

MINUTES OF THE COMMON COUNCIL MEETING HELD MAY 7, 2019

The meeting was called to order at 7:00 p.m. by Mayor Tutaj. Following the Pledge of Allegiance and a moment of silence for the community, roll call was taken.

Present: Mayor Tutaj, Alderpersons Wattawa, Schandel, Brickner, Feirer, Damon

Also Present: City Administrator Johnsrud, City Attorney Alexy, City Clerk/Treasurer Uecker, City Engineer Dejewski, Fire Chief Poplar, Police Chief Hunter, and interested citizens

Excused: Alderman Drew

Statement of Open Meetings Compliance:

City Clerk/Treasurer Uecker stated that the meeting had been properly posted and noticed.

Moved by Alderwoman Schandel, seconded by Alderman Wattawa to suspend the agenda and move to Presentations. Motion carried.

Presentation:

Dimitri Kamolov – Retirement Resolution Presentation

Public Hearing:

- Project No. 1-2018 – South Kirkwood Avenue from East Martin Lane to East Tesch Avenue and South Kirkwood Avenue from East Lunham Avenue to Dead End
- Zoning Code Amendment – Ordinance to Repeal and Recreate §455-45(H) of the City of St. Francis Code of Ordinances Concerning Construction and Modification of Mobile Service Support Structures and Facilities

Consent Agenda:

Moved by Alderman Wattawa, seconded by Alderman Brickner to place on file with reference in the minutes and approve the items as listed under Consent Agenda on the May 7, 2019 Common Council Agenda. Motion carried.

Items Removed from Consent Agenda:

None

Recommendation of Action from Committees/Commissions/Boards:

Moved by Alderman Brickner, seconded by Alderman Wattawa to approve Beverage Operator's Licenses for Jason Antczak, Brian Drew and Anna LoCicero. Motion carried.

Moved by Alderwoman Schandel, seconded by Alderman Damon to approve a Provisional Beverage Operator's License for Debbie Dean. Motion carried.

Moved by Alderman Brickner, seconded by Alderwoman Schandel to approve a Temporary Class "B" Retailer's License for the City of St. Francis Celebrations Committee for the Food Truck Event on May 17m, 2019 at Milton Vretenar Memorial park. Motion carried.

Moved by Alderman Wattawa, seconded by Alderman Damon to waive the interest and penalty on Tax Key # 545-8009-000 due to the transfer of deed error. Motion carried.

Moved by Alderman Wattawa, seconded by Alderman Feirer to approve the contract with The Concord Group for project management services for the Mariner Apartments in an amount not to exceed \$83,440. Motion carried.

Moved by Alderman Wattawa, seconded by Alderman Damon to approve the demolition contract with Shoreline Contracting Services, Inc. in the amount of \$16,450 for 4010 South Kirkwood Avenue. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Wattawa to approve contract for Double Cross in the amount of \$500 for the 4th of July celebration. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Wattawa to approve the expenditure of \$7000 for fireworks for the 4th of July celebration. Motion carried.

Resolutions and Ordinances:

Moved by Alderman Wattawa, seconded by Alderman Damon to introduce and adopt a Resolution Regarding Non-Represented Employee's Wages and Benefits. Motion carried.

Resolution No. 2782

Moved by Alderman Damon, seconded by Alderman Brickner to introduce and adopt an Ordinance to Repeal and Recreate §397-2 and §397-3 of the City of St. Francis Code of Ordinances Concerning Street Excavations, Obstructions and Encroachments. Motion carried. **Ordinance No. 1447**

Moved by Alderwoman Schandel, seconded by Alderman Damon to introduce and adopt an Ordinance to Create Section §435-15(C) of the City of St. Francis Code of Ordinances Restricting Parking During Snow Emergencies in the City of St. Francis. Motion carried. **Ordinance No. 1448**

Moved by Alderwoman Schandel, seconded by Alderman Feirer to introduce and adopt an Ordinance to Repeal and Recreate Sections 435-2(E)(5) and 435-3 (A)(15) of the City of St. Francis Code of Ordinances Concerning Certain Parking Restrictions on South Lake Drive in the City of St. Francis. Motion carried. **Ordinance No. 1449**

Moved by Alderwoman Schandel, seconded by Alderman Wattawa to introduce and adopt an Ordinance to Repeal and Recreate §455-45(H) of the City of St. Francis Code of Ordinances Concerning Construction and Modification of Mobile Service Support Structures and Facilities. Motion carried. **Ordinance No. 1450**

Discussion and Action Items:

- Mid America Steel Drum

Moved by Alderwoman Schandel, seconded by Alderman Brickner to receive and place on file the 2018 Annual Police Department Report. Motion carried.

Appointments to Committees/Commissions/Boards:

None

Correspondence with Possible Action or Referral to Committees/Commissions/Boards:

Moved by Alderman Brickner, seconded by Alderman Feirer to place on file with reference in the minutes the correspondence from the City Engineer regarding Private Property Infiltration and Inflow Reduction Agreement and to enter into the agreement with MMSD and to authorize the Engineering Department to proceed with the analysis portion of the project. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Wattawa to discuss the correspondence from the City Engineer regarding Project 1-2018 – 2018 Road Projects. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Damon to move forward with Project 1-2018 without sidewalks on Kirkwood Avenue into Vretenar Memorial Park. Alderman Brickner requested a roll call vote. The following voted “aye”: Alderman Wattawa, Alderman Damon, Alderwoman Schandel, and Alderman Brickner. Motion carried with Alderman Feirer voting “no.”

Moved by Alderman Damon, seconded by Alderman Brickner to place on file with reference in the minutes the Application for Special Event through City – UPAF for June 2, 2019 and to approve the event. Motion carried.

Moved by Alderwoman Schandel, seconded by Alderman Damon to place on file with reference in the minutes the correspondence dated May 2, 2019 from the Code Compliance Officer regarding Demolition of 4010 South Kirkwood Avenue and to award the contract to Shoreline Contracting Services, Inc. in the amount of \$16,450. Motion carried.

Moved by Alderman Damon, seconded by Alderman Wattawa to suspend the agenda and allow County Supervisor Shea to speak. Motion carried.

Convene into Closed Session:

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Moved by Alderman Brickner, seconded by Alderman Feirer to convene into Closed Session pursuant to Wis. Stat. sec. 19.85(1)(e) for the purpose of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Items for discussion – Offer to Purchase (2922 East Layton Avenue). The following voted “aye”: Alderman Wattawa, Alderman Damon, Alderman Feirer, and Alderwoman Schandel

Time: 9:17 p.m.

Reconvene into Open Session:

Moved by Alderman Feirer, seconded by Alderman Wattawa to reconvene into Open Session. Motion carried.

Time: 9:32 p.m.

Moved by Alderman Damon, seconded by Alderwoman Schandel to ratify the offer to purchase dated April 26, 2019 and authorize city officers to execute documentation necessary to close on the transaction. Motion carried.

Adjourn:

Moved by Alderman Damon, seconded by Alderwoman Schandel to adjourn. Motion carried.

Time: 9:34 p.m.

