
CITY OF LITTLE FALLS

BOARD OF ADJUSTMENT/ PLANNING COMMISSION

June 27, 2016



AGENDA
PLANNING COMMISSION
 Conference Room, City Hall
 June 27, 2016, 6:30 p.m.

P	A	Member	P	A	Member
		Kleinschmidt, James			Schilling, Kara
		Esse, Robert			Schulte, Ray
		Gosiak, Frank			Silbernick, Keith
		Hanfler, Jeremy			Oleson, Ben (Zoning Administrator)
					Kimman, Greg (City Engineer)

CALL TO ORDER: Planning Commission Chairperson

ADOPT THE AGENDA: June 27, 2016

APPROVAL OF MINUTES: May 9, 2016

PUBLIC HEARINGS:

- 1) Conditional use permit to allow for 1,632 sq ft of combined accessory building floor area on a property zoned R-3 Multiple-Family Residential District (max. 1,400 sq ft allowed).
 Applicant: Sharon and Rich Hogan. Partial Legal Description: Part of SE4 of NW4, Section 17, Township 40, Range 32. Property Address: 1010 6th Street SE. Parcel number(s): 48.6411.000.

OLD BUSINESS:

NEW BUSINESS:

- 1) Discussion – Micro Cell Towers

NEXT REGULAR MEETING: Monday, July 11, 2016

ADJOURNMENT:

MINUTES
PLANNING COMMISSION
 Conference Room, City Hall
 May 9, 2016, 6:30 p.m.

P	A	Member	P	A	Member
X		Kleinschmidt, James	X		Schilling, Kara
	X	Esse, Robert	X		Schulte, Ray
X		Gosiak, Frank	X		Silbernick, Keith
X		Hanfler, Jeremy	X		Oleson, Ben (Zoning Official)
			X		Kimman, Greg (City Engineer)

CALL TO ORDER: The meeting was called to order by Gosiak at 6:30 pm

ADOPT THE AGENDA: Motion was made by Silbernick and seconded by Kleinschmidt to adopt the agenda as presented. Motion carried

APPROVAL OF MINUTES: Motion was made by Schulte and seconded by Kleinschmidt to approve minutes as presented. Motion carried

PUBLIC HEARINGS:

- 1) Variance application to construct a 15'6" x 20' addition to the existing dwelling approximately 3 feet from a side lot line (min. 5 feet required). Applicant: Jeff Waldvogel. Property Owner: Jim and Donna Waldvogel. Partial Legal Description: South 10 feet of Lot 6 and North 35 feet of Lot 7, Block 9, Morrill's Addition No. 1 to Little Falls. Property Address: 710 4th Street SE. Parcel number(s): 48.1138.000 and 48.1137.000. Public hearing was opened at 6:32 by Gosiak. After discussion and presentation of Kimmon neighbor letter public hearing was closed at 6:45. A motion was made to approve variance by Silbernick and seconded by Schulte with the stipulation of the south wall remain as one site line and noting finding of facts items number 6 and 9. Motion carried
- 2) Amendment to City Code, Sections 11.03.L (Dwelling Units Prohibited). The purpose of the amendment is to clarify the existing prohibition on the use of recreational vehicles as a dwelling unit and set a limitation on the length of time that they may be used as such. Applicant: City of Little Falls Planning Commission. Public hearing was opened at 6:55 by Gosiak. After discussion public hearing was closed at 7:07. Motion to approve by made by Schulte and seconded by Schilling. Motion Carried

OLD BUSINESS:

- 1) (Sent back to Planning Commission by the City Council) Amendment to City Code, Sections 11.05.D (R-1 One- And Two-Family Residential District), 11.05.F (R-1 One- And Two-Family Residential District), 11.05.G (R-3 Multiple-Family Residential District), 11.05.I (B-1 Limited Business District), 11.05.J (B-2 General Business District), 11.05.L (I-1 Industrial District (Light), 11.05.M (I-2 Industrial District (Heavy)), 11.05.N (Planned Unit Development District (PUD District)). The purpose of the amendments is to allow for certain uses deemed compatible with the relevant zoning districts as a conditional use if they are not otherwise listed. Applicant: City of Little Falls Planning Commission. This was reworded and sent back to the council for approval.
- 2) Discussion – Micro Cell Towers. After discussion about this it was recommended that Oleson will research for a possible ordinance.

- 3) Comprehensive Plan – Draft Public Survey. Some discussion about a sample public survey. Suggestion was made to research some type of child survey.

NEW BUSINESS:

NEXT REGULAR MEETING: Monday, June 13, 2016

ADJOURNMENT: Motion made to adjourn by Silbernack and seconded by Schulte. Motion carried

STAFF REPORT

Application: Conditional use permit to allow for 1,632 sq ft of combined accessory building floor area on a property zoned R-3 Multiple-Family Residential District (max. 1,400 sq ft allowed).

Applicant: Richard and Sharon Hogan

Background Information:

- Proposal:** The applicant is proposing to construct a 24' x 30' detached storage building toward the rear of their 100' x 247' lot (0.56 acres). The lot already contains an additional 24' x 30' detached garage located about 10 feet from the dwelling on the front side of the property and a 12' x 16' shed in the middle of the property. The proposed storage building would be toward the rear of the lot and would not have a driveway constructed to it.

The total proposed square footage of detached accessory building would be 1,632 sq ft. The maximum allowed, without a conditional use permit, on a residential-zoned property is 1,400 sq ft. of combined floor area.

- Location:**
 - o Partial Legal Description: Part of SE4 of NW4, Section 17, Township 40, Range 32. Property Address: 1010 6th Street SE. Parcel number(s): 48.6411.000.
- Property Owner:** Richard L. and Sharon K. Hogan

Applicable Statutes/Ordinances/Court Decisions:

Little Falls City Code

11.04: ADMINISTRATION AND ENFORCEMENT

D. Conditional Uses:

1. Purpose: In order to give the district use regulations of this chapter the flexibility necessary to achieve the objectives of the comprehensive guide plan, in certain districts conditional uses are permitted, subject to the granting of a use permit. Conditional uses include those uses generally not suitable in a particular zoning district, but which may, under some circumstances, be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit may be required. The permit shall be issued for a particular use and not for a particular person or firm. The cancellation of a permit shall be considered equivalent to a rezoning, and the same requirements and procedures shall apply.
2. Application, Referral To Planning Commission, Planning Commission Recommendation And Council Action: Except as otherwise noted in this subsection, the application and presentation requirements for conditional

permits shall be the same as those for variances as provided in subsection C of this section.

