

CHAPTER 14.5 RIGHT-OF-WAY MANAGEMENT

**Editor's note: An ordinance of January 26, 2004, amended the Code by, in effect, repealing former ch. 14.5, §§ 14.5-001--14.5-003, 14.5-025--14.5-035, 14.5-051--14.5-062, 14.5-101--14.5-103, and adding a new ch. 14.5. Former ch. 14.5 pertained to similar subject matter, and derived from ordinances of September 14, 1998 and July 8, 2002.*

Art. I.	General, §§ 14.5-001--14.010.....	Pages 14.5-1 through 14.5-4
Art. II.	Disruption Permits, §§ 14.5-011--14.5-020.....	Pages 14.5-4 and 14.5-5
Art. III.	Use Permits, §§ 14.5-021--14.5-030.....	Pages 14.5-6 and 14.5-7
Art. IV.	Telecommunications Permits, §§ 14.5-031--14.5-050	Pages 14.5-8 through 14.5-11
Art. V.	Permit Application Requirements and Process, §§ 14.5-051--14.5-070.....	Pages 14.5-11 through 14.5-15
Art. VI.	Ordinance and Permit Terms and Conditions, §§ 14.5-071--14.5-080	Pages 14.5-15 through 14.5-19
Art. VII.	Stop Work or Use Orders, Revocations and Penalties, §§ 14.5-081--14.5-090.....	Pages 14.5-20 and 14.5-21
Art. VIII.	Miscellaneous, §§ 14.5-091--14.5-095	Pages 14.5-21 and 14.5-22
Art. IX	Wireless Facilities in Right-of-Way, §§ 14.5-101--14.5-120 & Appendix	Pages 14.5-22 and 14.5-37

ARTICLE I GENERAL

Sec. 14.5-001. Short title

This chapter shall be known and may be cited as the "Township of Waterford Right-of-Way Management Ordinance."

(Ord. of 1-26-2004, § 1)

Sec. 14.5-002. Purpose/legislative findings

- (a) Pursuant to Section 29 of Article 7 of the Michigan Constitution of 1963, and other applicable state and federal legislation, including but not limited to, MCL 247.183, the Township has the authority to exercise reasonable control over its highways, streets, alleys and public places. The Township finds that, in the furtherance of control and to ensure and protect the public health, safety and welfare, it is appropriate for the Township to monitor, review and regulate activities and persons that disrupt and/or use a Township right-of-way.
- (b) This chapter is further intended to minimize disruption, disturbance and damage to the Township's rights-of-way, to exercise reasonable control over and monitor the use of the same, and to maintain aesthetic, quality, and property values by requiring those persons who seek to disrupt and/or use a Township right-of-way by constructing, installing, locating, operating, using and/or maintaining improvements, including utilities and telecommunications, gas, and/or electric transmission systems therein, to obtain a disruption permit and/or a use permit and pay fair and reasonable permit fees.
- (c) The Township further finds that requiring the payment of the application and permit fees when authorized by law will assist in protecting the Township's interests in its rights-of-way, by allowing the Township to cover some of its costs of maintaining, monitoring, and ensuring quality control with regard to its rights-of-way and related records.
- (d) This chapter is further intended to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Act No. 48 of the Public Acts of 2002 ("Act") and other applicable law, and to ensure that the

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(CHAPTER 14.5, ARTICLE I, cont.)

Township qualifies for distributions under the act by modifying the fees charged to providers and complying with the act.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-003. Definitions

The following words, terms and phrases when used in this chapter shall have the meanings indicated. Other terms used in this chapter shall have the same meaning as defined or provided in the Act.

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Authority means the Authority as defined in Section 2 of the Act.

Disruption means a physical change, modification, alteration, disturbance, injury and/or damage to or in a Township right-of-way, including but not limited to, construction, installation, location, maintenance, modification, alteration, replacement or repair of improvements, and the removal or alteration of a right-of-way surface grade or material, tree, sign, marker, hydrant or other material or object.

Disruption permit, which may also be called or referred to as a **construction permit**, means a nonexclusive limited permit issued by the Township to a person pursuant to this chapter allowing an activity which will result in disruption to the Township's right-of-way.

Franchise means a nonexclusive limited Township Board approved authorization to transact, conduct and/or operate a use in the Township, including but not limited to, the operation or use of improvements in the Township's right-of-way.

Franchise disruption means disruption that is necessary for the franchisee to satisfy or comply with its rights or duties under a franchise and which is performed by the franchisee or its authorized contractor whose authority is disclosed in writing to the Township in advance of the disruption.

Improvement means any equipment, conduit, facility, pipe, pole, structure, wire, cable, fiber, building or any other man-made or placed material or object, including but not limited to any water or sewer main, pipe, catch basin, manhole or other structure used for the accumulation or transportation of water, storm-water, sewage, liquid or gas and any overhead or underground cable, wire and/or a combination thereof, for the transmission or distribution of electrical energy, telephone service, telecommunications services or other utility or communication services or signals, including service connections and any other material protecting said cable or wire used in connection therewith.

Minor disruption means disruption in connection with work or an improvement on an individual lot or parcel that:

- (a) Will not extend beyond the property's right-of-way frontage;
- (b) Will not result in any obstruction or interference with the traveled portion of the right-of-way,
- (c) As determined by the Township, will not have any impact on existing or planned Township utilities or other existing or permitted improvements in the right-of-way, and
- (d) As determined by the Township, is not of sufficient size or consequence and has no other aspects or components that warrant or necessitate compliance with otherwise applicable disruption permit requirements.

MPSC means the Michigan Public Service Commission in the Department of Licensing and Regulatory Affairs, and shall have the same meaning as the term "Commission" in the Act.

Ordinances means all laws, codes and regulations duly enacted and adopted by the Township.

Permittee means a person who has been issued a disruption or use permit pursuant to the terms and provisions of this chapter and all employees, agents, contractors and other persons that direct or perform any activity covered by the permit.

Person means a natural person, company, corporation, partnership, joint venture, voluntary association, organization or other form of legal entity.

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(CHAPTER 14.5, ARTICLE I, SECTION 14.5-003 cont.)

Public easement means any area of land which has been granted or dedicated to the Township or to public use, including but not limited to, road or right-of-way, utility, water main, sewer line, access, drainage, recreation, conservation and other public areas, whether as easements or in fee.

Public place means any area owned, under the jurisdiction of, or controlled by the Township.

Street means the paved area or area designated for vehicular travel within the right-of-way, and is synonymous with the words "highway" and "road."

Telecommunication facilities or facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of part I of title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and telecommunications services mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes:

- (a) A cable television operator that provides a telecommunications service;
- (b) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way; and
- (c) A person providing broadband internet transport access service.

Telecommunication system means conduit, improvements and other materials which are designed and/or used to provide telecommunications services.

Township means the Charter Township of Waterford, and unless this chapter or resolution of the Township Board indicates otherwise, means the Township Supervisor or Township Supervisor's designee for purposes of reviews, decisions and actions on all permit and ordinance issues and applications.

Township or Township's right-of-way or right-of-way means any and all public rights-of-way, streets, highways, roads, sidewalks, alleys, thoroughfares, public easements and public places located within the Township, including within any curbs, shoulders, landscaped areas and/or other areas incidental and/or appurtenant thereto. "Right-of-way" shall not include federal and state highways for purposes of telecommunication permit applications.

Use may be limited by the Act to meaning the ownership of an improvement by a telecommunications provider. For all other persons, use means the ownership, lease or rental, possession, operation, occupancy or use of all or part of an improvement.

Use permit means a nonexclusive limited permit issued by the Township to a person pursuant to this chapter or a prior ordinance, allowing use of the Township's right-of-way for an improvement therein, and includes a use permit described in Article III and a telecommunications permit described in Article IV.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, ARTICLE I, cont.)

Sec. 14.5-004. Application

This chapter applies to all disruption or use of Township right-of-way, regardless of whether persons are excepted or exempted from the disruption and/or use permit requirements, with the provisions of Article IV applying to telecommunications providers and controlling in the event of any conflict or inconsistency with other provisions of this chapter.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-005--14.5-010. Reserved

ARTICLE II DISRUPTION PERMITS

Sec. 14.5-011. Disruption permit required

- (a) Generally. Except as otherwise provided in this article, no person, including persons who have or are exempt from having a use permit, shall direct or perform any activity which causes or results in any disruption to any Township right-of-way unless the consent of the Township Board is first obtained, as evidenced by a disruption permit issued by the Township pursuant to this chapter. Activity shall be performed in accordance with the disruption permit and in the manner provided for in this chapter.
- (b) Exemptions and emergencies. A disruption permit is not required for:
 - (1) Activities by or under contract with the state department of transportation or County road commission or Township.
 - (2) Activities that have been disclosed and described to the extent required by this chapter and that are thereafter approved as part of a permit, site plan, plat or other approval under another Township ordinance.
 - (3) Temporary obstructions which are incidental to the expeditious movement of articles and things to and from abutting premises.
 - (4) The lawful operation and parking of vehicles within a Township right-of-way.
 - (5) The lawful and customary use of property by adjoining property owners for such things as landscaping and lawful repairs, maintenance and other activities of, for or on a sidewalk, driveway or other similar improvement in a Township right-of-way, provided that all other Township required permits are first obtained.
 - (6) Disruptions that comply with the terms and conditions of this Chapter and any applicable Telecommunications or Use Permit issued under this Chapter for which the Road Commission of Oakland County (RCOC) or Michigan Department of Transportation (MDOT) has issued a construction permit, copies of which have been filed with the Township. Such a construction permit issued by RCOC or MDOT shall satisfy the disruption permit requirement under Section 14.5-034 for telecommunication facilities. *(Ord. of 1-26-2004, § 1)*

In an emergency, including, but not limited to natural disaster, civil disorder, flood, war and/or severe weather condition, a person and/or a permittee may disrupt a Township right-of-way without first receiving a disruption permit from the Township provided that the Township has approved the emergency repairs before the disruption takes place.

- (c) Violations. Failure to obtain a disruption permit under this section shall constitute a violation of this article and shall subject the violating person to the penalties provided for in this chapter. A person who violates this section shall pay the required application fee and disruption permit fee, as well as any additional charge established by resolution of the Township Board for that period of time that the person did not have a valid disruption permit pursuant to this article.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-012. Forms of and applications for disruption permits

- (a) Applications. A person that wants to direct or perform any activity which will or may result in any disruption to a Township right-of-way shall apply to the Township for a disruption permit pursuant to this article and Article V.

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(CHAPTER 14.5, ARTICLE II, cont.)

