

REGULAR MEETING OF THE RIVERVIEW CITY COUNCIL
CITY OF RIVERVIEW, WAYNE COUNTY, MICHIGAN
HELD ON MONDAY, OCTOBER 5, 2020 A.D.
IN THE COUNCIL CHAMBERS OF
THE PETER ROTTEVEEL MUNICIPAL BUILDING
14100 CIVIC PARK DRIVE, RIVERVIEW, MICHIGAN 48193-7689

VIA TELECONFERENCE

Notice is hereby given that due to precautions being taken to mitigate the spread of the Coronavirus (COVID-19) and protect the public health, the Regular Meeting of the Riverview City Council will be held electronically on Monday, October 5, 2020, at 7:30 p.m. The meeting is being held in compliance with Governor's Michigan Executive Order No. 2020-177/2020-154 effective October 1, 2020, and continuing until October 29, 2020 at 11:59 p.m.

Members of the public wishing to participate in the meeting through electronic means will have access to the meeting through the following methods:

Virtual Meeting Option: Access the meeting room via <https://us02web.zoom.us/j/82050401587>
Join Zoom Meeting

Telephone Option Directions:

- 1.Dial: 1.312.626.6799
- 2.Enter meeting code: 82050401587#
- 3.Enter #

Email Option: Send your public comment through email at: clerk@cityofriverview.com and your comment will be read at the meeting.

Rules of Procedure: Any member of the public wishing to comment during the Public Comment on Agenda Items on any agenda item (5 minute time limit) will be allowed to do so remotely by electronic or telephonic means set forth above. In order to maintain decorum, the Mayor and/or designee will determine the order of speakers and the appropriate time frame for which comments are allowed.

The meeting was called to order at 7:42 p.m.

PRESIDING: Mayor Swift

PRESENT: Councilmembers Blanchette (excused at 7:59 p.m. Illness), Norton, O'Neil, Towle, Trombley, Workman

ALSO PRESENT: City Manager Drysdale, City Clerk Hutchison, Landfill Marketing Director Kugelmann, Police Chief Rosebohm, Police Lt. Troup, Fire Chief Lammers, Human Resource Director Mayerich, Finance/Purchasing Director McMahon, Information and Technology Director Harper, Parks and Recreation Director Dickman, Library Director Frattarelli, Golf Course Director Kettler, Carlisle Wortman Cornerstone Environmental Group Project Manager Bowyer, Charles E. Raines City Engineer Sabak, Attorney Pentiuik

The **Pledge of Allegiance** was led by Councilmember Towle.

The **Invocation** was given by Councilmember Norton.

AWARDS AND PRESENTATIONS AND PROCLAMATIONS:

None.

MINUTES:

Motion by Councilmember Norton, seconded by Councilmember Workman that the **Minutes** of the Regular Meeting of **September 21, 2020**, and the condensed version for publication, be **Approved**.
Carried unanimously.

PUBLIC HEARINGS:

None.

PUBLIC COMMENTS:

The Mayor offered public comments. No one spoke.

ORGANIZATIONAL BUSINESS:

Motion by Councilmember Trombley, seconded by Councilmember Towle, that Mr. **Emmanuel Kollias** be reappointed to the City **Planning Commission** for a three year term set to expire on **July 31, 2023**, be Approved.

Carried unanimously.

CONSENT AGENDA:

At the request of Councilmember Trombley, the following was removed from the Consent Agenda:

- Accept Donation from Residents of the Crown Pointe Condominium Association for the Riverview Police Department.

Motion by Councilmember Workman, seconded by Councilmember Blanchette, that the **Consent Agenda** be Approved as follows:

- Authorize Solicitation of Bids for **Clean Wood Grinding** at the Land Preserve.
- Authorized Execution of Addendum Extending **Agreement** for **HVAC Services** with **Temperature Unlimited, Inc.**, through **October 5, 2023**.
- Authorize Agreement with **Russell Design Landscape Architecture** in the Amount of **\$14,000.00** for **Landscape Architectural Services** for the **Riverview Veteran’s Memorial**.
- Approve Budget Amendments as follows:

A.

Description	Account Number	Current Appropriation	Amended Appropriation	Amendment or Change
2020/21 Water & Sewer				
Water Main Replacement	592-536-999.057	\$ 900,000.00	\$ 1,770,880.00	\$ 870,880.00

JUSTIFICATION: To pull unspent funds from Fiscal Year 2019/20 into the current fiscal year.