3. Revocation: A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and automatically terminate the conditional use permit.
4. Use Of Permit: Upon the issuance of a conditional use permit by the council, said permit shall be in force on a temporary basis for a period not to exceed one year from the date of issuance. If, during said one year period, the conditional use authorized by said conditional use permit has not been completed, said conditional use permit shall lapse and become void unless, during said one year period, the city council extends the period of time to complete said authorized use.
5. Lapse Of Conditional Use Permit: A conditional use permit shall lapse and become void if the conditional use for which the conditional use permit has been granted is discontinued for a period of one year, or if the use for which a conditional use permit was granted is changed for a period of one year to a use for which no conditional use permit is required.
6. Cancellation: A conditional use permit may be cancelled by following the requirements and procedures for an amendment to the zoning ordinance. (Ord. 18, 3rd Series, eff. 9-29-1986)

11.03: GENERAL PROVISIONS:

D. Accessory Buildings:

3. In all residential (R) districts no accessory building or buildings shall exceed one thousand four hundred (1,400) square feet of combined floor area, except by conditional use permit.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

Current Zoning:

- o Subject Property: Multiple-Family Residential District (R-3)
- o Surrounding Properties: Multiple-Family Residential District (R-3) to the north, west and south. One- and Two-Family Residential District (R-2) and US Highway 10 to the east.

Current Land Use:

- o Subject Property: Single-Family residential
- o Surrounding Properties: Primarily residential. The Lions Club park/baseball fields are nearby to the west.

Lot size: Approx. 0.56 acres (100' x 247')

Sewer/Water: The property is connected to City sewer/water.

Natural Features:

Floodplain: The property is not within an identified floodplain.

Bluff/Steep Slopes: There are no steep slopes on the property.

Wetlands: There do not appear to be any wetlands on the property that would impact the proposal.

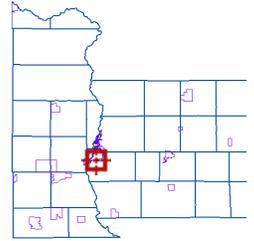
Planning Commission Action: The Planning Commission may approve the conditional use request, deny the request, or table the request if the Commission should need additional information from the applicant. If the Commission should approve or deny the request, it should state the findings which support either of these actions. If the application is tabled, the Commission should provide specific direction as to what additional information is needed.

Staff Comments: As the Planning Commission considers this application, Staff would make the following comments:

1. The City Code does not give any specific criteria to be considered in reviewing a conditional use permit request to have more than 1,400 sq ft of detached accessory building.
2. General considerations for an application of this sort may include whether or not the proposed building(s) on the property would be a detriment to the neighborhood, the proposed location of the shed in relation to others on the lot or the appearance of the shed in relation to other buildings on the property.
3. The lot on which the shed would sit is about 2.75 times the minimum lot size required for the R-3 zoning district (approx. 27,400 sq ft compared to 9,000 sq ft minimum) and 1.67 times the minimum width (100 ft compared to 60 feet minimum). The combined floor area proposed would be approx. 1.2 times the 1,400 sq ft allowed by ordinance without a conditional use permit.
4. The applicants have stated that the siding on the proposed building will be similar in color to that of the existing buildings on the property.
5. The Comprehensive Plan identifies this area as appropriate for Urban Residential land uses (3-4 dwelling units per acre).
6. The proposed building will need to meet setback requirements (5 ft from side lot line, 10 feet from the rear lot line and 30 feet from the front lot line).
7. The proposed building will need to meet requirements of the Building Code.
8. The proposed building will need to be no taller than 18 feet in height.

