

ORDINANCE G-6407

AN ORDINANCE ESTABLISHING THE SMALL WIRELESS FACILITIES LICENSE BY CREATING NEW CHAPTER 5C OF THE PHOENIX CITY CODE; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. The Phoenix City Code is amended to create a new Chapter 5C Small Wireless Facilities as follows:

ARTICLE I. PURPOSE AND POLICY; AUTHORITY AND ADMINISTRATION; DEFINITIONS.

SEC. 5C-1. PURPOSE AND POLICY.

- A. THIS CHAPTER ALONG WITH FEDERAL, STATE, AND OTHER LOCAL LAW ESTABLISHES POLICY FOR USE OF CITY-OWNED INFRASTRUCTURE, PERMITTED INFRASTRUCTURE OWNED BY OTHERS, AND CITY MANAGED LOCAL PUBLIC RIGHT OF WAY FOR SMALL WIRELESS FACILITIES. THIS POLICY ENABLES THE CITY TO:
1. ISSUE LICENSES TO PROVIDERS FOR USE OF LOCAL PUBLIC RIGHT OF WAY ON A COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY BASIS, EXCEPT IN CASES WHERE STATE LAW FORBIDS ESTABLISHMENT OF A LICENSE OR FRANCHISE REQUIREMENT;
 2. MANAGE LOCAL PUBLIC RIGHT OF WAY TO MINIMIZE THE IMPACT AND COST TO PHOENIX RESIDENTS CAUSED BY SMALL WIRELESS FACILITIES LOCATED WITHIN LOCAL PUBLIC RIGHT OF WAY;

3. MANAGE LOCAL PUBLIC RIGHT OF WAY TO MAXIMIZE EFFICIENT, EFFECTIVE, AND OPTIMAL USE OF PUBLIC RESOURCES AND SUPPORT ECONOMIC DEVELOPMENT TO THE EXTENT PERMITTED BY LAW;
4. COMPLY WITH APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS AS APPLIED TO CITY MANAGED LOCAL PUBLIC RIGHT OF WAY; AND
5. MANAGE LOCAL PUBLIC RIGHT OF WAY TO PROMOTE AND PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE.

B. THEREFORE, THE CITY COUNCIL ADOPTS THIS CHAPTER 5C TO:

1. MANAGE LOCAL PUBLIC RIGHT OF WAY CONSISTENT WITH THE CITY'S FIDUCIARY OBLIGATIONS;
2. PROMOTE AND PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE MEASURES FOR LOCAL PUBLIC RIGHT OF WAY;
3. ENCOURAGE PUBLIC-PRIVATE PARTNERSHIPS TO PROVIDE WIRELESS FACILITIES FOR THE COST-EFFECTIVE DELIVERY OF PUBLIC SERVICES SUCH AS SCHOOLS, LIBRARIES, POLICE AND FIRE PROTECTION, AND DELIVER PRIVATE SERVICES TO PHOENIX RESIDENTS;
4. CONSERVE THE LIMITED PHYSICAL CAPACITY OF THE LOCAL PUBLIC RIGHT OF WAY MANAGED BY THE CITY; AND
5. ASSURE THE CITY'S CURRENT AND ONGOING COSTS TO GRANT AND REGULATE PRIVATE ACCESS TO AND USE OF LOCAL PUBLIC RIGHT OF WAY ARE FULLY RECOVERED AND PAID BY THE PERSONS WHO SEEK SUCH ACCESS AND CAUSE SUCH COSTS.

SEC. 5C-2. AUTHORITY AND ADMINISTRATION.

THE CITY MANAGER IS AUTHORIZED AS PROVIDED IN THIS CHAPTER AFTER COUNCIL APPROVAL TO ISSUE AND ADMINISTER MASTER LICENSE AGREEMENTS AND TO APPROVE AND ISSUE ASSOCIATED SITE LICENSE AGREEMENTS TO PERSONS TO INSTALL, OPERATE, AND MAINTAIN SMALL WIRELESS FACILITIES.

SEC. 5C-3. DEFINITIONS.

FOR THE PURPOSES OF THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, THE FOLLOWING TERMS, PHRASES, WORDS, AND THEIR DERIVATIVES SHALL HAVE THE MEANINGS GIVEN HEREIN.

"ANTENNA" MEANS COMMUNICATIONS EQUIPMENT THAT TRANSMITS OR

RECEIVES ELECTROMAGNETIC RADIO FREQUENCY SIGNALS AND THAT IS USED IN PROVIDING WIRELESS SERVICES.

"APPLICANT" MEANS A PROVIDER, ITS CONTRACTORS, AGENTS, OFFICERS, EMPLOYEES, SUBSIDIARIES, AFFILIATES, PARENT ORGANIZATION, SUCCESSOR-IN-INTEREST, PREDECESSOR-IN-INTEREST, OR JOINT VENTURES WHO APPLY FOR A LICENSE UNDER THIS CHAPTER.

"A.R.S." MEANS ARIZONA REVISED STATUTES.

"CODE" MEANS PHOENIX CITY CODE.

"COMMUNICATIONS EQUIPMENT" MEANS ANY AND ALL ELECTRONIC EQUIPMENT AT THE SMALL WIRELESS FACILITY LOCATION THAT PROCESSES AND TRANSPORTS INFORMATION FROM THE ANTENNAS TO THE PROVIDER'S NETWORK.

"EXISTING SMALL WIRELESS FACILITIES LICENSES" MEANS LICENSES, PERMITS, OR OTHER AGREEMENTS FOR SMALL WIRELESS FACILITIES LOCATED IN LOCAL PUBLIC RIGHT OF WAY ISSUED BY PHOENIX TO PROVIDERS PRIOR TO FEBRUARY 9, 2018, UNDER EXISTING ORDINANCES S-35981 (DATED APRIL 1, 2009) AND S-39043 (DATED JUNE 20, 2012).

"GROUND MOUNTED EQUIPMENT" MEANS ANY COMMUNICATIONS EQUIPMENT THAT IS MOUNTED TO A SEPARATE POST OR TO A FOUNDATION ON THE GROUND.

"LICENSE" WHEN USE IN ITS SINGULAR FORM MEANS A MASTER LICENSE AGREEMENT AND A SITE LICENSE AGREEMENT.

"LOCAL PUBLIC RIGHT OF WAY" FOR PURPOSES OF THIS CHAPTER ONLY, MEANS THE AREA ON, BELOW, OR ABOVE A PUBLIC ROADWAY, HIGHWAY, STREET, SIDEWALK, OR ALLEY LOCATED WITHIN PHOENIX CORPORATE BOUNDARIES. LOCAL PUBLIC RIGHT OF WAY DOES NOT MEAN THE AREA ON, BELOW, OR ABOVE A FEDERAL INTERSTATE HIGHWAY, A STATE HIGHWAY, A STATE ROUTE UNDER THE JURISDICTION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION, A PRIVATE EASEMENT, PROPERTY THAT IS OWNED BY A SPECIAL TAXING DISTRICT, OR A UTILITY EASEMENT THAT DOES NOT AUTHORIZE THE DEPLOYMENT SOUGHT BY A PROVIDER.

"PERSON" MEANS A PERSON OR BUSINESS ASSOCIATION ORGANIZED AS PROVIDED BY LAW.

"PROVIDER" MEANS A CABLE OPERATOR, WIRELESS INFRASTRUCTURE PROVIDER OR WIRELESS SERVICES PROVIDER AS DEFINED IN A.R.S. §9-591(24).

"SIGHT VISIBILITY TRIANGLES" MEANS THE TRAFFIC ENGINEERING AND SAFETY CONCEPT THAT REQUIRES CLEAR VIEW BY THE DRIVER OF A VEHICLE AND PEDESTRIANS TO CROSSING TRAFFIC AT A DRIVEWAY OR INTERSECTION. THE TERM "SIGHT VISIBILITY TRIANGLES" APPLIES TO ALL SUCH AREAS SHOWN ON FINAL APPROVED SITE PLANS, AND AS REQUIRED BY CODE SECTION 31-13.

"SMALL WIRELESS FACILITY" MEANS A WIRELESS FACILITY THAT SATISFIES BOTH OF THE FOLLOWING QUALIFICATIONS:

- A. ALL ANTENNAS ARE LOCATED INSIDE AN ENCLOSURE OF NOT MORE THAN SIX CUBIC FEET IN VOLUME OR, IN THE CASE OF AN ANTENNA, WHICH HAS EXPOSED ELEMENTS, THE ANTENNA AND ALL OF THE ANTENNA'S EXPOSED ELEMENTS COULD FIT WITHIN AN IMAGINARY ENCLOSURE OF NOT MORE THAN SIX CUBIC FEET IN VOLUME.**
- B. ALL OTHER WIRELESS EQUIPMENT ASSOCIATED WITH THE FACILITY IS CUMULATIVELY NOT MORE THAN 28 CUBIC FEET IN VOLUME OR 50 CUBIC FEET IN VOLUME IF THE EQUIPMENT WAS GROUND MOUNTED BEFORE THE EFFECTIVE DATE OF THIS SECTION. THE FOLLOWING TYPES OF ASSOCIATED ANCILLARY EQUIPMENT ARE NOT INCLUDED IN THE CALCULATION OF EQUIPMENT VOLUME PURSUANT TO THIS SUBDIVISION:**
 - 1. AN ELECTRIC METER.**
 - 2. CONCEALMENT ELEMENTS.**
 - 3. A TELECOMMUNICATIONS DEMARCATION BOX.**
 - 4. GROUNDING EQUIPMENT.**
 - 5. A POWER TRANSFER SWITCH.**
 - 6. A CUTOFF SWITCH.**
 - 7. VERTICAL CABLE RUNS FOR THE CONNECTION OF POWER AND OTHER SERVICES.**

ARTICLE II. LICENSES TO OCCUPY LOCAL PUBLIC RIGHT OF WAY.

SEC. 5C-4. LICENSES REQUIRED; UNAUTHORIZED USE PROHIBITED.

- A. NO PROVIDER MAY INSTALL, MAINTAIN, CONSTRUCT, OR OPERATE WIRELESS FACILITIES IN LOCAL PUBLIC RIGHT OF WAY, OR PROVIDE SERVICES BY MEANS OF SUCH WIRELESS FACILITIES, UNLESS A PROVIDER FIRST OBTAINS AND MAINTAINS IN GOOD STANDING AT ALL APPLICABLE**

TIMES ALL OF THE FOLLOWING:

