC HEARING

The Geneseo Plan Commission has received a request from the City of Geneseo for a Text Amendment as follows:
The First change would be in Chapter 4 which refers to structures prohibited in utility easements. This change would allow a property owner with an easement to apply for a variance to the easement restrictions.

The second proposed change is in reference to the fee's associated with a Public Hearing request for Plan Commission and Zoning Board of Appeals to be increased from \$150.00 to \$200.00.

The third request is to create a Section in the Zoning Code for Regulations Governing the Placement of Telecommunications Antennas in the Right of Way as regulated by Senate Bill 1451 (Public Act 100-0585), the Small Wireless Facilities Deployment Act.

Prior to making a decision and in accordance with the provisions of Zoning Ordinance No.1206, as amended, and the State statutes, it is hereby announced that a public hearing will be held Monday, July 2nd, 2018 at 6:00 PM in the Council Chambers, 115 South Oakwood Avenue. All interested persons are invited to attend. Information pertaining to the application is available at City Hall.

Loree K. Phlypo
City Clerk

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Geneseo Republic

Run one time – June 15, 2018