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**Ordinance No. 2017 - 16**

AN ORDINANCE Amending Chapter 154 of the Troy Municipal Code  
(Also known as the Troy Zoning Ordinance) *Section 154.055 Aerials,  
Antennas, Telecommunication Towers and Facilities,  
Small Cell Facilities and Utility Substations.*

ADOPTED BY THE CITY COUNCIL  
OF THE CITY OF TROY, ILLINOIS

THIS 17<sup>TH</sup> DAY OF JULY 2017

**Whereas**, the City of Troy, Madison County, Illinois presently has in force the Troy Zoning Ordinance, which is contained in the Troy Municipal Code as Chapter 154, Ordinance No. 2004-21 adopted August 2, 2004 and as amended from time to time; and

**Whereas**, the Planning Commission has performed a review of the City's Zoning Ordinance, specifically *Section 154.055 Aerials, Antennas, Telecommunication Towers and Facilities, Small Cell Facilities and Utility Substations*, and believes that changes are necessary to address the growing demand for personal wireless telecommunications services that 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 in the public right-of-way; and

**Whereas**, the Planning Commission has complied with the provisions of *Section 154.143 Amendments* of the Zoning Ordinance regarding amendments of regulations by holding a public hearing on June 8, 2017 to consider amending the Zoning Ordinance; and

**Whereas**, as a result of said hearing, the Planning Commission has made a recommendation (Recommendation 2017-03PC) to the City Council that they enact said amendments to the Zoning Ordinance and Municipal Code of Ordinances; and

**Whereas**, the City Council has duly considered the matter and the recommendation of the Planning Commission and has determined and concluded that it is in the best interest of the public health, safety and welfare of the City, and in compliance with the powers conferred upon the City, to amend the existing Troy Zoning Ordinance and Municipal Code of Ordinances.

**Now, Therefore, Be It Ordained** by the Mayor and the City Council of the City of Troy, Illinois as follows:

**SECTION 1:** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Troy, Illinois

**SECTION 2:** That *Section 154.055 Aerials, Antennas, Telecommunication Towers and Facilities, Small Cell Facilities and Utility Substations* of Ordinance 2004-21 of the City of Troy, commonly known as the Zoning Ordinance is amended to read as described in Exhibit A.

**SECTION 3:** All ordinances or resolutions, or parts of ordinances or resolutions in conflict herewith, to the extent of such conflict, are hereby changed and amended to comply with this Ordinance; and to the extent the same cannot be so amended, are hereby repealed to the extent of such inconsistency.

**SECTION 4:** That if any section or provision of this Ordinance is declared invalid for any reason, such invalidity shall not affect or impair any of the remaining sections or provisions of this Ordinance which can be given effect without the invalid section or provision, and to this end, the sections and provisions of this Ordinance are declared to be severable.

**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage and approval as provided by law and shall be published in pamphlet form by the authority of the City Council.

**Passed** by the City Council of the City of Troy, Madison County, Illinois and approved by the Mayor this 17<sup>th</sup> day of July, 2017.

Aldermen:

Daniel N/A  
Henderson Absent  
Italiano Aye

Jackson Aye  
Partney Aye  
Thompson Aye

Turner Aye  
Zarzecki Aye

Total:  
4 Aye  
0 Nay

APPROVED:

  
Allen P. Adomite  
Mayor, City of Troy, Illinois

ATTEST:

  
Jamie Myers, City Clerk

(SEAL)

**§ 154.055 AERIALS, ANTENNAS, TELECOMMUNICATION TOWERS AND FACILITIES, SMALL CELL FACILITIES AND UTILITY SUBSTATIONS.**

(A) Regulations for aerials, antennas, telecommunication towers/facilities, and small cell facilities.

(1) Selected definitions.

**ALTERNATIVE ANTENNA STRUCTURE.** An existing pole or other structure within the public right-of-way that can be used to support an antenna and is not a utility pole or a City-owned infrastructure.

**ANTENNA.** Communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

**APPLICANT.** Any person or entity submitting an application to install personal wireless telecommunication facilities or structures to support the facilities within a public right-of-way.

**CITY-OWNED INFRASTRUCTURE.** Infrastructure in a public right-of-way within the boundaries of the City including, but not limited to, streetlights, towers, structures, or buildings owned, operated or maintained by the City.

