

ORDINANCE NO. 5115

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, DECLARING THAT DOCUMENT ENTITLED “2024 AMENDMENTS TO CHAPTER 46, DIVISION 1” TO BE A PUBLIC RECORD; AMENDING THE CODE OF THE CITY OF CHANDLER, CHAPTER 46, (ENCROACHMENTS AND OTHER USES IN THE PUBLIC RIGHT-OF-WAY), BY AMENDING DIVISION 1 (GENERAL PROVISIONS APPLICABLE TO ALL ENCROACHMENT PERMITS) TO ESTABLISH A RIGHT OF WAY TEMPORARY USE MANAGEMENT PROGRAM; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City Council of the City of Chandler wishes to establish a right of way temporary use management program to promote public health, safety, and welfare in the right of way and to manage temporary roadway restrictions to minimize delays and inconvenience to the traveling public; and

WHEREAS, the right of way temporary use management program will enhance planning, administration, and oversight of traffic control management in temporary work areas in roadways, sidewalks, and other public transportation facilities; and

WHEREAS, these provisions, procedures, and processes are not intended to supplant Council approval as may be required by the City Charter or that relate to or involve non-routine matters of public interest or public policy.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. That the Chandler City Code Chapter 46 (Encroachments and Other Uses In The Public Right-of-Way), Division 1 (General Provisions Applicable to All Encroachment Permits) is hereby amended to read as follows (additions in ALL CAPS, deletions in ~~strikeout~~):

Section 2. That certain document known as the “2024 Amendments to Chap. 46, Division 1” one paper copy and one electronic copy of which shall remain on file in the office of the City Clerk, is hereby declared to be a public record.

Section 3. That the Chandler City Code, Chapter 46, Encroachments and Other Uses In The Public Right-of-Way, is hereby amended by adoption of the amendments set forth in "2024 Amendments to Chap. 46, Division 1," said document having been declared to be a public record.

Section 4. Effective Date.
The provisions of this Ordinance shall be effective 30 days after final adoption.

Section 5. Providing for Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance, or any parts hereof, are hereby repealed.

Section 6. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this ____ day of December 2024.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of December 2024.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 5115 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of December, 2024, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

JMB

Published in the Arizona Republic on:

2024 Amendments to Chap. 46, Division 1
{Public Record for Ordinance No. 5115}

The Chandler City Code Chapter 46 (Encroachments and Other Uses In The Public Right-of-Way), Division 1 (General Provisions Applicable to All Encroachment Permits), is hereby amended to read as follows (additions in ALL CAPS, deletions in ~~strikeout~~):

DIVISION 1. GENERAL PROVISIONS ~~APPLICABLE TO ALL ENCROACHMENT PERMITS~~

THE FOLLOWING TERMS AND CONDITIONS APPLY TO A FRANCHISE, LICENSE, PERMIT, OR AGREEMENT ISSUED UNDER THIS CHAPTER FOR USE OF RIGHT OF WAY.

46-1.1 PURPOSE AND POLICY

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 RIGHT OF WAY:

1. TO THE EXTENT REASONABLY PRACTICABLE, ISSUE A FRANCHISE, LICENSE, PERMIT, OR AGREEMENT TO A PERSON FOR USE OF RIGHT OF WAY ON A COMPETITIVELY NEUTRAL AND NONDISCRIMINATORY BASIS;
2. MANAGE RIGHT OF WAY TO MINIMIZE THE IMPACT AND COST TO CHANDLER RESIDENTS CAUSED BY USES AND ENCROACHMENTS LOCATED WITHIN RIGHT OF WAY;
3. TO THE EXTENT PERMITTED BY LAW, MANAGE RIGHT OF WAY TO MAXIMIZE EFFICIENT, EFFECTIVE, AND OPTIMAL USE OF PUBLIC RESOURCES AND SUPPORT ECONOMIC DEVELOPMENT; AND
4. MANAGE RIGHT OF WAY TO PROMOTE AND PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE.

46-1.2 AUTHORITY AND ADMINISTRATION

THE CITY MANAGER IS AUTHORIZED AS PROVIDED IN THIS CHAPTER TO ISSUE AND ADMINISTER FRANCHISE AGREEMENTS, MASTER LICENSE AGREEMENTS AND ASSOCIATED SITE LICENSE AGREEMENTS, LICENSES, PERMITS, AND AGREEMENTS TO PERSONS, ASSOCIATIONS, OR CORPORATIONS TO USE OR INSTALL, OPERATE, OR MAINTAIN FACILITIES IN RIGHT OF WAY.