1. A LICENSE FOR CABLE SERVICES AS PROVIDED BY A.R.S. TITLE 9, CHAPTER 5, ARTICLE 7 AND CODE CHAPTER 5, OR A LICENSE FOR TELECOMMUNICATIONS SERVICES AS PROVIDED BY A.R.S., TITLE 9, CHAPTER 5, ARTICLE 1.1 AND CODE CHAPTER 5B, FOR FACILITIES LOCATED IN LOCAL PUBLIC RIGHT OF WAY THAT CONNECT THE PROVIDER'S SMALL WIRELESS FACILITIES TO PROVIDER'S INTERSTATE NETWORK; AND
 2. A MASTER LICENSE AGREEMENT FOR SMALL WIRELESS FACILITIES AS PROVIDED BY A.R.S., TITLE 9, CHAPTER 5, ARTICLE 8 AND THIS CHAPTER 5C FOR USE OF THE RIGHT OF WAY WITHIN THE BOUNDARIES DESCRIBED AND ATTACHED TO SUCH MASTER LICENSE, AND SUBJECT TO PROVIDER'S TIMELY PAYMENT OF AN APPLICATION FEE AND ANNUAL LOCAL PUBLIC RIGHT OF WAY USE RATE CONSISTENT WITH STATE LAW AND AS DETERMINED BY THE CITY MANAGER. THE MASTER LICENSE AGREEMENT FOR EACH PROVIDER MUST BE APPROVED BY COUNCIL ORDINANCE UNDER THE TERMS AND CONDITIONS GENERALLY SET FORTH IN THIS CHAPTER 5C; AND
 3. ONE OF THE FOLLOWING SITE LICENSE AGREEMENTS ASSOCIATED WITH PROVIDER'S MASTER LICENSE AGREEMENT FOR EACH OF PROVIDER'S INSTALLATION OF SMALL WIRELESS FACILITIES LOCATED IN LOCAL PUBLIC RIGHT OF WAY: (i) SITE LICENSE AGREEMENT TO ATTACH WIRELESS FACILITIES TO CITY-OWNED INFRASTRUCTURE; OR (ii) SITE LICENSE AGREEMENT TO ATTACH FACILITIES TO INFRASTRUCTURE OWNED BY THIRD PARTIES; OR (iii) SITE LICENSE AGREEMENT TO ATTACH FACILITIES TO INFRASTRUCTURE OWNED BY THE PROVIDER. EACH SITE LICENSE AGREEMENT MUST BE APPROVED AND ISSUED BY THE CITY MANAGER, OR CITY MANAGER'S DESIGNEE, DESCRIBE THE SPECIFIC LOCATION OF THE FACILITIES, INCORPORATE BY REFERENCE THE MASTER LICENSE TERMS AND CONDITIONS, DESCRIBE AND SET FORTH ANY SPECIAL CONDITIONS APPLICABLE TO THE PARTICULAR SITE INSTALLATION, AND IS SUBJECT TO PROVIDER'S TIMELY PAYMENT OF APPLICATION FEES, SAFETY REVIEW FEES, AND LOCAL PUBLIC RIGHT OF WAY USE RATES CONSISTENT WITH STATE LAW AND AS DETERMINED BY THE CITY MANAGER.
- B. THIS CHAPTER DOES NOT APPLY TO AND DOES NOT AFFECT ANY RIGHTS, INTERESTS, OR PRIVILEGES HELD BY PROVIDERS AND THE CITY UNDER EXISTING SMALL WIRELESS FACILITIES LICENSES AND ALL EXISTING SMALL WIRELESS FACILITIES LICENSES REMAIN FULLY ENFORCEABLE IN ACCORDANCE WITH THEIR TERMS AND CONDITIONS. THE CITY MANAGER, OR DESIGNEE, MAY ENTER AGREEMENTS WITH PROVIDER, MAY MODIFY EXISTING SMALL WIRELESS FACILITIES LICENSES. ALTERNATELY, THE

EXISTING SMALL WIRELESS FACILITIES LICENSES MAY CONTINUE UNDER EXISTING TERMS AND CONDITIONS, OR BE TERMINATED PER THE LICENSE TERMINATION PROVISIONS.

C. IF THE CITY AND A PROVIDER MAY AGREE TO MODIFY EXISTING SMALL WIRELESS FACILITIES LICENSES, AS FOLLOWS:

1. FOR EXISTING SMALL WIRELESS FACILITIES INSTALLATIONS WITH SITE LICENSE AGREEMENTS EXECUTED BY THE CITY AFTER AUGUST 9, 2017 BUT PRIOR TO FEBRUARY 9, 2018, EXISTING TERMS AND CONDITIONS WILL REMAIN IN EFFECT FOR THREE (3) YEARS FROM THE EFFECTIVE DATE OF THIS CHAPTER. AFTER WHICH, THE PARTIES MAY AGREE TO MODIFY THE TERMS AND CONDITIONS OF EXISTING SMALL WIRELESS FACILITIES LICENSES TO THOSE CONSISTENT WITH THIS CHAPTER; OR
2. FOR EXISTING SMALL WIRELESS FACILITIES INSTALLATIONS WITH SITE LICENSE AGREEMENTS EXECUTED BY THE CITY PRIOR TO AUGUST 9, 2017, EXISTING TERMS AND CONDITIONS WILL REMAIN IN EFFECT FOR FIVE (5) YEARS FROM THE EFFECTIVE DATE OF THIS CHAPTER. AFTER WHICH, THE PARTIES MAY AGREE TO MODIFY THE TERMS AND CONDITIONS OF EXISTING SMALL WIRELESS FACILITIES LICENSES TO THOSE CONSISTENT WITH THIS CHAPTER.

D. A LICENSE ISSUED TO ANY PROVIDER UNDER THIS CHAPTER DOES NOT AUTHORIZE THE USE OF LOCAL PUBLIC RIGHT OF WAY BY ANY OTHER PERSON, OR AUTHORIZE THE PROVIDER TO FURNISH ANY OTHER SERVICE. A LICENSE ISSUED TO ANY PROVIDER UNDER THIS CHAPTER DOES NOT INVALIDATE ANY FRANCHISE, LICENSE, OR PERMIT ISSUED TO THE PROVIDER THAT AUTHORIZES THE USE OF THE LOCAL PUBLIC RIGHT OF WAY FOR SUCH OTHER SERVICES; NOR SHALL THE FACT THAT A PROVIDER HOLDS ANOTHER FRANCHISE, LICENSE, OR PERMIT FOR OTHER USE OF THE LOCAL PUBLIC RIGHT OF WAY OR TO PROVIDE ANY OTHER SERVICE, AUTHORIZE THE INSTALLATION, MAINTENANCE, CONSTRUCTION, OR OPERATION OF SMALL WIRELESS FACILITIES IN ANY LOCAL PUBLIC RIGHT OF WAY, OR AUTHORIZE SUCH PROVIDER TO FURNISH WIRELESS SERVICES BY OTHER MEANS WITHOUT FIRST OBTAINING A LICENSE(S) AS PROVIDED IN THIS CHAPTER.

E. ANY LICENSE ISSUED UNDER THIS CHAPTER MUST NOT BE EXCLUSIVE.

F. UNAUTHORIZED USE OF FACILITIES PROHIBITED.

1. NO PERSON MAY KNOWINGLY AFFIX, INSTALL, PLACE, OR ATTACH A SMALL WIRELESS FACILITY OR ANY OTHER FACILITY TO CITY OWNED INFRASTRUCTURE OR CITY MANAGED LOCAL PUBLIC RIGHT OF WAY OR OTHER PROPERTY OF THE CITY WITHOUT A SITE LICENSE. ANY SMALL

WIRELESS FACILITY OR ANY OTHER FACILITY WITHOUT A SITE LICENSE MUST BE REMOVED ON THE CITY'S DEMAND.

2. NO PERSON MAY USE A SMALL WIRELESS FACILITY OR ANY OTHER FACILITY ON CITY-OWNED INFRASTRUCTURE OR CITY MANAGED LOCAL PUBLIC RIGHT OF WAY OR OTHER PROPERTY OF THE CITY TO PROVIDE A SERVICE NOT AUTHORIZED BY A CITY FRANCHISE, PERMIT, LICENSE, OR OTHER AUTHORITY.
3. EACH UNAUTHORIZED FACILITY OR USE IS A SEPARATE OFFENSE. EACH DAY A VIOLATION OF THIS CHAPTER CONTINUES IS A SEPARATE OFFENSE AND MAY BE ENFORCED AS PROVIDED IN SECTION 5C-20.

SEC. 5C-5. MASTER LICENSE AND SITE LICENSE APPLICATIONS.

- A. ANY PROVIDER THAT DESIRES A MASTER LICENSE OR SITE LICENSE AGREEMENTS UNDER THIS CHAPTER MUST FILE THE APPROPRIATE APPLICATION(S) WITH THE CITY MANAGER, OR DESIGNEE, IN THE FORM(S) PRESCRIBED BY THE CITY MANAGER, AND MUST PAY AN APPLICATION FEE(S) DETERMINED BY THE CITY MANAGER AS PROVIDED IN SECTION 5C-8. THE AMOUNT OF THE APPLICATION FEE MUST BE REASONABLY RELATED TO DIRECT COSTS INCURRED BY THE CITY TO GRANT AND ADMINISTER SUCH LICENSE(S) AND CONSISTENT WITH STATE LAW.
- B. RECEIPT OF A COMPLETE LICENSE APPLICATION THAT SATISFIES ALL REQUIREMENTS, THE CITY MANAGER WILL, CONSISTENT WITH STATE LAW, PROMPTLY REVIEW THE APPLICATION AND MAY INQUIRE INTO MATTERS RELEVANT TO THE LICENSE APPLICATION. THE CITY MANAGER MAY REJECT ANY APPLICATION FOR THE PROVIDER'S UNDUE DELAY TO RESPOND OR PROVIDER'S FAILURE TO FURNISH ACCURATE OR COMPLETE INFORMATION TO THE CITY MANAGER'S REQUEST OR INQUIRY RELATED TO AN APPLICATION. FURTHER, THE CITY MANAGER MAY REJECT ANY LICENSE APPLICATION IF THE APPLICANT HAS PREVIOUSLY HAD ANY LICENSE ISSUED UNDER CODE CHAPTERS 5B OR 5C REVOKED OR TERMINATED FOR CAUSE, IN MATERIAL BREACH UNDER ANY EXISTING LICENSE(S) ISSUED UNDER CODE CHAPTERS 5B OR 5C, OR HAS NOT TIMELY CURED AN EVENT(S) OF DEFAULT OR NOTICE(S) OF VIOLATION UNDER EXISTING LICENSES ISSUED UNDER CODE CHAPTERS 5B OR 5C, OR FOR ANY OTHER REASON PERMITTED UNDER LAW.
- C. AS A CONDITION OF ISSUING OR RENEWING A LICENSE UNDER THIS CHAPTER, THE APPLICANT AGREES:
 1. TO COMPLY WITH LOCAL PUBLIC RIGHT OF WAY USE REQUIREMENTS AS REQUIRED IN CODE CHAPTERS 31 AND 36;

2. TO PROVIDE AND MAINTAIN ACCURATE MAPS SHOWING THE LOCATION OF ALL ITS FACILITIES AND THE FACILITIES IT WILL USE IN THE LOCAL PUBLIC RIGHT OF WAY AND TO COMPLY WITH SUCH OTHER MAPPING REQUIREMENTS AS THE CITY MANAGER MAY ESTABLISH FROM TIME TO TIME. AN APPLICANT MUST PROVIDE THE CITY WITH ELECTRONIC MAPPING INFORMATION IN A FORMAT COMPATIBLE WITH THE CURRENT CITY ELECTRONIC MAPPING FORMAT;
 3. TO OBTAIN THE INSURANCE, AND CAUSE ITS CONTRACTORS, AGENTS, AND EMPLOYEES TO PROVIDE PROOF OF INSURANCE AS REQUIRED BY THE CITY; TO POST THE LETTER OF CREDIT AND SECURITY FUND REQUIRED BY THE CITY; AND FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS, AND CAUSE ITS OFFICERS, AGENTS, CONTRACTORS, AND EMPLOYEES TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, BOARDS AND COMMISSIONS, IN A FORM SATISFACTORY TO THE CITY; AND TO AGREE THAT IT SHALL HAVE NO RECOURSE WHATSOEVER AGAINST THE CITY OR ITS OFFICIALS, BOARDS, COMMISSIONS, AGENTS OR EMPLOYEES FOR ANY LOSS, COSTS, EXPENSE, OR DAMAGES ARISING OUT OF ANY PROVISION OR REQUIREMENT OF THE CITY BECAUSE OF THE ENFORCEMENT OF THE LICENSE; AND
 4. THE APPLICANT MUST AGREE TO COMPLY WITH AND BE BOUND BY THE ADMINISTRATIVE AND ENFORCEMENT PROVISIONS AS MAY BE PRESCRIBED BY THE CITY.
- D. AN APPLICANT THAT RECEIVES A MASTER LICENSE AGREEMENT PURSUANT TO THIS CHAPTER MAY RENEW ITS LICENSE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER AND CONSISTENT WITH STATE LAW.
- E. THE ISSUANCE OF A LICENSE, PERMIT, OR OTHER AUTHORIZATION BY THE CITY MANAGER IS NOT A REPRESENTATION OR WARRANTY THAT SUCH LICENSE, PERMIT, OR AUTHORIZATION IS LEGALLY SUFFICIENT, AND IS NOT A REPRESENTATION OR WARRANTY THAT ADDITIONAL AUTHORIZATION IS NOT REQUIRED.

