



**Regular City Council Meeting  
7:00 p.m., Monday, April 1, 2019  
Conference Room  
23600 Liberty Street  
Farmington, MI 48335**

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## **REGULAR MEETING AGENDA**

- 1. Roll Call**
- 2. Approval of Agenda**
- 3. Public Comment**
- 4. Special Event Application: Friends of FASD 5K**
- 5. Consideration to approve the introduction of an ordinance relating to fireworks**
- 6. Second reading and consideration to adopt amendment of Telecommunications Ordinance relating to wireless antennas**
- 7. Second reading and consideration to adopt amendment of Streets and Sidewalks Ordinance relating to right-of-way permits for wireless antennas**
- 8. Consideration to approve the introduction of an ordinance amending the City of Farmington Code of Ordinances to prohibit marijuana establishments within the boundaries of the City**
- 9. Other Business**
- 10. Council Comment**
- 11. Adjournment**

**Farmington City Council  
Staff Report**

**Council Meeting  
Date: April 1, 2018**

**Item  
Number  
4**

**Submitted by: Melissa Andrade**

**Agenda Topic**

Special Event Application: Friends of FASD 5K fund raiser

**Proposed Motion:** Move to approve the Special Event Application for the Friends of FASD 5K fundraising event from 7 a.m. until noon beginning and Shiawassee Park on Sept. 21, 2019.

**Background:**

In 2018, Kari Jo Wagner has worked with Farmington Public Safety and Council Member/Runner Sara Bowman to select an appropriate route for the 5K. Last year's event was a success and the organization would like to hold the event again this year. They are hoping for 150 participants.

This fun run is a fundraising event for the Friends of FASD (Fetal Alcohol Spectrum Disorders).

**Materials:**

Application  
Route Map



Approval Needed:

- City Manager
- City Council

- Approved
- Denied

## City of Farmington Special Event Application

This application is for all events in Riley Park and any other city event that will bring in more than 100 people. Complete this application in accordance with the city of Farmington's Special Events Policy and return it to the City Manager's Office at least 60 days prior to the starting date of the event.

Sponsoring Organization's Name Friends of FASD

Organization Phone: 773 - 329 - 3058

Organization Address 30896 Huntsman Dr E, Farmington Hills 48331

Organization's Agent: Kari Jo Wagner Phone: 773-329-3058

Agent's Title: Founder E-mail: \_\_\_\_\_

Agent's Address: 30896 Huntsman Dr E, FH 48331

Event Name: Friends of FASD 5K

Event Purpose: fundraise grants for children with FAS

Event Dates: Saturday, September 21st 2019

Event Times: 5K start 8<sup>30</sup> AM / setup: clean 7AM-12 noon

Event Location: Shiawasse Park, see attached 5K map

Number of People Expected: 150

1. **Type of Event:** Based on policy section 2, this event is:

- City Operated Event
- Co-sponsored Event
- Private Event  
*Prohibited in Riley Park*
- Non-Profit Event
- For-Profit Event

2. **An Event Map**  **[is]**  **[is not]** attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also show any streets or parking lots that you are requesting to be blocked off.

3. **Vendors:** Food Concessions (YES) ~~(NO)~~ Other vendors (YES) ~~(NO)~~  
Food Truck (YES) ~~(NO)~~

If food truck, please the complete food truck registration, which you can obtain from the City Manager's office.

If yes, refer to Policy Section IV.2.M for license and insurance requirements.

If yes, please list all of the vendors by vendor name:

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4. **For events in Riley Park: Invitation to Civic Organizations and Merchants in the Event Vicinity.** Non-profit organizations and local merchants in the vicinity of Riley Park – the Central Business District -- should be given the opportunity to participate in the special event to the greatest extent practical; e.g., a local Deli might come out and sell bratwurst. You must demonstrate that reasonable efforts have been made with regard to such inclusion and participation. The City Manager's office shall be responsible for determining whether this requirement has been met.

( ) I have invited local businesses to participate.

Those invited include: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. **Exempt Parking:** Are you requesting exempt Parking? (See Policy Section 5)  
(YES) (NO)

If yes, list the lots or locations where exempt parking is requested:

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6. **Other Requests:**

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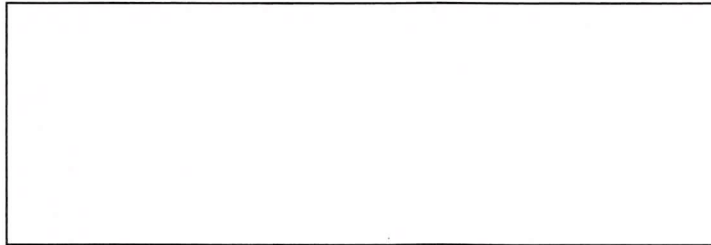
**Event Signs:** Will this event include the use of signs (YES) ~~(NO)~~  
If yes, refer to Policy Section 8 for requirements and describe the size and location of your proposed signs: Please complete sign illustrations below.

Signs or banners approved by the city of Farmington for special events shall be designed and made in an artistic and workman-like manner. THE CITY MANAGER MUST APPROVE ALL SIGNS. SIGNS CANNOT BE ERECTED UNTIL APPROVAL IS GIVEN.

Total square footage of the banner cannot exceed 32 square feet.

Banner Length

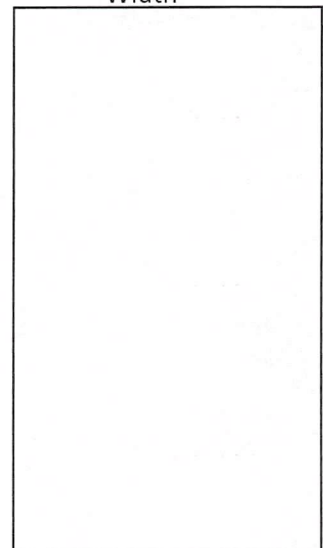
Width



Write copy of banner in the box.

Total Square Footage of the sign cannot exceed eight square feet

Width



Height

Write copy of sign in the box.



7. CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that:
- a. For public events, a certificate of insurance must be provided which names the city of Farmington as an additional named insured party on the policy. (see Event Policy Sec. IV.2.K for insurance requirements)
  - b. Event sponsors and participants will be required to sign Indemnification Agreement forms. (refer to Policy Section IV.2.M)
  - c. If the event includes solicitation by workers standing in street intersections, the required safety precautions will be maintained at all times in accordance with the Department of Public Safety. (see Policy Section IV.2.L)
  - d. All food vendors must be approved by the Oakland County Health Department, and each food and/or other vendor must provide the city with a certificate of insurance which names the city of Farmington as an additional named insured party on the policy. (see Policy Section IV.2.N)
  - e. The approval of this special event may include additional requirements and/or limitations based on the city's review of this application, in accordance with the city's special event policy. The event will be operated in conformance with the written confirmation of approval. (see Policy Section IV.2.R)
  - f. The sponsoring organization will provide a security deposit for the estimated fees as may be required by the city and will promptly pay any billing for city services which may be rendered, pursuant to Policy Sections IV.2 e and f.

As the duly authorized agent of the sponsoring organization, thereby apply for approval of this special event, affirm the above understandings, and agree that my sponsoring organization will comply with the city's Special Event Policy, the terms of the Written Confirmation of Approval and all other city requirements, ordinances and other laws which apply to this special event.

