

Sponsor: Councilwoman Janet Venecz
Petitioner: Hammond Plan Commission

ORDINANCE NO. 9364

AN ORDINANCE AMENDING ORDINANCE NO. 8514, BEING: AN ORDINANCE ESTABLISHING A ZONING PLAN FOR THE CITY OF HAMMOND IN ORDER TO PROVIDE FOR ORDERLY GROWTH AND DEVELOPMENT WITHIN THE CITY, ALL IN ACCORDANCE WITH THE COMPREHENSIVE/LAND USE PLAN; FOR PURPOSES OF AMENDING TITLE XXIX OVERLAY ZONING DISTRICTS TO ESTABLISH NEW PROVISIONS FOR SMALL CELL FACILITIES TO DELIVER WIRELESS SERVICE WITHIN THE GREATER RIGHTS-OF-WAY OVERLAY ZONING DISTRICT (GROW-OL)

Whereas, §322(c)(7) of the Telecommunications Act of 1996, 47 U. S. C. (the “Act”) preserves state and local authority over zoning and land use decisions for personal wireless service facilities, including wireless facilities, wireless support structures, and related equipment; and

Whereas, the State of Indiana has established Chapter 32.3 Permits for Wireless Service Providers in I.C. 8-1-32.3 (the “State Statute”) which proscribes the definitions and rules governing the issuance of permits within the local public rights-of-way; and

Whereas, the City of Hammond, Lake County, Indiana established its zoning and land use regulations in accordance with I.C. 36-7-4 Local Planning and Zoning by and through the passage of Ordinance 8514 (the “Hammond Zoning Ordinance”), being effective in October 2003 and as has been amended from time to time; and

Whereas, the City of Hammond now seeks to adopt standards specifically concerning the placement, construction, and modification of wireless facilities, wireless support structures, and related equipment within the City’s rights-of-way; and

Whereas, the City of Hammond further seeks to establish an overlay zoning district to provide for the location of small cell networks; and

Whereas, the City desires to adopt said standards consistent with the Act and the State Statute that: (a) do not discriminate among providers of functionally equivalent cellular

services; (b) do not have the effect of prohibiting the provision of personal wireless services; (c) establish provisions on the action on applications and review by the applicable agency for compliance with basic development standards for wireless facilities and wireless support structures; and (d) establish provisions for written denial, supported by substantial evidence in a written record of any denial of a permit for wireless facilities and wireless support structures;

Whereas, pursuant to and consistent with the Act, this Ordinance shall not be interpreted to authorize or allow permitting decisions premised directly or indirectly on environmental effects or health considerations related to radio frequency emissions;

Whereas, to the extent permitted by applicable law, this Ordinance shall be interpreted to minimize the negative impact of wireless facilities and wireless support structures, establish a fair and efficient process for review and approval of applications, and assure an integrated review designed to benefit the health, safety, and welfare of Hammond's residents;

Whereas, the City Planning Department has prepared appropriate amendments to Title XXIX Overlay Zoning Districts of the Zoning Ordinance 8514, as amended, and seeks to have the amendments adopted.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond, Lake County, Indiana that Ordinance 8514 shall be amended as follows:

SECTION 1

Amended Title XXIX Overlay Zoning Districts by adding in a new Section 29.10 GROW-OL, as follows:

AN AMENDMENT TO TITLE XXIX – Overlay Zoning Districts

Section 29.10 GROW-OL Overlay Zoning District Establishment

29.10.01 Purpose

The purpose of this section is to establish an overlay zoning district and the provisions thereof to provide for sensible and reasonable land use standards to: 1) allow for the provision of adequate reliable public and private telecommunications; 2) to provide for

and serve the needs of the City through the use of small cell facilities for telecommunications; and 3) minimize the adverse and undesirable visual effects of said provisions for said facilities within the City of Hammond.

29.10.02 Establishment of GROW-OL overlay zoning district.

The Greater Rights-of-Way Overlay Zoning District (GROW-OL) shall apply to all public rights-of-way lying wholly or partially within the City limits of Hammond including, but not limited to: streets, avenues, alleys, etc. and as may be amended from time to time.

