

**CITY OF TWINSBURG, OHIO**

**ORDINANCE 55-2019**

AN ORDINANCE CREATING SECTION 909 OF THE  
CODIFIED ORDINANCES OF THE CITY OF  
TWINSBURG REGULATING SMALL CELL  
TECHNOLOGY IN THE RIGHT OF WAY

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**WHEREAS**, the Administration hereby recommends creating Section 909 of the Codified Ordinances of the City of Twinsburg to establish regulations for Small Cell Tower Technology in the Public Right-of-Way; and

**WHEREAS**, municipalities have limited review authority regarding small cell technology and currently the City does not have any regulations in its code; and

**WHEREAS**, the regulations were reviewed and favorably recommended by the Planning Commission at its regularly scheduled meeting of April 1, 2019; and

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Twinsburg, County of Summit and State of Ohio:

**SECTION I:** That Section 909 of the Codified Ordinances of the City of Twinsburg is hereby created as follows:

**CHAPTER 909**

**Small Cell Technology In The Right Of Way**

**909.01 SMALL CELL TECHNOLOGY IN THE RIGHT OF WAY; PURPOSE**

The purpose of this chapter is to:

- (1) Provide standards for the construction, installation, modification, operation, and removal of facilities and wireless support structures in the City's right of way,
- (2) Preserve the character of the City, including the character of neighborhoods, corridors, parkways and the City's central area,
- (3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically-pleasing installation of facilities and wireless support structures,
- (4) Exercise the City's home rule authority to the extent legally permitted and not conflict with or preempt applicable state and federal laws; and,
- (5) Protect the health, safety, and general welfare of the citizens and property owners of the City.

## **909.02 DEFINITIONS**

(a) General use of terms.

(1) The terms, phrases, words, and their derivations used in this chapter shall have the meanings given in this section, unless the context of the sentence in which they are used shall indicate otherwise.

(2) Words not defined shall be given their common and ordinary meaning.

(b) Defined terms.

(1) "Antenna" means communications equipment that transmits or receives radio frequency signals in the provision of wireless service.

(2) "Applicant" means any person or entity who submits an application pursuant to this chapter.

(3) "Application" or "Consent Application" means all necessary documentation submitted by an applicant to obtain a Small Cell Use Permit from the City to collocate a small cell facility and/or to construct, maintain, modify, operate, or replace a wireless support structure.

(4) "City" means City of Twinsburg.

(5) "Collocation" or "Collocate" means to install, mount, maintain, modify, operate or replace wireless facilities on a wireless support structure.

(6) "Design Guidelines" means standards applicable to small cell equipment and wireless support structures in the right of way, established in Chapter 910 of the Codified Ordinances of the City of Twinsburg.

(7) "Eligible Facilities or Eligible Support Structure Request" means any request for modification of an existing support structure or base station that does not substantially change the physical dimension of such support structure involving collocation of new facilities, removal of facilities, or replacement of facilities. A substantial change means:

- (A) A modification that changes the physical dimension of a wireless support structure by increasing the height of the wireless support structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater; and/or by adding an appurtenance to the body of the wireless support structure that would protrude from the edge of the wireless support structure by more than six (6) feet;
- (B) The installation of more than the standard number of equipment cabinets for the technology involved or the installation of more than (4) cabinets, whichever is less;

- (C) The installation for any new ground-mounted equipment cabinets if there are no existing ground-mounted equipment cabinets;
- (D) Any excavation or deployment outside of the current site of the Facility;
- (E) Removal of any concealment elements of the facilities or the wireless support structure; and
- (F) Any change that does not comply with this Chapter, the Design Guidelines set forth in Chapter 910 of this Code, or with state or federal law and regulations.

The threshold for measuring increases that may constitute a substantial change are cumulative, measured from the facilities as originally permitted (including any modifications that were reviewed and approved by the City prior to the enactment of the federal Spectrum Act on February 22, 2012.)

(8) "Facilities" means small cell facilities, accessory equipment, and wireless support structures.

(9) "Facilities Operator" means the person or entity responsible for the installation, operation, maintenance, replacement, or modification of facilities. Facilities Operator includes:

- (A) Operators;
- (B) Applicants who applied for consent to collocate a small cell facility or to construct, maintain, modify, operate, or replace a new wireless support structure pursuant to Ohio Revised Code Section 4939.031(E) and who have obtained a Small Cell Use Permit; and
- (C) Applicants who applied for consent to collocate a small cell facility or to construct, maintain, modify, operate, or replace a new wireless support structure pursuant to Ohio Revised Code Section 4939.033 and who have obtained a Small Cell Use Permit.