3/20/2019  
Date

Kai Jo Wagner  
Signature of Sponsoring Organization's Agent

RETURN THIS APPLICATION at least sixty (60) days prior to the first day of the event to:

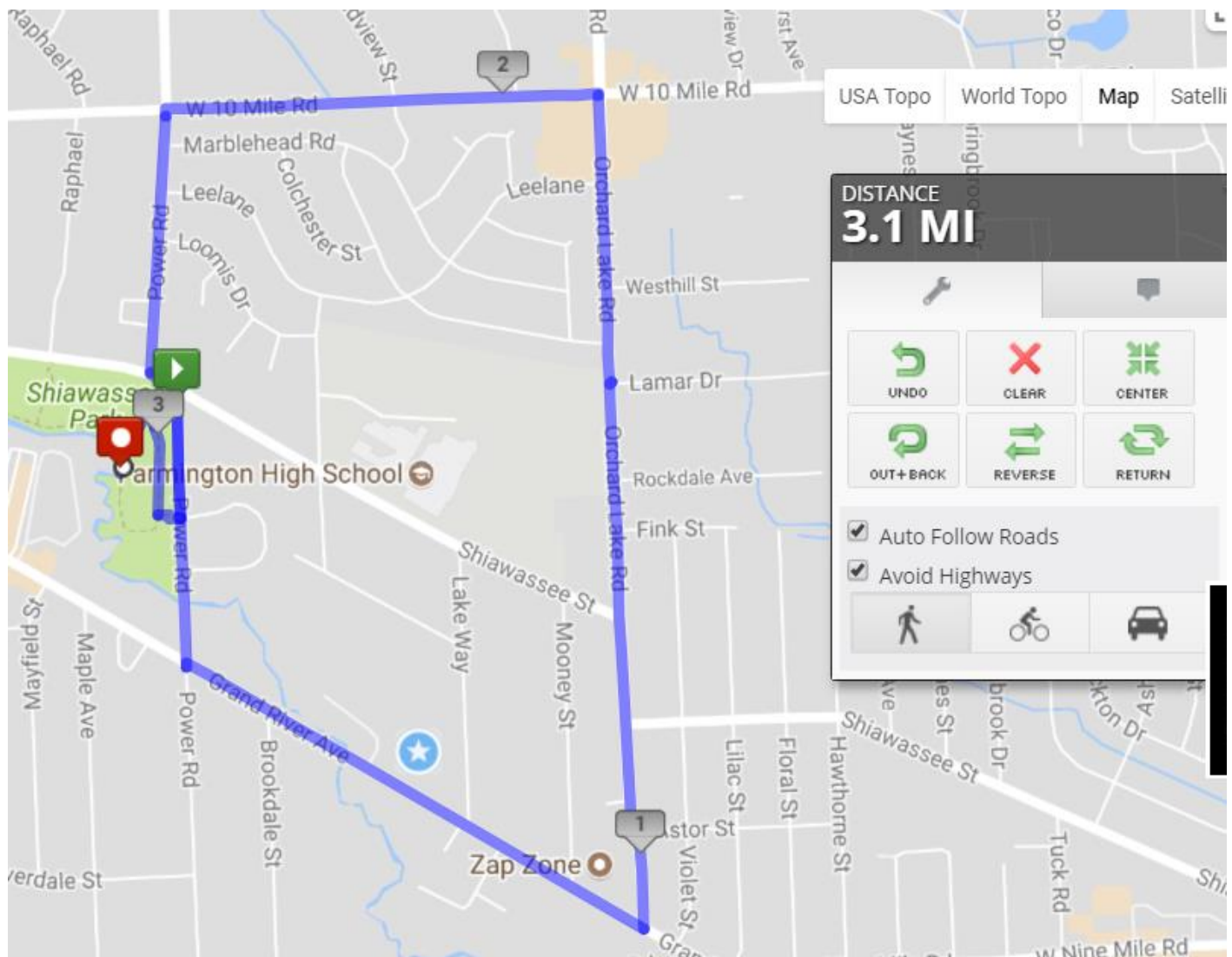
City Manager's Office  
23600 Liberty Street  
Farmington, MI 48336

Phone: 248-474-5500, ext. 2221

## Proposed route for the 2019 Friends of FASD 5K

(Same route as the previous year)

1. Green Arrow is Start
2. Power Road South to Grand River
3. East on Grand River to Orchard Lake Road
4. North on Orchard Lake Road to 10 Mile Road (enjoy the smell of Greene's!)
5. West on 10 Mile Road to Power Road
6. South on Power Road (ROAD CROSSING @ Crosswalk at Shiawassee)
7. Enter Park and follow the dirt path around to finish



<b>Farmington City Council Staff Report</b>	<b>Council Meeting Date: April 1, 2019</b>	<b>Item Number 5</b>
<b>Submitted by: City Manager &amp; City Attorney</b>		
<b>Agenda Topic: Consideration to Approve an ordinance relating to fireworks. FIRST READING</b>		
<p><b>Proposed Motion:</b> Move to approve Introduction of an Ordinance To Amend The City of Farmington Code of Ordinances, Article V, "Offenses Against Public Peace," Section 20-117, "Fireworks," in order to amend regulations of the times during which consumer fireworks may be discharged, include additional restrictions on the discharge of fireworks, and amend the penalties for violations of this section.</p>		
<p><b>Background:</b> Michigan Fireworks Safety Act regulates the sale and use of fireworks within the State of Michigan. The Act allows local governments to enact ordinances that comply with the Act and regulate the use, but not the sale, of fireworks within their communities. House Bills 5939, 5940, and 5941 included modifications to this Act, and took effect on December 31, 2018. Under the new law, individuals are permitted to use fireworks only on the following dates during specific time frames:</p> <p style="padding-left: 40px;">December 31 until 1 a.m. on January 1; The Saturday and Sunday immediately preceding Memorial Day; June 29 to July 4, July 5 if that date is a Friday or Saturday; and The Saturday and Sunday immediately preceding Labor Day.</p> <p>Regarding the increase in fines, the new law raises the fine for unlawfully using fireworks from \$500.00 to \$1,000.00. The new law further requires ordinances to provide the remittance of \$500.00 of this fine to the local law enforcement agency responsible for enforcing the ordinance. This is beneficial to the City, as it ensures the Police Department receives funds from its enforcement of the ordinance.</p> <p>There is also an additional that grants the Fire Chief with the authority to enforce a "no-burning restriction" if the environmental concerns based on the Department of Natural Resources Fire Division criteria are elevated to extreme fire conditions, or if the environmental concerns were elevated to "very high" for 72 consecutive hours. This would include a ban on the ignition, discharge, and use of consumer fireworks.</p>		
<p><b>Materials:</b> Proposed ordinance</p>		



STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CITY OF FARMINGTON  
ORDINANCE NO. C-\_\_\_\_\_-2019

AN ORDINANCE TO AMEND CHAPTER 20, "OFFENSES," OF THE CITY OF FARMINGTON CODE OF ORDINANCES, ARTICLE V, "OFFENSES AGAINST PUBLIC PEACE," SECTION 20-117, "FIREWORKS," IN ORDER TO AMEND REGULATIONS OF THE TIMES DURING WHICH CONSUMER FIREWORKS MAY BE DISCHARGED, INCLUDE ADDITIONAL RESTRICTIONS ON THE DISCHARGE OF FIREWORKS, AND AMEND THE PENALTIES FOR VIOLATIONS OF THIS SECTION.

**THE CITY OF FARMINGTON ORDAINS:**

**Section 1.** That Chapter 20, "Offenses," Article V, "Offenses Against Public Peace," Section 20-117, "Fireworks," is hereby amended to read as follows in its entirety:

**Sec. 22-112. Fireworks.**

**(a) Definitions.**

As used in this Section, the following words and phrases have the meanings set forth herein:

*Act* means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 *et seq.*, as amended.

*Articles pyrotechnic* means pyrotechnic devices for professional use that are similar to consumer *fireworks* in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer *fireworks* but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

*Consumer fireworks* means *fireworks* devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. *Consumer fireworks* does not include low-impact *fireworks*.