46-1 46-1.3 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning, another division of this chapter provides a different meaning, or an existing license/franchise or use agreement has specific definitions approved as part of its terms:

~~*Access channel* shall mean a channel dedicated in whole or in part for local non-commercial programming which is not originated by a cable licensee; provided that such access programming shall not include (i) the retransmission of local television broadcast signals or (ii) programming produced by persons unaffiliated with the cable licensee under the provisions of Section 612 of the Cable Act.~~

ACTIVE WORK MEANS A PERSON(S) ACTIVELY ENGAGED IN MAINTENANCE OR CONSTRUCTION OR OTHER RELATED ACTIVITY WITHIN RIGHT OF WAY.

Affiliate means any person who owns or controls, is owned by or controlled by, or is under common ownership or control with licensee.

AGREEMENT MEANS ANY AGREEMENT OR CONTRACT ISSUED BY THE CITY UNDER THE TERMS AND CONDITIONS OF THIS CHAPTER.

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

A.R.S. MEANS ARIZONA REVISED STATUTES, AS AMENDED.

~~*Applicant* means a person, as defined in this section, who submits a proposal to provide cable service to the City.~~

~~*Basic service* shall mean the tier that includes the retransmission of local television broadcast signals.~~

~~*Cable Act* means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and including the Telecommunication Act of 1996, as the same may be amended from time to time.~~

~~*Cable license* means that ordinance or resolution which contains the right, authority or grant, given by the City enabling a person to construct, operate and maintain a cable system.~~

~~*Cable service* means the transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.~~

~~*Cable system* means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. Cable system does not include:~~

- ~~(1) A facility that serves fewer than fifty (50) subscribers.~~

~~(2) A facility that serves subscribers without using any public street, road or alley.~~

~~for purposes of 47 United States Code Section 541(e), to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of the use is solely to provide interactive on-demand services.~~

~~(5) An open video system that complies with 47 United States Code Section 573.~~

~~(6) A facil(3) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations.~~

~~(4) A facility of a common carrier that is subject, in whole or in part, to 47 United States Code Sections 201 through 276, except that the facility is considered a cable system, other than ity of an electric utility that is used solely for operating its electric utility system.~~

City ~~shall mean~~ MEANS the City of Chandler, a municipal corporation of the State of Arizona, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

City building means a building that is both (a) occupied by the City or owned by the City and (b) used for municipal purposes.

City Council ~~shall mean~~ MEANS the present governing body of the City or any future Council constituting the legislative body of the City.

City Manager ~~shall mean~~ MEANS the City Manager of the City of Chandler or the City Manager's designee.

CODE MEANS CHANDLER CITY CODE, AS AMENDED.

Commercial mobile radio services means two-way voice commercial mobile radio services as defined by the Federal Communications Commission in 47 United States Code Section 157.

Completion of construction or *complete construction* ~~shall mean~~ MEANS "satisfactorily complete" and "fully activate." In each instance, these terms shall mean that strand has been put up and all necessary cable (including trunk and feeder cable) has been lashed, for underground construction, that all cable has been laid and trenches refilled, all road surfaces restored and, except as prevented by weather conditions or delayed because of seasons, landscaping restored; that all amplifier housings and modules have been installed, that power supplies have been installed, that construction of the head ends or hubs has been completed and all necessary processing equipment has been installed; and that any and all other construction necessary for the cable system to be ready to deliver cable service to subscribers has been completed. Final balancing shall have been conducted on each otherwise completed segment of the cable system before direct marketing of that segment begins. It is expected that segments of less than the entire cable system will be activated and final balanced when completed.

Construction of any segment or of the entire cable system will not be considered complete until final balance has been conducted on such segment (or in the case of the entire cable system, until final balancing and proof of performance tests have been conducted on all segments of corrected.) The term "completion of construction" does not include marketing and installation of subscriber service.

Days ~~shall mean~~ MEANS calendar days, unless otherwise specified.

Department means that Department, Division or City employee to whom responsibility for the administration of this chapter has been delegated by the City Manager. Generally, the Department will be the designated City Engineer or the Director of the Development Services Department and persons seeking permits pursuant to this chapter may obtain necessary forms and information from the permit counter in the Development Services Department.

Downtown means the land area bounded by Chandler Boulevard on the north, Frye Road on the south, Dakota Street on the west and the Union Pacific railroad tracks on the east.

Downtown business means a commercial establishment in the downtown.

