

CITY OF SULLIVAN, ILLINOIS

ORDINANCE NO. 17-3

**ORDINANCE AMENDING CHAPTER 33 – STREET REGULATIONS BY
RENUMBERING ARTICLE X – PENALTY AS ARTICLE XI AND ADDING
THERE TO NEW ARTICLE X – SMALL CELL ANTENNA/TOWER RIGHT-OF-
WAY SITING OF THE REVISED CODE OF ORDINANCES OF THE CITY OF
SULLIVAN, ILLINOIS**

**ADOPTED BY THE CITY
COUNCIL OF THE
CITY OF SULLIVAN, ILLINOIS**

THIS 27th DAY OF FEBRUARY 2017

Published in pamphlet form by authority of the City Council of the
City of Sullivan, Moultrie County, Illinois, this 28th day of
February 2017.

SMALL CELL ANTENNA/TOWER
RIGHT-OF-WAY SITING ORDINANCE

WHEREAS, the City of Sullivan (the “City”) is an Illinois municipality in accordance with the Constitution of the State of Illinois of 1970; and,

WHEREAS, the City is authorized under the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., and Illinois law to adopt ordinances pertaining to the public health, safety and welfare; and,

WHEREAS, the City is further authorized to adopt the amendments contained herein pursuant to its authority to regulate the public right-of-way under section 11-80-1 et seq., of the Illinois Municipal Code; and

WHEREAS, the City uses the public right-of-way within its city limits to provide essential public services to its residents and businesses. The public right-of-way within the City is a limited public resource held by the City for the benefit of its citizens and the City has a custodial duty to ensure that the public right-of-way is used, repaired, and maintained in a manner that best serves the public interest; and

WHEREAS, growing demand for personal wireless telecommunications services has resulted in increasing requests nationwide and locally from the wireless industry to place small cell facilities, distributed antenna systems, and other personal wireless telecommunication facilities on utility and street light poles and other structures in the public right-of-way. While State and federal law limit the authority of local governments to enact laws that unreasonably discriminate among providers of functionally equivalent services, prohibit, or have the effect of prohibiting the provision of telecommunications services by wireless service providers, the City is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to

small cell facilities, distributed antenna systems, and other personal wireless telecommunication facility installations in the public right-of-way; and

WHEREAS, in anticipation of continued increased demand for placement of small cell facilities, distributed antenna systems, and other personal wireless telecommunication facility installations within the public right-of-way, the City Council finds that it is in the best interests of the public health, safety and general welfare of the City to adopt the ordinance below in order to establish generally applicable standards for construction, installation, use, maintenance and repair of such facilities, systems and installations within the public right-of-way in the City so as to, among other things: (i) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in public right-of-way or property, (ii) provide specific regulations and standards for the placement and siting of personal wireless telecommunication facilities within the public right-of-way in the City, (iii) preserve the character of the neighborhoods in which facilities are installed, (iv) minimize any adverse visual or aural impact of personal wireless telecommunication facilities and prevent visual blight and noise pollution in the neighborhoods in which facilities are installed, (v) facilitate the location of personal wireless telecommunication facilities in permitted locations within the public right-of-way in the City, and (vi) assure the continued safe use and enjoyment of private properties adjacent to personal wireless telecommunication facilities.

NOW, THEREFORE, be it ordained by the corporate authorities of the City of Sullivan as follows: **THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

SECTION 1: CHAPTER 33 – STREET REGULATIONS, ARTICLE X – PENALTY, is hereby amended by renumbering said article as ARTICLE XI.

SECTION 2: CHAPTER 33 – STREET REGULATIONS is hereby amended thereto by adding ARTICLE X – SMALL CELL ANTENNA/TOWER RIGHT-OF-WAY SITING, and shall read as follows:

ARTICLE X - SMALL CELL ANTENNA/TOWER RIGHT-OF-WAY SITING

33-10-1 **DEFINITIONS:** For purposes of this Ordinance, the following terms will have the following meanings:

(A) **ALTERNATIVE ANTENNASTRUCTURE:** An existing pole or other structure within the public right-of-way that can be used to support an antenna and is not a utility pole or a City-owned infrastructure.

(B) **ANTENNA:** Communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

(C) **APPLICANT:** Any person or entity submitting an application to install personal wireless telecommunication facilities or structures to support the facilities within a public right-of-way.

(D) **CITY-OWNED INFRASTRUCTURE:** Infrastructure in public right-of-way within the boundaries of the City, including, but not limited to, streetlights, traffic signals, towers, structures, or buildings owned, operated or maintained by the City.