- (b) Franchise disruptions. An annual disruption permit may be applied for and issued for all franchise disruptions in a calendar year under a single franchise, provided that the plans and other applicable information for each disruption are filed with the Township sufficiently in advance of the work that they may be reviewed.
- (c) Minor disruptions. Permits for minor disruptions may be approved and issued by the Township without requiring full compliance with the application requirements in Article V.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-013. Disruption permit fees

- (a) At the time of filing an application, the applicant must pay the Township a nonrefundable application fee and an application review and processing fee in an amount necessary to reimburse the Township for the costs in reviewing, processing, investigating, granting or denying and issuing the disruption permit, as estimated by the Township based on rates and factors established by resolution of the Township Board. If review and processing costs exceed the Township's estimate, they shall be paid by the applicant prior to permit issuance.
- (b) In addition to the nonrefundable application fee and application review and processing fees, at or prior to the time the Township issues the disruption permit, the permittee shall pay the Township a disruption permit fee in an amount which will cover all of the Township's administrative, inspection, consulting, plan review, monitoring and other costs in conjunction with the permittee's disruption of the Township right-of-way. The disruption permit fee shall be based on rates and factors established by resolution of the Township Board in an amount representing the Township's estimate of what its costs in connection with the disruption are likely to be. Additional disruption permit fees may be required by the Township during construction to cover unanticipated inspection costs, and shall be paid by the permittee within three (3) calendar days of the Township's notice. If they are not, the permittee shall immediately restore the work site to a safe condition and suspend activities authorized under the permit until the additional inspection fees are paid. Upon completion of the disruption activities, the permittee shall pay to the Township any costs incurred in connection with the disruption activities that are over and above the amount paid to the Township by the permittee as estimated or additional disruption permit fees.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-014. Disruption permit term and extension

- (a) The disruption permit granted to the permittee by the Township shall be for a specified time period established by the Township after taking into consideration the information in the permittee's disruption permit application.
- (b) Prior to the expiration of the term of the disruption permit, a permittee may apply in writing to the Township for an extension of the permit, which shall be granted by the Township if the permittee demonstrates a valid reason and explanation for why the disruption activities could not be completed during the term initially established. For purposes of seeking an extension of its disruption permit, the applicant, shall pay an extension application fee to the Township in an amount established by resolution of the Township Board. The Township shall have the right to impose additional conditions on disruption permit extensions.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-015. Disruption permit terms and conditions

In addition to any individual conditions included by the Township in a permit as provided in Article V, all disruption permits shall be considered to include and require compliance with all terms and conditions set forth in Article VI.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, cont.)

Sec. 14.5-016. Revocation of permit and stop work orders

All disruption permits shall be subject to stop work orders and/or revocation under the standards and procedures contained in Article VII.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-017--14.5-020. Reserved

ARTICLE III USE PERMITS

Sec. 14.5-021. Use permit required

- (a) Generally. Except as modified for telecommunications permits under Article IV and as otherwise provided in this article, no person shall use a Township right-of-way for any improvements therein unless the consent of the Township Board is first obtained, as evidenced by a use permit issued by the Township pursuant to this chapter.
- (b) Exemptions. An exemption described in this section shall not apply until it has been documented and proven in written form by the person claiming it to the Township's satisfaction. A use permit is not required for any person that has a valid, effective and current franchise from the Township to use the Township's rights-of-way for improvements.
- (c) Board permit decisions. Applications to use and/or occupy Township rights-of-way that do not abut real property owned by the applicant, shall be approved, approved with conditions or denied for issuance by the Township Board as provided in Article V.
- (d) Violations. Failure to obtain a use permit under this section shall constitute a violation of this article and shall subject the violating person to the penalties provided for in this chapter. A person who violates this section shall pay the required application and use permit fee, as well as any additional charge established by resolution of the Township Board for that period of time that the person did not have a valid permit pursuant to this chapter.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-022. Use permit application procedures and fees

- (a) A person that wants to use a Township right-of-way shall apply to the Township for a use permit as provided in the permit application requirements and procedures in Article V.
- (b) At the time of filing an application, the applicant must pay to the Township a nonrefundable application fee in an amount established by resolution of the Township Board and an application review and processing fee in an amount necessary to reimburse the Township for the costs in reviewing, processing, investigating, granting or denying and issuing the use permit, as estimated by the Township based on rates and factors established by resolution of the Township Board. If review and processing costs exceed the Township's estimate, they shall be paid by the applicant prior to permit issuance.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-023. Use permit fee

- (a) Except for telecommunications permits under Article IV, in addition to the nonrefundable application fee and application review and processing fees, for each year the use permit is in effect, the permittee shall pay an annual use permit fee to the Township in an amount established by resolution of the Township Board. The annual use permit fee shall be paid prior to use permit issuance, and for each year thereafter, on or before the last Township business day prior to January 1, said fee being payable in advance of the year it is for.
- (b) The amount of the use permit fee shall be fair and reasonable, competitively neutral, nondiscriminatory and reasonably related to the Township's costs in connection with the permit and Township right-of-way involved and shall not exceed what is authorized by applicable laws. Upon the written request of the Township or applicant, the fees established

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(CHAPTER 14.5, ARTICLE III, SECTION 14.5-023(b) cont.)

by the Township Board resolutions shall be reviewed on a case-by-case basis for the purpose of determining whether the fee should be more or less. In making such determination, the Township Board shall take into consideration the following factors:

- (1) The annual fixed and variable cost to the Township in maintaining the right-of-way in, under or over which the permittee's use occurs.
- (2) The total amount of area that the permittee will be using and occupying in the Township right-of-way, including but not limited to, the length of right-of-way and the number and size of the improvements to be used.
- (3) The frequency and unit cost of monitoring the rights-of-way on a regular basis to ensure that the use by permittee conforms with applicable law, ordinance and permit conditions, and that such use has not created the need for public attention.
- (4) The proportionate cost of maintaining and administering records of right-of-way use, including administration to assist in the avoidance of conflicts in the use of the rights-of-way by other users, and auditing of the extent of permittee's use.
- (5) Any unique aspects of permittee's use or improvements that are likely to affect the cost to the Township of permittee's use of the rights-of-way.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-024. Use permit term, renewal and reviews

- (a) Except for telecommunications permits under Article IV, a use permit may be issued for a term of up to ten (10) years, with the first year ending on December 31 of the year the use permit is issued. The permittee may apply to the Township for ten-year renewals of its use permit, which renewal periods would run from January 1 to December 31 of each ten-year term. Unless earlier terminated by the permittee or the Township, a permittee must file an application for renewal of its use permit with the Township not less than one hundred twenty (120) days before the expiration of the current term, and pay a renewal application fee to the Township in an amount established by resolution of the Township Board. The Township shall review and approve, conditionally approve, or deny all renewal applications. Decisions on renewal applications shall be made by the Township in the same manner as the original permit. The Township shall have the right to impose additional reasonable conditions on those use permit renewals.
- (b) Although permits may be granted for a ten-year term, the Township may conduct an interim review at the end of the third and sixth years of a permit to determine whether the use permit fee then in effect should be revised and/or to require the permittee to affirmatively demonstrate that it is complying with all permit and ordinance terms and conditions. If the Township determines that the fee should be revised, a resolution to do so shall be presented to the Township Board, and upon approval, shall be established and be effective for the balance of the permit term. If a permittee fails to demonstrate ordinance and permit compliance, the Township may impose further conditions upon the use permit, or, where the review reveals a material failure of compliance, may initiate revocation proceedings as provided in Article VII.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-025. Use permit terms and conditions

In addition to any individual conditions imposed by the Township on a permit as provided in Article V, all permits shall be considered to include and require compliance with all terms and conditions set forth in Article VI.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-026. Revocation of permit and stop use orders

All use permits shall be subject to stop use orders and/or revocation under the standards and procedures contained in Article VII.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, cont.)

Secs. 14.5-027--14.5-030. Reserved

ARTICLE IV TELECOMMUNICATIONS PERMITS

Sec. 14.5-031. Permit required

- (a) Generally. Except as otherwise provided in the Act, a telecommunications provider using or seeking to use Township rights-of-way for its telecommunications facilities shall apply for and obtain a telecommunications permit, which is a form of use permit, pursuant to this article.
- (b) Previously issued permits. Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the Township under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the Township to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-032. Permit applications

- (a) Application. Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act by filing three (3) copies with the Township Clerk. Upon receipt, the Township Clerk shall make and distribute copies of the application to other Township staff and consultants as necessary. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.
- (b) Confidential information. If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (c) Application fee. Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of five hundred dollars (\$500.00).
- (d) Additional information. The Township may request an applicant to submit such additional information required for use permit applications under Article V, which the Township deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Township. If the Township and the applicant cannot agree on the requirement of additional information requested by the Township, the dispute shall be resolved as provided in the Act.
- (e) Existing providers. A telecommunications provider with facilities located in a Township right-of-way in the Township that as of November 1, 2002, the effective date of the Act, has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the Township an application for a permit in accordance with the requirements of this article and within the time required or extended under Sections 5(3) and 5(4) of the Act. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the five hundred dollars (\$500.00) application fee required under subsection (c) above.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, ARTICLE IV, cont.)

Sec. 14.5-033. Issuance of permit

- (a) Approval or denial. The Township shall have the authority to approve or deny an application for a permit. Pursuant to Section 15(3) of the Act, the Township shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 14.5-032, for access to a Township right-of-way within the Township. Pursuant to Section 6(6) of the Act, the Township shall notify the MPSC when the Township has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Township shall not unreasonably deny an application for a permit.
- (b) Form of permit. If an application for permit is approved, the Township shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.
- (c) Conditions. Pursuant to Section 15(4) of the Act, the Township may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the Township right-of-way.
- (d) Bond requirement. Pursuant to Section 15(3) of the Act, the Township may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the Township right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-034. Disruption permit

A telecommunications provider shall not commence construction in a Township right-of-way without first obtaining a disruption permit as provided in Articles II and V. Unless authorized by law, no otherwise applicable fees may be charged by the Township for such a disruption permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-035. Conduit or utility poles

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-036. Route maps

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within ninety (90) days after the substantial completion of construction of new telecommunications facilities in the Township, submit route maps to the MPSC and Township, showing the location of the telecommunications facilities. The route maps shall be in the format (electronic, paper or otherwise) as finally determined by the MPSC (or a court of competent jurisdiction) in accordance with Section 6(8) of the Act.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-037. Repair of damage

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a Township right-of-way or temporarily obstructing a Township right-of-way in the Township, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the Township right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, ARTICLE IV, cont.)

Sec. 14.5-038. Establishment and payment of maintenance fee

In addition to the non-refundable application fee paid to the Township set forth in Section 14.5-032, a telecommunications provider with telecommunications facilities in the Township's rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the Act.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-039. Modification of existing fees

In compliance with the requirements of Section 13(1) of the Act, the Township hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the Township rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of Section 13(4) of the Act, the Township also hereby approves modification of the fees of providers with telecommunication facilities in Township rights-of-way within the Township's boundaries, so that those providers pay only those fees required under Section 8 of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the act, or which are otherwise inconsistent with the act, such imposition is hereby declared to be contrary to the Township's policy and intent, and upon application by a provider or discovery by the Township, shall be promptly refunded as having been charged in error.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-040. Savings clause under the act

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 14.5-039, shall be void from the date the modification was made.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-041. Use of funds

Pursuant to Section 10(4) of the Act, all amounts received by the Township from the authority shall be used by the Township solely for right-of-way related purposes.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-042. Annual report.

As required by Section 10(5) of the Act, the Township shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-043. Cable television operators

Pursuant to Section 13(6) of the Act, the Township shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-044. Existing rights and permits

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the Township may have under a permit issued by the Township or under a contract between the Township and a telecommunications provider related to the use of the Township rights-of-way.

(CHAPTER 14.5, ARTICLE IV, SECTION 14.5-044 cont.)