*Display fireworks* means large *fireworks* devices that are explosive materials intended for use in *fireworks* displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

*Firework or fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. *Fireworks* consist of consumer *fireworks* low-impact *fireworks*, articles pyrotechnic, display *fireworks*, and special effects.

*Low-impact fireworks* means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

*Livestock* means those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

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*Low-impact fireworks* means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

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*National holiday* means New Year's Day (January 1); Birthday of Martin Luther King, Jr (third Monday in January); Washington's Birthday (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Columbus Day (second Monday in October); Veterans Day (November 11); Thanksgiving Day (fourth Thursday in November); and Christmas Day (December 25).

*Novelties* means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

- (i) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- (ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- (iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- (iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

**(b) General prohibition on ignition, discharge, and use of consumer fireworks; exception**

No person shall ignite, discharge, or use fireworks within the City at any time, except that:

(1) Fireworks may be discharged in strict compliance with any permit issued by the City in accordance with the Act.

(2) Consumer fireworks may be discharged on the following dates and times:

a) From 11:00 a.m. on December 31, until 1 a.m. on January 1;

b) From 11:00 a.m. until 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day;

c) From 11:00 a.m. until 11:45 p.m. on June 29 to July 4;

d) From 11:00 a.m. until 11:45 p.m. on July 5, only if that date is a Friday or Saturday;

e) From 11:00 a.m. until 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day only on the day before, the day of, and the day after, a National holiday.

(3) An individual in violation of this subsection (b) shall be responsible for a municipal civil infraction punishable by a civil fine of \$1,000.00 for each violation, and all other available relief under Section 1-19 of this Code. \$500.00 of the foregoing civil fine will be remitted to the Farmington Police Department.

(4) This subsection (b) shall not apply to low impact fireworks

**(c) Additional prohibitions**

(1) Consumer fireworks shall not be ignited, discharged, or used on public property, including streets and rights-of-way, or on school property, church property, or the private property of another, without the express written permission from the person or entity legally in possession and control of that property to undertake such action.

(2) Consumer fireworks shall not be ignited, discharged, or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both.

(3) Low impact fireworks shall not be ignited, discharged, or used by a person under the influence of alcoholic liquor or a controlled substance or a combination of both

(4) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock.

(5) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks if a no burning restriction has been implemented by the Fire Chief.

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~~(6) An individual in violation of this subsection (c) shall be responsible for a municipal civil infraction punishable by a civil fine of not more than \$1,000.00 for each violation, and all other available relief under Section 1-19 of this Code.~~

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**(d) Novelties not regulated**

This Section does not apply to novelties.

**(e) Enforcement**

This Section may be enforced by the Director of Public Safety and the Fire Chief, their designees, and any sworn law enforcement officers.

**(f) Determination of Violation; seizure of fireworks and payment of costs.**

If an enforcing official determines that a violation of this Section has occurred, the official may seize the fireworks as evidence of such violation and payment of all costs incurred by the City or law enforcement personnel under the Act or this Section in securing, seizing, storing, and disposing of fireworks that are in violation of the Act or this Section shall be the responsibility of all persons found guilty, responsible, or liable for the violation. In recognition that the actual costs incurred by the City and/or law enforcement personnel will include having the personnel, equipment, and facilities necessary to store fireworks in compliance with the Act and other laws and regulations, costs to be paid shall be determined in accordance with rates and methods established by resolution of the City Council.

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**~~(g) — Penalty~~**

~~(i) A violation of this Section is a municipal civil infraction, punishable by a civil fine of not more than \$500.00, plus any costs, damages, and expenses as provided in Section 1-11 of this Code of Ordinances.~~

~~(ii) Upon a finding of responsibility for violation of this Section, the City may dispose of or destroy any consumer fireworks or low impact fireworks retained as evidence for prosecution of the violation.~~

~~(iii) In addition to any other penalty provided herein, a person found responsible for violation of this Section shall reimburse the City for the costs of storing, disposing of, or destroying any consumer or low impact fireworks seized as provided for herein.~~

**Section 2 of Ordinance. Repealer.**

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

**Section 3 of Ordinance. Severability.**

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**Section 4 of Ordinance. Savings.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

**Section 5 of Ordinance. Effective Date.**

The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Farmington.

**Section 6 of Ordinance. Adoption.**

This ordinance is hereby declared to have been adopted by the Farmington City Council in a meeting thereof duly held and called on the \_\_\_ day of \_\_\_\_\_, 2019, in order to be given publication in the manner prescribed by the Charter of the City of Farmington.

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_.

AYES:  
NAYS:  
ABSTENTIONS:  
ABSENT:

Ordained this \_\_\_ day of \_\_\_\_\_, 2019, by the City Council of the City of Farmington.

\_\_\_\_\_  
STEVEN G. SCHNEEMANN, Mayor

\_\_\_\_\_  
MARY MULLISON, City Clerk  
City of Farmington

STATE OF MICHIGAN    )  
                                  )SS.  
COUNTY OF OAKLAND    )



I, the undersigned, the qualified and acting City Clerk of the City of Farmington, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Farmington at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2019, the original of which is on file in my office.

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MARY MULLISON, City Clerk  
City of Farmington

Introduced:  
Adopted:  
Effective:  
Published:

<b>Farmington City Council Staff Report</b>	<b>Council Meeting Date:</b> April 1, 2019	<b>Item Number 6</b>
<b>Submitted by:</b> David Murphy		
<b>Agenda Topic:</b> Adoption of a proposed ordinance to amend the City of Farmington Code of Ordinances Chapter 30.5, Telecommunications, to add a new Article III, Wireless Facilities in Right-of-Way, to establish requirements, standards, and regulations for access to and use of the public right-of-way for wireless facilities that are not telecommunication facilities under Article II of Chapter 30.5. <b>SECOND READING</b>		
<b>Proposed Motion:</b> Move to adopt an ordinance to amend the City of Farmington Code of Ordinances Chapter 30.5, "Telecommunications," to add a new Article III, Wireless Facilities in Right-of-Way, to establish requirements, standards, and regulations for access to and use of public right-of-way for wireless facilities that are not telecommunication facilities under Article III of Chapter 30.5.		
<b>Background:</b> This proposed ordinance is focused on the technology now favored by the wireless communication industry for providing service. That technology involves the use of antennas placed closer together at generally lower heights than traditional cellular towers. To facilitate this new technology, the wireless communication industry has successfully convinced the legislature in Lansing and the Federal Communications Commission to adopt laws or rules that, with some exceptions and limitations, require municipalities to approve antennas and related wireless facilities, utility poles, or other support structures in the public right-of-way. Those laws are described in the Purpose section of the ordinance. The draft ordinance is intended to respond to and provide for compliance with the new State and Federal laws.		
Note that these new State and Federal laws do not <i>require</i> adoption of an ordinance. They simply apply as a preemption of a municipality's authority over its rights-of-way. However, to avail itself of the limited municipal rights recognized by these laws, the municipality must adopt an ordinance. One benefit of adopting an ordinance is that it works as a "roadmap" of sorts for compliance with these complicated and differing laws. An additional benefit is to take advantage of the right recognized by the State law to require a permit		
Both the State and Federal laws recognize a municipality's ability to adopt measures directed at the appearance of wireless facilities in the right-of-way. The State law refers to them as concealment measures, while the Federal law refers to them as aesthetic requirements. Both laws require such standards to be objective, reasonable/technically feasible, and nondiscriminatory as related to other infrastructure in the right-of-way.		
The State law says that such standards may only be applied in historic districts, downtown districts, and residential zoning districts. While the Federal law contains no such limitation, it does contain language that could be interpreted to mean that for aesthetic standards to be enforceable they must be published prior to April 14, 2019. To protect against such an interpretation, this proposed ordinance includes a number of such standards. However, it also authorizes that waivers or modifications from one or more standards may be requested.		
Under the proposed ordinance, a permit fee resolution would be required, and that will be proposed at the time of adoption/second reading.		
There are two minor amendments to the draft that was introduced at First Reading; both are clarifications in the section dealing with aesthetics. The Design Committee reviewed the draft ordinance and had no proposed changes.		
<b>Materials:</b> Proposed ordinance		