(E) **DISTRIBUTED ANTENNA SYSTEM (DAS):** A type of personal wireless telecommunication facility consisting of a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area. Generally serves multiple carriers.

(F) **LANDSCAPE SCREENING:** The installation at grade of plantings, shrubbery, bushes or other foliage intended to screen the base of a personal wireless telecommunication facility from public view.

(G) **MONOPOLE:** A structure composed of a single spire, pole or tower designed and used to support antennas or related equipment and that is not a utility pole, an alternative antenna structure, or a City-owned infrastructure.

(H) **PERSONAL WIRELESS TELECOMMUNICATION ANTENNA:** An antenna that is part of a personal wireless telecommunications facility.

(I) **PERSONAL WIRELESS TELECOMMUNICATION EQUIPMENT:** Equipment, exclusive of an antenna, that is part of a personal wireless telecommunications facility.

(J) **PERSONAL WIRELESS TELECOMMUNICATIONS FACILITY:** An antenna, equipment, and related improvements used, or designed to be used, to provide wireless transmission of voice, data video streams, images, or other information including, but not limited to, cellular phone service, personal communication service, paging, and Wi-Fi antenna service.

(K) **SMALL CELL FACILITIES:** A Personal Wireless Telecommunications Facility consisting of an antenna and related equipment either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area. Generally single-service provider installation.

(L) **TOWER:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, and that is not a utility pole, an alternative antenna structure, or a City-owned infrastructure.

Except as otherwise provided for by this Ordinance, the requirements for a tower and associated antenna facilities shall be those required in this Ordinance.

(M) **UTILITY POLE:** An upright pole designed and used to support electric cables, telephone cables, telecommunication cables, cable service cables, which are used to provide lighting, traffic control, signage, or a similar function.

(N) **VARIANCE or VARIATION:** A grant of relief by the City Administrator, his/her designee or Commissioner of Streets & Public Improvements.

(O) **WI-FI ANTENNA:** An antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.

33-10-2 STANDARDS AND REGULATIONS: Personal wireless telecommunication facilities will be permitted to be placed in right-of- way within the jurisdiction of the City as attachments to existing utility poles, alternative antenna structures, or City-owned infrastructure subject to the following regulations:

(A) **NUMBER LIMITATION:** Only one personal wireless telecommunication facility may be located on a single utility pole

(B) **SEPARATION AND CLEARANCE REQUIREMENTS:** Personal wireless telecommunication facilities may be attached to a utility pole, alternative antenna structure, monopole, or City-owned infrastructure only where such pole, structure or infrastructure is located no closer than twenty-five (25) feet to any residential

building and no closer than five hundred (500) feet from any other personal wireless telecommunication facility. A lesser separation or clearance may be allowed by the City Administrator or his/her designee as an administrative variance to this Ordinance when the Applicant establishes that the lesser separation or clearance is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed antenna or facility is the least intrusive means to do so.

(C) CO-LOCATION: Unless otherwise authorized by the City Administrator or his/her designee as a variance for good cause shown, only one personal wireless telecommunication facility is allowed on each utility pole, alternative antenna structure, or single unit of City-owned infrastructure for the use of a single personal wireless telecommunication facility operator. This Subsection does not preclude or prohibit co-location of personal wireless telecommunication facilities on towers or monopoles that meet the requirements as set forth elsewhere in this Subsection or as required by federal law.

(D) CITY-OWNED INFRASTRUCTURE: Personal wireless telecommunication facilities can only be mounted to City-owned infrastructure including, but not limited to, streetlights, traffic signal, towers or buildings, if authorized by a license or other agreement between the owner and the City.

(E) NEW TOWERS: No new monopole or other tower to support personal wireless telecommunication facilities in excess of sixty (60) feet is permitted to be installed on right-of-way within the jurisdiction of the City unless the City Council finds, based on clear and convincing evidence provided by the applicant, that locating the personal wireless telecommunication facilities on the right-of-way is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, **and the proposed new monopole or other tower within the right-of-way is the least intrusive means to do so.**

(F) ATTACHMENT LIMITATIONS: No personal wireless telecommunication antenna or facility within the right-of-way will be attached to a utility pole, alternative antenna structure, tower, or City-owned infrastructure unless all of the following conditions are satisfied:

(1) Surface Area of Antenna: The personal wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, cannot have a surface area of more than seven (7) cubic feet in volume.