Upon the written request of a telecommunications provider holding such a permit, the Township shall issue a replacement permit in the form approved by the MPSC in accordance with Sections 6(1), 6(2) and 15 of the Act, with the effective date of the replacement permit to be the same date as the original permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-045. Compliance

The Township hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The Township shall comply in all respects with the requirements of the Act, including but not limited to the provisions referenced in this article.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-046. Reservation of police powers

Pursuant to Section 15(2) of the Act, this article shall not limit the Township's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the Township's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-047. Violations

Failure to obtain or violation of a permit under this article shall be subject to the penalties and procedures provided for in the Act, and to the extent authorized by law, to the penalties and procedures in Article VII.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-048--14.5-050. Reserved

ARTICLE V PERMIT APPLICATION REQUIREMENTS AND PROCESS

Sec. 14.5-051. Filing of complete applications required

At least three (3) copies of a permit application, and more if necessary to secure all Township staff and consultant reviews, shall be filed with the Township Clerk and shall not be considered as complete for any purposes, including any time periods for Township reviews and decisions, until the required application fee and information has been provided.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-052. General application information requirements

- (a) Except for telecommunications use permits and as provided in this section, permit applications shall include all of the following information, as applicable, on a Township application form or by attachment to the form of applicable documents and plans.
- (b) With the Township's approval, an applicant may rely on information submitted in connection with a specifically identified, previously issued permit, upon a written certification to the Township that the information has not changed and remains accurate.
- (c) Upon an applicant's written request and demonstration to the Township's satisfaction that one (1) or more application requirements serve no useful purpose or have been adequately addressed in an alternative manner or form, and for minor disruptions, the Township may waive or modify one (1) or more of the information requirements, with or without conditions.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, ARTICLE V, cont.)

Sec. 14.5-053. Information required for all permits

- (a) The name, age if an individual, and address of the applicant, and if the applicant is not a natural person, the date, state and form of business organization.
- (b) The character of the business the applicant engages in and the lengths of time and locations where that business has been conducted.
- (c) Written documentation of the applicant's lawful existence, authorization and good standing to conduct its business in the state.
- (d) The names, phone numbers, fax numbers, addresses, e-mail addresses if applicable, and position, relationship or affiliation with applicant for the following persons:
 - (1) Applicant's contact person(s);
 - (2) The person(s) that is authorized to and will sign and agree to permits that are issued on behalf of applicant;
 - (3) Applicant's resident agent for service of process;
 - (4) The person(s) responsible for preparation and revisions of applicant's maps and plans;
 - (5) All contractors that will be performing any work in Township right-of-way for the applicant under the permit(s) requested;
 - (6) The construction and engineering personnel that will be responsible for supervision of disruption, maintenance and repair work in Township right-of-way and for communication with the Township regarding such work;
 - (7) Identification of all other permits the applicant has been issued by the Township and proof of full compliance with them.
- (e) For proposed aboveground improvements, the application shall demonstrate that they can not be placed underground or that the applicant is exempted by law from the requirement of this chapter that all new improvements be placed underground.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-054. Required route and improvement information for use permits

Use permit applications shall include a textual description and scaled drawing or map on 8 1/2" × 11" paper or other size accepted by the Township that shows or contains:

- (a) The general route and horizontal and vertical (above or below ground) location within the right-of-way of improvements to be installed and/or used;
- (b) The relationship of the improvements to existing and proposed improvements in adjoining municipalities;
- (c) The length, area or other applicable measurement of Township right-of-way that will be used by applicant, expressed in lineal feet of aerial and underground portions of proposed and existing improvements, and for improvements that are not measurable in lineal feet, the number of square feet of right-of-way that will be used;
- (d) If the applicant is proposing to construct new aerial poles or new underground conduit or pipe improvements, a description of why it is not physically and financially feasible for applicant to utilize existing poles, pipes, conduits and improvements;
- (e) A detailed description of the services to be provided by applicant's improvements, which shall include a description of the system those improvements will be a part of and the categories or classifications and locations of existing, intended and potential customers or persons that are or may be served by the improvements; and
- (f) A copy of a current financial statement for the applicant.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-055. Construction plans required for disruption permits

Detailed construction plans and a separate list or index of same, at a scale of no less than one (1) inch equals one hundred (100) feet for the improvements applicant proposes to construct and/or use, with each plan to clearly show or contain all of the following information:

- (a) The name and address of the person that prepared the plan, the dates of preparation and revisions, a job/work title and/or number and a drawing/sheet number.
- (b) Whether the improvements are existing or proposed.

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(CHAPTER 14.5, ARTICLE V, SECTION 14.5-055 cont.)

- (c) All Township right-of-way lines and property lines if within the Township right-of-way and the location of the improvements in relation thereto.
- (d) The lineal feet or other area of Township right-of-way occupied or proposed to be occupied by the improvements shown on the plan, expressed separately for aerial and underground portions.
- (e) Match lines by which each plan can be related to the applicant's other plans.
- (f) A description of the improvements shown on the plan that includes the size, components, capacity, ownership and existing, proposed and potential uses.
- (g) For aerial improvements, all existing and new poles or structures to which the improvements are or will be attached shall be shown and designated as such together with the owner of each such pole or structure.
- (h) For aerial improvements, elevations shall be depicted on a drawing that shows applicant's improvements in relation to all other existing improvements and the poles or structures to which they are or will be attached.
- (i) For underground improvements, in addition to the applicant's, the plans shall show all other existing underground appliances, conduits and improvements, it being the applicant's responsibility to determine the existence and location of such other improvements. The plans shall show the applicant and other existing improvements by reference to the horizontal and vertical location and separation between improvements that exist or are proposed.
- (j) The locations of rivers, streams, drains, bodies of water and state or Township regulated wetlands crossed by applicant's improvements.
- (k) The location of all Township right-of-way that will or may be disrupted by the installation, use, maintenance or repair of applicant's improvements.
- (l) The location of any above ground structures or landscaping including but not limited to, trees, shrubs, signs, hydrants, mail boxes and driveways within or adjoining the Township right-of-way, that will or may be disrupted or damaged by the installation, use, maintenance or repair of the applicant's improvements.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-056. Construction and schedule information for disruption permits

- (a) A description of the manner in which the improvements will be installed, maintained and repaired by reference to the number and types of vehicles, equipment and personnel involved and the area of Township right-of-way within which disruption activities will be occurring at any given time.
- (b) A description of the time and manner in which applicant will restore Township rights-of-way that may be disrupted or damaged by applicant's activities.
- (c) If the applicant is proposing to construct new aerial poles or new underground conduit or pipe improvements, a description of why it is not physically and financially feasible for applicant to utilize existing poles, pipes, conduits and improvements.
- (d) The cost of the improvements to be installed and such other information as may be required for the Township to issue and establish individual terms and conditions for a permit.
- (e) The length of time it will take applicant to complete the installation and required restoration under a proposed disruption permit, expressed in terms of the number of weeks from the date the permit is issued, and noting any changes to the schedule that may be needed based on the time of year the permit is issued or any other variable that is not within applicant's control.
- (f) Copies of Michigan Department of Transportation, Road Commission of the county, and other governmental permits or approvals that are required for applicant's improvements, or documentation that such permits have been applied for.
- (g) If applicant proposes to locate its improvements on, within or as part of poles, conduits or improvements of another person, that person's written confirmation of applicant's rights to do so.
- (h) Notes on the plans requiring traffic control devices in accordance with Township ordinance, the most recent edition of the Michigan Manual of Uniform Traffic Control Devices Guide, and reasonable engineering specifications required by the Township.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, ARTICLE V, cont.)

Sec. 14.5-057. Additional information for disruption permits

If the Township determines it to be necessary to the proper and efficient administration of this chapter, it may also require an applicant for a disruption permit to provide plans on a larger scale, elevations, locations and topography at specified contours for existing and proposed improvements, landscaping and natural features, property lines and other relevant information for areas within one hundred (100) feet of the proposed improvement.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-058. Application reviews and permit decisions

- (a) Except as otherwise provided in this article, the Township shall approve, conditionally approve or deny a permit for issuance within forty-five (45) days from the date the applicant files a complete application. The time limit for the Township to make a decision may be extended with the applicant's written agreement, and except for telecommunications permits under Article IV, by the Township for good cause. Approval of a permit for issuance does not authorize any disruption or use of Township right-of-way.
- (b) The Township review and decision on an application shall be based on this chapter, which establishes the terms and conditions under which the Township Board consents to disruption in and use of the Township rights-of-way. The Township will not approve a permit for issuance to an applicant that is in violation of or has unsatisfied obligations to the Township under a prior permit.
- (c) Approval of a permit for issuance does not authorize any disruption or use of Township right-of-way and may be subject to conditions that must be satisfied prior to permit issuance and the commencement of permitted activities.
- (d) Complete use permit applications requiring Township Board decision shall be scheduled for the first regular meeting that allows the Township to provide at least ten (10) days written notice to the applicant of the location, day and time of that meeting, at which the applicant and other interested persons will have the right to present evidence, information, comments, statements and questions regarding, in support of or in opposition to the application.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-059. Permit conditions and bonds

The Township may impose conditions on any permit it approves as it determines necessary to ensure and protect the public health, safety and welfare. Subject to any limitations for telecommunications permits under Article IV, the Township may require, as a condition of the permit, that a bond in the form of cash, letter of credit or other security acceptable to the Township be posted by the applicant, which bond shall not exceed the reasonable costs to ensure that the Township's rights-of-way that are to be disrupted and/or used by the applicant are returned and restored to their original condition after the applicant's disruption and/or use of the rights-of-way, that all required fees are paid, that all permit conditions are satisfied and that acceptable as-built plans are provided to the Township.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-060. Permit issuance

Upon approving a permit for issuance, the Township shall provide the applicant with two (2) copies of a completed permit form and documents that contain or incorporate all terms and conditions under Article VI of this chapter and any individual permit conditions. To obtain permit issuance, the applicant shall accept and agree to the permit by signing both copies of the permit and applicable permit documents in the form and manner specified and delivering them to the Township together with any required fees, bonds, insurance certificates and any other documents that were specified by the Township as conditions for permit issuance.

(CHAPTER 14.5, ARTICLE V, SECTION 14.5-060 cont.)

When all requirements for permit issuance have been satisfied, the Township shall issue the permit by dating and signing each of the permit forms, keeping one (1) for Township records and mailing or delivering the second to the permittee.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-061. Permit display

A disruption permit or copy thereof, together with the approved construction plans shall be in the possession of the permittee's employee or representative at each work location at all times.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-062. Permit amendments

Disruption permit amendments are in the discretion of the Township, who for more than minor changes or alterations, may require that a new permit be applied for and obtained. Use permits may be amended by the Township upon a written application of the permittee, to include the right to use additional right-of-way for the remainder of the original use permit term. All application, application review and processing and annual use permit fees shall be paid in connection with such an amendment.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-063. Appeals

Any person, firm or corporation whose permit application is denied or approved with conditions the applicant wishes to challenge, may appeal to the Township Board by filing a written appeal with the Township not more than ten (10) days after the decision. The application for appeal shall fully and particularly set forth the nature and grounds upon which the appeal is based. The Township Board, shall, within thirty (30) days after the filing of such notice of appeal, hold a hearing on the appeal. Upon hearing the appeal, Township Board shall approve, conditionally approve or deny the permit for issuance, and in doing so, may in its sole discretion, on the applicant's request or its own motion, waive or modify ordinance requirements that were the basis for permit denial.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-064--14.5-070. Reserved

ARTICLE VI ORDINANCE AND PERMIT TERMS AND CONDITIONS

Sec. 14.5-071. General ordinance regulations and permit terms and conditions

Except for telecommunications permits issued under Article IV, the following terms and conditions shall apply to all persons directing or performing disruption or use of Township right-of-way, regardless of whether they have or are required to have a permit, and shall be considered a part of every disruption and use permit issued under this chapter.