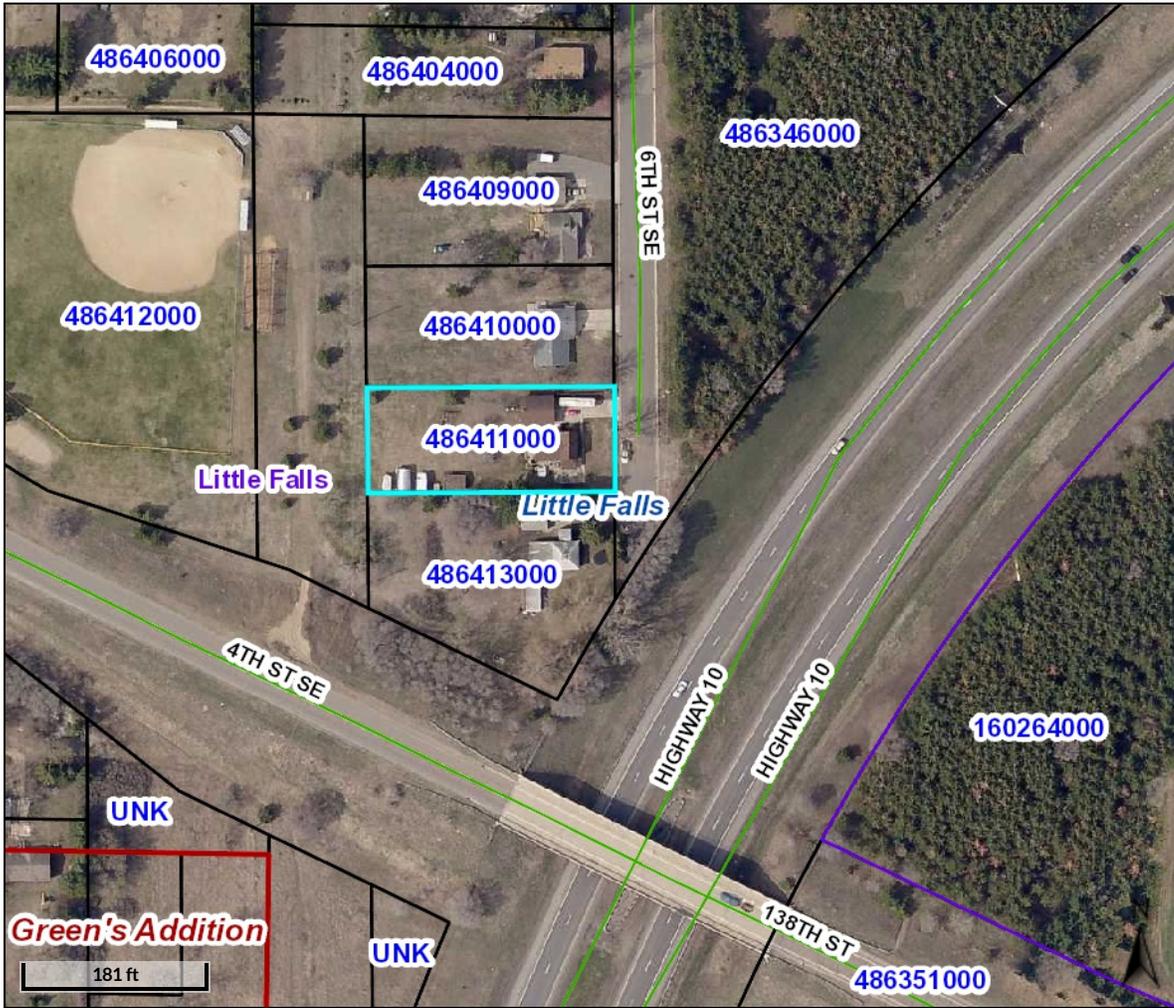


Overview

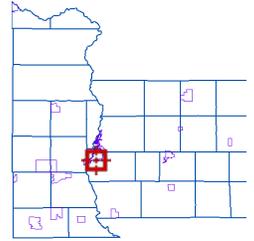


Legend

- Corporate Limits
- Political Township
- Subdivisions
- Parcels
- Main Roads**
- State Highway
- US Highway
- Road Centerlines
- Little Falls Zoning**
- B-1
- B-2
- B-3
- B-3, PUD
- I-1
- I-2
- I-2, PUD
- PUD
- PUD-CH
- PUD.M
- R-1
- R-1, PUD
- R-1C
- R-2
- R-2, PUD
- R-2.M
- R-3
- R-3, PUD
- R-4
- ACUB Easements
- PZ_Zoning**
- Agricultural
- Commercial
- Mississippi Headwaters Board
- Manufacturing/Ind
- Residential
- Rural Residential



Overview



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- Commercial
- Mississippi Headwaters Board
- Manufacturing/Ind
- Residential
- Rural Residential
- Shoreland Commercial
- Shoreland Special Protection
- Shoreland Residential
- PZ_Flood Plain**
- IN
- OUT, 500yr
- PZ_Army Compatible Use Buffer
- PZ_Urban Fringe Zoning
- PZ_FeedLots

Parcel ID 486411000 Alternate ID n/a
 Sec/Twp/Rng 17/040/032 Class 1A-Residential Homestead
 Property Address 1010 6TH ST SE Acreage 0.67
 LITTLE FALLS

Owner Address RICHARD L & SHARON K HOGAN
 1010 6TH ST SE
 LITTLE FALLS MN 56345

District LITTLE FALLS EAST-#482-HRA
 Brief Tax Description PT OF SE1/4 OF NW1/4 DESC AS: COM AT SE COR, N 1°08'48" W 651.12 FT ALG E LN TO PT OF BEG, CONT N 1°08'48" W 100 FT ALG E LN, S 87°50'37" W 246.33 FT TO E LN OF WESTERN RR AS EXIST 6/7/55, S 0°33'57" E 100 FT ALG E LN OF RR, N 87°50'56" E 247.34 FT TO BEG 49.1183.000

180



Phone: 320-616-5500
Fax: 320-616-5505

Fee Paid 325⁰⁰

Date Filed 5-9-16

Receipt Number 81992

Application For: REZONING, VARIANCE AND CONDITIONAL USE

Have you reviewed Chapter 11, Section 11.04 of the City Code dealing with zoning laws of the City of Little Falls? (available online: www.cityoflittlefalls.com)

Yes X No _____

Street Address of Property 1010 6th St SE

Legal Des	Property ID: 48.6411.000
	Property Address: 1010 6TH ST SE LITTLE FALLS MN 56345
Parcel Ide	Tax Description: Section 17 Township 040 Range 032 PT OF SE1/4 OF NW1/4 DESC AS: COM AT SE COR, N 1°08'48" W 651.12 FT ALG E LN TO PT OF BEG, CONT N 1°08'48" W 100 FT ALG E LN, S 87°50'37" W 246.33 FT TO E LN OF WESTERN RR AS EXIST 8/7/55, S 0°33'57" E 100 FT ALG E LN OF RR, N 87°50'56" E 247.34 FT TO BEG Acres= 0.67

Owner - Name Sharon & Rich Hogan Phone 320-630-6194
 Address 1010 6th St SE
 City Little Falls State Mn Zip 56345

Applicant (if other than owner) -

Name _____ Phone _____
 Address _____
 City _____ State _____ Zip _____

Type of Request - Rezoning _____ Variance _____ Conditional Use Other _____

Description of Request Build garage

Reason for Request Storage

Present Zoning Classification R-3

Existing Use of Property Residential

Existing Use and Zoning of the Surrounding Area (two blocks) _____

Has a request for a variance, special use permit, or rezoning on the subject site - or any part thereof - been previously sought?

Yes _____ No When _____

Signature of Applicant/s Sharon K. Hogan

Date 5/9/2016

I am the legal fee owner of the property described on this application and I consent to this application

Signature of owner/s Sharon K Hogan

Approved _____ Denied _____ by the Planning Commission on _____ Date

Approved _____ Denied _____ by the City Council on _____ Date

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345

The following questions must be answered.

1. What changes are you proposing to make to this property?

Building: Add 24' x 30' garage to property - ~~add to~~ already have 24' x 30' and 12' x 16'
Landscaping: _____ 1632 total

Parking/Signs: _____

2. Describe the character of the area and the existing patterns and use of development in the area. How is the proposal consistent with those patterns and uses? Residential

use

3. Describe the impact on the character of the neighborhood in which the property is located. _____

4. Describe the impact to the traffic on roads and highways in the vicinity, and the expected traffic generated by the proposed use. Is there adequate off-street parking available to accommodate the proposal? _____

5. What part of the City Zoning Ordinance creates an undue hardship to the property in question? What is the undue hardship that prevents the land to be used in a reasonable way? (Read Zoning Ordinance Chapter 11, Sect. 11.04 Sub. 3 (C.- I.) to define "undue hardship")

Use other side of page if necessary.

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345



Overview



Legend

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- Shoreland Commercial
- Shoreland Special Protection
- Shoreland Residential
- PZ_Flood Plain**
- IN
- OUT, 500yr
- PZ_Army Compatible Use Buffer
- PZ_Urban Fringe Zoning
- PZ_FeedLots

Parcel ID	486411000	Alternate ID	n/a	Owner Address	RICHARD L & SHARON K HOGAN
Sec/Twp/Rng	17/040/032	Class	1A-Residential Homestead		1010 6TH ST SE
Property Address	1010 6TH ST SE	Acreage	0.67		LITTLE FALLS MN 56345
	LITTLE FALLS				
District	LITTLE FALLS EAST-#482-HRA				
Brief Tax Description	PT OF SE1/4 OF NW1/4 DESC AS: COM AT SE COR, N 1°08'48" W 651.12 FT ALG E LN TO PT OF BEG, CONT N 1°08'48" W 100 FT ALG ELN, S 87°50'37" W 246.33 FT TO E LN OF WESTERN RR AS EXIST 6/7/55, S 0°33'57" E 100 FT				







STAFF REPORT

Discussion Item: "Micro-Cell"/"Small-Cell" Towers

Background Information:

- With the increasing demand for wireless devices that use large amounts of data, as well as the need for wireless communications companies to improve coverage in certain areas, it is becoming more and more common for wireless companies to construct "micro" or "small"-cell towers in an effort to offload demand from the large (100-200 ft tall) towers that are located throughout the landscape and to provide coverage in areas that the large towers do not reach as well. These "micro" towers are often attached to utility poles or buildings and are less obtrusive visually, although they do still have a visual impact.