Encroach or *encroachment* MEANS ~~includes~~, but is not limited to, the performance of any of the following acts:

- (1) Excavating, filling or disturbing the surface.
- (2) Erecting or maintaining any flag, banner, decoration, post, sign, pole, fence, guardrail, wall, loading platform, news stand, mailbox, pipe, conduit, wire or other structure on, over or under the surface of any public place, highway or watercourse.
- (3) Planting any tree, shrub, grass or other growing thing.
- (4) Placing or leaving any rubbish, brush, earth or other material of any nature whatsoever.
- (5) Constructing, placing, maintaining on, over or under the surface of any public place, right of way, street, pathway, sidewalk, driveway, curb, gutter, paving or other surface or subsurface drainage structure or facility, any pipe, conduit, wire, cable or telecommunication facility.
- (6) Traveling by any vehicle or combination of vehicles or object of dimension, weight or other characteristic prohibited by law without a permit.
- (7) Lighting or building a fire.
- (8) Constructing, placing, planting or maintaining any structure, embankment, excavation or other objects adjacent to a right of way or watercourse which causes or will cause an encroachment.
- (9) The application of paint or other marking materials to any pavement or curb.
- (10) Providing valet parking, including without limitation the establishment of a valet parking station and/or a valet parking zone or the storing of downtown business patrons' vehicles.

Encroachment permit means that document submitted to/and issued by the City in relation to specific in City right of way related to Chapter 46 activity.

Facilities means the plant, equipment, and property, including but not limited to boxes, poles, wires, pipe, conduits, pedestals, antenna, and other appurtenances placed in, on, or under highways.

FCC means the Federal Communications Commission, or a designated representative.

Fiber optic license means a license related to interstate services and other communication facilities that are excluded from the definition of "telecommunications" in Division IV of this chapter,

INCLUDING DARK FIBER OR EMPTY CONDUIT INTENDED FOR FUTURE FIBER OPTIC USE.

Franchise shall mean MEANS the same as defined under Article XIII of the Arizona Constitution.

Gross revenues means all cash, credits, property of any kind or nature, or other consideration, less related bad debt not to exceed one and one-half (1.5) percent annually, that is received directly or indirectly by the cable licensee or its affiliates, or any person in which the cable licensee has a financial interest or that has a financial interest in the cable licensee and that is derived from the cable licensee's operation of its cable system to provide cable service in the City. Gross revenues include all revenue from charges for cable service to subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a subscriber to receive cable service, and any other receipts from subscribers derived from operating the cable system to provide cable service, including receipts from forfeited deposits, sale or rental of equipment to provide cable service, late charges, interest and sale of program guides. Gross revenues also include all income the cable licensee receives from the lease of its facilities located in the streets and public ways, unless services that the lessee provides over the leased facilities are subject to a transaction privilege tax of the licensing authority. Gross revenues do not include revenues from commercial advertising on the cable system, the use or lease of studio facilities of the cable system, the use or lease of leased access channels or bandwidth, the production of video programming by the cable licensee, the sale, exchange, use or cablecast of any programming by the cable licensee in the City, sales to the licensee's subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expense, license fees, taxes or other fees or charges that the licensee collects and pays to any governmental authority, any increase in the value of any stock, security or asset, or any dividends or other distributions made in respect of any stock or securities.

Highway means a street and public way as defined below.

HOLDER MEANS A PERSON THAT HAS BEEN ISSUED A FRANCHISE, LICENSE, PERMIT OR OTHER AGREEMENT UNDER THIS CHAPTER.

HOLIDAY RESTRICTION MEANS THE SUSPENSION OF CONSTRUCTION OR MAINTENANCE ACTIVITIES IN RIGHT OF WAY ADJACENT TO OR THAT SERVES AS PRIMARY ACCESS TO LARGE COMMERCIAL AREAS OR HOLIDAY EVENTS DURING THE PERIOD OF NOVEMBER 15 THROUGH JANUARY 1.

Intergovernmental contract means the joint exercise of powers authorized by Arizona Revised Statutes, Title 11, Chapter 7, Article 3.

~~*Initial activation of cable service shall mean with respect to a particular segment (as defined in any cable license issued hereunder), or with respect to a group of segments or the entire cable system, as the case may be, that, all proposed cable services and cable system capabilities as stated in the cable license are available and/or in place, construction has been completed and the completed segment or segments in question or the entire cable system, as the case may be, have been activated.*~~

~~*Initial license shall mean a cable license sought by, or granted to, a person who does not hold a license. Such person is an "initial licensee."*~~

~~Licensee means the A person granted a cable license, a fiber optics license and/or a telecommunications license. UNDER THIS CHAPTER.~~

Licensing authority means the City of Chandler.