- (a) Non-exclusive. A permit shall be nonexclusive and does not restrict the Township from at any time issuing additional permits to other persons to disrupt and/or use the same Township right-of-way. The issuance of a permit does not establish any priority for the disruption and/or use of a Township right-of-way and permittees shall coordinate their work to avoid conflicts with the Township and all other persons lawfully working in the right-of-way.
- (b) Compliance with permits and laws. All persons shall strictly comply with all of the terms and conditions of a permit and with all applicable laws, codes, restrictions and ordinances, including the public utility notification provisions of Act 174 of the Public Acts of 2013, as amended, and Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended, and no person shall disrupt and/or use any Township

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(CHAPTER 14.5, ARTICLE VI, SECTION 14.5-071(b) cont.)

right-of-way without first obtaining all other required Township or other governmental permits and approvals and paying all other applicable fees.

- (c) Permit fees and taxes. A permittee shall timely pay all annual use and other permit fees and all personal and real property taxes and any other obligations due and payable to the Township.
- (d) Transfer/assignment. A disruption permit is shall not be assigned or transferred without the written consent of the Township which it shall have no obligation to grant. Prior to completion of the construction of the improvements in the Township public rights-of-way covered by a use permit, there shall not be any transfer, conveyance or assignment of the permit or the rights/privileges granted by it or any change in control of permittee, in whole or in part, voluntarily, involuntarily, or by operation of law, merger, consolidation, substantial change in the ownership or control or other means, without prior written consent of the Township, which shall not be unreasonably withheld for reasons unrelated to the ability and/or willingness of the proposed transferee/assignee to comply with the permit and all of its terms and conditions. After the completion of such construction, such a conveyance, transfer, assignment or change in control may be done without Township consent provided that permittee provides written notice to the Township of same no later than thirty (30) days after such occurrence and:
 - (1) Any transferee or assignee shall be qualified to perform under the permit terms and conditions and comply with applicable law, shall be subject to the obligations of the permit, including responsibility for any defaults which occurred prior to the transfer or assignment, shall supply the Township with written notice of the same identification, address and contact information required of a permittee and shall comply with any updated insurance and performance bond requirements under the permit which the Township reasonably deems necessary; and
 - (2) A change in control shall not be to an entity lacking the qualifications to assure permittee's ability to perform under the terms and conditions of the permit and comply with applicable law and shall be subject to compliance with any updated insurance and performance bond requirements which the Township reasonably deems necessary.

If a permit is assigned in whole or in part, its terms and conditions shall be binding upon the successors or assigns of the permittee. A security interest in a permit and the improvements covered by it may be granted at any time without notice to the Township.

- (e) As-built plans. A permittee shall deliver to the Township, as-built plans in a form and at a scale acceptable to the Township for the permitted improvements which are in the Township right-of-way within sixty (60) days after completion of installation or commencement of use, whichever first occurs.
- (f) G.I.S. Within sixty (60) days of completion of improvements, a permittee shall provide the Township with a geographical information system layer in a media form acceptable to the Township, which accurately portrays the permittee's as-built improvements and shall be updated to accurately reflect any changes to the same which are approved by the Township.
- (g) Additional and/or future use. The issuance of a permit does not confer rights to any additional disruption and/or use of the Township's right-of-way, except as specifically granted and described in the permit.
- (h) Township modifications and future use. The issuance of a permit does not prohibit the Township from requiring modifications to permittee's construction activities or from using the Township's right-of-way in a manner which may interfere with, disrupt or prevent the permittee's disruption and/or use of the same. Permittees acknowledge and accept this risk and shall not be entitled to receive any compensation from the Township in the event that the Township uses the Township right-of-way in that manner. The expense of making any necessary modifications of its improvements in order to accommodate a conflict shall be borne by the permittee.
- (i) No interference in Township rights-of-way. No person shall disrupt a right-of-way or construct, install, locate, maintain, use or operate its improvements in the Township's rights-of-way in a manner that interferes with Township or other lawful use, existing water mains, gas lines, sanitary sewer lines, drains or drain pipes, or other improvements that are existing in the Township's right-of-way. Any portion of improvements that so interfere, or that will interfere with a proposed public utility or street improvement project, shall, at the request of the Township, be removed or modified by a permittee or owner of the improvements at its cost, without entitlement to receive any compensation from the Township. Such removal or modification shall be made within a reasonable time of request, as stated in a written notice from the Township. If the removal or modification is not made within such time, the Township may remove or modify the interfering improvement(s) to the extent required, and bill the

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(CHAPTER 14.5, ARTICLE VI, SECTION 14.5-071(i)cont.)

- permittee or owner of the improvements for the expenses incurred in doing so. If such a bill is not paid in full within thirty (30) days of the date of billing, Township may recover its expenses from a permittee's bond and/or by an action at law. With regard to interference with the use of the right-of-way for pedestrian, vehicular or other related purposes, all activities of a permittee shall be undertaken in a manner to minimize interference, and all due precautions shall be taken to maximize public safety.
- (j) Plan, schedule and permit compliance; costs. The installation of improvements in, and the permittee's disruption and/or use of the Township's rights-of-way, shall be in compliance with the plans submitted to and approved and all permits issued by the Township. All costs of the permittee's improvements in use of the right-of-way shall be the sole responsibility of the permittee. All construction and installation of improvements in the Township's rights-of-way, shall be performed by the permittee in compliance with the schedule submitted to and approved by the Township, shall be done and maintained with all necessary precautions to prevent injury or damage to persons and property and in a good and workmanlike fashion in accordance with recognized construction industry and other applicable standards and shall be subject to inspection and final approval of the Township.
 - (k) Restoration of property. Any portion of the Township's right-of-way that is disrupted by the construction, installation, location, maintenance, use or operation of improvements shall be restored to its prior condition by the permittee, owner of the improvements and/or the persons that caused or directed the disruption. The disrupted right-of-way shall be restored and returned to a condition that is as good or better than that which existed at the time the disruption occurred. The time period and the manner in which the restoration is to take place shall be established by the Township, and, in the event the permittee does not complete the restoration in that time and/or does not undertake the restoration in the manner approved by the Township, upon written notice the Township may complete the repair and restoration and recover its costs from any bond posted by the permittee and/or by an action at law. If the bond does not cover all of the costs incurred by the Township, the permittee shall immediately pay the outstanding balance of the costs to the Township, and reinstate the required bond.
 - (l) Maintenance and repair. During the term of a permit, the permittee shall maintain and repair its improvements in a good and workmanlike condition. If permittee fails to do so, the Township may send a written notice to the permittee to correct the defective condition within a specified time. If the defective condition is not corrected within the time allowed, the Township shall be entitled, at its sole discretion, to perform said maintenance and repair, correct the defect and/or remove the improvement, and bill the cost of the same to the permittee. If such a bill is not paid in full within thirty (30) days of the date of billing, the Township may recover its costs from any bond posted by permittee. In the event the bond does not cover all of the costs incurred by the Township, the permittee shall immediately pay the outstanding balance of the costs to the Township and reinstate the required bond.
 - (m) Removal and/or relocation for or by Township. A permittee or owner of improvements shall remove, relocate and/or disconnect any portion of its improvements located in the Township's rights-of-way when the permittee is advised in writing by the Township that the same is necessary for the Township to do any construction, excavation, maintenance, repair or other work in furtherance of the public health, safety and welfare. The Township may remove, relocate, damage, disrupt and/or disconnect a permittee's or owner's improvements in the event of an emergency, including but not limited to civil disorder, war, disaster, accident, fire, flood or severe weather occurrence, if the same is determined to be necessary to protect the public health, safety and welfare, with the Township not being liable to the permittee, owner or any persons receiving services from the improvements, for any damages or injuries caused by the Township's actions.
 - (n) Vacation/abandonment. If a right-of-way is vacated, discontinued, abandoned, terminated and/or released, the permittee's right to use that area of land shall immediately terminate and the permittee shall remove its improvements therefrom.
 - (o) Removal upon expiration or termination of use permit. Upon the expiration or termination of a permit, or if the permittee abandons or ceases operating or using its improvements in the Township's rights of way, within three (3) months or a longer time period established by the Township Board, permittee shall remove all of its improvements from the Township's right-of-way and restore the area to a condition that is as good or better than that which existed prior to the installation and use of its improvements in the Township right-of-way. If the permittee and Township agree that it would not be in the best interest of the public health, safety and welfare for permittee to remove its improvements and the Township agrees to accept ownership of same, at no cost to the Township, permittee shall convey the improvements to the Township, who may thereafter use the improvements. The decisions

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(CHAPTER 14.5, ARTICLE VI, SECTION 14.5-071(o) cont.)

as to whether a permittee shall remove its improvements from the Township's right-of-way and whether the Township will accept ownership, and if so, any conditions, is in the sole discretion of the Township Board.

- (p) Notice of commencement and completion of permitted activities. At least forty-eight (48) hours prior to commencing or performing activities allowed by a permit, the permittee shall notify the Township to arrange for inspection of the activities by the Township. Within five (5) days of completing permitted activities, permittee shall notify the Township so that final inspection may be made.
- (q) Personnel and equipment identification. Personnel, including contractors and subcontractors of permittee conducting permitted activities shall at all times wear or have clearly visible identification as a representative of permittee, and all vehicles and equipment used in the activities shall be clearly identified with permittee's name.
- (r) Prohibited work days. Except for emergencies, no disruption activities shall be performed on Sundays or legal holidays without the written authorization of the Township.
- (s) Traffic control. The permittee shall furnish, install and maintain all necessary traffic controls and protection during disruption activities in accordance with the current edition of the Michigan Manual of Uniform Traffic Control Devices and any special instructions set forth in the permit.
- (t) Private property. A permit does not authorize entry upon private property or the use of private water supplies.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-072. Indemnification

- (a) The Township and its officials, officers, employees, agents, volunteers, representatives and contractors shall not be liable or responsible for any damages or injuries that occur to or are suffered by any person or property which are caused by or result from the permittee's or its contractor's construction, installation, location, use or maintenance of improvements in the Township right-of-way.
- (b) Permittees shall indemnify, defend and hold the Township and its officials, officers, employees, agents, volunteers, representatives and contractors harmless from any claims or encumbrances which may be imposed as a result of any indebtedness by the permittee to any contractors, subcontractors or any other persons providing services, labor or materials to the permittee. If the Township discovers that such a claim or encumbrance has been placed on or against a Township right-of-way, the Township shall notify the permittee in writing to remove the same within thirty (30) days from said notice, with failure to remove such a claim grounds for revocation of permit. If the permittee fails to remove the claim or encumbrance from the Township's right-of-way within thirty (30) days from the Township's written notice, the Township may apply any bond posted by the permittee towards the Township's cost of completely removing the claim or encumbrance. The permittee shall have the affirmative obligation to inform the Township of any claims or encumbrances that the permittee is aware have been placed on or against the Township's right-of-way.
- (c) Permittees shall indemnify, defend and hold the Township, its officers, agents, employees and officials harmless from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses, including attorney fees, of any nature ("claims") arising out of or resulting from the acts or omissions of permittee, its officers, agents, employees, contractors, successors, or assigns or the permittee's use or installation of improvements in the Township right-of-way. The Township shall notify permittees of any such claims and shall cooperate and consult with permittees in the defense and resolution of them, including the selection and direction of legal counsel. The Township shall not settle any claim subject to indemnification under this section without the advance written consent of the permittee, which shall not be unreasonably withheld, with permittees, at their expense, having the right to defend or settle any claim against the Township for which permittee is responsible.