(2) Size of Above-Ground Personal Wireless Telecommunication Facility: The total combined volume of all above-ground equipment and appurtenances comprising a personal wireless telecommunication facility, exclusive of the antenna itself, cannot exceed seventeen (17) cubic feet.

(3) Personal Wireless Telecommunication Equipment: The operator of a personal wireless telecommunication facility must, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than ten (10) feet above grade.

(4) Personal Wireless Telecommunication Services Equipment Mounted at Grade: In the event that the operator of a personal wireless telecommunication facility proposes to install a facility where equipment or appurtenances are to be installed at grade, screening must be installed to minimize the visibility of the facility. Screening must be installed at least three (3) feet from the equipment installed at-grade and eight (8) feet from a roadway.

(5) Height: The top of the highest point of the antenna cannot extend more than seven (7) feet above the highest point of the utility pole, alternative antenna support structure, tower or City-owned infrastructure. If necessary, the replacement or new utility pole, alternative support structure or City-owned infrastructure located within the public right-of-way may be no more than ten to seventy (10 – 70) feet higher than existing poles adjacent to the replacement or new pole or structure, or no more than ninety (90) feet in height overall, whichever is less.

(6) Color: A personal wireless telecommunication facility, including all related equipment and appurtenances, must be a color that blends with the surroundings of the pole, structure tower or infrastructure on which it is mounted and use non-reflective materials which blend with the materials and colors of the surrounding area and structures. Any wiring must be covered with an appropriate cover.

(7) Antenna Panel Covering: A personal wireless telecommunication antenna may include a radome, cap or other antenna panel covering or shield, to the extent such covering would not result in a larger or more noticeable facility and, if proposed, such covering must be of a color that blends with the color of the pole, structure, tower or infrastructure on which it is mounted.

(8) Wiring and Cabling: Wires and cables connecting the antenna to the remainder of the facility must be installed in accordance with the version of the National Electric Code and National Electrical Safety Code adopted by the City and in force at the time of the installation of the facility. No wiring and cabling serving the facility will be allowed to interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.

(9) Grounding: The personal wireless telecommunication facility must be grounded in accordance with the requirements of the most current edition of the National Electric Code adopted by the City and in force at the time of the installation of the facility.

(10) **Guy Wires:** No guy or other support wires will be used in connection with a personal wireless telecommunication facility unless the facility is to be attached to an existing utility pole, alternative antenna support structure, tower or City-owned infrastructure that incorporated guy wires prior to the date that an applicant has applied for a permit.

(11) **Pole Extensions:** Extensions to utility poles, alternative support structures, towers and City-owned infrastructure utilized for the purpose of connecting a personal wireless telecommunications antenna and its related personal wireless telecommunications equipment must have a degree of strength capable of supporting the antenna and any related appurtenances and cabling and capable of withstanding wind forces and ice loads in accordance with the applicable structural integrity standards as set forth in 12 below. An extension must be securely bound to the utility pole, alternative antenna structure, tower or City-owned infrastructure in accordance with applicable engineering standards for the design and attachment of such extensions.

(12) **Structural Integrity:** The personal wireless telecommunication facility, including the antenna, pole extension and all related equipment must be designed to withstand a wind force and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for utility poles, Rule 250-B and 250-C standards governing wind, ice, and loading forces on utility poles, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel wireless support structures and the applicable industry standard for other existing structures. For any facility attached to City-owned infrastructure or, in the discretion of the City, for a utility pole, tower, or alternative antenna structure, the operator of the facility must provide the City with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation must be prepared by a professional structural engineer licensed in the State of Illinois.

(G) **SIGNAGE:** Other than signs required by federal law or regulations or identification and location markings, installation of signs on a personal wireless telecommunication facility is prohibited.

(H) **SCREENING:** If screening is required under Section (f)(4) above, it must be natural landscaping material or a fence subject to the approval of the City and must comply with all regulations of the City. Appropriate landscaping must be located and maintained and must provide the maximum achievable screening, as determined by the City, from view of adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than nine (9) feet in height. Landscape screening when permitted in the right-of-way must be provided with a clearance of three (3) feet in all directions from the facility. The color of housing for ground-mounted equipment must blend with the surroundings. For a covered structure, the maximum reasonably achievable screening must be provided between such facility

and the view from adjoining properties and public or private streets. In lieu of the operator installing the screening, the City, at its sole discretion, may accept a fee of fifteen hundred (\$1500) dollars from the operator of the facility for the acquisition, installation, or maintenance of landscaping material by the City.