29.10.03 Limitations or Exclusions of provisions

- A. The provisions of this section shall not apply to: private streets, private access easements, internal drives in a commercial development, railroad rights-of-way, or interstate highways under the jurisdiction of INDOT.
- B. Small cell facilities for telecommunications are not permitted within GROW-OL right-of-way having “Local” functional classification as defined in the City’s Transportation Plan.
- C. In accordance with I.C. 8-1-32.3-17 (a), the City of Hammond may not discriminate among communications service providers or public utilities with respect to:
 - 1) approving applications, issuing permits, or otherwise establishing terms and conditions for construction of wireless or wireline communications facilities.
 - 2) authorizing or approving tax incentives for wireless or wireline communications facilities;
 - 3) providing access to rights-of-way, infrastructure, utility poles, river and bridge crossings, and other physical assets owned or controlled by the City.
- D. Further in accordance with I.C. 8-1-32.3-17 (a), the City of Hammond may not require an applicant to submit information about, and may not evaluate an applicant’s business decisions with respect to, the applicant’s designed service, customer demand, service quality, or desired signal strength to a particular location.
- E. Plan Commission review of a development plan as provided for in T/S 29.03 is not applicable to applications provided for in the GROW-OL.

29.10.04 Definitions

For purposes of this Section and consistent with I. C. 8-1-32.3 *et. seq.*, the words and phrases below are defined as follows:

- A. Antenna - Any communications equipment that transmits or receives

electromagnetic radio signals used in the provision of wireless communications service.

- B. Base Station - A station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.
- C. Collocation or Co-Location - The placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
- D. Construction Plan – A written plan (minimum size 11x17, based on a standard engineering or architectural scale, dimensioned in feet and inches) that describes the proposed wireless support structure and all equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment. The plan shall also include information that demonstrates that the aesthetics of the wireless support structure is substantially similar to the street lights located nearest the proposed location; includes the total height and width of the wireless facility and wireless support structure, including cross section and elevation, footing, foundation and wind speed details; a structural analysis indicating the capacity for future and existing antennas, and calculations for the foundation's capacity. All drawings shall be sealed, signed, and dated by a registered professional engineer, licensed in the State of Indiana.
- E. Electrical Transmission Tower - A structure that physically supports high voltage overhead power lines. The term does not include a utility pole.
- F. Equipment Compound - The area that: (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.
- G. Existing structure - Excludes a utility pole or an electrical transmission tower.
- H. Permit Authority - The staff of the City of Hammond, Hammond Board of Public Works and Safety, and the Hammond Board of Zoning Appeals.
- I. Small Cell Facility - A) a personal wireless service facility as defined by the Federal Telecommunications Act of 1996 as in effect on July 1, 2015; or B) a wireless service facility that satisfies the following requirements: (i) each antenna, including exposed elements, has a volume of three (3) cubic feet or less; (ii) all antennas, including exposed elements, have a total volume of six (6) cubic feet or less; and (iii) the primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less.

For purposes of B)(iii) above, the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure:

- a) Electric meters
- b) Concealment equipment
- c) Telecommunications demarcation boxes
- d) Ground-based enclosures
- e) Back-up power systems
- f) Grounding equipment
- g) Power transfer switches
- h) Cut-off switches

J. Small Cell Network - A collection of interrelated small cell facilities designed to deliver wireless service.

K. Substantial Modification of a Wireless Support Structure - The mounting of a wireless facility on a wireless support structure in a manner that:

- (1) increases the height of the wireless support structure by the greater of: (a) ten percent (10%) of the original height of the wireless support structure; or (b) twenty (20) feet;
- (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of: (a) twenty (20) feet; or (b) the width of the wireless support structure at the location of the appurtenance; or
- (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.

The term substantial modification does not include the following:

- (1) increasing the height of a wireless support structure to avoid interfering with an existing antenna;
- (2) increasing the diameter or area of a wireless support structure to:
 - (a) shelter an antenna from inclement weather; or
 - (b) connect an antenna to the wireless support structure by cable.

