City of Tipton, Iowa

Meeting:	**Tipton City Council Special Meeting**
Place:	**Tipton Fire Station, 301 Lynn Street, Tipton, Iowa 52772**
Date/Time:	**Wednesday, April 10, 2019, 4:00 p.m.**
Web Page:	**www.tiptoniowa.org**
Posted:	**Tuesday, April 9, 2019 (Front door of City Hall & City Website)**

Mayor:	Bryan Carney		
Council At Large:	Leanne Boots	**Council At Large:**	Pam Spear
Council Ward #1:	Ross Leeper	**Council Ward #2:**	Dean Anderson
Council Ward #3:	Tim McNeill		
City Manager:	Brian Wagner	**City Attorney:**	Lynch Dallas, P.C.
Finance Director:	Melissa Armstrong	**Gas Utilities Supt:**	Virgil Penrod
City Clerk:	Amy Lenz	**Electric Utilities Supt:**	Floyd Taber
Dir. of Public Works:	Steve Nash	**Water & Sewer:**	Brian Brennan
Police Chief:	Lisa Kepford	**Emergency Med Dir:**	Brad Ratliff
Park & Recreation:	Adam Spangler	**Economic Dev. Director:**	Linda Beck

A. Call to Order

B. Roll Call

C. Agenda Additions/Agenda Approval

D. New Business

1. Resolution 041019A: A Resolution Adopting Guidelines for Small Cell Facilities

2. Discussion and Possible Action Concerning North Plum Street and options including, but not limited to, repair, reclassification from being a truck route, and/or a temporary weight embargo

3. Discussion and Possible Action to approve a new liquor license for Tipton Country Club

Adjournment

Pursuant to §21.4(2) of the Code of Iowa, the City has the right to amend this agenda up until 24 hours before the posted meeting time.

If anyone with a disability would like to attend the meeting, please call City Hall at 886-6187 to arrange for accommodations/transportation.

CORINNE R. BUTKOWSKI
HOLLY A. CORKERY
EMILY K. ELLINGSON
NATHAN M. KOOKER
STEVEN C. LEIDINGER
JON M. McCRIGHT
SCOTT E. McLEOD
MATTHEW J. NAGLE
BRETT S. NITZSCHKE
PATRICK J. O'CONNELL

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MEMORANDUM

PRIVILEGED AND CONFIDENTIAL

April 5, 2019

VIA EMAIL DELIVERY ONLY

Tipton City Council
c/o Brian Wagner, City Manager
citymanager@tiptoniowa.org

Subject: Guidelines for Small Cell Facilities in ROW

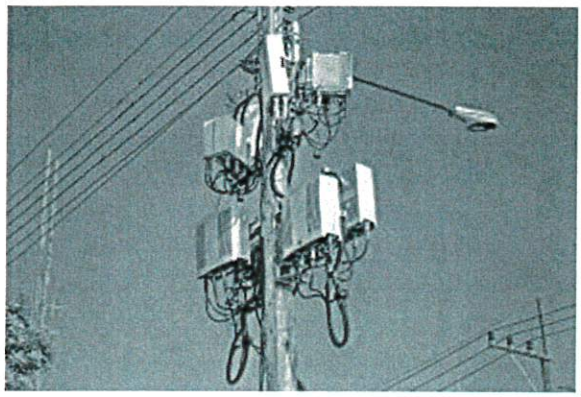
Mayor and Councilmembers:

You will find provided with this memorandum Guidelines for Small Cell Facilities ("Guidelines"), consisting of aesthetic, minimum spacing, and undergrounding requirements for small cell facilities, which we strongly recommend you adopt by resolution at your next regularly scheduled meeting.

The Federal Communications Commission ("FCC") has adopted a report and order ("Order") that imposes new and significant limitations on the City's ability to regulate the placement of small cell facilities within the City's rights-of-way. The Order's stated purpose is to streamline the telecommunication industry's rollout of infrastructure for broadband services (most notably 5G wireless service).[1] The Order, which builds upon measures already enacted by the Iowa Legislature in 2017, takes effect on April 15, 2019. *See*, Iowa Code Section 8C.7A.

[1] Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Declaratory Ruling and Third Report and Order; WT Docket No. 17-79; WC Docket No. 17-84.

Together, these state and federal laws and regulations limit the ability of cities to negotiate with providers and to regulate the placement of small cell facilities, like the antennas pictured, which may be installed on utility poles, street light poles, traffic signal poles, or standalone poles, and are expected to largely take the place of the large communications towers we have become accustomed to.