SEC. 5C-6. MASTER LICENSE TERMS AND CONDITIONS.

- A. CONSISTENT WITH THIS CHAPTER AND STATE LAW, THE CITY MANAGER, OR DESIGNEE, WILL PREPARE A MASTER LICENSE AGREEMENT THAT INCLUDES THE FOLLOWING, BUT NOT EXCLUSIVE, MATERIAL PROVISIONS AND EXHIBITS:
1. MASTER LICENSE AGREEMENT--TERM AND PROVIDER INFORMATION;
 2. EXHIBIT 1—STANDARD TERMS AND CONDITIONS;

3. EXHIBIT 2— NETWORK BOUNDARY DIAGRAM;
4. EXHIBIT 3—FEES AND USE RATES;
5. EXHIBIT 4—DESIGN AND CONCEALMENT GUIDELINES;
6. EXHIBIT 5—INSURANCE AND INDEMNITY REQUIREMENTS;
7. EXHIBIT 6—SPECIAL TERMS AND CONDITIONS;
8. EXHIBIT 7—STANDBY IRREVOCABLE LETTER OF CREDIT FORM AND AGREEMENT; AND
9. EXHIBIT 8—SITE LICENSE FORMS.

B. LENGTH OF LICENSE. THE TERM OF A MASTER LICENSE AGREEMENT GRANTED UNDER THIS CHAPTER WILL BEGIN ON THE DATE THE AGREEMENT IS SIGNED BY THE CITY CLERK AND WILL EXPIRE AFTER A PERIOD OF TEN (10) YEARS UNLESS AUTOMATICALLY RENEWED AS PROVIDED BY STATE LAW. THE TERM OF A SITE LICENSE ASSOCIATED WITH A MASTER LICENSE WILL BEGIN ON THE DATE THE SITE LICENSE IS SIGNED BY THE CITY MANAGER'S DESIGNEE AND WILL EXPIRE ON THE SAME DATE AS THE MASTER LICENSE AGREEMENT UNLESS RENEWED AS PROVIDED BY LAW.

C. EVERY LICENSE AGREEMENT WILL BE SUBJECT TO THE FOLLOWING ADMINISTRATIVE AND ENFORCEMENT PROVISIONS:

1. A LICENSE IS PERSONAL TO THE PROVIDER AND EXCEPT AS PROVIDED IN THE LICENSE, NO TRANSFER OF A LICENSE OR PROVIDER, OR CHANGE OF CONTROL OVER THE SAME (INCLUDING, BUT NOT LIMITED TO, TRANSFER BY FORCED OR VOLUNTARY SALE, MERGER, CONSOLIDATION, RECEIVERSHIP, OR ANY OTHER MEANS) MAY OCCUR WITHOUT THE CITY'S PRIOR WRITTEN CONSENT, WHICH CONSENT WILL NOT BE UNREASONABLY WITHHELD OR DELAYED. TO DETERMINE WHETHER TO CONSENT TO A TRANSFER, THE CITY MAY CONSIDER THE SAME INFORMATION AND QUALIFICATIONS REQUIRED OF AN ORIGINAL PROVIDER; IF THE PROVIDER IS IN COMPLIANCE WITH ITS LICENSE AND THIS CHAPTER AND, IF NOT, THE PROPOSED TRANSFEREE'S COMMITMENT TO CURE SUCH NONCOMPLIANCE; IF THE TRANSFER MAY RESULT IN AN EVASION OF OTHER APPLICABLE PROVISIONS OF LAW, OR IMPAIR LAWFUL CONTRACTS; AND THE EFFECT OF THE TRANSFER ON THE CITY'S INTERESTS. NO APPLICATION FOR A TRANSFER OF A LICENSE WILL BE GRANTED UNLESS THE PROPOSED TRANSFEREE AGREES IN WRITING THAT IT WILL ABIDE BY AND ACCEPT ALL TERMS OF THIS CHAPTER, THE LICENSE, AND THAT THE TRANSFEREE WILL ASSUME ALL OBLIGATIONS, LIABILITIES, AND RESPONSIBILITY FOR ALL ACTS AND OMISSIONS, KNOWN AND UNKNOWN, OF THE PREVIOUS LICENSEE UNDER THIS CHAPTER AND THE LICENSE FOR ALL PURPOSES, INCLUDING RENEWAL. THE CITY'S APPROVAL OF A TRANSFER OF A LICENSE DOES NOT CONSTITUTE A WAIVER OR RELEASE OF ANY OF THE RIGHTS OF THE CITY UNDER THIS CHAPTER OR LICENSE, WHETHER

ARISING BEFORE OR AFTER THE TRANSFER DATE.

2. EACH LICENSE IS SUBJECT TO THE CITY'S POLICE, REGULATORY, AND OTHER POWERS THE CITY NOW POSSESSES OR MAY LATER OBTAIN, AND A LICENSE MAY NOT WAIVE THE APPLICATION OF THE SAME.
3. EACH LICENSE MAY BE REVOKED IF THE PROVIDER FAILS TO COMPLY WITH THE MATERIAL TERMS AND CONDITIONS OF THE LICENSE, OR APPLICABLE FEDERAL, STATE OR LOCAL LAW. PROVIDED, HOWEVER, THAT A LICENSE MAY NOT BE REVOKED UNLESS THE PROVIDER IS GIVEN WRITTEN NOTICE OF THE DEFAULT, AND FAILS TO CURE THE PERFORMANCE WITHIN 60 DAYS OF THE NOTICE. A LICENSE MAY BE REVOKED WITHOUT PRIOR NOTICE OF DEFAULT FOR PROVIDER'S INTENTIONAL MISCONDUCT, VIOLATION OF CRIMINAL LAW, OR IS PART OF A PATTERN OF VIOLATIONS WHERE THE PROVIDER HAS NOTICE AND OPPORTUNITY TO CURE. PROVIDER MAY REQUEST A HEARING BEFORE THE CITY MANAGER, OR DESIGNEE, PRIOR TO THE REVOCATION OF THE LICENSE.
4. ANY REMEDIES AVAILABLE TO THE CITY ARE CUMULATIVE, AND ARE NOT LIMITED BY THE RECOVERY OF ANY AMOUNTS PURSUANT TO THE INSURANCE PROVISIONS OF THE LICENSE, OR PURSUANT TO AN INDEMNITY CLAUSE, OR PURSUANT TO ANY FINES AND PENALTIES PER THE EXECUTED LICENSE AGREEMENTS. IF THE PROVIDER FAILS TO PAY AMOUNTS OWED TO THE CITY BY THE TIME PRESCRIBED FOR PAYMENT, PROVIDER MUST PAY INTEREST ON THE AMOUNTS OWED, AT THE RATE OF ONE PERCENT PER MONTH.
5. PROVIDER MUST PRODUCE BOOKS AND RECORDS FOR THE CITY'S INSPECTION AND COPYING, PREPARE REPORTS, RESPOND TO QUESTIONS AND PERMIT ACCESS TO ITS FACILITIES AS THE CITY REQUESTS.
6. PROVIDER CANNOT INSTALL SIGNAGE WITHIN LOCAL PUBLIC RIGHT OF WAY EXCEPT AS MAY BE REQUIRED FOR THE SAFE USE OF THE LOCAL PUBLIC RIGHT OF WAY BY THE CITY, PROVIDER, AND OTHERS. ANY SAFETY SIGNS MUST BE IN A FORM APPROVED BY THE CITY AND MAINTAINED BY PROVIDER. PROVIDER'S FACILITIES LOCATED WITHIN THE LOCAL PUBLIC RIGHT OF WAY MUST INCLUDE AN IDENTIFICATION BADGE IN A SIZE AND SHAPE REQUIRED BY THE CITY MANAGER AND THAT INCLUDES LICENSEE'S NAME, BUSINESS ADDRESS, TELEPHONE NUMBER, EMERGENCY CONTACT INFORMATION, IDENTIFIES THE LOCATION BY GENERAL STREET ADDRESS, GLOBAL POSITIONING SYSTEM COORDINATES, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE CITY MANAGER. HOWEVER, IN NO EVENT WILL SUCH SIGNS OR PROVIDER'S FACILITIES CONTAIN ANY COMMERCIAL

MESSAGE OR SPEECH.

7. PROVIDER MUST AT ALL TIMES RETAIN ON CALL AND AVAILABLE TO THE CITY BY TELEPHONE AN ACTIVE, QUALIFIED, COMPETENT, AND EXPERIENCED PERSON TO SUPERVISE ALL PROVIDER'S ACTIVITIES WITHIN THE LOCAL PUBLIC RIGHT OF WAY AND OPERATION OF PROVIDER'S FACILITIES, AND WHO MUST BE AUTHORIZED TO REPRESENT AND ACT FOR PROVIDER IN ALL EMERGENCIES AND PROVIDER'S DAY-TO-DAY OPERATION WITHIN THE LOCAL PUBLIC RIGHT OF WAY.
8. EACH LICENSE ISSUED UNDER THIS CHAPTER MUST INCLUDE INDEMNITY AND INSURANCE PROVISIONS AND REQUIREMENTS AS ESTABLISHED BY THE CITY MANAGER.
9. EACH LICENSE ISSUED UNDER THIS CHAPTER MUST REQUIRE A PROVIDER TO FURNISH A STANDBY IRREVOCABLE LETTER OF CREDIT UNDER THE TERMS AND CONDITIONS ESTABLISHED BY THE CITY MANAGER TO SECURE PROVIDER'S OBLIGATIONS UNDER THE LICENSE AND THIS CHAPTER.

**ARTICLE III. SMALL WIRELESS FACILITIES, FEES,
AND LOCATION WITHIN LOCAL PUBLIC RIGHT OF
WAY.**

SEC. 5C-7. SMALL WIRELESS FACILITIES AND POLE STRUCTURES.

- A. THE FOLLOWING SIX WIRELESS POLE STRUCTURE-TYPES WILL BE PERMITTED IN LOCAL PUBLIC RIGHT OF WAY:
 1. POLE-TYPE STRUCTURE #1 – EXISTING NON-CITY POLE (NO MODIFICATION OR REPLACEMENT). AN EXISTING UTILITY POLE NOT OWNED BY THE CITY OF PHOENIX BUT LOCATED IN LOCAL PUBLIC RIGHT OF WAY. NO MODIFICATION OR REPLACEMENT OF THE POLE IS NECESSARY TO INSTALL SMALL WIRELESS FACILITIES.
 2. POLE-TYPE STRUCTURE #2 – EXISTING CITY POLE (NO MODIFICATION OR REPLACEMENT). AN EXISTING UTILITY POLE OWNED BY THE CITY OF PHOENIX AND LOCATED IN LOCAL PUBLIC RIGHT OF WAY, AND IS TYPICALLY A STREET LIGHT OR TRAFFIC SIGNAL POLE. NO MODIFICATION TO OR REPLACEMENT OF THE POLE IS NECESSARY TO INSTALL SMALL WIRELESS FACILITIES.
 3. POLE-TYPE STRUCTURE #3 – EXISTING NON-CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED). AN EXISTING UTILITY POLE NOT OWNED BY THE CITY OF PHOENIX BUT LOCATED IN LOCAL PUBLIC RIGHT OF WAY.

MODIFICATION OR REPLACEMENT OF THE POLE IS NECESSARY TO INSTALL SMALL WIRELESS FACILITIES.