(10) "Operator" means a wireless service provider, cable operator, or a video service provider that operates a small cell facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the federal "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.

(11) "Right of Way" means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land

dedicated or otherwise designated for a comparable public use, which is owned or controlled by the City or other public entity or political subdivision.

(12) “Small Cell Equipment” means a small cell facility and all accessory equipment.

(13) “Small Cell Facility” means a wireless facility that meets both of the following requirements:

(A) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and,

(B) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(14) “Small Cell Use Permit” means the permit granted by the city authorizing the applicant to collocate a small cell facility or to construct, maintain, modify, operate, or replace a wireless support structure in the right of way.

(15) “Wireless Support Structure” means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting small cell facilities. As used in this chapter, “wireless support structure” excludes all of the following:

(A) A utility pole or other facility owned or operated by a municipal electric utility; and

(B) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

### **909.03 CONSENT APPLICATION REQUIRED.**

(a) Any person or entity seeking to collocate a small cell facility in the right of way, or to construct, maintain, modify, operate, or replace a wireless support structure in the right of way, shall first submit application materials as required by the City along with the applicable consent application fee to the Building Commissioner in accordance with the requirements in this chapter, the design guidelines set forth in Chapter 910 of this code, Ohio Revised Code Chapter 4939, and all applicable state and federal law and regulations.

(b) A Small Cell Use Permit granted under this Chapter shall not convey any right, title or interest in the right of way, but shall be deemed a permit only to use and occupy the public way for the limited purposes and term stated in the permit, this chapter, and the

design guidelines set forth in Chapter 910 of this Code. No Small Cell Use Permit shall be construed as any warranty of title.

- (c) For processing of consent applications, the City may charge a fee for each small cell facility and wireless support structure requested as prescribed under Section 4939.0316 of the Ohio Revised Code and Section 1323.05 of the Codified Ordinances of the City of Twinsburg.

#### **909.04 PERMIT APPLICATION TYPES.**

Applicants shall classify their application as one of the following:

- (a) Type 1: Eligible Facilities Requests.
- (b) Type 2: Application for Collocation of Small Cell Equipment on a Wireless Support Structure that does not constitute an Eligible Facilities Request.
- (c) Type 3: New Wireless Support Structure. Such applications address construction, modification, replacement or removal of a wireless support structure within the right of way. At the time of application, applicants shall certify that small cell equipment will be placed on the wireless support structure within 180 days from the date the Small Cell Use Permit is issued.

#### **909.05 CONSOLIDATED CONSENT APPLICATIONS.**

- (a) Pursuant to Ohio Revised Code Section 4939.0312, an applicant may file one consolidated application for up to thirty (30) individual small cell facilities or thirty (30) individual wireless support structures as long as the facilities or structures for which consent is requested are substantially similar.
  - (1) Small cell facilities shall be considered substantially similar when the small cell equipment is identical in type, size, appearance and function.
  - (2) Wireless support structures shall be considered substantially similar when the wireless support structures are identical in type, size, appearance and function and are to be located in a similar location. The city may, at its discretion, require separate applications for any small cell facilities or wireless support structures that are not substantially similar.
  - (3) Applications for facilities and wireless support structures cannot be commingled.

#### **909.05 APPLICATION FEE.**

- (a) A fee for each application shall be paid to the City as prescribe in Chapter 1323 of the Codified Ordinances of the City of Twinsburg. The fee may be adjusted upward by ten percent (10%) every five (5) years. During each five-year period, the adjustment may be applied incrementally or as a single adjustment.

(b) If applications are consolidated, then the fee shall be the sum resulting from the fee set forth in subsection (a) above multiplied by the total number of facilities or wireless support structures included in the consolidated application. A request by a single operator for a new or replacement support structure and associated small cell facility constitutes one request.

#### **909.06 ATTACHMENT FEE.**

(a) In addition to the application fee, an annual fee of \$200.00 shall be paid to the City for each small cell facility attached to a municipally-owned wireless support structure. The attachment fee may be adjusted upward by ten percent (10%) every five years. During each five-year period, the adjustment may be applied incrementally or as a single adjustment.

(b) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 of each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.

#### **909.07 GENERAL PROVISIONS**

##### **(A) As-Built Maps and Records.**

- (1) Operator shall maintain accurate maps and other appropriate records, including an inventory, of its Small Cell Facilities and Wireless Support Structures as they are actually constructed in the right of way or on any other City-owned property. The inventory shall include GIS coordinates, date of installation, type of wireless support structure used for installation, wireless support structure owner and description/type of installation for each small cell facility and wireless support structure.
- (2) Upon City's written request, Operator shall provide a cumulative inventory within thirty (30) days of City's request. Concerning small cell facilities and wireless support structures that become inactive, the inventory shall include the same information as active installations in addition to the date the small cell facility and/or wireless support structure was deactivated and the date the small cell facility and/or wireless support structure was removed from the right of way.