L. Utility Plan – A plan (minimum size 11x17, based on a standard engineering or architectural scale, dimensions shown in feet and inches) demonstrating the location and relationship to existing utilities within the vicinity of the proposed wireless support structure. The plan includes drawings of 1) the project area showing location and all dimensions, 2) the wireless support structure dimensions (size, height, etc.); 3) vicinity map showing the location of the proposed wireless facility and the surrounding street; 4) proximity map showing distance and dimensions from public facilities (curb, sidewalk, street landscape area, street centerline, right-of-way line, etc.) and adjacent buildings; 5) ground disturbance plan showing depth and dimensions of disturbance and excavation parameters; 6) adjacent utility plan, showing location and distances of all adjacent above ground and below ground utility facilities; and 7) documentation of coordination with utilities including a conflict analysis and work plan which documents that there are

no conflicts with existing utilities and a restoration plan if there are conflicts with the existing utilities.

M. Utility Pole - A structure that is:

- (1) owned or operated by:
 - (a) a public utility;
 - (b) a communications service provider;
 - (c) a municipality;
 - (d) an electric membership corporation; or
 - (e) a rural electric cooperative;

and (2) designed and used to:

- (a) carry lines, cables, or wires for telephone, cable television, or electricity; or
- (b) provide lighting.

The term does not include a wireless support structure or an electrical transmission tower.

N. Wireless Facility - The set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

O. Wireless Support Structure - A freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower

29.10.05 Permits

An applicant that provides wireless communications service or otherwise makes available infrastructure for wireless communications services may apply for a permit to (a) locate a new wireless facility or wireless support structure, (b) perform a substantial modification or (c) collocate wireless facilities on existing structures in the GROW-OL to the Zoning Administrator.

An applicant shall demonstrate that the proposed wireless facility, wireless support structure or substantial modification thereof complies with the requirements of the GROW-OL.

Upon determination of a complete application and initial review by the Zoning Administrator, the application shall be forwarded to the Hammond Board of Public Works and Safety for review by the City Engineering Department. The application shall also include a utility plan. The City Engineering Department shall submit a report determining technical compliance and whether there are any conflicts with existing utilities, construction plans, or other applicable regulations including, but not limited to, Hammond Board of Public Works and Safety Resolution 4035.

The Board of Public Works and Safety shall make its recommendation and determination and forward it to the Zoning Administrator with the report from the City Engineering Department for a determination of the issuance of permits.

29.10.06 Collocation Preference.

- A. At a minimum, new wireless facilities shall be a monopole constructed to support the initial user plus the anticipated loading of one additional user.
- B. The site of the initial wireless facility at any location shall be of sufficient area to allow for the location of one (1) additional wireless facility.
- C. Any proposed wireless support structure shall be designed, and engineered structurally, electrically and in all other respects, to accommodate both the initial wireless facility and one additional wireless facility support structure shall be designed to allow for future rearrangement of cellular communication equipment and antennas upon said structure and to accept cellular communication equipment and antennas mounted at varying heights.
- D. A proposal for a new wireless support structure shall not be approved unless the applicant submits an affidavit that the telecommunication equipment planned for the proposed wireless support structure cannot be accommodated on an existing or approved utility pole or electrical transmission tower or other structure due to one (1) or more of the following reasons:
 - (1) The planned telecommunication equipment would exceed the structural capacity of the existing or approved utility pole or electrical transmission tower or structure as documented by a qualified and licensed professional engineer, and the existing or approved utility pole or electrical transmission tower or structure cannot be reinforced, modified, or replaced to accommodate the planned telecommunication equipment at a reasonable cost, or
 - (2) The planned telecommunication equipment would cause interference impacting the usability of other existing telecommunication equipment at the site if placed on existing structures. Supportive documentation by a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost; or
 - (3) The existing or approved utility pole or electrical transmission tower, or buildings/structure within the search radius cannot accommodate the planned telecommunication equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; or

- (4) Other unforeseen reasons that make it unfeasible or impossible to locate the planned telecommunication equipment upon an existing or approved utility pole or electrical transmission tower, building or structure; or
- (5) The applicant has been unable to enter a commonly reasonable lease term with the owners of existing utility pole or electrical transmission tower, buildings or structures.