4. POLE-TYPE STRUCTURE #4 – EXISTING CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED). AN EXISTING UTILITY POLE OWNED BY THE CITY OF PHOENIX AND LOCATED IN LOCAL PUBLIC RIGHT OF WAY, AND IS TYPICALLY A STREET LIGHT OR TRAFFIC SIGNAL POLE. MODIFICATION OR REPLACEMENT OF THE POLE IS NECESSARY TO INSTALL SMALL WIRELESS FACILITIES.
 5. POLE-TYPE STRUCTURE #5 – NEW CITY POLE (<50' TALL). A NEW CITY-OWNED UTILITY POLE LOCATED IN LOCAL PUBLIC RIGHT OF WAY FOR THE INSTALLATION OF A NEW SMALL WIRELESS FACILITY, THAT WILL ALSO FUNCTION AS A STREET LIGHT OR TRAFFIC SIGNAL POLE.
 6. POLE-TYPE STRUCTURE #6 – NEW NON-CITY POLE (<50' TALL). A NEW UTILITY POLE OWNED BY OTHERS LOCATED IN LOCAL PUBLIC RIGHT OF WAY FOR THE SOLE FUNCTION OF SMALL WIRELESS FACILITIES.
- B. THE CITY MANAGER, OR DESIGNEE, WILL FORMULATE AND ADOPT DESIGN STANDARDS, CONCEPTS AND REQUIREMENTS FOR SMALL WIRELESS FACILITIES IN THE LOCAL PUBLIC RIGHT OF WAY. THE CITY MANAGER MAY UPDATE THE DESIGN STANDARDS AND GUIDELINES PERIODICALLY TO KEEP CURRENT WITH TECHNOLOGY, EQUIPMENT, AND INDUSTRY BEST PRACTICES. DESIGN GUIDELINES, ALONG WITH THE STANDARD DESIGN SPECIFICATIONS, CONSTITUTE THE CITY'S OBJECTIVE DESIGN STANDARDS AND STEALTH AND CONCEALMENT REGULATIONS. ANY DEVIATION FROM THESE DESIGN GUIDELINES MAY BE A BASIS FOR THE CITY TO DENY ANY APPLICATION SUBMITTED UNDER THIS CHAPTER. ALL SMALL WIRELESS FACILITIES INSTALLED, OPERATED, AND MAINTAINED UNDER THIS CHAPTER MUST BE DESIGNED AND INSTALLED IN A WAY THAT: (1) MINIMIZES THE VISUAL IMPACT OF THE FACILITIES TO THE PUBLIC; (2) MATCHES THE VISUAL CONTEXT AND CHARACTER OF THE LOCAL PUBLIC RIGHT OF WAY AND THE SURROUNDING NEIGHBORHOOD AND DEVELOPMENT; AND (3) MEETS THE HIGHEST STANDARDS OF VISUAL AND FUNCTIONAL QUALITY. CITY RESERVES THE RIGHT TO DENY SMALL WIRELESS FACILITY INSTALLATIONS IF THE INSTALLATIONS DO NOT MEET THE CITY'S DESIGN STANDARDS FOR STEALTH AND CONCEALMENT.
- C. CONCEALMENT OF POLE-MOUNTED SMALL WIRELESS FACILITIES EQUIPMENT. ALL POLE-MOUNTED EQUIPMENT, INCLUDING THE ANTENNA, MUST BE CONCEALED IN A MANNER THAT MINIMIZES THE VISUAL IMPACT OF THE POLE-MOUNTED EQUIPMENT. THE CONCEALMENT METHOD AND MATERIALS MUST RECEIVE PRIOR APPROVAL BY THE CITY. ANTENNA SIZE LIMITATIONS ARE EXCLUSIVE OF ANY CONCEALMENT MATERIALS OR FABRICATION. CONCEALMENT MATERIALS SHALL HAVE A COLOR AND

FINISH CONSISTENT AND APPROPRIATE WITH THE POLE IT IS MOUNTED ON.

- D. SCREENING OF GROUND MOUNTED EQUIPMENT. EQUIPMENT AND EQUIPMENT ENCLOSURES MUST BE SCREENED BY A SCREEN WALL, PAINTED, AND/OR LANDSCAPED.
 - 1. SCREENING AND EQUIPMENT ENCLOSURES SHALL BLEND WITH OR ENHANCE THE SURROUNDING CONTEXT IN TERMS OF SCALE, FORM, TEXTURE, MATERIALS, AND COLOR. EQUIPMENT SHALL BE CONCEALED AS MUCH AS POSSIBLE BY BLENDING INTO THE NATURAL AND/OR PHYSICAL ENVIRONMENT. ALL SCREENING SHALL BE AT THE DISCRETION OF THE CITY.
 - 2. WHEN TREES, BUSHES, ROCKS, AND OTHER FORMS OF LANDSCAPING ARE USED FOR SCREENING, SUCH LANDSCAPING MUST MATCH THE PREDOMINANT LANDSCAPING FORM AND SPECIES WITHIN ONE BLOCK OF THE FACILITIES, AND MAY ONLY BE USED FOR SCREENING WHEN WATER FOR IRRIGATION OF LANDSCAPING IS PAID BY THE CITY OR WHEN THE ABUTTING PROPERTY OWNER AGREES IN WRITING TO ASSUME ALL IRRIGATION COSTS.
- E. ANY NEW, MODIFIED, OR REPLACEMENT POLES INSTALLED IN THE LOCAL PUBLIC RIGHT OF WAY IN CONJUNCTION WITH THE INSTALLATION OF A SMALL WIRELESS FACILITY, INCLUDING ANY GROUND-MOUNTED EQUIPMENT, ELECTRICAL SERVICE METER, AND SCREENING MUST:
 - 1. BE DESIGNED TO BLEND IN WITH THE SURROUNDING STREETScape WITH MINIMAL VISUAL IMPACT;
 - 2. SATISFY ALL REQUIRED AMERICANS WITH DISABILITIES ACT REQUIREMENTS.;
 - 3. AT THE TIME OF INSTALLATION, MAINTAIN A MINIMUM 20 FOOT DISTANCE FROM EXISTING FIRE HYDRANTS, EXISTING DRIVEWAYS, AND SIGHT VISIBILITY TRIANGLES FOR NEW POLES, REPLACEMENT POLES AND GROUND MOUNTED EQUIPMENT ONLY;
 - 4. EQUIPMENT MUST BE INSTALLED TO NOT IMPAIR OR INTERFERE WITH THE SIGHT VISIBILITY TRIANGLE REQUIREMENTS AS DICTATED IN CODE SECTION 31-13;
 - 5. NOT IMPACT EXISTING LOCAL PUBLIC RIGHT OF WAY AND REPLACE ANY LANDSCAPING OR IRRIGATION SYSTEM DAMAGED BY THE INSTALLATION LIKE-FOR-LIKE;
 - 6. FOR NEW POLES AND NEW GROUND MOUNTED EQUIPMENT ONLY,

MAINTAIN A MINIMUM 25 FOOT DISTANCE FROM THE PRIMARY DOORWAY OF BUSINESSES OR RESIDENCES MEASURED FROM THE OUTER DOOR FRAME AND A MINIMUM TEN FOOT DISTANCE FROM THE PRIMARY ENTRANCE OF BUSINESSES OR RESIDENCES MEASURED AT THE EDGE OF LOCAL PUBLIC RIGHT OF WAY;

7. NOT BLOCK OR OBSTRUCT EXISTING ROADWAY, OR COMMERCIAL SIGNAGE;
 8. MATCH THE COLOR AND FINISH OF SIMILAR POLES WITHIN ONE BLOCK; AND
 9. CONTAIN INTERNAL WIRING TO THE POLE AND GROUND-MOUNTED EQUIPMENT.
 10. ALL BOTTOM-FED ANTENNAS MUST HAVE A SHROUD TO CONCEAL THE CABLES FROM THE CABLE PORT OR HAND HOLE TO THE ANTENNA.
 11. ON A CASE-BY-CASE BASIS, CANISTER STYLE ANTENNAS MUST HAVE A TRANSITION SHROUD TO CONCEAL THE MOUNTING SECTION FROM THE TOP OF THE POLE TO THE BASE OF THE CANISTER.
- F. ALL SMALL WIRELESS HISTORIC DISTRICTS, THE PROVIDER MUST OBTAIN ALL REQUIRED APPROVALS BEFORE ANY SITE APPLICATION MAY BE SUBMITTED TO LOCATE SMALL WIRELESS FACILITIES WITHIN THE HISTORIC DISTRICT.
- G. NO NEW WIRELESS POLE STRUCTURES WILL BE PERMITTED IN LOCAL PUBLIC RIGHT OF WAY IF THERE IS AN EXISTING CITY POLE IN THE LOCAL PUBLIC RIGHT OF WAY WITHIN 100 FEET OF THE PROPOSED LOCATION THAT MAY BE USED TO INSTALL A SMALL WIRELESS FACILITY. TO THE EXTENT POSSIBLE, ALL NEW WIRELESS POLE STRUCTURES IN THE LOCAL PUBLIC RIGHT OF WAY MUST SERVE A DUAL PURPOSE AS A STREET LIGHT OR TRAFFIC SIGNAL POLE, UNLESS OTHERWISE APPROVED BY THE CITY.
- H. ANY NEW WIRELESS POLE STRUCTURE THAT WILL SERVE SOLELY AS A WIRELESS FACILITY SUPPORT STRUCTURE MAY BE REQUIRED TO INCORPORATE SHADE FOR ADJACENT PEDESTRIAN PATHWAYS OR SIDEWALKS, AND MAY BE REQUIRED TO INCORPORATE ART INTO ANY STRUCTURED SHADE ELEMENT, AS APPROVED BY THE CITY.
- I. AVAILABILITY AND USE OF EXISTING CITY POLES FOR SMALL WIRELESS FACILITIES INSTALLATIONS ARE ON A FIRST-COME, FIRST-SERVED BASIS. REQUESTS TO INSTALL NEW SMALL WIRELESS FACILITIES ON A CITY POLE WITH A PREVIOUSLY INSTALLED SMALL WIRELESS FACILITY MUST BE REVIEWED BY AND COORDINATED WITH BOTH THE CITY AND THE PROVIDER WITH THE EXISTING SMALL WIRELESS FACILITY INSTALLATION

ON THE POLE.

- J. ALL SMALL WIRELESS FACILITIES MUST BE MAINTAINED IN A GOOD AND SAFE CONDITION, INCLUDING KEPT FREE OF GRAFFITI. CONSISTENT WITH THE CITY OF PHOENIX GRAFFITI BUSTERS PROGRAM, ALL GRAFFITI MUST BE REMOVED IN ITS ENTIRETY FROM ALL SMALL WIRELESS FACILITIES WITHIN TEN (10) CALENDAR DAYS AFTER NOTICE FROM THE CITY AT THE PROVIDER'S SOLE EXPENSE AND COST. IF PROVIDER FAILS TO CURE AFTER NOTICE, THE CITY MAY REMOVE ANY GRAFFITI USING CITY STANDARD TECHNIQUES AND ASSESS PROVIDER THE CITY'S COSTS TO REMOVE SUCH GRAFFITI. PROVIDERS ACKNOWLEDGE AND AGREE THAT THE CITY'S STANDARD TECHNIQUES FOR GRAFFITI REMOVAL INCLUDE POWER WASHING AND PROVIDERS AGREE AND ACCEPT THAT THE CITY IS NOT LIABLE FOR ANY DAMAGE TO SMALL WIRELESS FACILITIES CAUSED BY THE CITY AS PART OF GRAFFITI REMOVAL.
- K. ALL SMALL WIRELESS FACILITIES DESIGNS, INCLUDING POLES, ANTENNAS, AND ASSOCIATED EQUIPMENT PLACED IN LOCAL PUBLIC RIGHT OF WAY MUST BE SEALED BY A REGISTERED ARIZONA PROFESSIONAL ENGINEER.