Resolution No. 2782

RESOLUTION REGARDING NON-REPRESENTED EMPLOYEES' WAGES AND SALARIES

At a regular meeting of the Common Council of the City of St. Francis, Milwaukee County, Wisconsin, held on the 7th day of May, 2019, a quorum being present and a majority of the Council voting therefore, said council does resolve as follows:

WHEREAS, it is in the public interest of the residents of the City of St. Francis that the wages and salaries of the City of St. Francis, Wisconsin be approved and adopted by the Common Council.,

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of St. Francis, Milwaukee County, Wisconsin,

ESTABLISHING OR REESTABLISHING SALARIES AND WAGES OF CERTAIN OFFICIALS AND EMPLOYEES OF THE CITY OF ST. FRANCIS FOR 2019

The wages and salaries of certain officials and employees of the City of St. Francis, with satisfactory performance for 2018, commencing and retroactive to January 1, 2019, except as otherwise hereinafter set forth, are as follows for various appointed Department Heads, Officers, Professional, Inspection and Other Personnel;

1. WAGES AND SALARIES:

POSITION	01/01/2019
City Engineer/Director of Public Works	\$104,453.74
Police Chief	\$102,523.21
Fire Chief	\$100,980.00
Police Captain	\$94,453.45
Police Lieutenant	\$91,780.42
Fire Captain	\$89,239.93
Police Sergeant	\$87,664.52
City Clerk/Treasurer	\$85,721.13
Senior Engineer	\$80,832.75
Highway Superintendent	\$67,100.70
Mechanic	\$60,051.89

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Highway Utility/Equipment Operator (97)	\$57,649.18
Highway Utility/Equipment Operator (508)	\$58,316.21
Highway Utility/Equipment Operator (674)	\$42,432.00
Highway Utility/Equipment Operator (102)	\$57,649.24
Highway Utility/Equipment Operator (101)	\$58,000.83
Highway Utility/Equipment Operator (676)	\$42,432.00
Highway Utility/Equipment Operator (700)	\$38,188.80
Deputy City Clerk/Treasurer Training Period (6 months) First Year	\$59,608.79 \$46,675.16 \$50,918.40
Police Clerk/Technical	\$49,751.52
Custodian	\$46,675.20
Engineering Technician	\$36,420.66
Clerk II Training Period (6 months) First Year	\$36,030.77 \$33,945.56 \$34,815.46
Code Compliance Officer	\$17.00 per hour
Gardener	\$16.50 per hour
Administrative Assistant	\$15.18 per hour

AND BE IT FURTHER RESOLVED, that the City Administrator and the City Clerk/Treasurer have the authority to effectuate this resolution.

PASSED AND APPROVED, this 7th day of May, 2019.

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/s/Ken Tutaj

Ken Tutaj – Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC

Anne Uecker – City Clerk/Treasurer

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1447

**AN ORDINANCE TO REPEAL AND RECREATE §§ 397-2 AND 397-3 OF
THE CITY OF ST FRANCIS CODE OF ORDINANCES CONCERNING
STREET EXCAVATIONS, OBSTRUCTIONS, AND ENCROACHMENTS**

WHEREAS, § 397-2 of the City of St. Francis Code of Ordinances, includes certain regulations pertaining to excavation of City streets; and

WHEREAS, § 397-3 of the City of St. Francis Code of Ordinances, includes certain regulations pertaining to obstructions and encroachments of City streets; and

WHEREAS, the Common Council finds it in the interest of the public health, safety, and welfare to revise §§ 397-2 and 397-3 of the Code of Ordinances to more fully conform to the needs of the City of St. Francis in light of ever-increasing requests concerning access and use of City rights-of-way and to address changes in both State and Federal laws concerning siting of cellular/wireless communications facilities; and

NOW, THEREFORE, the Common Council of the City of St. Francis, Wisconsin do ordain as follows:

SECTION 1. Section 397-2, "Street excavations", is hereby repealed and recreated to read as follows:

§ 397-2. Street excavations, obstructions and encroachments

A. Purpose and Findings.

1. In the exercise of governmental functions, the City has priority over all other uses of the public rights-of-way. The City desires to anticipate and minimize the number of obstructions and excavations taking place therein and to regulate the placement of facilities in the public rights-of-way to ensure that the rights-of-way remain available for public services and remain safe for public use. The taxpayers of the City bear the financial burden for the upkeep of the rights-of-way and frequent excavation and/or improper restoration by third parties are primary causes for the early and excessive deterioration of the City's rights-of-way.
2. The City finds that, with increased use of the public rights-of-way, there are increased costs to the taxpayers of the City and that such costs are likely to continue into the foreseeable future.
3. The City finds that excavation and/or occupancy of its rights-of-way results in certain costs being borne by the City and its taxpayers, including but not limited to:
 - (a) Administrative costs associated with projects in the public right-of-way such as, for example, registration, permitting, inspection and supervision, supplies and materials;

- (b) Management costs associated with ongoing management activities necessitated by public right-of-way users.
 - (c) Repair or restoration costs to the roadway associated with the actual excavation into the public right-of-way.
 - (d) Degradation costs, defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into a public right-of-way.
 - 4. The Council finds that the enactment of regulations will promote the health, safety and welfare of the residents of the City as they use the right-of-way of the City, as well as to ensure the structural integrity of the public rights-of-way.
 - 5. In response to the foregoing findings, the City hereby enacts this § 397-2 of the Code relating to the issuance and administration of permits to excavate, obstruct and/or occupy a public right-of-way, whether above or below ground, and for any use of a public right-of-way that results in above grade use of the right-of-way.
 - 6. The provisions of this section are intended to impose reasonable regulations concerning excavation of any City street, alley, or public grounds; and concerning the siting and maintenance of any equipment, fixture, or structure within its rights-of-way or to be placed therein at some future time. By enacting these regulations, the Council intends to establish a regulatory structure that will complement the regulatory provisions enacted by both state and federal agencies.
 - 7. By enacting this ordinance, the Council further intends to provide the City with a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of the costs incurred in doing so.
- B. Prohibited. No person shall cause or suffer any excavation, obstruction or encroachment of any City street, alley, sidewalk, public grounds or other lands dedicated to public use, or any part thereof, or permit any such excavation or any encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which such person is an owner or occupant of, except as provided in Subsection C and D of this § 397-2.
- C. Exceptions. The provisions of this § 397-2 pertaining to obstructions and encroachments of City rights-of-way shall not apply to the following:
- 1. Signs and clocks attached to buildings which project not more than six feet from the face of such building and which do not extend at any point lower than 10 feet above the sidewalk, street or alley.
 - 2. Awnings which do not extend at any point lower than seven feet (7') above the sidewalk, street or alley.
 - 3. Official signage, official traffic control devices, and utilities owned or leased by the City.
 - 4. Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet (3') on a sidewalk, provided that such goods, wares, etc., do not remain thereon for more than three hours.

5. Obstructions or encroachments lawfully existing prior to May 7, 2019.
6. Dumpsters and commercial storage containers permitted by the Engineering Department and/or Building Inspection Department by means of the issuance of an obstruction/dumpster permit.

D. Permit Required.

1. No person shall excavate any City street, alley, sidewalk, public grounds, or other lands dedicated to public use without having first obtained a permit therefor from the City Engineer in accordance with this Code and, thereafter, complying with all applicable provisions of this Code.
2. No person shall encroach upon or obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining premises of which such person is an owner or occupant, without having first obtained a permit therefor from the City Engineer in accordance with this Code and, thereafter, complying with all applicable provisions of this Code.