B.

Description	Account Number	Current Appropriation	Amended Appropriation	Amendment or Change
2020/21 Parks Maintenance				
Donated Capital	101-000-697.500	\$ 0.00	\$ 13,000.00	\$ 13,000.00
Veterans Memorial	101-444-975.050	\$ 0.00	\$ 14,000.00	\$ 14,000.00

JUSTIFICATION: To increase the Veteran’s Memorial line item for the architect fees for the monuments rehabilitation and to increase the Donated Capital line item by \$13,000.00, \$6,000.00 of the donation will come from the Veteran’s Memorial account and the other \$7,000.00 will come from a private donor..

Motion by Councilmember Trombley, seconded by Councilmember Towle, that Acceptance of a **Donation** from Residents of the **Crown Pointe Condominium Association** for the Riverview Police Department be Approved.

Carried unanimously.

RESOLUTIONS:

None.

ADMINISTRATION:

Motion by Councilmember Towle, seconded by Councilmember O’Neil, that Authorization for the **Civil Engineering Services** with **Charles E. Raines** Company in the Amount of **\$197,574.00** be Approved.

Drain Dredging - Kennebec Park	402-901-980.018	\$30,600.00
PRV Replacement at Electric Ave. and Allen Road	592-536-991.098	\$79,574.00
	202-463-818.035	
Joint and Crack Sealing	203-463-818.035	\$36,400.00
NPDES - Major Streets	202-463-991.064	\$12,000.00
NPDES - Local Streets	203-463-991.064	\$8,000.00
Downriver Waste Water System	592-527-810.000	\$15,000.00
DPW Assistance - Seweres	592-527-818.155	\$8,000.00
DPW Assistance - Watermains	592-536-818.155	\$8,000.00
Total Work Authorizations		\$197,574.00

Carried unanimously.

Motion by Councilmember Trombley, seconded by Councilmember Towle, that Authorization for

Execution of **Telecommunications Site License Access Agreement** for **Superior Communications, Inc.**, d/b/a/ **Smile FM**, for a **One-Year Extension Agreement**, be Approved.

Carried unanimously.

ORDINANCES:

Motion by Councilmember Norton, seconded by Councilmember Trombley, that Authorization for the Clerk to give the **Second Reading**, by title only, of Proposed **Ordinance No. 715**, to Amend the Code of Ordinance in regards to Chapter 62 “Telecommunications,” by the Addition of Article IV, “**Small Cell Wireless Facilities Deployment.**”

Carried unanimously.

PROPOSED ORDINANCE NO. 715

AN ORDINANCE TO AMEND CHAPTER 62 “TELECOMMUNICATIONS”, OF THE RIVERVIEW CODE, BY THE ADDITION OF ARTICLE IV, “SMALL CELL WIRELESS FACILITIES DEPLOYMENT”, TO REGULATE THE DEPLOYMENT OF SMALL CELL WIRELESS FACILITIES AND INFRASTRUCTURE WITHIN THE CITY

THE CITY OF RIVERVIEW ORDAINS:

SECTION 1. Amendment to Code.

That Article IV, “Small Cell Wireless Facilities Deployment”, be added to Chapter 62, “Telecommunications”, to hereafter read as follows:

CHAPTER 62 TELECOMMUNICATIONS

ARTICLE IV SMALL CELL WIRELESS FACILITIES DEPLOYMENT

Sec. 62-180. - Title and purpose.

(a) This ordinance shall be known and may be cited as the "small cell wireless communications facilities deployment ordinance".

(b) The purpose of the ordinance is to regulate the siting of "Small Cell" facilities.

Sec. 62-181. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Other terms used in this article have the meanings assigned them in the Act.

"Act" means the small wireless facilities act, 2018 PA 365, MCL 460.1301, et seq., as the same may be amended from time to time.

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

"Applicant" means a wireless provider or wireless infrastructure provider that submits an application described in this ordinance.

"Authority" or "City", unless the context implies otherwise, means the City of Riverview to the extent authorized by law to make legislative, quasi-judicial, or administrative decisions concerning an application described in this ordinance.

"Authority pole" means a utility pole owned or operated by the Authority and located in the ROW.

"Colocate" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning.

"FCC" means the Federal Communications Commission or any successor agency.

"Fee" means an Authority one-time per small cell site charge for application processing.

"Rate" means an Authority annual charge per site.