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(CHAPTER 14.5, ARTICLE VI, SECTION 14.5-072 cont.)

- (d) The indemnification obligations of a telecommunications provider that has obtained a telecommunications permit from the Township as provided in the act and this chapter shall be as described in that permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-073. Insurance

- (a) The permittee shall, at its own cost, maintain in full force and effect during the term of each permit, the following kinds of insurance in amounts established by Resolution of the Township Board, with the company providing same to be licensed and admitted to do business in the state and acceptable to the Township:
 - (1) Comprehensive commercial general liability insurance on an occurrence basis, with liability limits in an amount established by resolution of the Township Board, which liability insurance coverage shall include coverage for operations, products and completed operations, contractual liability, independent contractors and for explosion, collapse and underground liabilities, commonly referred to as "XCU" coverage;
 - (2) Motor vehicle insurance covering all owned and non-owned vehicles used in the permitted activities, including state no-fault coverage, with liability limits in amounts established by resolution of the Township Board;
 - (3) Owner's and contractor's protective liability insurance with liability limits established by resolution of the Township Board;
 - (4) Worker's compensation insurance, including employer's liability coverage, in accordance with applicable state statutes;
- (b) The Township and its officials, officers, employees, agents, contractors and representatives shall be named as additional insureds on the comprehensive commercial general liability insurance, owner's and contractor's protective liability insurance and the motor vehicle liability insurance to be obtained by permittee.
- (c) The permittee shall furnish to the Township certificates of insurance and, upon request, certified copies of each insurance policy that the permittee is required by this section to obtain. No insurance policy and coverage that the permittee is required to obtain and keep in full force and effect by this section shall be cancelled, changed or subject to cancellation or reduction without prior written notice to the Township. If any coverage will expire during the term of a permit, the permittee shall deliver renewal certificates to the Township engineer at least ten (10) days prior to the expiration date.
- (d) The insurance obligations of a telecommunications provider that has obtained a telecommunications permit from the Township as provided in the act and this chapter shall be as described in that permit.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-074. Stop work/use orders and permit revocations

All permits shall be subject to the issuance of stop work or stop use orders by the Township Engineer and revocation as provided in Article VII.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-075--14.5-080. Reserved

(CHAPTER 14.5, cont.)

ARTICLE VII STOP WORK OR USE ORDERS, REVOCATIONS AND PENALTIES

Sec. 14.5-081. Stop work or use orders

In addition to any other rights or remedies the Township may have pursuant to this chapter or other applicable law, the Township, upon finding the existence of an imminent threat to the public health, safety or welfare, may order a stoppage of work and/or use pending:

- (a) Removal or elimination of the threat; and/or
- (b) A hearing on the order before the Township Board under Section 14.5-083.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-082. Revocation of permits

The Township Board may revoke a permit for any of the following reasons, subject to undertaking the procedure in Section 14.5-083.

- (a) Permittee's violation of and/or noncompliance with this chapter or a stop work or stop use order of the Township;
- (b) Permittee's failure to comply with any of the terms, conditions and/or requirements of its permit;
- (c) Permittee's failure to obtain permits and other approvals and to timely pay any fees required by this chapter and/or any other applicable ordinances, codes, statutes or laws;
- (d) Violation of any ordinance, code, state or federal law or any other applicable law or legal requirement;
- (e) A change to or cancellation of an insurance policy or coverage required by this chapter without the prior written approval of the Township;
- (f) The cessation of operation, termination, dissolution or disbanding of the permittee;
- (g) Causing, allowing and/or maintaining a nuisance as determined by the Township in the Township's right-of-way;
- (h) Failure to timely pay to the Township any real property taxes, personal property taxes, assessments and/or other obligations;
- (i) Failure to remove any liens or encumbrances from the Township's right-of-way;
- (j) A material change of circumstance relating to the right-of-way which results in a material adverse condition in which to permit a continuation of permittee's use.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-083. Hearing procedure

In the event a stop work or use order is issued or the Township determines that a permit is subject to revocation under this article, the Township shall do the following:

- (a) Mail or deliver a written notice of hearing to the permittee at the last address furnished to the Township by permittee, at least ten (10) days prior to the hearing and containing the following information:
 - (1) Notice of the Township's proposed action and stop work or use order, if applicable;
 - (2) Reasons for the Township's proposed action and stop work or use order, if applicable;
 - (3) Date, time and location of hearing; and
 - (4) A statement that at the hearing the permittee may present witnesses, evidence, information and arguments on its behalf, and that the permittee has the right to be represented by counsel.
- (b) At the hearing the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information and comments on the matters addressed at the hearing.
- (c) Following the hearing, the Township Board shall make a decision to continue, modify or dissolve a stop work or use order and/or revoke a permit, as applicable. In the event the Township Board decides to revoke a permit or to continue or modify a stop work or use order, the Township Board shall state the reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, ARTICLE VII, cont.)

Sec. 14.5-084. Violations/penalties; Civil infraction

- (a) Any person determined to be in violation of this chapter or a permit issued under it shall be responsible for a municipal civil infraction, and shall pay a fine in the following amount:
 - (1) First offense: \$1,000.00
 - (2) Second or subsequent offense: \$5,000.00
- (b) Any person in violation of this chapter or a permit issued under it shall be responsible for restoration of the right-of-way to the condition that existed prior to the violation. If such person fails or refuses to restore the right-of-way within thirty (30) days of written notice from the Township, and if the Township determines that the civil infraction remedy is inadequate under the circumstances, the Township may initiate proceedings in the appropriate court to recover the cost estimated to accomplish the restoration, or recover such costs as have been actually expended by the Township in achieving the restoration, as the case may be. Such costs shall include finance and reasonable administrative costs estimated or incurred.
- (c) Each occurrence of a violation, and each day a violation exists, shall constitute a separate violation of this chapter.
- (d) Violations of this chapter are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-085. Election of remedies

Violations of this chapter and permits or orders issued under it subject the violator to Township enforcement through one (1) or more of the remedies provided in this article, and the election by the Township to pursue one (1) form of remedy does not waive or restrict the Township's option to pursue other remedies at the same or later time.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-086--14.5-090. Reserved

ARTICLE VIII MISCELLANEOUS

Sec. 14.5-091. No waiver

Nothing in this chapter shall be construed as a waiver of any of the rights, remedies and/or authority of the Township pursuant to any laws, ordinances, Codes or regulations of the Township, and the Township reserves the right to exercise all authority and take any and all action granted to it by any constitution, law, Township ordinance, code and/or regulation. Nothing in this article shall be construed to limit and/or preclude the Township from exercising its right of eminent domain.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-092. Notices

Any notices required to be sent to the permittee by this chapter may be delivered, or may be sent by first-class mail to the permittee at the address listed in the permittee's disruption and/or use permit application.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-093. Severability

If any section, clause or provision of this chapter shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this chapter, but the remainder of this chapter shall stand and be in full force and effect.

(Ord. of 1-26-2004, § 1)

(CHAPTER 14.5, ARTICLE VIII, cont.)

Sec. 14.5-094. Repealer

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this chapter full force and effect.

(Ord. of 1-26-2004, § 1)

Sec. 14.5-095. Savings

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this chapter takes effect are saved and may be consummated according to the law when they were commenced. As hereby amended, the Township right-of-way management ordinance, shall continue in full force and effect, with all rights and liabilities that existed under permits and sections of the chapter being amended, hereby saved and preserved for all purposes related to the terms and conditions of those permits and the Township's permit authority. Should any portion of the right-of-way management ordinance, as hereby amended, be declared invalid, that portion shall cease to be a part of the ordinance, the remainder of which shall be unaffected.

(Ord. of 1-26-2004, § 1)

Secs. 14.5-095--14.5-100. Reserved

ARTICLE IX. - WIRELESS FACILITIES IN RIGHT-OF-WAY

Sec. 14.5-101. - Purpose.

This Article is adopted in response to new and differing State and Federal regulations, including Michigan Public Act No. 365 of 2018 (MCL 460.1301 - 460.1339), 47 USC 1455, Rules adopted by the Federal Communications Commission (FCC) as 47 CFR 1.40001 (now 47 CFR 1.6100) and 47 CFR 1.6001 - 1.6003, and the FCC's Declaratory Ruling and Third Report and Order in FCC 18-133, that infringe on the Township's constitutional and proprietary rights and interests in its public right-of-way and the reasonable control thereof under Article VII, Section 29 of the Michigan Constitution of 1963, the Charter Township Act, and other applicable laws, which would allow the Township to require public right-of-way users to obtain a franchise or license from the Township. Without waiving those Township rights, this Article is adopted for the purpose of complying with those State and Federal regulations by providing for and regulating access to and ongoing use of public rights-of-way for wireless facilities that are not considered to be telecommunications facilities covered by the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act"), and permits applied for and issued under that Act and Article IV of this Chapter.

Sec. 14.5-102. - Definitions.

As used in this Article, the following words and phrases shall have the indicated meanings:

Applicant means a wireless provider that applies for a permit or approval for wireless facilities, a wireless support structure, or utility pole in a public right-of-way.

Collocation or collocate means to place, replace, modify, mount, or install wireless facilities on or adjacent to a wireless support structure or utility pole, but does not include make-ready work or the installation of a new wireless support structure or utility pole.

Eligible facilities request means a request for modification of a lawfully existing wireless tower or lawfully existing wireless base station in a public right-of-way that involves collocation, removal, or replacement of wireless facilities that will not substantially change the physical dimensions of the wireless tower or based station support structure, with wireless tower, wireless base station, and substantial change defined in Section 14.5-110.

Micro wireless facility means a small wireless that is not more than 24 inches in length, 15 inches in width, and 12 inches in height that does not have an exterior antenna more than 11 inches in length.

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(CHAPTER 14.5, ARTICLE VIV, SEC 14.5-102 cont.)

Public right-of-way means the area on, above, or below a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses, whether owned or controlled by, or under the jurisdiction of, the Township or county, state, or federal government but does not include a private right-of-way, limited access highway, land owned or controlled by a railroad, and railroad infrastructure.

Small wireless facility means a wireless facility that meets each of the following requirements:

- (a) Each antenna is enclosed or would fit within an enclosure of not more than 6 cubic feet in volume.
- (b) All other wireless facilities associated with all antennas at a single location are not more than 28 cubic feet in volume, with electric meters, telecommunications demarcation boxes, grounding equipment, power transfer and cut-off switches, vertical cable runs, and concealment elements required by the Township excluded from that calculation.

Utility pole means a pole or similar structure other than a wireless support structure, that is or may be fully or partially used for cable or wireline communications, electric distribution, lighting, traffic control, signage if the pole is at least 15 feet in height above ground level, or a similar function, or that is designed to support small wireless facilities.

