

## **Chapter 56 – WIRELESS TELECOMMUNICATION FACILITIES**

### **Sec. 56-1 Enabling Statute**

The Illinois Legislature has passed Public Act 100-0585, the Small Wireless Facilities Deployment Act (hereinafter “the Act”), enabling DeKalb County to adopt rates, fees and terms which comply with the Act for the collocation of small wireless facilities within the County’s right-of-way. All definitions, terms and conditions set forth in the Act are incorporated herein and made a part hereof. Since the DeKalb County Permit Regulations does not sufficiently address the collocation of small wireless facilities, and the legislature has enacted specific terms which apply only to small wireless facilities providers who request to locate small wireless facilities within the County right-of-way, the County is enacting this Code (Ordinance), Wireless Telecommunication Facilities.

Where the conditions imposed by any provisions of this Code (Ordinance) regarding the siting and installation of wireless telecommunication facilities are more restrictive than comparable conditions imposed elsewhere in any other local laws, Ordinances, Resolutions, rules or regulations, the provisions of this Code (Ordinance) shall govern.

### **Sec. 56-2 Definitions**

The definitions of the terms as set forth in the DeKalb County Permit Regulations shall be applicable to this Code (Ordinance) unless otherwise stated. In the event there is a conflict between this Code (Ordinance) and the DeKalb County Permit Regulations, this Code (Ordinance) shall govern. As used in this Code (Ordinance), the terms set forth below shall be defined as follows:

“Alternative Antenna Structure” means an existing utility pole or other structure within the County right-of-way which can be used to support an antenna and which is not owned by the County.

“County-Owned Infrastructure” means poles, streetlights and traffic signals that are located in the County’s right of way and which are owned, operated and maintained by the County.

“Distributed Antenna System”)” means a type of wireless telecommunication facility consisting of a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area.

“Landscape Screening” means the installation, at grade, of plantings, shrubbery, bushes or other foliage intended to screen ground mounted wireless telecommunication equipment from public view.

“Structural Engineer” means a person licensed in the State of Illinois as a professional structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989.

“Structure” includes alternative antenna structure and County-owned infrastructure as herein defined, collectively.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers.

“Variance” means a grant of relief by the County Engineer or the duly appointed designee of the County Engineer from specific limitations of this Code (Ordinance).

“Wireless Telecommunication Antenna” means an antenna that is part of a wireless telecommunications facility.

“Wireless Telecommunication Equipment” means equipment, exclusive of an antenna, that is part of a wireless telecommunications facility.

“Wireless Telecommunication Facility” means an antenna, equipment, and related improvements used, or designed to be used, to provide publicly accessible wireless transmission of voice, data, images, or other information including, but not limited to, cellular phone service, personal communication service, paging, and Wi-Fi antenna service.

“Wireless Services” means any services provided to the general public, including a particular class of customers, and made available on a non-discriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

“Wireless Services Provider” means a person or entity that provides wireless telecommunication services available to the public but excludes any person or entity that provides wireless telecommunication service to or for a private niche market.

### **Sec. 56-3 Regulations and Standards**

Wireless telecommunication facilities to be located in the County’s right of way shall require a County Wireless Telecommunications Facilities Permit. Wireless telecommunication facilities shall be permitted to be located in the County’s right of way as attachments to existing alternative antenna structures or County-owned infrastructure or as an attachment to a new alternative antenna structure subject to the following regulations:

1. **Siting of Wireless Telecommunication Facilities:** When determining the location for installation of wireless telecommunication facilities, wireless services providers shall take into consideration the surrounding and adjacent land uses and make every effort to avoid siting wireless telecommunication facilities at or near properties with high frequency outdoor usage such as parks, schools, sports and recreational facilities, etc.
2. **New Alternative Antenna Structures:** In the event of receipt of an application for the installation of a wireless telecommunication facility on a new alternative antenna structure, the County may require that the proposed wireless telecommunication facility be collocated on an existing alternative antenna structure within one hundred (100) feet of the proposed installation. The applicant will accept said County required collation if the applicant has or can obtain the right to use the existing alternate antenna structure on reasonable terms and conditions as long as the existing alternative antenna structure does not impose technical limits or unreasonable additional material costs. The applicant shall provide a written certification describing any property rights, technical limits or material costs as reasons why the existing alternative antenna structure does not satisfy the criteria in this paragraph.
3. **Signage:** Identification signage shall be affixed to each wireless telecommunication facility clearly identifying the wireless services provider, its emergency and business contact phone numbers and a unique identity number or code. Safety warning signs or labeling required by law are permitted. Installation of all other signs on a wireless telecommunication facility shall be prohibited. Signage size shall be determined by the County Engineer.
4. **Frequency Interference:** The wireless services provider’s operation of the wireless telecommunication facilities in the County’s right-of-way shall not interfere with the frequencies used by the County’s public safety or roadway facility and operations communications, including, but not limited to, streetlight and traffic signal transmissions. In the event that interference with said frequencies used by the County’s public safety or roadway facility communications is detected at any time, the wireless services provider is required to and shall at its own expense, either: (i) immediately cease transmitting/receiving from said wireless telecommunication facility; or ii)reconfigure or filter the interfering antenna system’s transmissions or frequency; or (iii) remove the entirety of the wireless telecommunication facility immediately upon notification of said interference. In the event a relocation is required, the wireless services provider will be required to apply for a new wireless telecommunication facility permit under the terms of this Code (Ordinance) for the wireless telecommunication facility’s relocation.

5. Attachment Limitations: No wireless telecommunication antenna or facility shall be attached to an alternative antenna structure or County-owned infrastructure unless all of the following conditions are satisfied:
- a. Height Requirements: The maximum height of a wireless telecommunication antenna attached to a structure is limited to ten (10) feet above the structure on which the wireless telecommunication antenna is collocated. The height of a new or replacement structure on which wireless telecommunication facilities are collocated shall be limited to the higher of:
    1. Ten (10) feet in height above the tallest existing structure, other than a tower supporting only wireless facilities, that is in place on the date the application is submitted to the County, that is located within three-hundred (300) feet of the new or replacement structure and that is in the same right-of-way within the boundaries of the County of DeKalb ; or
    2. Forty-five (45) feet above existing ground level.
  - b. Antenna Size: A wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, shall be located inside an enclosure of no more than six (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 in its entirety within an imaginary enclosure of no more than six (6) cubic feet. Applicant shall provide written proof by way of design drawings and details at time of application submittal that demonstrates that the volume limitation has been satisfied.
  - c. Equipment Volume of Above-Ground Wireless Telecommunication Facility: The total combined volume of all above-ground equipment and appurtenances comprising a wireless telecommunication facility, exclusive of the antenna itself, shall not cumulatively exceed twenty-five (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, telecommunication 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. Applicant shall provide written proof by way of design drawings and details at time of application submittal that show the volume limitation has been met.
  - d. Mounting Requirements: The base of the equipment, antenna or appurtenances of a wireless telecommunication facility collocated on a structure shall be located no lower than ten (10) feet above grade and at a location and height that meets the requirements of the American Disabilities Act (ADA) and the clearances set forth in the Public Rights-of-Way Accessibility Guidelines (PROWAG) or the subsequent regulations on accessibility in County right-of-way. Collocation on County-owned infrastructure shall not interfere with or obscure existing traffic control devices including signal heads, lighting and signage. For traffic signals or street lights, no elements of a wireless telecommunication facility shall be mounted onto the signal mast arm or lighting luminaire arm.
  - e. Landscape Screening: In the event that a wireless telecommunication facility is proposed to be installed at grade, landscape screening shall be installed to minimize the visibility of the wireless telecommunication facility, at the discretion of the County Engineer.
  - f. Wiring and Cabling: Wires and cables connecting the antenna to the remainder of the wireless transmission facility shall be installed in accordance with the National Electric Code and National Electrical Safety Code then in effect at the time of application. In no event shall wiring and cabling serving the wireless transmission facility interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility. The applicant shall be required to provide written sign-off by each cable television or video service operator, electric utility or telephone utility owner/operator that a proposed collocation will not adversely impact their existing facilities. Said sign-offs must be provided at the time of application submittal.
  - g. Grounding: The wireless telecommunication facility shall be grounded in accordance with the requirements of the National Electrical Code then in effect.
  - h. Guy Wires: No guy or other support wires shall be used in connection with a wireless telecommunication facility within the County's right of way unless the facility is proposed to be attached to an existing structure that incorporated guy wires prior to the date that an applicant has submitted an application for a permit.