##### **(B) Generally Applicable Health and Safety Regulations.**

All small cell facilities and wireless support structures shall be designed, constructed, operated and maintained in compliance with all generally applicable federal, state, and local health and safety regulations, including without limitation all applicable regulations for human exposure to RF emissions.

##### **(C) Authorization**

- (1) If the applicant is not an operator then the applicant must provide proof that the applicant has been engaged by a wireless service provider who will be the end-user of the facilities.
- (2) If the applicant intends to place small cell facilities and small cell equipment on a wireless support structure in the right of way that is not owned by the City, the applicant shall provide written confirmation of owner permission to use the wireless support structure.

- (3) All construction activities must be contained within the public right of way unless authorization has been obtained from adjacent private property owner(s). Staking of public right of way or easement boundaries will be at the discretion of the City and may be required to ensure an appropriate work site and the placement of facilities.

**909.08 APPLICATION REVIEW.**

- (a) Applications shall be evaluated in the timeframes as follows:
- (1) Type 1 Applications: 60 days;
  - (2) Type 2 Applications: 90 days;
  - (3) Type 3 Applications: 120 days.
- (b) Applications will be reviewed for completeness. When an incomplete application has been submitted, the applicant will be notified in writing of the insufficiency no later than thirty (30) days after its receipt; and, the review time period may be tolled until the application is made complete.
- (c) The review time period may also be tolled by mutual agreement between the applicant and the City.
- (d) If the City receives between fifteen (15) and thirty (30) applications in a thirty-day period, then the City may toll the review period for an additional twenty-one (21) days beginning with the sixteenth (16th) application.
- (e) If the City receives more than thirty (30) applications in a thirty-day period, then the City may toll the review timeframe for an additional fifteen (15) days for every fifteen (15) applications received, up to a maximum tolling period of ninety (90) days, as indicated below:
- (A) Applications 31-45: 36 additional days
  - (B) Applications 46-60: 51 additional days
  - (C) Applications 61-75: 66 additional days
  - (D) Applications 76-90: 81 additional days
  - (E) Applications 91+: 90 additional days
- (f) When an applicant submits an underground area waiver pursuant to Section 910 of this Code, the City may toll the review period for an additional thirty (30) days.
- (g) If two (2) applicants request to collocate on the same wireless support structure or two (2) wireless support structures are proposed within a distance that would violate the spacing requirements set forth in Chapter 910, then the Building Commissioner may resolve the conflict in any reasonable and nondiscriminatory manner.
- (h) If a request for consent is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the applicant. Grounds for denying an application may include, but are not limited to:
- (1) Failure to provide information as required under Chapter 909;

- (2) Failure to comply with design guidelines set forth in Chapter 910 of this code;
- (3) Failure to provide financial surety pursuant to Section 909.15;
- (4) Failure to remove abandoned facilities as required under Section 909.12;
- (5) Conflict with the character of the surrounding area;
- (6) Conflict with planned future improvements in the right of way;
- (7) Failure to comply with generally applicable health, safety, and welfare requirements; and/or,
- (8) Exceeds size requirements for small cell facilities.

**909.09 PERMITTING PROCESS, DURATION AND TERMINATION.**

- (a) Upon approval of its application, an applicant shall receive a Small Cell Use Permit indicating that the City has granted the applicant consent to occupy the right of way.
- (b) A Small Cell Use Permit issued to an operator shall have a duration of ten (10) years. Permits may be renewed for five-year terms. A Small Cell Use Permit shall not be renewed if the facilities operator or the facilities are not in compliance with all applicable laws and regulations.
- (c) A Small Cell Use Permit issued to a facilities operator who is not an operator shall have a term of ten (10) years or the duration of the facilities operator's agreement with a wireless service provider provided pursuant to Section 909.06(j), whichever is shorter.
- (d) At any time and upon service of a sixty (60)-day advance written notice to the city, a Small Cell Use Permit may be terminated by the facilities operator. Upon termination of a Small Cell Use Permit, the facilities operator shall restore and rehabilitate all city-owned wireless support structures and the right of way to their former condition and utility.
- (e) If the facilities operator fails to remit the annual attachment fee required pursuant to Section 909.10, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual attachment fee was due. The City shall not issue any refunds for any amounts paid by the facilities operator upon termination of the Permit.
- (f) Pursuant to Ohio Revised Code Section 4939.0314(E), a Small Cell Use Permit shall be deemed terminated if the facilities operator has not completed construction of the facilities or has failed to attach small cell equipment to a wireless support structure within 180 days of issuance of the permit, unless the delay is caused by:



- (1) Make-ready work for a municipally-owned wireless support structure; or
- (2) The lack of commercial power or backhaul availability at the site, provided that the operator has made a request for commercial power or backhaul services within sixty (60) days after the Small Cell Use Permit was granted.