"Historic district" shall mean any property maintained or overseen by the Historical Commission Ordinance, Code of Ordinances Section 2-466, et seq.

"Make-ready work" means work necessary to enable an Authority pole or utility pole to support collocation, which may include modification or replacement of utility poles or modification of lines.

"Micro wireless facility" means a small cell wireless facility that is not more than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that does not have an exterior antenna more than eleven (11) inches in length.

"MPSC" means the Michigan Public Service Commission or any successor agency.

"Public right-of-way" or "ROW" means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

1. A private right-of-way.
2. A limited access highway.
3. Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

"Small cell wireless facility" means a wireless facility that meets both of the following requirements:

1. Each antenna is not more than six (6) cubic feet in volume.
2. All other wireless equipment associated with the facility, disregarding electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, and vertical cable runs for the connection of power and other services, is cumulatively not more than twenty-five (25) cubic feet in volume.

"Utility pole" means a pole or similar structure that is or may be used to support small cell wireless facilities. Utility pole does not include a sign pole less than fifteen (15) feet in height above ground.

"Wireless facility" means wireless equipment, including, radio transceivers, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility does not include coaxial or fiber-optic cable between utility poles or wireless support structures.

"Wireless provider" is a regulated provider of telecommunications services and a "wireless infrastructure provider" is an installer of wireless equipment at small cell sites. These terms may be used interchangeably for purposes of this ordinance.

"Wireless services" means any services, provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

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

"Wireline backhaul facility" means a facility used to transport services by wire or fiber-optic cable from a wireless facility to a network.

"Zoning Ordinance" means the Zoning Ordinance of the City of Riverview, as adopted and amended, and any successor ordinance.

Sec. 62-182. - Scope of Authority.

(a) Except as provided in this ordinance or the Act, the Authority shall not prohibit, regulate, or charge for the collocation of small cell wireless facilities.

(b) The approval of a small cell wireless facility under this ordinance authorizes only the collocation of a small cell wireless facility and does not authorize either of the following:

1. The provision of any services.
2. The installation, placement, modification, maintenance, or operation of a wireline in

the ROW.

Sec. 62-183. - Small cell ROW access; permitted use; height; underground, Fort Street District and residential and historic districts; Aesthetic limitations and requirements.

(a) This section applies only to activities of a wireless provider within the ROW for the deployment of small cell wireless facilities and associated new or modified utility poles.

(b) The Authority shall not enter into an exclusive arrangement with any person for use of the ROW for the construction, operation, or maintenance of utility poles or the collocation of small cell wireless facilities.

(c) The Authority shall not charge a wireless provider an annual rate more than:

1. Twenty dollars (\$20.00) annually, unless subdivision (2) applies.
2. One hundred twenty-five dollars (\$125.00) annually, if a new utility pole or wireless support structure was erected at a new site by or on behalf of the wireless provider on or after the effective date of this ordinance. This subdivision does not apply to the replacement of an existing utility pole.

(d) All rates and fees currently applicable shall be modified within ninety (90) days of application receipt, so as not to exceed the fees provided in this section, except:

1. For new small cell dedicated utility poles installed and operational in the ROW before the effective date of this ordinance or related agreements, which shall remain in effect for the duration of the ordinance or agreement, or
2. Fee increases permitted by the Act.

(e) Except as set forth in Code of Ordinances Sections 62-184 and 62-185 below, and as limited in this section, small cell siting is a permitted use and not subject to zoning regulation if it complies with all other sections of this ordinance and if:

1. A utility pole in the ROW installed or modified on or after the effective date of this ordinance does not exceed forty (40) feet above ground level, unless a taller height is agreed to by the Authority.
2. A small cell wireless facility in the ROW installed or modified after the effective date of this ordinance shall not extend more than five (5) feet above a utility pole or wireless support structure on which the small cell wireless facility is collocated.

(f) A proposed utility pole or other support structure that exceeds the height limits under subsection (e), is subject to review as set forth in the Zoning Ordinance.

(g) Undergrounding: A wireless provider shall comply with reasonable and nondiscriminatory requirements that do not prohibit communications service providers from installing structures on or above ground in the ROW in an area designed solely for underground or buried cable and utility facilities, if:

1. The Authority has required all cable and utility facilities to place all their facilities underground and,
2. The Authority does not prohibit replacement of the Authority's poles by a wireless provider in the designated area.

A wireless provider may apply for a waiver of the undergrounding requirements.

(h) Fort Street District and historic and residential districts.