E. Permit application, requirements.

1. An application shall be filed with the City Engineer.
2. The applicant shall pay the right-of-way permit fee. The right-of-way permit fee shall be in the amount as established by resolution of the Common Council, as may be amended from time to time. Such fee shall not exceed a reasonable approximation of actual costs incurred, shall be limited to objectively reasonable costs, and shall be uniform for similarly situated users of the right-of-way in similar situations.
3. The applicant shall sign a professional fee charge back agreement to ensure compliance with § 61-12(B) of this Code that, if professional fees are incurred by the City to review said applications, such professional fees are paid and the permit fee shall be established with this actual professional fee cost recovery in mind, to avoid excess cost recovery.
4. The applicant shall provide detailed scaled plans show all existing conditions including but not limited to sidewalk, curb and gutter, streets catch basins/inlets, above and below ground utilities, trees, driveways, carriage walks and all proposed conditions including but not limited to exact size and location of excavations, structures, equipment, appurtenances and attachments to structures and equipment as well as any other obstructions in the vicinity of the proposed installations and location of structures on abutting properties.
5. Where the applicant is requesting permission for any obstruction and/or encroachment above a City right-of-way, the applicant shall provide a detailed report describing potential hazards to the public from said equipment or structure, and the impacts due to location on safety for the driving public, pedestrians, and owners and users of adjacent property for things such as, for example but not limited to; fall zone, fire, explosion, chemical, environmental impacts, and vehicle crash impacts. Said report shall indicate the risk of the safety hazard and the

proposed design element to address said safety hazard. The City Engineer may require the applicant's report to be provided by a structural engineer or other expert approved by the City Engineer, if the City Engineer finds it to be reasonably necessary to have such an expert opinion in light of the circumstances of the particular application, for the protection of public health and safety. In such event, the applicant shall provide such expert's opinion at the applicant's cost.

6. The plan must show how the installation and maintenance of said above grade right-of-way use will not impact snow or grass removal from the terrace, sidewalk or street, or conflict with the operation or maintenance of vehicular travel and existing utilities above or below ground.
7. An alternative analysis shall be provided upon request by the City Engineer to show what options other than locating above grade in the right-of-way exists and the approximate costs of such alternatives.

F. Permit application process.

1. The City Engineer shall review permit applications under this Section and make an initial determination as to whether all application materials have been submitted within 10 days of receipt of the initial application.
2. If the application materials are not complete the City shall provide written notice to the contact person on the application that the application is incomplete. The applicant shall have up to 30 days from the date of initial application to provide a complete application or the application shall be deemed insufficient and denied. The City shall have 60 days to review and act on the permit from the date that the City determines the application is complete and all fees paid.
3. Existing Uses. The City Engineer may determine whether to approve, deny, or conditionally grant permits for excavations for underground utility work and for any installation, use, encroachment, obstruction or excavation added to either a previously approved above grade use or an above-grade use that was legally placed prior to May 7, 2019, unless the City Engineer concludes the new installation, use, encroachment, obstruction, or excavation may obstruct or disrupt the public use in which case the application shall be subject to the procedures for a new use.
4. New Uses. All permit applications other than those described pursuant to subsection F(3) for above-grade right of way obstructions or encroachments, shall be considered as follows.
 - a. The City Engineer shall initially refer the permit application to the Board of Public Works, which shall review the application and provide its recommendation to the Common Council.
 - b. The Common Council shall give consideration to the application and the recommendation of the Board of Public Works, as well as any staff and expert reports, or other information as the Common Council determines appropriate. The Common Council shall consider public safety, alternative options, aesthetic considerations as described in this ordinance,

and the public good when considering an application for a permit for above-right-of-way obstructions or encroachments. The Common Council may grant the permit, grant the permit with conditions, or deny the permit.

G. General Requirements.

1. Equipment, facilities and support structures, towers, manholes and handholes, and utility poles shall not obstruct, impede, or hinder vehicular, pedestrian, or bicycle travel or public safety within the right-of-way, except for authorized temporary lane or sidewalk closures.
2. Facilities and support structures, towers, and utility poles shall not be located within sight triangles at street intersections or otherwise located within any area that will create traffic visibility loss to drivers, pedestrians, or bicyclists.
3. To the extent possible, any equipment, facility, support structure, tower, manholes and handholes, or utility pole shall be located and designed so as to avoid interference with right-of-way maintenance activities, such as:
 - a. Grass mowing, brush collection, tree trimming, and landscaping maintenance;
 - b. Trash collection;
 - c. Maintenance of streets, pavement, sidewalks, and bicycle lanes; and
 - d. Maintenance of other facilities in the rights-of-way.
4. Facilities and support structures, towers, manholes and handholes, and utility poles at all times must comply with applicable requirements of the Americans with Disabilities Act of 1990, and as amended from time to time.
5. To the extent possible, new facilities and support structures, towers, and utility poles must not be located directly in front of any existing structure used for residential occupancy.
6. To the extent possible, new facilities and support structures, towers, and utility poles must be located in line with existing lot lines, but in areas where multiple structures abut each other or where no side lot setback requirement exists, structures must not be located directly in front of an entrance or window of any existing structure.
7. A combination support structure and streetlight pole should only be located where an existing pole can be removed and replaced, or at a new location where the City Engineer has identified that a streetlight is necessary.

H. Aesthetic Requirements. All users of a City right-of-way shall comply with the following aesthetic standards:

1. To the extent feasible, facilities must be concealed or camouflaged. The facilities must have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views. For purposes of this Ordinance, “Camouflaged” or “Concealed” means designed to mask or blend with the surrounding environment in such a manner to render it generally unnoticeable to

the casual observer. By way of example, a facility may be camouflaged in a faux tree, faux bush, flagpole, or otherwise designed in a manner to be compatible with the appurtenant architecture, building, or natural surroundings. Permitted concealment techniques also include those that completely screen all associated equipment from public view and are so integrated into the surrounding natural or manmade environment that the observer does not recognize the structure such as, for example: where equipment is placed completely within existing architectural features such that the installation causes no visible change to the underlying structure; where new architectural features are created that match the underlying structure in architectural style, physical proportion and construction-materials quality; or by use of flush-to-grade underground equipment vaults with flush-to-grade entry hatches, with wireless equipment placed completely within.

2. Attachments at the top of support structures shall be incorporated into the structure, or placed within shrouds of a size such that the attachment appears to be part of the support structure. All other attachments to support structures shall be integrated into the structure, or be designed and placed to minimize visual impacts.
3. Equipment and equipment cabinets that incorporate radio units and mounted on a utility pole shall be placed as high as possible on a support structure, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the utility pole.
4. Attachments to existing structures shall be designed to be flush with the existing structure as much as can reasonably be done, shall be a color that matches the existing structure and shall be the smallest size possible to reasonably accommodate the intended purpose. If the structure to which the attachment is made changes color due to repainting, resurfacing or other means, the attachment shall be modified to match the new color.
5. Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible.
6. Above-ground structures or equipment shall, where required, be screened by an approved landscape plan and maintained for the life of the structure or equipment. Dead plants will be removed and replaced as needed. If the permittee is notified of dead plants, the permittee shall replace the dead plants within 5 days of notification or the City may cause the dead plants to be removed and replaced. Any and all costs to remove and replace the dead plants after the initial twelve (12) month warranty period will be billed to the permittee.
7. Facilities must not be illuminated, except in accordance with state or federal regulations or if incorporated as part of a street light pole.
8. Facilities shall not generate noise that exceeds the ambient noise level in the area where the facility is located. The City may require the applicant to install noise attenuating or baffling materials and/or other measures, including but not limited

to walls or landscape features, as the approval authority deems necessary or appropriate to ensure compliance with the applicable ambient noise limit.

