

VILLAGE OF LILY LAKE

ORDINANCE NO. 2018-05

AN ORDINANCE AMENDING THE VILLAGE CODE

**(Chapter 2—Streets And Rights Of Way,
Subchapter 5—Small Wireless Facilities)**

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF LILY LAKE**

June 25, 2018

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the Village of Lily Lake, Kane County, Illinois

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**(Chapter 2— Streets And Rights Of Way,
Subchapter 5— Small Wireless Facilities)**

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

The Village of Lily Lake is an Illinois municipality in accordance with the Constitution of the State of Illinois of 1970 and is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small wireless facilities, distributed antenna systems and other personal wireless telecommunication facility installations in the public right-of-way as long as they do not conflict with State and federal law.

The Village wishes to exercise its regulatory authority within the limits set forth in the Act and so has enacted this ordinance.

Therefore, BE IT ORDAINED by the President and the Board of Trustees of the Village of Lily Lake, Kane County, Illinois, that the Village Code, as amended, be further amended as follows:

§ 1. Amending Village Code

Chapter 2—Streets And Rights Of Way, is amended by adding the following as Subchapter 5, entitled Small Wireless Facilities:

§ 240. Purpose and scope

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

(b) Conflicts with other ordinances. To the extent of the conflict, this subchapter supersedes all ordinances or parts of ordinances adopted prior to June 25, 2018, that conflict with its provisions.

(c) Conflicts with State and federal Laws. In the event that a requirement of this subchapter conflicts with an applicable federal or State law or regulation, the wireless provider shall comply with the requirement of this subchapter to the maximum extent possible without violating the federal or State law or regulation.

§ 241. Definitions

In this subchapter—

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

(2) "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 Electric Safety Code.

(3) "Applicant" means any person who submits an application and is a wireless provider.

(4) "Application" means a request submitted by an applicant to the Village 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.

(5) “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.

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

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

(8) “FCC” means the Federal Communications Commission of the United States.

(9) “Fee” means a one-time charge.

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

(11) “Law” means a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

(12) “Micro wireless facility” means a small wireless facility that is not larger than 24 inches long, 15 inches wide, and 12 inches high and, if it has an exterior antenna, its antenna is no longer than 11 inches.

(13) “Municipal utility pole” means a utility pole owned or operated by the Village in the public right-of-way.

(14) “Permit” means a written authorization required by the Village to perform an action or initiate, continue, or complete a project.

(15) “Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

(16) “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 this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

(17) “Rate” means a recurring charge.

(18) “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 but does not include aerial lines owned by the Village.

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

(20) “Structural engineer” has the meaning ascribed to it in § 4 of the Structural Engineering Practice Act of 1989.

(21) “Utility pole” means a pole or similar structure that is used by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

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

(23) “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 Village.

(24) “Wireless provider” means a wireless infrastructure provider or a wireless services provider.

(25) “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.

(26) “Wireless services provider” means a person who provides wireless services.

(27) “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. Wireless support structure does not include a utility pole.

§ 242. Regulation of small wireless facilities

(a) Permitted Use. Small wireless facilities complying with the height restrictions contained in § 242(c)(8) and collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use, are permitted uses and subject to administrative review only.

(b) Permit Required. An applicant must obtain one or more permits from the Village to collocate a small wireless facility. An application will be processed and permits issued in accordance with the following conditions and requirements:

(1) Application requirements. A wireless provider shall provide the following information to the Village, together with the Village’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;

(B) The location of each small wireless facility or utility pole proposed to be installed and photographs of the each location and its immediate surroundings depicting the utility poles or structures on which each small wireless facility is proposed to be mounted and a depiction of the completed facility;

(C) Specifications and drawings prepared by a structural engineer 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) A certification that the collocation complies with the collocation requirements and conditions contained in § 242(c), to the best of the applicant's knowledge; and

(G) If the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the owner's consent to the proposed collocation.

(2) Application Process. The Village shall process applications as follows:

(A) Complete applications for collocation on the same utility pole or wireless support structure will be processed in the order received by the Village.