If the additional time to complete the installation exceeds 360 days after the issuance of the permit, then the permit shall be deemed terminated, regardless of the cause of the delay.

#### **909.11 NONCONFORMING FACILITIES.**

- (a) Facilities in the right of way that are legally in existence on the date of the adoption of this chapter but that do not comply with the requirements of this chapter may remain in the right of way but shall be considered a “nonconforming facility”.
- (b) Any person or entity who owns or operates a nonconforming facility shall register such facility pursuant to Section 909.02 of this code within ninety (90) days of the date this chapter takes effect.
- (c) If a nonconforming facility is damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this chapter, the design guidelines established in Chapter 910 of this code, and with state and federal law and regulations.

#### **909.12 ABANDONED AND DAMAGED FACILITIES.**

- (a) A facilities operator shall provide written notice to the city of its intent to discontinue use of any facilities. The notice shall include the date the use will be discontinued. If facilities are not removed within 365 days from the date the use was discontinued, the facilities shall be considered a nuisance and the city may remove the facilities at the expense of the facilities operator.
- (b) In the event that facilities are damaged, the facilities operator shall promptly repair the damaged facilities. Damaged facilities shall be repaired no later than thirty (30) days after obtaining written notice that the facilities are damaged. If the damaged facilities are not repaired within thirty (30) days, then the damaged facilities shall be considered a nuisance and the city may repair or remove the facilities at the expense of the facilities operator.

#### **909.14 INDEMNIFICATION.**

A facilities operator shall indemnify, protect, defend, and hold the city and its elected and appointed officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the operator who owns or operates small cell facilities and wireless service in the right of way, and by any agent, officer, director, representative, employee, affiliate, or subcontractor of the operator, or their respective

officers, agents, employees, directors, or representatives while installing, repairing, maintaining or removing facilities in the right of way.

**909.15 FINANCIAL SURETY.**

- (a) Each facilities operator must procure and provide to the city a bond, escrow, deposit, letter of credit or other financial surety to ensure compliance with this chapter and Ohio Revised Code Chapter 4939. The financial surety must also be in an amount sufficient to cover the cost of removal, as established by the Mayor, of all facilities owned or operated by the facilities operator.
- (b) The city may, in its sole discretion, draw on the financial surety to remove abandoned facilities, remove or repair damaged facilities, or to repair damage to any city property caused by the facilities operator or its agent. In such event, the facilities operator shall cause the financial surety to be replenished to its prior amount within ten (10) business days after the city notifies the facilities operator that it has drawn on the financial surety.

**909.16 RESERVED SPACE.**

The City reserves the right to install, and permit others to install, facilities in the right of way. The City may reserve space in the right of way and on wireless support structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the City Council, Mayor or Planning Commission.

**909.17 REMOVAL OR RELOCATION OF FACILITIES.**

- (a) The City may require a facilities operator to remove or relocate facilities to accomplish construction and maintenance activities. The facilities operator shall remove or relocate the facilities at no cost to the City. If the facilities operator fails to remove or relocate the facilities within ninety (90) days of receiving a request to do so from the City, then the City may remove the facilities at facilities operator's sole cost and expense, without further notice to the facilities operator.
- (b) If the facilities are placed in a location other than the location approved by the City, the facilities operator shall relocate the facilities within thirty (30) days of receiving notice that the facilities are located improperly.

**909.18 NOTICE OF WORK.**

A facilities operator shall notify the Building Commissioner of all non-emergency work within ten (10) calendar days prior to performing any upgrades or maintenance on any facilities, regardless of whether the work requires any permit or consent from the City.

**909.19 PERMIT TO WORK IN THE RIGHT OF WAY**

Before placing small cell facilities or wireless support structures in the right of way, an operator must additionally apply for and receive a general right of way permit under Chapter 901. This provision shall not be construed to waive application fees or any other construction or work permit necessary for work in the City.

**909.20 WORK PERMIT.**

- (a) Construction work permits are required pursuant to Chapter 901 of this Code prior to commencing any of the following activities:
- (1) Collocation of Small Cell Equipment on a wireless support structure;
  - (2) Replacement, modification, repair, or maintenance of Small Cell Equipment;
  - (3) Construction, replacement, modification, repair, or maintenance of a Wireless Support Structure associated with a Small Cell Facility; and
  - (4) Any excavation of the right of way in connection with the activities described in this subsection (a).
- (b) Construction permit fees shall be as set forth in Chapter 1323.05 of these Codified Ordinances.