9. Any party objecting to the requirements of this Subsection (L) shall have an opportunity to demonstrate that the requirement constitutes an effective prohibition in violation of State or Federal law, in an appeal made pursuant to § 397-3.
- I. Debris. Any debris arising from the permittee's use, whether arising from construction or at any time thereafter, must be promptly removed by the permittee. Debris remaining for more than five (5) business days constitutes a violation of this Ordinance subject to the violations and penalties provisions of § 1-4 of this Code. Each day that the debris remains after such time constitutes a separate offense,
- J. Protection of the public. The permit holder shall erect and maintain such barriers, warning lights and signs as shall be needed to adequately inform the public of the nature and location of the work being performed. Additional barriers, warning lights and signs may be required by the City Engineer
- K. Right-of-Way Restoration.
 1. All work permitted under a permit granted under this Section, and the repair and restoration of the right-of-way as required herein, shall be completed within the dates specified in the permit to the satisfaction of the City Engineer and must warrant such repairs for twelve (12) months thereafter.
 2. In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must warrant such repairs for twelve (12) months thereafter.
 3. The permittee shall perform repairs and restorations according to the standards and with the materials specified by the City Engineer. The City Engineer shall have the authority to prescribe the manner and extent of the restoration and may do so in written procedures of general application or on a case-by-case basis. The City Engineer in exercising this authority shall be guided by the following standards and considerations:
 - a. The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way.
 - b. The traffic volume carried by the right-of-way.
 - c. The character of the neighborhood surrounding the right-of-way; the pre-excavation condition of the right-of-way.
 - d. The remaining life-expectancy of the right-of-way affected by the excavation.
 - e. Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way.

- f. The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.
 - g. Where such excavations are on streets, alleys or other surfaces that are concrete, or have concrete base, the excavation and replaced pavement shall be of like kind, material, density and durability to that which exists and, if done within 30 years of the City's acceptance of such pavement, shall be done joint to joint, and shall not be trenches or other methods that will create new joints or seams in the concrete.
 - h. Where excavations are in streets, alleys or other paved surfaces that are asphalt, the excavation and replaced pavement shall be of like kind, materials, density and durability to that which exists and, if done within 15 years of the City's acceptance of such pavement, the pavement shall be replaced to the full width of the pavement and parking lane and no less than 5 feet in length. Multiple asphalt repairs may be considered one repair and require a larger area of repair.
4. Methods of restoration authorized by the City Engineer may include, but are not limited to, patching, replacement of the right-of-way surface and base, restoration of landscaping, and milling and overlay of the entire area of the right-of-way and complete reconstruction of the entire right-of-way area affected by the work. During this twelve (12) month period, the permittee shall, upon notification from the City Engineer, correct all restoration work to the extent necessary using the method proposed by the permittee and approved by the City Engineer. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City Engineer. If the permittee fails to restore the right-of-way to the condition required by the City Engineer, or fails to satisfactorily and timely complete all repairs required by the City Engineer, the City Engineer may, cause such repairs to be completed. In such event, the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way.

L. Deposits_Required.

- 1. A cash deposit or letter of credit shall submitted prior to the issuance of any permit to guarantee the work performed within the right-of-way. Said deposit or letter of credit shall be held for twelve (12) months after the completion of all work. At the completion of said twelve (12) months, the City shall inspect the work that was performed including all restoration of the work area. Any and all deficiencies shall be corrected. The deposit will be returned upon completion of the repairs being inspected and accepted by the City Engineer. The requirements of this paragraph shall be subject to the limitations of Wisconsin Statutes §§ 66.0425(2) and (5).
- 2. Certificate of Insurance. Before a permit may be issued shall file a certificate of insurance with the City Clerk in the minimum sum of \$1,000,000 insuring such permit holder and the City against any claim, loss or demand and have a 30-day cancellation or change notice to the City.

3. Indemnification Agreement. Before any person, entity, or utility commences work pursuant to this section, such person, entity or utility shall file an agreement with the City Clerk to hold the City harmless and indemnify and defend the City, its officers, agents, and employees from and against any and all injury and damage of any kind caused or occurring as a result of such work. The agreement shall be in a form approved by the City Attorney, and shall have continuing effect during the course of such work and for all time that the obstruction or facilities or installation remain within the right-of-way, and thereafter until such obstruction is removed and the site is fully restored to the satisfaction of the City Engineer or his or her designee.
- M. No Waiver of Rights. The City of St. Francis retains all rights in City rights-of-way. The grant of a permit under this section does not constitute a waiver of any City rights and remedies regarding ongoing compliance obligations toward such installations. All persons, entities and utilities installing obstructions, encroachments or conducting excavation in any City right-of-way shall remove or relocate the obstruction, encroachment or excavation upon 10 days' notice, except as otherwise provided by law.
 - N. Compensation. The City may require payment of compensation in an amount determined by the Common Council for the grant of any permit pursuant to this section, provided that compensation for more than applicable fees and cost recovery shall not be required of utilities that have the right to use the right-of-way by Wisconsin Statutes Section 182.017(1r). The compensation required shall be fair and reasonable, competitively neutral and nondiscriminatory and designed to recover direct and actual costs in connection with the installation, such as the cost for staff to review the siting application, costs associated with the use of the right-of-way, costs associated with maintaining the right-of-way itself or structures within the right-of-way to which the facilities are attached, and these standards apply both to initial fees and any recurring fees.
 - O. Compliance with Laws. Approval of a permit pursuant to this section does not waive the requirement to comply with all other applicable laws and ordinances. All applicable federal, State, Milwaukee County, statutes, regulations, administrative rules, ordinances and other laws and this Code must be complied with.
 - P. Revocation, Denial of Permit. If any of the provisions of this Section are not complied with, in addition to any other remedy available to the City at law or in equity, the City Engineer may revoke or refuse to issue such permit.

SECTION 2. Section 397-3, "Obstructions and encroachments", is hereby repealed and recreated to read as follows:

§ 397-3. Appeals concerning street excavation, obstruction and encroachment permits.

- A. Appeals from Decisions of the City Engineer. Any person aggrieved by the action or decision taken by the City Engineer pursuant to § 397-2 of this Code may, within 15 days of such action or decision, request a review of such action or decision by the City Administrator. In the event the aggrieved party wishes to appeal the decision by the City Administrator on review, such aggrieved party may, within 15 days of the decision by the City Administrator request that the matter be heard by the City's Licensing Committee,

which shall make an oral or written recommendation of its findings for action by the Common Council.

- B. Appeal from a decision of the Common Council under this Section shall be brought by action seeking certiorari review of the record in the Circuit Court for Milwaukee County within 30 days of the Common Council's decision.