These facilities also include associated equipment, including but not limited to electric meters, concealment elements, grounding equipment, switches, cable runs, and cabinets, which risk cluttering rights-of-way and presenting health and safety concerns if not properly managed.

While state and federal laws and regulations limit what a city may charge in the way of one-time application fees and recurring use fees, and certain factors which may be considered in processing applications, they do afford cities the ability to establish aesthetic and other requirements by which they may assert some level of control. Namely, the Order provides cities may adopt aesthetic, minimum spacing, and undergrounding requirements as long as they are: (a) reasonable; (b) no more burdensome than those applied to other types of infrastructure deployments; and (c) objective and *published in advance*.

The reason we so strongly recommend adopting the provided Guidelines immediately is the Order goes into effect April 15, 2019. Should the City receive applications for the placement of small wireless facilities within the City's rights-of-way before it adopts and publishes the types of aesthetic, minimum spacing, and undergrounding requirements set forth in the Guidelines, it will essentially have very little against which to measure those applications and may be forced to accept applications as they come.

Unfortunately, this issue only began to garner attention here in Iowa very recently with a flurry of last-minute emails and webinars, which by and large presented more questions than answers. We have acted as quickly as possible to develop a strategy to protect the City's interests. There will be time once the Guidelines are adopted and published (we recommend posting them to the City's website) to amend them as the City may see fit, to adopt an ordinance, and to draft appropriate applications. At this point, however, the most important thing the Council can do is resolve to adopt the basic Guidelines we have provided as a stopgap to ensure the City has reasonable standards in effect should it receive applications for the placement of facilities in its rights-of-way before more can be done.

Once we cross this initial hurdle, we will immediately turn our attention to next steps which will include providing recommended application forms and standalone technical guidelines and/or a small cell ordinance.

Very truly yours,

LYNCH DALLAS, P.C.

By: /s/ Steven C. Leidinger

RESOLUTION NO. 041019A

RESOLUTION ADOPTING GUIDELINES FOR SMALL CELL FACILITIES

WHEREAS, the Federal Communications Commission ("FCC") has adopted a declaratory ruling and order ("Order") that imposes new and significant limitations on the City's ability to regulate small cell facilities within its rights of-way and upon its infrastructure, including but limited to limitations on fees, and the institution of deadlines for acting on permit applications; and

WHEREAS, the Order permits municipalities to establish guidelines governing the aesthetics, undergrounding, and spacing of small cell facilities to be installed within its rights-of-way; and

WHEREAS, the Order is effective April 15, 2019; and

WHEREAS, there is attached to this Resolution proposed Small Cell Guidelines for the City of Tipton, Iowa, which as amended from time to time, will apply to all applications to install small cell facilities within the City's rights-of-way and upon its infrastructure; and

WHEREAS, preserving as much local authority as is permitted by state and federal law over the installation of small cell facilities in the City's rights-of-way and upon its infrastructure is critical to effective right-of-way management.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TIPTON, IOWA, AS FOLLOWS:

SECTION 1: *Adoption of Small Cell Guidelines*: The City Council approves and adopts the Small Cell Guidelines attached to this Resolution.

SECTION 2: *Publication*: The City Clerk is hereby directed to publish the Small Cell Guidelines by posting the same to the City's website, or by other means, at the earliest possible opportunity.

SECTION 3: *When Effective.* This Resolution shall be effective upon its passage and approval as provided by law.

PASSED AND APPROVED this _____ day of April 2019.

CITY OF TIPTON, IOWA

_____

By: Bryan Carney, Mayor

ATTEST:

_____
Amy Lenz, City Clerk

CERTIFICATION

I, Amy Lenz, City Clerk of the City of Tipton, Iowa, do hereby certify the above is a true and accurate copy of Resolution 041019A which was passed by the Tipton City Council this ___ day of April 2019.

_____
City Clerk

City of Tipton, Iowa
Small Cell Guidelines

SECTION I: PURPOSE

The purpose of these guidelines is to establish general procedures and standards, consistent with applicable federal and state laws, for the siting, construction, installation, collocation, modification, relocation, operation, and removal of small cell wireless technology within the City's rights of way. The goals of these guidelines are to:

A. Provide standards, technical criteria, and details for small cell facilities in the City's right, of way to be uniformly applied to all applicants and owners of small cell facilities or support structures for such facilities.