The City's current regulations for wireless communications towers are found in Section 11.10 of the City Code and, like many communities' regulations, are geared toward the "macro" or "large" cellular towers that were commonly constructed in years past. Most every one of these towers requires approval via a conditional use permit.

In the past year, the City has had several inquiries about installation of micro cell towers that were either to be attached to light poles, billboards or buildings and generally did not exceed 35-40 feet in height. Based on the current ordinance language, Staff has been requiring these be approved by conditional use permit.

A number of communities are beginning to amend their ordinances to allow for certain micro cell towers as a permitted land use - one that would require permitting, but not a public hearing.

The purpose of tonight's discussion is to begin exploring the issues regarding micro cell towers and eventually decide whether to recommend ordinance amendments to the City Council regarding the permitting and installation of this equipment.

Staff is attaching a fact sheet prepared by the League of MN Cities that provides some description and background related to the regulation of these structures. A copy of an ordinance recently adopted by the City of Minneapolis, MN regarding these micro cell towers is also attached as an example of how regulations might look in practice.



INFORMATION MEMO

Small Cell Towers and Distributed Antenna Systems

Learn about small cell towers and distributed antenna systems (“DAS”) and the trend of cell providers requesting to either place “small cell towers” within a city’s right-of-way or to install DAS on existing utility equipment. Understand common gaps in city zoning, impact of federal law, and some best practices for dealing with these small cell towers and DAS.

RELEVANT LINKS:



[Section 6409\(a\) of the Middle Class Tax Relief and Joe Creation Act of 2012, codified at 47 U.S.C. § 1455.](#)

[City of Arlington Texas, et. al. V. FCC, et. al., 133 S.Ct. 1863, 1867 \(2013\)](#) (90 days to process collocation application and 150 days to process all other applications, relying on §332(c)(7)(B)(ii)).

I. Overview of small cell towers and DAS

A recent trend has emerged where cell providers are contacting cities about either placing small cell towers within rights-of-way or installing distributed antenna systems (DAS) on existing utility equipment and other structures. Both of these types of small cell equipment transmit wireless signals to and from a defined area to a larger cell tower and often are installed at sites that support cell coverage within a large cell area with high coverage needs or, in the alternative, at sites within large geographic areas with poor cell coverage.

Situational needs dictate when cell providers use small cell towers, as opposed to DAS technology. Generally, cell providers install small cell towers when they need to target specific indoor or outdoor areas like stadiums, hospitals, or shopping malls. DAS technology, alternatively, uses a small radio unit and an antenna (that directly link to an existing, large cell tower via fiber optics). Installation of a DAS often involves cell providers using the fiber within existing utility structures to link to its larger cell tower. The city sometimes provides the power needed for the radios, which the city negotiates into the leasing agreement with the cell provider.

II. Zoning and permitting

Currently, many cities’ zoning ordinances address macro cell sites, but not small cell towers or DAS. Local governments may want to review their ordinances to establish an efficient way to review and process small cell/DAS requests, particularly in light of federal law. Current federal regulations applicable to DAS requests require the state or local government to approve siting requests for new facilities or for modifications to and/or collocations of wireless transmission equipment on existing towers or base stations *when those requests do not result in a substantial change to the physical dimensions of the tower or base station.*

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

[FCC 09-99, Declaratory Ruling](#), Nov. 18, 2009.

[Minn. Stat. § 15.99](#).

See, “[Small Cells and distributed antenna systems](#),” Best, Best and Krieger Law (Sept. 2014).

This model ordinance and other information can be found at [National Association of Counties Website](#).

[47 U.S.C. §332\(c\)\(7\)](#).

[FCC 09-99, Declaratory Ruling](#) (Nov. 18, 2009).

State and local zoning authorities must take prompt action on these siting applications for wireless facilities “within a reasonable period of time after the request is duly filed.” Of course, Minnesota has further response requirements because of the statutory “60-Day Rule.”

Many cities that have received a small cell tower or DAS request have realized their existing zoning and traditional leasing models do not address this new technology. Cities can use zoning to regulate siting of small cell towers or DAS, and to establish a permitting process for these types of applications. Also, some cities may choose to negotiate lease agreements with the cell providers for these small cell requests. Finally, those cities with comprehensive right-of-way (ROW) management ordinances, will want to consult their city attorney to better understand how these technologies should be addressed within the context of ROW management.

The below questions may help guide cities when reviewing current ordinances:

- Does the city’s zoning ordinance apply to smaller facilities in the rights-of-way?
- Will the city’s regulatory process allow it to review a request to place a number of facilities at multiple sites in a timely way?
- Can the city ensure that small facilities, once approved, will not expand into harmful facilities later?
- Does the DAS provider have wireless customers, or is it only placing facilities with the hope of obtaining them?
- Has the city developed an approach to leasing government-owned property for new wireless uses that protects the community and maximizes the value of its assets?

Also, two wireless industry associations, PCIA and CTIA, collaborated with the National League of Cities, the National Association of Counties, and the National Association of Telecommunications Officers and Advisors to: (1) develop a model ordinance and application for reviewing eligible facilities requests under federal law (2) distribute wireless siting best practices; (3) create a checklist that local government officials can use to help streamline the review process; and (4) hold webinars regarding the application process.

III. Federal mandate to allow modifications

Some cities have expressed concern that after approval of a DAS, cell providers will use federal law to expand small facilities later. The FCC recognizes that while state and local governments have zoning authority with respect to such approvals, that authority is subject to the Federal Communications Act, which ensures infrastructure build out.

RELEVANT LINKS:

[Section 6409\(a\) of the Middle Class Tax Relief and Job Creation Act of 2012, codified at 47 U.S.C. 1455.](#)

[National League of Cities model, Small Cell Tower DAS Ordinance.](#)
[Minneapolis CPED Staff Report for Minneapolis Planning Commission.](#)
[Fridley Council authorizes Telecommunications Study, Sun Focus \(December 28, 2015\).](#)

[League of Minnesota Cities, Changes to Small Wireless Deployment Bill Ease Impact on City Authority.](#)

Because of the federal mandate to approve requests to modify existing structures, when the modifications do not substantially change the physical dimensions of the structure, it appears cities cannot require an applicant to submit any documentation other than that which relates to the impact on the physical dimensions of the structure. Accordingly, documentation illustrating the need for such wireless facilities or justifying the business decision to modify such wireless facilities likely cannot be requested for modifications.

IV. Guidance resources

As mentioned, the National League of Cities co-authored a model ordinance for regulations. Locally, in March 2015, the City of Minneapolis prepared a report in consideration of amending its regulations, which includes analysis of other cities, as well as a sample ordinance. Other cities have adopted moratoriums while they study the issue.