SEC. 5C-8. LOCAL PUBLIC RIGHT OF WAY USE RATE AND FEES.

- A. RATES AND FEES. THE FOLLOWING FEES AND RATES APPLY TO PERSONS WHO SUBMIT AN APPLICATION TO INSTALL, OPERATE, AND MAINTAIN SMALL WIRELESS FACILITIES IN LOCAL PUBLIC RIGHT OF WAY. THE APPLICABLE FEES AND RATES ARE LISTED BY POLE TYPE.

RATE / FEE TYPE	RATE / FEE DESCRIPTION	RATE / FEE AMOUNT
APPLICATION FEE		
POLE TYPE-STRUCTURE #1: EXISTING NON-CITY POLE (NO MODIFICATION OR REPLACEMENT)	PER SITE (1 – 5 SITES)	\$ 100
	PER SITE (6 – 25 SITES)	\$ 50
POLE TYPE-STRUCTURE #2: EXISTING CITY POLE (NO MODIFICATION OR REPLACEMENT)	PER SITE (1 – 5 SITES)	\$ 100
	PER SITE (6 – 25 SITES)	\$ 50

POLE TYPE-STRUCTURE #3: EXISTING NON-CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED)	PER SITE	\$ 750
POLE TYPE STRUCTURE #4: EXISTING CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED)	PER SITE	\$ 750
POLE TYPE-STRUCTURE #5: NEW CITY POLE (<50' TALL)	PER SITE	\$ 750
POLE TYPE-STRUCTURE #6: NEW NON-CITY POLE (<50' TALL)	PER SITE	\$ 750
LOCAL PUBLIC RIGHT OF WAY USE RATE		
POLE TYPE-STRUCTURE #1: EXISTING NON-CITY POLE (NO MODIFICATION OR REPLACEMENT)	PER SITE PER YEAR	\$ 50
POLE TYPE-STRUCTURE #2: EXISTING CITY POLE (NO MODIFICATION OR REPLACEMENT)	PER SITE PER YEAR	\$ 100
POLE TYPE-STRUCTURE #3: EXISTING NON-CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED)	PER SITE PER YEAR	\$ 50
POLE TYPE STRUCTURE #4: EXISTING CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED)	PER SITE PER YEAR	\$ 100
POLE TYPE-STRUCTURE #5: NEW CITY POLE (<50' TALL)	PER SITE PER YEAR	\$ 100
POLE TYPE-STRUCTURE #6: NEW NON-CITY POLE (<50' TALL)	PER SITE PER YEAR	\$ 50

B. NOTHING IN THIS SECTION IS INTENDED TO LIMIT THE OBLIGATION OF ANY PERSON TO PAY AMOUNTS OWED UNDER ANY EXISTING SMALL WIRELESS FACILITIES FRANCHISE OR LICENSE AGREEMENT ISSUED PRIOR TO FEBRUARY 9, 2018 OR IF THIS ORDINANCE IS AMENDED, THE EFFECTIVE DATE OF THE ADOPTION OF SUCH AMENDMENT TO THIS ORDINANCE.

SEC. 5C-9. LOCAL PUBLIC RIGHT OF WAY PERMIT.

THE CITY WILL NOT ISSUE A PERMIT FOR CONSTRUCTION IN THE LOCAL PUBLIC RIGHT OF WAY OR OTHER AUTHORIZATION FOR A PROVIDER TO CONSTRUCT OR INSTALL WIRELESS FACILITIES IN THE LOCAL PUBLIC RIGHT OF WAY UNDER CHAPTER 31 OF THE CODE, OR ANY OTHER CHAPTER OF THE

CODE, UNLESS THE PROVIDER HAS FIRST OBTAINED THE LICENSE REQUIRED TO OCCUPY THE LOCAL PUBLIC RIGHT OF WAY UNDER THIS CHAPTER.

SEC. 5C-10. LOCATION AND RELOCATION OF FACILITIES IN LOCAL PUBLIC RIGHT OF WAY.

- A. A PROVIDER MUST INSTALL, CONSTRUCT, AND MAINTAIN ITS FACILITIES IN STRICT ACCORDANCE WITH THE CODE AND THE CITY'S DESIGN STANDARDS, CONCEPTS, AND REQUIREMENTS FOR SMALL WIRELESS FACILITIES IN THE LOCAL PUBLIC RIGHT OF WAY. IF A FACILITY HAS MORE THAN ONE PROVIDER, EACH PROVIDER IS JOINTLY AND SEVERALLY RESPONSIBLE TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER. FACILITIES MUST BE INSTALLED, CONSTRUCTED AND MAINTAINED SO THAT NO ADDITIONAL COSTS ARE IMPOSED UPON THE CITY, AND SO THAT THE FACILITY DOES NOT INTERFERE WITH OTHER USES OR USERS OF THE LOCAL PUBLIC RIGHT OF WAY AND DOES NOT LIMIT THE REQUIREMENTS OF ANY OTHER PROVISION OF THE CODE, OR THE PROVISIONS OF ANY LICENSE, PERMIT, OR AGREEMENT ISSUED BY THE CITY.
- B. THE FACILITIES MUST BE CONSTRUCTED, INSTALLED, OPERATED, AND MAINTAINED BY THE PROVIDER AT A LOCATION THAT INTERFERES AS LITTLE AS POSSIBLE WITH TRAFFIC OR OTHER AUTHORIZED USES OVER, UNDER, OR THROUGH THE LOCAL PUBLIC RIGHT OF WAY. THOSE PHASES OF CONSTRUCTION RELATING TO TRAFFIC CONTROL, BACKFILLING, COMPACTION, AND PAVING, AS WELL AS THE LOCATION OR RELOCATION OF SAID FACILITIES WILL BE SUBJECT TO REGULATION BY THE CITY MANAGER, OR HIS DESIGNEE. THE PROVIDER MUST KEEP ACCURATE INSTALLATION RECORDS OF THE LOCATION OF ALL SMALL WIRELESS FACILITIES IN THE LOCAL PUBLIC RIGHT OF WAY AND FURNISH THEM TO THE CITY UPON REQUEST OR AT SUCH PERIODIC INTERVALS AS THE CITY MAY REQUIRE. UPON COMPLETION OF NEW OR RELOCATION CONSTRUCTION OF UNDERGROUND FACILITIES IN THE LOCAL PUBLIC RIGHT OF WAY, THE PROVIDER MUST PROVIDE THE CITY, IF REQUESTED OR AS REQUIRED, WITH INSTALLATION RECORDS IN A FORMAT COMPATIBLE WITH THE THEN-CURRENT CITY MAPPING FORMAT THAT SHOWS THE LOCATION OF THE UNDERGROUND AND ABOVE GROUND FACILITIES.
- C. WHENEVER THE PROVIDER MAY CAUSE ANY WORK OR ALTERATION TO BE MADE FOR ANY PURPOSE IN THE LOCAL PUBLIC RIGHT OF WAY, THE WORK MUST BE COMPLETED WITHIN THE TIME SPECIFIED IN THE LICENSE, PERMIT, OR AGREEMENT, OR IF NO TIME IS SPECIFIED WITHIN A REASONABLE TIME. IN ADDITION, THE PROVIDER MUST, WITHOUT EXPENSE TO THE CITY AND UPON THE COMPLETION OF SUCH WORK, RESTORE THE PROPERTY DISTURBED IN A MANNER CONSISTENT WITH THE CITY'S DULY ADOPTED STANDARDS, AND AS REQUIRED BY ANY PERMITS, LICENSES, OR

AGREEMENTS.

- D. THE INSTALLATION, USE, AND MAINTENANCE OF THE PROVIDER'S FACILITIES WITHIN THE LOCAL PUBLIC RIGHT OF WAY AUTHORIZED IN THIS CHAPTER MUST BE IN SUCH A MANNER AS NOT TO INTERFERE WITH THE CITY'S PLACEMENT, CONSTRUCTION, USE, AND MAINTENANCE OF ITS RIGHTS OF WAY, STREET LIGHTING, WATER PIPES, DRAINS, SEWERS, TRAFFIC SIGNAL SYSTEMS, OR OTHER CITY SYSTEMS THAT HAVE BEEN, OR MAY BE, INSTALLED, MAINTAINED, USED OR AUTHORIZED BY THE CITY. UPON THE CITY'S REQUEST, PROVIDER'S FACILITIES MUST BE RELOCATED AT PROVIDER'S EXPENSE, UNLESS STATE LAW EXPRESSLY REQUIRES OTHERWISE. UPON THE CITY'S REQUEST, BY A TIME SPECIFIED BY THE CITY, IF THE PROVIDER FAILS TO MOVE ITS FACILITIES, THE CITY MAY DO SO AND THE PROVIDER MUST PAY THE CITY'S COSTS WITHIN (30) DAYS FROM THE DATE OF INVOICE PROVIDED BY THE CITY. FURTHER, THE PROVIDER MUST REIMBURSE THE CITY FOR ANY ADDITIONAL COST THE CITY INCURS DUE TO THE LOCATION OR RELOCATION OF THE PROVIDER'S FACILITIES, INCLUDING ALL DESIGN AND CONSTRUCTION COSTS.
- E. THE PROVIDER MUST NOT INSTALL, MAINTAIN, OR USE ANY OF ITS FACILITIES IN SUCH A MANNER AS TO DAMAGE OR INTERFERE WITH FACILITIES OF ANOTHER PROVIDER LOCATED WITHIN THE LOCAL PUBLIC RIGHT OF WAY.
- F. ALL SMALL WIRELESS FACILITIES MUST BE INSTALLED PER PLANS SUBMITTED BY PROVIDER IN ITS APPLICATION SUBMITTED AND APPROVED BY THE CITY. PROVIDER MAY INSTALL SMALL WIRELESS FACILITIES ON EXISTING POLES OR IN EXISTING CONDUIT WHERE PERMISSION IS GRANTED BY OWNER OF THE POLE OR CONDUIT, EXCEPT WHERE THOSE SAME POLES ARE SCHEDULED TO BE REPLACED WITH BURIED FACILITIES. THE CITY MAY REQUIRE THE PROVIDER TO PROVE THAT IT HAS SUCH PERMISSION FROM THE OWNER TO USE THE OWNER'S FACILITIES. IF PROVIDER INSTALLS SMALL WIRELESS FACILITIES ON EXISTING POLES AS PROVIDED HEREIN, THE PROVIDER MUST BURY ITS FACILITIES WHEN SUCH POLES ARE REMOVED AND NOT REPLACED IN KIND FOR ANY REASON. IF THE PROVIDER MAKES USE OF EXISTING CONDUIT OF ANOTHER PROVIDER, THE PROVIDER WILL BE SUBJECT TO THE PROVISIONS OF THIS CHAPTER IN THE USE OF SUCH CONDUIT IN THE LOCAL PUBLIC RIGHT OF WAY.
- G. EACH PROVIDER MUST OBTAIN AND MAINTAIN SUCH INSURANCE, BONDING, AND SECURITY FUND REQUIREMENTS AS SPECIFIED BY THE CITY, OR IF NO SPECIFIC REQUIREMENTS ARE DESIGNATED, AS ARE REQUIRED BY THE CITY FOR SIMILAR FACILITIES.
- H. NO WORK MAY COMMENCE UNLESS THESE REQUIREMENTS HAVE BEEN SATISFIED, AND THE CITY MAY REQUIRE THE PROVIDER TO REMOVE OR

STOP WORK ON FACILITIES, OR REQUIRE A PROVIDER TO CEASE USING THE FACILITY, WHEN ANY INSURANCE, BONDING, OR SECURITY FUND REQUIREMENTS ARE NOT SATISFIED.