**CITY OF FARMINGTON  
OAKLAND COUNTY, MICHIGAN**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE CITY OF FARMINGTON CODE OF ORDINANCES CHAPTER 30.5, "TELECOMMUNICATIONS", TO ADD A NEW ARTICLE III, WIRELESS FACILITIES IN RIGHT-OF-WAY, TO ESTABLISH REQUIREMENTS, STANDARDS, AND REGULATIONS FOR ACCESS TO AND USE OF PUBLIC RIGHT-OF-WAY FOR WIRELESS FACILITIES THAT ARE NOT TELECOMMUNICATION FACILITIES UNDER ARTICLE II OF CHAPTER 30.5.**

**THE CITY OF FARMINGTON ORDAINS:**

**Section 1 of Ordinance.**

That the Farmington City Code, Chapter 30.5, "Telecommunications," is amended by adding a new Article III, Wireless Facilities in Right-of-Way, to read as follows:

**ARTICLE III. - WIRELESS FACILITIES IN RIGHT-OF-WAY**

**Sec. 30.5-40. - Purpose.**

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

**Sec. 30.5-41. - Definitions.**

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

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

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

**Eligible facilities request** means a request for modification of a lawfully existing wireless tower or lawfully existing wireless base station in a public right-of-way that involves collocation, removal, or replacement of wireless facilities that will not substantially change the physical dimensions of the wireless tower or base

station support structure, with wireless tower, wireless base station, and substantial change defined in Section 30.5-49.

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

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

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

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

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

**Wireless facility or facilities** means equipment and components at a fixed location that enables or facilitates the provision of wireless services, including antennas, transmitters, receivers, coaxial or fiber-optic cable, equipment shelters or cabinets, power supplies, comparable equipment, and miscellaneous hardware, but excluding structures or improvements on, under, or within which the equipment is collocated, telecommunication facilities as defined in Section 30.5-23, and a wireline backhaul facility.

**Wireless provider** or **Wireless service provider** mean a person or entity that provides wireless services or a person or entity that builds wireless facilities or support structures for a disclosed provider of wireless services.

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

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

### **Sec. 30.5-42. - Required permits and approvals to be applied for and complied with.**

- (a) Wireless facilities, wireless support structures, and utility poles shall not be installed, used, operated, or maintained in a public Right-of-Way in the City without first obtaining and thereafter complying with the terms and conditions of a construction or engineering permit as required under Chapter 28, Articles I and III of this Code, as amended, for construction within the public rights-of-way, and any approvals or permits required through the Department of Economic & Community Development to be applied for, reviewed, and issued or denied under the Zoning Ordinance in Chapter 35 of the Code.

- (b) A permit or approval shall not be required and fees or rates shall not be payable for:
  - (1) Replacement of a small wireless facility with a small wireless facility that is not larger or heavier and complies with applicable codes.
  - (2) Routine maintenance of small wireless facilities, wireless support structures, or utility poles.
  - (3) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.
- (c) Any permits or Zoning Ordinance permits or approvals obtained for wireless facilities, wireless support structures, or utility poles shall be conditioned on the issuance of and compliance with the permit and permit conditions for those facilities, support structures, or utility poles issued under subsection (a).
- (d) The time period for the City to act on a wireless provider permit or approval application for wireless facilities, support structures, or utility poles under this Article shall not commence until the City has complete applications for all City permit or approvals required in subsection (a) for those wireless facilities, support structures, and utility poles.
- (e) In addition to City permits and approvals, any required permits from other governmental entities that also have an ownership, control, or jurisdictional interest in the public right-of-way must be obtained prior to construction, and thereafter complied with. Obtaining a permit for wireless facilities, wireless support structures, or utility poles from another governmental entity who share the public right-of-way with the City does not relieve a wireless provider from the need to comply with the standards in this Article and the City reserves the right to require that a Permit under subsection (a) be applied for, obtained, and complied with.
- (f) To the extent applicable and allowed under existing franchises, permits, and applicable law, the permit requirements under this Article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

**Sec. 30.5-43. - Types of wireless facilities and applicable standards.**

- (a) The following types of wireless facilities, support structures, and utility poles in the public right-of-way are addressed and subject to the application, review, and other standards and regulations in the indicated Section of this Article:
  - (1) Section 30.5-47 for collocation of a small wireless facility on an existing wireless support structure or utility pole.
  - (2) Section 30.5-48 for collocation of a small wireless facility on a new or replacement wireless support structure or utility pole.
  - (3) Section 30.5-49 for eligible facilities requests.



(4) Section 30.5-50 for collocation of wireless facilities other than small wireless facilities and eligible facilities requests.

(5) Section 30.5-52 for replacement and new wireless support structures or utility poles not involving small wireless facilities or eligible facilities requests.

(b) An application for a permit or approval required under this Article shall conspicuously identify the type of wireless facilities proposed and the ordinance section(s), as listed in subsection (a), the applicant believes to be applicable.

**Sec. 30.5-44. - Permit Application Requirements.**

(a) Applications for a Permit under the standards and regulations in this Article shall be filed with the City Clerk and shall include plans for the proposed wireless facilities, wireless support structures, and utility poles in accordance with this Article and Chapter 28, Article I of the Code. The City shall be allowed to waive or relax a standard to the extent it is not applicable or necessary for review of the application. The plans shall include a cover sheet with the project name, wireless provider applicant name and contact information, a general location map and sheet index, and detailed scaled location and elevation drawings for each site for which the permit is requested that show, describe, and include the following:

(1) The sides and specific locations on named streets, with geographic information system (GIS) coordinates.

(2) The location and edges of the public right-of-way and portion used for vehicular travel, and the location and dimensions of existing above-ground structures, utilities, sidewalks, driveways, buildings, signs, traffic lights and signs, poles, curbs, buildings, utility cabinets, utility pole guy wires, shelters, benches, storm drains, wireless support structures, utility poles, other improvements, and trees within 75 feet of the proposed location.

(3) Existing below ground structures including but not limited to water, sanitary sewer, storm sewer, electric, gas, cable, communication lines, and conduit.

(4) Information necessary to demonstrate compliance with the public, utility, and traffic safety and protection standards in Section 30.5-45.

(5) Information necessary to demonstrate compliance with the aesthetic, spacing, and undergrounding standards in Section 30.5-46.

(6) Information necessary to demonstrate compliance with the applicable standards for the type of wireless facilities, support structure, or utility poles for which approval is requested under Sections 30.5-47 through 30.5-51.

(b) In addition to identification of the type of proposed wireless facility and the type of review required as listed in Section 30.5-43(b) and the plans described in subsection (a), applications shall include:

(1) Certified documentation that each proposed wireless support structure or utility pole can structurally accommodate the proposed wireless facilities and documentation of its ability to accommodate the proposed wireless facilities and documentation of any ability to accommodate any future wireless facilities.