During the 2016 legislative session, the Minnesota Legislature debated the impact of this technology. Specifically, HF 3554 addressed small cell/DAS systems. The League reported on this bill in an article entitled, *Changes to Small Wireless Deployment Bill Ease Impact on City Authority*. While the original bill severely limited local authority, the amended bill reflected more city-friendly provisions and proposed (1) an amendment to Minn. Stat. 222.37, which still requires these providers to go through city processes, and (2) a task force. The Senate did not hear the companion bill, so, even as amended, the measure is not likely to progress in the 2016 session.

V. Conclusion

With the greater use of data associated with mobile technology, cities are likely to see more and more cell tower/DAS requests. As a result, it would make sense to proactively review city regulations to ensure they adequately address these new technologies.

1st Reading

3/20/2015

Referred to (name of) Committee

Z & P

Public Hearing

2nd Reading and Final Passage

6/19/2015

#3

2015-Or- 049
AN ORDINANCE
of the
CITY OF
MINNEAPOLIS

By Reich

Amending Title 20, Chapter 535 of the Minneapolis Code of Ordinances relating to Zoning Code: Regulations of General Applicability.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 535.480 of the above-entitled ordinance be amended to read as follows:

535.480. - Definitions. As used in this article, the following words shall mean:

Base unit. An unstaffed single story structure or weatherproofed cabinet used to house radio frequency transmitters, receivers, power amplifiers, signal processing hardware and related equipment.

Communication antenna. A device intended for receiving or transmitting television, radio, digital, microwave, cellular, personal communication service (PCS), paging or similar forms of wireless electronic communication, including but not limited to directional antennas such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

Communication antenna, façade mounted. A communication antenna mounted on the façade of a structure such as a building, water tower, clock tower, steeple, stack, ~~or existing light pole,~~ traffic signal davit or communication tower.

~~*Public safety communication system.* A communication system owned or operated by a governmental entity such as a law enforcement agency, public works department, municipal transit authority or medical facility.~~

Communication tower or antenna, rooftop mounted. A communication tower or antenna located on the roof of a structure such as a building, water tower, clock tower, penthouse or similar structure.

Communication tower. Any pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and mast, designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self supporting lattice towers, guyed towers or monopole towers. A communication tower may include, but not be limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and personal communication service towers.

Communication tower, monopole. A communication tower consisting of a single pole, constructed without guyed wires and anchors.

Communication tower and antenna height. The height of a freestanding communication tower and antenna shall be measured as the distance from ground level to the highest point on the tower, including the antenna. The height of a rooftop communication antenna shall be measured as the

distance from the point where the base of the tower and antenna is attached to the roof, to the highest point on the supporting structure, including the antenna.

Institutional use. Educational facilities, parks, cemeteries, golf courses, sport arenas, religious institutions, athletic fields and publicly owned property.

Publicly owned property. Land, buildings or structures owned by any governmental body or public agency including city, county, state or federally owned properties, other than public rights-of-way.

Public safety communication system. A communication system owned or operated by a governmental entity such as a law enforcement agency, public works department, municipal transit authority or medical facility.

Transmission equipment. Any equipment that facilitates transmission for wireless communication, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

Section 2. That Section 535.490 of the above-entitled ordinance be amended to read as follows:

535.490. - Permitted uses exempt from administrative review and approval. Notwithstanding any other provisions to the contrary, communication towers and antennas designed for private reception of television and radio signals, used for amateur or recreational purposes, and façade mounted communication antennas attached to existing city-owned light poles and traffic signal davits in public rights of way, shall be permitted in all districts, provided such antennas and towers comply with the standards of section 535.540, Chapter 451 of the Minneapolis Code of Ordinances, and the following:

- (1) Notwithstanding the height limitations of the zoning district, freestanding towers and antennas shall not exceed thirty-five (35) feet in height and rooftop mounted antennas shall not exceed fifteen (15) feet in height.
- (2) Antennas shall not exceed one (1) meter in diameter in the residence and office residence districts and two (2) meters in diameter in all other districts.
- (3) Towers and antennas shall not be located in any required front, side or rear yard, nor shall they be located between a principal building and a required front or side yard.
- (4) Only one (1) freestanding tower and antenna shall be allowed per residential zoning lot.

Section 3. That Section 535.520 of the above-entitled ordinance be amended to read as follows:

535.520. - Conditional uses. (a) *In general.* The following communication towers, antennas and base units may be allowed as a conditional use, subject to the provisions of Chapter 525, Administration and Enforcement, and sections 535.530 and 535.540

- (1) Freestanding communication towers and antennas, including antennas mounted on light poles and similar structures ~~that are not façade mounted,~~ provided that towers and antennas located in the residence and office residence districts shall be located on institutional use sites of not less than twenty

thousand (20,000) square feet. Freestanding communication towers and antennas shall be prohibited in the downtown area bounded by the Mississippi River, I-35W, I-94, and I-394/Third Avenue North (extended to the river) except that antennas may be mounted to light poles existing on the effective date of this ordinance.

(2) Rooftop mounted communication towers and antennas exceeding fifteen (15) feet in height.

(3) Communication towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes which exceed thirty-five (35) feet in height if freestanding or fifteen (15) feet in height if rooftop mounted, or antennas which exceed one (1) meter in diameter in the residence and office residence districts or two (2) meters in diameter in all other districts.

(4) Communication towers and antennas that use any portion of a structure, other than the roof or penthouse, for structural support and do not meet the definition of a façade mounted communication antenna.

(b) Exceptions. The uses listed below shall be exempt from the provisions of this section as follows:

(1) Communication antennas and transmission equipment mounted to city owned light poles or traffic signal davits in public rights-of-way for which a valid attachment permit has been granted pursuant to Chapter 451 of the Minneapolis Code of Ordinances.

Section 4. That Section 535.540 of the above-entitled ordinance be amended to read as follows:

535.540. - Development standards for all permitted and conditional communication towers, antennas and base units. In addition to the standards of sections 535.490, 535.500 and 535.530 above, all communication towers, antennas and base units shall be subject to the following standards:

(1) *Encroachments and setbacks.*

a. The tower site and setback shall be of adequate size to contain guyed wires, debris and the tower in the event of a collapse.

b. Communication towers shall maintain a minimum distance from the nearest residential structure equal to twice the height of the tower. For the purposes of this article, residential structures shall also include any parking structure attached to a principal residential structure.

c. No part of any communication tower, antenna, base unit, equipment, guyed wires or braces shall extend across or over any part of a public right-of-way, except communication antennas and transmission equipment mounted to city-owned light poles or traffic signal davits in public rights of way for which a valid attachment permit has been granted pursuant to Chapter 451 of the Minneapolis Code of Ordinances.

d. Communication towers, antennas and base units shall comply with applicable regulations as established by the Federal Aviation Administration.

e. Communication towers, antennas and base units shall comply with the minimum yard requirements of the district in which they are located.