A wireless provider shall comply with written, objective requirements for reasonable, technically feasible, nondiscriminatory, and technologically neutral designs or concealment measures in the Fort Street District, and any historic district, or residential zoning district. Such requirement shall not have the effect of prohibiting any wireless provider's technology. Any such design or concealment measures are not included in size restrictions in the definition of small wireless facility in Section 62-181.

(i) All wireless providers shall repair all damage to the ROW caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and, to return the ROW to its original condition. Following sixty (60) days' written notice, the Authority may make those repairs and charge the wireless provider the cost of the repairs.

(j) Aesthetics Requirements: Wireless Providers shall install, modify, collocate or otherwise provide all wireless facilities, equipment, poles, support structures and all other related wireless objects in a manner, size and appearance that is consistent and in conformity with the existing requirements and existing

practices in fact, pertaining to such districts as defined by the applicable ordinances, rules and codes of this community and the applicable rules and laws of this State, in such fashion as to create the least possible negative impact on the district. Such accommodations may include use of similar height, materials, color, design, number and appearance of other similar structures utilized by other occupiers of the Rights of Way and public spaces.

1. To the extent consistent with applicable law, review of permit applications under this ordinance shall consider the following preferences:
 - a. Collocation including replacement of existing poles or support structures is strongly encouraged over the installation of additional new poles or support structures in the Right-of-Way, due to travel safety concerns.
 - b. Placement of all equipment inside the pole or support structure is favored over placement outside the pole, including ground mountings.
 - c. Smallest feasible equipment, antennas and poles and support are preferred.
 - d. Camouflaging, stealth or concealment elements are preferred.
 - e. Installations generally are favored in the following Districts in the following order of preference:
 - First Preference: Industrial
 - Second Preference: Commercial
 - Third Preference: Residential
 - Fourth Preference: Underground commercial and then underground residential
 - Fifth Preference: Historic
 - Sixth Preference: Environmentally sensitive areas including nature and wetland preservation sites.
2. Disagreements as between the provider and community on specific aesthetics issues shall be addressed by the Council upon timely written request of the provider. Staff and council may consider incentives favoring installations in preferred districts.

Sec. 62-184. - Provider and authority responsibilities; application information; shot clocks; tolling; deemed approved; basis for denial; resubmittal; batch applications; application fees; micro wireless facility exemption; alternate siting; decommissioning sites.

(a) Except as otherwise provided in subsection (5) below, an applicant shall apply to the City Clerk for an Authority ROW access permit, like those required of all other ROW users, to collocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility will be collocated as required of all ROW users. The processing of an application for such a permit is subject to all of the following:

1. In-kind contributions to the Authority are not permitted in lieu of rates and fees described above.
2. The applicant shall provide all the information and documentation required by the Authority to enable the Authority to make an informed decision with regard to its criteria for authorizing ROW access including the following:
 - a. A certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility,
 - b. Proof of notification to every other affected governmental authority and all necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained.
 - c. An attestation that the small cell wireless facilities will be operational for use by a wireless services provider within one (1) year after the permit issuance date. Failure to abide by this term shall result in termination of any permit issued in reliance on such attestation.
3. Within twenty-five (25) days after receiving an initial application, the Authority shall notify the applicant in writing whether the application is complete. If incomplete, the notice will delineate all missing documents or information. The notice tolls the running of the time for approving or denying an application under subdivision (5).
4. If the applicant makes a supplemental submission in response to the authority's notice of

incompleteness, the authority will so notify the applicant in writing within ten (10) days, delineating the previously requested and missing documents or information. The time period for approval or denial is tolled in the case of second or subsequent notices under the procedures identified in subdivision (3).

5. The Authority shall approve or deny the application and notify the applicant in writing within the following period of time after the application is received:

- a. Collocation: For an application for the collocation of small cell wireless facilities on a utility pole, sixty (60) days, subject to the following adjustments:
 - i. Add fifteen (15) days if an application from another wireless provider was received within one (1) week of the application in question.
 - ii. Add fifteen (15) days if, a timely extension is requested.
- b. New or Replacement forty-foot Pole and Limited Equipment: For an application for a new or replacement utility pole that meets the height requirements of Section 62-183(e)(1) and associated small cell facility, ninety (90) days, subject to the following adjustments:
 - i. Add fifteen (15) days if an application from another wireless provider was received within one (1) week of the application in question.
 - ii. Add fifteen (15) days if a timely extension is requested.
 - iii. Deemed Approved: A completed application is considered to be approved if not timely acted upon by the Authority and, if the Authority receives not less than seven (7) days' notice, the applicant may proceed with the work pursuant to this automatic approval.