Licensing requirements means the cable television licensing requirements in Division V of this chapter.

Licensors means the City of Chandler as represented by the City Council, City Manager or their designee acting within the scope of this authority.

~~Multiple dwelling units or "MDU" means any adjacent building(s) such as apartments under common ownership containing more than four (4) dwelling units used as living quarters.~~

~~Other programming service means information that a cable licensee makes available to all subscribers generally.~~

~~Outage shall exist whenever licensee's cable system experiences three (3) Subscriber complaints within any sixty minute period of "no picture" within the same quarter (¼) section.~~

MAJOR HOLIDAY MEANS A HOLIDAY LISTED IN A.R.S. § 1-301.

MUTCD MEANS THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES AS AMENDED BY STATE OF ARIZONA SUPPLEMENTS AND CITY ADDITIONS.

NCHRP 350 GUIDELINES MEANS THE NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM REPORT 350.

NESC MEANS THE NATIONAL ELECTRICAL SAFETY CODE.

PEAK TRAVEL TIME MEANS THE PERIOD FROM 6:00 A.M. TO 8:30 A.M. AND 4:00 P.M. TO 7:00 P.M., MONDAY THROUGH FRIDAY, EXCLUDING MAJOR HOLIDAYS; OR AS OTHERWISE PROVIDED IN THE CITY ENGINEERING & DESIGN STANDARDS MANUAL.

~~Permittee means the A person granted an encroachment~~ A permit pursuant to Chapter 46 UNDER THIS CHAPTER.

Person ~~includes~~ MEANS any individual, partnership, association, corporation, legal entity or organization of any kind. Whenever used in any clause prescribing a penalty, the term "person" as applied to partnerships or associations includes partners or members thereof, and if applied to corporations, the officers thereof. "Person" ~~shall~~ DOES not include a municipal corporation unless otherwise indicated.

PROJECT VALUATION MEANS THE FAIR MARKET VALUE OF THE WORK, USE, OR ACTIVITY WITHIN RIGHT OF WAY USED TO DETERMINE THE TRAFFIC CONTROL PERMIT DEPOSIT AMOUNT.

Public highway or highway means the surface of and the space above and below of any public road, sidewalk, street and alley.

Public place ~~shall mean~~ MEANS any property owned, maintained or controlled by the City.

Right of way means the same as streets and public ways as defined below.

~~Service call shall result when service problems occur relating to: (i) any "no picture" complaint, (ii) a degraded signal or picture on one (1) or more channels, (iii) property damage by licensee's employees or authorized contractors, or (iv) in house cable equipment problems.~~

~~Service interruption means the loss of picture or sound on one (1) or more cable channels or the significant deterioration of signal or sound.~~

~~Standard SERVICE drop means a cable SERVICE connection that requires no more than a two-hundred-foot drop measured from the nearest point of a subscriber's CUSTOMER'S home or place of business to the nearest existing technically feasible point on the cable system from which an individual subscriber CUSTOMER can be connected to the cable system AND WHERE THE DROP DOES NOT COMPLETELY CROSS ANOTHER PARCEL. A standard drop involves only one (1) outlet and standard materials. A standard drop does not include the following (the cost of which may be assessed directly to the subscriber): (a) a wall fish; (b) custom installation work, including specific subscriber requested work that requires non-standard materials or cable routing that requires construction methods exceeding reasonable underground or aerial work; or (c) the cost of any equipment or construction modifications necessary to provide an adequate signal over the standard drop to the subscriber's residence.~~

~~Streets and public ways means the surface of and the space above and below any public street, sidewalk, right of way, alley, easement, or other public way of any type whatsoever, now or hereafter existing as such within the City.~~

~~Subscriber shall mean any person receiving for any purpose the cable television service of a licensee's cable system~~

~~Subscriber complaint means any written or oral complaint by a subscriber to the City that the subscriber did not receive the cable service that the subscriber requested consistent with the requirements of this license.~~

~~Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. The term does not include commercial mobile radio services, pay phone services, interstate services or cable services.~~

~~Telecommunications provider means a telecommunications corporation who constructs, installs, operates and maintains telecommunications facilities in the City.~~

~~Telecommunications corporation means any public service corporation to the extent that it provides telecommunications services in the state.~~

~~Telecommunications services means the offering of telecommunications for a fee directly to the public or to such users as to be effectively available directly to the public, regardless of the facilities used.~~

~~Two-way communication shall mean the transmission of telecommunication signals from subscriber locations or other points throughout the cable system back to the cable system's control center as well as transmission of signals from the control center to subscriber locations. A cable license may authorize switching at a level other than the control center.~~

~~User shall mean a party utilizing a cable system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt in a subscriber capacity.~~

Valet parking means the service of parking motorized vehicles for patrons of a downtown business.