(2) *Compatibility with nearby properties.* Communication towers, antennas and base units shall utilize building materials, colors and textures that are compatible with the existing principal structure and that effectively blend the tower facilities into the surrounding setting and environment to the greatest extent possible. Metal towers shall be constructed of, or treated with, corrosive resistant material. Outside of the industrial districts, unpainted, galvanized metal, or similar towers shall be prohibited, unless a self-weathering tower is determined to be more compatible with the surrounding area.

(3) *Screening and landscaping.* A screening and landscaping plan designed to screen the base of the tower and the base unit shall be submitted. The plan shall show location, size, quantity and type of landscape materials. Landscape materials shall be capable of screening the site all year. One (1) row of evergreen shrubs or trees capable of forming a continuous hedge at least six (6) feet in height within two (2) years of planting shall be provided to effectively screen the base of the tower and the base unit, except for towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes, and light poles and traffic signal davits in public rights-of-way that support communication antennas and transmission equipment. A maintenance plan for the landscape materials shall also be submitted. The city planning commission may consider the substitution of other architectural screening plans such as a decorative fence or masonry wall in lieu of planted materials.

(4) *Rooftop mounted towers and antennas.* Rooftop mounted communication towers and antennas shall not be located on residential structures less than fifty (50) feet in height, except for towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes.

(5) *Façade mounted antennas.*

a. *Mounted on freestanding towers and poles.* A façade mounted antenna shall not extend above the façade of the tower or pole on which it is mounted, but otherwise may project outward beyond such façade.

b. *Mounted on city-owned light poles or traffic signal davits in public rights of way.* A façade mounted antenna on an existing city-owned light pole or traffic signal davit shall comply with the standards of Chapter 451 of the Minneapolis Code of Ordinances. Such antennas and transmission equipment shall be painted to match the structure to which they are mounted and shall be designed to minimize the visibility of cables and other appurtenances.

b c. *Mounted on all other structures.* A façade mounted antenna shall be mounted flush against the structure on which it is mounted and shall not extend beyond the façade of such structure, except that antennas designed for private reception of television and radio signals, used for amateur or recreational purposes, may extend above the façade of the structure.

(6) *Base units.* Base units shall not exceed five hundred (500) square feet of gross floor area. The city may require as a condition of approval that base units be located underground.

(7) *Security.* All sites shall be reasonably protected against unauthorized climbing. The bottom of the tower, measured from ground level to twelve (12) feet above ground level, shall be designed in a manner to discourage unauthorized climbing.

(8) *Signage.* Advertising or identification of any kind on towers, antennas and base units shall be prohibited, except for applicable warning and equipment information signage required by the manufacturer or by federal, state or local regulations.

(9) *Lighting.* Communication towers and antennas shall not be illuminated by artificial means, except when mounted on an existing light pole or where the illumination is specifically required by the Federal Aviation Administration or other federal, state or local regulations.

(10) *Heritage Preservation Ordinance compliance.* Communication towers and antennas proposed for any locally designated historic structures or locally designated historic districts shall be subject to all requirements of the city's Heritage Preservation Ordinance.

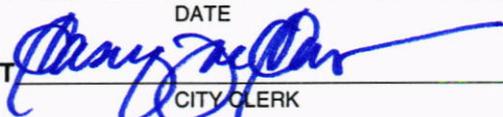
(11) *Radio frequency emissions and noninterference.* The applicant shall comply with all applicable Federal Communication Commission standards.

(12) *Public safety communication system.* The location of the proposed antenna, if located on publicly owned property, shall not be needed for use by the public safety communication system, or if needed, it shall be determined by the director of the property services division of the finance department that co-location of the proposed antenna with a public safety antenna is agreeable.

Certified as an official action of the City Council: 

RECORD OF COUNCIL VOTE (X INDICATES VOTE)													
COUNCIL MEMBER	AYE	NAY	ABSTAIN	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN	COUNCIL MEMBER	AYE	NAY	ABSTAIN	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN
Reich	X						Glidden	X					
Gordon	X						Cano	X					
Frey	X						Bender	X					
B Johnson	X						Quincy	X					
Yang	X						A Johnson	X					
Warsame	X						Palmisano	X					
Goodman	X												

ADOPTED JUN 19 2015 DATE

ATTEST  CITY CLERK

APPROVED NOT APPROVED VETOED

 JUN 23 2015 DATE
MAYOR HODGES

City of Minneapolis
Right of Way Pole Attachment Policies
Pursuant to MCO Section 451.30 (B)

Prepared by Public Works and Approved by City Council

April 17, 2015

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I – Definitions

Applicant – Means a person who applies to use City infrastructure

Attachment – Includes

- a. On a pole – each aerial cable, together with its associated messenger cable, guy wire, anchors and other appurtenant and incidental facilities.
- b. In a conduit, each linear foot of occupancy of a city-owned conduit or duct by each cable or other attachment
- c. Each antenna, transceiver, amplifier, repeater or other device or equipment of a user supported by, affixed to, contained in, or placed on or in a unit of City infrastructure

Attachment Permit – Means the permission for a user to place, install, construct, replace, move, remove, keep, maintain, operate, or use an attachment on or in City owned infrastructure under Chapter 451 of the Minneapolis Code of Ordinances and pursuant to these policies.

Cable – Means a wire rope or a bound or sheathed assembly of conductors, wires, or fibers, including fiber optic cable, coaxial cable, and twisted pair copper cable. Each cable that is lashed to another cable or to a common messenger cable is a separate attachment.

City – Means the City of Minneapolis, Minnesota

City Owned Infrastructure – Means City owned facilities as defined specifically in Section 4 “Installation of Equipment”, number 6 in this policy that are located in the public right of way. It does not mean State, County, or other municipally or government entity owned infrastructure on City owned right of way. It does not mean infrastructure owned by a public utility. It does not mean infrastructure located outside of the public right of way.

Director – Means the Director of the Minneapolis Public Works Department, or unless the context indicates otherwise, the Director’s designees.

Premises – Tangible or intangible real, personal or mixed City owned infrastructure placed within right of way and the improvements on it.

Person – Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word "person" is used in any section for the violation of which a penalty or fine may be assessed, it shall include the partners or members of any partnership or corporation, and, as to corporations, the officers, agents or members thereof who are responsible for the violation.

ROW – Means City of Minneapolis right of way managed by the City pursuant to this policy.

User – Means a person who has been granted a permit to install an attachment under this policy.