29.10.07 Developmental Provisions and requirements

New wireless facilities and wireless support structures shall meet the following developmental provisions and requirements.

- A. Overall Maximum Antenna and wireless support structure height: 44' from grade or equal to or less than the height of existing streetlights or traffic signals structures, whichever is greater, located on the same street for which the wireless facility is proposed within a 600 foot (182.88 m.) radius.
- B. Minimum Separation: No other wireless support structure shall be located within One thousand (1,000) foot (304.8 m.) radius of any other support structure primarily used for telecommunications.
- C. Support structures shall be metal or fiberglass poles. The color shall be black or any other color and finish determined by the Hammond Board of Public Works and Safety that is similar to the color and finish of the streetlights within the same block. Any antenna equipment mounted to the support structures (antenna or other permitted equipment) shall also be matching in color to the support structure.
- D. All facility equipment at a single facility, with the exception of the antenna itself, shall be ground mounted in a cabinet having an area not to exceed seventeen (17) cubic feet (0.48 cubic m.) and no greater than forty-eight (48) inches (1.22 m.) overall height. A pole mounted cabinet with dimensions not exceeding twenty (20) inches by twenty (20) inches by six (6) inches (20" x 20" x 6") (50.8 cm. x 50.8 cm. x 15.24 cm.) including or excluding a corresponding ground mounted cabinet not to exceed two (2) feet by two (2) feet by one (1) foot (2' x 2' x 1') (0.61 m. x 0.61 m. x 0.3 m.) may be approved as an alternative by the Board of Public Works and Safety. The Board of Public Works and Safety may also approved minor adjustments of these dimensions but not greater than a 25% difference as long as these adjustment do not cause any conflict with public safety, access, or visual clearance.
- E. All support structures shall have a plaque identifying the structure, the owner and the owner's contact information, said plaque shall not exceed 0.25 square feet (0.02 sq. m.). All support structures shall have all public safety/warning signs as required by law, OSHA, State Building Code, and/or National Electrical Code. No other signs are permitted.

- F. All wiring and fiber shall be concealed within the support structure and all conduit, wiring and fiber shall be buried between structures and/or structures and ground mounted cabinets. All service lines (e.g. electric lines) to the support structure shall also be buried.
- G. Where practical, landscaping shall be provided to mitigate the visual impact of the ground mounted equipment.
- H. No wireless facility or wireless support structure may be located or constructed in a manner that would unreasonably interfere with the use of city property or the public right-of-way by the city, by the general public, or by other persons authorized to use or be present in or upon the public right-of-way. Unreasonable interference includes disruption to vehicular or pedestrian traffic or parking on city property or within the public right-of-way, interference with public utilities, interference with visibility along the public right-of-way, and such other activities that would present a hazard to public health, safety, or welfare when alternative locations or methods of construction would result in less disruption.

Wireless facilities shall be setback: 1) 15' (4.572 m.) from the intersection of the nearest right-of-way lines (street and/or alley); 2) 15' (4.572 m.) from the intersection of a drive-way curb cut and a right-of-way line; and 3) 2' (0.61 m.) from the back of curb to the side of the wireless support structure facing the back of the curb.

- I. Wireless facilities shall comply with the Americans with Disabilities Act (ADA), not impede handicapped accessibility, and not be located in a required ADA path of travel.
- J. Continued Operation: An applicant receiving a permit for a new (1) construction of a new wireless support structure; (2) substantial modification of a wireless support structure; or (3) collocation of wireless facilities on an existing structure inherently agrees that if the wireless support structure or wireless facilities are not used for a period of six (6) consecutive months, they will be removed by the facilities owner at its expense. Should such owner fail to remove the wireless support structure or wireless facilities after thirty (30) business days from the date a Notice of Violation is issued by the City, the City may remove such structure or facilities and bill the owner for the costs of removal and cleanup of the site. The owner of any facility shall annually file a copy of any inspections completed on such wireless support structure or wireless facilities with the permit authority for continued operation and use of the wireless support structure or wireless facilities.
- K. Confidential Information. All confidential information submitted by an applicant shall be maintained to the extent authorized by Ind. Code 5-14-3 *et. seq.*