Wireless facility or facilities means equipment and components at a fixed location that enable or facilitate the provision of wireless services, including antennas, transmitters, receivers, coaxial or fiber-optic cable, equipment shelters or cabinets, power supplies, comparable equipment, and miscellaneous hardware, but excluding structures or improvements on, under, or within which the equipment is collocated, telecommunication facilities as defined in Article IV, and a wireline backhaul facility.

Wireless provider means a person or entity that provides wireless services and a person or entity that builds wireless facilities or support structures for a disclosed provider of wireless services.

Wireless service means a wireless communication service that is permitted or authorized by the Federal Communications Commission, which includes but is broader than personal wireless services as defined in 47 USC 332.

Wireless service provider means a person or entity that provides wireless services.

Wireless support structure means a freestanding structure designed to support or capable of supporting small wireless facilities but does not include a utility pole.

Sec. 14.5-103. - Required permits and approvals to be applied for and complied with.

(a) Wireless facilities, wireless support structures, and utility poles shall not be installed, used, operated, or maintained in a public right-of-way without complying with the applicable regulations in this Article and first obtaining and thereafter complying with the terms and conditions of all of the following permits or approvals:

(1) A Use Permit to be applied for, reviewed, and issued or denied under Articles III and V of this Chapter and the requirements, standards, and regulations in this Article. Section 14.5-021(c) that requires Township Board approval, Section 14.5-024 that limits the term, and Section 14.5-058(a) regarding the time allowed for permit decisions, and any other provisions in Articles III or V that conflict with this Article shall not apply to the Use Permit.

(2) Required building, electrical, and other construction code permits from the Township Building Official to be applied for, reviewed, and issued or denied under Article III in Chapter 4 of the Code.

(3) Any approvals or permits required, to be applied for, reviewed, and issued or denied under the Township Zoning Ordinance.

(b) A permit or approval shall not be required, and fees or rates shall not be payable for:

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-103 cont.)

- (1) Replacement of a small wireless facility with a small wireless facility that is not larger or heavier and complies with applicable codes.
 - (2) Routine maintenance of small wireless facilities, wireless support structures, or utility poles.
 - (3) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.
- (c) Any construction code and Zoning Ordinance permits or approvals for wireless facilities, wireless support structures, or utility poles shall be conditioned on the issuance of and compliance with the Use Permit and conditions of that Permit.
- (d) The time period for the Township to act on a wireless provider permit or approval application for wireless facilities, support structures, or utility poles under this Article shall not commence until the Township has complete applications for all of the required Township Permits listed in subsection (a).
- (e) In addition to Township permits and approvals, any required permits from other governmental entities that also have an ownership, control, or jurisdictional interest in the public right-of-way (Road Commission of Oakland County or RCOT and Michigan Department of Transportation or MDOT) must be obtained prior to construction, and thereafter complied with. Obtaining a permit for wireless facilities, wireless support structures, or utility poles from another governmental entity who shares the public right-of-way with the Township does not relieve a wireless provider from the need to comply with the standards in this Article and the Township reserves the right to require that a Use Permit under this Article be applied for, obtained, and complied with.

To the extent applicable and allowed under existing franchises, permits, and applicable law, the permit requirements under this Article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

Sec. 14.5-104. - Types of wireless facilities and applicable standards.

- (a) The following types of wireless facilities, support structures, and utility poles in the public right-of-way are addressed and subject to the application, review, and other standards and regulations in the indicated Section of this Article:
- (1) Section 14.5-108 for collocation of a small wireless facility on an existing wireless support structure or utility pole.
 - (2) Section 14.5-109 for collocation of a small wireless facility on a new or replacement wireless support structure or utility pole.
 - (3) Section 14.5-110 for eligible facilities requests.
 - (4) Section 14.5-111 for collocation of wireless facilities other than small wireless facilities and eligible facilities requests.
 - (5) Section 14.5-112 for replacement and new wireless support structures or utility poles not involving small wireless facilities or eligible facilities requests.
- (b) An application for a permit or approval required under this Article shall conspicuously identify the type of wireless facilities proposed and the ordinance Section(s) listed in subsection (a) that the applicant believes to be applicable.

Sec. 14.5-105. - Applications for Right-of-Way Use Permits.

- (a) Applications for Use Permits for proposed wireless facilities, wireless support structures, and utility poles under this Article shall be as provided in Articles III and V of this Chapter, with the construction plans and construction and schedule information listed in Sections 14.5-055 and 14.5-056 as being for disruption permits required for the Use Permit application. The Use Permit application shall include:

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-105cont.)

- (1) By reference to those listed in Section 14.5-104(a), a conspicuous identification of the type of wireless facilities proposed and applicable ordinance Section.
 - (2) Documentation of the date when complete applications for construction code permits and any required Zoning Ordinance permits or approvals were or will be made.
 - (3) Copies of all applications, plans, and other documents submitted to the Road Commission of Oakland County (RCOC) and Michigan Department of Transportation (MDOT) for a construction permit or documentation of the date when those submittals will be made and with an agreement to provide the Township with the required copies at that time.
- (b) The construction plans and application information under Sections 14.5-053, 14.5-054, 14.5-055, 14.5-056 in Article V shall include the following:
- (1) Information necessary to demonstrate compliance with the applicable standards for the type of wireless facilities, support structure, or utility poles for which approval is requested under Sections 14.5-108 through 14.5-112.
 - (2) Information necessary to demonstrate compliance with the public, utility, and traffic safety and protection standards in Section 14.5-106.
 - (3) Information necessary to demonstrate compliance with the aesthetic, spacing, and undergrounding standards in Section 14.5-107.
 - (4) Manufacturer, model number, height, width, depth, weight, and volume in cubic feet of all proposed wireless facilities individually and collectively, specifically including the total cubic feet of each antenna and the total cubic feet of all other wireless facilities.
 - (5) Certified documentation that each proposed wireless support structure or utility pole can structurally accommodate the proposed wireless facilities and documentation of any ability to accommodate any future wireless facilities.
 - (6) Underground improvements and above ground improvements, structures, and landscaping (as described in Section 14.5-055) within 75 feet of the proposed location.
 - (7) Geographic information system (GIS) coordinates for the proposed location.
 - (8) Photos of existing conditions and photo simulations of proposed conditions.
 - (9) A certificate of compliance with FCC rules related to radio frequency emissions from the proposed wireless facilities.
 - (10) A written certification by the applicant that the wireless facilities for which the permit is requested will be operational within one (1) year after permit issuance.
 - (11) The information required for applicants in Section 14.5-053(d) for the owners of and wireless providers that will use the proposed wireless facilities, wireless support structures, and utility poles.
 - (12) Documentation of the applicant's ability to provide any required bond under Section 14.5-115.
 - (13) Payment of any application, review, or processing fee established by resolution of the Township Board under Section 14.5-116.
 - (14) For applications that would involve exceeding the height limits under Public Act No. 365 of 2018, to the height limits allowed by 47 CFR 16.001 - 16.003, a statement of whether the applicant agrees to payment of the annual recurring fees recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133.
- (c) An application may be for up to 20 collocations by the applicant of substantially similar small wireless facilities for placement on similar types of wireless support structures or utility poles.

Sec. 14.5-106. - Public, utility, traffic, and pedestrian safety protection standards.

- (a) Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to avoid material interference with the safe operation of traffic equipment, sight lines and clear vision areas, Americans with Disabilities Act (ADA) compliance regarding pedestrian access or movement, and the maintenance and full unobstructed use of public utility and drainage infrastructure:
- (1) Shall have a separation distance of at least five (5') feet from a sidewalk and the back of a curb, or if there is no curb, from the edge of the improved public right-of-way used for motor vehicle travel.

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-106 cont.)

- (2) Shall have a separation distance of at least five (5') feet from the edge of any driveway and not be positioned to obstruct the ability to view traffic on the road from a vehicle exiting a driveway.
- (3) Shall be located outside the corner clearance area under the Zoning Ordinance and comply with any other traffic safety clear vision standard under any Township or other governmental ordinance, code, standard, rule, or regulation.
- (4) Shall not cause a physical or visual obstruction or safety hazard to pedestrian or vehicular traffic.
- (5) Shall comply with any setback, separation, or isolation distance requirement from existing or planned public utilities and lawful structures in the public right-of-way under any Township ordinance, code, or design standards.
- (6) The lowest part of wireless facilities shall be located at a height that is at least ten (10') feet above existing grade or higher as necessary to not pose a hazard or obstruction to persons or vehicles and to provide sufficient separation distance from power lines and similar facilities.
- (7) Wireless support structures and utility poles shall not have more collocated wireless facilities than the structure or pole is designed and constructed to safely accommodate as documented by a certified structural analysis.
- (8) Construction and traffic control during construction shall be in accordance with the Michigan Manual of Uniform Traffic Control Devices, Michigan Vehicle Code, and the directives of the Township public safety department.
- (9) Shall not interfere or prevent compliance with Americans with Disabilities Act standards regarding pedestrian access and movement.
- (10) Shall comply with all conditions of any required permits from other governmental entities.

(b) To provide compliance with one or more of the standards in subsection (a), the Township may require that a proposed collocation involving a new or replacement utility pole be moved by up to 75 feet for collocation on a designated existing wireless support structure or utility pole or to a designated location for the new or replacement utility pole. The applicant may request a waiver of this requirement by demonstrating in writing that the applicant cannot secure the right to comply with the Township's requirement on reasonable terms and conditions and that compliance imposes unreasonable technical problems or significant additional costs.

(c) An applicant may request a waiver or modification of one or more of the standards in subsection (a) by demonstrating in writing that compliance will prevent a disclosed wireless service provider that would be using the proposed wireless facilities, support structure, or utility pole, from providing personal wireless services in violation of 47 USC 332.

Sec. 14.5-107. - Aesthetic, spacing, and undergrounding standards.

- (a) Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to conceal such facilities, structures, and poles to the extent technically feasible in an effort to avoid or remedy the tangible and intangible public harm of installations in the public right-of-way that are unsightly, out-of-character with the surrounding area, or could result in the direct or indirect removal of trees and other aesthetically desirable features and appearances:
- (1) Shall be strictly limited to the location and what is shown on the approved plans.
 - (2) Wireless facilities shall be treated and colored to be visually compatible with the wireless support structure or utility pole they are collocated on or associated with by painting or other

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-107 cont.)

coating. For existing wood utility poles, a finish color of conduit that is zinc, aluminum, or stainless steel is considered visually compatible.

(3) Wireless facilities shall be compatible in scale and proportion to the structure or pole upon which they are to be attached, using the smallest and least intrusive technology available, with the diameter of top mounted antennas to not exceed twice the diameter of the top of the structure or pole.

(4) Antennas shall be top mounted and aligned with the centerline of wireless support structures or utility poles, or side mounted with the vertical centerline of the antenna parallel with the support structure or utility pole.

(5) All cables and wires shall be placed in conduit or otherwise properly secured and concealed on the wireless support structure or utility pole.

(6) No more than three (3) antennas may be collocated on a utility pole and only if that number of antennas can be designed and accommodated in a manner that complies with all requirements of this Section.

(7) Existing trees in the public right-of-way shall not be removed or trimmed to facilitate the installation, use, or maintenance of wireless facilities.

(8) Wireless facilities, support structures, and utility poles shall not be located within the drip line (critical root zone) of an existing tree in or adjoining the public right-of-way.