**909.21 EXCAVATION PERMIT.**

- (a) If a facilities operator must construct, reconstruct, alter, repair, remove or replace any culvert, sidewalk or driveway in any public street or road right of way, then the facilities operator shall obtain the required permit pursuant to Chapter 901 of this Code.

**909.99 PENALTIES; EQUITABLE REMEDIES.**

- (a) Any person or entity found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day during or on which a violation occurs or continues.

Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.

**SECTION II:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meeting or meetings of this Council, and that all deliberations of this Council were in meetings open to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

**SECTION III:** That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

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Brian Steele, President of Council

Submitted to the Mayor for approval this  
\_\_\_\_\_ day of \_\_\_\_\_, 2019

Approved by the Mayor \_\_\_\_\_, 2019

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Ted Yates, Mayor

ATTEST:

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Shannon Collins  
Clerk of Council

1<sup>st</sup> Rdg. \_\_\_\_\_

2<sup>nd</sup> Rdg. \_\_\_\_\_

3<sup>rd</sup> Rdg. \_\_\_\_\_

Passed: \_\_\_\_\_

Yes \_\_\_\_\_ No \_\_\_\_\_

**CERTIFICATE OF POSTING**

I, Shannon Collins, Clerk of Council, of the City of Twinsburg, State of Ohio, do hereby certify that publication of the foregoing ordinances, resolutions was duly made by posting true copies thereof in accordance with Section 113.02 of the Codified Ordinances of the City of Twinsburg-commencing on the \_\_\_\_\_day of \_\_\_\_\_, 2019.

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Shannon Collins  
Clerk of Council  
City of Twinsburg

**CITY OF TWINSBURG, OHIO**

**ORDINANCE 56-2019**

**AN ORDINANCE CREATING SECTION 910 OF THE  
CODIFIED ORDINANCES OF THE CITY OF  
TWINSBURG REGARDING SMALL CELL DESIGN  
GUIDELINES**

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**WHEREAS**, the Administration hereby recommends creating Section 910 of the Codified Ordinances of the City of Twinsburg to establish regulations for Small Cell Design Guidelines; and

**WHEREAS**, municipalities have limited review authority regarding small cell technology and currently the City does not have any regulations in its code; and

**WHEREAS**, the regulations were reviewed and favorably recommended by the Planning Commission at its regularly scheduled meeting of April 1, 2019; and

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Twinsburg, County of Summit and State of Ohio:

**SECTION I:** That Section 910 of the Codified Ordinances of the City of Twinsburg is hereby created as follows:

**CHAPTER 910  
Small Cell Design Guidelines**

- 910.01 Overview and purpose; Definitions
- 910.02 General standards
- 910.03 Antennas
- 910.04 Wireless support structure- mounted equipment
- 910.05 Ground-mounted small cell equipment
- 910.06 Cables
- 910.07 Electrical meters
- 910.08 Utility lines
- 910.09 General Placement and Location Standards
- 910.10 Underground Area Regulations
- 910.11 Penalties; Equitable remedies

**910.01 OVERVIEW AND PURPOSE; DEFINITIONS.**

- (a) The purpose of these design guidelines is to:

(1) Protect the health, safety, and general welfare of the citizens and property owners of the City; and,

(2) Preserve the character of the City, including the character of neighborhoods, corridors, parkways and the City's central area; and,

(3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of facilities; and,

(4) To exercise the City's home rule authority and, to the extent legally permitted, not to conflict with or preempt applicable State and Federal laws.

(b) For the purpose of this chapter, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

(1) "Accessory equipment" means equipment used in conjunction with a small cell facility and generally at the same location as, or in proximity to, the small cell facility including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs.

(2) "Applicant" means any person or entity who submits an application pursuant to this chapter.

(3) "Application" means the materials issued by the City that are to be submitted by an applicant to obtain a small cell use permit to collocate a small cell facility and/or to construct, maintain, modify, operate, or replace a wireless support structure.

(4) "City" means City of Twinsburg.

(5) "Mayor" means the duly elected Mayor of the City or the mayor's designee.

(6) "Collocation" or "collocate" means to install, mount, maintain, modify, operate, or replace wireless facilities on a wireless support structure.

(7) "Design guidelines" means the standards established in Chapter 910.

(8) "Facilities" means small cell facilities, accessory equipment, and wireless support structures.