- I. A PERMIT MUST BE OBTAINED FROM THE CITY PRIOR TO A PROVIDER REMOVING, ABANDONING, RELOCATING, OR RECONSTRUCTING, IF NECESSARY, ANY PORTION OF A PROVIDER'S FACILITIES IN THE LOCAL PUBLIC RIGHT OF WAY. NOTWITHSTANDING THE FOREGOING, WHEN EMERGENCY REPAIRS ARE REQUIRED BY FEDERAL OR STATE LAW OR ACTS OF GOD, THE PROVIDER WILL NOTIFY THE CITY PRIOR TO SUCH REPAIRS, IF PRACTICABLE, AND WILL OBTAIN THE NECESSARY PERMITS WITHIN 24 HOURS AFTER THE WORK BEGINS.

SEC. 5C-11. CONFLICT WITH CITY PROJECTS.

- A. IF, DURING THE DESIGN PROCESS FOR PUBLIC WORKS IMPROVEMENTS, THE CITY DISCOVERS A POTENTIAL CONFLICT BETWEEN THE PROVIDER'S SMALL WIRELESS FACILITIES AND THE PROPOSED PUBLIC WORKS CONSTRUCTION, THE PROVIDER MUST:

1. LOCATE AND, IF NECESSARY, EXPOSE ITS FACILITIES IN CONFLICT; OR
2. USE A LOCATION SERVICE UNDER CONTRACT WITH THE CITY TO LOCATE AND, IF NECESSARY, EXPOSE ITS FACILITIES. THE PROVIDER MUST REIMBURSE THE CITY FOR THE COST RESULTING FROM THE USE OF SUCH LOCATION SERVICE.

THE CITY WILL MAKE REASONABLE EFFORTS TO DESIGN AND CONSTRUCT PUBLIC WORKS PROJECTS TO AVOID RELOCATION EXPENSE TO THE PROVIDER. PROVIDER MUST FURNISH LOCATION INFORMATION TO THE CITY IN A TIMELY MANNER, BUT IN NO CASE LONGER THAN TEN CALENDAR DAYS FROM THE DATE OF A REQUEST FROM THE CITY.

- B. THE CITY RESERVES THE PRIOR AND SUPERIOR RIGHT TO LAY, CONSTRUCT, ERECT, INSTALL, USE, OPERATE, REPAIR, REPLACE, REMOVE, RELOCATE, REGRADE, WIDEN, REALIGN, OR MAINTAIN ANY LOCAL PUBLIC RIGHT OF WAY, AERIAL, SURFACE, OR SUBSURFACE IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, WATER MAINS, TRAFFIC CONTROL CONDUITS, CABLE AND DEVICES, SANITARY OR STORM SEWERS, SUBWAYS, TUNNELS, BRIDGES, VIADUCTS, OR ANY OTHER PUBLIC WORKS CONSTRUCTION WITHIN THE LOCAL PUBLIC RIGHT OF WAY.
- C. WHEN THE CITY INVOKES ITS PRIOR SUPERIOR RIGHT TO THE LOCAL PUBLIC RIGHT OF WAY, THE PROVIDER MUST MOVE ITS FACILITIES LOCATED IN CONFLICT IN THE LOCAL PUBLIC RIGHT OF WAY, AT ITS OWN COST, TO SUCH A LOCATION AS THE CITY DIRECTS.

D. IF, DURING A PUBLIC WORKS CONSTRUCTION PROJECT, THE CITY DETERMINES PROVIDER'S FACILITIES ARE IN CONFLICT, THE FOLLOWING SHALL APPLY:

1. UNLESS OTHERWISE AGREED BY THE PARTIES, THE PROVIDER MUST REMOVE OR RELOCATE THE CONFLICTING FACILITY WITHIN ONE MONTH. THIS TIME PERIOD WILL RUN FROM PROVIDER'S RECEIPT OF WRITTEN NOTICE.
2. THE CITY AND THE PROVIDER WILL COORDINATE AS NECESSARY TO REMOVE OR RELOCATE THE FACILITY. REMOVAL OR RELOCATION WORK BY PROVIDER MUST BEGIN NO LATER THAN 72 HOURS, IF PRACTICABLE, AFTER WRITTEN NOTICE FROM THE CITY.

E. IF THE PROVIDER'S RELOCATION OF FACILITIES DELAYS CONSTRUCTION OF A PUBLIC PROJECT CAUSING THE CITY TO BE LIABLE FOR DELAY DAMAGES, THE PROVIDER MUST REIMBURSE THE CITY FOR ANY DAMAGES ATTRIBUTABLE TO PROVIDER'S DELAY.

SEC. 5C-12. DAMAGE TO LOCAL PUBLIC RIGHT OF WAY AND FACILITIES.

- A. THE PROVIDER MUST NOT DAMAGE ANY LOCAL PUBLIC RIGHT OF WAY, OR INFRASTRUCTURE IN LOCAL PUBLIC RIGHT OF WAY, OR FACILITIES IN LOCAL PUBLIC RIGHT OF WAY. ANY SUCH DAMAGE CAUSED BY THE INSTALLATION, USE, MAINTENANCE, OR REMOVAL OF ITS SMALL WIRELESS FACILITIES WILL BE RESTORED OR REPAIRED TO THE SATISFACTION OF THE CITY OR THE OWNER OF THE INFRASTRUCTURE.
- B. IF, IN THE INSTALLATION, USE, MAINTENANCE, OR REMOVAL OF ITS FACILITIES, THE PROVIDER DAMAGES OR DISTURBS THE SURFACE OR SUBSURFACE OF ANY LOCAL PUBLIC RIGHT OF WAY OR ADJOINING PUBLIC PROPERTY, OR THE PUBLIC IMPROVEMENT LOCATED ON, IN, OR UNDER, THE PROVIDER MUST PROMPTLY, AT ITS OWN EXPENSE, AND IN A MANNER ACCEPTABLE TO THE CITY, RESTORE THE SURFACE OR SUBSURFACE OF THE LOCAL PUBLIC RIGHT OF WAY OR PUBLIC PROPERTY, OR REPAIR OR REPLACE THE PUBLIC IMPROVEMENT ON, IN, OR UNDER, IN AS GOOD A CONDITION AS BEFORE SUCH DAMAGE OR DISTURBANCE.
- C. IF SUCH RESTORATION, REPAIR, OR REPLACEMENT OF THE SURFACE, SUBSURFACE, OR ANY IMPROVEMENT IS NOT COMPLETED WITHIN A REASONABLE TIME, OR SUCH REPAIR OR REPLACEMENT DOES NOT MEET DULY ADOPTED STANDARDS, THE CITY RESERVES THE RIGHT TO PERFORM THE NECESSARY RESTORATION, REPAIR, OR REPLACEMENT, EITHER THROUGH ITS OWN FORCES, OR THROUGH A HIRED CONTRACTOR. THE PROVIDER MUST PAY THE CITY FOR ITS COSTS WITHIN 30 DAYS AFTER

PROVIDER'S RECEIPT OF THE CITY'S INVOICE.

SEC. 5C-13. RELOCATION OF FACILITIES AND DISPUTE RESOLUTION.

- A. THE CITY WILL NOT BEAR ANY COST TO RELOCATE EXISTING INFRASTRUCTURE OR FACILITIES, IRRESPECTIVE OF THE FUNCTION SERVED, WHERE EXISTING CITY INFRASTRUCTURE OR FACILITIES OR OTHER EXISTING INFRASTRUCTURE OR FACILITIES OCCUPY THE LOCAL PUBLIC RIGHT OF WAY UNDER AUTHORITY OF A CITY PERMIT, LICENSE, OR FRANCHISE AND CONFLICT WITH A PROVIDER'S FACILITIES.
- B. IF A PROVIDER SHOULD DISPUTE THE AMOUNT OF DAMAGES, FEES, USE RATES, OR OTHER CHARGES PAYABLE BY PROVIDER PURSUANT TO THIS CHAPTER, PROVIDER MAY FILE A CLAIM WITH THE DISPUTE RESOLUTION BOARD. THE DISPUTE RESOLUTION BOARD CONSISTS OF ONE MEMBER SELECTED BY THE CITY, ONE MEMBER SELECTED BY THE PROVIDER, AND A THIRD PERSON AGREED UPON BY BOTH PARTIES. THE PERSON AGREED UPON BY BOTH PARTIES WILL SERVE AS CHAIRPERSON. DISPUTE RESOLUTION BOARD COSTS WILL BE SHARED EQUALLY BY THE CITY AND THE PROVIDER. THE BOARD WILL HEAR THE DISPUTE PROMPTLY, AND RENDER AN OPINION AS SOON AS POSSIBLE, BUT IN NO CASE LATER THAN 60 DAYS AFTER THE CLAIM IS FILED. ALL DECISIONS OF THE DISPUTE RESOLUTION BOARD ARE NON-BINDING; HOWEVER, THE FINDINGS OF THE DISPUTE RESOLUTION BOARD SHALL BE ADMISSIBLE IN ANY LEGAL ACTION. THE CITY AND THE PROVIDER SHALL ACCEPT OR REJECT FINDINGS OF THE DISPUTE RESOLUTION BOARD WITHIN 30 DAYS AFTER RECEIPT OF THE FINDINGS. IF DAMAGES ARE ASSESSED BY THE DISPUTE RESOLUTION BOARD, THE PROVIDER SHALL PAY THE CITY WITHIN 30 DAYS OF RECEIPT OF AN INVOICE. LATE CHARGES OF FIVE PERCENT AND INTEREST CHARGES OF ONE AND ONE-HALF PERCENT PER MONTH WILL BE ADDED FOR LATE PAYMENT.
- C. EXCEPT AS OTHERWISE PROVIDED IN A LICENSE, PERMIT, OR LAW, THE CITY WILL BEAR RELOCATION COSTS IF THE PROVIDER IS REQUIRED BY THE CITY TO RELOCATE FACILITIES THAT ARE LOCATED IN PRIVATE EASEMENTS OBTAINED BY THE PROVIDER PRIOR TO THE DEDICATION OF THE PUBLIC STREET OR EASEMENT FROM WHICH THE FACILITIES MUST BE RELOCATED. PROVIDER'S PRIOR RIGHTS REMAIN UNAFFECTED BY ANY SUBSEQUENT RELOCATION. A PRIOR RIGHT AS USED IN THIS SUBSECTION, MEANS PRIVATE EASEMENT RIGHTS OBTAINED BY THE PROVIDER PRIOR TO THE DEDICATION OF THE STREETS OR PUBLIC WAYS FROM WHICH THE FACILITIES ARE REQUESTED BY THE CITY TO BE RELOCATED. IN THE CASE OF A FACILITY THAT SERVES MULTIPLE PURPOSES, THE PRIOR RIGHTS MUST EXTEND TO ALL USES FOR THIS EXCEPTION TO APPLY.

SEC. 5C-14. REMOVAL OF SMALL WIRELESS FACILITIES.