II - Request to Affix Attachments to City Owned Infrastructure

1. Before any person shall make use of any space on any of the City owned light poles, traffic signal poles, conduits or other approved objects on City ROW as listed in Section 4; #6 of this policy, such person shall request permission in writing, which will include submission of a completed Attachment Permit application which shall be on a form approved by the Public Works Director or his/her designee, if so required. The Attachment Permit application will include but is not limited to the following information;
 - a. Operations and Maintenance Plan for the life of the system;
 - b. Graffiti removal plan for the attachment;
 - c. 24 hour response plan for issues such as wrecks, break-ins, etc.
2. A user with an approved application and at its sole cost and expense may use the premise, as identified in the Attachment Permit Application.
3. In accordance with the approved application, user may install, operate, maintain, repair, replace or remove its Attachment. The user may, upon written approval and with submission of signed structural drawings, replace the aforementioned Attachment with similar and comparable equipment, provided the replacement does not increase structure loading on the City's infrastructure.
4. Regarding each individual installation, the City shall have the right to reject the installation or any portion of the installation and will give the user 30 days written notice to remove or alter the installation to the extent required.
5. The user shall use the premises only in accordance with good engineering practices and in compliance with all applicable Federal Communications Commission (FCC), federal, state and local rules laws and regulations.
6. Before receiving approval from Public Works to install an attachment on City owned infrastructure in City ROW the user shall submit to the Director detailed construction plans and drawings for each individual location, together with necessary maps, indicating specifically the poles of the City to be used, the number and character of the attachments to be placed on such poles, equipment necessary for the use, replacement of existing poles, any additional pole(s) which may be required and any new installations for transmission conduit, pull boxes, and appurtenances. The Director shall, on the basis of review of such detailed construction plans and drawings, determine whether to give the user permission to proceed with the work as proposed by the user. Upon application approval, the user shall have permission to use the premises and make attachments in accordance with the terms of the application, this policy and of the Minneapolis Code of Ordinances. The user shall perform all work at its own expense and make attachments in such manner as to not interfere with the services of the City.
7. Any infrastructure approved by the Director to be used/purchased by the user to facilitate the attachment of user's equipment shall be the property of the City and shall not entitle the user to ownership of such infrastructure.
8. The City reserves the right to exclude any City Owned Infrastructure from use by the user.
9. As provided in the Minneapolis Code of Ordinances, the user only has a permit that is revocable by the City at any time and has no vested rights of any kind regarding continued use of City owned infrastructure.
10. The user must obtain and submit to the Director a structural engineering study carried out by a qualified structural engineer, as required by the Minneapolis Code of Ordinances showing that the pole(s) and foundation(s) is (are) able to support the proposed Attachment. The study must be signed by an engineer licensed pursuant to Minnesota Rules, Part 1800.4200 and Minnesota Statutes, Section 326.12, Subd. 3.

11. Other affected jurisdictions (state, County, Park Board, etc...) shall be notified by the user. The user will submit written approval from the affected jurisdiction if located on, over, under or above their ROW.

III – Premises

1. The primary use of City owned infrastructure is to provide for traffic control and street lighting. City operations, maintenance and repair take priority over users operations.
2. The following priorities of use, in descending order, shall apply in the event of communication interference, emergency public safety needs, premises repair or reconditioning.
 - a. The City;
 - b. Public safety agencies, including law enforcement, fire and ambulance services;
 - c. Other governmental agencies where use is not related to public safety;
 - d. Pre-existing licenses or contracts;
 - e. Other agencies attachments;
 - f. User attachments.
3. In the event that the attachment poses an immediate threat of substantial harm or damage to the health, safety and welfare of the public, City Employees and/or property/premises, as solely determined by the City, the City may take actions the City determines are required to protect, the health, safety and welfare of the Public, or personal property of the Public, from such Jeopardy provided that after such emergency access onto the Premises, and in no event later than twenty-four (24) hours after such access, City gives notice to user of City's emergency access. If the City determines that these conditions would be benefited by cessation of user's operations, the user shall immediately cease its operations on the Premises upon notice from Director of the Department of Public Works or the Director's Designee.

IV - Installation of Equipment

1. For the initial installation of all Attachments and for any and all subsequent revisions and/or modifications thereof, or additions thereto, the applicant shall provide the City with two (2) sets of construction plans ("Construction Plans") consisting of the following:
 - a. Line or CAD drawings showing the location and materials of all planned installations plus an Engineer's estimate of all materials required and construction methods.
 - b. Construction specifications and product specifications for all planned installations.
 - c. Diagrams and Shop Drawings of proposed Attachment.
 - d. A complete and detailed inventory of all equipment and personal property of the user actually placed on the City Premises. The City retains the right to inspect the installed equipment.
 - e. The City requires signed structural plans from a State of Minnesota licensed Engineer for any installation (including new replacement poles if necessary).
2. At least ten (10) business days prior to the proposed construction mobilization, user shall conduct a pre-construction meeting at the proposed site or other location as agreed upon. The meeting shall be attended by the users Construction Engineer, City's representative(s) and all parties involved in the installation.
3. All construction activity shall be subject to inspection and approval by the Construction Engineer. Inspection will be performed beginning with the Pre-Con Meeting and continuing through installation/construction/punch-list and verification of as-built drawings at project completion as determined by the City, at the user's expense. If deemed necessary by the Construction Engineer, Construction work performed without approval of the Construction

Engineer will not be accepted and shall be removed or uninstalled at the user's sole expense. The user shall be solely responsible for all costs associated with the inspection and approval of construction work by Construction Engineer.

4. The user shall install a power disconnect to the attachment in the base of the structure.
5. The City will not share any conduit (electric or Communication) or fiber strands within existing City owned conduit with user.
6. Attachments will be allowed only on City approved;
 - a. 30 foot City approved Poles;
 - b. Traffic Signal Davits.
7. The City will have first right of refusal to install all signal and light pole foundations if necessary for new installations.
8. City may allow cut-ins to foundations with prior written approval from the Director.
9. No underground work is allowed in City ROW from November 15th to March 15th. The Director, or the Director's designee, may, in writing, extend/reduce this timeframe as winter conditions dictate.
10. All Attachments affixed to the Structure which have exterior exposure shall match the color of the Structure.
11. Any damage to the leased Premises, or City's equipment thereon caused by the user's installation or operations shall be repaired or replaced at user's expense and to the Director's satisfaction.
12. Within thirty (30) days after the user activates the Attachment facilities, user shall provide the City with As-Built drawings in electronic file format compatible with the City's record file system consisting of As-Built drawings of the Attachment installed at each Premises and any improvements installed on the ROW, which shall show the actual location of all equipment and improvements. These drawings shall be accompanied by a complete and detailed site plan for the installation and an inventory of all equipment, and Attachments.
13. The user shall obtain from the City, any and all permits required for a complete installation. These permits include, but are not limited to: Obstruction/Excavation, Meter Hooding, Storm Water, etc. Applicable fees for any permits shall be borne by the user. The user shall be bound by the requirements of each permit.