29.10.08 New Wireless Support Structures

A. Contents of Application. An application for a permit shall include the following:

- 1) The name, business address, and point of contact for the applicant.
- 2) The location address, and Latitude and Longitude of the proposed or affected wireless support structure or wireless facility, and identify all small cell towers within one thousand (1,000) feet (304.8 m.) of the proposed new support structure.
- 3) A construction plan, as defined herein, that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.
- 4) Evidence supporting the choice of location, including, without limitation:
 - a) maps or plats showing the proposed location(s) of applicant's proposed wireless support structure; and
 - b) a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:
 - 1) would not result in the same wireless service functionality, coverage, and capacity;
 - 2) is technically infeasible, or
 - 3) is an economic burden to the applicant.

B. Single Application.

An applicant may submit one (1) application for multiple wireless service facilities that are located within the GROW-OL. The permit authority may issue a single permit for all wireless support structures and service facilities included in the application rather than individual permits for each wireless support structure and service facility.

C. Variances.

If the proposed wireless support structure is not a permitted use under an applicable zoning ordinance, the applicant shall additionally submit evidence showing that the application complies with the criteria for a developmental variance or variance of use from the terms of the zoning ordinance.

D. An application that contains the required information of T/S 29.10.07 A, B, and C is considered complete.

E. Procedure.

- 1) Determination of Completion/Defects.

Within ten (10) business days of receipt of an application, the permit authority shall review the application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If the applicant is not notified in writing of all defects in the application, the application is considered complete.

An applicant that receives a written notice of incompleteness may cure the defects and resubmit the application within thirty (30) calendar days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

- 2) Decision by Permit Authority. Not more than ninety (90) calendar days after the permit authority makes an initial determination of completeness, the permit authority shall: (1) review the application to determine if it complies with applicable requirements of this section; (2) review the application to determine if it complies with standards required as established by the permit authority, and (3) notify the applicant in writing whether the application is approved or denied. However, if the applicant requested additional time to cure defects in the application, the ninety (90) calendar days shall be extended for a corresponding, reasonable amount of time. If the application for the proposed wireless support structure requires a developmental variance or variance of use, the permit authority may have not more than thirty (30) additional days.

29.10.09 Substantial Modification

A. Contents of Application. An application for a permit shall include the following:

- 1) The name, business address, and point of contact for the applicant.
- 2) The location address and Latitude and Longitude of the proposed or affected wireless support structure or wireless facility, and identify all small cell towers within one thousand (1,000) feet (304.8 m.) of the proposed new support structure.
- 3) A construction plan, as defined herein, that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

B. Single Application.

An applicant may submit one (1) application for multiple wireless service facilities that are located within the GROW-OL. The permit authority may issue a single permit for all wireless support structures and service facilities included in the application rather than individual permits for each wireless support structure and service facility.

C. Variances.

If the proposed wireless support structure is not a permitted use under an applicable zoning ordinance, the applicant shall additionally submit evidence showing that the application complies with the criteria for a developmental variance or variance of use from the terms of the zoning ordinance.

D. Procedure.

1) Determination of Completion/Defects.

Within ten (10) business days of receipt of an application, the permit authority shall review the application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If the applicant is not notified in writing of all defects in the application, the application is considered complete.

An applicant that receives a written notice of incompleteness may cure the defects and resubmit the application within thirty (30) calendar days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

2. Decision by Permit Authority. Not more than ninety (90) calendar days after the permit authority makes an initial determination of completeness, the permit authority shall: (1) review the application to determine if it complies with applicable requirements of this section; (2) review the application to determine if it complies with standards required as established by the permit authority, and (3) notify the applicant in writing whether the application is approved or denied. However, if the applicant requested additional time to cure defects in the application, the ninety (90) calendar days shall be extended for a corresponding, reasonable amount of time. If the application for the proposed wireless support structure requires a developmental variance or variance of use, the permit authority may have not more than thirty (30) additional days.

