

**Tentative Agenda  
Municipal Committee  
November 20, 2018  
6:00 p.m.  
City Hall Council Chambers**

Roll Call

Approval of the October 16, 2018 Minutes

**DISCUSSION ITEMS**

- 1) Amendment to Chapter 36 Regarding Small Wireless Facilities  
Damon Hodges – Co-Interim City Administrator, Assistant City Administrator,  
Public Works Director
- 2) Amendment to Chapter 6 regarding Animal Control, Alderman Derek Ward
- 3) Next Tentative Meeting Date and Time – December 18, 2018

Adjournment

**DRAFT  
MINUTES  
Tentative Agenda Municipal  
Committee October 16, 2018  
6:00 p.m.  
City Hall Council Chambers**

**Roll Call**

Roll was called by Damon Hodges, Assistant City Administrator, and the attendance was as follows:

Present: Alderman Bill Van Buskirk (chair), Alderman Karen Black, Alderman Derek Ward

Absent: Alderman Mark Moore, Alderman Jim Aziere

**Approval of the June 19, 2018 Meeting Minutes**

Alderman Black, seconded by Alderman Ward, made a motion to adopt. The motion was approved by a vote of 3-0-2.

Ayes: Aldermen Ward, Van Buskirk, Black

Nays: None

Absent: Aldermen Moore, Aziere

**DISCUSSION ITEMS**

1) Animal Control-Animal Holding Period

Ray Haydaripoor, Community Development Director, presented on the City's current impound policy and City staff's proposed changes and remained available for any discussion.

The staff recommendation is to reduce the animal holding period from 10 days to 5 days at which time the animal would be transferred to Midwest Animal ResQ for adoption and fostering services.

The City's current impound procedures and policies were discussed.

Vaccinations are administered to any impounded animal that does not have records of prior vaccination.

Animals impounded after a bite incident are required to be quarantined for 10 calendar days.

Midwest Animal ResQ is contacted in instances when an impounded animal is sick or injured.

The current ordinance states that only legal owners are allowed to have animals released from impound and Alderman Ward provided staff with prepared amendments to accommodate veterinarians and other authorized persons to pick-up an impounded animal.

The current Community Development policy requires animals to be scanned for microchips, however there is nothing in the ordinance explicitly listing this process.

The current ordinance does allow for some authorized persons other than the owner to pick-up an impounded animal.

Alderman Black, seconded by Alderman Ward, made a motion to amend the ordinance to reflect an animal holding period of 5 days and have it presented to the full Board of Aldermen at an upcoming meeting. The

motion was approved by a vote of 3-0-2.

Ayes: Aldermen Black, Ward, Van Buskirk

Nays: None

Absent: Aldermen Aziere, Moore

### **Adjournment**

Alderman Black, seconded by Alderman Ward, made a motion to adjourn. The motion was approved by a majority of those present.

Bill No. \_\_\_\_\_-18

Ordinance No. \_\_\_\_\_-18

Section No. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 36 (STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES), ARTICLE V (FACILITIES IN PUBLIC RIGHT-OF-WAY), AND ADDING ARTICLE VI (SMALL WIRELESS FACILITIES) TO THE CODE OF ORDINANCES OF THE CITY OF RAYTOWN, FOR THE PURPOSE OF UPDATING THE CITY'S REQUIREMENTS FOR USE OF THE PUBLIC RIGHT-OF-WAY AND PERMITTING OF SMALL WIRELESS FACILITIES.**

**WHEREAS**, the City has previously regulated the construction and deployment of telecommunications facilities and other similar facilities through a variety of ordinances and practices; and

**WHEREAS**, in the 2018 Legislative Session, the 101st Missouri General Assembly approved, and the Governor signed into law, House Bill 1991 with an effective date for a majority of the provision of January 1, 2019; and

**WHEREAS**, House Bill 1991 amended and added certain provisions to the Missouri Revised Statutes relating to the City's authority to regulate the construction and deployment of small wireless facilities; and

**WHEREAS**, the Federal Communications Commission did release on September 27, 2018 FCC-18-133 titled Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; and

**WHEREAS**, FCC-18-133 contained both a declaratory ruling and order regarding the City's authority to regulate the construction and deployment of small wireless facilities; and

**WHEREAS**, it is the intent and desire of the Board of Aldermen of the City of Raytown, Missouri to amend and revise the Code of Ordinances of the City of Raytown, Missouri to conform with both HB 1991 and FCC-18-133 to encourage the deployment of small wireless facilities within the City in a manner that (1) protects the right-of-way as a unique and physically limited resource critical to the travel and transportation of person and property in the City; (2) manages the right-of-way to ensure that the right-of-way remains accessible for public uses including the partial occupancy of the right-of-way by utilities and public service entities, which enhance the health, welfare, and economic well-being of the City and its citizens; (3) promotes competition, securing higher quality services for the citizens of the City and consumers at large; and (4) does not materially inhibit the provision of telecommunications services.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF RAYTOWN, MISSOURI, AS FOLLOWS:**

**SECTION 1 – INCORPORATION OF WHEREAS CLAUSES.** That the whereas clauses stated above are hereby specifically incorporated into this ordinance by reference herein.

**SECTION 2 – AMENDMENTS.** That Section 36-127 of the Code of Ordinances of the City of Raytown, Missouri is hereby amended to read as follows:

**Sec. 36-127. - Use of the right-of-way.**

- (a) The ROW-user's use of the right-of-way shall in all matters be subordinate to the city's use or occupation of the right-of-way. Without limitations of its rights, the city expressly

reserves the right to exercise its governmental powers now and hereafter vested in or granted to the city.

- (b) The ROW-user shall coordinate the placement of facilities in a manner that minimizes adverse impact on any public improvement, as reasonably determined by the city. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the city's manual of infrastructure standards available in the office of the city engineer.
- (c) The ROW-user shall consider any request made by the city concerning placement facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
- (d) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks or other public lands of the city. The design and location of all facilities shall be subject to the review and approval of the director. To extent allowed by applicable law, no person may erect, construct, or install facilities above the surface of the right-of-way without the written permission of the city based on good cause established by the ROW-user and found by the city engineer. To ensure that the right-of-way remains accessible for public uses, to minimize visual obstrusive of facilities, and allow for adequate city maintenance of the right-of-way a new utility pole and any new ground mounted equipment associated with the new utility pole shall not be installed within one hundred and fifty feet of another utility or other ground mounted equipment on the same side of the right-of-way. Should a ROW-user seek to replace a utility pole, said replacement utility pole shall be sited within ten feet of the currently, existing utility pole and shall not subject to the spacing requirements set forth in this subsection. The spacing requirement set forth in this subsection may be waived or altered by the city-engineer upon the ROW-user establishing good cause as to why said spacing requirement shall be waived or altered.
- (e) All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The city, through its city engineer, shall have the right to consult and review the location, design and nature of the facility prior to installation.
- (f) The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the city requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time. The city may waive this requirement when, in its sole discretion, it deems relocation impractical. The cost of such relocation shall be borne in accordance with this article and the applicable tariff governing that service provider.
- (g) The city engineer may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the city engineer expects will someday be located within the right-of-way. All right-of-way permits issued by city engineer shall indicate the proper

corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this agreement is waived by city engineer for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the ROW-user.

- (h) If, in the preparation and planning of a right-of-way project, the city engineer deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the city engineer shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the city engineer may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.
- (i) All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the city. Upon determination by the city engineer that such repair or replacement is a public safety matter, all such repair or replacement shall be corrected within 24 hours of notice from the city, or the city engineer may direct the city to make such repair or replacement and bill the row-user for the city cost. The city engineer has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.
- (j) All technical standards governing construction, reconstruction, installation, operation, testing, use maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with applicable federal, state and local laws and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the city right-of-way without first having submitted in writing a description of its planned improvement to the city engineer and having received a permit for such improvement. The city engineer may require that any drawings, plans and/or specifications submitted be certified by a qualified professional stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes.
- (k) The ROW-user shall cooperate promptly and fully with the city and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and location of its facilities within the right-of-way, both underground and overhead, when requested by the city or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the city, its employees, agents, or authorized contractors.

**SECTION 3 – NEW ARTICLE.** That the Code of Ordinances of the City of Raytown, Missouri, is hereby amended by adding an article, to be number Article VI, Small Wireless Facilities, to Chapter 36 (Streets, Sidewalks, and other Public Places), which reads as follows:

**ARTICLE VI. SMALL WIRELESS FACILITIES**

**Sec. 36-151. Intent, Preemption, and Sunset.**

- (a) *Purpose.* Consistent with the requirements of the Uniform Small Wireless Facility Deployment Act, Section 67.5110, *et seq.*, RSMo, and in anticipation of a continued increased demand for the placement of small wireless facilities of the type regulated by the Uniform Small Wireless Facility Deployment Act and this article both within the public rights-of-way and in other locations within the jurisdiction of the city, the Board of Aldermen of the City of Raytown, Missouri, has found it to be in the best interests of the public health, safety, and general welfare of the city to adopt the regulations set forth in this article in order to establish generally applicable standards for the permitting, location, construction, deployment, regulation, operation, maintenance, repair, concealment and removal of small wireless facilities both within the public rights-of-way and in other locations within the jurisdiction of the City.
- (b) *Intent.* Sections 36-151 through 36-155 of the Code of Ordinances of the City of Raytown, Missouri is intended to encourage and streamline the deployment of small wireless facilities, as herein defined, to help ensure that robust and dependable wireless radio-based communication services and networks are available throughout the City of Raytown while also protecting the health, safety, and welfare of the public and the limited public resource that is the public right-of-way. Specifically, the article is intended to:
- (1) Facilitate orderly construction and maintenance of facilities in the right-of-way, reduce the damage to the facilities or rights-of-way users, and minimize disruption of service to the citizens of the city;
  - (2) Manage the right-of-way to allow efficient location of small wireless facilities and maximize services to the citizens of the city;
  - (3) Allow for the maximum utilization of the rights-of-way to meet the demands due to technical innovations.
  - (4) Encourage responsible construction and maintenance practices in the city rights-of-way.
  - (5) Ensure that regulation of small wireless facilities does not have the effect of prohibiting the provision of personal wireless services, and does not unreasonably discriminate among functionally equivalent providers of such service;
  - (6) Prevent interference with the facilities, maintenance, and operations of the City's utilities and of other utilities lawfully located both within the public rights-of-way and in other locations within the city; and
  - (7) Enhance the ability of providers of communication services to provide such services to the community quickly, effectively, and efficiently

- (8) *Preemption.* Notwithstanding any ordinance to the contrary, the procedures set forth in this article shall be applicable to small wireless facilities existing or installed, built or modified after the effective date of this article to the fullest extent permitted by law. No provision of this article shall apply to any circumstances in which such application shall be unlawful under superseding federal or state law. Furthermore, if any section, subsection, sentence, clause, phrase, or portion of this article is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.
- (9) *Sunset.* This article shall expire on January 1, 2021, except that for small wireless facilities already permitted or collocated on authority poles prior to such date, the rate set forth in section 36-153(g) for collocation of small wireless facilities on authority poles shall remain effective for the duration of the permit authorizing the collocation.

### **Sec. 36-152. Definitions**

As used in this article, the following terms shall have the following meanings:

“Act” means the Uniform Small Wireless Facility Deployment Act, Section 67.5110, et seq., RSMo;

“Antenna”, communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;

“Applicable Codes”, uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to such codes enacted to prevent physical property damage or reasonably foreseeable injury to persons;

“Applicant”, any person who submits an application and is a wireless provider;

“Application”, a request submitted by an applicant to an authority for a permit to collocate small wireless facilities on a utility pole or wireless support structure, or to approve the installation, modification, or replacement of a utility pole;

“Authority Pole” a utility pole owned, managed, or operated by or on behalf of an authority, but such term shall not include municipal electric utility distribution pole or facilities;

“Collocate” or “Collocation”, to install, mount, maintain, modify, operate, or replace small wireless facilities on or immediately adjacent to a wireless support structure or utility pole, provided that the small wireless facility antenna is located on the wireless support structure or utility pole;

“Decorative Pole”, an authority pole that is specially designed and placed for aesthetic purposes;

“Director”, the Director of Public Works

“Fee”, a one-time, nonrecurring charge;

“Permit”, a written authorization required by an authority to perform an action or initiate, continue, or complete a project;

“Rate”, a recurring charge;

“Right-of-Way”, the area on, below, or above a public roadway, highway, street, sidewalk, alley, or similar property used for public travel, but not including a federal interstate highway, railroad right-of-way, or private easement;

“Small Wireless Facility”, a wireless facility that meets both of the following qualifications:

Each wireless provider’s antenna could fit within an enclosure of no more than six cubic feet in volume; and

All other equipment associated with the wireless facility, whether ground or pole mounted, is cumulatively no more than twenty-eight cubic feet in volume, provided that no single piece of equipment on the utility pole shall exceed nine cubic feet in volume; and no single piece of ground mounted equipment shall exceed fifteen cubic feet in volume, exclusive of equipment required by an electric utility or municipal electric utility to power the small wireless facility.

The following types of associated ancillary equipment shall not be included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs and related conduit for the connection of power and other services;

“Utility Pole”, a pole or similar structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities; provided, however, such term shall not include wireless support structures, electric transmission structures, or breakaway poles owned by the state highways and transportation commission;

“Wireless Facility”, equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications and radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include:

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

Coaxial or fiber-optic cable between wireless support structures or utility poles;

Coaxial or fiber-optic cable not directly associated with a particular small wireless facility; or

A wireline backhaul facility;

“Wireless Infrastructure Provider”, any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment or wireless facilities but that is not a wireless services provider;

“Wireless Provider”, a wireless infrastructure provider or a wireless services provider;

“Wireless Services”, any services using licensed or unlicensed spectrum, including the use of wifi, whether at a fixed location or mobile, provided to the public using wireless facilities;

“Wireless Services Provider”, a person who provides wireless services;

“Wireless Support Structure”, an existing structure, such as a monopole or tower, whether guyed or self-supporting, designed to support or capable of supporting wireless facilities; an existing or proposed billboard; an existing or proposed building; or other existing or proposed structure capable of supporting wireless facilities, other than a structure designed solely for the collocation of small wireless facilities. Such term shall not include a utility pole.

“Zoning Regulations” Chapter 50 of the Code of Ordinances of the City of Raytown, Missouri

### **Sec. 36-152. General Requirements**

#### **(a) Height Restrictions**

- (1) Each new, replacement, or modified utility pole installed in the Right-of-Way shall not exceed the greater of ten feet in height above the tallest existing utility pole in place as of August 28, 2018 located within five hundred feet of the new pole in the same Right-of-Way or fifty (50) feet above ground level at the site of the proposed installation, replacement, or modification.
- (2) New small wireless facilities in the right-of-way shall not exceed more than ten feet above an existing utility pole in place as of August 28, 2018.
- (3) Any new, modified, or replacement utility pole that exceeds these height limits shall be subject to a conditional use permit under the city’s zoning regulations.

#### **(b) Concealment Requirements.** The reasonable, objective, cost-effective standards outlined in this subsection seek to ensure that all small wireless facilities deployed in the city are deployed in a manner that preserves the visual appearance of the surrounding area and the legal use of the right-of-way.

- (1) Small wireless facility antenna. All antennas mounted as part of the deployment of a small wireless facility shall be mounted to the top of the utility pole or wireless support structure and aligned with the centerline of the utility pole or wireless support structure, unless otherwise agreed to by the director based on the specific context and characteristics of the utility pole or wireless support structures.

- i. Shape. Any small wireless facility antenna collocated within the city shall be cylindrical or completely housed within a cylindrical enclosure or radome unless otherwise agreed to by the director based on the specific context and characteristics of the utility pole, wireless support structure, or small wireless facility.

- ii. Color. Exposed antennas and antenna enclosures shall match the color specifications of the utility pole or the wireless support structure.
  - (2) Associated Pole Equipment. Any equipment attached to a pole as part of a small wireless facility shall be of the same or similar color as the pole on which it is attached. To the extent possible, any wires, fiber-optic cable, coaxial cable or any other cables associated with the collocation of a small wireless antenna running from any associated equipment, both pole mounted and ground mounted, shall run on the interior of the pole. If running any wires, fiber-optic cable, coaxial cable, or any other cable on the interior of the pole is not possible then said wires and cables shall either be located within a cylindrical tubing of the same or similar color as the pole and mount flush against the pole or be of the same or similar color as the pole on which they are attached and mounted flush against the pole or in any other matter which would reasonably conceal them. The director, in their discretion, may require additional concealment requirements, including the attachment of banners or signs on either side of any associated pole equipment.
  - (3) Associated Ground Equipment. All associated ground equipment mounted as part of a small wireless facility deployment shall be placed to the greatest extent possible in an area so as to minimize its visual intrusiveness and detrimental effect to the legal use of the right-of-way. All associated ground equipment shall be located within a green cabinet or enclosure or any other color cabinet or enclosure that would minimize visual intrusiveness and conceal the associated ground equipment. To the extent possible,
  - (4) Replacement poles. Any replacement utility pole located for the purpose of siting a small wireless facility shall reasonably conform to the appearance of other similar utility or streetlight poles in the area.
- (c) *Decorative Poles*. Any applicant seeking to replace a decorative pole for the purpose of collocating a small wireless facility shall replace said decorative pole with a pole conforming to the design aesthetics of the decorative pole being replaced. Conformance to the design aesthetics of the decorative pole means, that any replacement pole shall at a minimum be of the same or similar design as the decorative pole, contain the same or similar decorative elements of the original decorative pole, be of the same color as the original decorative pole and other decorative poles in the area and that the small wireless facility collocated on the replacement decorative pole be the same color as the decorative pole and the replacement decorative pole.
- (d) *Indemnification, Insurance, Performance Bond*.
- (1) Indemnification. Wireless providers shall indemnify and hold the City, its officers, and employees harmless against any damage or personal injury caused by the negligence of the wireless provider or its employees, agents, or contractors.
  - (2) Insurance. As part of any permit issued by the city under this article, an applicant must provide proof of liability insurance coverage, prior to the effective date of any permit issued, against any damage or personal injury caused by the negligence of the wireless provider or its employees, agents, or contractors in an amount no less

than the amount provided for in Section 537.210, RSMo. If the applicant is self-insured, the applicant must submit to the city proof of self-insurance in a comparable amount to the insurance referenced in the previous sentence.

(3) Performance Bond.

- i. An applicant for a permit under this article shall post a performance bond of \$ 1,500 per small wireless facility not to exceed \$75,000 for all small wireless facilities deployed by the applicant. The performance bond shall be used to:
    - (i) Provide for the removal of abandoned or improperly maintained small wireless facilities, including those that the city determines need to be removed to protect public health, safety, or welfare;
    - (ii) Restore the right-of-way in connection with removals;
    - (iii) Recoup rates or fees that have not been paid by a wireless provider in over twelve months, provided the wireless provider has had notice and an opportunity to cure.
  - ii. Upon completion of the work associated with the permit to the satisfaction of the director, the director shall eliminate the bond or reduce its amount after a time appropriate to determine whether the work performed was satisfactory, which time shall be established by the director.
  - iii. Recovery by the city for any amounts under the performance bond required by this article does not limit an applicant's duty to indemnify the city in any way, nor shall such recovery relieve an applicant of its obligations under a permit or reduce amounts owed to the city other than by the amounts recovered by the city under the performance bond, or in any respect prevent the city from exercising any other right or remedy it may have.
  - iv. Applicants that have at least twenty-five million dollars in assets in the state and do not have a history of permitting noncompliance within the city's jurisdiction shall be exempt from the insurance and bonding requirements otherwise authorized by this subsection.
- (e) *Relocation of Facilities.* Whenever, in the interest of public safety and convenience, the city may require a wireless provider relocate, move, alter, change, adapt, or conform the underground or above ground facilities of a wireless provider, the wireless provider shall make the alterations or changes as soon as practicable after being so ordered in writing by the city without claim for reimbursement or damages against the city.
- (f) *Calculation of time.* Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this article or any permit, and a period of time is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time.

- (g) *Construction standards.* All requirements of this article shall apply to the construction, modification, and maintenance of small wireless facilities and are reincorporated herein as building code requirements to the extent permitted by law. The construction, operation, maintenance, and repair of small wireless facilities shall be in accordance with applicable codes. All small wireless facilities shall be installed and located with due regard to minimizing interference with the public and with other users of the right-of-way including the city. An applicant shall not place small wireless facilities or obstruct or hinder the various utility serving the residents and businesses in the city of their use of any right-of-way. Any and all right-of-way disturbed or damaged during the small wireless facilities work shall be promptly repaired or replaced by the applicant to its previous condition. Any wireless infrastructure provider, contractor or subcontractor must be properly licensed under laws of the state and all applicable local ordinances. Each wireless infrastructure provider, contractor or subcontractor shall have the same obligations with respect to its work as wireless services provider would have hereunder and applicable laws if the work were performed by the wireless services provider. The wireless services provider shall be responsible for ensuring that the work of wireless infrastructure providers, contractors or subcontractors is performed consistent with their permits and applicable law, shall be fully responsible for all acts or omissions of any wireless infrastructure Provider, contractor or subcontractor, and shall be responsible for promptly correcting any acts or omissions by a wireless infrastructure provider, contractor or subcontractor.
- (h) *Location.* Small wireless facilities and utility poles shall be installed and maintained so as not to obstruct or hinder the usual travel or public safety on the right-of-way or obstruct the legal use of the right-of-way by the city or other authorized right-of-way users.
- (i) *Replacement.* The city may require an applicant to replace a utility pole on a nondiscriminatory basis for reasons of safety and reliability.
- (j) *Retained zoning authority.* Where authorized by applicable law the city may require that an applicant under this article receive all zoning approvals necessary or required by the zoning regulations of the city.
- (k) *Deemed approve facilities.* Should the city fail to act with the time required by applicable law, any small wireless facility collocated on an existing structure or any installation, modification, or replacement of a utility pole shall be done in compliance with each and every provision of this article.

**Sec. 36-153. Small Wireless Facilities Permit.**

- (a) *Applications.* Applications for a permit to collocate a small wireless facility on a utility pole or a permit for the installation, modification, or replacement of a utility pole shall be filed on such forms as required by the director and accompanied by the appropriate deposit as stated below. Applications are to be processed subject to the requirements of and in the manner and timeframe as otherwise established in this article and subject to the applicable time frames imposed by applicable law. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

- (1) Collocation Application Fee. An application for a permit to collocate a small wireless facility on a utility pole shall be accompanied by a deposit of one hundred dollars (\$100) for each small wireless facility the applicant seeks to collocate on a utility pole.
  - (2) Installation, Modification, Replacement Fee. Applications for a permit to install, modify, or replace a utility pole shall be accompanied by a deposit of five hundred dollars (\$500) for each installation, modification, or replacement sought by the applicant.
- (b) *Preapplication meeting*. Before any application is made, the applicant is encouraged to meet with the director to discuss, in general, the procedures and requirements for a permit request under this section.
- (c) *Application Process*.
- (1) Form; deficiency notice. Any application under this section shall be submitted on forms in accordance with the above to the director for a determination of completeness. Within the time prescribed by law of the receipt of an application, or such longer or other review times allowed by applicable law, the director shall review the application and identify any ways in which the application is not complete and provide the applicant with a written explanation of the deficiencies with citation to the code or statutes requiring such deficient item.
  - (2) New application. Given the various time restrictions applicable to approvals under applicable law, any modification of an application other than to correct incompleteness may be denied by the director if the change is material or presents difficulty in completing review of the modified application within the established review time. In such circumstance, the modified application must be resubmitted as a new application and the original application shall be deemed withdrawn.
  - (3) Approval or denial. The city shall approve or deny of the application to collocate a small wireless facility or the application for the installation, modification, or replacement of a utility within the timeframes provided by applicable law.
- (d) *Application Contents*. An application for a permit under this section shall contain, at a minimum, the following information:
- (1) Site-specific structural integrity and make-ready analysis prepared by a structural engineer. The make-ready analysis shall include plans and detailed cost estimates for any make-ready work as needed. Any cost associated with the make-ready work shall be the sole responsibility of the applicant.
  - (2) 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. The photographs shall include a digital photo simulation of the proposed location providing “before and after” views demonstrating the impact of

the proposed wireless facilities on the surrounding environment, including the right-of-way if applicable.

- (3) The equipment type and model numbers of the antennas and all other wireless equipment associated with the small wireless facility.
- (4) An attestation that the small wireless facility complies with the volumetric limitations set forth in Sec. 36-151.
- (5) Applicable indemnity, insurance, and performance bond information as required by this article.
- (6) An applicant that is not a wireless services provider must provide evidence of agreements or plans that demonstrate that the small wireless facility will be operational for use by a within one year after the permit for the applicable small wireless facility is issued, unless the city and applicant agree to extend this period in writing or if delay is caused by lack of commercial power or communications transport facilities to the site and the applicant notifies the city in writing. The non-wireless service provider applicant must provide the above information by attestation, attached to the applicable application.
- (7) A projected commencement and termination date of the work proposed under the permit. If said dates are not known at the time of the application, then any permit holder shall provide the director advanced, written notice of such dates once determined.
- (8) Any information necessary to establish that the proposed collocation of the small wireless facility meets the concealment requirements of Sec. 36-152(b).
- (9) Any information necessary to determine that the collocation meets the height restrictions of Sec. 36-152(a).
- (10) In the event that the proposed small wireless facility is to be attached to an existing utility pole owned by an entity other than the city, the wireless provider shall provide legally competent evidence of the consent of the owners of such pole to the proposed collocation.
- (11) Any other information deemed to be relevant to the proposed collocation.

(e) *Consolidated Applications.*

- (1) An applicant may file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities. An application may include up to twenty separate small wireless facilities, provided that they are for the same or materially same design of small wireless facility being collocated on the same or materially the same type of utility or wireless support structure and all the collocations are geographically proximate. The denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same batch;
- (2) If the city receives individual applications for approval of more than fifty small wireless facilities or consolidated applications for approval of more than seventy-

five small wireless facilities within a fourteen day period, whether from a single applicant or multiple applicants, the city may, upon its own request, obtain an automatic thirty-day extension for any additional collocation or replacement or installation application submitted during that fourteen day period or in the fourteen day period immediately following the prior fourteen day period. The city will promptly communicate its request to each and any affected applicant.

- (f) *Make-ready work.* The city shall provide a good faith estimate for any make-ready work necessary to enable a pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within sixty days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within sixty days of written acceptance of the good faith estimate and advance payment by the applicant.
- (g) *Rate for collocation.* If an application for the collocation of a small wireless facility is approved, the wireless provider shall pay to the city one hundred and fifty dollars (\$150) per year per small wireless facility collocate on an authority pole.

**Sec. 36-154. Denial of permit.**

- (a) *Reasons.* The city may deny a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole if the action proposed in the application submitted to the director could reasonably be expected to:
  - (1) Materially interfere with the safe operation of traffic control equipment or city-owned communications equipment;
  - (2) Materially interfere with sight lights or clear zones for transportation, pedestrians, or nonmotorized vehicles;
  - (3) Materially interfere with compliance with the American Disability Act, 42 U.S.C. Sections 1201 to 12213, or similar federal or state standards regarding pedestrian access or movement;
  - (4) Materially obstruct or hinder the usual travel or public safety on the right-of-way;
  - (5) Materially obstruct the legal use of the right-of-way by an authority, utility or other third party;
  - (6) Fail to comply with the spacing requirement set forth in Section \_\_\_\_\_ (cross-reference spacing requirements; make sure spacing requirements of general applicability and having BZA variance appeal).
  - (7) Fail to comply with applicable codes, including nationally recognized engineering standards for utility poles or wireless support structures;
  - (8) Fail to comply with the reasonably objective and documented aesthetics of a decorative pole and the applicant does not agree to pay to match the applicable decorative elements;
  - (9) Fail to comply with undergrounding requirements as of January 1, 2018 or any new undergrounding requirements for new developments; or

- (10) Any other reason as allowed by applicable state or federal law.
- (b) *Denial.* The City shall document the complete basis for the denial in writing and send said denial and any accompanying documentation to the applicant on the day the authority denies the application. The applicant may cure the deficiencies identified by the city and resubmit the application within thirty days of the date of the denial without paying an additional application fee.

**Sec. 36-155. Fast-Track Small Wireless Facility Deployment**

- (a) *General conditions.* Small wireless facilities meeting the below, additional requirements may be authorized to be collocated with the approval of the director on an expedited 20-day time frame subject to the following additional requirements:
  - (1) Only one small wireless facility shall be permitted per structure in the rights-of-way;
  - (2) The small wireless antenna and associated pole equipment shall be of the same or similar color as the pole on which it is to be attached;
  - (3) All wires and cables associated with the small wireless facility shall be installed on the interior of the pole; and
  - (4) No associated ground equipment shall be authorized;
- (b) *New or replacements poles.* An applicant applying for approval of the siting of a small wireless facility under this section may request or require that a new or replacement utility pole may be located as part of such deployment subject to the following additional requirements:
  - (1) The new or replacement utility poles is no greater than five (5) feet taller than the any adjacent or existing utility pole within the same right-of-way;
  - (2) The new or replacement utility pole is of the same or materially similar design as adjacent or surrounding utility poles;
- (c) *Application fee.* The application fee for the collocation of a small wireless facility under this section shall be seventy-five dollars (\$75). The application fee for a new or replacement utility pole under this section shall be four hundred dollars (\$400).
- (d) *Rate for collocation.* The rate for collocating a small wireless facility under this section shall be one hundred dollars (\$100) per small wireless facility collocated on an authority pole.
- (e) *Consolidated applications.* An applicant may file a consolidated application under this section regarding the collocation of twenty (20) small wireless facilities so long as the proposed small wireless facilities and any new or replacement utility poles are of the same design.
- (f) *Director's discretion.* Approval of small wireless facilities under this section shall be at the discretion of the director following the requirements and criteria stated in the section and this article generally. Any application under this section may be denied by the

director if the application fails to meet any of the requirements of this section or any of the requirements of this article.

**SECTION 4 – REPEAL OF ORDINANCES IN CONFLICT.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 5 – SEVERABILITY CLAUSE.** The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

**SECTION 6 – EFFECTIVE DATE.** This ordinance shall be in full force and effect on January 1, 2019.

**BE IT REMEMBERED** that the above was read two times by heading only, **PASSED AND ADOPTED** by a majority of the Board of Aldermen and **APPROVED** by the Mayor of the City of Raytown, Jackson County, Missouri, this      day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Michael McDonough, Mayor

ATTEST:

\_\_\_\_\_  
Teresa M. Henry, City Clerk

Approved as to Form:

\_\_\_\_\_  
Joe Willerth, City Attorney

Chapter 6 - ANIMALS ARTICLE V. - ENFORCEMENT

DIVISION 2. - IMPOUNDMENT

Chapter 6 - ANIMALS

ARTICLE V. - ENFORCEMENT

- DIVISION 1. - GENERALLY
- Secs. 6-284-6-314. - Reserved.
- DIVISION 2. - IMPOUNDMENT
- Sec. 6-315. - impoundment and violation notice.

(a) Any animals or fowl that is a public nuisance, as defined in this chapter, or is abandoned, or whose seizure and impoundment are otherwise authorized by this chapter or by state law, shall be seized and impounded in a humane manner, by the animal control officer or any police officer. Impoundment shall be in any reasonable facility designated by the director.

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(b) The director and animal control officers are hereby specifically authorized to issue citations to any owner, keeper, or harbinger of any animal or fowl found to be in violation of any section of this chapter.

(c) Whenever any animal or fowl is confined by the authority of this chapter, it shall be the duty of the confining shelter to release the same once receiving notice from the authority of this chapter, under the terms of this chapter, upon:

(i) satisfactory proof that the person claiming the animal or fowl is entitled to possession thereof and upon payment to the city of all applicable fees or penalties prescribed by ordinance, or

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(ii) satisfactory proof that the person claiming the animal is licensed as a doctor of veterinary medicine, who owns, or is employed by, any animal hospital or veterinary clinic located and licensed to conduct business within the city and satisfies the requirements below:

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(a) the person claiming the animal provides or has provided a written, typed or printed statement from the owner confirming the doctor of veterinary medicine may claim the animal on their behalf. The statement can be emailed or faxed correspondence and may be accepted at the discretion of the parties, if each is known to the other;

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(b) the person claiming the animal signs a statement attesting that the animal and its owner are known to the person or the person's employer;

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(c) the person claiming the animal accepts responsibility for the animal, and will provide care for the animal as directed by the animal's owner;

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(d) will be responsible for notifying the animal's owner of the animal's custody and, if applicable, current medical issues;

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(e) the person is willing to pay all applicable fees and penalties then due pursuant to ordinance;

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(f) the person claiming the animal who is licensed as a doctor of veterinary medicine described above, may authorize a member of his or her staff to receive the animal or fowl subject to the person taking possession of the animal or fowl satisfying the requirements above.

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(g) the writing or notice required by this provision does not need to be notarized or attested to in front of any official unless the party impounding the animal provides such services at no charge at the time the request is made.

(iii) The City and its agent cannot be held liable by the owner of an animal or fowl, if the City and its agent have used normal and reasonable efforts when impounding the animal or fowl.

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(d) Effective October 2021, immediately upon intake, and before exposure to any other animal, the impounding facility shall administer a Bordetella Pertussis immunization, unless administration is contraindicated for veterinary medical reasons, and shall charge the city an agreed upon fee per the terms of a service contract. Such charge shall be recovered by the city from the animal's owner or the person claiming the animal on behalf of the owner.

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The board of aldermen shall, by resolution, set fees sufficient to cover the cost of impounding animals.

(Code 1969, § 4-8; Ord. No. 2039-80, § 2, 3-20-1980; Or d. No. 2475-82, § 3, 12-7-1982; Ord. No. 2765-85, § 1, 3-5-1985; Ord. No. 4225-96, § 6, 12-17-1996; Ord. No. 5191-07, § 1, 3-6-2007)

State Law reference- Impounding of dogs, RSMo 273.100 ; impoundment of animal found off custodian's property, RSMo 578 .016; municipal authority to impound animals and impose lien for cost thereof, RSMo 430.165.

- Sec. 6-316. - Notification of capture and impoundment.

1. After capture of any animal or fowl, the city's animal control officer or designee shall scan or caused to be scanned, visually and electronically, such animal or fowl to detect the presence of any identity "chip", tag or tattoo. If any chip, tag or tattoo is detected, the impounding party shall undertake any other reasonable or customary efforts to identify the animal or fowl's owner within the first forty-eight hours on business days and the next business day following a weekend or holiday.
2. Prior to close of business on a business day or the next business day following a weekend or holiday, the city's animal control office will send to all veterinarian offices located within the city limits an e-mail containing a link to social media post for animal and fowl impounded on such day.
3. Within the first forty-eight hours on business days, weekend or holiday, the city's animal control office shall check with all reasonable registries and call the office of any veterinary doctor, clinic or hospital identified by any tag attached to the animal or fowl to disclose the impoundment of the animal or fowl.
4. Upon verification of a "chip" registered to the city, the city will agree to transfer the chip licensed in the name of the city to the registered owner.
5. No liability shall be attached to the city or to the director for failure to give such notice. The owner or keeper of an impounded animal or fowl who does not redeem the animal or fowl may still be charged with violation of any applicable section or sections of this chapter.

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