**CO-LOCATION (CO-USE).** The location of two or more antennas or other telecommunication devices or a single telecommunication tower or other supporting structure.

**DISTRIBUTED ANTENNA SYSTEM.** A type of personal wireless telecommunication facility consisting of a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area. Generally serves multiple carriers.

**LANDSCAPING.** The installation at grade of plantings, shrubbery, bushes or other foliage intended to screen the base of a personal wireless telecommunication facility from public view.

**MONOPOLE.** A structure composed of a single spire, pole or tower designed and used to support antennas or related equipment and that is not a utility pole, an alternative antenna structure, or a City-owned infrastructure.

**PERSONAL WIRELESS TELECOMMUNICATION ANTENNA.** An antenna that is part of a personal wireless telecommunications facility.

**PERSONAL WIRELESS TELECOMMUNICATION EQUIPMENT.** Equipment, exclusive of an antenna, that is part of a personal wireless telecommunications facility.

**PERSONAL WIRELESS TELECOMMUNICATIONS FACILITY.** An antenna, equipment, and related improvements used, or designed to be used, to provide wireless transmission of voice, data video streams, images, or other information including, but not limited to, cellular phone service, personal communication service, paging, and Wi-Fi antenna service.

**SMALL CELL FACILITIES.** A Personal Wireless Telecommunications Facility consisting of an antenna and related equipment either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area. Generally single-service provider installation.

**TELECOMMUNICATION FACILITY.** An unmanned facility consisting of a telecommunication tower and any structures required to provide support services.

**TOWER.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, and that is not a utility pole, an alternative antenna structure, or a City-owned infrastructure. Except as otherwise provided for by this Ordinance, the requirements for a tower and associated antenna facilities shall be those required in this Ordinance. The term shall not include equipment used by amateur radio operators that meets the requirements of section(3)(a) - (3)(c) below.

**UTILITY POLE.** An upright pole designed and used to support electric cables, telephone cables, telecommunication cables, cable service cables, which are used to provide lighting, signage, or a similar function.

**VARIANCE or VARIATION.** A grant of relief by the Planning Commission or his/her designee.

**WI-FI ANTENNA.** An antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

- (2) Purpose and intent.
- (a) To direct the installation of aerials, antennas, telecommunication towers/facilities and small cell facilities within the City by providing specific regulations and standards for the placement and siting of personal wireless telecommunication facilities with the public right-of-way.
  - (b) To protect the public health, safety and welfare while preventing interference with the facilities and operations of the City's utilities and of other utilities lawfully located in the public right-of-way or property.

- (c) To protect residential areas and land uses from the potential adverse impact of aerials, antennas, and telecommunication towers, preserve the character of the neighborhoods in which the facilities are installed, and assure the continued safe use and enjoyment of private properties adjacent to personal wireless telecommunication facilities.
  - (d) To minimize adverse visual impact, prevent visual blight and avoid potential damage from tower failure in the neighborhoods in which facilities are installed through careful engineering, design, permitting, siting and screening.
  - (e) To accommodate the growing need for telecommunication facilities by facilitating the location of personal wireless telecommunication facilities in permitted locations within the public right-of-way in the City.
  - (f) To encourage and promote co-location of existing and new telecommunication facilities as a primary option rather than construction of single-use facilities.
- (3) Aerials, antennas, and telecommunication towers/facilities (Non right-of-way) - Standards and regulations.
- (a) No aerial, antenna or telecommunication tower shall exceed 120 feet in total height.
  - (b) No antenna or similar equipment shall extend more than 10 feet above any roof peak in any residential and/or commercial zoning district.
  - (c) No telecommunication tower/antenna shall be placed upon any building or rooftop unless the tower/antenna is an accessory use to the main use of the building.
  - (d) The distance from the base of an aerial, antenna or telecommunication tower to the nearest property line shall not be less than the height of the aerial, antenna or telecommunication tower measured from ground level to the top of the aerial, antenna or tower.
  - (e) Six-foot-high security fencing shall be installed around the base and guy anchors of all telecommunication facilities.
  - (f) Closely planted evergreen trees or shrubs at least 6 feet high shall be planted around the exterior of any security fencing and around the base and guy anchors of a telecommunication facility. Additional deciduous trees at least 2 inches in girth, plus evergreen trees at least 6 feet in height shall be planted around the perimeter of the property, near the property lines, upon which a telecommunication facility is located in order to provide additional screening of the tower from passersby.