B. Enhance the ability of wireless communications carriers to deploy small cell wireless technology in the City quickly, effectively, and efficiently so residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability.

C. Preserve the character of the City's neighborhoods and corridors.

D. Ensure small cell facilities and support structures conform with all applicable health and safety regulations and will blend into their environment to the greatest extent possible.

E. Comply with, and not conflict with or preempt, all applicable state and federal laws.

SECTION II: DEFINITIONS

Abandoned means any small cell facilities or wireless support structures that are unused for a period of three hundred sixty-five (365) days without the operator otherwise notifying the City and receiving the City's approval.

Antenna means communications equipment that transmits or receives radio frequency signals in the provision of wireless service.

Applicant means any Person applying for a Permit hereunder.

Architectural Review District means City-designated Historic Districts, Landmark Sites and Conservation Districts as well as National Register of Historic Places Historic Districts and Sites.

City means the City of Tipton, Iowa.

City property means property other than Right of Way owned by the City.

Collocation or *Collocate* means to install, mount, maintain, modify, operate, or replace wireless facilities on a wireless support structure.

County means Cedar County, Iowa.

Decorative Pole means a pole, arch, or structure other than a street light pole placed in the right of way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for any of the following (a) electric lighting; (b) specially designed informational

or directional signage; (c) temporary holiday or special event attachments.

Industrial Area means an industrially-zoned area on the Official Zoning Map of the City of Tipton.

Operator means a wireless service provider, cable operator, or a video service provider that operates a small cell facility and provides wireless service. Operator includes a wireless service provider, cable operator, or a video service provider that provides information services as defined in the Telecommunications Act of 1996, 110 Stat. 59, 47 U.S.C. § 153, and services that are fixed in nature or use unlicensed spectrum.

Ornamental Pole means a pole or structure placed in the right of way to support traffic signals and/or street lights which has been specifically designed and placed for aesthetic purposes. Ornamental Poles often include appurtenances or attachments for flags, banners, planters and/or other aesthetic features.

Permit means the non-exclusive grant of authority issued by the City of Tipton to install a small cell facility and/or a wireless support structure in a portion of the Right of Way in accordance with these guidelines.

Permittee means the owner and/or operator issued a Permit pursuant to these guidelines.

Person means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit.

Retail and Commercial Areas means a commercially-zoned area on the Official Zoning Map of the City of Tipton.

Residential Area means a residentially-zoned area on the Official Zoning Map of the City of Tipton.

Right of Way means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public alley, public court, public boulevard, public parkway, public drive, public utility easement, and any other land dedicated or otherwise designated for a compatible public use, which is owned or controlled by the City of Tipton.

Small Cell Facility means a wireless facility that meets both of the following requirements:

1. Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six (6) cubic feet in volume.
2. All other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

State means the State of Iowa.

Toll means the pause or delay of the running of the required time period.

Utility Pole means a structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric or telecommunications service. "Utility pole" excludes street signs and decorative poles.

Wireless Support Structure means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen (15) foot or taller sign pole, or utility pole capable of supporting small cell facilities.

SECTION III: REQUIREMENT TO COMPLY

Placement, modification, operation, relocation and removal of a small cell facility and/or wireless support structure shall comply with these Guidelines at the time the permit for installation, modification, relocation, or removal is submitted for approval and as amended from time to time.

SECTION IV: LOCATIONS OF SMALL CELL FACILITIES, RELATED GROUND EQUIPMENT, AND WIRELESS SUPPORT STRUCTURES

Collocation Preference

It is the City's strong preference that whenever an applicant proposes to place a new wireless support structure with a small cell facility within two hundred fifty (250) feet from an existing wireless support structure, the applicant either collocate with the existing facility or demonstrate that a collocation is either not technically feasible or space on the existing facility is not potentially available.

Order of Preference for Locations

The following list indicates the order of preference for new small cell facilities from most preferred to least preferred:

A. Industrial Areas if not adjacent to a municipal park, residential area, or architectural review district.

B. Highway Rights of Way areas if not adjacent to a municipal park, residential area, or architectural review district.

C. Retail and Commercial Areas if not adjacent to a municipal park, residential area, or architectural review district.

D. Residential Areas (including mixed-use areas incorporating residential uses).

E. Municipal Parks.

F. Architectural Review Districts.

Order of Preference for Wireless Support Structures

The following list indicates the order of preference for wireless support structures for small cell facilities:

A. *Existing Utility Poles*: It is the City's preference that small cell facilities be installed on existing utility poles (electric or telephone) or lashed onto existing telephone lines between existing utility poles.