6. Basis for Denial: The Authority may deny a completed application for a proposed collocation of a small cell wireless facility or installation, modification, or replacement of a utility pole if the proposed activity would do any of the following:

- a. Materially interfere with the safe operation of traffic control equipment.
- b. Materially interfere with sight lines or clear zones for transportation or pedestrians.
- c. Materially interfere with compliance with the Americans with Disabilities Ordinance of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.
- d. Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of an authority.
- e. With respect to drainage infrastructure under the jurisdiction of an authority, either of the following:
 - i. Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.
 - ii. Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.
- f. Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by ordinance or otherwise that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location.
- g. Fail to comply with all other applicable codes.
- h. Fail to comply with Code of Ordinances Section 62-183 (g) or (h).
- i. Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the authority.
- j. Exceed the height limit set forth in Code of Ordinances Section 62-183 (e) (1).

7. Reasons for Denial; Resubmission and thirty (30) Day Shot Clock: If the completed application is denied, the notice under subdivision (5) shall explain the reasons for the denial and, if applicable, cite the specific provisions of applicable codes on which the denial is based. The applicant may cure the deficiencies identified by the Authority and resubmit the application within thirty (30) days after the denial without paying an additional application fee. The Authority shall approve or deny the revised application within thirty (30) days. The Authority shall limit its review of the revised application to the deficiencies cited in the denial.

8. Batch Applications: An applicant may file an application and receive a single permit for the collocation of up to twenty (20) substantially similar small cell wireless installations. The

Authority may approve or deny one (1) or more small cell wireless facilities included in such consolidated application.

9. Approval of an application authorizes the wireless provider to undertake the installation, collocation and maintenance of such facilities.

10. The Authority shall not institute a moratorium on filing, receiving, or processing applications or issuing permits for the collocation of small cell wireless facilities or the installation, modification, or replacement of utility poles on which small cell wireless facilities will be colocated.

11. The authority and an applicant may extend a time period under this subsection by mutual agreement.

(b) Application Fee for a permit under subsection (a) shall not exceed the lesser of the following:

1. Two hundred dollars (\$200.00) for each small cell wireless facility alone.
2. Three hundred dollars (\$300.00) for each small cell wireless facility and a new utility pole to which it will be attached.

(c) The Authority may revoke a permit, upon thirty (30) days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of this ordinance.

(d) Micro Wireless Facility Exempt: The Authority shall not require a permit or any other approval or require fees or rates for ordinance compliant replacement, maintenance or operation of a small cell wireless facility or ordinance compliant installation, replacement, maintenance or operation of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.

(e) Alternate Siting: Upon receipt of an application to place a new utility pole, the Authority may propose and the applicant shall use an alternate location within the ROW or on property or structures owned or controlled by an authority within seventy-five (75) feet of the applicants proposed location if reasonably achievable.

(f) Decommissioning Sites: An authority shall notify the authority in writing before discontinuing use of a small cell wireless facility, utility pole, or wireless support structure. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The wireless provider shall return the property to its pre-installation condition. If the wireless provider does not complete the removal within forty-five (45) days after the discontinuance of use, the authority may complete the removal and assess the costs of removal against the wireless provider. A permit under this section for a small cell wireless facility expires upon removal of the small cell wireless facility.

(g) A provider shall obtain a permit for any work that will affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

Sec. 62-185. – Authority owned poles—Rates; terms.

(a) The Authority shall not enter into an exclusive arrangement with any person for the right to attach to Authority poles. A person who purchases, controls, or otherwise acquires an Authority pole is subject to the requirements of this section.

(b) Rate: The rate for the collocation of small cell wireless facilities on authority poles shall be nondiscriminatory regardless of the services provided by the collocating person. The rate shall not exceed thirty dollars (\$30.00) per year per authority pole plus any rate charged for the use of the ROW under Section 62-183.

(c) Within ninety (90) days after receiving the first request to colocate a small cell wireless facility on an Authority pole, the Authority shall make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small cell wireless facilities on the Authority poles. The rates, fees, and terms shall comply with all of the following:

1. The rates, fees, and terms shall be nondiscriminatory, competitively neutral, and commercially

reasonable and shall comply with this act.