A PROVIDER MUST REMOVE ALL SMALL WIRELESS FACILITIES AND RESTORE THE USE AREAS INCLUDING POLE, MAST ARMS, LUMINAIRES, OR WIRELESS SUPPORT STRUCTURE TO ITS PRIOR CONDITION, OR TO A CONDITION THAT MATCHES THE SURROUNDING LAND AND IMPROVEMENTS, AS DIRECTED BY CITY, AT PROVIDER'S EXPENSE PRIOR TO NORMAL EXPIRATION OF THE TERM OF A MASTER LICENSE AGREEMENT OR SITE LICENSE AGREEMENT OR WITHIN 90 DAYS AFTER TERMINATION OF A MASTER LICENSE AGREEMENT OR SITE LICENSE AGREEMENT. WITHOUT LIMITATION, SUCH REMOVAL MUST INCLUDE REVEGETATION AND APPROPRIATE IRRIGATION SYSTEMS FOR REVEGETATED AREAS. NOTWITHSTANDING THE ABOVE, THE CITY MAY ELECT TO REQUIRE PROVIDER TO LEAVE ANY OR ALL CONSTRUCTION OR OTHER ITEMS (EXCEPT THE COMMUNICATIONS EQUIPMENT) IN PLACE, AND ALL SUCH ITEMS WILL BE OWNED BY CITY. UNLESS CITY DIRECTS OTHERWISE, ALL WIRING, PIPES AND CONDUITS MUST BE LEFT IN GOOD AND SAFE CONDITION, IN WORKING ORDER, WITH EACH END PROPERLY LABELED AND ENCLOSED IN PROPER JUNCTION BOXES. A PROVIDER THAT FAILS TO REMOVE THE SMALL WIRELESS FACILITIES AS PROVIDED IN THIS SECTION WILL BE LIABLE TO THE CITY FOR ALL OF THE CITY'S COSTS OF REMOVAL, AND WILL HAVE BEEN DEEMED TO WAIVE ANY PROPERTY RIGHTS AND INTERESTS IN THE FACILITIES. PROVIDED, HOWEVER, THE PROVIDER WILL REMAIN LIABLE FOR ANY OF ITS OBLIGATIONS AND DUTIES UNDER THE MASTER LICENSE AND SITE LICENSE AGREEMENTS.

ARTICLE IV. PUBLIC HEALTH, SAFETY, AND WELFARE REVIEW, NOTIFICATION, TRAINING, AND ENFORCEMENT.

SEC. 5C-15. INSTALLATION SAFETY REVIEW.

A. FOR THE PERIOD BEGINNING ON THE DATE AN INSTALLATION PERMIT IS ISSUED AND ENDING ON THE DATE THE PERMITTED WORK IS ACCEPTED, THE CITY MAY PERFORM A SAFETY REVIEW OF CONSTRUCTION, RECONSTRUCTION OR INSTALLATION OF ALL SMALL WIRELESS FACILITIES AS IT DEEMS NECESSARY TO ENSURE COMPLIANCE WITH THIS CHAPTER 5C, THE CODE, OR OTHER TELECOMMUNICATIONS LAWS. ALL CITY PLANS, REVIEWS, INSPECTIONS, STANDARDS, AND OTHER RIGHTS AND ACTIONS RELATED TO PROVIDER'S IMPROVEMENTS ARE FOR CITY'S SOLE AND EXCLUSIVE BENEFIT AND NEITHER PROVIDER NOR ANY OTHER PERSON MAY RELY ON THE CITY'S SAFETY REVIEWS OR HAVE ANY RIGHTS RELATED TO THE REVIEWS. THE PRECEDING SENTENCE DOES NOT PREVENT PROVIDER FROM RELYING ON CONSENTS, PERMITS, OR APPROVALS THE CITY MAY GRANT BASED ON CITY'S PLANS, REVIEWS, AND INSPECTIONS. AS A CONDITION OF OBTAINING THE LICENSES AUTHORIZED BY THIS CHAPTER, THE PROVIDER GRANTS THE CITY THE

RIGHT TO ACCESS THE PROVIDER'S SMALL WIRELESS FACILITIES. EXCEPT FOR EMERGENCIES, THIS RIGHT OF ACCESS IS LIMITED TO DATES AND TIMES AGREED TO BY THE PARTIES AND TO CITY INSPECTORS, OTHER EMPLOYEES, CONTRACTORS, OR OFFICERS ACTING WITHIN THEIR LEGAL AUTHORITY.

- B. CONSISTENT WITH STATE LAW, THE CITY MAY RECOVER THE CITY'S COSTS INCURRED TO PERFORM SUCH INSTALLATION SAFETY REVIEWS AS THE CITY DEEMS NECESSARY AT THE HOURLY RATE OF \$150 PER HOUR PER PERSON. HOWEVER, IN NO EVENT WILL THE SAFETY REVIEW EXCEED THE TOTAL NUMBER OF HOURS LISTED IN THE TABLE BELOW FOR EACH SITE INSTALLATION PERMIT. THE CITY WILL SUBMIT AN INVOICE TO THE PROVIDER FOR EACH SITE INSTALLATION SAFETY REVIEW THAT SHOWS THE NUMBER OF HOURS BILLED IN INCREMENTS OF A QUARTER HOUR (15 MINUTES) FOR THE TIME SPENT PER PERSON ON-SITE FOR EACH REVIEW; EXCEPT THAT A FLAT RATE OF ONE QUARTER HOUR (15 MINUTES) WILL BE CHARGED FOR TRAVEL TO AND FROM EACH SITE FOR EACH REVIEW, AND A FLAT RATE OF ONE HOUR WILL BE CHARGED FOR A PROVIDER'S FAILURE TO PERMIT ACCESS TO THE FACILITIES AT THE AGREED TIME AND DATE (A NO-SHOW). THE PROVIDER MUST PAY ANY SUCH INVOICE WITHIN 30 CALENDAR DAYS OF THE INVOICE DATE.

INSTALLATION SAFETY REVIEW		NOT TO EXCEED TOTAL NUMBER OF HOURS
POLE TYPE-STRUCTURE #1: EXISTING NON-CITY POLE (NO MODIFICATION OR REPLACEMENT)	PER PERMIT	10
POLE TYPE-STRUCTURE #2: EXISTING CITY POLE (NO MODIFICATION OR REPLACEMENT)	PER PERMIT	10
POLE TYPE-STRUCTURE #3: EXISTING NON-CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED)	PER PERMIT	20
POLE TYPE STRUCTURE #4: EXISTING CITY POLE (MODIFICATION OR REPLACEMENT REQUIRED)	PER PERMIT	20
POLE TYPE-STRUCTURE #5: NEW CITY POLE (<50' TALL)	PER PERMIT	20
POLE TYPE-STRUCTURE #6: NEW NON-CITY POLE (<50' TALL)	PER PERMIT	20

- C. CONSISTENT WITH STATE LAW AND TO FULLY RECOVER ITS COSTS, THE CITY MAY INCREASE THE HOURLY RATE CHARGED EVERY TWO YEARS BY

THE SAME PERCENTAGE REFLECTED BY THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX FOR THE PRECEDING TWO YEARS.

SEC. 5C-16. CONSTRUCTION NOTIFICATION.

- A. FOR ANY NEW SMALL WIRELESS FACILITIES INSTALLATIONS AND NEW OR MODIFIED POLES, THE PROVIDER MUST PROVIDE ADVANCED PRE-CONSTRUCTION NOTIFICATION NO LATER THAN TEN (10) CALENDAR DAYS PRIOR TO THE START OF CONSTRUCTION ACTIVITIES TO POTENTIALLY IMPACTED PROPERTY OWNERS WITHIN 300 FEET OF THE INSTALLATION. THE PROVIDER MAY ACCOMPLISH SUCH PRE-CONSTRUCTION NOTIFICATION BY MAILING A LETTER TO THE ADDRESS OF EACH IMPACTED PROPERTY OWNER OR BY PLACING A DOOR HANGER AT THE PROPERTY OWNER'S ADDRESS. THE LANGUAGE OF THE NOTIFICATION WILL BE IN A FORM PROVIDED BY THE CITY TO THE PROVIDER AND MUST INCLUDE TELEPHONE AND CONTACT INFORMATION FOR THE PROVIDER.
- B. EACH PROVIDER MUST REGISTER WITH AND COMPLY WITH THE LOCAL BLUE STAKE PROGRAM AS ESTABLISHED BY A.R.S. TITLE 40, CHAPTER 2, ARTICLE 6.3, SECTIONS 40-360.21 THROUGH 40-360.32.

SEC. 5C-17. DE-ENERGIZING SMALL WIRELESS FACILITIES FOR POLE MAINTENANCE.

ALL SMALL WIRELESS FACILITIES MOUNTED ON A CITY POLE OR ANY WIRELESS SUPPORT STRUCTURE WITH A SMALL WIRELESS FACILITY LOCATED WITHIN 25 FEET OF A CITY POLE MUST INSTALL A DEACTIVATION SWITCH, CONSISTENT WITH CITY DESIGN STANDARDS, FOR BOTH PRIMARY AND BACKUP POWER ACCESSIBLE TO CITY STAFF TO DE-ENERGIZE THE FACILITY FOR REPAIR, MAINTENANCE, AND SAFETY PURPOSES.

ALL EXISTING SMALL WIRELESS FACILITIES CONSTRUCTED WITHOUT A DEACTIVATION SWITCH MUST BE RETROFITTED TO INCLUDE A DEACTIVATION SWITCH, CONSISTENT WITH CITY DESIGN STANDARDS, FOR BOTH PRIMARY AND BACK UP POWER ACCESSIBLE TO CITY STAFF TO DE-ENERGIZE THE FACILITY FOR REPAIR, MAINTENANCE, AND SAFETY PURPOSES. BY FEBRUARY 9, 2019.

SEC. 5C-18. NOISE LEVEL STANDARD.

THE AVERAGE NOISE LEVEL OF SMALL WIRELESS FACILITIES LOCATED IN LOCAL PUBLIC RIGHT OF WAY, INCLUDING ANTENNA AND GROUND-MOUNTED EQUIPMENT AND ELECTRIC METER, MEASURED AT ANY PROPERTY LINE THAT IS ZONED OR USED FOR RESIDENTIAL PURPOSES MUST NOT EXCEED THE LOWEST LEVEL OF EITHER:

- 1. CONSISTENT WITH EXISTING CODE PROVISIONS (55) DECIBELS (DB) WHEN

MEASURED ON AN "A WEIGHTED" SOUND LEVEL METER AND PER THE PROCEDURES OF THE ENVIRONMENTAL PROTECTION AGENCY; OR

2. SUCH NOISE LEVEL STANDARD AS MAY BE ESTABLISHED BY FEDERAL OR STATE LAW FOR SMALL WIRELESS FACILITIES.

SEC. 5C-19. RADIO FREQUENCY SPACING FROM OCCUPIED STRUCTURES.

ANTENNA EQUIPMENT MUST COMPLY WITH THE FCC ESTIMATED "WORST CASE" HORIZONTAL DISTANCES AT THE SAME ELEVATION FROM WINDOWS, BALCONIES AND PUBLIC SPACES.

SEC. 5C-20. ENFORCEMENT OF PUBLIC SAFETY VIOLATIONS; CIVIL SANCTIONS.

- A. AUTHORITY AND ADMINISTRATION. THE CITY MANAGER IS AUTHORIZED TO ISSUE NOTICES OF VIOLATION OF THIS CHAPTER AND MAY TAKE THOSE MEASURES NECESSARY TO PROMOTE, PRESERVE, AND PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE WITHIN THE LOCAL PUBLIC RIGHT OF WAY. THE CITY MANAGER WILL ISSUE A WARNING FOR THE FIRST VIOLATION BY A PROVIDER UNDER THIS SECTION. EXCEPT FOR FACILITIES THAT HAVE NOT BEEN MAINTAINED AS REQUIRED BY THIS CHAPTER, THE CITY MANAGER MAY NOT ISSUE A NOTICE OF VIOLATION UNDER SECTIONS 5C-20(B)(3) OR (B)(4) FOR SMALL WIRELESS FACILITIES THAT HAVE BEEN SUBJECT TO AN INSTALLATION SAFETY REVIEW. THE CITY MANAGER WILL ISSUE NOTICE TO THE PROVIDER'S EMERGENCY CONTACT LISTED IN THE MASTER LICENSE AGREEMENT.
- B. CIVIL SANCTIONS. THE FOLLOWING VIOLATIONS MAY RESULT IN A CIVIL SANCTION. THE AMOUNT OF THE CIVIL SANCTION LISTED IS THE AMOUNT PER DAY FOR A VIOLATION PRIOR TO COMMENCEMENT OF AN ACTION AS PROVIDED IN THIS SECTION.

