AMENDING CHAPTER 6 “STREETS, ALLEYS AND SIDEWALKS” WITH THE ADDITION OF SUBSECTION 6.60 “SMALL WIRELESS FACILITIES”, PROVIDING FOR THE REGULATION OF AND APPLICATION FOR SMALL WIRELESS FACILITIES.

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

WHEREAS, the City of DeKalb (the City) is an Illinois home rule municipality in accordance with the Constitution of the State of Illinois of 1970;

WHEREAS, the City is authorized under the Illinois Municipal Code (65 ILCS 5/1-1-1 et seq.) and Illinois law to adopt ordinances pertaining to the public health, safety and welfare;

WHEREAS, the City is further authorized to adopt the amendments contained herein pursuant to its authority to regulate the public right-of-way under section 11-80-1 et seq., of the Illinois Municipal Code; and

WHEREAS, the City uses the public right-of-way within its City limits to provide essential public services to its residents and businesses. The public right-of-way within the City is a limited public resource held by the City for the benefit of its citizens and the City has a custodial duty to ensure that the public right-of-way is used, repaired, and maintained in a manner that best serves the public interest; and

WHEREAS, growing demand for personal wireless telecommunications services has resulted in increasing requests nationwide and locally from the wireless industry to place small cell facilities, distributed antenna systems, and other personal wireless telecommunication facilities on utility and street light poles and other structures in the public right-of-way. While State and federal law limit the authority of local governments to enact laws that unreasonably discriminate among providers of functionally equivalent services, prohibit, or have the effect of prohibiting the provision of telecommunications services by wireless service providers, the City is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small cell facilities, distributed antenna systems, and other personal wireless telecommunication facility installations in the public right-of-way.

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

Section 1: Chapter 6 shall be updated with the addition of subsection 6.60, “Small Wireless Facilities”, as follows:

6.60 Small Wireless Facilities:

a) Purpose and Scope.
1) Purpose. The purpose of this Ordinance is to establish regulations, standards, regulations and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City's jurisdiction, or outside the rights-of-way on property zoned by the City exclusively for commercial or industrial use, in a manner that is consistent the Small Wireless Facilities Deployment Act, Public Act 100-0585.

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

3) Conflicts with State, Federal and Local Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations. Nothing contained herein shall be construed to permit or authorize the construction, installation or maintenance of small wireless facilities within the corporate limits of the City outside of rights of way, nor outside of properties zoned exclusively for commercial or industrial use, nor in any manner inconsistent with the aforementioned Act. Any such construction, installation or maintenance not permitted or authorized herein is expressly prohibited.

b) Definitions.

All terms defined in this section have the meaning provided in Section 10 of the Small Wireless Facilities Deployment Act (PA 100-0585).

Antenna – communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes – uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

Applicant – any person who submits an application and is a wireless provider.

Application – a request submitted by an applicant to an authority for a permit to collocate small wireless facilities, which may include a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

Authority – a unit of local government that has jurisdiction and control for use of public rights-of-way as provided by the Illinois Highway Code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way.

Authority utility pole – a utility pole owned or operated by an authority in public rights-of-way.
Collocate or collocation – to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service – cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

Communications service provider – a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC – the Federal Communications Commission of the United States.

Fee – a one-time charge.

Historic district or historic landmark – a building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the authority pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law – a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

Micro wireless facility – a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Permit – a written authorization required by an authority to perform an action or initiate, continue, or complete a project.

Person – an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

Public safety agency – the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.
Rate – a recurring charge.

Right-of-way – the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or public utility easement dedicated for compatible use. Right-of-way does not include authority-owned aerial lines.

Small wireless facility – a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services. Applicants shall be required to provide satisfactory proof to the City that they meet or exceed both of these limitations.

Utility pole – a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless facility – equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless infrastructure provider – any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the authority.

Wireless provider – a wireless infrastructure provider or a wireless services provider.

Wireless services – any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.
Wireless services provider – a person who provides wireless services.

Wireless support structure – a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

c) Regulation of small wireless facilities.