SECTION 3: SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This ordinance shall take effect following its passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 7th day of May 2019.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj

Ken Tutaj, Mayor

ATTEST: /s/Anne B. Uecker, MMC/WCPC

Anne Uecker, City Clerk/Treasurer

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1448

**AN ORDINANCE TO CREATE SECTIONS 435-15(C)
OF THE CITY OF ST. FRANCIS CODE OF ORDINANCES
RESTRICTING PARKING DURING SNOW EMERGENCIES
IN THE CITY OF ST. FRANCIS**

WHEREAS, Section 435-15(C) of the City of St. Francis Code of Ordinances establishes restrictions on parking and standing of vehicles on certain specified streets within the City of St. Francis during snow emergencies; and

WHEREAS, City of St. Francis Staff and the Board of Public Works have recommended modification of the existing parking regulations; and

WHEREAS, the Common Council finds that adoption of such recommended revisions to the parking restrictions in Section 435-15(C) will promote the health, safety, and welfare of the public;

NOW, THEREFORE, the Common Council of the City of St. Francis, Wisconsin do ordain as follows:

SECTION 1. Section 435-15(C), entitled "Parking", of the City of St. Francis Code of Ordinances is hereby repealed and recreated to read as follows:

C. Parking.

(1) Prohibited. During snow emergencies, no person shall park any vehicle on any street upon which there is operated public transportation for longer than three minutes to unload or load passengers or 30 minutes to unload or load property, or on any of the following streets:

- (a) East St. Francis Avenue from Kinnickinnic Avenue west to the City limits.
- (b) East Howard Avenue from Lake Drive west to the City limits.
- (c) South Clement Avenue from East Bolivar Avenue to East Howard Avenue.
- (d) South Whitnall Avenue from East Bolivar Avenue to East Layton Avenue.
- (e) South Brust Avenue from East Layton Avenue to East Bolivar Avenue.
- (f) East Layton Avenue from South Brust Avenue to South Nicholson Avenue.
- (g) East Van Norman Avenue from South Pennsylvania Avenue to South Kinnickinnic Avenue.
- (h) South Pennsylvania Avenue from East Layton Avenue to East Elizabeth Avenue.
- (i) South Kinnickinnic Avenue north to south City limits.
- (j) East Lunham Avenue from South Kinnickinnic Avenue to South Lake Drive.
- (k) South Lipton Avenue from Nathaniel Greene Park to East Howard Avenue.
- (l) South Packard Avenue from East Lunham Avenue to South Lake Drive.
- (m) East Bolivar Avenue from South Pennsylvania Avenue to South Nicholson Avenue.

- (n) East Van Beck Avenue from South Lipton Avenue to South Packard Avenue.
 - (o) East Tesch Avenue from South Packard Avenue to South Lake Drive.
 - (p) South Lake Drive from East Lunham Avenue north to City limits.
 - (q) East Waterford Avenue from South Kinnickinnic Avenue to South Lipton Avenue.
 - (r) South Nicholson from South Kinnickinnic Avenue to East Layton Avenue.
 - (s) East Crawford from South Kinnickinnic Avenue to South Pennsylvania Avenue.
 - (t) South Arctic from East Norwich Avenue to East Howard Avenue.
 - (u) South Iowa Avenue from East St. Francis Avenue to East Howard Avenue.
 - (v) East Tesch Avenue from South Lipton Avenue to S. Packard Avenue.
 - (w) East Denton Avenue from South Packard Avenue to South Lake Drive.
- (2) Alternate parking. During snow emergencies, vehicles shall be parked only on the even-numbered side of the street on nights bearing an even calendar date before 12:00 midnight and on the odd-numbered side of the street on nights bearing an odd calendar date before 12:00 midnight.
- (3) Removal. No person shall cause or allow any vehicle to remain parked or standing contrary to the provisions of this subsection after 9:00 a.m. following the declaration of an emergency. The Highway Superintendent shall cause any vehicle which interferes with or prevents snowplowing and removal to be removed from the street and the cost of such vehicle removal shall be paid by the owner.

SECTION 2: SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 7th day of May 2019.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj
Ken Tutaj, Mayor

ATTEST: /s/Anne B. Uecker, MMC/WCPC
Anne B. Uecker, MMC/WCPC,
City Clerk/Treasurer

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1449

AN ORDINANCE TO REPEAL AND RECREATE SECTIONS 435-2(E)(5) AND 435-3(A)(15) OF THE CITY OF ST. FRANCIS CODE OF ORDINANCES CONCERNING CERTAIN PARKING RESTRICTIONS ON SOUTH LAKE DRIVE IN THE CITY OF ST. FRANCIS

WHEREAS, Section 435-2(E) of the City of St. Francis Code of Ordinances establishes restrictions on the parking, and the leaving while operating, of vehicles on certain specified streets within the City of St. Francis including, but not limited to South Lake Drive, during specified hours; and

WHEREAS, Section 435-3(A) of the City of St. Francis Code of Ordinances establishes certain restrictions on the parking, and the leaving while operating, of vehicles on certain specified streets within the City of St. Francis including, but not limited to South Lake Drive; and

WHEREAS, City of St. Francis Staff and the Board of Public Works have recommended modification of the existing parking regulations on South Lake Drive; and

WHEREAS, the Common Council finds that adoption of such recommended revisions to the parking restrictions in Sections 435-2(E)(5) and 435-3(A)(15) will promote the health, safety, and welfare of the public;

NOW, THEREFORE, the Common Council of the City of St. Francis, Wisconsin do ordain as follows:

SECTION 1. Section 435-2(E)(5) of Chapter 435, entitled "Vehicles and Traffic", of the City of St. Francis Code of Ordinances is hereby repealed and recreated to read as follows:

5. South Lake Drive.

(a) Between 10 p.m. to 6 a.m. daily:

1. On the east side of South Lake Drive, from the northern City limits south to the north right-of-way line of East Howard Avenue, excepting therefrom those areas designated as No Parking Anytime.
2. On the west side of South Lake Drive, from the northern City limits, south along the centerline of South Lake Drive to a point approximately 1,475 feet north of the centerline of South Packard Avenue.

(b) Between 2 a.m. to 6 a.m. daily:

1. On the west side of South Lake Drive, from the centerline of South Packard Avenue to the north right-of-way line of East Howard Avenue.

SECTION 2. Section 435-3(A)(15) of Chapter 435, entitled "Vehicles and Traffic", of the City of St. Francis Code of Ordinances is hereby repealed and recreated to read as follows:

15. South Lake Drive.

(a) East and West Sides.

1. From the north right-of-way line of East Howard Avenue south to the southern City limits.
2. From the center line of South Packard Avenue north along the centerline of South Lake Drive approximately 1,475 feet.

(b) East Side.

1. From the north right-of-way line of East Howard Avenue, north to the centerline of South Packard Avenue.
2. From a point approximately 1,975 feet north of the centerline of South Packard Avenue, north along the centerline of South Lake Drive to a point approximately 2,500 feet north of the centerline of South Packard Avenue.
3. From a point approximately 330 feet south of the northern City limits, south along the centerline of South Lake Drive to a point approximately 400 feet south of the northern City limits.