- (2) Manufacturer, model number, height, width, depth, weight, and volume in cubic feet of all proposed wireless facilities individually and collectively, specifically including the total cubic feet of each antenna and the total cubic feet of all other wireless facilities.
- (3) The identity of the wireless provider applying for the permit and the owners of and wireless providers that will use the wireless facilities, wireless support structures, and utility poles for which the permit is requested, and for each of those entities the following:
  - a. Legal and any assumed names, and resident agent name, if any.
  - b. Local, mailing, and registered office addresses.
  - c. Name, title, and authority of signatory for that entity.
  - d. Contact person name, address, phone numbers and email address.
- (4) Documentation that the owner of the proposed wireless facilities, wireless support structures, and utility poles has approved what is disclosed in the plans for the requested permit.
- (5) A written certification by the applicant that the wireless facilities for which the permit is requested will be operational within one (1) year after permit issuance.
- (6) A certificate of compliance with FCC rules related to radio frequency emissions from the proposed wireless facilities.
- (7) Copies of any required permits from other governmental entities that also have an ownership, control, or jurisdictional interest in the public right-of-way or documentation that those permits have been properly applied for.
- (8) Documentation of the date when complete applications for construction code permits and any required applications for Zoning Ordinance permits or approvals were or will be made.
- (9) Identification of contractors who will be working in the public right-of-way and contact persons and information for those contractors.
- (10) A construction schedule indicating the period of time for the work from commencement to completion and restoration of all public right-of-way disturbed by the work.
- (11) A traffic control plan for when work is being performed in the public right-of-way.
- (12) Photo simulations of existing and proposed conditions.
- (13) A video recording of the location showing the staging and work areas where construction machinery will be driven or positioned off the traveled roadway.
- (14) Documentation of the applicant's ability to provide any required bond under Section 30.5-54.
- (15) Payment of any application, review, or processing fee established by resolution of the City Council under Section 30.5-55.
- (16) For applications that would involve exceeding the height limits under Public Act No. 365 of 2018, to the height limits allowed by 47 CFR 16.001 - 16.003, a statement of whether the

applicant agrees to payment of the annual recurring fees recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133.

(c) An application may be for up to 20 collocations by the applicant of substantially similar small wireless facilities for placement on similar types of wireless support structures or utility poles.

**Sec. 30.5-45. - Public, utility, traffic, and pedestrian safety protection standards.**

(a) Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to avoid material interference with the safe operation of traffic equipment, sight lines and clear vision areas, Americans with Disabilities Act (ADA) compliance regarding pedestrian access or movement, and the maintenance and full unobstructed use of public utility and drainage infrastructure:

(1) Shall have a separation distance of at least five (5') feet from a sidewalk and the back of a curb, or if there is no curb, from the edge of the improved public right-of-way improved used for motor vehicle travel.

(2) Shall have a separation distance of at least five (5') feet from the edge of any driveway and not be positioned to obstruct the ability to view traffic on the road from a vehicle exiting a driveway.

(3) Shall be located outside the corner clearance area under the Zoning Ordinance and comply with any other traffic safety clear vision standard under any City or other governmental ordinance, code, standard, rule, or regulation.

(4) Shall not cause a physical or visual obstruction or safety hazard to pedestrian or vehicular traffic.

(5) Shall comply with any setback, separation, or isolation distance requirement from existing or planned public utilities and lawful structures in the public right-of-way under any City ordinance, code, or design standards.

(6) The lowest part of wireless facilities shall be located at a height that is at least ten (10') feet above existing grade or higher as necessary to not pose a hazard or obstruction to persons or vehicles and to provide sufficient separation distance from power lines and similar facilities.

(7) Wireless support structures and utility poles shall not have more collocated wireless facilities than the structure or pole is designed and constructed to safely accommodate as documented by a certified structural analysis.

(8) Construction and traffic control during construction shall be in accordance with the Michigan Manual of Uniform Traffic Control Devices, Michigan Vehicle Code, and the directives of the City public safety department.

(9) Shall not interfere or prevent compliance with ADA standards regarding pedestrian access and movement.

(10) Shall comply with all conditions of any required permits from other governmental entities.

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

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

**Sec. 30.5-46. - Aesthetic, spacing, and undergrounding standards.**

(a) Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to conceal such facilities, structures, and poles to the extent technically feasible in an effort to avoid or remedy the tangible and intangible public harm of installations in the public right-of-way that are unsightly, out-of-character with the surrounding area, or could result in the direct or indirect removal of trees and other aesthetically desirable features and appearances:

(1) Shall be strictly limited to the location and what is shown on the approved plans.

(2) Wireless facilities shall be treated and colored to be visually compatible with the wireless support structure or utility pole they are collocated on or associated with by painting or other coating. For existing wood utility poles, a finish color of conduit that is zinc, aluminum, or stainless steel is considered visually compatible.

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

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

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

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

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

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

- (9) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be located as close as legal and technically feasible to the wireless support structure or utility pole they are associated with.
- (10) Ground mounted wireless facilities, including equipment cabinets and enclosures, shall be concealed to the extent technically feasible by matching color and materials to existing above-ground structures, landscaping, and placement to take advantage of concealment provided by the proposed structure or pole, existing landscaping, or above-ground improvements.
- (11) Wireless facilities shall not project more than two (2') feet from any side of the utility pole or wireless support structure upon which they are collocated.
- (12) Wireless facilities shall not be illuminated unless required by law or integral to a concealment design such as appearance as or on a street light pole.
- (13) New and replacement utility poles shall be located in alignment with existing utility poles on either side.
- (14) New and replacement utility poles shall be located equidistance from existing utility poles on either side.
- (15) New and replacement utility poles shall be made of the same material and have the same visual appearance as the existing utility poles on either side. If those existing utility poles are different, the new or replacement pole shall be metal or fiber if either existing pole is of that material and shall otherwise be the same material as the newer of the existing poles.
- (16) Unless a greater height is approved under this Article as required by state or federal law, wireless support structures and utility poles shall not be taller than the existing utility poles on either side.
- (17) In a public right-of-way abutting residentially used or zoned property, new wireless facilities, wireless support structures, and utility poles shall only be located in line with a side lot line.
- (18) New wireless facilities shall not be collocated on an existing wireless support structure or utility pole that is directly in front of an existing residential dwelling or that is along the frontage of a property containing a building of historic significance under federal, state, or other laws.
- (19) New wireless facilities, wireless support structures, and utility poles shall not be located in front of an existing residential or commercial structure [on the same or either side of the road.](#)
- (20) In a public right-of-way abutting residentially used or zoned property, wireless facilities that require a cooling system shall use a passive system, or if a motorized system is technologically required, shall use a system and fan with the lowest available noise level.
- (21) Except for a label containing the name and emergency contact telephone number for the wireless provider responsible for the wireless facilities and wireless support structure or utility pole, information that identifies them and their location, and any information required to be



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

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

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

(24) Shall not be located in the public right-of-way of a designated Natural Beauty Road or Street under MCL 324.35701 – MCL 324.35706.

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

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

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

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

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

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

**Sec. 30.5-47. - Collocation of small wireless facilities on existing structures and poles.**

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

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

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

(1) 50 feet.

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

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

(d) Subject to the possible time adjustments in MCL 460.1315 and 47 CFR 1.6003 that are included in the Shot Clock Appendix to this Article, the City shall approve or deny an application for a permit under this Section within 60 days of all applications for the requested facilities being submitted and complete.

(e) A permit application under this Section may only be denied for reasons listed in Section 30.5-52(b).

**Sec. 30.5-48. - Collocation of small wireless facilities on replacement/new structures and poles.**

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

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

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

(1) 50 feet.

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

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

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

(e) A permit application under this Section may only be denied for reasons listed in Section 30.5-52(b).

**Sec. 30.5-49. - Eligible facilities requests.**

(a) This Section applies to eligible facilities requests as defined in Section 30.5-41.

(b) For purposes of this Section:

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

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

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

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

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

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

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

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

(1) Increasing the height over the height established by City ordinance, by more than 10% or more than 10 feet, whichever is greater.

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

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

(4) If there are existing ground equipment cabinets, the installation of ground cabinets that are 10% larger in height or overall volume than the existing cabinets.

(5) Excavation or deployment outside the perimeter of the area occupied by the wireless tower or base station and existing wireless facilities.

(6) A modification that does not comply with prior approval conditions for the wireless support structure or base station unless the noncompliance is limited to a modification that would not be a substantial change under the above standards in subsections (1) through (5).

