CITY OF WASHINGTON, ILLINOIS
City Council Agenda Communication

Meeting Date: November 18, 2024

Prepared By: Jon Oliphant, AICP, Planning & Development Director

Agenda Item: First Reading Ordinance – Codification Revisions

Explanation: The City Council approved the adoption of a new Municipal Code on October 21 as part of the recodification process. Staff recently realized that several regulations that were formerly in the zoning code were inadvertently moved elsewhere in the Municipal Code. The City Attorney has drafted an ordinance to transfer the following chapters back to the zoning code (Chapter 56):

- Wind Energy (currently part of Chapter 6)
- Solar Energy (currently part of Chapter 6)
- Board of Appeals – Established (currently part of Chapter 12)
- Historic Preservation (currently part of Chapter 28)
- Telecommunications Towers (currently part of Chapter 50)
- Small Wireless Facilities Deployment (currently part of Chapter 50)

There is no change to any of the language within these chapters with the exception of the insertion of the proposed text amendment to the Solar Energy regulations to insert the AG-1 district into those in which a ground-mount solar array would be allowed if a residential use is on the property. That proposed amendment is scheduled for a first reading ordinance at the November 18 City Council meeting.

Fiscal Impact: N/A

Action Requested: Approval of the ordinance to transfer the aforementioned zoning regulations back into Chapter 56 of the Municipal Code. A first reading ordinance is scheduled for the November 18 City Council meeting and a second reading ordinance will be scheduled for the December 2 meeting.

ORDINANCE NO. _____

AN ORDINANCE MOVING MUNICIPAL ZONING REGULATIONS TO CHAPTER 56, ZONING, OF THE REVISED MUNICIPAL CODE OF THE CITY OF WASHINGTON

WHEREAS, the City of Washington, Tazewell County, Illinois (the "City"), is a home rule unit of government; and

WHEREAS, the City has established municipal zoning regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, the City's municipal zoning regulations were previously codified in Chapter 154 of the City's Municipal Code; and

WHEREAS, on October 21, 2024, the City adopted a new Municipal Code for the City (the "Revised Code"); and

WHEREAS, the Revised Code inadvertently removed several regulations from within the zoning provisions without the involvement of the City's Planning and Zoning Commission; and

WHEREAS, the City Council has determined it is necessary and in the best interests of the City that the municipal zoning regulations that were inadvertently removed should be transferred back into Chapter 56 of the Revised Code, which includes the revised zoning provisions.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Washington, Illinois as follows:

Section 1: The recitals; as set forth above, are incorporated herein as though fully set forth and shall be considered the express findings of the City Council.

Section 2: That Chapter 6 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is deleted in its entirety and its place the following is substituted therein:

"Chapter 6 – RESERVED"

Section 3: That Section 12-79 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is deleted in its entirety and its place the following is substituted therein:

"Sec. 12-79 – RESERVED"

Section 4: That Chapter 28 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is deleted in its entirety and its place the following is substituted therein:

"Chapter 28 – RESERVED"

Section 5: That Chapter 50 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is deleted in its entirety and its place the following is substituted therein:

"Chapter 50 – RESERVED"

Section 6: That Sec. 56-8 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is added as follows:

"**Sec. 56-8 Board of Appeals - Established.**

A board of appeals is hereby established in accordance with state law. Regular meetings of the board shall be held at such time and place within the municipality as the board may determine. Special meetings may be held at the call of the chairperson or as determined by the board. Such chairperson, or in the same's absence, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings of the board of appeals shall be open to the public. Such board shall keep minutes of its proceedings showing the vote of each member on every question. If any member is absent or fails to vote, the minutes shall indicate such fact. The board shall adopt its own rules of procedure not in conflict with state statutes or this chapter."

Section 7: That Chapter 56 of the City Code of the City of Washington, Tazewell County, Illinois, be, and the same hereby is amended by adding the following provisions:

"ARTICLE XVIII. - WIND ENERGY

Sec. 56-459. - Purpose.

The purpose of this article is to regulate the construction and operation of wind energy conversion systems within the city and within the 1 ½ mile radius surrounding the zoning jurisdiction of the city in order to protect the health, safety, and welfare of the public; provided, however, that this article is not intended to apply within any area under the subdivision jurisdiction of another city or village.

Sec. 56-460. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the person or entity filing an application under this article.

Extraterritorial jurisdiction means any area which is:

(1) Located outside of the corporate limits of the city;

(2) Located within 1 ½ miles of the zoning jurisdiction of the city; and

(3) Is not located within the subdivision jurisdiction of another city or village.

Extraterritorial wind energy system or *extraterritorial wind energy conversion system* means any wind energy conversion system (WECS) which is or may be located within the extraterritorial jurisdiction.

Facility owner means any person or entity having an equity interest in a WECS.

Nonparticipating landowner means any landowner except those on whose property all or a portion of a WECS is located pursuant to an agreement with the facility owner or operator of that WECS.

Occupied building means a residence, school, hospital, church, public library, or any other building that is occupied or in use when an application to site or construct a WECS is submitted.

Operator means any person or entity responsible for the day-to-day operation and maintenance of a WECS.

Registered engineer means any professional engineer licensed by the state.

Road permits means any permits required under chapter 15 of the Illinois Vehicle Code.

Small wind energy conversion system or *small WECS* means any wind energy conversion system consisting of a single wind turbine having a maximum generating capacity of 100 kw, which is intended to generate energy for an individual property primarily for the purpose of reducing energy consumption on that property.

Turbine height means the distance measured from the surface of the foundation supporting a wind turbine to the highest point of the wind turbine rotor plane. In the case of a wind turbine mounted on a building or other similar structure, the turbine height means the distance between the lowest elevation of the above grade foundation of the supporting structure and the highest point of the wind turbine rotor plane. The height of a vertical axis wind turbine shall be measured to the highest elevation of the turbine.

Wind energy conversion system or *WECS* means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.

Wind farm means any wind energy conversion system other than a small wind energy conversion system as defined in this article.

Wind turbine means a device that converts wind energy into electricity through the use of either a horizontal or vertical axis wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

Sec. 56-461. - Permit required.

(a) No WECS shall be constructed, modified, or located within the corporate limits of the city unless a special use authorizing the placement of the WECS has been approved pursuant to both this article and this Wind Energy Code and unless a building permit has been issued to the facility owner or operator approving construction of the system.

(b) No extraterritorial WECS shall be constructed, modified, or located within the extraterritorial jurisdiction unless a building permit authorizing the placement of the WECS has been approved as provided in this wind energy code and unless a building permit has been issued to the facility owner or operator approving construction of the system.

(c) An application to locate a wind farm within the corporate limits of the city or within the extraterritorial jurisdiction shall be accompanied by a fee in the amount provided in the city fee schedule for each wind turbine which will comprise the wind farm. If a special use or a building permit authorizing siting of the wind farm is approved, a building permit shall be issued without additional cost.

(d) Any application to locate a small WECS within the city or within the extraterritorial jurisdiction shall be accompanied by a fee in the amount provided in the city fee schedule. If a special use or a building permit authorizing siting of the small WECS is approved, a building permit shall be issued without additional cost.

(e) Any physical modification to an existing and permitted WECS that materially alters the size, type, or number of wind turbines or other equipment shall require

a modification of the special use under this article. Like-kind replacements of existing wind turbines shall not require a modification of the special use.

Sec. 56-462. - Application to site and construct WECS.

(a) An application for a special use and a building permit to site and construct a WECS shall demonstrate that the proposed facility will comply with this article.

(b) An application to site and construct a wind farm shall contain the following:

(1) A narrative describing the proposed wind farm, including an overview of the project; the project location; the approximate generating capacity of the wind farm; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers and a description of ancillary facilities.

(2) Evidence satisfactory to the city of an agreement between any participating landowner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the participating landowner to apply for necessary permits for construction and operation of the wind farm on the property of the participating landowner.

(3) The property tax identification number and owner of record of any property on which any portion of the proposed wind farm will be located, and the property tax identification number and owner of record of all properties adjacent to any property on which any portion of the wind farm will be located.

(4) A site plan prepared and sealed by a registered engineer showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substations, electrical cabling from the wind farm to the substation, ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback.

(5) Documents related to decommissioning as required by this article.

(6) Any other documents required by this article.

(7) Evidence of compliance with any applicable regulations promulgated by the Federal Aviation Administration.

(8) Other studies, reports, certifications, or approvals as may be reasonably requested by the city to ensure compliance with this article.

(c) An application to site and construct a small WECS shall contain the following:

(1) A description of the proposed wind turbine including, without limitation, all specifications, the manufacturer, the generating capacity and a description of any ancillary facilities.

(2) A site plan showing the planned location of the wind turbine including property lines, setback lines, the location of all wiring or other electrical components, and the location of all structures within the site of the proposed small WECS or within any setback established by this article.

(d) Within 30 days after receipt of an application for a special use or a building permit, the city will determine whether the application is complete and advise the applicant accordingly.

(e) Throughout the permitting process, the applicant shall promptly notify the city of any changes to or inaccuracies in the information contained in the application.

(f) Changes to a pending application that do not materially alter the initial site plan or the nature or scope of the WECS may be adopted without an additional public hearing.

Sec. 56-463. - Design and installation.

(a) The design of the WECS shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

(b) The WECS shall comply with all applicable provisions of this Code, including, without limitation, the building regulations.

(c) Each wind turbine shall be equipped with a redundant braking system which includes both aerodynamic overspeed controls, including variable pitch, tip, and other similar systems, and mechanical brakes. Mechanical brakes shall be operated

in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

(d) All electrical components of the WECS shall conform to applicable local, state, and national codes, including, without limitation, any regulations adopted by reference under the provisions of this article.

(e) Wind turbines shall be a nonobtrusive color, such as white, off-white, or gray.

(f) A WECS shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

(g) Wind turbines shall not display advertising.

(h) Wind turbines shall display the identification of the turbine manufacturer, facility owner, and operator, which identification shall be legible from a distance not to exceed 25 feet.

(i) On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.

(j) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(k) Visible, reflective, colored objects, such as flags, reflectors or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet above the surrounding grade.

(l) Wind turbines shall not be climbable up to 15 feet above ground surface.

(m) All access doors to wind turbines and electrical equipment and gates to related fences, if any, shall be locked to prevent entry by unauthorized persons.

(n) Wind turbines shall comply with all applicable regulations promulgated by the Federal Aviation Administration.

Sec. 56-464. - Setbacks and other limitations on location.

(a) Wind turbines shall be set back from the property lines of the zoning lot upon which they are located, public roads, third-party transmission lines, and communication towers a distance not less than the normal setback requirements for the zoning classification to which the zoning lot is assigned

or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the property lines. Property lines that are shared with other properties included in the same WECS development may forgo this requirement, provided written acceptance of this waiver is obtained from all affected property owners prior to the public hearing.

(b) Wind turbines shall be set back at least 750 feet from any adjoining property's dwelling unit.

(c) No zoning lot upon which a wind turbine is located may be resubdivided in a manner which would result in the creation of one or more additional zoning lots with any property line closer to such wind turbine than the minimum established by this section.

Sec. 56-465. - Use of public roads.

(a) The applicant for special use or a building permit for a wind farm, which will require road permits for delivery of materials, equipment or parts, shall identify all state and local public roads to be used within the city or within the extraterritorial jurisdiction to transport equipment and parts for construction, operation, or maintenance of the wind farm.

(b) The public works director or a qualified third-party engineer, hired by the city but compensated by the applicant, shall document road conditions prior to construction of a wind farm which will require road permits. The engineer shall document road conditions again approximately 30 days after construction is complete or as weather permits.

(c) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense to the satisfaction of the public works director or a qualified third-party engineer. Any deterioration in roadways used by the applicant in connection with the construction of a wind farm shall be rebuttably presumed to have been caused by the applicant or its contractors.

(d) The applicant for a wind farm which will require road permits shall demonstrate that it has financial capacity to promptly repair damaged roads. As a condition to approval of the siting or construction of a wind farm, the city may require security in the form of a performance bond, letter of credit, or cash escrow under terms and conditions acceptable to the city in the amount of $20,000.00 for each wind turbine.

Sec. 56-466. - Migratory birds.

An avian study shall be conducted by a qualified third-party professional, such as an ornithologist or wildlife biologist, to determine if there is any potential impact which the WECS project may present to migratory birds. The study must provide assurance that the WECS project does not significantly negatively impact the path of migratory birds. The results of the study shall be made available at the official public hearing.

Sec. 56-467. - Local emergency services.

(a) The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire departments.

(b) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the WECS.

Sec. 56-468. - Noise and shadow flicker.

(a) Audible sound from a WECS shall not exceed noise levels established by the state pollution control agency rules and regulations, as measured at the property line of a nonparticipating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the WECS shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1—1989 titled, "Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems, Volume I, First Tier" or the most recently updated version of such standards. The applicant shall certify that the applicant's facility is in compliance with the same.

(b) The facility owner and operator shall make reasonable efforts to minimize shadow flicker at the location of any occupied building on a nonparticipating landowner's property.

Sec. 56-469. - Signal interference.

(a) Both the facility owner and operator shall be responsible for any disruption or loss of radio, telephone, television, or similar signals caused by the WECS, and shall mitigate any such harm caused by the WECS.
(b) Every WECS project must be inspected annually by an authorized factory representative to certify that it is in good working condition and not a hazard to the public.

Sec. 56-470. - Liability insurance.

The facility owner and operator of a wind farm shall maintain a current comprehensive general liability policy covering bodily injury and property damage resulting from the construction, operation, maintenance or repairs of a WECS with limits of at least $5,000,000.00 per occurrence and $5,000,000.00 in the aggregate. Current certificates of insurance shall at all times be on file with the city clerk.

Sec. 56-471. - Decommissioning.

(a) The facility owner and operator shall, at their expense, complete decommissioning of the WECS, or individual wind turbines, within 12 months after the end of the useful life of the WECS or individual wind turbines. A WECS or an individual wind turbine is presumed to be at the end of its useful life if no electricity is generated by the WECS or the individual wind turbine for a continuous period of 12 months.

(b) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.

(c) Disturbed earth shall be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(d) The applicant for the siting and construction of a wind farm shall, at the cost of the applicant, retain an independent and certified professional engineer to estimate the total cost of decommissioning the wind farm, decommissioning costs, without regard to salvage value of the equipment, and the cost of decommissioning net of salvage value of the equipment, net decommissioning costs. The estimates shall be submitted to the city with the application to site and construct a wind farm. Such estimates shall be updated by the facility owner and operator every fifth year after approval of siting.

(e) The facility owner or operator of a wind farm shall post and maintain decommissioning funds in an amount equal to net decommissioning costs, provided that at no point shall decommissioning funds be less than 25 percent of decommissioning costs.

(f) Decommissioning funds shall be delivered to the city in the form of a performance bond, surety bond, irrevocable letter of credit, corporate guarantee, or other form of financial assurance acceptable to the city.

(g) If the facility owner or operator fails to complete decommissioning within the period or under the conditions prescribed by the Code, then the participating landowner shall have three months thereafter to complete decommissioning.

(h) If neither the facility owner, operator, nor the participating landowner complete decommissioning within the periods prescribed by this article, then the city may take such measures as necessary to complete decommissioning, including expenditure of the decommissioning funds.

(i) The city shall release the decommissioning funds when the facility owner or operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

(j) The city is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.

Sec. 56-472. - Permit for extraterritorial WECS.

An application to site and consult an extraterritorial WECS shall be considered by the city in the same manner as if the applicant had submitted an application for the placement of a WECS within the corporate limits of the city. The applicant, facility owner, operator and any participating landowner with respect to any approved application for an extraterritorial WECS shall be subject to the terms and conditions of this article and any approving ordinance or resolution in the same fashion and to the same extent as if the WECS were located within the corporate limits of the city.

Sec. 56-473. - Public inquiries and complaints.

(a) The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

(b) The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

- **Sec. 56-474. - Remedies.**

(a) It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this article, or any special use approved under city zoning regulations, or to cause another to violate or fail to comply, or to take any action which is contrary to the terms of this article or any special use approved under city zoning regulations. The general penalty provisions of this Code shall apply with respect to violations of this article.

(b) The city may institute civil enforcement proceedings or resort to any other remedy at law or in equity to ensure compliance with the Code or any special use issued under authority of city zoning regulations.

Secs. 56-475 – 56-486. - Reserved.

ARTICLE XIX. - SOLAR ENERGY

Sec. 56-487. - Purpose.

The purpose of this article is to facilitate the construction, installation, and operation of solar energy systems in the city in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts on adjoining property or on the environment. It is the intent of this article to encourage the development of solar energy systems that reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation. This article is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances.

Sec. 56-488. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory means as applied to a building, structure, or use, one which is on the same lot with, incidental to and subordinate to the main or principal structure or use and which is used for the purposes customarily incidental to the main or principal structure, or the main or principal use.

Building-integrated solar energy system means a solar energy system that integrates photovoltaic modules into the building structure as the roof or façade and which does not alter the relief of the roof.

Commercial/large-scale solar farm means a utility scale commercial facility that converts sunlight to electricity, whether by photovoltaics, concentrating solar thermal devices, or various experimental technologies for onsite or offsite use with the primary purpose of selling wholesale or retail generated electricity.

Community solar garden means a community solar-electric (photovoltaic) array, of no more than five acres in size, that provides retail electric power, or financial proxy

for retail power, to multiple households or businesses residing in or located off-site from the location of the solar energy system.

Ground mount solar energy system means a solar energy system that is directly installed onto the ground and is not attached or affixed to an existing structure.

Photovoltaic system means a solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity whenever light strikes them.

Qualified solar installer means a trained and qualified electrical professional who has the skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved.

Roof mount solar energy system means a solar energy system in which solar panels are mounted on top of a building roof as either a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Solar collector means a device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar energy system (SES) means the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term "solar energy system" applies to, but is not limited to, solar photovoltaic systems, solar thermal systems and solar hot water systems.

Solar storage battery/unit means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

Solar thermal systems means systems that directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

Sec. 56-489. - Ground mount and roof mount solar energy systems.

Ground and roof mount solar energy systems are designed to serve only the occupants of the parcel on which they are located. Ground mount solar energy

systems are installed onto the ground and shall not require a special use. Roof mount solar energy systems are placed on the roof of a principal structure or an accessory structure and shall not require a special use. Such systems are accessory structures allowed only on zoning lots with a principal structure. An application shall be submitted to the code enforcement officer demonstrating compliance with all applicable provisions of the city code and with the following requirements:

(1) *Ground mount solar energy system requirements for real property with nonresidential uses.*

a. *Height.* Ground mount solar energy systems shall not exceed ten feet above the grade of the real property when the system is oriented at maximum design tilt.

b. *Setback.* Ground mount solar energy systems must be set back a minimum of five feet from the rear property line or the applicable setback for the zoning district in which the system is located, whichever is greater. Such systems must also be setback at least ten feet from any other principal or accessory structure.

c. *Allowance.* Subject to the requirements set forth herein, ground mount solar energy systems are allowed on real property that has a non-residential use, regardless of the real property's zoning classification.

d. *Minimum lot size.* Ground mount solar energy systems are only permitted on real property with a nonresidential use if such property has a minimum lot size of 0.75 acres.

e. *Placement.* Ground mount solar energy systems are only allowed to be placed in the rear yard of the real property. The system must not be located within any known dedicated easement on the real property.

f. *Lot coverage.* The total coverage of the ground mount solar energy system shall not exceed half the building footprint of the principal structure. Ground mount solar energy systems shall be exempt from impervious surface standards/calculations if the soil under the solar collector is maintained in vegetation and not compacted. For purposes of this section, foundations, gravel, or compacted soils are considered impervious.

(2) *Ground mount solar energy system requirements for real property with residential uses.*

a. *Height.* Ground mount solar energy systems shall not exceed eight feet above the grade of the real property when the system is oriented at maximum design tilt.

b. *Setback.* Ground mount solar energy systems on real property with a residential use must have a setback of a minimum of 30 feet from the side and rear property line. Such systems must also be setback at least ten feet from any other principal or accessory structure.

c. *Allowance.* Subject to the requirements set forth herein, ground mount solar energy systems are allowed on real property that has a residential use, so long as the property is in an AG-1, R-1, R-2, R-1a, or CE district in the city.

d. *Minimum lot size.* Ground mount solar energy systems are only permitted on real property with a residential use if such property has a minimum lot size of two acres.

e. *Placement.* Ground mount solar energy systems are only allowed to be placed in the rear yard of real property. The system must not be located within any known dedicated easement on the real property.

f. *Lot coverage.* The total coverage of the ground mount solar energy system shall not exceed half the building footprint of the principal structure. Ground mount solar energy systems shall be exempt from impervious surface standards/calculations if the soil under the solar collector is maintained in vegetation and not compacted. For purposes of this section, foundations, gravel, or compacted soils are considered impervious.

(3) Roof mount solar energy system requirements.

a. *Height for system on principal structure.* Roof mount solar energy systems placed on a principal structure shall not exceed the height of the principal structure on the zoning lot where the system is located.

b. *Height for system on accessory structure.* Roof mount solar energy systems placed on an accessory structure shall not exceed the height of the accessory structure on the zoning lot where the system is located.

c. *Mounting on pitched roofs.* Roof mount solar energy systems on pitched roofs shall not be permitted to tilt or rotate at a slope greater or less than the roof to which it is attached. Such roof mount solar energy systems cannot

extend more than eight inches from the roof surface to which it is attached. The roof shall be considered a part of a building completely covering and permanently attached to such building and can be flat or pitched. Any roof that has a pitch of more than 1.5 inches in 12 inches shall be considered a separate roof side.

d. *Mounting on flat roofs.* Roof mount solar energy systems on flat roofs on residential or non-residential structures shall not extend more than two feet vertically or extend above the building parapet, whichever is less.

e. *Setback.* The solar collector surface and mounting devices for roof mount solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar systems generating heated water may extend beyond the perimeter of the building on a side yard exposure. Any roof mount solar energy systems proposed to be placed on the roof of an accessory structure that do not meet the side or rear setbacks in place at the time of installation must have a variance approved by the planning and zoning commission.

f. *Color.* Roof mount solar energy systems shall match, as closely as possible, the color of the roof to which it is attached.

g. *Safety.* Roof mount solar energy systems, excluding building integrated solar energy systems, shall allow for adequate roof access for firefighting purposes to the south facing or flat roof upon which the panels are mounted.

(4) *Requirements applicable to both ground mount solar energy systems and roof mount solar energy systems.*

a. *Reflection angles.* Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

b. *Visibility.* Solar energy systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north while still providing adequate solar access for solar collectors. They shall be designed to blend into the architecture of the building or be screened from routine view from public rights-of-way provided that the screening shall not affect the operation of the system.

c. *Approved solar components.* Electric solar energy system components shall have a UL listing or approved equivalent and solar hot water systems shall have an SRCC rating.

d. *Compliance with building codes.* All solar energy systems shall meet approval of any currently adopted International Building Code, National Electrical Code, and state plumbing code.

e. *Utility notification.* All grid intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

f. *Restrictions on solar energy systems limited.* Consistent with 765 ILCS 165/, no homeowner's agreements, covenants, common interest community or other contracts between multiple property owners within a subdivision shall prohibit or restrict homeowners from installing solar energy systems.

g. *Historic buildings.* Solar energy systems on designated historic landmarks or within designated historic districts must receive approval of the historic preservation commission, consistent with the standards for solar energy systems on historically designated buildings published by the U.S. Department of interior.

Sec. 56-490. - Building-integrated solar energy systems.

Building-integrated solar energy systems shall be permitted in all zoning districts in the city without a special use but shall meet the requirements of all applicable provisions of this Code, including the currently adopted International Building Code.

Sec. 56-491. - Community solar gardens.

Community solar gardens are allowed as a special use in all zoning districts subject to the following requirements:

(1) Community solar gardens may be located on rooftops.

(2) An interconnection agreement must be completed with the electric utility in whose service the territory the system is located.

(3) Dimensional standards. All solar garden related structures in newly platted and existing subdivisions shall comply with the principal structure setback, height, and coverage limitations for the district in which the system is located.

(4) Other standards.

a. Ground mount systems shall comply with all required standards for structures in the zoning district in which the system is located.

b. All solar gardens shall comply with the currently adopted International Building Code.

c. All solar gardens shall comply with all other state requirements.

- **Sec. 56-492. - Commercial/large-scale solar farm.**

Commercial/large-scale solar farms may be allowed by special use in the AG-1 Agriculture and I-2 Heavy Industrial Districts. The following information shall also be submitted as part of an application for a commercial/large-scale solar farm:

(1) *Site plan with existing conditions.* A site plan with existing conditions showing the following:

a. Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of adjacent property owners and the current use of those properties.

b. All routes that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either egress or ingress shall be shown.

c. Location and size of any abandoned wells, sewage treatment systems.

d. Existing buildings and impervious surfaces.

e. A contour map showing topography at two-foot intervals. A contour map of surrounding properties may also be required.

f. Existing vegetation, list type and percent of coverage, i.e., cropland/plowed fields, grassland, wooded areas, etc.

g. Any delineated wetland boundaries.

h. A copy of the current FEMA firm maps that shows the subject property including the 100-year floor elevation and any regulated flood protection elevation, if available.

i. Surface water drainage patterns.

j. The location of any subsurface drainage tiles.

k. Location and spacing of the solar collector.

l. Location of underground and overhead electric lines connecting the solar farm to a building, substation or other electric load.

m. New electrical equipment other than at the existing building or substations that is to be the connection point for the solar farm.

(2) *Site plan with proposed conditions.* A site plan with proposed conditions showing the following:

a. Location and spacing of the solar panels.

b. Location of access roads.

c. Location of underground or overhead electric lines connecting the solar farm to a building, substation, or other electric load.

d. New electrical equipment other than at the existing building or substation that is to be the connection point for the solar farm.

(3) *Fencing and weed/grass control.*

a. An acceptable weed/grass control plan for property inside and outside the fenced area for the entire property shall be submitted. The applicant and any successor shall during the operation of the solar farm adhere to the weed/grass control plan.

b. Perimeter fencing shall be installed around the boundary of the solar farm having a maximum height of eight feet. The fence shall contain appropriate warning signage that is posted such that it is clearly visible on the site.

c. The applicant shall maintain the fence in good condition.

(4) *Manufacturer's specifications.* The manufacturer's specifications and recommended installation methods for all major equipment, including solar panels/collectors, mounting systems, and foundations for poles and racks.

(5) *Connection and interconnection.*

a. A description of the method of connecting the solar array to a building or substation.

b. Utility interconnection details and a copy of written notification to the utility company requesting the proposed interconnection.

(6) *Setbacks.* A minimum of 50 feet must be maintained from all property lines. Solar panels shall be kept at least 500 feet from a residence that is not part of the parcel on which the facility is located.

(7) *Fire protection.* A fire protection plan for the construction and the operation of the facility, and emergency access to the site.

(8) *Endangered species and wetlands.* Solar farm developers shall be required to initiate a natural resource review consultation with the state department of natural resources (IDNR) through the department's online EcoCat Program or any successor program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the developer.

(9) *Road use agreements.* All routes on city streets that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either egress or ingress need to be shown. The routing shall be approved subject to the approval of the city engineer. The solar farm developer shall complete and provide a preconstruction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. The development shall provide a road repair plan to ameliorate any and all damage, installation, or replacement of roads that might be required by the developer. The developer shall provide a letter of credit or surety bond in an amount and form approved by the code enforcement officer when warranted.

(10) *Stormwater and NPDES.* Solar farms are subject to the city's stormwater management, erosion, and sediment control provisions and NPDES permit requirements.

(11) *Decommissioning of the solar farm.* The developer shall provide a decommissioning plan for the anticipated service life of the facility or in the event the facility is abandoned or has reached its life expectancy. If the solar farm is out of service or not producing electrical energy for a period of 12 months, it will be deemed nonoperational and decommissioning and removal of that facility shall commence according to the decommissioning plan as provided and approved. A cost estimate for the decommissioning of the facility shall be prepared by a professional engineer or contractor who has expertise in the removal of the solar farm. The decommissioning cost estimate shall explicitly detail the cost before considering any projected salvage value of the out of service solar farm. A restoration plan shall also be provided for the site with the application. The decommissioning plan shall include the following:

a. Removal of the following within six months after the farm became nonoperational:

1. All solar collectors and components, above ground improvements and outside storage.

2. Foundations, pads and underground electrical wires ad reclaim site to a depth of four feet below the surface of the ground.

3. Hazardous material from the property and disposal in accordance with federal and state law.

b. An agreement between the applicant and the city that:

1. The financial resources for decommissioning shall be secured by a surety bond, or cash deposited in an escrow account with an escrow agent acceptable to the code enforcement officer.

2. The agreement shall establish conditions in which the funds will be disbursed.

3. The city shall have access to such security for the purpose of completing decommissioning if decommissioning is not completed by the owner of the project within six months of the end of project life or facility abandonment.

4. The city shall have the right to enter the site, pursuant to reasonable notice to effect or complete decommissioning.

5. The city shall have the right to seek injunctive relief to effect or complete decommissioning, and to seek reimbursement from the owner for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce the lien.

Sec. 56-493. - Compliance with building regulations.

All solar energy systems shall require a permit from the code enforcement officer and shall comply with any other applicable provisions of this Code, state law, or federal law. All solar energy systems shall be installed by a trained and qualified

solar installer, working under the supervision of a licensed electrical contractor, if different from the qualified solar installer. No electrician shall install any electrical equipment, systems, components, or materials in connection with a solar energy system without first having obtained a certificate of registration to do so from the city.

Sec. 56-494. - Liability insurance.

The owner operator of the solar farm shall maintain a current general liability policy covering bodily injury and property damage and name the city as an additional insured with limits of at least $1,000,000.00 per occurrence and $5,000.000.00 in the aggregate with a deductible of no more than $5,000.00.

Sec. 56-495. - Administration and enforcement.

The code enforcement officer shall enforce the provisions of this article through inspections on such schedule as deemed appropriate. The code enforcement officer has the authority to enter upon the premises where a solar energy system is located at any time by coordinating a reasonable time with the operator/owner of the facility. Any person, firm or corporation who violates, disobeys, omits, neglects, refuses to comply with, or resists enforcement of any of the provisions of this article shall be subject to the general penalty provisions of this Code.

Sec. 56-496. - Building permit fees.

The fees for processing the applications for solar energy systems shall be as provided in the city fee schedule.

ARTICLE XX. – TELECOMMUNICATIONS TOWERS

Sec. 56-497 – Purpose.

The primary intent of this article is to regulate personal wireless service facilities, including antennas, mounts, and equipment to be located within the city. This article is not intended to, nor does it apply to, amateur radio communications and amateur radio antennas. Additionally, this article shall not apply to a small wireless facility as defined in and regulated by article XXI of this chapter. Therefore, the purpose of this article shall be to:

(1) Comply with all federal and state regulations regarding the placement, use, and maintenance of personal wireless service facilities (PWSFs).

(2) Encourage the continued improvement of wireless telecommunications service in the city.

(3) Minimize, to the extent permitted by law, the proliferation of visual and safety impacts of PWSFs throughout the city.

(4) Promote both proper maintenance and renovation of PWSFs.

(5) Encourage the use of collocation of PWSFs by multiple providers so as to reduce the number of high towers needed within the city.

(6) Recognize the commercial communication requirements of all sectors of the business and residential community.

Sec. 56-498. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Above ground level means the actual height of the PWSF from the sidewalk level or equivalent established grade to the highest part of the mount or the antenna, whichever is higher.

Antenna means a whip (omni-directional antenna), panel (direction antenna), disc (parabolic antenna), or similar device used for transmission and reception of radio frequency signals.

Antenna array means an antenna array is one or more whips, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antennas (whips), directional antennas (panels), and parabolic antennas (discs). The antenna array does not include the mount as defined herein.

Applicant means a person or entity with an application before the city for a permit for a PWSF.

Camouflage means a way of painting and mounting a PWSF that requires minimal changes to the host structure in order to accommodate the facility.

Carrier means a company licensed by the Federal Communications Commission (FCC) that provides wireless services. For the purposes of this article, a tower builder shall not be considered a carrier.

Cell site means a generic term for a PWSF.

Cellular means a mobile telephone service operating in the 800 MHz spectrum.

Coapplicant means any person and entity joining with an applicant in an application for a permit for a PWSF, including the owners of the PWSF, owners of the subject property, and any proposed tenants for the PWSF.

Collocation means the use of a common tower or structure by two or more wireless license holders or by one wireless license holder for more than one type of communications technology for the purposes of maintaining two or more PWSFs.

Commercial communications tower means any television, radio or communications tower which is not a facility designed or used for the provision of personal wireless services, as defined by section 704 of the Telecommunications Act of 1996. The term "commercial communications towers" does not include amateur radio/citizens' radio antennas.

Commercial mobile radio services (CMRS) means per 47 USC 252, any of several technologies using radio signals at various frequencies to send and receive voice, data, and video. According to the FCC, these services are functionally equivalent services. 47 USC 252 prohibits unreasonable discrimination among functionally equivalent services.

Conceal means to enclose a PWSF within a natural or man-made feature resulting in the facility being either invisible or made part of the feature enclosing it.

Design means the appearance of PWSFs, such as their materials, colors, and shape.

Disguise means to design a PWSF to appear to be something other than a PWSF.

Enhanced specialized mobile radio (ESMR) means private land mobile radio with telephone services.

Equipment cabinet/equipment shelter means an enclosed structure at the base of the mount within which are housed the equipment for the PWSF, such as batteries and electrical equipment.

Fall zone means the area on the ground within a prescribed radius from the base of a PWSF. The fall zone is the area within which there might be a potential hazard from falling debris or collapsing material.

Federal Communications Commission (FCC) means an independent federal agency charged with licensing and regulating wireless communications at the national level.

Functionally equivalent services means cellular, PCS, enhanced specialized mobile radio, specialized mobile radio, and paging. Section 704 of the Telecommunications Act prohibits unreasonable discrimination among functionally equivalent services.

Height means the distance measured from sidewalk level or equivalent grade, which, for the purposes of this article, will be called "above ground level," to the highest point of a PWSF, including the antenna array.

Lattice tower. See *Tower, lattice.*

Licensed carrier means a company authorized by the FCC to construct and operate a commercial mobile radio services system. A licensed carrier must be identified for every PWSF application.

Location means the area where a PWSF is located or proposed to be located.

Microcell means any PWSF that is designed to generate lower power density than that limited by the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation.

Mitigation means the reduction or elimination of visual impacts by the use of one or more of the following methods:

(1) Concealment.

(2) Camouflage.

(3) Disguise.

Modification means the changing of any portion of a PWSF from its description in a previously approved permit. The FCC definitions for the term "modification" are different from local government rules.

Monopole means the shape of mount that is self-supporting with a single shaft of wood, steel, or concrete, and antennas at the top and along the shaft.

Mount means the structure or surface upon which antennas are mounted. The following are types of mounts:

Ground-mounted means mounted on the ground.

Roof-mounted means mounted on the roof of a building.

Side-mounted means mounted on the side of a building.

Structure-mounted means mounted on a structure other than a building.

Personal wireless service facility (PWSF) means a facility for the transmission or reception of personal wireless services, as defined by section 704 of the Telecommunications Act of 1996. A PWSF includes any unstaffed facility for the transmission or reception of personal wireless services, usually consisting of an antenna array, transmission cables, equipment shelter, and a mount.

Personal wireless services means any personal wireless service defined in the Federal Telecommunications Act which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging as well as unlicensed wireless services, and common carrier wireless exchange access services.

Public property means site or property owned or controlled by the city, Northern Tazewell Fire Protection District, Northern Tazewell Water District, School Districts 50, 51, 52 or 308, Tazewell County, Washington District Library, Washington Fire Department, Washington Park District, or Washington Township.

Radio frequency (RF) engineer means someone with a background in electrical engineering or microwave engineering who specializes in the study of radio frequencies.

Radio frequency (RF) radiation means the emissions from PWSFs that can, in excessive amounts, be harmful to humans. RF emissions are byproducts of the RF signal (RFR).

Radio frequency signal means the actual beam or radio waves sent and received by a PWSF. A signal is the deliberate product of a PWSF. The RF emission is the byproduct.

Security barrier means a locked, impenetrable wall, fence, or berm that completely seals an area from unauthorized entry or trespass.

Separation means the distance between one carrier's antenna array and another carrier's antenna array.

Site means that portion of a subject property where a PWSF is to be placed. Any acceptable location may have several potential sites within it.

Siting means the method and form of placement of PWSFs on a specific area of a subject property.

Specialized mobile radio (SMR) means a form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier. Used primarily for data, delivery vans, truckers, or taxis within a small, definable geographic area.

Standards means rules or measures by which acceptability is determined. PWSFs are measured by visibility or safety. Wireless planning regulates PWSFs based on location (or where the PWSF site can go), siting (or how the PWSF is placed within its setting), and design (or what the PWSF looks like).

Tower means any ground-mounted, roof-mounted or otherwise mounted pole, spire, antenna, antenna array, mount, structure, or combination thereof which exceeds 35 feet in height. The height of an antenna or antenna array shall not include the height of any preexisting structure or equipment constructed pursuant to a valid building permit.

Tower, guyed, means a monopole or lattice tower that is anchored to the ground or to another surface by diagonal cables.

Tower, lattice, means a type of mount that is usually ground-mounted and self-supporting with multiple legs and cross-bracing of structural steel.

Unlicensed wireless services means commercial mobile services that can operate on public domain frequencies and therefore need no FCC license for their sites.

Wireless communications means any form of signaling by wireless, including personal wireless services, that require a transmitter, a receiver, and a path, sometimes straight, sometimes indirect, between them.

Sec. 56-499. - Collocation requirements.

All PWSFs erected, constructed, or located within the city shall comply with the following requirements:

(1) Proposals for a PWSF tower shall not be approved unless the city council finds that the antenna or antenna array and other telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or structure within a one-mile radius of the proposed tower due to one or more of the following reasons:

a. The planned equipment, if installed, would exceed the structural capacity of any existing or approved towers or structures, as documented by a qualified licensed structural engineer, and all the existing and approved towers cannot be reinforced, modified or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at a tower or structure as documented by a qualified licensed professional engineer and interference cannot be prevented at a reasonable cost.

c. Existing or approved towers and the structures within a one-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified licensed professional engineer.

d. Other unforeseen reasons that make it unfeasible to locate the planned equipment on an existing or approved tower or structure.

(2) Any proposed PWSF tower shall be designed, structurally, electrically, in all respects, to accommodate both the applicant's antenna and equipment and comparable antenna and equipment for at least two additional users if the tower is over 100 feet in height, or at least one additional user if the tower is from 60 to 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon a tower and to accept antennas mounted at varying heights.

Sec. 56-500. - Preexisting personal wireless service facilities.

(a) A PWSF for which a permit has been issued prior to the effective date of the ordinance from which this article is derived shall be deemed a permitted use, subject to the conditions of that permit. When a PWSF for which no permit has been obtained (unpermitted PWSF) is identified by the city to be attached to a mount approved for another use or PWSF, the unpermitted PWSF must apply for a separate permit, even when:

(1) Sharing a legal mount;

(2) Already in operation; and

(3) Duly licensed by the Federal Communications Commission.

(b) The issuance of permit renewals or other new permits for such facilities shall be in accordance with the provisions of this article. Unpermitted PWSFs will be considered out of compliance with this article and subject to abatement.

(c) Any PWSF or mount hereafter damaged or destroyed due to any reason or cause whatsoever may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefor, but without otherwise complying with this article, unless the cost of repairing the PWSF or mount to its former use, physical dimensions, and location would be 50 percent or more of the cost of a new mount of like kind and quality, then the mount may not be repaired or replaced, except in full compliance with this article.

(d) Placement of an attached array or a microcell on a legally nonconforming structure shall not be considered an expansion of the nonconforming structure. However, placement of any attached array, microcell, or any other portions of a PWSF on an existing structure, whether legally nonconforming or in, as well as out of, compliance, shall require a permit to be obtained for the PWSF under the terms of this article.

(e) Unpermitted facilities, mounts or equipment ineligible for collocation: No issuance of any permit under this article shall occur for a request to collocate, attach, or share an existing PWSF site, mount, or facility, when such existing site, mount, or facility is found to have one or more PWSFs without permits required by the city and the laws that the city is authorized to implement and enforce.

Sec. 56-501. - Specification of land use classifications.

Notwithstanding anything in this article to the contrary, PWSFs shall be a permitted use or a special use in all zoning districts, provided that such PWSFs comply with the standards of this article and the permits under which PWSFs are regulated.

Sec. 56-502. - Tiered permit process.

(a) It shall be unlawful for any person, firm, or corporation to erect, construct in a place, place or re-erect, replace, or repair any CMRF, including any PWSF, without first making application to the city and securing a permit under one of the following tiers.

(b) The city planner shall receive all PWSF applications and assign each application to one of the following tiers:

(1) Tier One.

a. Tier One is limited to applications for a building permit that comply with the following:

1. Any antenna or antenna array added to an existing building or structure located on public property, provided that the antenna or antenna array extends no more than ten feet higher than the existing building or structure.

2. Meets all standards for safety in section 56-503.

b. Tier One applications need not meet all standards for location, siting, and design in section 56-503.

c. Applicants shall review maps available at the city showing public property locations.

d. Tier one review and approval/reassignment to Tier Two: All Tier One applications shall be reviewed by the city planner or designee. The city planner may:

1. Review and direct the building and zoning supervisor to grant a building permit.

2. Review and direct the building and zoning supervisor to reassign the application for a Tier Two review.

3. Review and deny the application.

(2) Tier Two.

a. Tier Two is limited to applications for a building permit that comply with the following:

1. Proposed for public property but not approved under Tier One as provided in subsection (b)(1) of this section, excluding those which include the construction of a tower, which shall be reviewed under Tier Three; or

2. Limited to an antenna or antenna array if added to an existing building, structure, excluding single- and two-family dwellings, but including streetlights, utility poles, traffic signal poles, existing monopoles or towers, or other structures not inconsistent with the proposed PWSF.

b. Tier Two applications shall meet all standards for location, siting, design, and safety set forth in section 56-503.

c. Applicants shall review maps available at the city showing public property locations.

d. Tier Two review and approval/reassignment to Tier Three/denial: All Tier Two applications shall be reviewed by the city planner or designee. The city planner may:

1. Review the application and direct the building and zoning supervisor to grant a building permit.

2. Review the application and consult with the applicant concerning submission of a modified request under Tier Two or an application for special use under Tier Three.

3. Review and deny the request.

(3) Tier Three.

a. All applications that do not qualify as either Tier One or Tier Two shall be considered Tier Three applications, which shall not be a permitted use in any zoning district but shall be permitted only as a special use.

b. Tier Three applications shall meet all standards for location, siting, design, and safety in section 56-503.

c.1. All PWSFs requiring Tier Three applications shall be a special use within each zoning district and reviewed, approved, or denied as provided in this article and sections 56-233 through 56-239.

2. Tier Three review and recommendation to the planning and zoning commission and city council for approval/denial: All Tier Three applications shall be reviewed by the city planner for a special use permit. The city planner shall prepare a report to the planning and zoning commission. The planning and zoning commission shall act on these applications in accordance with chapter 56, article VIII by preparing written recommendations to the city council.

d. All recommendations of the planning and zoning commission shall be forwarded to the city council for final action. The city council may accept, deny or modify the planning and zoning commission recommendation in accordance with chapter 56, article VIII.

Sec. 56-503. - Standards.

The approval of any PWSF which does not meet the requirements of Tier One applications shall be subject to meeting or exceeding all of the following standards:

(1) *Location standards.*

a. *Preferred sites.* All applicants seeking to erect a PWSF in the city shall make a good faith effort to locate the equipment at a preferred site. Prior to making application to erect a PWSF at a site other than a preferred site, the applicant shall discuss potential preferred sites with the city planner to determine whether any potential preferred sites are feasible. The application to erect a PWSF at a site other than a preferred site shall include a signed affidavit from the applicant indicating that no preferred sites are feasible for this proposed PWSF. If the city planner had recommended specific preferred sites, the affidavit shall set forth all reasons that each preferred site proposed by the city planner is not feasible. Preferred sites shall mean the following:

1. Rooftops on any building other than single- and two-family dwellings.

2. Utility poles, including telephone poles, utility distribution and transmission poles, street, and traffic signal poles.

3. Other kinds of poles, including civil defense mounts, public field light standards, and private parking or storage lot light standards.

4. Wooded areas where the height above ground level of the PWSF does not exceed the tree line by more than ten feet.

5. Steeples on churches already having steeples or on newly constructed steeples.

6. On public property as defined in section 56-498.

7. In C-3, I-1, I-1A, and I-2 zoning districts.

b. *Avoidance sites.* A PWSF shall not be located in an avoidance site unless the applicant can demonstrate that this regulation "has the effect of prohibiting service," as that term is defined in the federal Telecommunications Act of 1996. The term "avoidance sites" shall mean the following:

1. Floodprone areas, as mapped by the Federal Emergency Management Agency on a flood insurance rate map.

2. Wetlands, water bodies, and watercourses, as mapped by the state department of natural resources.

3. Visual and community entrance corridors, including any location within 250 feet of the following arterial roads: Business Route 24, including McClugage Road, Washington Road, Peoria Street, and Walnut Street), Cummings Lane, Main Street, U.S. 24 and other corridors as mapped by the city.

4. CE, R-lA, R-1, and R-2 zoning districts, except in the case of public property.

c. *Prohibited sites.* No tower with a height exceeding 35 feet above ground level shall be permitted in the area bounded by Jefferson Street on the north, Elm Street on the east, Holland Street on the south, and Wood Street on the west, nor within 250 feet of any property designated by the city as a historic district or historic landmark.

d. *Exemption.* Use or lease of property for PWSFs shall not be subject to the requirements of the subdivision code in chapter 46.

e. *Plat of survey.* A plat of survey shall accompany permit applications where the applicant proposes to lease the property.

f. *Determining compliance.* For the purposes of determining whether the application complies with zoning district development regulations, the dimensions of the entire lot shall control.

(2) *Siting standards.* PWSFs shall meet the following siting standards:

a. To the greatest extent possible, PWSFs shall be concealed within existing structures or located where camouflaged conditions surround them or located on inconspicuous mounts.

b. Wherever possible, PWSFs shall be placed within trees, but no antenna should extend higher than ten feet above the average tree height.

c. Placement on existing roofs or non-wireless structures shall be favored over ground-mounted PWSFs.

d. Wherever possible, roof-mounted PWSFs shall not project more than ten additional feet above the height of a legal building.

e. Wherever possible, side-mounted PWSFs shall not project more than 20 inches from the face of the mounting structure.

(3) *Design standards.* PWSFs shall meet the following design standards:

a. Color. All PWSFs shall be painted or be complementary with trees, sky and other surroundings.

b. Size. The silhouette of the PWSF shall be reduced to minimize visual impact.

c. PWSFs near residences shall either:

1. Provide underground vaults for equipment shelters; or

2. Place equipment shelters within enclosed structures.

d. Equipment. The following types of equipment are discouraged and may not be utilized unless the applicant demonstrates that this regulation has the "effect of prohibiting service," as that term is defined in the Telecommunications Act of 1996.

e. Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be impregnated with rot-resistant substances.

f. Height of PWSFs shall be kept to a minimum and shall not exceed 125 feet above ground level unless the applicant obtains a variance of height in addition to any required special use permit.

(4) *Safety standards.* PWSFs shall meet the following safety standards:

a. All PWSFs shall comply with tornado design standards as contained in city building regulations or EIA-TIA 222 (latest version), whichever is stricter.

b. Roof mounts on buildings shall have railings to protect workers.

c. All transmission cables and cable trays deployed horizontally above the ground between a mount and a structure, or between mounts, shall be at least eight feet above the ground at all points.

d. All construction of PWSFs shall be in compliance with the National Electrical Code.

Sec. 56-504. - Fall zone; setback requirements.

(a) *Fall zone.* No PWSF shall be located any closer to a habitable structure or outdoor area where people congregate than its fall zone. For the purposes of this section, the fall zone shall be 110 percent of the height of the PWSF. This provision shall apply only to Tier Three applications.

(b) *Setback.*

(1) All PWSFs, including mounts and equipment shelters, shall comply with the minimum building and landscape/screening setback requirements of the applicable zoning district as set forth in this article; provided, however, that the following setbacks apply to the height of the tower above ground level or, if the tower is attached to a building, the height from the point of attachment:

a. At a preferred site, no tower shall be set back a distance less than its height, unless the applicant provides an affidavit from a professional engineer that the tower is designed to break at a point no lower than the midpoint of the tower, in which case the tower shall be set back a distance not less than half its height.

b. At any site except a preferred site, no tower shall be set back a distance less than its height.

c. No tower shall be set back a distance less than its height from the nearest overhead electrical power line which serves more than one dwelling or place of business.

(2) Structural elements, such as peripheral anchors, guy wires, or other supporting devices, shall be located no closer than ten feet from any property line.

(3) The antenna array for an attached PWSF is exempt from the setback requirements of this article and from the setback requirements for the zoning district in which they are located, provided that no such antenna array shall extend more than five feet horizontally from the attachment structure at the point of attachment.

(4) On parcels with a principal building housing a principal use, all components of the PWSF shall be located behind the rear building line.

Sec. 56-505. - Fees.

The city shall charge reasonable fees to evaluate applications. Such fees shall be as provided in the city fee schedule and shall include, but not be limited to, the following:

(1) *Application fee.* The basic application fee.

(2) *Special fee.* The city may retain independent technical consultants and experts as is deemed necessary to properly evaluate applications for individual PWSFs. The special fee

shall include, but shall not be limited to, the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate applications for PWSFs.

(3) *Other fees.* Any other fee imposed under the provisions of this Code.

Sec. 56-506. - Additional Tier Three application requirements.

(a) *Written statement of proposed PWSF; application contents.* In addition to the application requirements listed in section 56-502, under a Tier Three application, the applicant must demonstrate that no existing tower or other structure can accommodate the applicant's proposed PWSF by providing a written statement from a state-licensed engineer certifying that the applicant will be prohibited from providing personal wireless services unless the proposed PWSF is constructed. The application must also demonstrate that the fees, costs, or contractual provisions imposed by the owner of the structure in order to share an existing tower or other mount or to adapt an existing tower or other mount for sharing are unreasonable, based on market information provided with the application. Costs exceeding new tower development are presumed to be unreasonable. In addition, Tier Three applications shall contain the following information:

(1) A report from a qualified state-licensed professional engineer including:

a. Written findings evidencing compliance with each provision of this article as well as the applicable zoning regulations;

b. Description of the tower height and design, including a cross section in elevation;

c. Height above ground level for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;

d. Description of the tower's capacity, including the number and type of antennas that it can accommodate;

e. Documentation of the steps the applicant will take to avoid interference with established public safety telecommunications;

f. Engineer's stamp and registration number; and

g. Other information as necessary to evaluate the request.

(2) Architectural drawings depicting the constructed tower with camouflaging treatment set in the surrounding area. These drawings shall include at least one perspective from each of the north, south, east and west.

(3) An overhead map of the city showing the subject tower's location as well as the location of each of the applicant's existing and planned future tower sites.

(4) An agreement committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use. For the purposes of this requirement, the applicant shall sign an agreement available at the office of the city planner. A copy of this agreement shall be presented for recording by the county recorder of deeds.

(5) A certificate of liability insurance demonstrating minimum liability coverage of $1,000,000.00 per accident.

(6) Before the issuance of a building permit, the following supplemental information shall be provided:

a. A statement demonstrating that the proposed tower complies with regulations administered by the Federal Aviation Administration;

b. A statement demonstrating that the proposed tower complies with the emission standards promulgated by the Federal Communications Commission; and

c. Report from a qualified state-licensed professional engineer that demonstrates the tower's compliance with all other applicable structural and electrical standards.

(b) *Alternative proposals.* Each Tier Three application for a PWSF shall also contain at least two alternative proposals for the PWSF proposed in the application. The alternatives need not be totally different from the proposed PWSF; however, the alternatives should contain measurable differences, such as:

(1) *Height.* An alternative can be identical to the proposed PWSF except to be for a shorter height.

(2) *Number.* An alternative could be for two or more PWSFs that are shorter than the proposed PWSF.

(3) *Location.* An alternative could be located on a different property than the proposed PWSF.

(4) *Siting.* An alternative could be in a different place on the same property as the proposed PWSF.

(5) *Design.* An alternative could be of the same height, location, and siting as the proposed PWSF, but be designed to appear differently.

(c) *Submittal requirements for alternatives.* The materials submitted for each alternative should show only the differences between each of the alternatives and the proposed PWSF.

(d) *Comparison of proposed PWSF and alternatives.* The city planner shall compare the proposed PWSF to the alternatives on the basis of the standards of section 56-503 and 56-238. The city planner shall submit each application and the alternatives to the planning and zoning commission for review. The planning and zoning commission shall consider the alternatives along with the proposed PWSF.

Sec. 56-507. - Modifications.

All modifications to PWSFs must be reviewed and approved by the city.

(1) Types of modification. A modification of a PWSF is any of the following:

a. Change of ownership of the PWSF or of the subject property.

b. Change in technology used for the PWSF, such as an overlay.

c. Addition or replacement of any equipment in the PWSF, excluding direct, like-for-like substitutions.

d. Change in design of the PWSF.

e. Addition to any PWSF for the purposes of collocation.

(2) Applicants for modifications shall submit an application to the city for a modified PWSF. The application shall be reviewed in the same manner as any application for a PWSF.

Sec. 56-508. - Registry; abandonment.

(a) *Registry.* Each carrier maintaining at least one PWSF shall file the following information with the city by December 31 on an annual basis:

(1) Owner/lessee/intermediary/agent and carriers at each PWSF site in the city.

(2) Locations by address and parcel number.

(3) Collocation status and capability, including if a former collocation has been removed.

(4) A certificate of liability insurance demonstrating minimum liability coverage of $1,000,000.00 per accident.

(b) *Abandonment and removal.* Any PWSF that is not operated for a continuous period of 18 months shall be considered abandoned, and the owner of such PWSF and the owner of the property upon which the PWSF is located shall remove same within 90 days of notice from the city planner that the PWSF is abandoned. If such PWSF is not removed within the 90-day period, the city may have the PWSF removed at the PWSF owner's or the property owner's expense.

Sec. 56-509. - Radio frequency radiation emissions.

(a) A statement certifying that, as proposed, the entire combined facility will comply with the current FCC rules and guidelines concerning human exposure to radio frequency radiation emissions shall be provided at the time of building permit application or when a request is made by the city.

(b) No contravention of FCC guidelines. A PWSF that meets the FCC guidelines shall not be conditioned or denied on the basis of radio frequency impacts.

Sec. 56-510. - Commercial communications towers.

(a) It shall be unlawful to erect, construct, place, re-erect, replace or repair any commercial communications tower without first making application to the city and securing a permit to do so.

(b) All applications to erect, construct, place, re-erect, replace or repair a commercial communications tower shall be treated as Tier Three applications under section 56-502 and shall be subject to all the rules and regulations outlined in this article.

Sec. 56-511. - Lighting; security.

(a) *Lighting.* A PWSF shall not be artificially lighted, except for:

(1) Security and safety lighting of equipment buildings if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and

(2) Such lighting of the PWSF as may be required by the FCC, Federal Aviation Administration (FAA), or other applicable authority installed in a manner to minimize impacts on adjacent residences. Dual lighting (red at night/strobe during day) shall be utilized unless otherwise recommended by FAA guidelines.

(b) *Security barriers.* A security barrier shall be required around the perimeter of the mounts or equipment structure, and any anchor points. In the case of a roof-mounted PWSF, the security barrier need only be around the antenna. The security barrier shall be maintained by the operator of the PWSF or mount for the life of the installation. No security barrier is needed around side-mounted PWSFs.

Sec. 56-512. - Signs/identification plaques.

No signage shall be permitted on any PWSF other than that required for public safety purposes or by the FCC or FAA, except that each PWSF shall have a weather-proof plaque, not exceeding two square feet, mounted at eye level identifying the carrier, frequency, and date of permit approval.

Sec. 56-513. - Screening; landscaping.

(a) *Natural vegetation.* Existing natural vegetation shall be undisturbed to the greatest extent practicable.

(b) *Landscaping.* Landscaping and screening requirements of disturbed areas of the PWSF site and security barriers shall be required as follows, per article XIV of chapter 56:

(1) Wireless communication facilities shall be landscaped and maintained with a buffer of plant materials that screens the view of the tower compound from adjacent streets and residential properties. The tower compound buffer shall be outside of the fence when the tower compound is fenced. The standard tower compound buffer shall consist of a landscaped strip at least ten feet wide outside the perimeter of the fence surrounding the tower base and the equipment shelter. The amount of landscaping points required for a tower compound buffer shall be determined by multiplying the number of feet on perimeter of the PWSF premises by 1.5. One hundred percent of the landscaping requirements shall apply to all towers where the tower base or the equipment shelter is visible from any adjacent street or where the tower is located within 200 feet of a residential district. Fifty percent shall apply to all others.

(2) Determination of required points that must be achieved through landscaping for a tower compound buffer shall be based on the overall length of the tower compound sides to be screened as measured along the outer boundary of the tower compound buffer.

(3) One-half of the points for the tower compound buffer landscaping must be achieved by utilizing plants from the shade tree classification and one-half must be from the evergreen tree classification.

(c) *Waiver by city planner.* The above standards may be waived by the city planner where the tower base or equipment shelter is not visible from adjoining properties with CE, R-lA, R-1 or R-2 zoning or where a site is located within areas designated for industrial land use by the city comprehensive plan or where topography or other features achieve the same degree of screening as the required buffer.

Sec. 56-514. - Access; parking.

(a) *Parking.* Areas sufficient for the temporary off-street parking of at least one vehicle shall be provided for each tower, self-supporting antenna and self-supporting antenna array. The type and configuration of parking may be approved by the city planner.

(b) *Private access.* A copy of any road maintenance agreement shall be provided to the city for any site accessed by private easement.

Sec. 56-515. - Aircraft hazard.

(a) *Airport impact zoning.* For Tier Two or Tier Three applications, a statement certifying that, as proposed, the PWSF complies with the Peoria Regional Airport impact regulations shall be provided prior to special use permit approval.

(b) *FAA acknowledgement.* For Tier Two or Tier Three applications, the applicant shall provide acknowledgment from the FAA that the proposed PWSF does not exceed obstruction standards.

Sec. 56-516. - Review of permit.

Permits issued under the terms of this article may be reviewed by the city planner every five years from the date of issuance for compliance with this article and any special terms or conditions of approval. Such permits are subject to suspension or revocation at any time if it is determined that the terms of the permit and any conditions contained therein, or any rules or regulations adopted by the state or federal government concerning the use of such facilities, are being violated.

Sec. 56-517. - Interference with public safety telecommunications.

(a) No new or existing PWSF shall interfere with public safety telecommunications. All applications for new PWSFs shall be accompanied by an intermodulation study that provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

(b) An intermodulation study shall also be submitted prior to the introduction of new services or new frequencies, or changes in existing service. The city shall be notified by the service provider at least ten days prior to the introduction of new services or new frequencies, or changes in existing service, and the service provider shall allow the city to monitor interference levels during the testing process for the intermodulation study.

(c) The city reserves the right to retain its own expert to study potential interference impacts. The cost of such an expert shall be paid by the applicant under the provisions of section 56-505(2).

Secs. 56-518—56-530. - Reserved.

ARTICLE XXI. - SMALL WIRELESS FACILITIES DEPLOYMENT

Sec. 56-531. - Purpose and scope.

(a) The purpose of this article is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the city's jurisdiction, or outside the rights-of-way on property zoned by the city exclusively for commercial or industrial use, in a manner that is consistent with this article.

(b) In the event that applicable federal or state laws or regulations conflict with the requirements of this article, the wireless provider shall comply with the requirements of this article to the maximum extent possible without violating federal or state laws or regulations.

Sec. 56-532. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

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

Collocate or *collocation* means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service means cable service, as defined in 47 USC 522(6), as amended; information service, as defined in 47 USC 153(24), as amended; telecommunications service, as

defined in 47 USC 153(53), as amended; mobile service, as defined in 47 USC 153(53), as amended; or wireless service other than mobile service.

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

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Fee means a one-time charge.

Historic district or *historic landmark* means a building, property, or site, or group of buildings, properties, or sites that are either:

(1) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with sections VI.D.1.a.i through VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR part 1, appendix C; or

(2) Designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the city pursuant to a preservation program that meets the requirements of the certified local government program of the state historic preservation office or where such certification of the preservation program by the state historic preservation office is pending.

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

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

Municipal utility pole means a utility pole owned or operated by the city in public rights-of-way.

Permit means a written authorization required by the city to perform an action or initiate, continue, or complete a project.

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

Rate means a recurring charge.

Right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. The term "right-of-way" does not include city-owned aerial lines.

Small wireless facility means a wireless facility that meets both of the following qualifications:

(1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and

(2) All other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cutoff switch, and vertical cable runs for the connection of power and other services.

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

Wireless facility.

(1) The term "wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

a. Equipment associated with wireless communications; and

b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(2) The term "wireless facility" includes small wireless facilities, but does not include:

a. The structure or improvements on, under, or within which the equipment is collocated; or

b. Wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

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

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

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

Wireless services provider means a person who provides wireless services.

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

Sec. 56-533. - General regulations.

(a) *Permitted use.* Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in section 56-534(i), regarding height exceptions or variances, but not subject to zoning review or approval if they are collocated:

(1) In rights-of-way in any zoning district; or

(2) Outside rights-of-way in property zoned exclusively for commercial or industrial use.

(b) *Permit required.* An applicant shall obtain one or more permits from the city to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

(1) *Application requirements.* A wireless provider shall provide the following information to the city, together with the city's small cell facilities permit application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:

a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in section 4 of the Structural Engineering Practice Act of 1989, 225 ILCS 340/1 et seq.;

b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;

c. Specifications and drawings prepared by a structural engineer, as that term is defined in section 4 of the Structural Engineering Practice Act of 1989, 225 ILCS 340/1 et seq., for each proposed small wireless facility covered by the application as it is proposed to be installed;

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

e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved;

f. Certification that the collocation complies with the collocation requirements and conditions contained herein, to the best of the applicant's knowledge; and

g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the city, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

(2) *Application process.* The city shall process applications as follows:

a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the city fails to approve or deny the application within 90 days after the submission of a completed application.

1. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the city in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

2. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the tenth day after the receipt of the deemed approved notice by the city. The receipt of the deemed approved notice shall not preclude the city's denial of the permit request within the time limits as provided under this article.

c. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the city fails to approve or deny the application within 120 days after the submission of a completed application.

1. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the city in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

2. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the tenth day after the receipt of the deemed approved notice by the city. The receipt of the deemed approved

notice shall not preclude the city's denial of the permit request within the time limits as provided under this article.

d. The city shall deny an application which does not meet the requirements of this article. If the city determines that applicable codes, ordinances or regulations that concern public safety, or the collocation requirements and conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

1. The city shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the city denies an application.

2. The applicant may cure the deficiencies identified by the city and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The city shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the city's review period.

3. The applicant must notify the city in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

4. Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

5. Pole attachment agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the city and the applicant shall enter into a master pole attachment agreement, provided by the city for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the city and the applicant shall enter into a license supplement of the master pole attachment agreement.

(3) *Completeness of application.*

a. Within 30 days after receiving an application, the city shall determine whether the application is complete and notify the applicant. If an application is incomplete, the city must specifically identify the missing information. An application shall be

deemed complete if the city fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the city's permit application form are submitted by the applicant to the city.

b. Processing deadlines are tolled from the time the city sends the notice of incompleteness to the time the applicant provides the missing information.

(4) *Tolling.* The time period for applications may be further tolled by:

a. An express written agreement by both the applicant and the city; or

b. A local, state or federal disaster declaration or similar emergency that causes the delay.

(5) *Consolidated applications.*

a. An applicant seeking to collocate small wireless facilities within the jurisdiction of the city shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

b. If an application includes multiple small wireless facilities, the city may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The city may issue separate permits for each collocation that is approved in a consolidated application.

(6) *Duration of permits.*

a. The duration of a permit shall be for a period of not less than five years, and the permit shall be renewed for equivalent durations unless the city makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable city codes or any provision, condition or requirement contained in this article.

b. If the Act is repealed renewals of permits shall be subject to the applicable city code provisions or regulations in effect at the time of renewal.

(7) *Means of submitting applications.* Applicants shall submit applications, supporting information and notices to the city by personal delivery at the city's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

Sec. 56-534. - Collocation requirements and conditions.

(a) *Public safety space reservation.* The city may reserve space on municipal utility poles for future public safety uses, for the city's electric utility uses, or both, but a reservation of space may

not preclude the collocation of a small wireless facility unless the city reasonably determines that the municipal utility pole cannot accommodate both uses.

(b) *Installation and maintenance.* The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this article. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

(c) *No interference with public safety communication frequencies.* The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

(1) A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

(2) Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

(3) If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC, including 47 CFR 22.970 through 22.973 and 90.672 through 90.675.

(4) The city may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous subsection. Failure to remedy the interference as required herein shall constitute a public nuisance.

(d) *Collocation restriction.* The wireless provider shall not collocate small wireless facilities on city utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

(1) However, the antenna and support equipment of the small wireless facility may be located in the communications space on the city utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

(2) For the purposes of this subsection, the terms "communications space," "communication worker safety zone," and "electric supply zone" have the meanings given to those terms in the National Electrical Safety Code as published by the Institute of Electrical and Electronics Engineers.

(e) *Regulation compliance.* The wireless provider shall comply with all applicable codes and local code provisions, including, but not limited to, city building regulations, that concern public safety.

(f) *Compliance with standards.* The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a city ordinance, written policy adopted by the city, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district. The wireless provider shall also comply with any design, safety, setback, or fall zone standards set forth in this article.

(g) *Alternate placements.*

(1) Except as provided in this collocation requirements and conditions section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the city may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

(2) If the applicant refuses a collocation proposed by the city, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this section.

(h) *Height limitations.*

(1) The maximum height of a small wireless facility shall be no more than ten feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

(2) New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

a. Ten feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the city, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the city, provided the city may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

b. 45 feet above ground level.

(i) *Height exceptions or variances.* If an applicant proposes a height for a new or replacement utility pole or wireless support structure in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a special use permit in conformance with procedures, terms and conditions set forth in chapter 56, article VIII.

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

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

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

(m) *Collocation completion deadline.* Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the city and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the city grants an extension in writing to the applicant.

Sec. 56-535. - Design standards.

In addition to any other applicable designs standards as set forth in an applicable code or law, a wireless provider shall comply with the following design standards:

(1) *Screening.* Whenever any equipment or appurtenances, i.e., cabinet, controller, etc., are to be installed, screening must be installed to minimize the visibility of such equipment or appurtenance and shall not be permitted to obstruct sight lines or to create other traffic or safety problems.

(2) *Color and stealth.* All small wireless facilities, including all related equipment and appurtenances, must be a color that blends with the surroundings of the utility pole, wireless support structure, or other structure on which such facility or equipment is mounted, placed, or collocated. The color must be comprised of nonreflective materials

which blend with the materials and colors of the surrounding area and structures. The applicant shall use good faith efforts to employ reasonable stealth techniques to conceal the appearance of a small wireless facility or its related equipment and appurtenances.

(3) *Utility poles; wireless support structures; extensions.* Any utility pole extension or wireless support structure extension shall not be wood and shall blend with the color of the utility pole or wireless support structure upon which such extension is mounted. Any new utility pole or replacement utility pole shall not be wood and shall blend with the color, style, and structure of any surrounding utility poles or wireless support structures.

(4) *Size.* The applicant shall make good faith efforts to ensure the silhouette of a small wireless facility and its related equipment and appurtenances are reduced to minimize visual impact.

Sec. 56-536. - Safety standards.

In addition to any other applicable safety standards as set forth in an applicable code or law, a wireless provider shall comply with the following safety standards:

(1) A small wireless facility and any related equipment or appurtenance shall not be collocated in a manner so as to obstruct or interfere with a motorist's view of roadways, nor shall any small wireless facility and any related equipment or appurtenance be collocated in a manner which obstructs the view of a motorist at an intersection in the "visibility triangle," as defined in section 56-297(c).

(2) All small wireless facilities shall comply with tornado design standards as contained in city building regulations or EIA-TIA 222 (latest version), whichever is stricter.

(3) Any and all transmission cables and cable trays deployed horizontally above the ground between any number of small wireless facilities and its equipment, or between any number of small wireless facilities, or between any number of small wireless facilities' equipment, shall be at least eight feet above the ground at all points.

(4) Wires and cables connecting the antenna to the remainder of the small wireless facility must be installed in accordance with the National Electrical Code, National Electrical Safety Code, and any other applicable code adopted by the city in city building regulations and in force at the time of the installation of the small wireless facility. Any wiring must be covered with an appropriate cover. No wiring or cabling serving the facility will be allowed to interfere with any existing uses.

(5) No signage shall be permitted on any small wireless facility or its related equipment or appurtenances other than signs that are required for public safety purposes, by law, or by the FCC, FAA, or other similar governmental agency.

Sec. 56-537. - Fall zone; setback requirements.

In addition to any other applicable fall zone or setback standards as set forth in an applicable code or law, a wireless provider shall comply with the following fall zone and setback requirements:

(1) *Fall zone.* No small wireless facility shall be collocated any closer to a habitable structure or outdoor area where people congregate than its fall zone. For the purposes of this section, the fall zone shall be 110 percent of the height of the small wireless facility, the utility pole to which it is attached, the wireless support structure to which it is attached, or any combination or variation thereof, whichever shall result in the largest fall zone.

(2) *Setback.* All small wireless facilities including mounts, equipment shelters, related equipment, or appurtenances shall comply with the minimum building and landscape/screening setback requirements of the applicable zoning district as set forth in this article; provided, however, that the following setbacks apply to the height of the small wireless facility, utility pole, or wireless support structure above ground level or, if such small wireless facility, utility pole, or wireless support structure is attached to a building, the height from the point of attachment:

a. No small wireless facility, utility pole, or wireless support structure shall be set back a distance less than its height.

b. No small wireless facility, utility pole, or wireless support structure shall be set back a distance less than its height from the nearest overhead electrical power line which serves more than one dwelling or place of business.

Sec. 56-538- Design, safety, fall zone, and setback approval.

The approval of all design, safety, fall zone, and setback requirements, as set forth in 56-534 through 56-537, shall be submitted to the city's director of planning and community development for approval. If denied, the director of planning and community development must notify the applicant in writing of the denial. The applicant may appeal the denial to the zoning and planning commission within 15 days of the notice of the denial. The zoning and planning commission's decision on the design, safety, fall zone, and setback requirements is final.

Sec. 56-539. - Application fees.

Application fees are imposed as follows:

(1) Applicant shall pay an application fee as provided in the city fee schedule, an amount for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and as provided in the city fee schedule, an amount for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

(2) Applicant shall pay an application fee as provided in the city fee schedule for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

(3) Notwithstanding any contrary provision of state law or local ordinance, applications pursuant to this section shall be accompanied by the required application fee. Application fees shall be nonrefundable.

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

a. Routine maintenance;

b. The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the city at least ten days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with 56-533(b)(1); or

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

(5) Wireless providers shall secure a permit from the city to work within rights-of-way for activities that affect traffic patterns or require lane closures.

Sec. 56-540. - Exceptions to applicability.

(a) Nothing in this article authorizes a person to collocate small wireless facilities on:

(1) Property owned by a private party or property owned or controlled by the city or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;

(2) Property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

(3) Property owned by a rail carrier registered under 625 ILCS 5/18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in section the Public Utilities Act, 5/1-101 et seq., without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this division do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the Public Utilities Act, 5/1-101 et seq.

(b) For the purposes of this subsection, the term "public utility" has the meaning given to that term in 220 ILCS 5/3-105 of the Public Utilities Act. Nothing in this article shall be construed to relieve any person from any requirement:

(1) To obtain a franchise or a state-issued authorization to offer cable service or video service; or

(2) To obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this article.

Sec. 56-541. - Preexisting agreements.

(a) Existing agreements between the city and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on city utility poles, that are in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the city's utility poles pursuant to applications submitted to the city before June 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into after June 1, 2018, shall comply with this article.

(b) A wireless provider that has an existing agreement with the city on the effective date of this article may accept the rates, fees and terms that the city makes available under this article for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the city that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the city's utility poles pursuant to applications submitted to the city before the wireless provider provides such notice and exercises its option under this section.

(Code 2000, § 154.812)

Sec. 56-542. - Annual recurring rate.

(a) A wireless provider shall pay to the city an annual recurring rate to collocate a small wireless facility on a city utility pole located in a right-of-way that equals:

(1) An amount as provided in the city fee schedule per year; or

(2) The actual, direct and reasonable costs related to the wireless provider's use of space on the city utility pole.

(b) If the city has not billed the wireless provider actual and direct costs, the fee shall be as provided in the city fee schedule payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

Sec. 56-543. - Abandonment.

(a) A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the city notifying the wireless provider of the abandonment.

(b) The notice shall be sent by certified or registered mail, return receipt requested, by the city to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the city may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

(c) A wireless provider shall provide written notice to the city if it sells or transfers small wireless facilities within the jurisdiction of the city. Such notice shall include the name and contact information of the new wireless provider.

Sec. 56-544. - Dispute resolution.

The circuit court of the county shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the city shall allow the collocating person to collocate on its poles at annual rates of no more than $200.00 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

Sec. 56-545. - Indemnification.

A wireless provider shall indemnify and hold the city harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the city improvements or right-of-way associated with such improvements by the wireless provider or employees, agents, or contractors arising out of the rights and privileges granted under this article and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the city or employees or agents. A wireless provider shall further waive any claims that they may have against the city with respect to consequential, incidental, or special damages, however caused, based on theory of liability.

Sec. 56-546. - Insurance.

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

(1) Property insurance for its property's replacement cost against all risks;

(2) Workers' compensation insurance, as required by law; or

(3) Commercial general liability insurance with respect to its activities on the city improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of city improvements or rights-of-way, including coverage for bodily injury and property damage.

a. The wireless provider shall include the city as an additional insured on the commercial general liability policy and provide certification and documentation of

inclusion of the city in a commercial general liability policy prior to the collocation of any wireless facility.

b. A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the city. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this section. A wireless provider that elects to self-insure shall provide to the city evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the city.

Sec. 56-547. - Penalty.

(a) Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this article for which another penalty is not provided, shall be guilty of an ordinance violation and shall be fined not less than $50.00 nor more than $500.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) Failure to obtain a permit for development in the SFHA or failure to comply with the requirements of a permit or conditions of a variance resolution shall be deemed to be a violation of sections 56-323 and 56-333. Upon due investigation the city attorney may determine that a violation of the minimum standards of sections 56-323 and 56-333 exist. The city attorney shall notify the owner in writing of such violation.

(1) If such owner fails after ten days' notice to correct the violation:

a. The city may make application to the circuit court for an injunction requiring conformance with sections 56-323 and 56-333 or make such other order as the court deems necessary to secure compliance with sections 56-323 and 56-333.

b. Any person who violates sections 56-323 and 56-333 shall upon conviction thereof be fined not less than $50.00 nor more than $500.00.

c. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(2) The city attorney shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(3) Nothing herein shall prevent the city from taking any other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person responsible.

(c) Additional remedies to violations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of chapter 56, the proper authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance or

use; to restrain, correct or abate such violation; to prevent any illegal act, conduct, business or use in or about such premises.

(d) All documented violations may be enforced by using short or standard form complaints. The short-form complaint should provide for a reply by the violator, admitting guilt and specifying a fine. At any time during, prior to or after seeking fines, the city may file for injunctive relief. The above fines shall not be construed to limit the authority of any judge in the exercise of contempt powers.

ARTICLE XXII – HISTORIC PRESERVATION

Sec. 56-548. - Purpose.

The purpose of this article is to promote the protection, enhancement, perpetuation, and use of improvements of special character or historical interest or value in the interest of the health, prosperity, safety, and welfare of the people of the city by:

(1) Providing a mechanism to identify and preserve the historic and architectural characteristics which represent elements of the city's cultural, social, economic, political and architectural history;

(2) Promoting civic pride in the beauty and noble accomplishments of the past as represented in city's landmarks and historic districts;

(3) Stabilizing and improving the economic vitality and value 's landmarks and historic areas;

(4) Protecting and enhancing the attractiveness of the city so as to draw buyers, visitors, and shoppers, thereby supporting business, commerce, industry, and providing economic benefit to the city;

(5) Fostering and encouraging preservation, restoration of structures, areas, and neighborhoods and thereby preventing future urban blight.

Sec. 56-549. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition means any act or process which changes one or more of the exterior architectural features of a structure designated for preservation by adding to, joining with or increasing the size or capacity of the structure.

Alteration means any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.

Area means a specific geographic division of the city.

Building means any structure created for the support, shelter or enclosure of persons, animals or property of any kind and which is permanently affixed to the land.

Certificate of appropriateness (COA) means a certificate from the historic preservation commission authorizing plans for alterations, construction, removal or demolition of a landmark or site within a designated historic district.

Commission means city historic preservation commission.

Commissioners means voting members of the city historic preservation commission.

Construction means the act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

Demolition means any act or process that destroys in part or in whole a landmark or site within a historic district.

Design guideline means a standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

Exterior architectural features means the architectural and general composition of the exterior of a structure, including, but not limited to, the kind, color, and the texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, and appurtenant elements.

Historic district means an area designated as a historic district by ordinance of the city council, and which contains within definable geographic boundaries, one or more landmarks and which has within its boundaries other properties or structures that, while not of such historic and architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

Landmark means any building, structure or site which has been designated as a landmark by ordinance of the city council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and architectural significance to the city.

Owner of record means the person, corporation, or other legal entity listed as owner or owners on the records of the county recorder of deeds.

Rehabilitation means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

Removal means any relocation of a structure on its site or to another site.

Repair means any change that does not require a building permit or that is not construction, relocation or alteration.

Structural change means any change or repair in the supporting members of a building, structure, roof or exterior walls which would expand the building in height, width or bulk of the building.

Structure means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennas, including supporting towers, swimming pools, satellite dishes, solar panels and wind generation.

Sec. 56-550. - Applications for landmark and historic district designation and decertification.

(a) Only the owner of property that is proposed to be designated as a landmark or proposed to be located within a proposed historic district, a commission member, or member of the city council may file an application for the designation or decertification of a landmark or a historic district. All applications shall be filed with the planning and development director, or designee, on such forms as shall be prescribed from time to time by the commission. The application shall be accompanied by such plans or data prescribed by the commission. The application shall contain a statement, in writing, by the applicant, and adequate evidence showing that the proposed designation conforms to the standards contained in this division.

(b) At a minimum, the application shall include the following:

(1) For a landmark:

a. The name and mailing address of the property owner;

b. The legal description and common street address of the property;

c. A written statement describing the property and setting forth reasons in support of the proposed designation or decertification;

d. Documentation that the property owner has been notified or consents to the application for designation or decertification;

e. A list of significant exterior architectural features that should be protected;

f. An overall site plan and photographs of the landmark;

g. Any other information deemed necessary by the commission, including, but not limited to, plans, drawings, elevations and specifications.

(2) For a historic district:

a. The names and mailing addresses of all of the property owners within the proposed area;

b. A map delineating the boundaries of the area to be designated or decertified;

c. A written statement describing the area and properties within the historic district and setting forth reasons in support of the proposed designation or decertification;

d. Documentation that the property owners have been notified or signed the application for designation or decertification;

e. A list and photographs of significant exterior architectural features of all properties in the district that should be protected;

f. The application shall be signed by no less than 51 percent of all of the owners of each parcel of property within the area proposed to be designated or decertified;

g. Any other information deemed necessary by the commission, including, but not limited to, plans, drawings, elevations and specifications.

(c) All applications, whether for landmark or district designation or decertification, shall be accompanied by payment of a filing fee as provided in the city fee schedule.

Sec. 56-551. - Standards for landmark designation.

No landmark designation shall be recommended by the commission unless the commission finds that the property, structure, or area possesses the integrity of design, workmanship, materials, location, and setting that meets one or more of the following criteria:

(1) Significant value as part of the historic, heritage or cultural characteristics of the community, county, state or nation;

(2) Identification with a person who significantly contributed to the development of the community, county, state or country;

(3) Representative of the distinguishing characteristics of architecture inherently valuable for the study of a period, type, method of construction or use of indigenous materials;

(4) Notable work of a master builder, designer, architect or artist whose individual work has influenced the development of the community, county, state or country;

(5) Unique location or singular physical characteristics that make it an established or familiar visual feature;

(6) Character as a particularly fine or unique example of a utilitarian structure, including, but not limited to, farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;

(7) An area that has yielded or may be likely to yield, information important in history or prehistory.

Sec. 56-552. - Standards for historic district designation.

No historic district designation shall be recommended by the commission unless the commission finds that the proposed historic district meets the following criteria:

(1) The proposed historic district contains one or more landmarks and contains such other buildings, places or areas within its definable geographic boundaries which, while not of such historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located in the proposed historic district;

(2) The proposed historic district contains a significant number of structures meeting any one or more of the standards for designation of a landmark under section 56-551;

(3) The proposed historic district demonstrates a sense of time and place unique to the city; and

(4) The proposed historic district exemplifies or reflects the cultural, social, economic, political or architectural history of the nation, the state, or the community.

Sec. 56-553. - Landmark and historic district designation procedures.

(a) The applicant shall prepare and submit ten copies of the application and supporting materials for the designation or decertification of a landmark or historic district.

(b) The application and supporting materials must be submitted to the planning and development director no later than the 15th day of the month prior to the meeting at which the commission will review and recommend action on the designation or decertification.

(c) The commission shall recommend or not recommend the application for designation or decertification within 45 days of the date of the application or the filing by the applicant of last item of required supporting data, whichever date is later, unless such time is extended by the mutual consent of the applicant and the commission.

(d) Upon receipt of a proper application, supporting documentation, and statement referred to above, the commission shall hold at least one public hearing on the proposed designation or decertification. Not more than 30 days, and not less than 15 days, in advance of the hearing, notice of the time, place and date of the hearing shall be published in a newspaper of general circulation in the city. The notice shall state the location of the property or area proposed to be designated and a statement summarizing how the proposed landmark or historic district meets the standards set forth in this division.

(e) In addition to the public notice herein provided, written notice of the date, time, place, and purpose of the public hearing shall be given to the owners of record of the property which is proposed to be designated as a landmark or to be included within a historic district, and to the applicant. This additional notice will be mailed, by first class mail, postage prepaid, or delivered by the city clerk to the address of record of the owners of the property and to the address as shown on the application of the applicant.

(f) At the public hearing, the commission shall receive public comments and review and evaluate the application according to the standards established by ordinance.

(g) The commission shall make specific findings of fact with regard to the standards provided in this division, and a written recommendation on each application shall be made to the city council within the time required for a determination of the commission, as hereinabove provided. Following the public hearing, the secretary of the commission shall prepare the commission's findings of fact, evaluation, recommendation and all supporting documentation received at the public hearing and shall submit same to the city council.

(h) All action of the commission to recommend or not recommend the designation of a landmark or historic district shall be made by a resolution by the affirmative vote of a majority of the commissioners then in attendance.

(i) The owners of record of the property proposed to be designated as a landmark or included within a proposed historic district shall be notified promptly of the recommendation of the commission by the secretary of the commission.

Sec. 56-554. - Authorization of landmark or historic district designation.

(a) The affirmative vote of a majority of the city council then in attendance shall be required for granting of a landmark or historic district designation.

(b) Upon the granting of a landmark designation, a notice of landmark designation will be mailed to the property owner, filed with the planning and development director, filed with the city clerk's office, and recorded with the county recorder of deeds. Upon the granting of a historic district designation, a notice of historic district designation will be mailed to all of the property owners located within the historic district, filed with the planning and development director, filed with the city clerk's office, and recorded with the county recorder of deeds against each lot, block and parcel of real estate located within the historic district.

(c) Upon a denial of a landmark designation or a historic district designation, no new application for the designation of the subject property or any of the properties within the area proposed to be designated as a historic district may be filed, nor will any such application be considered by the commission, for a period of 90 days.

Sec. 56-555. - Certificate of appropriateness.

(a) A certificate of appropriateness (COA) issued by the commission shall be required before a building permit or demolition permit is issued for any landmark or any building, structure, or site or part thereof in a historic district. A COA shall also be required before any landmark or any building, structure or site or part thereof in a historic district is altered, extended, or repaired in such a manner as to produce a major change in the exterior architectural features of such building or structure. For the purposes of this section, the term "major change" shall include, but is not limited to, the following:

(1) Any change by addition, alteration, maintenance, reconstruction, rehabilitation, renovation or repair that requires the issuance of a building permit under this article;

(2) Any new construction and demolition in whole or in part requiring a permit from the city;

(3) Moving or relocating a building;

(4) Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature as identified and specified in the ordinance designating the landmark or historic district.

(b) Notwithstanding subsection (a) of this section, a COA shall not be made required where the applicant shows to the commission that a failure to grant the permit will cause an imminent threat to life, health, or property.

(c) No COA shall be required for the following activities:

(1) Change in exterior paint scheme;

(2) Installation of, or change in, storm doors, storm windows, screens, window air conditioners, or television antennas;

(3) Ordinary repair and maintenance of existing exterior architectural features which does not change the basic structural appearance of same;

(4) Installation and repair to walks, patios, or driveways;

(5) Installation of outside storage and mechanical equipment that cannot be seen from the street;

(6) Installation, removal, or change in landscaping.

Sec. 56-556. - Application for certificate of appropriateness.

(a) Every application for a building permit or demolition permit issued for any landmark or any building, structure, or site or part thereof in a designated historic district, including plans and specifications, if any, shall be promptly forwarded to the commission. In those instances where a COA is required but a building and demolition permit is not, a separate application for COA shall be submitted to the commission.

(b) The application for issuance of a COA must include:

(1) Street address of the property involved.

(2) Legal description of the property involved.

(3) Brief description of the present improvements situated on the property.

(4) A detailed description of the construction, alteration, demolition, or use proposed together with any architectural drawings or sketches if those services have been utilized by the applicant and if not, a sufficient description of the construction, alteration, demolition, and use to enable the commission to determine what final appearance and use of the real estate will be.

(5) Owner's name and address;

(6) Applicant's name and address;

(7) Contractor's name, if different than owner.

(8) Architect's name and address, if any.

(c) The applicant shall prepare and submit ten copies of the application for a COA and supporting materials to the planning and development director. The planning and development director shall forward the application and supporting materials to the commission within five working days after receipt.

Sec. 56-557. - Standards for certificates of appropriateness.

(a) *Issuance requirements.* No COA shall be issued by the commission unless the commission finds that the following criteria, as developed by the Secretary of the Interior's Standards for Rehabilitation, are met:

(1) The property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site environment;

(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;

(3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved;

(5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity;

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities, and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence;

(7) The surface cleaning of the structures, if appropriate, shall be undertaken using the gentlest means possible;

(8) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken;

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment;

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the landmark and the historic district would be unimpaired.

(b) *Architectural criteria.* Design guidelines for applying the standards for issuance of a COA shall, at a minimum, consider the following architectural criteria:

(1) *Height.* The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district;

(2) *Proportions of windows and doors.* The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark;

(3) *Relationship of building masses and spaces.* The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible;

(4) *Roof shape.* The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark;

(5) *Landscaping.* Landscaping should be compatible with the architectural character and appearance of the landmark;

(6) *Scale.* The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in a historic district;

(7) *Directional expression.*

a. Façades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures;

b. The directional expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character;

(8) *Architectural details.* Architectural details including types of materials, colors, and textures should be treated so as to make the landmark compatible with its original architectural style and character of a landmark or historic district;

(9) *New structures.* New structures in a historic district shall be compatible with the architectural styles and design in the historic district.

Sec. 56-558. - Certificate of appropriateness procedures.

(a) The applicant shall prepare and submit ten copies of the application and supporting materials for the designation or decertification of a landmark or historic district.

(b) The application for a COA and supporting materials must be submitted to the planning and development director no later than the 15th day of the month prior to the meeting at which the commission will review and act on the application for a COA.

(c) The commission shall issue or deny the COA at its next regularly scheduled meeting after the timely filing of the application, or at any properly called special meeting of the commission for that purpose, unless such time is extended by the mutual consent of the applicant and the commission.

(d) The affirmative vote of the majority of the members of the commission then in attendance shall be required for granting of an application for a COA.

(e) The commission shall make specific findings of fact with regard to the standards provided in this division, and a written approval or denial on each application shall be made by the commission. Following the meeting, the secretary of the commission shall prepare the commission's findings of fact, evaluation, and determination and shall personally deliver or mail a copy thereof to the applicant, by first class mail, postage prepaid, to the address of the applicant stated on the application within five business days after the meeting of the commission.

(f) In the event that the commission grants the application for a COA, the planning and development director shall issue a signed COA to the applicant.

(g) A COA issued by the planning and development director shall be effective from and after the 14th day after the meeting of the commission at which the application therefor was granted.

(h) In the event that the commission denies an application for a COA, the commission shall, in addition to submitting the information provided above, submit to the applicant the reasons for the commission's denial.

(1) Within 14 days of receipt of the notification of denial, the applicant may resubmit an amended application for a COA that takes into consideration the recommendations of the commission. If an amended application is not submitted within the 14-day period, the decision of the commission shall become final.

(2) Within 14 days of the filing of an amended application for a COA with the planning and development director, the commission shall meet and either issue the COA or schedule a new meeting for the appeal as set forth below.

(3) The process for the appeal of the denial of an amended application for a COA shall be as follows:

a. The commission shall designate a time and place for the hearing of the appeal and give written notice thereof to the applicant by mailing notice of the meeting, by first class mail, postage prepaid, not less than ten days prior to the date of the meeting to the address of the applicant as stated in the application for the COA.

b. At the hearing, the commission and the applicant shall have the right to introduce evidence and cross-examine witnesses. The secretary of the commission shall make and keep an audio recording, video recording or written transcript of the meeting.

c. Within five days after the date of the hearing, the commission shall issue a written decision on the amended application and notify the planning and development director and the applicant thereof, unless the time is extended by mutual agreement between the commission and the applicant.

d. In the event of a denial of the amended application by the commission, the applicant may appeal the decision to the city council, whose decision in this matter shall be final subject only to judicial review as provided by law. The applicant shall provide the secretary of the commission a notice of any such appeal.

(i) A COA shall permit only such changes as are specified in the COA. Any modifications of the plans, as approved by the commission in the COA, will not be permitted.

(j) Any work or change authorized by a COA but not substantially started within 90 days of the issuance of the COA shall require a new COA. Once works has started under the COA, such work not completed within one year of starting construction shall require a new COA.

Sec. 56-559. - Certificate of economic hardship.

(a) Notwithstanding any of the provisions of this division to the contrary, the commission may issue a certificate of economic hardship to allow the performance of work for which a certificate of appropriateness has been denied.

(b) An applicant for a certificate of economic hardship must submit one or more of the following in order to assist the commission in making its determination on the application:

(1) The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;

(2) The assessed value of the land and improvements thereon according to the two most recent assessments;

(3) Real estate taxes for the previous two years;

(4) Remaining balance on the mortgage, if any, and the annual debt service, if any, for the previous two years;

(5) All appraisals obtained within the previous two years by the owner or applicant in connection with this purchase, financing or ownership of the property;

(6) Any listing of the property for sale or rent, price asked and offers received, if any;

(7) Any consideration by the owner as to profitable adaptive uses for the property;

(8) If the property is income-producing, the annual gross income from the property for the previous two years, itemized operating and maintenance expenses for the previous two years, and annual cash flow before and after debt service, if any during the same period;

(9) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other;

(10) Any other information, including the income-tax bracket of the owner, applicant, or principal investors in the property, reasonably necessary for a determination as to whether the property can be reasonably used or yield a reasonable return to present or future owners.

(c) If the commission finds that without approval of the proposed work for which a COA has been denied, the property owner cannot obtain a reasonable economic return therefrom, then for a period not to exceed 90 days, the commission shall investigate the plans and make recommendations to the city council to allow for a reasonably beneficial use or a reasonable economic return, or to otherwise preserve the subject property. Such plans and recommendations may include, but not be limited to:

(1) A relaxation of the provisions of this article;

(2) Building code modifications; and

(3) Changes in zoning regulations.

(d) If, by the end of the 90-day period referred to above, the commission has found that without approval of the proposed work for which a COA has been denied, the property cannot be put to a reasonable beneficial use or the owner cannot obtain a reasonable economic return therefrom, then the commission shall issue a certificate of economic hardship approving the proposed work. If the commission finds the property can be put to a reasonable beneficial use or the owner can obtain a reasonable economic return therefrom, the commission shall deny the application for a certificate of economic hardship.

(e) The certificate of economic hardship shall be effective from and after the 14th day after the meeting of the commission at which the certificate of economic hardship was granted.

Sec. 56-560. - Appeals.

(a) When a certificate of appropriateness or a certificate of economic hardship is approved or denied, the applicant, the owner of any property within the approved historic district that includes the property within its boundaries, or any property owner within 250 feet from any boundary of the subject property, within 14 days, may appeal the determination and decision of the commission to the city council.

(b) The commission shall submit the record of its proceedings, and a copy of its decision to the city council. No new matters not included in the record before the commission may be considered by the council.

(c) By affirmative vote of the city council then in attendance at the meeting thereof, the city council may affirm, reverse, and remand for further proceedings, the decision of the commission.

(d) The secretary of the commission shall notify the applicant and the planning and development director within seven days of the council's decision and shall take such action as shall be necessary as a result of the decision of the city council within 14 days thereof.

Sec. 56-561. - Natural destruction or demolition.

In the case of partial or complete natural destruction or demolition of a site within a historic district or of a landmark, the owner must obtain a certificate of appropriateness from the commission prior to reconstruction. Although exact duplication of the previous structure may not be required, the exterior design of the property shall be in harmony with:

(1) The exterior design of the structure prior to damage; and

(2) The character of the historic district.

Sec. 56-562. - Square building design guidelines.

(a) *Purpose.* The purpose of the square building design guidelines is to provide a set of architectural guidelines to preserve the character of the historic buildings in the downtown square and to guide property owners and the historic preservation commission (HPC) in future alterations, changes, construction, and demolition around the square.

(b) *Applicability.* The square building design guidelines shall apply to all properties applying for a certificate of appropriateness (COA) with the following addresses:

(1) 101—105 Zinser Place.

(2) 126 N. Main Street.

(3) 122 N. Main Street.

(4) 120 N. Main Street.

(5) 116—118 N. Main Street.

(6) 112—114 N. Main Street.

(7) 108—110 N. Main Street.

(8) 104 N. Main Street.

(9) 100 N. Main Street.

(10) 100 S. Main Street.

(11) 110 S. Main Street.

(12) 112 S. Main Street.

(13) 116—120 S. Main Street.

(14) 106—110 Washington Square.

(15) 112—118 Washington Square.

(16) 128 Washington Square.

(17) 140 Washington Square and 106 Walnut Street.

(18) 114 Walnut Street A—D.

(19) 135 Washington Square.

(20) 127 Washington Square.

(21) 123 Washington Square.

(22) 121 and 121 ½ Washington Square.

(23) 117 and 117 ½ Washington Square.

(24) 115 and 115 ½ Washington Square.

(25) 109 Washington Square.

(26) 105 Washington Square.

(27) 101—103 N. Main Street.

(c) *Review.* The HPC shall review any applications for a COA for the addresses noted in subsection (b) of this section regardless of whether a historic district is approved.

(d) *Architectural elements.*

(1) *Height.* The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district.

a. For small alterations and construction projects, including, but not limited to, the repair of a building, a rear addition, or the addition of an attached side building, the height shall match the height of the existing structure as closely as possible.

b. Infill buildings follow the same logic and shall be compatible with their surrounding structures. These new buildings are not to differ from the surrounding structures by more than one story.

c. In general, the north, east, and south sides of the square support the alteration and construction of two-story structures. These structures differ slightly in height depending on the use, but their façades directed toward the interior of the square all display two-stories with windows on both stories.

d. On the west side of the square, buildings on the north side generally display this same two-story characteristic. On the south side of the west side of the square, buildings generally support a one-story exterior façade, with interior space for a possible second story. While these buildings may only display one story to the exterior viewer, there is significant architectural detailing above many of the entryways, almost reaching the height of a second story.

e. The architectural style of the notable historic structures in the square is of the Italianate style, best displayed by the architectural features on the north side of the square. While new construction and infill will not be required to be designed in an Italianate style, similar features and style is encouraged where possible.

(2) *Proportions of windows and doors.* The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark.

a. In repair or new additions to a building, it is important to let the existing structure inform the characteristics of the new portion. If the new structure faces the square, it is important to include doors and windows, consistent with the spacing already established.

b. The windows on the second story of a building are many times slightly smaller in height but should continue to reflect the style, in size, opening, and architectural detailing around the window, of the first story windows. While these are many times less ornate in detailing, the repetition of size and style brings more cohesion to the overall design of the square, reinforcing the historic character.

c. For infill construction, the design should be informed by its neighboring buildings. While the new building does not necessarily need to replicate the exact style and massing of its neighboring structures, it does need to consider the positioning and size of the door as well as the windows on the front façade. Ultimately, the goal of proportioning windows and doors on infill construction is to make the transition look as seamless as possible between the historic structures and the new building.

(3) *Relationship of building masses and spaces.* The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible.

a. Along the square, the façades are continuous, especially on the north, south, and west sides. The east side has fewer buildings and does not experience the aesthetic of no space between buildings and their storefronts. However, it is still important to keep in mind that the buildings on the east side to the north and south of Walnut Street also do not provide spacing between their building façades. This continuous façade, whether through two storefronts or ten storefronts, is characteristic of the Washington Square commercial downtown.

b. Open space throughout the square is maintained through the variety of passageways to and through the square, including the entrance to the public parking lot on the northeast corner of the square.

c. Important to keep in mind is that the relationship between neighboring buildings is extremely important, as well as the size of the spaces that create the passageways through the square. Currently the passageways serve as a secondary element to the historic structures. However, they are extremely important for the functionality of the square. As a secondary element, the spacing should be kept relatively small in size compared to the structures in order to bring more attention to the historic structures.

(4) *Roof.* The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark. The roof helps determine the building style and is an important component of the historic appearance.

a. The historic roof shape should be retained. Most roof forms in the city are flat. However, a slight pitch to a newly constructed roof is permitted to assist with drainage, as long as the roof is not extremely visible from the public right-of-way and does not take away from the historic building style and appearance.

b. If at all possible, the existing materials of the roof should be maintained and retained.

c. Roof related architectural detailing and features, such as parapet walls, cornices, brackets and chimneys should be retained.

d. Any new roof elements, such as balconies, satellite dishes, and skylights should not be visible from the street. These elements are more appropriately placed at the rear of the structure.

e. Maintain historic roof materials, such as slate and sheet metal where they are visible from the street.

f. If the replacement of the roof with modern materials is the most viable option, the public visibility of this roof should be limited.

(5) *Landscaping.* Landscaping should be compatible with the architectural character and appearance of the landmark. Streetscape elements should complement the historic character of the square and make it a safe and aesthetically appealing place for residents and visitors.

a. Flowerboxes on a storefront façade should utilize live plants and should be historic in nature. Boxes made of wood are encouraged. Flower boxes should be well maintained, both in the maintenance of the plants themselves but in the upkeep (painting and repair) of the boxes.

b. Planters in front of a store are permitted but should not obstruct sidewalk traffic. These should be placed close to the façade of the structure as the city has its own planters that will be placed closer to the edge of the sidewalk.

(6) *Scale.* The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in a historic district.

(7) *Directional expression and storefronts.* Façades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The direction expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.

a. Historic storefronts should be retained, maintained and repaired if needed; historic storefronts should not be covered or concealed. These historic storefronts are extremely important to the historic character of downtown Washington and should be preserved when at all possible.

b. Historic information regarding the appearance of the storefront should guide the restoration or rebuilding of historic storefronts. Such materials can be found in the Washington Historical Society or in the planning and development department in city hall.

c. If a storefront has deteriorated, components should be restored to their original appearance. While historic materials are not required, materials of similar appearance, such as, color, texture, pattern, etc., should be used where at all possible.

d. Historic examples should also guide storefronts that have been missing and are being replaced. While each storefront is unique, these storefronts being replaced should be complementary to their neighboring storefronts in scale, style, and proportion.

(8) *Architectural details.* Architectural details including types of materials, colors, and textures should be treated so as to make the landmark compatible with its original architectural style and character of a landmark or historic district.

a. The architectural details of a historic building help define its character and should therefore be retained, maintained and repaired to match the original features as closely as possible.

b. Historic architectural details should not be covered or removed.

c. When repair is necessary, safe methods of cleaning and repair should be used to ensure that the features will not be damaged and will retain their historic character.

d. Architectural details should not be added to a storefront where there is no historical evidence to support their previous existence. The addition of architectural details should be supported by historic materials showing evidence of the original storefront.

e. For new infill construction and development, architectural details should match the overall style of the structure and the character of the square. The details should not be over-utilized but should replicate important features, such as decorative window cornices, front pilasters, and glass transoms on the storefront displays.

(9) *New construction.* New structures in a historic district shall be compatible with the architectural styles and design in the districts. New construction is welcomed as long as it reflects the existing historic character of the commercial district. The characteristics, architectural detailing, size, and proportions of new structures and additions should be harmonious with the existing structures. Ultimately, new construction should not take the focus off the historic structures. The purpose of this section is to present guidelines for new elements to the district and to encourage design and quality that reflects the historic character of the surrounding district.

a. *Infill buildings.* Where historic buildings have been lost or if there are vacant lots that are considering the addition of new construction, additional buildings may be considered if they add to the streetscape, promote economic development, and reflect the historic style of the surrounding buildings.

1. New construction should utilize existing setbacks established by adjoining buildings. Most buildings in Washington utilize zero-lot-line conditions (no front or side setbacks).

2. The back of the building, while not as important as the front façade, should generally match the adjoining buildings in building setback.

3. New construction should be oriented toward the square.

4. The height and width of the new building should be compatible with the adjacent buildings. In the city, with a continuous façade in most parts of the downtown area, this means that the width should occupy the entire opening, if a building is to be located between two existing structures. The height should be one or two stories, depending on the side of the square that the new construction is taking place.

5. The roof form should reflect the roof forms of neighboring structures, most often a flat roof.

6. The new construction should be contemporary but should also reflect the design of historic structures.

7. If new construction is proposed to fill an area that historically is composed of multiple footprints, the front façade should have the appearance of traditional building widths rather than one large structure.

8. Parking should be located to the rear of the building. Parking is also encouraged in marked on-street parking spaces in the square.

b. *Rear additions.* Rear and lateral additions are the most common recommendation for the location of an addition. These additions give additional space for property owners while still maintaining the historic character of the original façade by remaining invisible from the front façade.

1. Additions on the roof should not be visible from the street.

2. Additions should not damage the existing historic structure or remove any architectural details important to the structure.

3. The roof form of the existing structure should be replicated on the rooftop addition, most likely a flat roof in the city.

c. *Roofline additions.* Rooftop additions provide further space for their owners, who can expand going up. These additions should not be visible from the street and should use materials and design that are reflective of the historic character of the building.

1. Additions on the roof should not be visible from the street.

2. Additions should not damage the existing historic structure or remove any architectural details important to the structure.

3. The roof form of the existing structure should be replicated on the rooftop addition, most likely a flat roof in the city.

d. *Decks.* As important modern features, decks may be added with care to protect and not to detract from the existing historic structure. Decks are not allowed on the front façades of structures and are recommended to be built at the rear or side of the structure, as long as they are not visible from the street.

1. The recommended location for decks is on the rear elevation of the structure.

2. If property owners wish to build a deck on a side elevation of their structure or on the roof of their structure, they must screen the deck so as to not be visible from the street. Depending on the location of the deck, this can be done through the use of plants, fences, or parapet walls.

3. Decks should be constructed of wood or metal and can be stained or painted with colors compatible to their building's character.

4. Decks must receive a building permit for new construction to ensure the safety of the structure before they are to be built.

e. *Ramps.* To meet current Americans with Disabilities Act requirements, buildings that do not have street grade entrances must provide an alternative, more accessible entrance when a building undergoes a significant renovation or when public sidewalk improvements are completed.

1. When at all possible, ramps should be placed on the rear elevations instead of main façades if space is available.

2. Ramps should be constructed of concrete or wood and should be simple in design. If a ramp is to be stained or painted, it should be complementary to the building it is being added to.

(e) *Additional architectural elements.*

(1) *Awnings.* Awnings are a common historical feature in downtown Washington and were used by many shopkeepers on their storefronts to provide shelter as well as heat and cool the building. While they are mainly decorative features now, they still remain an important aesthetic component to historic storefronts in downtown Washington.

a. The addition of awnings to a storefront is appropriate if they are traditional in design, materials and placement. The color and design of the awning should complement the building and its color palette, always taking care to avoid harsh and bright colors.

b. Awnings are typically installed directly over windows and entryways and can be one large feature or multiple small features. They can be installed on storefronts and upper façade windows.

c. A variety of styles is possible but most awnings in the city are fixed or retractable and are of the shed style, all appropriate for the area.

d. It is preferred that awnings are made of canvas or a polyester blend rather than vinyl, metal, or wood.

e. When installing awnings, it is important to not damage architectural features on a storefront, and to ensure that no features, such as transom windows, are not covered by permanent fixed awnings.

(2) *Brickwork/masonry.* The historic downtown Washington commercial area is characterized by a variety of brick buildings, which need proper care and maintenance to continue to look presentable. The key to maintaining brick surfaces, which can last indefinitely, is to keep water out and apply a soft mortar where repairs are needed. Abrasive cleaning of brick should not occur.

a. Repair rather than replacing masonry materials unless it is impossible to do so.

b. Masonry should be cleaned only when necessary to halt deterioration and with low pressure water and soft bristle brushes. Sandblasting or high-pressure water should only be used as a last resort, once the property owner has shown proof of trying other removal processes. To maintain the historic character of façades, sandblasting is discouraged especially on façades visible from the right-of-way.

c. Original brick surfaces should not be covered with materials uncharacteristic of the building, such as stucco, plaster, siding, etc. Brick should also not be painted unless it was historically painted.

d. If the exterior brick surfaces are already painted and it is a stable paint layer, repainting the exterior is appropriate.

e. New masonry added to a site should be similar in appearance, color, and texture to the historic brick.

(3) *Building material.* The maintenance of the existing materials is most important on the existing buildings in downtown Washington. The majority of the buildings in the square are brick or masonry, but some have been covered over the years with material, such as siding. The restoration and maintenance of the original building material is most important.

a. When replacing the exterior façade building material, it is important to be guided by the historic material of that structure. For instance, structures that are historically brick should continue to use brick, rather than switch to vinyl siding. While the material does not have to be exact, it should be replaced in-kind.

b. It is appropriate to remove any façade materials that have covered the original façade, but it is inappropriate to use materials, such as stucco or siding to cover a façade.

(4) *Doors and entrances.* Doors are an important visual element to storefronts and should maintain their historic character through maintenance, restoration and repair. Upon renovation of the structure, doors that are not the original or that are severely deteriorated should be replaced with doors that match the historic character and style.

a. Historic doors should be retained and maintained when possible.

b. Primary entrances should meet Americans with Disabilities Act requirements, or an alternative entrance should be provided and maintained at the same standard.

c. The replacement of deteriorated and damaged doors should be done so with doors similar in character, style and material. These new doors should not detract from the character of the building.

d. Raw aluminum and other silver-colored metal doors are not permitted.

e. All original features of original doors, such as stained glass, beveled glass, or leaded glass should not be removed or replaced unless it is impossible to repair.

f. Recessed entrances should be maintained in the proper form, unless an original recessed entrance has been removed.

g. Doors and entrances should not be added to places on the building where they were not original.

h. Residential-style doors shall not be used in the commercial district.

i. Screen doors are permitted if they are complementary to the style of the building and have wood or aluminum frames. They must also be in full view and not block the original door. Storm doors must also be full view and painted or finished to be as inconspicuous as possible. Security doors are only permitted in doors not visible from the street.

(5) *Fire escapes and staircases.* Fire escapes are an important safety feature on buildings and are required by code for escape from upper floors. Because these are modern additions to buildings, it is important to keep them at the rear or side of the building and to be as invisible from the street as possible.

a. Fire escapes or other staircases should be located on the rear or lateral elevations of a building so they are not visible from the street.

b. The installation of fire escapes should not damage architectural features.

c. Fire escapes may be open or enclosed.

(6) *Gutters and downspouts.* Gutters and downspouts are important to maintain the integrity of the exterior materials by protecting buildings from water damage.

a. Gutters should be used and maintained.

b. Existing boxed or built-in gutters should be retained and repaired.

c. When new gutters are needed, gutters that are half-round in design are most appropriate.

(7) *Lighting.* Historic light fixtures are important architectural elements in a commercial downtown area, such as Washington Square. These lights should be retained and maintained when possible, and new light fixtures should be unobtrusive.

a. Historic light fixtures should be retained and maintained when possible. Damaged or deteriorated fixtures should be maintained using methods that allow them to retain their historic appearance.

b. If light fixtures are beyond repair, property owners should replace them with lights similar in style, size, and color.

c. If light fixtures are desired where there were no historic fixtures, the fixtures should be unobtrusive, conceal the light source, and point light toward the building.

d. Upon installing light fixtures, new or original, the building should not be damaged in any way.

(8) *Paint.* The colors chosen for structures throughout the square should reflect a similar palette to create cohesion and enhance the historic character of the square. The regulation of paint color is solely to restrict paint that is extremely uncharacteristic of the history of the square.

a. Paint color and selection should fit within the general color palette.

b. Paint color should keep with the building's style and period of construction.

c. Elements of the structure that have historically been left without paint should not be painted. This may include materials, such as wood, masonry, and concrete, depending on the building, which is being considered. Historic roofing materials should also be left unpainted.

d. Breathable paints, such as latex and acrylic latex paints should be used to ensure that vapor can escape.

e. While sandblasting and high-pressure water blasting to remove paint are not ideal, if alternative methods for paint removal are not cost-efficient or cannot be accomplished, sandblasting or high-pressure water blasting could be used. Open flames and torches should not be used to remove paint from historic siding.

f. Paint colors chosen for structures throughout the square should complement existing colors, especially those of neighboring buildings. Neons and bright colors on façades should be avoided as to preserve the cohesiveness of the buildings. Most commonly, the color categories of grays, browns, dark reds, beiges, blues, and blacks have been used. The historic preservation commission is available to offer assistance in choosing colors if desired.

g. Murals must also be approved by the historic preservation commission. A design must be included with the COA application and should enhance the character of the square.

(9) *Signs.* Commercial buildings traditionally display a variety of signs with different designs and placement and should be given a large amount of flexibility in their use. Signage should be kept in the historic design and style as much as possible and should be an appropriate size for each storefront. Signs must receive a COA unless there is routine maintenance that must be performed on the sign.

a. Historic signs should be preserved, maintained, and repaired when possible.

b. New signs should be created from traditional materials, such as wood, glass, or copper.

c. Signs should be proportionate to the storefront and should not be extremely oversized.

d. Buildings should not have more than two signs, excluding signs that are painted directly onto windows.

e. Signs should coordinate with the colors of the building.

f. Letters in a sign should not exceed 18 inches in height or cover over 60 percent of the total sign area.

g. Signs are most often located on the upper façade walls, are hanging or mounted inside windows or project from the face of the building, typically above doors or windows. Sandwich board signs are also allowed and can be placed on the sidewalk in front of the business during business hours provided they do not impede pedestrian movement or vehicular visibility. These sandwich board signs shall not exceed a total size of six square feet.

h. When installing signs, it should be done carefully so as not to damage historic materials. Anchors should be placed in mortar rather than masonry.

i. Lighting for signs is appropriate but should be concealed.

j. Neon signs, unless originals or replicas should not be used along the square, especially for permanent signage.

k. Electronic message boards are not prohibited but should be controlled so as not to become a hazard for traffic in the square or to other business owners.

(10) *Windows.* Windows are an important feature of a façade and should be preserved, maintained, and repaired. Original windows should not be concealed or replaced and when replacements are necessary, they should match the original in size, materials, and number of lights.

a. Historic windows and their existing openings should be retained and maintained. They should not be covered or painted.

b. Damaged or deteriorated windows should be replaced with windows of the same previous size and shape to maintain the historic appearance. If energy-efficient materials and windows are desired, they should be as close to the original materials as possible.

c. For original windows, replacement of individual sashes or panes rather than a full window is recommended. If the majority of a window is damaged, replacing the full window is appropriate.

d. New windows should match the style of existing windows on the structure and should not alter the opening on the façade. When possible, new windows should be made of wood.

e. Shutters may be added to the façade if historically appropriate. Shutters should be painted wood that matches the size of the full window.

f. Screen and storm windows should fit within the existing window frames and should match the window they are covering. Storm windows should be full-view design.

g. Portable, seasonal air conditioners will not be regulated, but whenever possible should be placed where they are not easily viewed from the street.

h. In order to prevent the need to replace full original windows, routine maintenance is recommended which includes replacing broken glass, muntins, molding and glazing; scraping, priming, repainting of sashes and frames; and repairing and replacing hardware.

(11) *Parking lots.* Parking lots are a necessary part of modern downtown areas but should be designed as to make the lots more aesthetically appealing through the use of landscape screening. Property owners are also encouraged to utilize the parking spaces throughout the square and the parking lot at the northeast corner of the square for their customers.

a. Whenever possible, parking lots should be located behind historic buildings, out of pedestrian view, and not along the main streets.

b. Shared parking lots are ideal so that space will not be wasted and the parking lot will be more full more often.

c. Parking and pedestrian areas should be clearly designated.

(f) *Administrative certificates of appropriateness.* Administrative certificates of appropriateness describes exterior elements and changes that are likely to occur more frequently than large construction projects. These minor exterior changes, while they need approval, do not need to go through the formal COA process that comes before the historic preservation commission (HPC). Instead, the property owner may fill out a COA form and speak with the planning and development director, who will then sign off on the project. The planning and development director should present any approved fast-track applications to the HPC at the next meeting.

(1) Storm doors. Many property owners are opting to install storm doors to protect their primary doors from weather. These doors are appropriate when they do not detract from the historic character of the door and building as a whole.

a. Storm doors should be full view and should primarily be glass.

b. Storm door material should be aluminum or plastic and should be simple in design.

c. Storm doors should not detract from the historic character of the building. They should also not block the detailing on the door in any way.

d. Storm doors should be painted or stained to blend with the rest of the building so that they are as invisible as possible.

(2) Temporary signs and banners. Temporary signs and banners are appropriate on the square and are most often used for special events, many times being displayed in storefront windows. Such temporary signs should not be displayed for more than 30 days.

(3) Painting within the general color palette, with the exception of murals.

(4) Ordinary repair and maintenance of existing exterior architectural features which does not change the basic structural appearance of same.

(5) Installation of outside storage and mechanical equipment that cannot be seen from the street.

(6) Installation, removal, or change in the landscape.

(g) *The city's commitment to preservation.* The city is committed to preserving the square and its structures as a defining element of the city. These efforts will be led by the planning and development director and the historic preservation commission. Additionally, the city is committed to maintaining the square in the ways it is able to, as seen below.

(h) *Landscaping.* Landscaping should be compatible with the architectural character and appearance of the landmark. Streetscape elements should complement the historic character of the square and make it a safe and aesthetically appealing place for residents and visitors.

(1) Streetscape elements, such as benches and planters should enhance the Washington commercial area.

(2) While these elements are modern in nature and support modern commercial activity, they should complement the historic character of the square, especially the historic buildings.

(3) Landscaping should not damage historic buildings or conceal any historic elements or architectural details.

(4) In addition to ensuring that historic elements are not concealed through landscaping, the canopies should be limited and planters should be given priority.

(5) Outdoor furniture is to be provided by the city and should be uniform in appearance. The city will also provide and maintain trash receptacles. Any outdoor furniture and other elements that are placed along the sidewalks should not impede traffic flow.

(6) Historically, the center of the square has been the location for the majority of the landscaping and other furniture. While the fountain has replaced the historic bandstand, the center of the square remains an important place for historic land markers, furniture, and vegetation. This area should continue to receive attention to maintain its attractive qualities, while ensuring that it does not become overgrown or create any safety issues.

(7) Crosswalk markings and other pedestrian infrastructure shall be maintained by the city to ensure the safety of the pedestrians and the downtown area.

(8) The use of period lighting should be continued along the sidewalks throughout the historic downtown. The lighting shall be carefully placed to ensure illumination in all areas for pedestrian safety.

Sec. 56-563. - Fees and penalties.

(a) The city council, upon recommendation from the commission, may establish an appropriate system of processing fees and bonds to fulfill the provisions of this article.

(b) Any person who undertakes or causes an alteration, construction, demolition, or removal of any landmark or property within a historic district without a COA shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $100.00 nor more than $1,000.00. Every day such violation shall continue to exist shall constitute a separate violation.

(c) In addition to any other remedies and penalties provided in this article, the city attorney is authorized and directed to file institute, at the direction of the corporate authorities in the name of the city, civil actions for temporary restraining orders, temporary injunctions, permanent injunctions, or for damages, against any person, firm or entity violating this article. In any such action, in addition to any other remedy or damages, the city shall be entitled to recover its reasonable attorneys' fees and court costs, whether such attorneys' fees are incurred for preparation, negotiation, trial, appellate, or otherwise.

Section 8: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed insofar as they are in conflict with this Ordinance.

Section 9: If any provision of this Ordinance is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

Section 10: This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED AND APPROVED this _____ day of _____ 2024.

AYES:_____

NAYS: _____

_____

ATTEST: MAYOR

_____

CITY CLERK