1) Permitted Use. Small wireless facilities shall be classified as permitted uses when located on real property and subject to administrative review, except as provided in herein regarding height exceptions or variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zone, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

2) Permit Required. An applicant is required to obtain one or more permits to collocate a small wireless facility. An application is received and processed, and permits are issued subject to the following requirements:

i) Public Safety Space Reservation. The City may reserve space on authority utility poles for future public safety uses but a reservation of space may not preclude the collocation of a small wireless facility unless the City reasonably determines that the authority utility pole cannot accommodate both uses.

ii) Application Requirements. A wireless provider shall be required to provide the following information when seeking a permit to collocate small wireless facilities on a utility pole or wireless support structure:

a) Site specific structural integrity and, for an authority utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

b) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed;

c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;

d) The equipment type, model numbers and size for the antennas and all other wireless equipment associated with the small wireless facility;

e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
f) Certification that the collocation complies with the requirements herein to the best of the applicant’s knowledge.

3) Alternate Placements. With respect to an application for the collocation of a small wireless facility associated with a new utility pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

The City may require the applicant to provide a written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

4) Height Limitations. The City shall limit the maximum height of a small wireless facility to 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

Subject to any applicable waiver, zoning, or other process that addresses wireless provider requests for an exception or variance and does not prohibit granting of such exceptions or variances, the City shall limit the height of new or replacement utility poles or wireless support structures on which small wireless facilities are collocated to the higher of: 1) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the City, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the City, provided the City may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or, 2) 45 feet above ground level.

5) Requirements.

a) The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency’s communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC’s regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and the wireless provider has been
given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including, but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary. The City may terminate a permit for a small wireless facility based on such interference if the wireless provider is not making a good faith effort to remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

b) The wireless provider shall comply with requirements that are imposed by a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

c) The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning, or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.

d) The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning, or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.

e) The wireless provider shall comply with generally applicable standards that are consistent with PA 100-0585 and adopted by an authority for construction and public safety in the rights-of-way, including, but not limited to, reasonable and nondiscriminatory wiring and cabling requirements, grounding requirements, utility pole extension requirements, and signage limitations[DMF1].

f) The wireless provider shall not collocate small wireless facilities on City utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole. However, the antenna and support equipment of the small wireless facility may be located in the communications space on the City utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole. For purposes of this subparagraph (f), the terms "communications space", "communication worker
safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

g) The wireless provider shall comply with the applicable codes and local code provisions or regulations that concern public safety.

h) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment, and aesthetic requirements that are identified by the City in an ordinance, written policy adopted by the governing board of the authority, a comprehensive plan, or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.[CJE2]

i) Subject to the subsection titled Permitted Use, and except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4), the City requires reasonable, technically feasible and non-discriminatory design or concealment measures in a historic district or historic landmark. Any such design or concealment measures, including restrictions on a specific category of poles, may not have the effect of prohibiting any provider’s technology. Such design and concealment measures shall not be considered a part of the small wireless facility for purposes of the size restrictions of a small wireless facility. This paragraph may not be construed to limit an authority’s enforcement of historic preservation in conformance with the requirements adopted pursuant to the Illinois State Agency Historic Resources Preservation Act or the National Historic Preservation Act of 1966, 54 U.S.C. Section 300101 et seq., and the regulations adopted to implement those laws.

6) Completeness of Application. Within 30 days after receiving an application, the City must determine whether the application is complete and notify the applicant. If an application is incomplete, the City must specifically identify the missing information. An application shall be deemed complete if the City fails to provide notification to the applicant within 30 days after when all documents, information, and fees specifically enumerated in the City’s permit application form are submitted by the applicant to the City. Processing deadlines are tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing information.

7) Application Process. The City shall process applications as follows:

a) An application to collocate a small wireless facility on an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 90 days. However, if an applicant intends to proceed with the permitted activity on
a deemed approved basis, the applicant must notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City’s denial of the permit request within the time limits as provided under this Ordinance.

b) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 120 days. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City’s denial of the permit request within the time limits as provided under this Ordinance.

c) The City shall approve an application unless the application does not meet the requirements of this Ordinance. If the City determines that applicable codes, local code provisions or regulations that concern public safety, or the Requirements of paragraph (5) require that the utility pole or wireless support structure be replaced before the requested collocation, approval may be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider. The City must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to the applicant on or before the day the City denies an application. The applicant may cure the deficiencies identified by the City and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. However, the applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the deficiencies cited in the denial. However, this revised application cure does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.
8) Tolling. The time period for applications may be further tolled by: 1) the express agreement in writing by both the applicant and the City; or 2) a local, State or federal disaster declaration or similar emergency that causes the delay.

9) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If an application includes multiple small wireless facilities, the City may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The City may issue separate permits for each collocation that is approved in a consolidated application.

10) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for an authority utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the City grants an extension in writing to the applicant. The applicant shall provide documentation to the City evidencing its compliance with these timelines upon request, and the failure or refusal of the applicant to provide such documentation shall constitute grounds for voiding a permit. A permit which is issued and for which construction is not timely implemented and completed as required herein shall be void and of no further force or effect after the passage of the time periods described above, without requirement of any City notice or due process.

11) Duration of Permits. The duration of a permit shall be for a period of 5 years, and the permit shall be renewed for equivalent durations unless the City makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable codes or local code provisions or regulations. If PA 100-0585 is repealed as provided in Section 90 of the Act, renewals of permits shall be subject to the applicable authority code provisions or regulations in effect at the time of renewal.

12) Means of Submitting Applications. Applicants shall submit applications, supporting information, and notices by personal delivery only, with an electronic copy of all plans and documents provided to the City in the format required by the Community
Development Director. The City may require that permits, supporting information, and notices be submitted by personal delivery at the City's designated place of business. Fifteen paper copies of all documents submitted for permit application shall be provided at the time of delivery of the personally delivered application.

c) Application Fees. Application fees are subject to the following requirements:

1) The City will charge an application fee of $650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure and $350 for each small wireless facility addressed in an application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

2) The City will charge an application fee of $1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section must be accompanied by the required application fee.

4) The City shall not require an application, approval, or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:

   a) routine maintenance;

   b) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements under the subsection titled Application Requirements; or

   c) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

However, the City shall require a permit to work within rights-of-way for activities that affect traffic patterns or require lane closures. Such permit shall be required under the provisions of City Code as contemplated by the remaining portions thereof[DMF3][CIE4].

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

1) property owned by a private party or property owned or controlled by the City or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;
2) property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation, or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed, and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Ordinance shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

e) Annual Recurring Rate. The City shall charge an annual recurring rate to collocate a small wireless facility on a City utility pole located in a right-of-way that equals (i) $200 per year or (ii) the actual, direct, and reasonable costs related to the wireless provider's use of space on the City utility pole. Rates for collocation on City utility poles located outside of a right-of-way are not subject to these limitations, and shall be imposed by the City by virtue of a separate colocation agreement between the City and a given provider. Colocation on other City-owned facilities shall also require a separate colocation agreement between the City and the provider.

f) Aerial Facilities. For City utility poles that support aerial facilities used to provide communications services or electric service, wireless providers shall comply with the process for make-ready work under 47 U.S.C. 224 and its implementing regulations.

g) Abandonment. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of the facility must remove the small wireless facility within 90 days after receipt of written notice from the City notifying the owner of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at the last known address of the owner. If the small wireless facility is not removed within 90 days of such notice, the City may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for authority utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost
recovery. Any owner of such a facility shall, upon request, provide documentation to the City evidencing its full compliance with the terms of this Ordinance, including but not limited to evidence of ongoing operation or abandonment.

h) Transfers: Any wireless provider operating small wireless facilities under the terms of this ordinance shall be required to provide written notice to the City if it sells or transfers small wireless facilities within the jurisdictional boundary of the City. Such notice shall include the name and contact information of the new wireless provider and such other information as the Community Development Director shall require.

i) Indemnification.

A wireless provider shall indemnify and hold the City harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the authority improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Ordinance and PA 100-0585. A wireless provider shall further waive any claims that they may have against the City with respect to consequential, incidental, or special damages, however caused, based on any theory of liability. Under no circumstances shall the City be liable to a wireless provider for any lost profits, property damage, replacement or restoration of collocated wireless provider equipment.

j) Insurance.

Any wireless provider operating small wireless facilities under the terms of this ordinance shall be required to implement and maintain, at the wireless provider's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; and (iii) commercial general liability insurance with respect to its activities on the authority improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of authority improvements or rights-of-way, including coverage for bodily injury and property damage. The wireless provider shall name the City as an additional primary insured on the commercial general liability policy, without right of subrogation and provide certification and documentation of inclusion of the City in a commercial general liability policy as reasonably required by the City.
Section 2. Effective Date.

This Ordinance shall be in full force and effect after passage and publication pursuant to law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 23rd day of July, 2018, and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None. Waiver of Second Reading passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None.

ATTEST:

RUTH A. SCOTT, Deputy City Clerk

JERRY SMITH, Mayor