- (g) Any person, firm or corporation wishing to construct a telecommunication tower shall seek permission to co-located or co-use on an existing tower. No person, firm or corporation shall refuse co-location of other equipment.
- (h)
  1. Any person, firm, or corporation wishing to construct a telecommunication tower and/or facility, shall provide a bond to the City in the amount of \$25,000 or 25% of the construction costs, whichever is less. The bond shall be kept in full force during the time the tower and/or communication facility is in operation.
  2. The bond shall be conditioned upon full indemnity to the City should the facility become obsolete and the owner fails to remove the tower and/or facility within six months of becoming obsolete, or in the event the tower or facility falls into a state of disrepair.

**(4) Small cell facilities - Standards and regulations.**

Personal wireless telecommunication facilities will be permitted to be placed in right-of-way within the jurisdiction of the City as attachments to existing utility poles, alternative antenna structures, or City-owned infrastructure subject to the following regulations:

- (a) *Number Limitation and Co-Location.* The Planning Commission may regulate the number of personal wireless telecommunications facilities allowed on each utility pole or unit of City-owned infrastructure. No more than 2 personal wireless telecommunications facilities will be permitted on pre-existing utility poles or Alternative Antenna Structure of 90 feet or less. No more than 3 personal wireless telecommunications facilities will be permitted on pre-existing utility poles or Alternative Antenna Structures in excess of 90 feet and less than 120 feet. Personal wireless telecommunications facilities are prohibited on the same side of the street as a water main and on emergency warning towers. This Ordinance does not preclude or prohibit co-location of personal wireless telecommunication facilities on towers or monopoles that meet the requirements as set forth elsewhere in this section or as required by federal law.
- (b) *Separation and Clearance Requirements.* Personal wireless telecommunication facilities may be attached to a utility pole, alternative antenna structure, monopole, or City-owned infrastructure only where such pole, structure or infrastructure is located no closer than a distance equal to 200 percent of the height of such facility to any residential building and no closer than 500 feet from any other personal wireless telecommunication facility. A separation or lesser clearance may be

allowed by the Planning Commission as a variance to this Ordinance when the Applicant establishes that the lesser separation or clearance is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed antenna or facility is the least intrusive means to do so within the right-of-way.

- (c) *City-Owned Infrastructure.* Personal wireless telecommunication facilities can only be mounted to City-owned infrastructure including, but not limited to streetlights, towers or buildings, if authorized by a license or other agreement between the owner and the City.
- (d) *New Towers.* No new monopole or other tower to support personal wireless telecommunication facilities in excess of 60 feet is permitted to be installed on right-of-way within the jurisdiction of the City unless the City Council finds, based on clear and convincing evidence provided by the applicant, that locating the personal wireless telecommunications facilities on the right-of-way is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed new monopole or other tower within the right-of-way is the least intrusive means to do so. The City Council shall have final approval of the location(s) to alleviate any and all safety concerns.
- (e) *Attachment Limitations.* No personal wireless telecommunication antenna or facility within the right-of-way will be attached to a utility pole, alternative antenna structure, tower, or City-owned infrastructure unless all of the following conditions are satisfied:
  - 1. **Surface Area of Antenna:** The personal wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, cannot have a surface area of more than 6 cubic feet in volume.
  - 2. **Size of Above-Ground Personal Wireless Telecommunication Facility:** The total combined volume of all above-ground equipment and appurtenances comprising a personal wireless telecommunication facility, exclusive of the antenna itself, cannot exceed 28 cubic feet.
  - 3. **Personal Wireless Telecommunication Equipment:** The operator of a personal wireless telecommunication facility must, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than 8 feet above grade, and not in excess of 30 feet in residential zoning classifications, and not in excess of 60 feet in all other zoning classifications.