(9) "Facilities operator" means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of facilities. "Facilities operator" includes:

A. Operators;

B. Applicants who applied for consent to collocate a small cell facility or to construct, maintain, modify, operate, or replace a new wireless support structure pursuant to Ohio R.C. 4939.031(E) and who have obtained a small cell use permit; and

C. Applicants who applied for consent to collocate a small cell facility or to construct, maintain, modify, operate, or replace a new wireless support structure pursuant to Ohio R.C. 4939.033 and who have obtained a small cell use permit.

(10) "Historic district" means a building, property, or site, or group of buildings, properties, or sites that are either of the following:

A. Listed in the National Register of Historic Places or formally determined eligible for listing by the keeper of the National Register.

B. A registered historic district as defined in Ohio R.C. 149.311.

(11) "Operator" means a wireless service provider, cable operator, or video service

provider that operates a small cell facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the Federal "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.

(13) "Parkway" means a public roadway bordered by grass, trees or landscaping including, but not limited to Glenwood Boulevard, Miktarian Memorial Parkway and Twin Hills Parkway.

(14) "Public way" or "right-of-way" means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a comparable public use, which is owned or controlled by the City or other public entity or political subdivision.

(15) "Small cell equipment" means a small cell facility and all accessory equipment.

(16) "Small cell facility" means a wireless facility that meets both of the following requirements:

A. Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six cubic feet in volume; and

B. All other wireless equipment associated with the facility is cumulatively not more than 28 cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(17) "Small cell use permit" means the permit granted by the City authorizing an applicant to collocate a small cell facility or to construct, maintain, modify, operate, or replace a wireless support structure in the right-of-way.

(18) "Underground area" means an area in the right-of-way where existing electric utilities, cable facilities, telecommunications facilities and other facilities, other than structures and facilities owned by the City or a transit authority, are located underground.

(19) "Wireless support structure" means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a 15-foot or taller sign pole, or utility pole capable of supporting small cell facilities. As used in this chapter, "wireless support structure" excludes all of the following:

A. A utility pole or other facility owned or operated by a Municipal electric utility; and

B. A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

## **910.02 GENERAL STANDARDS.**

(a) Facilities shall not be installed unless the facilities are compliant with these design guidelines, City ordinances, application requirements and all applicable local, State, and Federal laws.

(b) A facilities operator shall not construct, maintain, modify, operate, or replace any facilities not clearly depicted in an application for a small cell use permit.

(c) All work shall be performed in a professional manner consistent with the highest standards of workmanship.

(d) Facilities shall be maintained in good and safe condition and in a manner that complies with all applicable Federal, State and local requirements.

(e) Facilities shall not be installed in any location that causes any interference with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications systems or system components.

(f) The City reserves the right to indicate an alternative location for proposed facilities up to 100 feet from the proposed location or within a distance that is equivalent to the width of the public way, whichever is greater. The facilities operator shall use the alternative location unless the facilities operator proves that the alternative location is not technically feasible.

(g) Facilities shall not interfere with existing or planned street trees and shall be located outside of any street tree drip line.

(h) Signage shall be mounted on all new facilities providing the facilities operator's name, an emergency contact phone number, an informational contact number, and all other information required by law.

(k) The City may require the facilities operator to incorporate additional concealment elements before approving an application.

(l) Facilities shall not have any flashing lights, sirens or regular noise other than a cooling fan that may run intermittently.

(m) All wireless support- mounted facilities shall be the same color as the pole. The color of ground cabinets shall be consistent with other cabinets in the general area.

### **910.03 ANTENNAS.**

(a) Antennas must be capable of fitting inside an enclosure not larger than six cubic feet in volume.

(b) Antennas shall not increase the overall height of an existing wireless support structure by more than five feet.

(c) Antennas mounted on a wireless support structure shall be enclosed within a canister, shroud, or other enclosure. All equipment, associated with the antennas, including cable connections and antenna mount, shall be concealed and shall not protrude from the shroud or canister.

(d) The width of the canister or other shroud encasing the antenna shall not exceed the width of the narrowest portion of the wireless support structure.

(e) Canisters, shrouds or other enclosures shall be painted to match the wireless support structure.

(f) Antennas shall be installed in a manner that minimizes the visual impact to the general public. An antenna associated with collocation on a utility pole must have concealed cable connections, antenna mount and other hardware.

(g) Antennas located on the exterior of a wireless support structure shall be top-mounted. The City may approve a side-mounted antenna if, in the City's discretion, the side-mounted antenna would be more appropriate given the built environment,



neighborhood character, overall site appearance or would promote the purposes in these design guidelines.