B. *Non-Ornamental Municipal Service Poles*: If the applicant does not have the right to use existing utility poles or lines under reasonable terms and conditions or the utilization imposes technical limits, the City prefers that the applicant next look to existing non-ornamental municipal street lights or traffic signal structures.

C. *New Poles*: If the first two (2) options above have proven to be unavailable, the City prefers the installation of a new pole to serve as a wireless support structure.

D. *Ornamental Municipal* Service Poles: The use of ornamental municipal street lights and traffic signals as wireless support structures is strongly discouraged. These should only be proposed if the three (3) options above are unavailable, no other options exist for providing service to a location, or when requested by the City based on the proposed location. When collocating on ornamental traffic signal mast arms, the preferred collocation spot is on the traffic signal pole without attached street signs, with the antenna placed at the top of the vertical pole immediately below the finial. The small cell facility must not interfere with the attachment of flags, hanging planters and/or banners or similar enhancements. Each proposed collocation will be subject to a site-specific review.

E. *Sign Poles* (15 feet or taller): The only sign poles that may be considered are those that are at least fifteen (15) feet tall. These are the least preferred option for a wireless support structure.

New Wireless Support Structures

If existing utility poles are not available for collocation, operators may propose a new wireless support structure. New wireless support structures that will be more than twenty (20) feet in height shall match the design of the City's existing signal mast arms. New wireless support structures that will be twenty (20) feet or less in height shall match the City's existing streetlights. These requirements are to ensure new wireless support structures conform to existing structures within the area. Information on the manufacturer and model identification and detailed drawings of these support structures can be provided by the City.

Residential Areas: In residential areas, new wireless support structures should be located to avoid obstructing the view of building facades by placing the wireless support structure at a corner, intersection, or along a lot line. New wireless support structures should be located in the yard location where other overhead utilities are located unless it is not technically feasible to do so. Applicants shall clearly explain the rationale for requests that deviate from this expectation.

In order to meet the service needs of operators, the City will consider requests to locate small cell facilities on other City property, such as municipal parking lots, at reasonable lease rates, fees, and terms.

SECTION V: ALTERNATE LOCATIONS

The City reserves the right to propose an alternate wireless support structure to the one proposed in the application. The City may also propose an alternate location for a new wireless support structure within one hundred (100) feet of the proposed location or within a distance that is equivalent to the width of the right of way in or on which the new wireless support structure is proposed, whichever is greater, which the operator shall use if it has the right to use the alternate location on reasonable terms and conditions and the alternate location does not impose technical limits or additional costs.

SECTION VI: GUIDELINES ON PLACEMENT

Generally, an applicant shall construct and maintain small cell facilities and wireless support structures in a manner that does not: (1) obstruct, impede, or hinder the usual travel or public safety on a right of way; (2) obstruct the legal use of a right of way by other utility providers; (3) violate nondiscriminatory applicable codes; (4) violate or conflict with the City of Tipton Code of Ordinances or these Guidelines; and (5) violate the federal Americans with Disabilities Act.

The City desires to promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community. Generally, a small cell facility and/or wireless support structure shall match and be consistent with the materials and finish of the adjacent municipal poles of the surrounding area adjacent to their location. In the absence of adjacent municipal poles, the wireless support structure shall match the materials and finish of the adjacent utility poles.

Antennas on Existing or Replaced Utility Poles or Municipal Poles

The antenna(s) associated with collocation on existing or replaced utility poles or municipal poles must have concealed cable connections, antenna mount, and other hardware. The maximum dimensions for antennas shall not be more than six (6) cubic feet in volume, including any enclosure for the antenna.

Minimization of Impact

Small cell facilities and wireless support structures and related equipment shall be placed, as much as possible, in line with other utility features and in a location that minimizes any obstruction, impediment, or hindrance to the usual travel or public safety on a right of way.

Height Above Ground

Small cell facilities: Small cell facilities shall be installed at least ten (10) feet above the ground. If a small cell facility attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic the City may require the attachment to be installed no less than twenty-five (25) feet above the ground.

New wireless support structures: In areas where there are no wireless support structures or utility poles taller than thirty (30) feet in height above ground level and the maximum allowable height for building construction in the underlying zoning district is thirty (30) feet in height above ground level or less, the overall height of a new wireless support structure and any collocated antennas shall not be more than thirty (30) feet in height above ground level.