4. **Personal Wireless Telecommunication Services Equipment Mounted at Grade:** In the event that the operator of a personal wireless telecommunication facility proposes to install a facility where equipment or appurtenances are to be installed at grade, screening must be installed to minimize the visibility of the facility. Screening must be installed at least 3 feet from the equipment installed at-grade and 8 feet from a roadway.
5. **Height:** The top of the highest point of the antenna cannot extend more than 7 feet above the highest point of the utility pole, alternative antenna support structure, tower or City-owned infrastructure. If necessary, the replacement or new utility pole, alternative support structure or City-owned infrastructure located within the public right-of-way may be no more than 10 feet higher than existing poles adjacent to the replacement or new pole or structure, or no more than 60 feet in height overall, whichever is less.
6. **Color:** A personal wireless telecommunication facility, including all related equipment and appurtenances, must be a color that blends with the surroundings of the pole, structure tower or infrastructure on which it is mounted and use non-reflective materials which blend with the materials and colors of the surrounding area and structures. Any wiring must be covered with an appropriate cover. The City Council shall have final approval of the color to alleviate any and all safety concerns.
7. **Antenna Panel Covering:** A personal wireless telecommunication antenna may include a radome, cap or other antenna panel covering or shield, to the extent such covering would not result in a larger or more noticeable facility and, if proposed, such covering must be of a color that blends with the color of the pole, structure, tower or infrastructure on which it is mounted.
8. **Wiring and Cabling:** Wires and cables connecting the antenna to the remainder of the facility must be installed in accordance with the electrical code currently in effect. No wiring and cabling serving the facility will be allowed to interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.
9. **Grounding:** The personal wireless telecommunication facility must be grounded in accordance with the requirements of the electrical code currently in effect in the City.

10. **Guy Wires:** No guy or other support wires will be used in connection with a personal wireless telecommunication facility unless the facility is to be attached to an existing utility pole, alternative antenna support structure, tower or City-owned infrastructure that incorporated guy wires prior to the date that an applicant has applied for a permit.
11. **Pole Extensions:** Extensions to utility poles, alternative support structures, towers and City-owned infrastructure utilized for the purpose of connecting a personal wireless telecommunications antenna and its related personal wireless telecommunications equipment must have a degree of strength capable of supporting the antenna and any related appurtenances and cabling and capable of withstanding wind forces and ice loads in accordance with the applicable structural integrity standards as set forth in section 12 below. An extension must be securely bound to the utility pole, alternative antenna structure, tower or City-owned infrastructure in accordance with applicable engineering standards for the design and attachment of such extensions.
12. **Structural Integrity:** The personal wireless telecommunication facility, including the antenna, pole extension and all related equipment must be designed to withstand a wind force and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for utility poles, Rule 250-B and 250-C standards governing wind, ice, and loading forces on utility poles, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel wireless support structures and the applicable industry standard for other existing structures. For any facility attached to City-owned infrastructure or, in the discretion of the City, for a utility pole, tower, or alternative antenna structure, the operator of the facility must provide the City with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation must be prepared by a professional structural engineer licensed in the State of Illinois. The City Council shall have final approval of the structural integrity to alleviate any and all safety concerns.

- (f) *Signage.* Other than signs required by federal law or regulations or identification and location markings, installation of signs on a personal wireless telecommunication facility is prohibited.
- (g) *Screening.* If screening is required under Section (e)(4) above, it must be natural landscaping material or a fence subject to the approval of the City and must comply with all regulations of the City. Appropriate landscaping must be located and maintained and must provide the maximum achievable screening, as determined by the City, from view of adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than 9 feet in height. Landscape screening when permitted in the right-of-way must be provided with a clearance of 3 feet in all directions from the facility. The color of housing for ground-mounted equipment must blend with the surroundings. For a covered structure, the maximum reasonably achievable screening must be provided between such facility and the view from adjoining properties and public or private streets. In lieu of the operator installing the screening, the City, at its sole discretion, may accept a fee from the operator of the facility for the acquisition, installation, or maintenance of landscaping material by the City.
- (h) *Permission to Use Utility Pole or Alternative Antenna Structure.* The operator of a personal wireless telecommunication facility must submit to the City written copies of the approval from the owner of a utility pole, monopole, or an alternative antenna structure, to mount the personal wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the City permit.
- (i) *Licenses and Permits.* The operator of a personal wireless telecommunication facility must verify to the City that it has received all concurrent licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility have been obtained and will be maintained within the corporate limits of the City.
- (j) *Variance Requirements.* Each location of a personal wireless telecommunication facility within a right-of-way must meet all of the requirements of this Ordinance, unless a variance has been obtained from the Planning Commission.