SECTION 3: SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 7th day of May 2019.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj
Ken Tutaj, Mayor

ATTEST: /s/Anne B. Uecker, MMC/WCPC
Anne B. Uecker, MMC/WCPC,
City Clerk/Treasurer

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1450

**AN ORDINANCE TO REPEAL AND RECREATE § 455-45(H) OF
THE CITY OF ST FRANCIS CODE OF ORDINANCES CONCERNING**

CONSTRUCTION AND MODIFICATION OF MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES

WHEREAS, § 455-45(H) of the City of St. Francis Code of Ordinances, includes certain regulations pertaining to wireless telecommunications facilities; and

WHEREAS, Wis. Stat. § 66.0404 and applicable federal laws have placed limitations on municipal regulation of mobile service support structures and mobile service facilities; and

WHEREAS, City Staff has recommended revisions to § 455-45(H) to ensure compliance with Wis. Stat. § 66.0404 and applicable Federal laws and such revisions were considered by the City of St. Francis Planning Commission at a regular meeting held on April 4, 2019 upon due notice to the public; and

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on May 7, 2019 as required by Wis. Stat. § 62.23 and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

NOW, THEREFORE, the Common Council of the City of St. Francis, Wisconsin do ordain as follows:

SECTION 1. Section 455-45(H), "Wireless telecommunications facilities", is hereby repealed and recreated to read as follows:

H. Wireless telecommunications mobile service support structures and facilities.

(1) Purpose and interpretation.

- (a) The purpose of this Subsection H is to regulate mobile service support structures and facilities to the extent permitted under Wis. Stat. § 66.0404 and other applicable State and Federal laws and regulations. The regulations set forth in this Subsection are reasonably necessary to protect residential areas and land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community;

encourage the joint use of new and existing mobile service support structures and sites as a primary option rather than construction of additional single-use mobile service structures; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of mobile service structures; and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City of St. Francis shall give due consideration to the Comprehensive Smart Growth Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of mobile service support structures and mobile service facilities.

- (b) Nothing herein shall be construed to regulate or to authorize the regulation of mobile service facilities or mobile service support structures in a manner that is preempted or prohibited by Wisconsin Statutes Section 66.0404 or other applicable laws.
- (c) The terms used in this Subsection H shall have the following meanings provided, however, that definitions in this Section may contain quotations or citations to 47 C.F.R. §§ 1.6100 and 1.6002. In the event that any referenced section is amended, creating a conflict between the definition as set forth in this Chapter and the amended language of the referenced section, the definition in the referenced section, as amended, shall control.
 - 1. “Application” means a formal request, including all required and requested documentation and information, submitted by an Applicant to the City for a wireless permit.
 - 2. “Applicant” means a person filing an application for placement or modification of a wireless telecommunications facility.
 - 3. “Base Station” means the same as in 47 C.F.R. § 1.6100(b)(1), which defines the term to mean a structure or wireless telecommunications equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include a tower or any equipment associated with a tower.
 - 4. “Collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
 - 5. “Existing tower” or “existing base station” means a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is an existing tower for purposes of this definition.
 - 6. “FCC” means the Federal Communications Commission.
 - 7. “Mobile service”, as defined in 47 U.S.C. § 153, means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay

- stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled “Amendment to the Commission's Rules to Establish New Personal Communications Services” (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.
8. “Mobile service facility” means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.
 9. “Mobile service provider” means a person who provides mobile service.
 10. “Mobile service support structure” means a freestanding structure that is designed to support a mobile service facility.
 11. “Site”, for towers other than towers in the public rights-of-way, means the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
 12. “Substantial modification” means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:
 1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
 2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
 3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
 4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
 13. “Support Structure” means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.
 14. “Tower” means the same as in 47 C.F.R. § 1.6100(b)(9), which defines the term as any structure built for the sole or primary purpose of supporting any Federal Communication Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include a “utility pole”.

15. “Underground areas” means those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right of way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages more than 35,000 volts.
 16. “Utility Pole” means a structure owned or operated by an alternative telecommunications utility, as defined in Wis. Stat. § 196.01(1d); public utility, as defined in Wis. Stat. § 196.01(5); telecommunications utility, as defined in Wis. Stat. § 196.01(10); political subdivision; or cooperative association organized under Wis. Stat. ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Wis. Stat. § 182.017(1g)(cq); for video service, as defined in Wis. Stat. § 66.0420(2)(y); for electricity; or to provide light. A tower is not a utility pole.
 17. “Wireless Infrastructure Provider” means a person that owns, controls, operates, or manages a wireless telecommunications facility or portion thereof.
 18. “Wireless Permit” or “Permit” means a permit issued pursuant to this Subsection H authorizing the placement or modification of a mobile service facility of a design specified in the permit at a particular location, the installation of any mobile service support structure, and/or modification of any existing support structure.
 19. “Wireless Service Provider” means an entity that provides wireless services to end users.
 20. “Wireless Telecommunications Equipment” means equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network.
 21. “Wireless Telecommunications Facility” or “Facility” means a facility at a fixed location consisting of a base station, antennas and other accessory equipment, and a support structure and underground wiring, if any, associated with the base station.
- (2) Applicability. The provisions of this Subsection H shall apply to mobile service facilities in the City.
 - (3) New mobile service support structures and mobile service facilities. The siting and construction of new mobile service support structures and mobile service facilities shall be subject to the following requirements:
 - (a) Application process. The applicant shall submit a written application for a special use permit under the provisions of this Subsection H and said application shall include all of the following information:
 1. The name and business address of, and the contact individual for, the applicant.
 2. The location of the proposed support structure.
 3. The location of the mobile service facility.

4. A construction plan which describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
 5. An explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation; including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
- (b) *Fee.* All applications shall be accompanied by a fee receipt from the City Clerk/Treasurer in the amount set out in the fee schedule resolution adopted by the Common Council from time-to-time. Costs incurred by the City in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be imposed shall be charged to the petitioner. Such fee shall not exceed the limits established by Wis. Stat. § 66.0404(4)(d).
- (c) *Determination of completeness within ten days of submittal.* The City Engineer shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The City Engineer shall notify the applicant in writing within ten days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until it is complete.
- (d) *Requirements.*
1. Before a new tower site is requested, all the existing tower facilities shall be considered and evaluated. If an existing facility cannot be used, a justification report, citing the reasons it cannot be used must be provided with the application as described in subsection H(3)(a)(5).
 2. No permit shall be granted under this subsection until the applicant has placed on file with the Zoning Administrator a certificate or certificates of insurance indicating that there is in effect general public liability insurance covering any damages arising out of the use or operation of the mobile service facility and mobile service support structure. Such insurance shall be in the minimal amount of \$2,000,000 per person, \$2,000,000 for each accident and \$6,000,000 property damage. Said certificate or certificates of insurance shall be furnished to the Zoning Administrator annually or within 10 days of any request by the Zoning Administrator.
 3. All new towers within the City shall be monopoles; which are defined as a smooth, tapered pole, without stepped sections or guy wires and shall be specified or plan approved by a structural professional engineer licensed in the State of Wisconsin. All wireless communications towers, antennas, and associated accessory structures and facilities shall be permanently anchored to the ground.
 4. All new towers shall be constructed to a standard that permits the co-location of a minimum of three telecommunication company facilities on a single tower.