Valet parking station means the temporary, removable structure located near the valet parking zone as required by Division VIII of Chapter 46 of the City Code.

Valet parking zone means the area of the right of way where patrons of a downtown business served by valet parking may disembark from their vehicles.

Video programming means programming that is provided by, or generally comparable to programming provided by, a broadcast television station.

46-1.4 RIGHTS RESERVED TO CITY

WITHOUT LIMITING THE RIGHTS THE CITY MAY OTHERWISE POSSESS, THE CITY EXPRESSLY RESERVES 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 FRANCHISES, LICENSES, PERMITS, AND AGREEMENTS WITHIN THE CITY TO OTHER PERSONS.

46-1.5 CITY AUTHORITY; CONTINUING JURISDICTION

- A. A PERSON IS SUBJECT TO ALL LAWFUL EXERCISE OF CITY RIGHTS, POWERS, AND AUTHORITY, INCLUDING ANY AND ALL CHAPTERS, RULES, OR REGULATIONS THAT THE CITY HAS ADOPTED OR MAY ADOPT, AND ALL LAWS, RULES, REGULATIONS, ORDERS, AND POLICIES OF THE STATE AND THE UNITED STATES. IN THE EVENT OF A CONFLICT BETWEEN THIS CHAPTER AND OTHER PROVISIONS OF THE CITY CODE, THE STRICTER REQUIREMENT APPLIES.
- B. THE CITY POSSESSES CONTINUING JURISDICTION AND SUPERVISION OVER ANY FACILITIES OR USES LOCATED WITHIN OR ON 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 RIGHT OF WAY.

46-1.6 RIGHT OF WAY TEMPORARY USE MANAGEMENT PROGRAM

A. *PURPOSE.* THERE IS HEREBY ESTABLISHED A RIGHT OF WAY TEMPORARY USE MANAGEMENT PROGRAM TO PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE IN RIGHT OF WAY AND TO MANAGE TEMPORARY ROADWAY RESTRICTIONS TO MINIMIZE DELAYS AND INCONVENIENCE TO THE TRAVELING PUBLIC. THIS RIGHT OF WAY TEMPORARY USE MANAGEMENT PROGRAM IS INTENDED TO ENHANCE THE PLANNING, ADMINISTRATION, AND OVERSIGHT OF TRAFFIC CONTROL MANAGEMENT IN ROADWAYS, SIDEWALKS, AND OTHER FACILITIES RELATED TO THE TRANSPORT OR MOVEMENT OF THE PUBLIC.

B. *TEMPORARY TRAFFIC CONTROL DEVICES.* NO PERSON, ORGANIZATION, PUBLIC UTILITY, OR OTHER ENTITY MAY ERECT OR PLACE ANY BARRIER OR DEVICE IN RIGHT OF WAY UNLESS THIS TEMPORARY USE IS APPROVED BY THE CITY TRANSPORTATION ENGINEER OR THEIR DESIGNEE.

C. *PERMIT REQUIRED.*

1. EXCEPT FOR AN EMERGENCY, A PERSON MUST FIRST OBTAIN A TRAFFIC CONTROL PERMIT TO TEMPORARILY, WHETHER PARTIALLY OR FULLY, USE FOR ANY PURPOSE, ANY CITY STREET, HIGHWAY, FREEWAY, ALLEY, BICYCLIST-WAY OR PEDESTRIAN-WAY. FOR AN EMERGENCY, A PERSON MUST OBTAIN A TRAFFIC CONTROL PERMIT AS SOON AS REASONABLY PRACTICABLE.