(7) A modification that would defeat or be incompatible or inconsistent with existing elements of a wireless tower or base station designed to conceal or minimize its appearance as a wireless tower or base station.

(e) Subject to the possible time adjustments under 47 CFR 1.6100 that is included in the Shot Clock Appendix to this Article, the City shall approve or deny an application for a permit under this Section within 60 days of all applications for the requested facilities being submitted and complete.

**Sec. 30.5-50. - Collocation of wireless facilities other than small wireless facilities and eligible facilities requests.**

(a) This Section applies to the collocation of wireless facilities that are not described in Sections 30.5-47, 30.5-48, or 30.5-49.

(b) Collocations shall comply with all standards in Sections 30.5-45 and 30.5-46.

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

(d) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to compliance with subsection (c) and the applicant's demonstration that a disclosed wireless provider will be prohibited from providing personal wireless services without the increased height, the collocation shall not result in a height that exceeds the greater of the following overall heights of the structure or pole and collocated wireless facilities:

(1) 50 feet.

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

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

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

**Sec. 30.5-51. - Replacement and new wireless support structures and utility poles not involving small wireless facilities or eligible facilities requests.**

(a) This Section applies to the new and replacement wireless support structures and utility poles not involving collocation of wireless facilities under Sections 30.5-47, 30.5-48, or 30.5-49.

(b) Wireless support structures and utility poles shall comply with all standards in Sections 30.5-45 and 30.5-46.

(c) For wireless support structures and utility poles where the applicant wants the annual rate limited to what is allowed by MCL 460.1313, the height shall not exceed 40 feet above ground level and wireless facilities shall not extend more than five (5) feet above the height of the wireless support structure or utility pole.

(d) If the applicant has agreed to pay the annual recurring fee recognized as presumptively valid under the Declaratory Ruling and Order in FCC 18-133, subject to the applicant's demonstration that a disclosed wireless provider will be prohibited from providing personal wireless services without a height greater than in subsection (c), the wireless support structure or utility pole may be increased to a height that does not exceed the greater of the following overall heights of the structure or pole and collocated wireless facilities:

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

(e) For new and replacement wireless support structures and utility poles under this Section, the City may specify and require relocation from what is proposed to a new location in the same general public right-of-way area based on any standard listed in Sections 30.5-45, 30.5-46, or permit condition listed in Section 30.5-53(e).

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

### **Sec. 30.5-52. - Review and decisions on permit applications.**

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

(b) An application under Sections 30.5-47 and 30.5-48 for wireless facilities, support structures, or utility poles described in and complying with those Sections may only be denied if the facilities, structures, or poles would do one or more of the following:

- (1) Materially interfere with the safe operation of traffic control equipment.
- (2) Materially interfere with sight lines or clear zones for transportation or pedestrians.
- (3) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.
- (4) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the City.



- (4) With respect to drainage infrastructure under the jurisdiction of the City or other governmental entity, either of the following:
  - (5)
    - A. Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.
    - B. Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the Drain Code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.
  - (6) Fail to comply with the one or more spacing standards in Sections 30.5-45 and 30.5-46 that do not prevent a wireless provider from serving any location.
  - (7) Fail to comply with applicable codes.
  - (8) Fail to comply with the aesthetic, spacing, or undergrounding standards in Section 30.5-46 in a historic, downtown, or residential district unless such compliance is demonstrated by the applicant to prohibit use of the wireless service provider's technology.
  - (9) Fail to meet the aesthetic, spacing, and undergrounding standards in Section 30.5-46 unless such compliance is demonstrated by the applicant to prohibit the provision of personal wireless services.
- (c) If an application is denied, the applicant may attempt to cure the reasons for denial by submitting a revised application with amended or supplemental information within 30 days of the denial without payment of an additional application fee. The City shall approve or deny the revised application within 30 days, limiting its review to the reasons for denial, and provide notice of that decision as provided in subsection (a).
- (d) Before issuance of a permit, any bond required by Section 30.5-54 shall be provided and the annual fee established by Resolution of the City Council for the approved wireless facilities under Section 30.5-55 shall be paid.

**Sec. 30.5-53. - Permit terms and conditions.**

- (a) Repair. Every Permit issued under Chapter 28, Articles I and III of the Code and this Article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles are responsible for repairing all damage to the public right-of-way caused by the activities of one or more of those providers while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing wireless facilities, wireless support structures, or utility poles, and to restore the public right-of-way to the condition that existed prior to the damage. If the wireless providers fail to perform the repairs and restoration within 60 days of the City's written notice to do so, the City may perform the repairs and restoration, with the wireless providers responsible for paying the City its reasonable and documented costs within 30 days of the City's invoice or billing for those costs.
- (b) Electricity. Every Permit issued under Chapter 28, Articles I and III of the Code and this Article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles shall be responsible for arranging and paying for all electricity used for the wireless facilities.

(c) Indemnification. Every Permit issued under Chapter 28, Articles I and III of the Code and this Article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles shall defend, indemnify, and hold harmless the City and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, wireless providers using the facilities, structures, or poles, and their contractors, subcontractors, and the officers, employees, or agents of any of these. This obligation does not apply to any liabilities or losses due to or caused by the sole negligence of the City or its officers, agents, or employees.

(d) Insurance. Every Permit issued under Chapter 28, Articles I and III of the Code and this Article shall be considered to include a condition that all wireless providers using the wireless facilities, support structures, or utility poles obtain insurance naming the City and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees in amounts required by the City. A wireless provider may meet all or a portion of the City's insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this Section. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the authority evidence demonstrating, to the City's satisfaction, the wireless provider's financial ability to meet the authority's insurance coverage and limit requirements.

(e) Every Permit issued under Chapter 28, Articles I and III of the Code and this Article shall be considered to include the following conditions which are based on the substantive terms and conditions of the current unilateral form of permit approved by the Michigan Public Service Commission for use under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended:

(1) No Burden on Public Right-of-Way. Permittee, its contractors, subcontractors, and the wireless facilities, structures, and poles shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. The Wireless facilities, structures, and poles shall be installed and maintained so as to not endanger or injure persons or property in or about the Public Right-of-Way. If the City reasonably determines that any portion of the wireless facilities, structures, and poles constitutes an undue burden or interference, due to changed circumstances, Permittee, at its expense, shall modify the wireless facilities, structures, and poles or take such other actions as City may determine is in the public interest to remove or alleviate the burden, and Permittee shall do so within a reasonable time period. The City shall attempt to require all occupants of a pole or conduit whose wireless facilities, structures, and poles are a burden to remove or alleviate the burden concurrently.

(2) No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Permittee over any present or future permit holder or parties having agreements with the City or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to City, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by City in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

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

(4) Installation and Maintenance. The construction and installation of the wireless facilities, structures, and poles shall be performed pursuant to plans approved by the City, and together with the maintenance of the wireless facilities, structures, and poles, shall be done in a clean, good, and workmanlike manner. Permittee shall install and maintain the wireless facilities, structures, and poles in a reasonably safe condition, free from workmanship and product defects. Permittee may perform maintenance on the wireless facilities, structures, and poles without prior approval of City, provided that Permittee shall obtain any and all permits required by the City in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by the City.

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

(6) Compliance with Laws. Permittee shall comply with all governmental laws, statutes, ordinances, rules, resolutions, tariffs, administrative orders, certificates, permits, orders, regulations, and other legal requirements regarding the construction, installation, use, and maintenance of its wireless facilities, structures, and poles, whether federal, state or local, now in force or which hereafter may be promulgated or become effective. Permittee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.

