

DRAFT
11/20/17

ORDINANCE NO. 1454

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AMENDING APACHE JUNCTION CITY CODE, VOLUME I, CHAPTER 4: FEES, ARTICLE 4-6, PUBLIC WORKS FEE SCHEDULE, BY ADDING NEW SECTION 4-6-2, SMALL WIRELESS FACILITIES RIGHTS-OF-WAY FEES AND CHARGES; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; ESTABLISHING AN EFFECTIVE DATE; AND ESTABLISHING A REVOLVING SIXTY MONTH REVIEW PERIOD.

WHEREAS, the mayor and city council last approved an amended public works fee schedule on April 19, 2016 when it adopted Ordinance No. 1425; and

WHEREAS, recent legislative changes have resulted in a new category of fees and charges dedicated to small wireless facilities ("SWF") being installed in public rights-of-way ("ROW").

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

SECTION I IN GENERAL

The Apache Junction City Code, Volume I, Chapter 4: Fees, Article 4-6, Public Works Fee Schedule, new Section 4-6-2, Small Wireless Facilities Rights-of-Way Fees and Charges, is hereby added to read as follows:

SECTION 4-6-2 SMALL WIRELESS FACILITIES RIGHTS-OF-WAY FEES
AND CHARGES

The following schedule of fees shall apply to a small wireless facilities ("SWF") placed in public rights-of-way ("ROW"):

ROW use fee	\$50.00/year x number of SWFs
ROW use fee for monopoles and associated wireless facilities	Limited to not more than the direct and actual cost of managing the ROW as determined by the public works department

Authority utility pole attachment	\$50.00/year
SWF collocation	\$100.00 per SWF up to five
	\$50.00 per additional SWF

Batched applications up to 25 SWFs:

First five SWFs at \$100.00	\$500.00
Additional 20 sites at \$50.00	\$1,000.00
Total for batch of 25	\$1,500.00

Applications submitted from July 1 - December 31 of any given year:

Annual Use Fee - City ROW	\$25
Annual Use Fee - City Pole in ROW	\$25

Ordinary Permit Use Fee:

SWF as defined in A.R.S. § 9-591(19)	\$750.00
SWF as defined in A.R.S. § 9-594	\$1,000

Utility pole and monopole applications:

New, replacement or modified utility poles	\$750.00
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Violation Use Fees*:

Failure to restore ROW or correct violations of specifications, code, ordinance or standards within ten (10) business days after receiving notice to correct.	\$600 per day
Failure to make books and records available.	\$250 per day
Any action or non-action by Provider contrary to Standard Terms that causes inconvenience costs and is not cured after three (3) business days notice.	\$500 per occurrence

* Violation Use Fee is in addition to any cost the City may incur to restore the ROW or correct the violation.

Assignment Fee: Provider shall pay to City in advance Five Hundred Dollars (\$500) non-refundable fee for legal, administrative and other expenses related to each pre-approved assignment or to any

request for a consent to assign, whether or not City grants such request.

Late Fees: Should any Violation Use Fee not be paid on or before the due date, a late fee in the amount of the greater of ten percent (10%) or One Hundred Dollars (\$100) shall be applied. Any Violation Use Fee that is not timely paid shall accrue interest at the rate of one and one-half percent (1.5%) per month from the date the amount first came due.

SECTION II REPEALING ANY CONFLICTING PROVISIONS

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the codes adopted herein by reference are hereby repealed.

SECTION III PROVIDING FOR SEVERABILITY

If any section, subsection, sentence, phrase, clause or portion of this ordinance or any part of the codes or regulations adopted herein by reference 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 IV PROVIDING FOR PENALTIES

Any violation of the provisions adopted herein shall be punishable as a class one misdemeanor consistent with Apache Junction City Code, Volume I, Chapter 1: GENERAL, ARTICLE 1-1: GENERAL, § 1-1-11, PENALTY.

SECTION V ESTABLISHING AN EFFECTIVE DATE

The provisions of this ordinance shall become effective February 9, 2018.

SECTION VI ESTABLISHING A REVIEW PERIOD

Before the end of each sixty month period after its passage, adoption and approval by the mayor and city council, staff shall review the fees and provide a recommendation to the mayor and city council for any amendments.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS _____ DAY OF _____, 2017.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2017.

JEFF SERDY
Mayor

ATTEST:

KATHLEEN CONNELLY
City Clerk

APPROVED AS TO FORM:

RICHARD J. STERN
City Attorney