(9) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be located as close as legal and technically feasible to the wireless support structure or utility pole they are associated with.

(10) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be concealed to the extent technically feasible by matching color and materials to existing above-ground structures, landscaping, and placement to take advantage of concealment provided by the proposed structure or pole, existing landscaping, or above-ground improvements.

(11) Wireless facilities shall not project more than two (2') feet from any side of the utility pole or wireless support structure upon which they are collocated.

(12) Wireless facilities shall not be illuminated unless required by law or integral to a concealment design such as appearance as or on a street light pole.

(13) New and replacement utility poles shall be located in alignment with existing utility poles on either side.

(14) New and replacement utility poles shall be located equidistance from existing utility poles on either side.

(15) New and replacement utility poles shall be made of the same material and have the same visual appearance as the existing utility poles on either side. If those existing utility poles are different, the new or replacement pole shall be metal or fiber if either existing pole is of that material and shall otherwise be the same material as the newer of the existing poles.

(16) Unless a greater height is approved under this Article as required by state or federal law, wireless support structures and utility poles shall not be taller than the existing utility poles on either side.

(17) In a public right-of-way abutting residentially used or zoned property, new wireless facilities, wireless support structures, and utility poles shall only be located in line with a side lot line.

(18) New wireless facilities shall not be collocated on an existing wireless support structure or utility pole that is directly in front of an existing residential dwelling or that is along the frontage of a property containing a building of historic significance under federal, state, or other laws.

(19) New wireless facilities, wireless support structures, and utility poles shall not be located in front of an existing residential or commercial structure.

(20) In a public right-of-way abutting residentially used or zoned property, wireless facilities that require a cooling system shall use a passive system, or if a motorized system is technologically required, shall use a system and fan with the lowest available noise level.

(21) Except for a label containing the name and emergency contact telephone number for the wireless provider responsible for the wireless facilities and wireless support structure or utility pole, information that identifies them and their location, and any information required to be

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-107 cont.)

displayed by state or federal law, no signage shall be allowed, with all manufacturer decals that are not needed for safety reasons to be removed or painted over.

(22) Regardless of the number of antennas that are collocated on a utility pole or wireless support structure, the other wireless facilities associated with those antennas shall not exceed 28 cubic feet in volume.

(23) Collocations on and replacement or new utility poles or wireless support structures in a public right-of-way that has been specifically designated or identified by ordinance or Township Board resolution for a program of improvement, redevelopment, beautification, regulation, or other planning goals, shall be subject to Township review and approval of the design, appearance, and method and height of attachment to assure consistency, compatibility, and uniformity with the standards, objectives, installations and streetscape appearance planned for that public right-of-way under the program.

(b) To provide compliance with one or more of the standards in subsection (a), the Township may require that a proposed collocation involving a new or replacement utility pole be moved by up to 75 feet for collocation on a designated existing wireless support structure or utility pole or to a designated location for the new or replacement utility pole. The applicant may request a waiver of this requirement by demonstrating in writing that the applicant cannot secure the right to comply with the Township's requirement on reasonable terms and conditions and that compliance imposes unreasonable technical problems or significant additional costs.

(c) Above ground wireless facilities and support structures and utility poles shall not be allowed in an area designated by the Township Board solely for underground or buried cable and utility facilities if all of the following apply:

(1) The Township has required all cable and utility facilities, other than Township, street light, and traffic signal poles and attachments, to be placed underground by a date that is not less than 90 days before the submission of the application.

(2) The Township does not prohibit the replacement of Township poles by a wireless provider in the designated area.

(d) An applicant may request a waiver or modification of one or more of the standards in subsections (a) and (c) by demonstrating in writing that compliance will prevent a disclosed wireless service provider that would be using the proposed wireless facilities, support structure, or utility pole, from providing personal wireless services in violation of 47 USC 332.

(e) To the extent applicable and allowed under existing franchises, permits, and applicable law, the permit requirements under this Article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

Sec. 14.5-108. - Collocation of small wireless facilities on existing structures and poles.

(a) This Section applies to the collocation of small wireless facilities on existing wireless support structures or utility poles.

(b) For collocations where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole they are collocated on.

(c) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to compliance with subsection (b), the collocation shall not result in a height that exceeds the greater of the following overall heights of the structure or pole and collocated wireless facilities:

(1) 50 feet.

(2) A height that is 10% more than the height of the existing structure or pole.

(3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.

(d) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this Article, the Township shall approve or deny an

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-108 cont.)

application for a permit under this Section within 60 days of all applications for the requested facilities being submitted and complete.

(e) A permit application under this Section may only be denied for reasons listed in Section 14.5-113(b).

Sec. 14.5-109. - Collocation of small wireless facilities on replacement/new structures and poles.

(a) This Section applies to the collocation of small wireless facilities on new or replacement wireless support structures or utility poles.

(b) For collocations where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole and the new or replacement wireless support structure or utility pole used for collocation shall not exceed 40 feet in height above ground level.

(c) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, the collocation shall not result in a height that exceeds the greater of the following overall heights of the new or replacement structure or pole and collocated wireless facilities:

(1) 50 feet.

(2) For a replacement structure or pole, a height that is 10% more than the height of the structure or pole being replaced.

(3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.

(d) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this Article, the Township shall approve or deny an application for a permit under this Section within 90 days of all applications for the requested facilities being submitted and complete.

(e) A permit application under this Section may only be denied for reasons listed in Section 14.5-113(b).

Sec. 14.5-110. - Eligible facilities requests.

(a) This Section applies to eligible facilities requests as defined in Section 14.5-102.

(b) For purposes of this Section:

(1) Wireless tower means a structure in a public right-of-way, the sole or primary purpose of which is to support antennas and associated wireless equipment for the provision of wireless services.

(2) Wireless base station means equipment or a structure (other than a wireless tower), that at the time of the application, supports or houses wireless facilities at a fixed location that enables wireless service between user equipment and a communications network.

(c) An eligible facilities request application shall include the documents, plans, specifications, and statements necessary to establish that:

(1) The wireless tower or base station is existing.

(2) The wireless tower or base station to be modified is in compliance with all applicable prior Township, state, and other local zoning, siting, and regulatory reviews, permits, and approvals.

(3) Modification is limited to collocation, removal or replacement of wireless equipment.

(4) There will be no "substantial change" to the wireless tower or base station.

(d) For purposes of this Section substantial change means any of the following:

(1) Increasing the height over the height approved as of February 22, 2012, by more than 10% or more than 10 feet, whichever is greater.

(2) Adding wireless facilities that would protrude from the edge of the structure by more than six (6) feet.

(3) The installation of new ground equipment cabinets if there are no pre-existing ground cabinets.

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-110 cont.)

- (4) If there are existing ground equipment cabinets, the installation of ground cabinets that are 10% larger in height or overall volume than the existing cabinets.
- (5) Excavation or deployment outside the perimeter of the area occupied by the wireless tower or base station and existing wireless facilities.
- (6) A modification that does not comply with prior approval conditions for the wireless support structure or base station unless the noncompliance is limited to a modification that would not be a substantial change under the above standards in subsections (1) through (5)
- (7) A modification that would defeat or be incompatible or inconsistent with existing elements of a wireless tower or base station designed to conceal or minimize its appearance as a wireless tower or base station.
- (e) Subject to the possible time adjustments under 47 CFR 1.6100 that is included in the Shot Clock Appendix to this Article, the Township shall approve or deny an application for a permit under this Section within 60 days of all applications for the requested facilities being submitted and complete.

Sec. 14.5-111. - Collocation of wireless facilities other than small wireless facilities and eligible facilities requests.

- (a) This Section applies to the collocation of wireless facilities that are not described in Sections 14.5-108, 14.5-109, or 14.5-110.
- (b) Collocations shall comply with all standards in Sections 14.5-106 and 14.5-107.
- (c) For collocations where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole they are collocated on.
- (d) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to compliance with subsection (c) and the applicant's demonstration that a disclosed wireless provider will be prohibited from providing personal wireless services without the increased height, the collocation shall not result in a height that exceeds the greater of the following overall heights of the structure or pole and collocated wireless facilities:
 - (1) 50 feet.
 - (2) A height that is 10% more than the height of the existing structure or pole.
 - (3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.
- (e) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this Article, the Township shall approve or deny an application for a permit under this Section within 90 days of all applications for the requested facilities being submitted and complete.

Sec. 14.5-112. - Replacement and new wireless support structures and utility poles not involving small wireless facilities or eligible facilities requests.

- (a) This Section applies to the new and replacement wireless support structures and utility poles not involving collocation of wireless facilities under Sections 14.5-108, 14.5-109, or 14.5-110.
- (b) Wireless support structures and utility poles shall comply with all standards in Sections 14.5-106 and 14.5-107.
- (c) For wireless support structures and utility poles where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, the height shall not exceed 40 feet above ground level and wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole.
- (d) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to the applicant's demonstration that a disclosed wireless provider will be prohibited from providing personal

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(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-112 cont.)

wireless services without a height greater than in subsection (c), the wireless support structure or utility pole may be increased to a height that does not exceed the greater of the following overall heights of the structure or pole and collocated wireless facilities:

- (1) 50 feet.
- (2) A height that is 10% more than the height of the existing structure or pole.
- (3) A height that is 10% more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.

(e) For new and replacement wireless support structures and utility poles under this Section, the Township may specify and require relocation from what is proposed to a new location in the same general public right-of-way area based on any standard listed in Sections 14.5-106 and 14.5-107, or permit condition listed in Section 14.5-114.

(f) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this Article, the Township shall approve or deny an application for a permit under this Section within 150 days of all applications for the requested facilities being submitted and complete.

Sec. 14.5-113. - Review and decisions on use permit applications.

(a) Within the time allowed for approval or denial of a permit application, the Township shall issue a written notice to the applicant that either denies the requested permit for specified reasons with citations to applicable Sections of this Chapter or other codes, or provides notice that the application has been approved and the requirements for the permit to be issued.

(b) An application under Sections 14.5-108 or 14.5-109 for wireless facilities, support structures, or utility poles described in and complying with those Sections may only be denied if the facilities, structures, or poles would do one or more of the following:

- (1) Materially interfere with the safe operation of traffic control equipment.
- (2) Materially interfere with sight lines or clear zones for transportation or pedestrians.
- (3) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.
- (4) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the Township.
- (5) With respect to drainage infrastructure under the jurisdiction of the Township or other governmental entity, either of the following:
 - A. Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.
 - B. Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the Drain Code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.
- (6) Fail to comply with the one or more spacing standards in Sections 14.5-106 or 14.5-107 that do not prevent a wireless provider from serving any location.
- (7) Fail to comply with applicable codes.
- (8) Fail to comply with the aesthetic, spacing, or undergrounding standards in Section 14.5-107 in a historic, downtown, or residential district unless such compliance is demonstrated by the applicant to prohibit use of the wireless service provider's technology.
- (9) Fail to meet the aesthetic, spacing, or undergrounding standards in Section 14.5-107 unless such compliance is demonstrated by the applicant to prohibit the provision of personal wireless services.

(c) If an application is denied, the applicant may attempt to cure the reasons for denial by submitting a revised application with amended or supplemental information within 30 days of the denial without payment of an additional application fee. The Township shall approve or deny the revised application within 30 days, limiting its review to the reasons for denial, and provide notice of that decision as provided in subsection (a).