- (k) *Abandonment and Removal.* Any personal wireless telecommunication facility located within the corporate limits of the City that is not operated for a continuous period of 12 months, shall be considered abandoned and the owner of the facility must remove same within 90 days of receipt of written notice from the City notifying the owner of such abandonment. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the City to such owner at the last known address of such owner. In the case of personal wireless telecommunication facilities attached to City-owned infrastructure, if such facility is not removed within 90 days of such notice, the City may remove or cause the removal of such facility through the terms of the applicable license agreement or through whatever actions are provided by law for removal and cost recovery.
- (l) *Permits and Application Fees and Procedures.* Permits for placement of personal wireless telecommunication facilities in right-of-way within the City are required. Except as otherwise provided for by in this Ordinance, the procedures for the application for, approval of, and revocation of such a permit must be in compliance with City permit application requirements. Any applications must demonstrate compliance with the requirements of this section. Unless otherwise provided by franchise, license, or similar agreement, or federal, State or local law, all applications for permits pursuant to this section must be accompanied by a fee in an amount of no less than the actual regulatory and administrative costs of the permitting process and review incurred by the City, which shall not exceed \$1,000.00 for each siting facility addressed in each siting application. The application fee is required to reimburse the City for regulatory and administrative costs with respect to the work being performed.
- (m) The City shall charge an annual fee of \$350.00 for each and every pole attachment and/or tower.
- (n) Permit applications, including bulk permits for up to 5 sites, shall be granted or denied within 180 days. The permit applications must include complete plans approved by an Illinois licensed structural engineer and all installation of the sites must be completed within 180 days of the issuance of the permit. Permits would authorize the use of the site for 10 years.

(o) *Conflict of Laws.* Where the conditions imposed by any provisions of this Chapter regarding the siting and installation of personal wireless telecommunication facilities are more restrictive than comparable conditions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

(B) Utility substations. Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, antennas, transmitter or similar facilities shall be deemed a special use, and shall conform to the following regulations:

- (1) Every lot on which any such facility is situated shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least 30 feet from all lot lines, or shall meet the district setback requirements, whichever is greater;
- (2) In any residential district, the structure housing any such facility shall be designed and constructed to be compatible with the residential character of the area; and
- (3) Every such facility shall be screened by close-planted shrubbery at least 10 feet in height and of sufficient density to block the view from adjacent property. Furthermore, if the Code Official determines that the facility poses a safety hazard (for example, if there are exposed transformers) he or she shall require that a secure fence at least 8 feet in height be installed behind the planting screen.

RECOMMENDATION No. 2017 ~ 03PC

Of the Planning Commission of the City of Troy, Illinois Recommending an Application for Amending Section 154.055 of the Code of Ordinances

Whereas, the Planning Commission of the City of Troy has reviewed the provisions of the current text of Section 154.055 of the Code of Ordinances entitled "Aerials, Antennas, Telecommunication Towers and Facilities, and Utility Substations" and determined that the provisions contained therein require modification to address newly proposed state legislation; and

Whereas, the Planning Commission met on June 8, 2017 to consider an application for Amending Section 154.055 Aerials, Antennas, Telecommunication Towers and Facilities, and Utility Substations of the Code of Ordinances. A copy of the application and certification by the City Clerk regarding publication of the notice of hearing are incorporated by reference; and

Whereas, the Planning Commission considered the testimony and exhibits offered on behalf of the application and the following citizens also testified regarding the application (See Exhibit B); and

Whereas, the Planning Commission has considered the factors as described in Section 154.143 Amendments of the Code of Ordinances; and

Whereas, following the testimony, the members of the Planning Commission voted as recorded below:

Burnett <u>Y</u>	Johnson <u>Y</u>	McConnell <u>Y</u>	Total:
Delgado <u>Y</u>	Lasseigne <u>Absent</u>	Nehrt <u>Absent</u>	<u>7</u> Yeas
Hellrung <u>Y</u>	Lawrenz <u>Y</u>	Reiter <u>Y</u>	<u>0</u> Nays

Now Therefore, be it Resolved by the Planning Commission as Follows, that the application for the following: Amending Section 154.055 Aerials, Antennas, Telecommunication Towers and Facilities, and Utility Substations and adopting the attached Code provisions as provided in Exhibit A

Is Recommended X With the following stipulations: See attachments - Recommended changes from 5-11-17 meeting and additional changes made on 6-8-17

A copy of this recommendation is presented to the City Council and the Code Enforcement Official; the original shall be filed with the City Clerk.

Adopted this 8th day of May, 2017.

By Elizabeth Hellrung, Chairman, Planning Commission

Attest [Signature] Secretary, Planning Commission