- i. Pole Extensions: Extensions to structures utilized for the purpose of collocating a wireless telecommunication antenna and its related wireless telecommunication equipment shall be fabricated from material similar to the existing structure, and shall have a degree of strength capable of supporting the antenna and any related appurtenances and cabling and capable of withstanding wind forces and ice loads, stresses and other negative impacts in accordance with the structural loading standards as noted below. An extension to a structure shall be securely attached to the structure in accordance with applicable engineering standards for the design and attachment of such extensions.
- j. Structural Loading: The wireless telecommunication facility, including the antenna, pole, extension and all related equipment shall be designed to withstand wind forces and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for structures, Rule 250-B and 250-C standards governing wind, ice, and loading forces on structures, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel structures and the applicable industry standard for other existing structures. The applicant shall provide the County with a structural evaluation of each specific location affirming that the proposed installation meets or exceeds the standards described above. The evaluation shall be prepared by a professional structural engineer licensed in the State of Illinois.
- k. Electrical Disconnect: A wireless telecommunication facility shall include an electrical service disconnect switch to allow County personnel, agents and emergency response personnel to shut off power in the event of an incident or other abnormal condition. The disconnect switch shall be located a minimum of ten (10) feet away from the wireless telecommunication facility and accessible to County and emergency response personnel without restriction.

#### **Sec. 56-4 Permitting Requirements**

Applications for the collocation or installation of wireless telecommunication facilities shall be required to include the following.

1. General Permitting Requirements:
  - a. Site specific structural integrity analysis prepared by a professional structural engineer licensed in the State of Illinois.
  - b. An exhibit showing the location where each proposed wireless telecommunication facility would be installed.
  - c. A line-of-sight analysis to ensure that wireless telecommunications equipment, either pole or ground mounted, does not obscure or obstruct the safe visibility of/by motorists, bicyclists or pedestrians.
  - d. Photographs, taken within six (6) months of the submittal of the application, of the location and its immediate surroundings depicting the land uses and structure(s) on which each proposed wireless telecommunication facility would be mounted.
  - e. Specifications and drawings prepared by a structural engineer for each proposed wireless telecommunication facility covered by the application as it is proposed to be installed, with height and offset dimensions shown as well as volumetrics (cubic feet) of each of the wireless telecommunication facility components.
  - f. A proposed schedule for the installation and completion of each wireless telecommunication facility covered by the application.
  - g. Certification that the proposed collocation complies with the frequency interference requirements in Sec. 53-3 (4).

- h. Restoration - Upon completion of the work authorized by permit under this Code (Ordinance), all disturbed or damaged areas of the right-of-way shall be restored to a condition equal to or better than that which existed prior to the work. Said restoration shall include, but is not limited to, repairs to highway shoulders, ditches, parkways, curbs, and pavements and/or any special landscaping, hardscaping, or enhanced areas that existed in the right-of-way prior to the commencement of the permitted work. The County shall bear no responsibility for costs associated with any required restoration. The applicant shall for each permit provide a Performance Bond in the amount of twenty thousand (\$20,000.00) dollars or one hundred ten percent (110%) of the engineer's estimate of probable cost for the restoration, whichever is greater. An engineer's estimate of probable cost shall be submitted to the County for approval prior to the submittal of any performance bond.
- i. Service Connections - Other related wireless telecommunication facility improvements including, but not limited to, buried electrical service, and buried fiber optic or cable connections that are required or used to service the wireless telecommunication facility and which are installed within County right-of-way require additional and separate permits. A permit for these service connections shall be applied for concurrently by the respective utility provider providing the service or connection.