2. The Authority shall provide a good-faith estimate for any make-ready work within sixty (60) days after receipt of a complete application. Make-ready work shall be completed within sixty (60) days of written acceptance of the good-faith estimate by the applicant.
3. The person owning or controlling the Authority pole shall not require more make-ready work than required to comply with law or industry standards.
4. Fees for make-ready work shall not do any of the following:
 - a. Include costs related to preexisting or prior damage or noncompliance unless the damage or noncompliance was caused by the applicant.
 - b. Include any unreasonable consultant fees or expenses.
 - c. Exceed actual costs imposed on a nondiscriminatory basis.

(d) This section does not require the Authority to install or maintain any specific Authority pole or to continue to install or maintain Authority poles in any location if the Authority makes a nondiscriminatory decision to eliminate aboveground poles of a particular type generally, such as electric utility poles, in a designated area of its geographic jurisdiction. For authority poles with collocated small cell wireless facilities in place when an Authority makes a decision to eliminate aboveground poles of a particular type, the Authority shall do one (1) of the following:

1. Continue to maintain the authority pole.
2. Install and maintain a reasonable alternative pole or wireless support structure for the collocation of the small cell wireless facility.
3. Offer to sell the pole to the wireless provider at a reasonable cost.
4. Allow the wireless provider to install its own utility pole so it can maintain service from that location.
5. Proceed as provided by an agreement between the authority and the wireless provider.

Sec. 62-186. – Higher education campus exempt.

The Authority does not have jurisdiction over small cell wireless facilities located upon public school property, or a campus of an institution of higher education, other than to enforce applicable codes.

Sec. 62-187. - No provider requirement of service.

This ordinance does not require wireless facility deployment or regulate wireless services.

Sec. 62-188. - Appeals.

The applicant may appeal any Authority determinations related to this ordinance to the highest elected body of the Authority or the circuit court in the judicial circuit where the Authority is located.

Sec. 62-189. – Defense, indemnity and insurance.

All applicant wireless providers shall:

(a) Defend, indemnify, and hold harmless the Authority, its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant and all entities acting on its behalf including but not limited to its contractors, its subcontractors, and the officers, employees, or agents of any of these, except as to liabilities or losses due to or caused by the sole negligence of the authority or its officers, agents, or employees.

(b) Obtain insurance naming the Authority and those acting on its behalf including but not limited to its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the Authority's insurance coverage and limit requirements by self-insurance, conditioned upon

providing to the Authority, evidence demonstrating, to the Authority's satisfaction, the wireless provider's financial ability to meet the Authority's insurance coverage and limit requirements throughout the life of the provider's use of the ROW. To the extent it self-insures, a wireless provider is not required to name additional insureds under this section.

Sec. 62-190. – Reduced fees.

The Authority may establish a fee or rate less than the maximum specified in Sections 62-183 (c), 62-184 (b), 62-185 (b), or subject to other requirements of this act.

Sec. 62-191. – Bonding.

(a) As a condition of a permit described in this act, the wireless provider shall provide a one thousand dollar (\$1,000.00) bond per site, for the purpose of providing for the removal of abandoned or improperly maintained small cell wireless facilities, including those that the Authority determines should be removed to protect public health, safety, or welfare, to repair the ROW as provided under MCL 460.1333 and, to recoup rates or fees that have not been paid by a wireless provider in more than twelve (12) months, if the wireless provider has received 60-day advance notice from the authority of the noncompliance.

(b) The authority shall not require a cash bond, unless the wireless provider has failed to obtain or maintain a bond required under this section or the surety has defaulted or failed to perform on a bond given to the authority on behalf of a wireless provider.

Sec. 62-192. – Labelling.

A small cell wireless facility for which a permit is issued shall be labeled with the name of the wireless provider, emergency contact telephone number, and information that identifies the small cell wireless facility and its location.

Sec. 62-193. – Electric costs.

A wireless provider is responsible for arranging and paying for the electricity used to operate a small cell wireless facility.

Sec. 62-194. – Investor owned utilities.

(a) This ordinance, except to the extent the authority seeks to hold all utilities occupying the ROW to the same requirements and obligations as imposed upon wireless providers consistent with 2018 PA 365, does not add to, replace, or supersede any law regarding poles or conduits, similar structures, or equipment of any type owned or controlled by an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, or an independent transmission company.