#### **910.04 WIRELESS SUPPORT STRUCTURE-MOUNTED EQUIPMENT.**

(a) The City shall not approve wireless support structure-mounted small cell equipment unless the applicant shows that it cannot be feasibly placed on the ground or in an underground vault. When wireless support-mounted equipment is either permitted or required, the equipment associated with the facility, other than the antenna, electric meter and disconnect switch, must be concealed within a single shroud or cabinet.

(b) All above ground wires, cables and connections associated with collocation on a wireless support structure must have encased cable connections.

(d) No protrusions from the outer circumference of the existing structure or pole shall be more than two feet and shall not obstruct an existing or planned sidewalk or trail.

(e) Equipment cabinets shall be oriented to minimize visual impacts.

(f) Equipment cabinets and associated components must be non-reflective and painted, wrapped or otherwise colored to match the wireless support structure.

(g) Collocated equipment shall not interfere with the primary purpose of a wireless support structure.

(h) Collocations on all City-owned poles shall have an industry standard pole load analysis completed, sealed and signed by a Professional Engineer licensed and registered in the State of Ohio indicating the proposed collocation will be safely supported.

#### **910.05 GROUND-MOUNTED SMALL CELL EQUIPMENT.**

(a) If technically feasible, small cell equipment shall be located in a vault buried underground rather than being ground-mounted. If underground placement is not technically feasible, ground-mounted small cell equipment shall be contained in a single shroud or cabinet and must contain all the equipment associated with the facility other than the antenna, electric meter and disconnect.

(b) All ground-mounted small cell equipment shall be installed in a manner that minimizes the visual impact to the general public. All cables and conduits associated with the equipment must be concealed from view and located underground between the support structure and the ground-mounted cabinet.

(c) Landscaping of ground-mounted equipment may be required in an effort to match the character of the immediate area.

#### **910.06 CABLES**

(b) Excess cables and wiring shall not be spooled, coiled or otherwise stored on the exterior of the wireless support structure unless within an enclosure.

(b) Cables shall not be externally visible. All cables and wiring shall be located inside conduit or inside the wireless support structure; and, connections to equipment cabinets placed underground.

#### **910.07 ELECTRICAL METERS.**

Facilities operators shall use flat-rate electric service when available in order to eliminate the need for a meter. When a meter is necessary, site operators shall use the smallest and

least intrusive electric meter available.

#### **910.08 UTILITY LINES.**

Service lines shall be undergrounded to avoid additional overhead lines. For metal poles, underground cables and wires must transition directly into the wireless support structure base without any external junction box.

#### **910.09 GENERAL PLACEMENT AND LOCATION STANDARDS.**

(a) Applicants shall work with City staff to ensure that all small cell facilities and wireless support structures installed and operated in the City properly protect the public health, safety and welfare of the City and its residents by meeting the requirements of the Codified Ordinances of the City.

(b) All small cell facilities and wireless support structures shall be located to avoid any physical or visual obstruction to pedestrian or vehicular traffic or any other location that would create safety hazards to pedestrians, cyclists, or motorists.

(c) Collocation of small cell facilities is encouraged in order to minimize the number of poles within the right-of-way. New poles may only be constructed when the applicant can demonstrate that using or replacing an existing wireless support structure is not technically feasible or available.

(d) Unless the applicant can demonstrate that it is not technologically feasible, placement of small cell facilities in the City shall be a minimum of 250 feet apart to minimize congestion created by multiple poles adjacent to the roadway.

(e) A small cell facility on a city-owned wireless support structure may not use the same power source that provides power for the original purpose of the wireless support structure.

#### **910.10 SPECIFICATIONS FOR NEW WIRELESS SUPPORT STRUCTURES.**

##### **(a) Location in Residential Districts**

Arterial and collector street right of ways adjacent to residential districts are preferred over local road right of ways. When new support structures are essential within residential neighborhoods, common or open space area locations shall be given primary consideration. Landscaping and other screening elements shall be provided in keeping with the aesthetics and character of the immediate area. When common or open space areas do not provide a technically feasible location, new support structures shall be located within the right of way at the shared property line between residential parcels.

##### **(b) Design in Residential Districts**

(1) In residential neighborhoods, new support structures shall be constructed from hot-dip galvanized steel or other corrosion-resistant materials approved by the City. New support structures shall be painted black and shall be architecturally similar to City street light poles in the immediate area.

(2) In Underground Areas small cell equipment shall be located in an underground vault. These areas are easily identifiable as those locations where electric has been placed underground.

(3) Ground mounted equipment may require landscape screening of equipment based upon the location, aesthetics and character of the immediate area.

(4) The overall height of a new wireless support structure, including antenna, shall not be more than 35 feet in height above ground level on local, residential streets so long as there is no wireless support structure or utility pole taller than 30 feet located within 300 feet of the location of the proposed replacement wireless support structure.