2. ALL TEMPORARY TRAFFIC CONTROL DEVICES WITHIN THE CITY MUST BE INSTALLED UNDER A TRAFFIC CONTROL PERMIT AS PROVIDED IN THIS DIVISION AND MUST COMPLY WITH: (i) THE LATEST EDITION OF THE MUTCD, AS AMENDED BY THE ARIZONA SUPPLEMENT TO THE MUTCD; (ii) THE CITY ENGINEERING & DESIGN STANDARDS MANUAL, AS AMENDED; AND (iii) NCHRP 350 GUIDELINES. TEMPORARY USE OF THE RIGHT OF WAY WILL NOT BE PERMITTED DURING MAJOR HOLIDAYS OR NEAR LARGE COMMERCIAL AREAS OR HOLIDAY EVENTS DURING A HOLIDAY RESTRICTION UNLESS APPROVED BY THE CITY'S TRANSPORTATION ENGINEER OR DESIGNEE. SIMILARLY, UNLESS OTHERWISE APPROVED BY THE CITY TRANSPORTATION ENGINEER, TEMPORARY USE OF RIGHT OF WAY DURING PEAK TRAVEL TIMES WILL SOLELY BE PERMITTED IF THE PERSON MAINTAINS TWO LANES OF TRAVEL IN EACH DIRECTION AND ALL TURN LANES REMAIN UNRESTRICTED. THE CITY'S TRANSPORTATION ENGINEER OR DESIGNEE MAY ALLOW RIGHT OF WAY TEMPORARY USE UNDER OFF-PEAK CONDITIONS DURING PEAK TRAVEL TIMES IN THEIR SOLE DISCRETION. THE TEMPORARY USE OF RIGHT OF WAY IS NOT PERMITTED WHEN THERE IS NO ACTIVE WORK.

D. *TRAFFIC CONTROL PERMIT APPLICATION, APPLICATION FEES; REFUNDABLE DEPOSIT; TIME EXTENSION.* WHEN A PERSON SEEKS THE TEMPORARY USE OF RIGHT OF WAY THE PERSON MUST: (i) FILE A COMPLETE APPLICATION AS REQUIRED BY THE CITY TRANSPORTATION ENGINEER; (ii) PAY A NON-

REFUNDABLE APPLICATION FEE AS APPROVED BY THE CITY COUNCIL; AND (iii) PAY A REFUNDABLE DEPOSIT AS APPROVED BY THE CITY COUNCIL.

1. TRAFFIC CONTROL PERMIT APPLICATION FEE. THE NON-REFUNDABLE TRAFFIC CONTROL PERMIT APPLICATION FEE WILL BE COLLECTED IN THE AMOUNT APPROVED BY THE CITY COUNCIL. FOR A COMPLEX TRAFFIC CONTROL PERMIT APPLICATION, AN APPLICANT MUST PAY AN APPLICATION FEE IN AN AMOUNT ESTABLISHED BY THE CITY TRANSPORTATION ENGINEER OR DESIGNEE AS NECESSARY TO RECOVER THE CITY'S REASONABLY RELATED COSTS TO REVIEW THE APPLICATION INCLUDING, BUT NOT LIMITED TO, THE COSTS FOR REVIEW BY OUTSIDE CONSULTANTS INCURRED BY THE CITY TO REVIEW THE APPLICATION AND PROCESS THE PERMIT. THE PERMIT APPLICATION FEE MUST BE PAID BEFORE ANY TRAFFIC CONTROL PERMIT MAY BE ISSUED. AN APPLICANT MUST PAY APPLICATION FEES TWICE THE CUSTOMARY AMOUNT IF: (i) THE APPLICANT FILES AN APPLICATION AND SEEKS TEMPORARY RIGHT OF WAY USE WITHIN THREE BUSINESS DAYS OF FILING A COMPLETE APPLICATION; OR (ii) THE APPLICANT SEEKS CONTINUAL CLOSURE (FOR A FULL TWENTY-FOUR HOURS).

2. REFUNDABLE DEPOSIT. BEFORE A TRAFFIC CONTROL PERMIT MAY BE ISSUED, AN APPLICANT MUST PAY AN AMOUNT APPROVED BY THE CITY COUNCIL AS A REFUNDABLE DEPOSIT FOR THE TEMPORARY USE OF RIGHT OF WAY. THE CITY COUNCIL MAY, BUT IS NOT REQUIRED TO, DETERMINE THE DEPOSIT AMOUNT BASED ON PROJECT VALUATION AS DEFINED IN THIS DIVISION. THE DEPOSIT AMOUNT IS FULLY REFUNDABLE TO A HOLDER IF ALL PERMITTED TEMPORARY USE IS COMPLETED AS REQUIRED BY THE TRAFFIC CONTROL PERMIT TERMS AND CONDITIONS. THE DEPOSIT AMOUNT REFUNDED TO HOLDER WILL BE REDUCED BY 5% OF THE ORIGINAL AMOUNT PER DAY FOR EVERY CALENDAR DAY AFTER THE TRAFFIC CONTROL PERMIT EXPIRATION DATE, NOT TO EXCEED 20 CALENDAR DAYS, FOR WHICH THE HOLDER HAS NOT COMPLIED WITH THE TRAFFIC CONTROL PERMIT TERMS AND CONDITIONS. NO AMOUNT OF THE DEPOSIT WILL BE REFUNDED TO A HOLDER IF THE TEMPORARY USE (INCLUDING, BUT NOT LIMITED TO, TRAFFIC CONTROL DEVICES AND EQUIPMENT) REMAINS IN RIGHT OF WAY 20 DAYS OR MORE AFTER THE PERMIT EXPIRES.