In all other areas, the overall height of a new wireless support structure and any collocated antennas shall not be more than forty (40) feet in height above ground level.

Existing wireless support structures: For an existing wireless support structure, the antenna and any associated shroud or concealment material are permitted to be collocated at the top of the existing wireless support structure and shall not increase the height of the existing wireless support structure by more than five (5) feet.

Protrusion

No protrusions from the outer circumference of the existing or new structure or pole shall be more than two (2) feet. The pole and all attachments to the pole that are projecting, or any equipment or appurtenance mounted on the ground, shall comply with Americans with Disabilities Act and shall not obstruct an existing or planned sidewalk or walkway. The City, at its option, may waive the requirement to limit the protrusion to no more than two (2) feet.

Location of Equipment - General

Small cell facilities and related equipment shall not impede pedestrian or vehicular traffic in the right of way. If any small cell facility or wireless support structure is installed in a location that is not in accordance with the plans approved by the City, impedes pedestrian or vehicular traffic and/or does not

comply or otherwise renders the right of way non-compliant with applicable laws, including the Americans with Disabilities Act, then the operator shall promptly remove the small cell facilities and/or wireless support structure. If the operator does not complete removal in a reasonable timeframe, the City will remove it and bill the operator for the cost of the removal.

The applicant is required to incorporate ambient noise suppression measures and/or to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations and so as not to create a nuisance.

Utility Lines: Service lines must be undergrounded whenever feasible to avoid additional overhead lines. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.

Spools and Coils: To reduce clutter and deter vandalism, excess fiber optic or coaxial cables for small cell facilities shall not be spooled, coiled, or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.

Above-Ground Conduit: On wood poles, all above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of four (4) inches in diameter. Such conduit shall be finished in zinc, aluminum, or stainless steel, or colored to match those metal finishes.

Location of Ground Mounted Equipment

Ground equipment should be minimal and the least intrusive. It should be placed to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a right of way, maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic and maximize that line of sight at street corners and intersections and minimize hazards at those locations. The City may deny a request that negatively impacts vehicular and/or pedestrian safety.

The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly through the metal pole (with the exception of wood power poles) and undergrounded between the pole and the ground-mounted cabinet.

Location of Pole Mounted Equipment

All pole-mounted equipment must be installed as flush to the pole as possible. Equipment attached to metal poles must be installed using stainless steel banding straps. Equipment attached to wood poles may be bolted to the pole or installed using stainless steel banding straps. When the straps are attached to a metal pole, they must match the color of the pole. Through-bolting or use of lag bolts is prohibited. All pole mounted equipment shall be located as close together as technically possible and if possible, on the same side of the pole.

When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter, and disconnect switch must be concealed within an equipment cage. Equipment cabinet may not extend more than twenty-four (24) inches from the face of the pole. The equipment cabinet must be non-reflective, colored to match the existing pole if attached to a metal pole, and in the color of brushed aluminum if attached to a wood pole. Equipment cabinets should be mounted as flush to the pole as possible. Any standoff mount for the equipment cabinet may not exceed four (4) inches.

Electric Meter: Operator shall utilize metering equipment provided by the municipal electric utility at each location.

Telephone/Fiber Optic Utilities: Cabinets for telephone and/or fiber optic utilities may not extend more than twenty-four (24) inches from the face of the pole, and must be painted, wrapped or otherwise colored to match the pole. Microwave or other wireless backhaul is discouraged when it would involve a separate and unconcealed antenna. Operator shall comply with all codes for clearances on utility poles per the most current edition of the National Electric Safety Code.

Undergrounded Equipment Vaults

Equipment in an environmentally controlled underground vault may be required in some areas where technologically feasible and appropriate for the location.

New Wireless Support Structures

Spacing: The City strongly discourages more than one (1) new wireless support structure per block and will not approve more than one (1) per two hundred fifty (250) feet on each side of the street to minimize the hazard of poles adjacent to roadways and minimize visual clutter and distractions to vehicular traffic. An exemption may be granted if the applicant can demonstrate that this restriction has the effect of preventing wireless service to this location. Wireless support structures shall be spaced apart from utility poles or wireless support structures supporting small cell facilities at the same spacing between utility poles in the immediate proximity.

If multiple requests are received to install two (2) or more poles that would violate the spacing requirement or to collocate two (2) or more small cell facilities on the same wireless support structure, priority will be given to the first request received that meets these guidelines.

Alignment with Other Poles: The centerline of any new wireless support structure must be aligned, as much as possible, with the centerlines of existing poles on the same street segment, but only if the new structure's height does not conflict with overhead power utility lines and facilities, and the pole may be offset sufficiently to avoid such conflict.

General Restrictions on New Wood Poles: In all locations, the City reserves the right to require a metal pole rather than a wood pole based on the built and/or natural environmental character of the proposed site location.

Metal Pole Material: All new metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant materials approved by the City and finished in accordance with these guidelines to avoid rust stains on adjacent sidewalks, buildings, or other improvements.

Metal Pole Finish: All new metal poles must match the finish of the adjacent poles. The applicant may select a paint or powder coat system in compliance with ASTM standards.

Lighting, Planters, Flags, Banners: The City may require the applicant to install functional streetlights and/or brackets to hold hanging flower planters, flags and/or banners when technically feasible and the City determines that such additions will enhance the overall appearance and usefulness of the proposed facility. The City may install hanging flower planters, flags and/or banners or similar enhancement features utilizing the brackets.

City-Owned Wireless Support Structures

Required Load Analysis: Installations on all City-owned poles, including traffic signals and street lights, shall have an industry standard pole load analysis completed, sealed, and signed by a professional engineer licensed and registered by the State of Iowa and submitted to the City with each permit application indicating that the City-owned pole to which the small cell facility will be attached will safely

support the load, which load shall not exceed the specified load indicated by the pole manufacturer.

Height of Attachments: All attachments on all City-owned poles shall be at least ten (10) feet above grade, and if a small cell facility is projecting toward the street the City may require the attachment to be installed no less than twenty-five (25) feet above the ground for the safety and protection of the public and vehicular traffic.

Power Source: A small cell facility on a City-owned wireless support structure may use the same power source that provides power for the original purpose of the wireless support structure. The City will provide a proposed flat rate for anticipated annual cost of power.

Installations on Traffic Signals and Street Lights: Installations on all traffic signal structures or street lights must not interfere with the integrity of the facility in any way that may compromise the safety of the public. The installation must not interfere with other existing uses on the pole such as traffic signals, street lights, hanging flower planters, flags, and/or banners or similar enhancements. Installation of small cell facilities on any traffic signal structure or street light shall: (a) be encased in a separate conduit than the traffic light electronics; (b) have a separate electric power connection than the traffic signal/street light structure; and (c) have a separate access point than the traffic signal/street light structure.

Installations on Sign Poles (15 feet or taller): Installation on sign poles may only occur if the sign pole is fifteen (15) feet or taller.

Reservation of Space for Future Public Safety or *Transportation Uses:* An application for space on a City owned or operated wireless support structure that conflicts with space reserved for future public safety or transportation uses documented in an approved plan in place at the time of the application will be denied unless the operator pays for the replacement of the pole or wireless support structure and the replaced pole or wireless support structure will accommodate the future use and the small cell facility.

SECTION VII: UNDERGROUNDING REQUIREMENTS

The City may deny requests to install structures and facilities in the right of way or on City property in an area where the City has required all structures and facilities except those owned by the City to be placed underground or elsewhere in the right of way or a utility easement. These areas are easily identifiable as those locations where electric has been placed underground; however, if an applicant is uncertain as to whether such facilities have been placed underground in the area, the applicant should contact the City for clarification before applying for or installing any wireless support structures and/or small cell facilities in the area. Whenever possible, existing street light poles shall be utilized. The applicant may request a waiver if the operator is unable to achieve its service objective using a location upon an existing street light pole in the right of way or on City property where the prohibition does not apply, in a utility easement the operator has the right to access, or in or on other suitable locations or structures made available by the City at reasonable lease rates, fees, and terms.

SECTION VIII: AESTHETIC REQUIREMENTS

Concealment

New Wireless Support Structures: It is the City's preference that all new wireless support structures be camouflaged, except for those located in an area that is predominantly industrial. The applicant shall submit its proposal for camouflage with the permit application.

Small Cell Facilities: Small cell facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. Unless approved by the City in writing, there shall be no external cables and wires hanging off a pole. The approved ones shall be

sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible.

Equipment Enclosures: Equipment enclosures, including electric meters, shall be as small as possible. Ground-mounted equipment shall incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, landscaping, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.

Landscaping: Landscape screening shall be provided and maintained around ground mounted equipment enclosures. The planting quantity and size should be such that 100% screening is achieved within two (2) years of installation. The City may grant an exemption from this landscaping requirement based on the characteristics of the specific location for the equipment enclosure. Tree "topping" or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees, shrubs, or other landscaping already existing in the right of way, or proposed root pruning or other impacts to underground vegetation, must be noted in the application and must be approved by the City. Removal shall be strongly discouraged and shall only be allowed when there are no other feasible alternatives.

When underground vaults are proposed, they shall be located to minimize disruption to the placement of street trees. Adequate planting depth shall be provided between the top of the vault and the finished grade to allow plants to grow in a healthy condition.

Colors

All colors shall match the background of any wireless support structure that the facilities are located upon. In the case of existing wood poles, finishes of conduit shall be zinc, aluminum, or stainless steel, or colored to match those metal finishes, and equipment cabinets shall be the color of brushed aluminum. Ground mounted equipment cabinets shall be the color of brushed aluminum.

Signage/Lights/Logos/Decals/Cooling Fans

Signage: Operator shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the small cell facility that is visible to the public. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g., RF ground notification signs) or the City. If no cabinet exists, the signage shall be placed at the base of the pole.

Lights: New small cell facilities and wireless support structures shall not be illuminated, except in accordance with state or federal regulations, or unless illumination is integral to the camouflaging strategy such as design intended to look like a street light pole.

Lagos/Decals: New small cell facilities and wireless support structures shall not include advertisements and may only display information required by a federal, state or local agency. Utilize the smallest and lowest visibility radiofrequency (RF) warning sticker required by government or electric utility regulations. Place the RF sticker as close to the antenna as possible and remove or paint over unnecessary equipment manufacturer decals.

Cooling Fans: In residential areas, use a passive cooling system. In the event a fan is needed, use a cooling fan with a low noise profile.

SECTION IX: GENERAL PROVISIONS

Tree Maintenance

Operator, its contractors, and agents shall obtain written permission from the City before trimming trees in

the right of way hanging over its small cell facility and/or wireless support structure to prevent branches of such trees from contacting an attached small cell facility. When trimming such trees on private property is desired, then before commencing any such work the operator, its contractors, and agents shall notify the property owner and the City and obtain the owner's permission. When directed by the City, operator shall trim under the supervision and direction of the City. The City shall not be liable for any damages, injuries, or claims arising from operator's actions under this section.

Minor Technical Exceptions

The City recognizes that in some circumstances strict compliance with these guidelines may result in undesirable aesthetic outcomes and that minor deviations should be granted when the need for such deviation arises from circumstances outside the applicant's control.

Waivers If Requirements Have the Effect of Prohibiting the Provision of Wireless Service to a Location

In the event any applicant asserts that strict compliance with any provision in these guidelines, as applied to a specific proposed small cell facility, would effectively prohibit the provision of personal wireless services, the City may grant limited waivers from strict compliance.

Application and Recurring Fees

Application fees for permits to site small cell facilities shall conform to the requirements of Iowa Code §8C.7A and recurring annual fees per small wireless facility shall be fixed at the presumptively reasonable rate of $270/year as provided in the FCC Declaratory Ruling and Order 18-133 at ¶79. The City, however, reserves the right to conduct cost studies and to adjust such fees, from time to time, to the extent permitted by applicable state and federal laws and regulations.

Severability

If any term or provision of these guidelines is held to be invalid or unenforceable, the remaining terms and provisions shall not be affected.

Effective Date

These guidelines shall take effect on the date approved by the City Council and shall apply to all applications for small cell siting, construction, installation, collocation, modification, relocation, operation, and removal filed after the effective date.

AGENDA ITEM: D-2

AGENDA INFORMATION
TIPTON CITY COUNCIL COMMUNICATION

DATE:	**04/10/19**
AGENDA ITEM:	**Discussion and Possible Action Concerning North Plum Street And options including, but not limited to, repair, reclassification From being a truck route, and/or a temporary weight embargo**
ACTION:	**Discussion and Possible Action**

SYNOPSIS:

Below is guidance received from our City Attorney regarding North Plum Street:

The City has jurisdiction and control over the non-primary roads within its limits. Iowa Code § 306.4(4)(a). With respect to general closure of such roads for maintenance purposes, state law provides:

> The agency having jurisdiction and control over any highway in the state, or the chief engineer of the agency when delegated by such agency, may **temporarily close sections of a highway by formal resolution** entered upon the minutes of such agency **when reasonably necessary because of construction, reconstruction, maintenance or natural disaster** and shall cause to be erected "road closed" signs and partial or total barricades in the roadway at each end of the closed highway section and on the closed highway where that highway is intersected by other highways if such intersection remains open. Any numbered road closed for over forty-eight hours shall have a designated detour route. . . .

Iowa Code § 306.41(1); *see also* Id. § 306.41(2) (providing that such closures shall not deny a person from gaining access to their property or residence). While chapter 306 does not offer a definition of highway, the word has traditionally been construed by case law and related code sections to include municipal streets and roads. *See* Iowa Code §§ 321.1(78), 314.13(6); *State v. Lura*, 128 N.W.2d 276, 277 (1964) ("[T]he term 'public highway' applies to city and town streets . . . ."); *Mowrey v. Schulz*, 296 N.W. 822, 823 (1941) ("[A]lleys are highways . . . .").

Neither Plum Street or West 7th Street are both non-primary roads within the jurisdiction and control of the City. The City may therefore close sections of the streets pursuant to Iowa Code section 306.41. But note the bolded language above—the statute expressly limits closures to "temporar[y]" durations and only "when reasonably necessary because of construction, reconstruction, maintenance or natural disaster." This language does not appear to contemplate multi-year closures *in anticipation* of reconstruction or maintenance. Therefore, while the City maintains statutory authority to close Plum and West 7th streets to through-traffic when reasonably necessary to conduct repairs, **we would not recommend that you place barricades months or years in advance of this maintenance**. We also do not advise that you rely on

section 306.41(1) to close the road to all traffic but passenger cars and trucks. To the extent that sections 321.471 and 321.473 limit bans on certain farm traffic, they would preempt workarounds through creative use of other state transportation laws.

Nevertheless, we are in agreement that damaged roads present a significant liability concern. The City is required to use ordinary and reasonable care to keep streets in safe condition. Iowa Code 364.12(2); *Koehler v. State*, 263 N.W.2d 760, 765 (Iowa 1978). Unlike certain other suits, Iowa law does not immunize public entities from tort actions arising from improper maintenance of roads. *See* Iowa Code § 670.4(g). Thankfully, it appears you are already budgeting for repairs. In the meantime, in lieu of closing these roads for months or years, we would suggest you consider **posting signs** to inform drivers of road conditions. You may also slow the deterioration of Plum Street by using a weight embargo or by amending City Code section 66.05. As discussed below, these measures have their limitations—but they can still help to delay further damage while the City prepares for maintenance work.

Finally, a weight embargo may be implemented by resolution but would be limited to 90 days per year. (Note that trucks over 7 or 10 tons per axle, depending on the type of tires, are banned from Iowa roads year round under Iowa Code section 321.463—although tractors and other farm equipment are exempted there too). As for permits, those would only come in to play if a truck hauling farm products sought to travel on one of the streets banned under City Code section 66.05.

This guidance leaves us with two potential options:

1.) The Council could, by resolution, create a temporary weight embargo of not more than 90 days. This could be done annually—but, farm machinery would be exempt from it. The resolution might have to recognize that, too.

2.) The Council can amend City Code section 66.05 so that all or part of N Plum is no longer a truck route. Then, trucks with an agricultural use would need their owners to apply for a permit to use that street. But, until such a permit is granted, they can't operate on that street.

PREPARED BY: BW **DATE PREPARED:** 04/09/19

Amy Lenz

From: Licensing@IowaABD.com
Sent: Tuesday, April 9, 2019 2:34 AM
To: Amy Lenz
Cc: Licensing@IowaABD.com
Subject: Liquor License Pending Dram Shop

The following application(s) is complete and awaiting dramshop insurance endorsement by the appropriate insurance carrier. After the insurance carrier has endorsed coverage, the application(s) will be submitted to the local authority for review.

License #	License Status	Business Name
	Pending Dram Shop	Tipton Country Club Inc. (1143 Cedar Valley Rd Tipton Iowa, 52772)

Please do not respond to this email.
To check the status of your application follow these steps:
1. Click https://elicensing.iowaabd.com
2. Log in to your eLicensing account
3. After reading the 'Beginning April 1st' statement, click ok
4. Click the View Completed Applications link to see your status