(b) This ordinance, except to the extent the authority seeks to hold all utilities occupying the ROW to the same requirements and obligations as imposed upon wireless providers consistent with 2018 PA 365, does not impose or otherwise affect any rights, controls, or contractual obligations of an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, or an independent transmission company with respect to its poles or conduits, similar structures, or equipment of any type.

(c) Except for purposes of a wireless provider obtaining a permit to occupy a right-of-way, and to the extent the authority seeks to hold all utilities occupying the ROW to the same requirements and obligations as imposed upon wireless providers consistent with 2018 PA 365, this ordinance does not affect an investor-owned utility whose rates are regulated by the MPSC. Notwithstanding any other provision of this act, pursuant to and consistent with section 6g of 1980 PA 470, MCL 460.6g, the MPSC has sole jurisdiction over attachment of wireless facilities on the poles, conduits, and similar structures or equipment of any type or kind owned or controlled by an investor-owned utility whose rates are regulated by the MPSC.

Sec. 62-195. – Authority reservation of rights.

This ordinance is enacted in compliance with Michigan 2018 PA 365, MCL 460.1301, et seq.; and 2018 PA 366, MCL 125.3205(1)(c) as amended; and MCL 125.3514(10). However, the Authority takes specific note of inconsistencies between these State Acts and certain potentially preemptive FCC Rulings concerning "Small Cells" known as the "Moratoria Order"; FCC 3rd Report and Order and Declaratory Ruling of 8/13/2018 FCC 18-111 <https://docs.fcc.gov/public/attachments/FCC-18->

111A1.pdf and "Small Cell Order"; FCC Declaratory Ruling and 3rd Report and Order of 9/27/2018 FCC 18-133 <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>.

The Authority also notes inconsistencies with the Michigan Constitution of 1963 including but not limited to Article VII Sections 22, 26, 29, 30, 31 and 34. Enacting this ordinance does not preclude the Authority from engaging in or otherwise supporting a judicial or other challenge to either the State Acts or FCC rules referenced above. In the event of any interpretations, including Judicial, Legislative or Administrative, contrary to the Michigan Public Acts and/or FCC rules referenced above, the authority specifically reserves the right to amend and or terminate this ordinance and all related agreements, policies and procedures undertaken in furtherance hereof.

ARTICLE II. Penalty: A person violating this ordinance shall be punished in accordance with Section 1-8 of the Code of Ordinances of the City of Riverview, unless a different penalty is expressly provided in this ordinance.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any Court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such word, sentence, phrase or any portion of the Ordinance held to be invalid and shall not be construed as affecting the validity of any remaining words, sentence, phrases or portions of the Ordinance.

ARTICLE IV. Conflicting Ordinances: All prior existing ordinances adopted by the City of Riverview inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

ARTICLE V. Codification; Scrivener's Errors:

- (a). Article I of this Ordinance shall be codified, and all other sections shall not be codified.
- (b). The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.
- (c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

ARTICLE VI. Reading and Publication: This Ordinance shall be given a first reading on September 21, 2020, shall be given a second reading on October 5, 2020, shall be adopted on October 5, 2020, and shall be published and become effective upon publication. The Clerk shall publish a summary of this ordinance and include in the publication notice that a true copy of the Ordinance can be inspected or obtained at the Clerk's office.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Riverview this October 5, 2020.

The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the City Council of the City of Riverview at a regular meeting held on October 5, 2020.

Cynthia M. Hutchison, City Clerk

Motion by Councilmember Trombley, seconded by Councilmember Workman, that Proposed **Ordinance No. 715** be Adopted.
Carried unanimously.

Councilmember Blanchette was excused due to illness at 7:59 p.m.

Motion by Councilmember Trombley, seconded by Councilmember Norton, that Authorization for the Clerk to give the Second Reading, by title only, of Proposed **Ordinance No. 716**, to Amend the City's Zoning Ordinances by the Repeal and Re-Adoption of Section 24.14 of Article 24 "General Facilities," regarding "**Small Cell Wireless Communication Facilities**," be Approved.