2. County-Owned Infrastructure:

- a. Pole Attachment Agreement - In addition to the required permit, a separate pole attachment agreement between the wireless services provider and the County is required prior to the County authorizing the placement of wireless telecommunication facilities on County-owned infrastructure.
- b. Replacement of County-Owned Infrastructure - If the County determines that applicable codes or public safety requires the County's infrastructure to be replaced to support a requested collocation, the County shall require the wireless services provider to replace the County's infrastructure at no cost to the County. If the proposed installation requires replacement of the County's infrastructure, no property rights to the replaced County-owned infrastructure will accrue to or be conferred on the applicant due to the applicant's replacement of such infrastructure.
- c. Make Ready Analysis - When a wireless services provider applies for a permit to collocate a wireless telecommunication facility on County-owned infrastructure a Make Ready Analysis prepared by a professional structural engineer licensed in the State of Illinois shall be required.

3. Alternative Antenna Structure:

Permission to Use Alternative Antenna Structure – When an applicant for a wireless telecommunication facility submits an application to collocate a wireless telecommunication facility on an Alternative Antenna Structure that is under the ownership or control of an individual or entity other than the applicant, the applicant shall submit to the County a copy of the written approval from the owner of the alternative antenna structure, to mount the wireless telecommunication facility on that alternative antenna structure. Approval by the alternative antenna structure owner to allow the installation of a wireless telecommunication facility shall include a guarantee by the alternative antenna structure owner that it will either remove or cause to be removed abandoned equipment in accordance with Sec. 53-10. Written approval by the alternative antenna structure owner shall also include a determination by the alternative antenna structure owner that the alternative antenna structure is structurally capable of supporting the proposed wireless telecommunication facility.

### **Sec. 56-5 Permit Fees**

1. Permits and permit fees for placement of wireless telecommunication facilities are required. Except as otherwise provided in this Code (Ordinance), the regulations and the procedures for the application for, approval of and revocation of such a permit shall be those required in the DeKalb County Permit Regulations and/or Small Wireless Facilities Deployment Act. All applications shall demonstrate compliance with the requirements of this Code (Ordinance). All applications for permits pursuant to this Code (Ordinance) shall be accompanied by a non-refundable application fee in the amounts as set forth in the following schedule:
  - a. Single wireless telecommunication facility on an existing structure - Six Hundred Fifty dollars (\$650.00) each facility.
  - b. Multiple wireless telecommunication facilities (maximum 25) included in a single application to collocate on existing structures – Three Hundred Fifty Dollars (\$350.00) each facility.
  - c. Wireless telecommunication facility that includes the replacement or installation of a new structure or tower- One Thousand Dollars (\$1,000.00) each facility.
2. Annual Recurring Rate: The wireless services provider shall pay to the County an annual recurring rate for each permitted wireless facility of Two Hundred Dollars (\$200.00) dollars per year or an amount equal to the County's direct costs, whichever is greater, to collocate telecommunication facilities on County-owned infrastructure. Initial payment shall be received prior to issuance of a permit by the County. Thereafter, payment shall be received annually beginning on the second March 1<sup>st</sup> following the initial payment. (Example: If initial payment is on January 1, 2019, the next payment is March 1, 2020, and the third payment is March 1, 2021.).
3. Penalties: Any person who violates any provision of this Code (Ordinance) or fails to comply with any requirements thereof, or who constructs, alters, repairs, disconnects, removes any facility within the County Highway rights-of-way in violation of an approved plan or directive of the County Engineer or his designee, or fails to apply for or obtain a permit issued under the provisions of this Code (Ordinance) shall pay those penalties as provided DeKalb County Permit Regulations. Each day that a violation continues shall be deemed a separate offense.

### **Sec. 56-6 Adjustments or Relocations of Wireless Telecommunication Facilities**

The wireless services provider shall be responsible for making adjustments, relocations and/or removal of its facilities within the County right-of-way due to highway construction, reconstruction or maintenance work within ninety (90) calendar days of receipt of written notification as directed by the County Engineer or a duly authorized designee of the County Engineer. If such facility is not removed or relocated as directed within ninety (90) days of such notice, the County may remove or cause the removal of such facility through whatever actions are provided by law for removal and cost recovery therefor.