(I) **PERMISSION TO USE UTILITY POLE OR ALTERNATIVE ANTENNA STRUCTURE:** The operator of a personal wireless telecommunication facility must submit to the City written copies of the approval from the owner of a utility pole, monopole, or an alternative antenna structure, to mount the personal wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the City permit.

(J) **LICENSES AND PERMITS:** The operator of a personal wireless telecommunication facility must verify to the City that it has received all concurrent licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility have been obtained and will be maintained.

(K) **VARIANCE REQUIREMENTS:** Each location of a personal wireless telecommunication facility within a right-of-way must meet all of the requirements of this Ordinance, unless a variance has been obtained in accordance with this Chapter.

(L) **ABANDONMENT AND REMOVAL:** Any personal wireless telecommunication facility located within the corporate limits of the City that is not operated for a continuous period of twelve (12) months, shall be considered abandoned and the owner of the facility must remove same within ninety (90) days of receipt of written notice from the City notifying the owner of such abandonment. Such notice shall be sent by certified or registered mail, return-receipt-requested, by the City to such owner at the last known address of such owner. In the case of personal wireless telecommunication facilities attached to City owned infrastructure, if such facility is not removed within ninety (90) days of such notice, the City may remove or cause the removal of such facility through the terms of the applicable license agreement or through whatever actions are provided by law for removal and cost recovery.

33-10-3 **GOVERNMENTAL WIRELESS TELECOMMUNICATION FACILITIES:** This Chapter will NOT apply to personal wireless telecommunication facilities owned by the City.

33-10-4 **PERMITS AND APPLICATION FEES AND PROCEDURES:** Permits for placement of personal wireless telecommunication facilities in right-of-way within the City are required. Except as otherwise provided for by in this Ordinance, the procedures for the application for, approval of, and revocation of such a permit must be in compliance with City permit applications contained in the City Code. Any applications must demonstrate compliance with the requirements of this section. Unless otherwise provided by franchise, license, or similar agreement, or federal, State or local

law, all applications for permits pursuant to this section must be accompanied by a fee in the amount of no less than five hundred (\$500) dollars. The application fee will reimburse the City for regulatory and administrative costs with respect to the work being performed.

33-10-5 **CONFLICT OF LAWS**: Where the conditions imposed by any provisions of this Chapter regarding the siting and installation of personal wireless telecommunication facilities are more restrictive than comparable conditions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

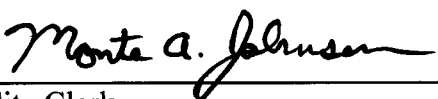
SECTION 5: The findings and recitals herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the Courts of the State of Illinois.

SECTION 6: This Ordinance shall be in full force and effect on February 27, 2017, nunc pro tunc.

SECTION 7: This ordinance shall be known as Ordinance No. 17-3.

PASSED by the Mayor and City Council of the City of Sullivan, County of Moultrie and State of Illinois on the 27th day of February 2017.

NAME	AYE	NAY	ABSTAIN	ABSENT
Short	X			
Mossman	X			
Kirk	X			
Hagen	X			
Risley	X			



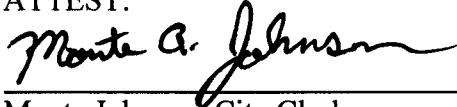
 City Clerk

Approved by the Mayor of the City Council of the City of Sullivan, Moultrie
County, Illinois this 27th day of February 2017.



Ann Short, Mayor

ATTEST:



Monte Johnson, City Clerk

STATE OF ILLINOIS)
)
COUNTY OF MOULTRIE)

CERTIFICATE

I, Monte Johnson, certify that I am the duly appointed and acting City Clerk of the City of Sullivan, Moultrie County, Illinois.

I further certify that on February 27, 2017, the Corporate Authorities of said municipality passed and approved Ordinance No. 17-3, entitled ORDINANCE AMENDING CHAPTER 33 – STREET REGULATIONS BY RENUMBERING ARTICLE X – PENALTY AS ARTICLE XI AND ADDING THERETO NEW ARTICLE X – SMALL CELL ANTENNA/TOWER RIGHT-OF-WAY SITING OF THE REVISED CODE OF ORDINANCES OF THE CITY OF SULLIVAN, ILLINOIS which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 17-3, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the City Building, commencing on February 28, 2017, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

DATED at Sullivan, Moultrie County, Illinois, this 28th day of February 2017.



Monte Johnson, City Clerk