29.10.10 Collocation

A. Contents of Application. An application for a permit shall include the following:

- 1) The name, business address, and point of contact for the applicant.
- 2) The location address and Latitude and Longitude of the proposed or affected wireless support structure or wireless facility, and identify all small cell towers within one thousand (1,000) feet (304.8 m.) of the proposed new support structure.
- 3) Evidence of conformance with applicable building and improvement location

permit requirements, including, but not limited to, the height and/or size of new cabinet, height of wireless support structure, and vision clearance, etc. for public safety reasons.

B. Single Application.

An applicant may submit one (1) application to collocate multiple wireless service facilities that are located within the GROW-OL. The permit authority shall issue a single permit or all wireless service facilities included in the application rather than individual permits for each wireless service facility.

3. Procedure.

1) Determination of Completion/Defects.

Within ten (10) business days of receipt of an application, the permit authority shall review an application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If the permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

An applicant that receives a written notice of incompleteness may cure the defects and resubmit the application within fifteen (15) calendar days of receiving the notice. If an applicant is unable to cure the defects within the fifteen (15) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

2) Decision by Permit Authority.

Not more than forty-five (45) calendar days after the permit authority makes an initial determination of completeness, the permit authority shall: (1) review the application to determine if it complies with the building code requirements or applicable requirements of this section; (2) review the application to determine if it complies with standards required as established by the permit authority; and (3) notify the applicant in writing whether the application is approved or denied.

However, if the applicant requested additional time to cure defects in the application, the 45 day period shall be extended for a corresponding amount of time.

29.10.11 Written Determinations

In a written determination issued under sections T/S 29.10.08, 29.10.09, and 29.10.10, the permit authority shall state clearly the basis for the decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial. A notice is considered written if it is included in the minutes of a public meeting of the permit

authority. If a permit authority fails to act on an application within the applicable deadline as proscribed in T/S 29.10.08, 29.10.09, or 29.10.10, the application is considered approved.

29.10.12 Construction Requirements

All antennas, telecommunication towers, accessory structures and any other wiring constructed within the Plan Commission jurisdiction shall comply with the following requirements:

- A. All applicable provisions of this Zoning Ordinance and the Building Code of the State of Indiana, as amended, and the Federal Communications Commission (FCC) when applicable.
- B. All wireless facilities and support structures shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code, as amended, and the Electronics Industry Association.
- C. All wireless facilities and support structures shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.
- D. All wireless facilities and support structures shall be constructed to conform to the requirements of the Occupational Safety and Health Administration (OSHA).
- E. All wireless facilities and support structures shall be designed and constructed to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.

Section 2

Severability

- A. If any Court of competent jurisdiction shall adjudge any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance, or amendment thereto, to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance, or amendment thereto, not specifically included in said judgment. It is expressly declared that this Ordinance and each section, subsection, paragraph, sentence, clause and phrase would have been adopted regardless of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases might be declared invalid or unconstitutional.

- B. If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance, or amendment thereto, to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.
- C. If any Court of competent jurisdiction shall determine that any word, clause, phrase, sentence, paragraph, or subsection of the Ordinance, or amendment thereto, is unconstitutional as worded, the court shall first attempt to construe or interpret such unconstitutional provision so as to enable the same to be constitutional as so narrowed or construed. If the court cannot so limit or construe such word or provision narrowly so as to render the same constitutional, it shall strike or modify only the minimum number of words, phrases, clauses, sentences, or paragraphs as will be absolutely necessary to render the remainder constitutional. In no case shall a subordinate clause, phrase, or word render the attached major section or provision unconstitutional, but instead such subordinate clause, phrase, or word shall be severed there from, unless such severance renders the remainder wholly meaningless or unconstitutional.

BE IT FURTHER ORDAINED by the Common Council of the City of Hammond that this Ordinance shall be in full force and effect from and after its passage by the Common Council, signing by the President thereof.

Janet Venecz, President /s/

Attest:

Robert J. Golec, City Clerk /s/

The foregoing Ordinance No. 9364 consisting of fifteen (15) pages, including this page was passed by the Common Council on the 23rd day of January, 2017.

Robert J. Golec, City Clerk /s/