### **Sec. 56-7 Damage to Wireless Telecommunications Facility**

If a structure or attached wireless telecommunications facility is damaged, the wireless services telecommunications facility provider shall make the wireless telecommunications facility equipment safe or otherwise clear the wireless telecommunications facility equipment from the County right-of-way within one (1) hour of notification to the wireless services provider or its designee.

### **Sec. 56-8 Damage to County Infrastructure or Property**

The wireless services provider shall be financially responsible for any damage to County infrastructure or property caused by the installation, maintenance, replacement, use or operation of wireless telecommunication facilities.

### **Sec. 56-9 Variance Requirements**

Each location of a wireless telecommunication facility within County right-of-way shall meet all of the requirements of this Code (Ordinance). The decision of the Highway Department to deny a permit application may be appealed to the County Engineer or authorized the County Engineer's designee. The County Engineer or authorized designee shall hear the request for a variance within fourteen (14) calendar days following receipt of notice, and the decision shall be the final action of the County with respect to the request for a variance. Any request for a variance shall be made in writing to the County c/o the Highway Department, 1826 Barber Greene Road, DeKalb, Illinois 60115 within fourteen (14) calendar days of receipt of a decision by the County.

### **Sec. 56-10 Abandonment and Removal**

Any wireless telecommunication facility located within the County right-of-way that is not operated for a continuous period of twelve (12) months, shall be considered abandoned and the owner of the facility shall remove same within ninety (90) days of receipt of written notice from the County notifying the owner of such abandonment. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the County to such owner at the last known address of such owner. In the case of wireless telecommunication facilities attached to County-owned infrastructure, if such facility is not removed within ninety (90) days of such notice, the County may remove or cause the removal of such facility through the terms of the applicable pole attachment agreement or through whatever actions are provided by law for removal thereof and cost recovery therefor.

### **Sec. 56-11 County Wireless Telecommunication Facilities**

This Code (Ordinance) shall not apply to wireless telecommunication facilities owned by the County.

### **Sec. 56-12 No Implied Warranties**

No implied or expressed warranty is made, given, granted, conferred or inferred as to the capability, capacity or suitability of County owned infrastructure to accept, support, maintain and/or provide for the needs and requirements of the wireless telecommunication facility installation. Complete responsibility for assuring that the County owned infrastructure is satisfactory for a wireless telecommunication facility or its use will be the sole responsibility of the permit applicant. In the event the permit applicant's selected County-owned infrastructure is deemed inadequate by the permit applicant or the applicant's consultant, the County will be under no obligation to augment or create any new element to accommodate the proposed installation of the wireless telecommunication facility.

### **Sec. 56-13 Hold Harmless Agreement**

It is recognized that systems being created by the wireless telecommunication facilities network require an interconnection and complete coverage for the systems to function. It is also recognized that unexpected events, weather conditions, traffic accidents and maintenance and construction operations and the like can cause damage to roadway facilities and County owned infrastructure within County right-of-way. Although replacement, reconstruction or re-installation of County owned infrastructure is typically accomplished in an efficient, timely and economical manner, there shall be no defined timeframe in which this repair work shall be completed. In the event such incidents occur causing damage to County-owned infrastructure which have wireless telecommunication facilities mounted or otherwise attached thereto and in the event such accidents or occurrences cause elements of or the complete wireless telecommunication facility to be incapacitated, rendered inoperable, made irreparable, or destroyed, the County and its affiliated and associated Departments and Divisions, elected and appointed officials, employees, and agents shall be held harmless and under no obligation to replace, reconstruct or re-install the roadway facilities or any County owned infrastructure within a certain time frame or to the same configuration or condition, nor shall there be any obligation by the County to repair, reconfigure or replace any elements of the wireless telecommunication facility. Such duties and responsibilities for the repair, reconfiguration or replacement of the wireless telecommunication facility shall be the sole responsibility and at the expense of the wireless services provider.

**Sec. 56-14 Severability**

In the event that any portion or section of this Code (Ordinance) is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Code (Ordinance), which shall remain in full force and effect.

**Sec. 56-15 Effective Date**

This Code (Ordinance) shall be effective retroactively to July 31, 2018.

([Ord. No. 2018-20, 9-19-2018](#)  )