

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 Section 455-45(H), “Wireless telecommunications facilities”, is hereby repealed and recreated to read as follows: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