(7) Street Vacation. If the City vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of wireless facilities, structures, and poles in the vacated Public Right-of-Way, Permittee does, as a condition of this Permit, consent to the vacation and remove its Wireless facilities, structures, and poles at its cost and expense when and within the reasonable time ordered by the City or a court of competent jurisdiction. If Permittee fails to satisfy this obligation, the City may take all reasonable actions it deems necessary to secure timely completion of the required work.

(8) Relocation. If the City requests Permittee to relocate, protect, support, disconnect, or remove its wireless facilities, structures, and poles because of street or utility work, or other public projects, Permittee shall relocate, protect, support, disconnect, or remove its wireless facilities, structures, and poles, at its cost and expense, including where necessary to such alternate location as the City and Permittee mutually agree, applying reasonable engineering standards. The work shall be completed within a reasonable time period. If Permittee fails to satisfy this obligation, the City may take all reasonable actions it deems necessary to secure timely completion of the required work.

(9) Public Emergency. The City shall have the right to sever, disrupt, dig-up or otherwise destroy wireless facilities, structures, and poles of Permittee if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, the City shall attempt to provide notice to Permittee. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not

limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, and similar events. Permittee shall be responsible for repair at its cost and expense of any of its wireless facilities, structures, and poles damaged pursuant to any such action taken by the City.

(10) Miss Dig. If eligible to join, Permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 174 of the Public Acts of 2013, as amended, MCL § 460.721et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.

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

(12) Identification. All personnel of Permittee and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Permittee's name, their name and photograph. Permittee shall account for all identification cards at all times. Every service vehicle of Permittee and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Permittee's name and telephone number.

(f) Compliance with permit conditions is required, with a violation of permit conditions being a violation of this Article.

#### **Sec. 30.5-54. - Bond.**

A bond may be required to be posted prior to issuance of a Permit under Chapter 28, Articles I and III of the Code and this Article in an amount not exceeding \$1,000.00 for each wireless facility at a location to provide for removal of abandoned or improperly maintained facilities, repair and restore the public right-of-way, and recoup rates or fees that have not been paid within 12 months of when they were due. The City may not require the bond to be cash unless the wireless provider has failed to obtain or maintain a required bond in a form other than cash or the surety has defaulted or failed to perform on a bond given on behalf of the wireless provider.

#### **Sec. 30.5-55. - Fees.**

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

#### **Sec. 30.5-56. -Shot Clock Appendix.**

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

#### **Sec. 30.5-57. - Violations.**

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

**Section 2 of Ordinance. Repealer.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Farmington Code of Ordinances shall remain in full force and effect, amended only as specified above.

**Section 3 of Ordinance. Savings.**

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

**Section 4 of Ordinance. Severability.**

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

**Section 5 of Ordinance. Effective Date.**

The provisions of this Ordinance are hereby ordered to take effect on the date provided by applicable law following publication.

**Section 6 of Ordinance. Enactment.**

This Ordinance is declared to have been enacted by the City Council of the City of Farmington at a meeting called and held on the \_\_\_\_ day of \_\_\_\_\_, 2019, and ordered to be given publication in the manner prescribed by law.

- AYES:
- NAYES:
- ABSTENTIONS:
- ABSENT:

STATE OF MICHIGAN    )  
                                  )ss  
COUNTY OF OAKLAND )

I, the undersigned, the qualified and acting City Clerk of the City of Farmington, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Farmington at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2019, the original of which is on file in my office.

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MARY MULLISON, City Clerk  
City of Farmington

Introduced:  
Adopted:  
Effective:  
Published:

**Farmington City Council  
Staff Report**

**Council Meeting  
Date:** April 1, 2019

**Item  
Number  
7**

**Submitted by:** David Murphy

**Agenda Topic:** Adoption of a proposed ordinance to amend the City of Farmington Code of Ordinances Chapter 28, Streets, Sidewalks and Other Public Places, Article 1, In General, to amend and add definitions and amend and add requirements for placement and permitting of structures, equipment, facilities, and other installations in streets. **SECOND READING**

**Proposed Motion:**

Move to adopt an ordinance to amend the City of Farmington Code of Ordinances Chapter 28, "Streets, Sidewalks and Other Public Places," Article 1, "In General," to amend and add definitions and amend and add requirements for placement and permitting of structures, equipment, facilities, and other installations in streets.

**Background:** This is the "companion" ordinance to the proposed amendment to Chapter 30.5, Telecommunications, dealing with wireless communications facilities. It adds terms relating to the proposed ordinance and confirms that the City's requirements for obtaining a permit to work in City rights-of-way will apply to such facilities.

**Materials:**

Proposed ordinance



**CITY OF FARMINGTON  
OAKLAND COUNTY, MICHIGAN**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE CITY OF FARMINGTON CODE OF ORDINANCES CHAPTER 28, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE 1, "IN GENERAL," TO AMEND AND ADD DEFINITIONS AND AMEND AND ADD REQUIREMENTS FOR PLACEMENT AND PERMITTING OF STRUCTURES, EQUIPMENT, FACILITIES, AND OTHER INSTALLATIONS IN STREETS.**

**THE CITY OF FARMINGTON ORDAINS:**

**Section 1 of Ordinance.**

That the Farmington City Code, Chapter 28, Streets, Sidewalks and Other Public Places, Article 1, In General, Section 28-1, is amended to read as follows:

Sec. 28-1. – Permit required.

(a) No person shall place any article, thing, or obstruction in any public right-of-way except under the conditions and in a manner permitted by this article. Further, it shall be unlawful for any person to make any excavation in, or to conduct any construction and/or maintenance activities within, over or below any public right-of-way, street, highway, alley, parkway, sidewalk bikepath, park, easement or other public place under the jurisdiction of the City of Farmington, or which is the location of improvements or infrastructure owned by the City of Farmington, without first having obtained a written permit therefore from the city manager or his or her designee. In those instances where emergency circumstances require immediate action, the city manager may grant verbal permission, provided that a written application shall be submitted within forty-eight (48) hours.

(b) The prohibitions contained within subsection (a) shall not apply to work performed by the City of Farmington, or to de minimis activities such as the cutting of grass, the removal of snow, the installation of a water sprinkling system for use with a single-family residential dwelling, the expeditious moving of articles or things to and from abutting properties, the lawful parking of vehicles as authorized by this Code, the planting of landscaping or other installations as authorized by this Code, or as otherwise specifically excepted under this chapter.

(c) The city manager is authorized to establish and promulgate reasonable rules and regulations for construction and/or maintenance within, over or below any street, highway, alley, parkway, sidewalk, bikepath, park or other public place under the jurisdiction of the City of Farmington. Such rules and regulation, when established, shall be published in a newspaper of general circulation within the city at least thirty (30) days prior to their proposed effective date.

### **Section 2 of Ordinance.**

That the Farmington City Code, Chapter 28, Streets, Sidewalks and Other Public Places, Article 1, In General, Section 28-2, is amended to read as follows:

Sec. 28-2. – Definitions.

*Public right-of-way* shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway. Public right-of-way does not include a federal, state, or private right-of-way. For purposes of telecommunication facilities, public right-of-way is defined in section 30.5-23 of the Code, and for purposes of wireless facilities, public right-of-way is defined in section 30.5-41 of the Code.

### **Section 3 of Ordinance.**

That the Farmington City Code, Chapter 28, Streets, Sidewalks and Other Public Places, Article 1, In General, Section 28-3, is amended to add new subsections (g) and (h) to read as follows:

Sec. 28-3. – Application; review; bond.

(a) – (f) [Unchanged]

(g) For purposes of subsection (a), the following right-of-way permits are authorized and required to be applied for and issued under this article prior to any construction in a public right-of-way:

- (1) To construct telecommunication facilities in a public right-of-way that has been approved for access and use by a city permit under Article II in Chapter 30.5 of the Code.
- (2) To construct, operate, use and maintain wireless facilities in a public right-of-way issued under this article as provided in Article III in Chapter 30.5 of the Code.