(B) An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or on a replacement of an existing utility pole or wireless support structure will be processed on a nondiscriminatory basis and will be deemed approved if the Village fails to approve or deny the application within 90 days after the Village's receipt of a complete application. However, if an applicant intends to proceed with the activity that is the subject of an application on a deemed-approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed-approved remedy within 15 days before the expiration of the 90 day period. The permit will be deemed approved on the 90th day after the Village's receipt of the complete application or 10 days after the Village's receipt of the deemed-approved notice, whichever is later. The receipt of the deemed-approved notice does not preclude the Village's denial of the permit request within the time limits as provided in this section.

(C) An application to collocate a small wireless facility that includes the installation of a new utility pole will be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within 120 days after the Village's receipt of a complete application. However, if an applicant

intends to proceed with the activity that is the subject of an application on a deemed-approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed-approved remedy within 15 days before the expiration of the 120 day period. The permit will be deemed approved on the 120th day after the Village's receipt of the complete application or 10 days after the Village's receipt of the deemed-approved notice, whichever is later. The receipt of the deemed-approved notice does not preclude the Village's denial of the permit request within the time limits as provided in this section.

(D) (i) The Village will deny an application that does not meet the requirements of this subchapter. If the Village determines that applicable codes, ordinances or regulations that concern public safety, or the collocation requirements and conditions set forth in § 242(c) require that the utility pole or wireless support structure be replaced before the requested collocation, approval will be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

(ii) The Village 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 Village denies an application. The applicant may cure the deficiencies identified by the Village and resubmit the application one time within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The Village shall approve or deny the revised application within 30 days after the application is resubmitted or it will be deemed approved. If the applicant fails to submit a revised application within the 30-day period, any further application will be treated as a new application and all required fees must be paid and the Village's review period will recommence.

(iii) The applicant must notify the Village in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application. Any review of a revised application will be limited to the deficiencies cited in the denial unless the revised application 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.

(E) Pole attachment agreement. Within 30 days after an approval of a permit to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a Master Pole Attachment Agreement, provided by the Village. For subsequent approved permits to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

(3) Completeness of Application. Within 30 days after receiving an application, the Village shall determine whether the application is complete and so notify the applicant. If an application is incomplete, the Village shall specifically identify the missing information. An application will be deemed complete if the Village fails to notify the applicant otherwise within the 30-day period. Processing deadlines are tolled from the time the Village sends the notice of incompleteness to the time the applicant provides the missing information.

(4) Tolling. The processing deadlines for the review of applications may be further tolled by:

(A) An express written agreement by both the applicant and the Village;

or

(B) A local, State or federal disaster declaration or similar emergency that causes the delay.

(5) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If an application includes multiple small wireless facilities, the Village may remove from the application and treat separately those small wireless facility collocations for which incomplete information has been provided or that do not

qualify for consolidated treatment or that are denied. The Village may issue separate permits for each collocation that is approved in a consolidated application.

(6) Duration of Permits. A permit is valid for 5 years and must be renewed upon application. The Village will renew the permit unless the Village finds that the small wireless facilities or the new or modified utility pole do not comply with the then applicable Village codes or any provision, condition or requirement contained in this subchapter. Renewed permits are valid for an additional 5 years. If the Act is repealed, the Village will renew the permit if it meets all applicable Village code provisions or regulations in effect at the time of renewal.

(7) Means of submitting applications. Applicants may submit applications, supporting information and notices to the Village by personal delivery to the Clerk at the Village Hall, or by first class mail, postage prepaid, postmarked on or before the date due, or by any other commonly used means, including electronic mail.

(c) Collocation Requirements and Conditions.

(1) Public Safety Space Reservation. The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably determines that the municipal utility pole cannot accommodate both uses.

(2) Installation and Maintenance. The wireless provider shall install, repair and modify its small wireless facilities so as to maintain them in a safe condition and good repair and in compliance with the requirements and conditions of this subchapter. The wireless provider shall ensure that its employees, agents or contractors 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.

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

wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference with public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall 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 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675. The Village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the regulations cited above. Failure to remedy the interference as required in this subsection is a public nuisance.

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

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

(6) 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 Village ordinance,

written policy adopted by the Village, 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.

(7) Alternate Placements. Except as provided in this subsection 242(c), a wireless provider is not required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or 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 Village 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 must 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. If the applicant refuses a collocation proposed by the Village, the applicant shall provide written certification describing why the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

(8) Height Limitations. The maximum height of a small wireless facility is 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated. New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of—

(A) 10 feet above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is (i) in place on the date the application is submitted to the Village, (ii) located within 300 feet of the new or replacement utility pole or wireless support structure; and (iii) in the same right-of-way within the jurisdictional boundary of the Village. The Village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures will control the height limitation for such facility; or

(B) 45 feet above ground level.

(9) Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a variation in accordance with the procedures, terms and conditions set forth in § 2083 of the Village Code.

(10) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the Village 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.

(11) 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.

(12) 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.

(13) Collocation Completion Deadline. Collocation for which a permit is granted must be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or the 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, if the wireless provider has made a 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 becomes void unless the Village grants an extension in writing to the applicant.

(d) Application Fees. Application fees are imposed as follows:

(1) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in 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 of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

(3) Notwithstanding any contrary provision of State law or local ordinance, applications will not be accepted without the payment of the required application fee. Application fees are non-refundable.

(4) The Village will 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 Village at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with § 242(b)(1)(D); 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 Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(e) Exceptions to Applicability. Nothing in this subchapter authorizes a person to collocate small wireless facilities on:

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

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

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

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

(f) (1) Pre-Existing Agreements. Existing agreements between the Village 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 Village utility poles, that are in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the Village's utility poles pursuant to applications submitted to the Village before June 1, 2018, subject to applicable termination provisions

contained therein. Agreements entered into after June 1, 2018, must comply with this subchapter.

(2) A wireless provider that has an existing agreement with the Village on the effective date of the Act may accept the rates, fees and terms that the Village makes available under this subchapter 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 Village 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 Village's utility poles pursuant to applications submitted to the Village before the wireless provider provides such notice and exercises its option under this paragraph.

(g) Annual Recurring Rate. A wireless provider shall pay to the Village an annual recurring rate to collocate a small wireless facility on a Village utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the Village utility pole. If the Village has not billed the wireless provider actual and direct costs, the fee will be \$200 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.

(h) Abandonment. A small wireless facility that is not operated for a continuous period of 12 months will be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the Village notifying the wireless provider of the abandonment. The notice must be sent by certified or registered mail, return receipt requested, by the Village 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 Village 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. A wireless provider shall provide written notice to the Village if it sells or transfers small wireless facilities

within the jurisdiction of the Village. Such notice shall include the name and contact information of the new wireless provider.

§ 243. Dispute Resolution.

The Circuit Court of Kane County, Illinois has 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 Village will allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

§ 244. Indemnification.

A wireless provider shall indemnify the Village 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 Village improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this subchapter and the Act. A wireless provider has no obligation to indemnify against any liabilities and losses as may be due to or caused by the sole negligence of the Village or its employees or agents. A wireless provider waives any claims that it may have against the Village with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

§ 245. Insurance.

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; or (iii) commercial general liability insurance with respect to its activities on the Village improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of Village improvements or rights-of-way, including coverage for bodily injury and property damage. The wireless provider shall include

the Village as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Village in a commercial general liability policy prior to the collocation of any wireless facility. A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the Village. 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 Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the Village.

§ 2. Severability

If any provision of this ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity will affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

§ 3. Repealer

Any ordinance or any provision of any ordinance in conflict with the provisions of this ordinance is, to the extent of such conflict, repealed.

§ 4. Effective Date

This ordinance is fully effective from and after its passage, approval and publication as provided by law.

Adopted on June 25, 2018 pursuant to a roll call vote as follows:

[Signature page follows.]

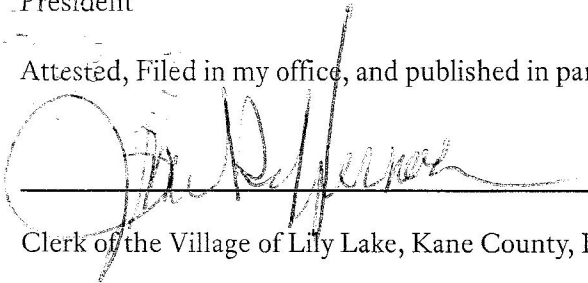
Trustee	Yes	No	Absent	Abstain
Conn	X			
Dell	X			
Damisch			X	
Marlovits	X			
Vaughn	X			
Walsh	X			
Overstreet				
Totals	5	0	1	0

Approved June 25, 2018.



President

Attested, Filed in my office, and published in pamphlet form on June 25, 2018.



Clerk of the Village of Lily Lake, Kane County, Illinois