SANCTION PER DAY	VIOLATION DESCRIPTION
\$1,000	1. FAILURE TO TAKE NECESSARY STEPS TO PROTECT, PROMOTE PUBLIC SAFETY WITHIN 24 HOURS AFTER NOTICE OR FAILURE TO CURE WITHIN FIVE BUSINESS DAYS AFTER NOTICE OF AN ACT, ERROR, OR OMISSION BY PROVIDER, ITS AGENTS, EMPLOYEES, OR CONTRACTORS THAT CAUSES AN IMMINENT RISK OF DEATH, HARM, OR INJURY TO PERSONS OR PROPERTY.
\$1,000	2. UNAUTHORIZED USE OR FACILITIES AS PROVIDED IN SECTION 5C-4(E).

\$1,000	3. FAILURE TO REMOVE FACILITIES FROM THE SIGHT VISIBILITY TRIANGLE AS PROVIDED IN CODE SECTION 31-13 WITHIN FIVE BUSINESS DAYS AFTER NOTICE.
\$800	4. FAILURE TO CURE WITHIN FIVE BUSINESS DAYS AFTER NOTICE SMALL WIRELESS FACILITIES THAT EXCEED AUTHORIZED NOISE OR RADIO FREQUENCY LEVELS.

C. SUSPENSION OF LICENSE.

1. IN ADDITION TO OR IN PLACE OF THESE CIVIL SANCTIONS, THE CITY MANAGER MAY SUSPEND FOR FIVE BUSINESS DAYS THE SUBJECT MASTER LICENSE AND SITE LICENSE AGREEMENTS.
2. IN ADDITION, THE CITY MANAGER MAY SUSPEND FOR FIVE BUSINESS DAYS THE SUBJECT MASTER LICENSE AND SITE LICENSE AGREEMENTS FOR A PROVIDER'S FAILURE TO CURE WITHIN FIVE BUSINESS DAYS AFTER NOTICE OF FALSE, INCOMPLETE, MISTAKEN, MISLEADING OR INACCURATE INFORMATION OR CERTIFICATION USED BY PROVIDER, ITS AGENTS, EMPLOYEES, OR CONTRACTORS TO OBTAIN A LICENSE, PERMIT, OR AGREEMENT UNDER THIS CHAPTER.

D. FOR CONTINUING VIOLATIONS WITHIN A TWENTY-FOUR-HOUR PERIOD, EACH CALENDAR DAY SHALL BE CONSIDERED A SEPARATE PERIOD FOR PURPOSES OF RECOVERY OF CIVIL SANCTIONS.

E. CIVIL ACTION FOR VIOLATIONS.

1. THESE REMEDIES ARE CUMULATIVE AND THE CITY MAY PROCEED UNDER ONE OR MORE REMEDIES.
2. ANY PARTY WHO CAUSES, PERMITS, FACILITATES, OR AIDS OR ABETS ANY VIOLATION OF ANY PROVISION OF THIS SECTION OR WHO FAILS TO PERFORM ANY ACT OR DUTY REQUIRED BY THIS SECTION IS SUBJECT TO A CIVIL SANCTION OF NOT LESS THAN EIGHT HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS. THE EIGHT HUNDRED DOLLAR MINIMUM SANCTION MAY NOT BE WAIVED.
3. EACH DAY ANY VIOLATION OF ANY PROVISION OF THIS SECTION OR THE FAILURE TO PERFORM ANY ACT OR DUTY REQUIRED BY THIS SECTION EXISTS SHALL CONSTITUTE A SEPARATE VIOLATION OR OFFENSE.
4. ANY CIVIL ACTION TO ENFORCE A CIVIL SANCTION IMPOSED PURSUANT TO THIS SECTION WILL BE COMMENCED AND SUMMONS SHALL BE

ISSUED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THE A.R.S., CITY ORDINANCE OR AS PROVIDED IN THE LOCAL RULES OF PRACTICE AND PROCEDURE, CITY COURT, CITY OF PHOENIX.

5. ANY PARTY MAY APPEAL THE JUDGMENT OF THE CITY COURT TO THE SUPERIOR COURT. APPEALS FROM CIVIL PROCEEDINGS SHALL BE IN ACCORDANCE WITH THE SUPERIOR COURT RULES OF APPELLATE PROCEDURE, CIVIL. EXECUTION OF ANY JUDGMENT SHALL BE STAYED PENDING APPEAL WHEN THE DEFENDANT POSTS AN APPEAL BOND IN ACCORDANCE WITH THE ORDER OF THE TRIAL COURT, OR WHEN NO BOND IS FIXED AND A NOTICE OF APPEAL HAS BEEN FILED.
6. A CIVIL CITATION OR COMPLAINT BROUGHT PURSUANT TO THIS SECTION SHALL BE SERVED WITHIN ONE YEAR OF THE OFFENSE.

F. JURISDICTION OF COURT.

1. JURISDICTION OF ALL PROCEEDINGS TO ENFORCE THE PROVISIONS OF THIS SECTION RELATING TO CIVIL SANCTIONS SHALL BE IN THE MUNICIPAL COURT OF THE CITY OF PHOENIX.
2. CIVIL ACTIONS TO ENFORCE THIS SECTION MAY BE ADJUDICATED BY A JUDGE OR A COURT HEARING OFFICER.

G. ADMISSION OR DENIAL OF ALLEGATION; HEARING; FINDINGS OF COURT; CIVIL SANCTION.

1. A PARTY SERVED WITH A CIVIL CITATION OR COMPLAINT SHALL APPEAR AT THE TIME AND PLACE STATED IN THE CITATION OR SUMMONS, OR MAY APPEAR PRIOR TO THE TIME AND ADMIT OR DENY THE ALLEGATIONS OF THE COMPLAINT. ALLEGATIONS NOT DENIED AT THE TIME OF APPEARANCE ARE DEEMED ADMITTED.
2. IF THE ALLEGATIONS ARE ADMITTED, THE COURT SHALL ENTER JUDGMENT FOR THE CITY AND IMPOSE A CIVIL SANCTION.
3. IF THE PARTY DENIES THE ALLEGATIONS, THE COURT SHALL SET THE MATTER FOR HEARING. CIVIL HEARINGS ARE INFORMAL AND HELD WITHOUT A JURY, AND THE CITY IS REQUIRED TO PROVE THE VIOLATION CHARGED BY A PREPONDERANCE OF THE EVIDENCE. TECHNICAL RULES OF EVIDENCE DO NOT APPLY, EXCEPT FOR STATUTORY PROVISIONS RELATING TO PRIVILEGED COMMUNICATIONS. IF THE PERSON ELECTS TO BE REPRESENTED BY COUNSEL, THE PERSON SHALL SO NOTIFY THE COURT AT LEAST TEN DAYS PRIOR TO THE HEARING DATE. HEARINGS MAY BE RECORDED. IF THE COURT FINDS IN FAVOR OF THE PARTY, THE COURT SHALL ENTER AN ORDER

DISMISSING THE CITATION OR COMPLAINT. IF THE COURT FINDS IN FAVOR OF THE CITY, THE COURT SHALL ENTER JUDGMENT FOR THE CITY AND IMPOSE A CIVIL SANCTION.

4. IF THE PARTY SERVED WITH A CIVIL CITATION OR COMPLAINT FAILS TO APPEAR ON OR BEFORE THE TIME DIRECTED TO APPEAR OR AT THE TIME SET FOR HEARING BY THE COURT, THE ALLEGATIONS SHALL BE DEEMED ADMITTED AND THE COURT SHALL ENTER JUDGMENT FOR THE CITY AND IMPOSE A CIVIL SANCTION.
5. FAILURE OF A PARTY TO PAY A CIVIL SANCTION UPON FINAL ADJUDICATION OF THE CIVIL ACTION AS PROVIDED BY LAW SHALL RESULT IN THE AUTOMATIC TERMINATION OF THE LICENSE AND ANY SUCH PARTY WILL BE PROHIBITED FROM OBTAINING ADDITIONAL LICENSES OR PERMITS UNTIL ALL OUTSTANDING CIVIL SANCTIONS HAVE BEEN DISMISSED OR PAID IN FULL.

ARTICLE V. GENERAL PROVISIONS.

SEC. 5C-21. RIGHTS RESERVED TO CITY.

WITHOUT LIMITING THE RIGHTS THAT THE CITY MIGHT OTHERWISE HAVE, THE CITY DOES HEREBY EXPRESSLY RESERVE THE FOLLOWING RIGHTS, POWERS, AND AUTHORITIES:

- A. TO EXERCISE ITS GOVERNMENTAL POWERS NOW OR HEREAFTER TO THE FULL EXTENT THAT SUCH POWERS MAY BE VESTED IN OR GRANTED TO THE CITY.
- B. TO DETERMINE ANY QUESTION OF FACT RELATING TO THE MEANING, TERMS, OBLIGATIONS, OR OTHER ASPECTS OF THIS CHAPTER AND THE INSTRUMENTS ISSUED UNDER THIS CHAPTER.
- C. TO GRANT MULTIPLE, NONEXCLUSIVE LICENSES, FRANCHISES, LICENSES, OR PERMITS WITHIN THE CITY TO OTHER PERSONS.

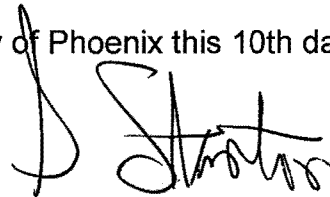
SEC. 5C-22. CITY POLICE POWER; CONTINUING JURISDICTION.

- A. THE PROVIDER IS SUBJECT TO ALL LAWFUL EXERCISE OF THE POLICE POWER BY THE CITY, INCLUDING ANY AND ALL CHAPTERS, RULES, OR REGULATIONS WHICH THE CITY HAS ADOPTED OR MAY ADOPT, AND ALL LAWS, RULES, REGULATIONS, ORDERS, AND POLICIES OF THE STATE AND THE UNITED STATES GOVERNMENT. IN THE EVENT OF A CONFLICT BETWEEN THIS CHAPTER AND OTHER PROVISIONS OF THE CITY CODE, THE STRICTER REQUIREMENT WILL APPLY.

B. THE CITY POSSESSES CONTINUING JURISDICTION AND SUPERVISION OVER ANY FACILITIES LOCATED WITHIN OR ON CITY RIGHTS OF WAY. HOWEVER, IT IS RECOGNIZED THAT THE DAILY ADMINISTRATIVE, SUPERVISORY, AND ENFORCEMENT RESPONSIBILITIES OF THE PROVISIONS OF THIS CHAPTER MAY BE DELEGATED AND ENTRUSTED TO THE CITY MANAGER OR DESIGNEE TO INTERPRET, ADMINISTER, AND ENFORCE THE PROVISIONS OF THIS CHAPTER, AND TO PROMULGATE STANDARDS REGARDING THE CONSTRUCTION, RECONSTRUCTION, RELOCATION, MAINTENANCE, DISMANTLING, ABANDONMENT, OR USE OF THE FACILITIES WITHIN THE CITY RIGHTS OF WAY.


SECTION 2. The provisions of this Ordinance shall be effective February 9, 2018.

PASSED by the Council of the City of Phoenix this 10th day of January, 2018.

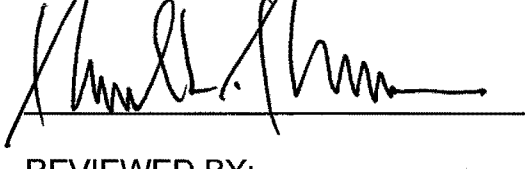


MAYOR

ATTEST:

 City Clerk

APPROVED AS TO FORM:

 Acting City Attorney

REVIEWED BY:

 City Manager

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