



Ordinance

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

No. 377

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, APPROVING THE WIRELESS FACILITIES STANDARD TERMS AND CONDITIONS; AUTHORIZING AND APPROVING FORMS OF WIRELESS PROVIDER RIGHT OF WAY LICENSE FRANCHISE AGREEMENTS BETWEEN THE CITY OF SAN LUIS AND WIRELESS PROVIDERS; APPROVING 2018 CITY OF SAN LUIS DESIGN STANDARDS, CONCEPTS AND REQUIREMENTS FOR SMALL WIRELESS FACILITIES IN THE RIGHT- OF-WAY; AUTHORIZING THE CITY MANAGER AND THE DIRECTOR OF PLANNING AND ZONING TO EXECUTE WIRELESS PROVIDER LICENSE AGREEMENTS AND ISSUE SMALL WIRELESS PROVIDER LICENSE PERMITS; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of San Luis ("City") is authorized to grant, renew, deny and terminate licenses and agreements for operation and maintenance of wireless communications within the City's boundaries by virtue of federal and state statutes, by the City's police powers, by its authority over its public rights of way and highways, and by other City powers and authority;

WHEREAS, companies which are cable providers, wireless infrastructure providers, or wireless service providers, ("Wireless Providers") desire or may desire to install wireless facility equipment on existing City Property;

WHEREAS, on March 31, 2017, the Governor signed Arizona House Bill (HB) 2365 which allows small cell wireless facilities to be installed "by right" in all zoning districts and on any public street or right of way and requires any or all license agreements and design standards to be in effect by February 9, 2018;

WHEREAS, the City desires to streamline the process of approval of licenses, the forms of which were made a public record by Resolution No.2027, and on file with the Office of the City Clerk of the City of San Luis, titled "Wireless Provider Right of Way License Agreements" ("License Agreement"), for small cell wireless providers;

WHEREAS, the attached form of approved License Agreements shall incorporate the

City Clerk of the City of San Luis, which, in turn, incorporate the document titled "2018 City of San Luis Design Standards, Concepts and Requirements for Small Wireless Facilities in the Right-of-Way ("Design Standards"), which were made a public record by Resolution No. 2027, and on file with the Office of the City Clerk of the City of San Luis. Whereas, the forms of License Agreements, the Standard Terms and the Design Standards, are needed to address changes in technology, and are in the best interests of the City and its residents;

BE IT ORDAINED by the Mayor and City Council of the City of San Luis, Arizona, as follows:

Section 1. That certain documents known as the "Wireless Facilities Standard Terms and Conditions" ("Standard Terms"), the "2018 City of San Luis Design Standards, Concepts, and Requirements for Wireless Facilities in the Right-of-Way" ("Design Standards") and the "Wireless Provider Right of Way License Agreements" ("License Agreements") between the City of San Luis and Wireless Providers, three copies of which are on file in the Office of the City Clerk of the City of San Luis, Arizona, said documents having been made a public record by Resolution No. 2027 of the City of San Luis, Arizona are hereby referred to, adopted, incorporated and made a part hereof as though fully set forth again in full.

Section 2. The San Luis City Council does authorize and approve the Standard Terms, made a public record by Resolution No. 2027, which shall be incorporated into each and every License Agreement.

Section 3. The San Luis City Council does authorize and approve the Design Standards, made a public record by Resolution 2027, which shall be incorporated into the Standard Terms to each and every License.

Section 4. The San Luis City Council does authorize and approve the License Agreements which were made a public record by Resolution 2027 and which shall be in substantially the same form when created between the City of San Luis and Wireless Providers.

Section 5. The City Manager and/or the Planning and Zoning Director of the City of San Luis, Arizona (or his or her designee), is authorized to execute License Agreements and to issue Small Cell Wireless Facilities Site Permits on behalf of the City of San Luis, to authorize minor deviations to the Standard Terms upon a showing of good cause, and to update the Design Standards as needed to address changes in technology.

Section 6. In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution, regulation, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this ordinance shall govern.

Section 7. 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.

Section 8. Whereas, it is necessary for the preservation of the peace, health, safety and welfare of the City of San Luis, Arizona the provisions for wireless facilities as contained in this ordinance be adopted so that the construction within and use of the rights of way of the City of San Luis may be dealt with in manner consistent with other uses in the right of way and that provision for wireless communications can be made so as to address changes in technology and meet the deadlines imposed by the Arizona State Legislature, and for the further reason that the best interests of the City require the provisions of this ordinance to go into immediate effect, an emergency is hereby declared to exist, and this ordinance shall become immediately operative and in force and effect from and after the date of posting hereof.

PASSED, ADOPTED and APPROVED by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this ____ day of January, 2018.

Gerardo Sanchez, Mayor

ATTEST:

APPROVED AS TO FORM:

Sonia Cornelio, City Clerk

Kay Marion Macuil, City Attorney