(5) A facilities operator may replace an existing wireless support structure or collocate small cell facilities on an existing wireless support structure even if the wireless support structure is located in an underground area.

(c) Location in Public Facility, Business and Industrial Districts

(1) New wireless support structures shall be located between buildings, tenant spaces, storefronts, or adjoining properties at the shared property line where parcels intersect the right-of-way.

(2) In Underground Areas small cell equipment shall be located in an underground vault. These areas are easily identifiable as those locations where electric has been placed underground.

(d) Design in Public Facility, Business and Industrial Districts

(1) The overall height of a new wireless support structure, including antenna, shall not be more than 40 feet in height above ground level.

(2) New support structures shall be constructed from hot-dip galvanized steel or other corrosion-resistant materials approved by the City. Unless otherwise specified by the City, new wood wireless support structures are prohibited. In Underground Areas, new support structures shall be painted black and shall be architecturally similar to City street light poles in the immediate area.

(3) Ground mounted equipment may require landscape screening of equipment based upon the location, aesthetics and character of the immediate area.

(e) Location in the C-5, Mixed Residence/Business District

(1) Collocation is strongly preferred in C-5, Mixed Residence/Business District right-of-ways and the installation of new wireless support structures should be avoided if technically feasible.

(2) When a new wireless support structure is essential for wireless service, it shall be located between buildings, tenant spaces, storefronts, or adjoining properties at the shared property line where the parcels intersect the right-of-way.

(f) Design in the C-5, Mixed Residence/Business District

(1) Except antennas, all small cell equipment to be located in the right-of-way in the C-5, Mixed Residence/Business District shall be placed in an underground vault or mounted on a wireless support structure and shall be subject to such reasonable, technologically feasible, and non-discriminatory design or concealment measures as the City may specify, as long as such measures do not have the effect of prohibiting the facilities operator's provision of reasonable service in the City.

(2) New support structures shall be constructed from hot-dip galvanized steel or other corrosion-resistant materials approved by the City. Unless otherwise specified by the City, new wood wireless support structures are prohibited.

(3) Collocations shall follow guidelines as indicated in Section 910.04 and 910.05.

(g) Location within Parkways

Parkway locations in Underground Areas are not desirable for new wireless support structures. Every effort should be made by facilities operators to avoid these public ways.

(h) Design within Parkways

When a parkway location is essential for wireless service, new wireless support structures shall be architecturally similar to City street light poles in the immediate area and small cell equipment shall be located in an underground vault. If not technically feasible, small cell equipment shall be ground mounted and landscaped in keeping with the character of the surrounding area.

**910.11 UNDERGROUND AREA REGULATIONS.**

An operator may apply to the Board of Zoning and Building Appeals for a waiver of the underground placement requirement if the requirement prevents the operator from achieving its service objective, the requirement has the effect of prohibiting the provision of reasonable service in the City, and the operator's objective of providing reasonable service in the City cannot be met by placing the facilities at an alternative location. Submission of a waiver application is subject to the facilities operator's agreement to toll consent approval timeframes by 30 days.

**910.12 PENALTIES; EQUITABLE REMEDIES.**

(a) Any person or entity found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) Nothing in this chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this chapter.

**SECTION II:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meeting or meetings of this Council, and that all deliberations of this Council were in meetings open to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

**SECTION III:** That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

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Brian Steele, President of Council

Submitted to the Mayor for approval this  
\_\_\_\_\_ day of \_\_\_\_\_, 2019

Approved by the Mayor \_\_\_\_\_, 2019

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Ted Yates, Mayor

ATTEST:

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Shannon Collins  
Clerk of Council

1<sup>st</sup> Rdg. \_\_\_\_\_  
2<sup>nd</sup> Rdg. \_\_\_\_\_  
3<sup>rd</sup> Rdg. \_\_\_\_\_

Passed: \_\_\_\_\_

Yes \_\_\_\_\_ No \_\_\_\_\_

**CERTIFICATE OF POSTING**

I, Shannon Collins, Clerk of Council, of the City of Twinsburg, State of Ohio, do hereby certify that publication of the foregoing ordinances, resolutions was duly made by posting true copies thereof in accordance with Section 113.02 of the Codified Ordinances of the City of Twinsburg-commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Shannon Collins  
Clerk of Council  
City of Twinsburg

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**6/13/2019 3:50:03 PM**

**in**

**Case No(s). 19-1322-AU-PWN**

Summary: Application Small Cell Facilities electronically filed by Mrs. Shannon Collins on behalf of City of Twinsburg and Shannon Collins