



OFFICE OF THE CITY MANAGER

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MEMO

From: Andrew White, City Manager
To: Members of City Council
Initiated By: Jeffrey Tyler, Assistant City Manager
Re: Ordinance 2022-12 - Small Cell Facilities and Wireless Support Structures
Date: May 17, 2022

Summary:

Several years ago, the Ohio legislature enacted a law that would allow companies to build technology infrastructure in public rights-of-way with minimal opportunity for local governments to consent to or regulate the build-out. Numerous municipalities initiated litigation over this law, which led to it being overturned by a court.

While that litigation was ongoing, several central Ohio municipalities began working on a “compromise” version of a bill to allow for the regulation of certain wireless equipment within the rights-of-way of Ohio’s communities. After months of work, the municipalities reached a compromise with members of the telecommunications industry. Municipal leaders and telecommunications industry representatives collaborated on new legislation, Ohio House Bill 478 (“H.B. 478”), which amended Ohio Revised Code Chapter 4939.

Ohio Revised Code Chapter 4939 as amended gives municipalities the ability to regulate the placement and appearance of small cell technology equipment – such as antennas, boxes, and wires – that telecommunications companies seek to attach to traffic lights, utility poles, street signs, and other public infrastructure in order to provide connectivity for cellphones and other wireless devices. In addition, the law regulates the construction of new signal towers (“wireless support structures”) that are significantly smaller than macro towers. Notably, H.B. 478 only addresses small cell facilities and wireless support structures in the public right-of-way; it does not affect the Village’s existing regulation of large macro-towers or any wireless facilities outside of the public right-of-way. The law also prescribes the timeframes in which municipalities must vet requests by telecommunications companies to place equipment within municipal rights-of-way and the fees.

The new language ultimately provides more predictability and speed to the industry, while also protecting the character of Ohio’s municipalities. As a result of the compromises outlined above, municipal legislative bodies have little discretion to vary from the requirements of the newly amended Ohio Revised Code Chapter 4939. There are two key areas, however, where local governments may act with respect to small cell facilities: (1) codification of small cell permitting; and (2) administrative adoption of design guidelines. The proposed legislation serves these two purposes.

In reviewing the City's codified ordinances, and specifically Part Nine, Title Three – Utilities, the City identified an opportunity to reorganize and consolidate other chapters that better fit under the Utilities Title. Specifically, the proposed ordinance will move current Chapter 1153, which is the Telecommunications chapter, to new Chapter 941 under Title Three.

Legal Review:

The proposed Small Cell and Wireless Support Structure chapter was originally drafted by the Law Director's office utilizing sample ordinances from other local governments. With the restructuring of the City's staff and positions, the proposed ordinance has been reviewed and revised multiple times, with input from various Council committees.

The Law Director's office will continue to refine the proposed ordinance if necessary and will work closely with staff when implemented to ensure proper processes and identify areas for potential improvement.

Finance Review:

Following the adoption of Ordinance 2022-12, a revised fee scheduled with the fee structure below will be adopted:

Small Cell Fee Structure:

- Small cell application fee: \$250.00
- Annual collection fee: \$200.00

Recommendation:

Staff recommends approval of Ordinance 2021-12 at the June 7, 2022, meeting.