3. TIME EXTENSION. THE CITY TRANSPORTATION ENGINEER OR DESIGNEE MAY GRANT A TIME EXTENSION FOR A TRAFFIC CONTROL PERMIT. A HOLDER THAT SEEKS AN EXTENSION MUST PAY AN ADDITIONAL PERMIT APPLICATION FEE BEFORE A PERMIT EXTENSION MAY BE ISSUED TO THE HOLDER.

E. *CITY-OWNED PROJECT.* A PERSON WHO USES THE RIGHT OF WAY FOR A CITY-OWNED PROJECT MUST COMPLY WITH THIS DIVISION AND OBTAIN ALL NECESSARY PERMITS AND CERTIFICATIONS. PROVIDED; HOWEVER, A TRAFFIC CONTROL PERMIT APPLICATION FEE AND TRAFFIC CONTROL PERMIT DEPOSIT DO NOT APPLY TO A CITY-OWNED PROJECT.

46-1.7 TOP OF GROUND SERVICE DROP PROHIBITED

A SERVICE DROP MUST NOT BE INSTALLED ON TOP OF THE GROUND AND AN IN-GROUND SERVICE DROP MUST COMPLY WITH THE NESC OR AS OTHERWISE PROVIDED IN THE CITY ENGINEERING & DESIGN STANDARDS MANUAL, WHICHEVER STANDARD IS STRICTER.

46-1.8 ENFORCEMENT OF CODE VIOLATIONS; CIVIL INFRACTIONS

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 RIGHT OF WAY. THE CITY MANAGER MAY ISSUE A WARNING FOR A PERSON'S FIRST VIOLATION UNDER THIS CHAPTER. THE CITY MANAGER MAY ISSUE NOTICE OF VIOLATION TO A HOLDER'S CONTACT PERSON LISTED IN THE FRANCHISE, LICENSE, PERMIT, OR AGREEMENT.

B. *CIVIL INFRACTIONS.* THE FOLLOWING CODE VIOLATIONS MAY RESULT IN A CIVIL INFRACTION THAT IS ENFORCED AS PROVIDED IN CODE SECTION 1-8. THE AMOUNT OF THE CIVIL INFRACTION LISTED IS THE AMOUNT PER DAY FOR A CODE VIOLATION.

1. A PERSON'S FAILURE TO TAKE NECESSARY STEPS TO PROTECT, PROMOTE PUBLIC SAFETY WITHIN 24 HOURS AFTER NOTICE OF AN ACT, ERROR, OR OMISSION BY THE PERSON, THE PERSON'S AGENTS, EMPLOYEES, OR CONTRACTORS THAT CAUSES AN IMMINENT RISK OF DEATH, HARM, OR INJURY TO PERSONS OR PROPERTY. \$1800.00
2. THE USE OF RIGHT OF WAY FOR MORE THAN 30 MINUTES BY A PERSON WHO DOES NOT POSSESS A CITY ISSUED TRAFFIC BARRICADE CERTIFICATION OR A CITY ISSUED TRAFFIC CONTROL PERMIT OR A CITY APPROVED TRAFFIC CONTROL PLAN. \$1200.00
3. A PERSON'S FAILURE TO CORRECT OR CURE VIOLATIONS WITHIN THE TIME PERIOD STATED IN A WARNING. \$1200.00
4. A PERSON'S USE OF RIGHT OF WAY AT A SIGNALIZED INTERSECTION WITHOUT ACTIVE WORK OCCURRING OR WITHOUT A SWORN POLICE OFFICER PRESENT. \$1200.00
5. A PERSON INSTALLS A SERVICE DROP ON TOP OF GROUND OR A PERSON INSTALLS AN IN-GROUND SERVICE DROP THAT DOES NOT COMPLY WITH THE NESC OR AS OTHERWISE STATED IN THE CITY ENGINEERING &