ORDINANCE NO. 716

AN ORDINANCE TO AMEND THE CITY OF RIVERVIEW'S ZONING ORDINANCE BY THE REPEAL AND RE-ADOPTION OF SECTION 24.14 "WIRELESS COMMUNICATION FACILITIES" OF ARTICLE 24 "GENERAL

PROVISIONS”, BY ADDING SECTION N “SMALL CELL WIRELESS FACILITIES”, TO SECTION 24.14 TO PROVIDE THAT IT NOT CONFLICT WITH THE SMALL WIRELESS FACILITIES ACT, 2018 PA 365, MCL 460.1301, ET SEQ., AS AMENDED

THE CITY OF RIVERVIEW ORDAINS:

ARTICLE I. Amendment: That Section 24.14 “Wireless Communication Facilities”, of Article 24 “General Provisions”, of the Zoning Ordinance is hereby repealed and readopted, to hereafter read as follows:

Zoning
Article 24 General Provisions

Section 24.14 – Wireless Communication Facilities. .

- A. Unchanged
- B. Unchanged
- C. Unchanged
- D. Unchanged
- E. Unchanged
- F. Unchanged
- G. Unchanged
- H. Unchanged
- I. Unchanged
- J. Unchanged
- K. Unchanged
- L. Unchanged
- M. Unchanged
- N. Small Cell Wireless Facilities.

Nothing in this Ordinance shall be construed in such a manner to conflict with the regulatory process established for small cell wireless facilities as defined and regulated by the small wireless facilities act, 2018 PA 365, MCL 460.1301, et seq., as amended, and as referenced in the City of Riverview Code of Ordinances.

ARTICLE II. Penalty: A person violating this ordinance shall be punished in accordance with Section 1-8 of the Code of Ordinances of the City of Riverview, unless a different penalty is expressly provided in this ordinance.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any Court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such word, sentence, phrase or any portion of the Ordinance held to be invalid and shall not be construed as affecting the validity of any remaining words, sentence, phrases or portions of the Ordinance.

ARTICLE IV. Conflicting Ordinances: All prior existing ordinances adopted by the City of Riverview inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

ARTICLE V. Codification; Scrivener's Errors:

- (a). Article I of this Ordinance shall be codified, and all other sections shall not be codified.
- (b). The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.
- (c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

ARTICLE VI. Reading and Publication: This Ordinance shall be given a first reading on September 21, 2020 shall be given a second reading on October 5, 2020, shall be adopted on October 5, 2020 and shall be published and become effective upon publication. The Clerk shall publish a summary of this

ordinance and include in the publication notice that a true copy of the Ordinance can be inspected or obtained at the Clerk’s office.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Riverview this October 5, 2020.

The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the City Council of the City of Riverview at a regular meeting held on October 5, 2020.

Cynthia M. Hutchison, City Clerk

Motion by Councilmember Trombley, seconded by Councilmember Norton, that **Proposed Ordinance No. 716** be Adopted.
Carried unanimously.

Motion by Councilmember O’Neil, seconded by Councilmember Norton, that Authorization for the Clerk to give the First Reading, by title only, of Proposed **Ordinance No. 717**, to Amend the City of Riverview’s Zoning Ordinance by the Repeal and Re-Adoption of Sections 3.01 “Single-Family Residential Districts; of Section 9.101 “Table of Dimensional Standards by District;” and to Amend the Zoning Map; all to Reflect the Creation of a New Zoning District “**R-5 Single-Family Residential District**” in the City of Riverview, be Approved.
Carried unanimously.

PROPOSED ORDINANCE NO. 717

AN ORDINANCE TO AMEND THE CITY OF RIVERVIEW’S ZONING ORDINANCE BY THE REPEAL AND RE-ADOPTION OF SECTION 3.01 “SINGLE-FAMILY RESIDENTIAL DISTRICTS (R-1, R-2, R-3, AND R-4)”, OF ARTICLE 3 “R-1, R-2, R-3, R-4, RM, RM-1, RM-2 AND MHP, RESIDENTIAL DISTRICTS”; BY THE REPEAL AND RE-ADOPTION OF SECTION 9.101 “TABLE OF DIMENSIONAL STANDARDS BY DISTRICT”, OF ARTICLE 9 “SCHEDULE OF REGULATIONS”; AND TO AMEND THE ZONING MAP; ALL TO REFLECT THE CREATION OF A NEW ZONING DISTRICT (R-5 SINGLE-FAMILY RESIDENTIAL DISTRICT) IN THE CITY OF RIVERVIEW

CLOSED SESSION:

Motion by Councilmember Trombley, seconded by Councilmember Norton, to Adjourn into Closed Session for the Purpose of Discussing the **Performance Evaluation** of the **City Manager** at his request.
Carried unanimously.

ADJOURNMENT:

The meeting adjourned at 8:14 p.m.

Andrew M. Swift

Cynthia M. Hutchison, City Clerk