V - Maintenance and Repair

1. The City reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the Premises in connection with user's Operations.
2. Upon request from the City, the user shall disconnect the power to the user's pole attachment within eight (8) hours of such request to facilitate any maintenance or repair work to the pole or City attached infrastructure. After eight (8) hours or immediately after an emergency, the City reserves the right to disconnect the power to the vendor's pole attachment.
3. Except in cases of emergency, prior to commencing work on City Owned Infrastructure with an attachment, the City will provide user with 24 hour prior notice thereof. Upon receiving such notice; it shall be the sole responsibility of the user to take adequate measures to remove or otherwise protect users Facilities from the consequences of such activities. The City reserves the right to require user to remove or power down any Attachments during the work.
4. User shall, at its own cost and expense, maintain the Attachment in good and safe condition, and in compliance with applicable fire, health, building, and other life safety codes. The user shall obtain from the City any and all permits required for the purposes of maintaining the installation. Applicable fees for any permits shall be borne by the user. The user shall be bound by the requirements of these permits.

VI – Term; Rental

1. Starting April 25, 2015, to provide fair compensation to the City including but not limited to its costs related to the management and use of the Premises, the user shall pay to the City a Base Rent ("Base Rent") equal to Seven Hundred Twenty dollars (\$720.00) for the year for each Premises (i.e., Pole, whether new or existing) upon which the user has installed their attachment. This fee includes operational costs and City staff costs which include administration, inspections, pole depreciation, and additional work due to attachment.
2. This Base Rent does not include the Encroachment Fee that the City might otherwise impose for installations in the ROW.
3. User shall pay to the City a one-time, lump-sum administrative and power installation fee of Four Thousand Dollars (\$4,000.00) per pole which shall be paid before commencement. This one-time fee does not include the cost of a new pole or any foundation work which may be required.
4. Before the Commencement Date, the user shall pay the City in advance for rental payments owed to complete annual rental payments pro-rated for the remainder of the calendar year. After the first of the year, rental payments shall commence and be due at a total annual rental as set forth in this policy, to be paid in advance annually to the City on or before January 1 of every year thereafter.
5. Commencing January 1, 2016, and on January 1st of each subsequent year, the Base Rent shall be increased automatically by three percent (3%) each year. This fee is subject to change upon 30 days notice should there be a substantial change in any of the above listed costs.

VII – Use; City of Minneapolis and Government Approvals

1. The user shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto, in a manner consistent with each Attachment permit. It is understood and agreed that user's ability to use the Premises is contingent upon its obtaining and maintaining all of the certificates, permits and other approvals (collectively the "Government Approvals") that are required by The City of Minneapolis, Federal, State, County or other governmental authorities as well as a satisfactory structural analysis, and a radio frequency analysis as stated in "ENVIRONMENTAL" below, which will permit use of the Premises as set forth above.
2. In the event that;
 - a. Any of such applications for such Governmental Approvals should be finally rejected,
 - b. Any Governmental Approval issued to user is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority, or
 - c. User determines that such Governmental Approvals may not be obtained in a timely manner.

The user shall have the right to terminate the use of particular premises. Notice of user's exercise of its right to terminate as to a particular premises shall be given to the City in accordance with the notice provisions set forth herein and shall be effective upon the mailing of such notice by user. All rentals paid to the termination date for a particular premises shall be retained by the City.

VIII – Indemnification

As a condition of the user having its facilities in City right of way and on City owned infrastructure placed within the right of way the user agrees to and shall, to the extent permitted by law, defend, indemnify and hold harmless the City, its employees, officers, contractors and agents against any claim of liability or loss of any kind, including administrative orders and

regulations, and specifically including, without limitation, any claim of liability or loss from personal injury or property damage resulting from or arising out of the presence of user's equipment in City right of way or on City owned infrastructure placed within the right of way and also as to any willful misconduct of the user, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the willful misconduct of the City, or its employees, officers, contractors or agents.

IX – Insurance

The user agrees that at its own cost and expense, it will maintain commercial general liability insurance with limits not less than \$2,000,000 for injury to or death of one or more persons in any one occurrence and \$2,000,000 for damage or destruction to property in any one occurrence. The user shall provide Certificates of Insurance which specifically name The City of Minneapolis as an additional insured.

X – Limitation of Liability

The City shall be not be liable to the user, or any of its respective agents, representatives, or employees for any lost revenue, lost profits, loss of technology, use of rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if the City has been advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise that is related to, arises out of, flows from or is, in some part, caused by user's attachment to or use of City owned infrastructure.

XI – Annual Termination

Notwithstanding anything to the contrary contained herein, provided the user is not in default hereunder beyond applicable notice and cure periods, the user shall have the right to terminate upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to the City.

XII – Interference

User agrees to and shall install equipment of the type and frequency which will not cause harmful interference to any equipment of the City or other users of the Premises which existed on the Premises prior to the date the attachment permit was acquired by the user. At the City's discretion, in the event any after-installed user's equipment causes such interference, user will be required to remove the equipment. It is the user's responsibility to confirm that their equipment will not cause harmful interference before pursuing approval from the City.

XIII – Removal

The user shall, upon 30 days notice of termination, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition. All of the equipment, conduits, fixtures and personal property of user shall remain the ultimate responsibility of the user, but the City nonetheless shall have the right to remove the same at any time. All poles, conduit and pole boxes are and shall remain property of the City. If time used by the user for removal of its facilities from City Owned Infrastructure causes the user to continue to have

user's facilities attached to City Owned Infrastructure after the user's facilities are no longer operational the user shall continue to pay rent until user's facilities are completely removed from City Owned Infrastructure.

XIV – Notices

1. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender.
2. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.
3. Notices to the City of Minneapolis Public Works Department will be sent by certified mail to:

The Director of Traffic and Parking Services
350 South 5th Street – Room 203
Minneapolis, MN 55415

XV – Environmental

1. The user shall obtain a radio frequency interference study carried out by an independent professional radio frequency engineer ("RF Engineer") showing that the user's intended use will not interfere with the City's licensed and unlicensed communications facilities, which are located on or near the structure. The user shall not transmit or receive radio waves at the Premises until such evaluation has been satisfactorily completed and approved.
2. The user shall implement all measures at the transmission site required by FCC regulations. In the event the user causes the site to exceed FCC Radio Frequency radiation limits, as measured on the Premises, or otherwise violate FCC standards, the user shall be liable for all such non-compliance and shall defend, indemnify and hold the City harmless from all claims arising from non-compliance.

XVI – Casualty

In the event of damage to the City Owned Infrastructure or Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the City Owned Infrastructure is damaged so that such damage may reasonably be expected to disrupt the user's operations at the Premises for more than forty-five (45) days, then the user may, at any time following such casualty, provided the City has not completed the restoration required to permit the user to resume its operation at the Premises, terminate upon fifteen (15) days prior written notice to the City as to such location. With any such notice of termination the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due. Notwithstanding the foregoing, the rent shall abate during the period of repair following such casualty in proportion to the degree to which the user's use of the Premises is impaired. The City is not liable for any damage to attachment(s) due to an event of damage to the pole or premises.