DESIGN STANDARDS MANUAL, WHICHEVER STANDARD IS STRICTER.
\$1200.00

6. A PERSON'S FAILURE TO COMPLY WITH A CONDITION, LIMIT, TIME, OR LOCATION OF TRAFFIC CONTROL PERMIT. \$600.00
7. A PERSON'S FAILURE TO INSTALL ADVANCE WARNING SIGNS OR USE OF UNAUTHORIZED ADVANCE WARNING SIGNS IN RIGHT OF WAY. \$600.00
8. A PERSON'S FAILURE TO INSTALL BARRICADES OR OTHER TRAFFIC CONTROL DEVICES OR USE OF UNAUTHORIZED BARRICADES OR OTHER TRAFFIC CONTROL DEVICES. \$600.00
9. A PERSON'S FAILURE TO REMOVE ADVANCE WARNING SIGNS FACING TRAFFIC OR TO REMOVE OTHER TRAFFIC CONTROL DEVICES AFTER THE TRAFFIC RESTRICTION NO LONGER APPLIES OR THE TRAFFIC CONTROL PERMIT HAS EXPIRED. \$300.00
10. A PERSON'S USE OF RIGHT OF WAY THAT RENDERES A SIDEWALK INACCESSIBLE OR CLOSES A BIKE LANE OR CLOSES A SHARED USE PATH AND FAILS TO COMPLY WITH THE TRAFFIC BARRICADE MANUAL. \$300.00
11. A PERSON'S USE OF RIGHT OF WAY THAT RENDERES A BUS STOP INACCESSIBLE AND FAILS TO COMPLY WITH THE TRAFFIC BARRICADE MANUAL. \$300.00

C. *SUSPENSION OF FRANCHISE, LICENSE, PERMIT, OR AGREEMENT.*

1. IN ADDITION TO OR IN PLACE OF THESE CIVIL INFRACTIONS, THE CITY MANAGER MAY SUSPEND FOR 30 DAYS THE SUBJECT FRANCHISE, LICENSE, PERMIT, OR AGREEMENT.
2. IN ADDITION, THE CITY MANAGER MAY SUSPEND FOR 90 DAYS THE SUBJECT FRANCHISE, LICENSE, PERMIT, OR AGREEMENT FOR A PERSON'S FAILURE TO CURE WITHIN FIVE BUSINESS DAYS AFTER NOTICE OF FALSE, INCOMPLETE, MISTAKEN, MISLEADING OR INACCURATE INFORMATION OR CERTIFICATION BY HOLDER OR APPLICANT, ITS AGENTS, EMPLOYEES, OR CONTRACTORS TO OBTAIN A FRANCHISE, LICENSE, PERMIT, OR AGREEMENT UNDER THIS CHAPTER.

D. *CIVIL ACTION FOR VIOLATIONS.*

1. THESE REMEDIES ARE CUMULATIVE AND THE CITY MAY PROCEED UNDER ONE OR MORE REMEDIES.

2. A PERSON WHO CAUSES, PERMITS, FACILITATES, OR AIDS OR ABETS A VIOLATION OF THIS CHAPTER OR WHO FAILS TO PERFORM AN ACT OR DUTY REQUIRED BY THIS CHAPTER IS SUBJECT TO A CIVIL INFRACTION OF NOT LESS THAN \$300.00 NOR MORE THAN \$2500.00. THE \$300.00 MINIMUM INFRACTION MAY NOT BE WAIVED.

3. EACH DAY A VIOLATION OF A PROVISION OF THIS CHAPTER OR A PERSON'S FAILURE TO PERFORM AN ACT OR DUTY REQUIRED BY THIS CHAPTER CONSTITUTES A SEPARATE VIOLATION OR OFFENSE.

4. A CIVIL ACTION TO ENFORCE A CIVIL INFRACTION IMPOSED UNDER THIS CHAPTER MAY BE COMMENCED AND SUMMONS 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 CHANDLER.

5. AN AGGRIEVED PERSON MAY APPEAL A VIOLATION OR CIVIL INFRACTION ISSUED BY THE CITY UNDER THIS CHAPTER AS PROVIDED IN CODE SECTION 1-7. AN AGGRIEVED PERSON MUST FILE A WRITTEN APPEAL WITHIN 30 DAYS OF THE NOTICE OF VIOLATION DATE OR WITHIN 30 DAYS FROM THE DATE THAT CIVIL INFRACTIONS ARE IMPOSED.