(CHAPTER 14.5, ARTICLE VIV, SEC. 14.5-113 cont.)

(d) Before issuance of a permit, any bond required by Section 14.5-115 shall be provided and the annual fee established by Resolution of the Township Board for the approved wireless facilities under Section 14.5-116 shall be paid.

Sec. 14.5-114. - Permit terms and conditions.

In addition to the permit terms and conditions in Article VI of this Chapter, every Use Permit issued under this Article shall be considered to include the following conditions, with these conditions to control in the event of any conflict or inconsistency with those in Article VI. Compliance with permit conditions is required, with a violation of permit conditions being a violation of this Article.

(a) Repair. All wireless providers using the wireless facilities, support structures, or utility poles are responsible for repairing all damage to the public right-of-way caused by the activities of one or more of those providers while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing wireless facilities, wireless support structures, or utility poles, and to restore the public right-of-way to the condition that existed prior to the damage. If the wireless providers fail to perform the repairs and restoration within 60 days of the Township's written notice to do so, the Township may perform the repairs and restoration, with the wireless providers responsible for paying the Township its reasonable and documented costs within 30 days of the Township's invoice or billing for those costs.

(b) Electricity. All wireless providers using the wireless facilities, support structures, or utility poles shall be responsible for arranging and paying for all electricity used for the wireless facilities.

(c) Indemnification. All wireless providers using the wireless facilities, support structures, or utility poles shall defend, indemnify, and hold harmless the Township and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, wireless providers using the facilities, structures, or poles, and their contractors, subcontractors, and the officers, employees, or agents of any of these. This obligation does not apply to any liabilities or losses due to or caused by the sole negligence of the Township or its officers, agents, or employees.

(d) Insurance. All wireless providers using the wireless facilities, support structures, or utility poles obtain insurance naming the Township and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees in amounts required by the Township. A wireless provider may meet all or a portion of the Township's insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this Section. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the Township evidence demonstrating, to the Township's satisfaction, the wireless provider's financial ability to meet the Township's insurance coverage and limit requirements.

(e) Marking. Permittee shall mark the Wireless facilities, structures, and poles in compliance with applicable federal and state law requirements, with each location at which Wireless facilities, structures, and poles are located to have a written sign that is readable from ground level that at a minimum states Permittee's name and a toll-free telephone number to call for assistance, and if Wireless facilities, structures, and poles are underground, a statement that there is buried equipment at the site.

(f) Coordination. Permittee shall coordinate its construction and all other work in the Public Right-of-Way with any Township programs or projects Permittee was notified of in the Township's review comments on disruption permit application.

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(CHAPTER 14.5, ARTICLE IV, SEC. 14.5-114 cont.)

(g) **Underground Relocation.** If Permittee has its wireless facilities on poles of a utility or telecommunications provider and such utility or telecommunications provider relocates its system underground, this Permit shall terminate as to any such pole that is no longer used except by Permittee for its wireless facilities. Permittee shall remove any such pole described in this subsection at its cost and expense within a reasonable time period specified by the Township in a written notice. If Permittee fails to satisfy this obligation, Township may take all reasonable actions it deems necessary to secure timely completion of the required work.

Sec. 14.5-115. - Bond.

A bond may be required to be posted prior to issuance of a Use Permit under this Article in an amount not exceeding \$1,000.00 for each wireless facility at a location to provide for removal of abandoned or improperly maintained facilities, repair and restore the public right-of-way, and recoup rates or fees that have not been paid within 12 months of when they were due. The Township may not require the bond to be cash unless the wireless provider has failed to obtain or maintain a required bond in a form other than cash or the surety has defaulted or failed to perform on a bond given on behalf of the wireless provider.

Sec. 14.5-116. - Fees.

Application, review, inspection, and recurring annual rates or fees shall be payable to the Township in amounts established by Township Board resolution.

Sec. 14.5-117. Shot Clock Appendix.

The attached Shot Clock Appendix containing MCL 460.1315, 47 CFR 1.6003, and 47 CFR 1.40001 is part of this Article.

Sec. 14.5-118. - Construction Permits.

- (a) A copy of every RCOC or MDOT issued construction permit for work in a public right-of-way for which a Use Permit under this Article has been applied for, approved, or issued shall be filed with the Township within three (3) days of issuance.
- (b) Work in a public right-of-way authorized by a construction permit issued by RCOC or MDOT shall not be commenced or performed until all Township permits and approvals required under this Article have been issued.

Sec. 14.5-119. - Township Administration and Enforcement.

- (a) Upon the Ordinance that added this Article taking effect, the Township shall provide RCOC and MDOT with copies of Sections 14.5-106 and 14.5-107 with a request that those public, utility, traffic and pedestrian safety protection standards and aesthetic, spacing, and undergrounding standards be applied in the review and decision on construction permit applications.
- (b) Upon receiving and reviewing an application for a Use Permit under this Article, the Township shall written notice of any noncompliance with Sections 14.5-105, 14.5-106, or 14.5-107 to RCOC for a county road and to MDOT for a state highway with a request that any construction permit applied for be withheld until or conditioned on cure of the noncompliance.
- (c) The Township reserves the right to notify and request enforcement by RCOC or MDOT of violations of the terms and conditions of construction permits issued by them.

Sec. 14.5-120. - Violations.

A violation of any Section in this Article or permit condition shall be a municipal civil infraction. Nothing in this Section shall be construed to limit the remedies available to the Township under a permit or otherwise by law for such violations.

(Ord. of 4-08-2019)

SHOT CLOCK APPENDIX TO WIRELESS FACILITIES IN RIGHT-OF-WAY ORDINANCE

As provided in Section 14.5-117, this Shot Clock Appendix is a part of Article VIII, Wireless Facilities in Right-of-Way, in Chapter 14.5, Right-of-Way Management, of the Waterford Charter Township Code, and contains the state statute and federal regulations referred to in Sections 14.5-108, 14.5-109, 14.5-110, 14.5-111, and 14.5-112 of that Code. "Shot Clock" is a reference to a time deadline established by law for action on a permit request.

SHOT CLOCK PROVISIONS FROM MCL 460.1315.

[Subsections (2)(a)-(c), (f), (g), and (i)-(o), and (3) - (8) are not shot clock provisions and are omitted.]

- (1) This section applies to activities of a wireless provider within the public right-of-way.
- (2) Except as otherwise provided in subsection (5), an authority may require a permit to collocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility will be collocated if the permit is of general applicability. The processing of an application for such a permit is subject to all of the following:
 - (d) Within 25 days after receiving an application, an authority shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically delineate all missing documents or information. The notice tolls the running of the time for approving or denying an application under subdivision (h).
 - (e) The running of time period tolled under subdivision (d) resumes when the applicant makes a supplemental submission in response to the authority's notice of incompleteness. If a supplemental submission is inadequate, the authority shall notify the applicant in writing not later than 10 days after receiving the supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified in subdivision (d). Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (h) The authority shall approve or deny the application and notify the applicant in writing within the following period of time after the application is received:
 - (i) For an application for the collocation of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:
 - (A) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.
 - (B) Add 15 days if, before the otherwise applicable 60-day or 75-day time period under this subparagraph elapses, the authority notifies the applicant in writing that an extension is needed and the reasons for the extension.
 - (ii) For an application for a new or replacement utility pole that meets the height requirements of section 13(5)(a) [Ordinance Section 14.5-109] and associated small cell facility, 90 days, subject to the following adjustments:
 - (A) Add 15 days if an application from another wireless provider was received within 1 week of the application in question.
 - (B) Add 15 days if, before the otherwise applicable 90-day or 105-day time period under this subparagraph elapses, the authority notifies the applicant in writing that an extension is needed and the reasons for the extension.

If the authority fails to comply with this subdivision, the completed application is considered to be approved subject to the condition that the applicant provide the authority not less than 7 days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval.

47 CFR 1.6003 REASONABLE PERIODS OF TIME TO ACT ON SITING APPLICATIONS.

- (a) Timely action required. A siting authority that fails to act on a siting application on or before the shot clock date for the application, as defined in paragraph (e) of this section, is presumed not to have acted within a reasonable period of time.
- (b) Shot clock period. The shot clock period for a siting application is the sum of—

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- (1) The number of days of the presumptively reasonable period of time for the pertinent type of application, pursuant to paragraph (c) of this section; plus
- (2) The number of days of the tolling period, if any, pursuant to paragraph (d) of this section.
- (c) Presumptively reasonable periods of time—
 - (1) Review periods for individual applications. The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments in the categories set forth in paragraphs (c)(1)(i) through (iv) of this section:
 - (i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.
 - (ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
 - (iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.
 - (iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.
 - (2) Batching.
 - (i) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (c)(1)(i) or (iii) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.
 - (ii) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (c)(1)(i) of this section and deployments that fall within paragraph (c)(1)(iii) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.
 - (iii) Siting authorities may not refuse to accept applications under paragraphs (c)(2)(i) and (ii) of this section.
- (d) Tolling period. Unless a written agreement between the applicant and the siting authority provides otherwise, the tolling period for an application (if any) is as set forth in paragraphs (d)(1) through (3) of this section.
 - (1) For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.
 - (2) For all other initial applications, the tolling period shall be the number of days from—
 - (i) The day after the date when the siting authority notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until
 - (ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;
 - (iii) But only if the notice pursuant to paragraph (d)(2)(i) of this section is effectuated on or before the 30th day after the date when the application was submitted; or
 - (3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from—
 - (i) The day after the date when the siting authority notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the siting authority's original request under paragraph (d)(1) or (2) of this section; until

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- (ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;
- (iii) But only if the notice pursuant to paragraph (d)(3)(i) of this section is effectuated on or before the 10th day after the date when the applicant makes a supplemental submission in response to the siting authority's request under paragraph (d)(1) or (2) of this section.

(e) Shot clock date. The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified pursuant to paragraph (b) of this section and including any pre-application period asserted by the siting authority; provided, that if the date calculated in this manner is a "holiday" as defined in § 1.4(e)(1) or a legal holiday within the relevant State or local jurisdiction, the shot clock date is the next business day after such date. The term "business day" means any day as defined in § 1.4(e)(2) and any day that is not a legal holiday as defined by the State or local jurisdiction.

SHOT CLOCK PROVISIONS FROM 47 CFR 1.6100

[Subsections (a) and (b) are not shot clock provisions and are omitted.]

(c) Review of applications. A State or local government may not deny and shall approve any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure.

(1) Documentation requirement for review. When an applicant asserts in writing that a request for modification is covered by this section, a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section. A State or local government may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.

(2) Timeframe for review. Within 60 days of the date on which an applicant submits a request seeking approval under this section, the State or local government shall approve the application unless it determines that the application is not covered by this section.

(3) Tolling of the timeframe for review. The 60-day period begins to run when the application is filed, and may be tolled only by mutual agreement or in cases where the reviewing State or local government determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.

(i) To toll the timeframe for incompleteness, the reviewing State or local government must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information meeting the standard under paragraph (c)(1) of this section.

(ii) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the State or local government's notice of incompleteness.

(iii) Following a supplemental submission, the State or local government will have 10 days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this paragraph (c)(3). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(4) Failure to act. In the event the reviewing State or local government fails to approve or deny a request seeking approval under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become

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effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.