5. All mobile service facilities and mobile service support structures shall be removed from the site within 60 days of use termination by the mobile service provider. Each applicant shall provide a bond or letter of credit in a form satisfactory to the City Attorney, naming the City as beneficiary, in an amount determined by the City Engineer as being reasonably sufficient to ensure the complete removal of the mobile service facilities and, as nearly as practicable, restoration of the effected property upon which such mobile service facilities have been sited to its original condition. Where applicable, restoration shall include the removal of any tower and underground supports and appurtenances, mobile service facilities and related buildings, fences and driveway.
6. All mobile service support structures shall meet the following conditions and requirements:
 - a. The proposed mobile service support structure and related mobile service facilities shall not result in restriction or interference with air traffic or air travel to or from any existing or proposed airport.
 - b. There shall be a setback of sufficient radius around the mobile service support structures that its collapse will be contained on the property and not affect regularly occupied buildings on the subject site.
 - c. No form of advertising shall be allowed on the antenna, mobile service support structure, base, framework or other buildings or facilities associated with the use.
 - d. All cable to and from the antenna and/or mobile service support structure shall be installed underground unless the antenna is mounted on a building where cable will go directly into the structure.
 - e. The site and all structures shall have monthly maintenance and an annual investigation of structural stability.
 - f. Attachments to a support structure shall be designed to be flush with the existing structure to the extent reasonably possible, shall be a color that matches the existing support structure and shall be the smallest size possible to reasonably accommodate the intended purpose. If the structure to which the attachment is made changes color due to repainting, resurfacing or other means, the attachment shall be modified to match the new color.
 - g. The facilities will be served adequately by any required essential public facilities and services.
 - h. The facilities will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets.
 - i. The facilities will not result in the destruction, loss, or damage of any points of visual interest, including views of waterways, open spaces, historic buildings or historic landscapes or cityscapes, architecturally significant structures, or

other scenic views or natural, scenic, or historic feature of significant importance.

j. The facilities shall include such features as are reasonably protect persons and property from erosion, flooding, fire, noise, glare, falling debris or ice, or similar hazards.

k. The proposed facilities shall be in compliance with all applicable State of Wisconsin Statutes and Wisconsin Administrative Code provisions and requirements.

(e) *Exhibits.* Exhibits of the proposed mobile service facilities and/or mobile support structure design, as well as the design of any building(s) and site, shall be attached to the permit document.

(f) *Site Restrictions.* Site restrictions shall be as follows:

1. The exterior of all buildings shall be architecturally compatible and consistent with surrounding buildings and structures and constructed in accordance with the plan approved by the Aesthetic Control Board and shall be neatly maintained at all times. Any deviation in color, material or architectural detail shall be returned to the Aesthetic Control Board for reapproval.
2. The mobile service facilities or mobile service support structure may not include offices, vehicle storage, or outdoor storage or broadcast studios; except for emergency purposes or other uses that are not needed to send or receive transmission as determined by the City.
3. A site grading and storm water drainage plan shall be reviewed and approved by the City Engineer.
4. The applicant shall allow the sharing of any tower with three or more other service providers through the use of a collocation agreement. The holder of a permit under this Subsection H shall not make access to such tower, facilities and site economically unfeasible. If additional users demonstrate (through an independent arbitrator or other pertinent means) that the holder of a special use permit for an antenna support facility and site has made access to such antenna support facility and site economically unfeasible, then the special use permit for said facility shall become null and void. All towers and structures shall be designed structurally, electrically, and in all respects to:
 - a. Accommodate both the applicant's antennas and comparable antennas.
 - b. Allow for the future rearrangement of antennas upon the commercial communication tower or structure.
 - c. Accept antennas mounted at varying heights, provided that said heights do not exceed the maximum height approved or the height of the approved commercial communication tower or existing structure.
5. Buildings, enclosures, equipment and associated devices. All buildings, enclosures, equipment, and other associated devices ancillary to mobile service facilities shall be placed in close proximity to the base of the tower located on the wireless communications site. If the mobile service facility does not have a tower, any buildings,

equipment, and/or other associated devices shall be placed in close proximity to the mobile service support structure. If the mobile services facility has a roof-mounted antenna support structure, an equipment enclosure may be located on the roof, provided that such enclosure is placed as unobtrusively as possible and in compliance with all applicable building codes and this chapter.

- a. All buildings, enclosures, equipment, and other associated devices shall be kept locked at all times.
 - b. Each building, enclosure, equipment, and other associated device shall have a label attached to it. The label shall give the name, address, and telephone number of the person who should be contacted in the event of an emergency. The label required under this subsection shall be of a size and font size to permit it to be legible from behind any fencing required under this Subsection H.
 - c. The aggregate floor area of all buildings and enclosures shall not exceed 500 square feet per tower.
 - d. The total height of the structures shall not exceed 15 feet in height, and the construction materials shall consist of a brick exterior on all sides of the structures.
6. Backup electrical power generators, if provided, shall only be operated during electrical power outages and for testing and maintenance purposes. If the electrical power generator is located within 100 feet of a residential zoning district boundary line, noise attenuation measures shall be included to reduce noise levels to an exterior noise level of not greater than 45 dB Ldn at the property line. Testing and maintenance of said electrical power generators shall only take place on weekdays between the hours of 9:00 a.m. and 5:00 p.m.
 7. An "RF Safety Hazard" sign per ANSI Standard C95.2-1982, including descriptive wording or warning information at the user's option, shall be located on the tower and facilities where appropriate to create an awareness of a possible RF exposure to personnel. Sign lettering is recommended to conform to ANSI Z35.1-1972m while the yellow triangle shall conform to ANSI Z53.1-1979. ANSI Z35.1-1972 details construction guidance in the selection of finishes, illumination and placement.
 8. Anticlimbing measures required. Towers shall be designed to prevent children and trespassers from climbing on those structures. Sufficient anticlimbing measures shall be incorporated into the facility to reduce the potential for trespass and injury. Ladder rungs on towers shall be placed a minimum of 20 feet above the ground.
 9. Advertising and signage. No form of advertising or signage (other than warning or equipment information signage) shall be allowed on any mobile services facility or mobile service support structure. All signage shall be according to applicable City sign regulations in this Code. In addition, the following signs are hereby prohibited:
 1. Any sign which, or any part of which, is in motion by any means, including fluttering or rotating, or other signs set in motion by movement of the atmosphere. This includes all flags (except that of the United States of America, State of Wisconsin, and City of St. Francis), pennants, whirling objects, banners, or other entities attached to strings or lines.

2. Inflatable advertising devices or signs.
 3. Changeable copy and portable trailer signs, either fixed or moveable.
 4. Banners which are temporary signs or devices of paper, fabric, plastic, or other flexible materials and are suspended by wires or poles to advertise a special event (except as may be permitted by the Common Council).
 5. Statues and stuffed animals.
 6. A sign on a motor vehicle or trailer parked on public or private property so as to be seen from the public right-of-way for more than three consecutive hours, which has attached thereto or located thereon any sign for the purpose of advertising a product or directing people to a business activity.
10. Security and fencing. The base of the tower and its associated accessory structures shall be enclosed and fenced by a security fence not less than six feet in height and secured so that it is not accessible by the general public. Fence design, materials, and colors shall reflect the character of the surrounding area as determined by the Planning Commission and Common Council. Electrical fencing is prohibited. All fencing shall meet the applicable fence requirements of this Code.
11. Landscaped buffer yard required. A buffer yard of plant materials of sufficient maturity and size (as determined by the Planning Commission) to immediately and effectively screen the equipment cabinets, structures, or buildings from public view and from adjacent properties shall be provided.
1. The minimum buffer yard shall consist of a landscaped strip at least 10 feet in width outside the entire perimeter of the wireless communications facility.
 2. In locations where the visual impact of the tower would be minimal (as determined by the Planning Commission), the landscaping requirement may be reduced or waived with the approval of the Planning Commission.
 3. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, when such towers are sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer yard.
 4. All landscaping requirements detailed here shall be properly maintained in perpetuity.
 5. The minimum size of plant materials used in the required buffer yard shall be as indicated below:

Plant Material Type	Minimum Plant Material Sizes
Canopy trees	
Single stem	3-inch caliper
Multi-stem clump	12 feet tall

Coniferous trees	8 feet tall
Understory trees	2-inch caliper
Shrubs	3 feet tall

12. Lighting. No mobile services facility or mobile services support structure shall be artificially illuminated unless required by the Federal Aviation Administration or other applicable authority. This subsection does not prohibit the use of motion detectors and associated lighting for security nor the use of full cutoff luminaire design outdoor lights when the wireless communication provider's personnel are present. This subsection is not intended, and shall not be construed, to prohibit any lighting required by any local, state, or federal law, rule, or regulation. If lighting is required by such law, rule, or regulation, the operator and owner shall choose the lighting which causes the least disturbance to the occupants of the adjacent properties.
13. Color and finish. All mobile service support structures and mobile service facilities shall be of a color that best allows them to blend into the surroundings so as to reduce visual obtrusiveness or to camouflage the tower and antennas. The use of grays, blues, and greens may be appropriate; however, each case shall be evaluated by the Planning Commission on an individual basis. All finishes shall be nonreflective.
14. No outdoor storage permitted. There shall be no outdoor storage of any vehicles, equipment, or other goods permitted in conjunction with mobile service facilities or mobile service support structure. This subsection does not apply to overnight storage of vehicles or equipment actively involved in the construction or repair of the wireless communications tower, antennas, and associated accessory structures and facilities.
15. Hazardous materials. There shall be no use of, generation of, storage of, or disposal of any hazardous materials on, under, about, or within the land in violation of any law or regulation in conjunction with wireless communications towers, antennas, and associated accessory structures and facilities.
16. Maintenance. All mobile service facilities and mobile service support structures shall be maintained in a clean, rust-free, sanitary, and safe manner and kept free from trash, refuse, and debris. In addition, all wireless communications towers, antennas, and associated accessory structures and facilities shall be maintained in accordance with all applicable local, state, and federal regulations. If the Zoning Administrator concludes that a mobile service facility and/or mobile service support structure fails to comply with such codes and regulations and constitute a danger to persons or property in the vicinity, the City Zoning Administrator shall notify the owner or operator of such fact. The notice shall be in writing and shall require the owner or operator to bring the facility into compliance with such codes and regulations within a time frame set forth by the Zoning Administrator but not to exceed 30 days of the date of service of the notice whichever is earlier. If the owner or operator fails to obtain compliance within the time provided, the Zoning Administrator may, in addition to proceeding with any action to enforce a forfeiture for violation of this Chapter or for each day of each violation, and/or pursuing injunctive relief, order the mobile service facility and/or mobile service support structure to be removed to the extent reasonably necessary to protect persons or property in the vicinity. The cost of removal shall be at the owner's expense.

17. Antennas on existing towers. The attachment of a new mobile service facility on an existing tower may be allowed to minimize adverse visual impacts associated with the proliferation and clustering of towers.
 18. Electrical wiring. Electrical wiring shall be installed by a licensed electrical contractor and approved by the City's Electrical Inspector.
- (g) The applicant for any permit under this Subsection H, shall warrant the safety of the technology of the facilities and hold the City, its officers, agents, employees, and representatives harmless from any claims or losses to the City or its residents; including reasonable attorney fees, arising from, or related to the negligence, willful misconduct, or other fault of the wireless infrastructure provider and operator(s), and their employees, agents, or subcontractors with regard to the installation, operation, use, maintenance, repair, removal, or presence of such wireless telecommunications equipment and wireless telecommunications facility within the City.
 - (h) In the case of the City leasing space for the placement of mobile service facilities, including the antenna or antenna structure, a separate lease agreement between the City and the wireless service provider shall be required.
 - (i) Any other condition(s) recommended by the Planning Commission and approved by the Common Council subject to the limitations set forth in Wis. Stat. § 66.0404.
- (4) *Modifications.* Modification to an existing mobile service support structure and/or mobile service facility shall be subject to the following requirements:
- (a) *Substantial modifications.*
 1. *Application and review process.* A substantial modification is regulated the same as a new mobile service support structure or mobile service facility, as described in subsection H(3) above, except that the required construction plan shall describe the proposed modifications, rather than describe the new structure or facility.
 - (b) *Non-substantial modifications.* Co-location of mobile service facilities on an existing support structure, where such co-location is not otherwise subject to the provisions of subparagraph H(4)(a) above, shall be subject to the following:
 1. *Application information.* The applicant shall submit a written application that describes the applicant's basis for concluding that the modification is not substantial, and all of the following information:
 1. The name and business address of, and the contact individual for, the applicant.
 2. The location of the affected support structure.
 3. The location of the proposed facility.
 2. *Review Process.* Applications involving non-substantial modifications shall, subject to the provisions of Wis. Stat. § 66.0404, be subject to the provisions of Subsection H(3) applicable to all applicants for a permit or to all mobile service facilities.
 - (c) *Fee.* Any application shall be accompanied by a fee receipt from the City Clerk/Treasurer in the amount set forth in the fee resolution adopted by the Common Council. Costs incurred by the City in obtaining legal, planning, engineering and other technical and

professional advice in connection with the review of the application and preparation of the conditions to be imposed shall be charged to the applicant. Such fee shall not exceed the limits established by Wis. Stats. § 66.0404(4)(d).

- (d) *Completeness determination within five days.* The City Engineer will determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The City Engineer will notify the applicant in writing within five days of receiving the application if it is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.
- (5) *Determination.* The granting of a permit under this Subsection H shall be equivalent to the granting of a special use permit shall be subject to the approval of the Common Council, which shall make a decision on the application within a reasonable time after a public hearing has been conducted provided, however, that final action shall be taken within 90 days of receipt of a complete application unless the time extended by the applicant for applications subject to Subsection H(3) and within 45 days of receipt of a complete application for applications subject to Subsection H(4). Said decision shall be stated in writing and a copy made a permanent part of the City's records. If a permit is not granted, the reasons therefor will be included in such record.
- (6) *Limitations upon authority.* The review and action in the matter by the City shall be subject to the limitations imposed by Wis. Stat. § 66.0404(4). In the event the applicant believes the City has exceeded its authority in this regard, the applicant shall notify the Common Council in writing within 30 days of the decision complained of and the Common Council reserves the right to reconsider the matter, including but not limited by means of referral to the Planning Commission and/or Aesthetic Control Board as may be necessary, to ensure that applicable laws are followed.
- (7) *Debris.* Any debris arising from the permittee's use, whether arising from construction or at any time thereafter, must be promptly removed by the permittee. Debris remaining for more than five (5) business days constitutes a violation of this Ordinance subject to the violations and penalties provisions of § 1-4 of this Code. Each day that the debris remains after such time constitutes a separate offense.
- (8) *Changes or Additions to plans.* Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Planning Commission and, if in the opinion of the Planning Commission, such change or addition constitutes a substantial alteration, a public hearing before the Common Council shall be required and notice thereof be given pursuant to this Chapter.

SECTION 2: SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect following its passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 7th day of May, 2019.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj

Ken Tutaj, Mayor

ATTEST: /s/Anne B. Uecker, MMC/WCPC

Anne Uecker, City Clerk/Treasurer