(h) A permit by the city under this article may be required even if the street or public right-of-way is under the control or jurisdiction of the county, state, or federal government.

### **Section 4 of Ordinance.**

That the Farmington City Code, Chapter 28, Streets, Sidewalks and Other Public Places, Article 1, In General, Section 28-4, is amended to add new subsection (d) to read as follows:

Sec. 28-4. - Standards for the installation of facilities in the road rights-of-way or in private easements.

(a) – (c) [Unchanged]

(d) Utility poles and attachments to them may be placed in streets or public right-of-way by a public utility with a franchise right to do so, and as allowed by a right-of-way permit to

construct, operate, use, and maintain wireless facilities under this article and Article III in Chapter 30.5 of the Code. Subject to what is allowed by any such franchise or permit, utility poles and attachments shall be as the Director of Public Services shall prescribe and shall be located thereon in accordance with the directions of the director. Such poles shall be removed or relocated as the director shall from time to time direct, subject to any restrictions under the franchise or permit.

**Section 5 of Ordinance. Repealer.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Farmington Code of Ordinances shall remain in full force and effect, amended only as specified above.

**Section 6 of Ordinance. Savings.**

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

**Section 7 of Ordinance. Severability.**

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

**Section 8 of Ordinance. Effective Date.**

The provisions of this Ordinance are hereby ordered to take effect on the date provided by applicable law following publication.

**Section 9 of Ordinance. Enactment.**

This Ordinance is declared to have been enacted by the City Council of the City of Farmington at a meeting called and held on the \_\_\_\_ day of \_\_\_\_\_, 2019, and ordered to be given publication in the manner prescribed by law.

AYES:

NAYES:

ABSTENTIONS:

ABSENT:

STATE OF MICHIGAN )  
                                          )ss  
COUNTY OF OAKLAND )

I, the undersigned, the qualified and acting City Clerk of the City of Farmington, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Farmington at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2019, the original of which is on file in my office.

\_\_\_\_\_  
MARY MULLISON, City Clerk  
City of Farmington

Introduced:  
Adopted:  
Effective:  
Published:

<b>Farmington City Council Staff Report</b>	<b>Council Meeting Date: April 1, 2019</b>	<b>Reference Number  8</b>
<b>Submitted by: City Manager/City Attorney</b>		
<b>Description</b> Consideration to approve an Ordinance relating to Marijuana Establishments within the City.		
<b>Requested Action</b> Move to approve the introduction of an Ordinance amending the City of Farmington Code of Ordinances to prohibit marijuana establishments within the boundaries of the City pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated law 1 of 2018, MCL 333.27951, <i>et seq.</i>		
<p><b>Background</b></p> <p>In November 2018 voters in the State of Michigan approved a ballot proposal authorizing so-called “recreational” marijuana use. The new law adds substantially to the rights previously allowed to users of “medical” marijuana. The 2018 law allows—without any action of regulation by the City—those over 21 to grow, possess, consume, and even transfer marijuana subject to various regulations that are established in the law. These rights became effective as soon as the new law did, and, again, they apply without the need for any City approvals or authorization to engage in such conduct.</p> <p>There is another aspect of the new law, however, that does potentially involve City authorization or approval, and that is with respect to what are called “marijuana establishments” in the new law. These are essentially commercial or business operations that relating to the retail sale/distribution and commercial growing of marijuana.</p> <p>The new law states that “a municipality may completely prohibit or limit the number of [marijuana] establishments within its boundaries,” and also that “a municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or with any rule promulgated pursuant to this act” that regulate other commercial aspects of such businesses. In addition, the State of Michigan is charged with coming up with administrative rules that license and govern such commercial establishments. The State has a year from the effective date of the new law to do so.</p> <p>The draft ordinance attached for City Council’s consideration exercises its right to “opt out” of the commercial aspect of recreational marijuana by prohibiting the location of such establishments in the City. This is consistent with the City’s determination not to allow commercial establishments that provided medical marijuana under that earlier law.</p> <p>The timing of presenting this ordinance now is driven by the timing of the State of Michigan’s obligation to issue administrative rules regulating these marijuana businesses. If the City does not have an ordinance in place that either prohibits such uses or limits their number at the time the State approves such regulations (again, it has a year to do so, but could do so at any time in that one-year period), then such uses will be essentially unregulated in the City.</p> <p>Adopting an ordinance prohibiting such establishments does not preclude the City from revisiting the issue in the future, should the Council choose to do so. And if the Council decides to continue discussion of the issue, adoption of this opt out ordinance now would give the City time decide what it might want to allow/not allow regarding such businesses, and how many it might decide to allow, as well as the criteria for allowing them. It would also allow the City to wait and see what those State regulations might include, which could then help the City decide if it wants to allow businesses in the City under whatever those rules might turn out to be.</p>		
<b>Materials: Proposed ordinance</b>		

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF FARMINGTON

ORDINANCE NO. C-\_\_\_\_-2019

**AN ORDINANCE TO AMEND THE CITY OF FARMINGTON CODE OF ORDINANCES, CHAPTER 20, "OFFENSES," ARTICLE I, "IN GENERAL," TO ADD A NEW SECTION 20-7, "MARIJUANA ESTABLISHMENTS PROHIBITED," TO PROHIBIT MARIJUANA ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE CITY PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED LAW 1 OF 2018, MCL 333.27951, ET SEQ.; AND TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE.**

THE CITY OF FARMINGTON ORDAINS:

**Section 1 of Ordinance. Ordinance Amendment.**

Chapter 20, "Offenses," Article I, "In General," of the City of Farmington Code of Ordinances is hereby amended to add a new Sec. 20-7, "Marijuana Establishments Prohibited," to read as follows:

**Sec. 20-7. – Marijuana Establishments Prohibited.**

- (a) *Intent; Purpose.* The Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, and more specifically Section 6(1) thereof, MCL 333.27956(1), authorizes municipalities to prohibit marijuana establishments within their boundaries by adoption of an ordinance. Adoption of such an ordinance does not preclude a municipality from further studying and revisiting the issue at a future date.
- (b) *Prohibition of Marijuana Establishments.*
1. *Definitions.* Words used in this section shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.
  2. *Prohibition.* Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, all marijuana establishments are prohibited within the boundaries of the City.
  3. *Penalty.* A person who violates this section shall be responsible for a municipal civil infraction punishable as set forth in Chapter 1, Section 1-8 of this Code.

Such sanctions shall be in addition to the rights of the City to proceed at law or equity with other appropriate and proper remedies, including, but not limited to, the right to seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law. Additionally, the violator shall pay all costs, including all direct and indirect expenses that the City incurs in connection with the municipal civil infraction. Each day during which any violation continues shall be deemed a separate offense.

**Section 2 of Ordinance. Repealer.**

All ordinances, parts of ordinances, or sections of the City of Farmington Code of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 3 of Ordinance. Severability.**

Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**Section 4 of Ordinance. Savings.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

**Section 5 of Ordinance. Effective Date.**

This ordinance shall be effective upon publication in the manner prescribed by law.

**Section 6 of Ordinance. Enactment.**

This Ordinance is declared to have been enacted by the City Council of the City of Farmington at a meeting called and held on the \_\_\_\_ day of \_\_\_\_\_, 2019, and ordered to be given publication in the manner prescribed by law.

Ayes:  
Nays:  
Abstentions:  
Absent:

STATE OF MICHIGAN    )  
                                  )ss.  
COUNTY OF OAKLAND    )

I, the undersigned, the qualified and acting City Clerk of the City of Farmington, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the Ordinance

adopted by the City Council of the City of Farmington at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2019, the original of which is on file in my office.

---

MARY MULLISON, City Clerk  
City of Farmington

Adopted:  
Published:  
Effective: