

RESOLUTION NO. 2018-03

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "SMALL WIRELESS FACILITIES."

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AS FOLLOWS:

SECTION 1. That certain document entitled "Small Wireless Facilities," attached hereto as Exhibit "A", of which one paper copy and one electronic copy maintained in compliance with Ariz. Rev. Stat. § 44-7041 are on file in the office of the Town Clerk and open for public inspection during normal business hours, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Maricopa County, Arizona, this 20th day of February, 2018.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:


Linda M. Kavanagh, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

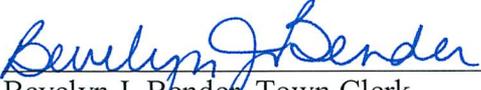
APPROVED AS TO FORM:


Grady E. Miller, Town Manager


FOR:
Fredda J. Bisman, Town Attorney

CERTIFICATION

I, Bevelyn J. Bender, the duly appointed Clerk of the Town of Fountain Hills, Arizona, do hereby certify that the above and foregoing Resolution No. 2018-03 was duly passed by the Mayor and Council of the Town of Fountain Hills, Arizona, at a regular meeting held on February 20, 2018, and the roll call of the vote thereon was 6 Ayes, 0 Nays, and that the Mayor and 5 Councilmembers were present thereat.


Bevelyn J. Bender, Town Clerk

Town of Fountain Hills, Arizona

EXHIBIT A
TO
RESOLUTION NO. 2018-03

[TOWN CODE ARTICLE 16-2]

See following pages.

ARTICLE 16-2 Small Wireless Facilities

Section 16-2-1 Purpose

The intent and purpose of this article is to facilitate the development and installation of small wireless facilities in the Town of Fountain Hills to supplement existing wireless communications networks and to increase capacity in high demand areas, while simultaneously promoting and preserving the health, safety, and general welfare of the residents of the Town and protecting and preserving the aesthetic qualities of the natural and built environment of the Town. Through this article, the Town seeks to balance the need for increased wireless communications capacity with the need for reasonable standards to preserve the aesthetic values of the Town and to ensure the safe placement of small wireless facilities.

Section 16-2-2 Definitions

The definitions contained in A.R.S. § 9-591 are incorporated by this reference and shall apply to this article as if fully set forth here.

Section 16-2-3 Small Wireless Facilities in the Public Right of Way

This section permits the installation of small wireless facilities in the right of way subject to the following requirements:

A. No monopoles, utility poles associated with small wireless facilities, or small wireless facilities shall be collocated, installed, modified, or replaced in the public right of way unless the following requirements are met:

- 1) The applicant participates in a pre-application conference with the Department of Development Services;
- 2) An Application is submitted to and approved by the Town pursuant to this section;
- 3) All Town requirements as set forth in this article are met;
- 4) All other applicable codes and requirements are met;
- 5) A Wireless Facility License Agreement is signed; and
- 6) A Wireless Facility Encroachment Permit issued.

B. The collocation, installation, modification, maintenance, and replacement of monopoles, utility poles associated with small wireless facilities, or small wireless facilities in the public right of way shall be subject to and comply with reasonable requirements, including the Wireless Facilities Standard Terms and Conditions, the Town’s Design Standards and Guidelines, and any site-specific requirements developed based upon consultation with the Town through the site review and permitting process.

C. The Development Services Department shall prescribe and provide a regular form of Application for use by applicants for the collocation, installation, modification, maintenance, and replacement of monopoles, utility poles associated with small wireless facilities, or small

wireless facilities in the public right of way. The Application shall include such information and details as the Department deems necessary to establish the exact location, nature, dimensions, duration and purpose of the proposed monopoles, utility poles, or small wireless facilities in the public right of way.

D. The Application shall be accompanied by maps, sketches, diagrams or similar exhibits. The accompanying materials shall be of the size and in the quantity prescribed by the Development Services Department and of sufficient clarity to illustrate the location, dimensions, nature and purpose of the proposed monopoles, utility poles associated with small wireless facilities, or small wireless facilities in the public right of way and its relation to existing and proposed facilities in the right-of-way.

E. No changes shall be made in the location, dimensions, character or duration of the monopoles, utility poles associated with small wireless facilities, or small wireless facilities in the public right of way as granted by the permit except upon written authorization of the Development Services Department.

F. Approval of an Application is contingent upon the applicant demonstrating compliance with the Wireless Facilities Standard Terms and Conditions, the Town's Design Standards and Guidelines, and any site-specific requirements developed based upon consultation with the Town through the site review and permitting process.

G. An applicant may appeal denial of an Application to the Town Council by following this procedure: Within seven calendar days of the denial of an Application, an applicant shall file a notice of appeal, in writing, with the Town Clerk. The Town Council may affirm, modify, or reverse the action from which the appeal is taken.

H. Upon approval of an Application, a Wireless Facility Encroachment Permit will be issued for each monopole, utility pole associated with small wireless facilities, or small wireless facility included in the Application. However, nothing in this article shall be construed to exempt monopoles, utility poles associated with small wireless facilities, or small wireless facilities in the public right of way from the requirements of Article 16-1 as an encroachment in the public right of way.

I. The collocation, installation, modification, maintenance, and replacement of monopoles, utility poles associated with small wireless facilities, or small wireless facilities shall be subject to rates and fees pursuant to Section 16-2-4 of this article.

Section 16-2-4 Rates and Fees

A. The Town Council shall, by ordinance or resolution, set and amend any rate, rate component, charge, or fee authorized by state law for the use of the public right of way and Town utility poles in connection with small wireless facilities including:

- 1) Fees for special use permit applications
- 2) Fees for collocation applications;

- 3) Fees for the use of the right of way;
 - 4) Rates for the use of the Town's utility poles;
 - 5) Fees for Encroachment Permit Applications;
 - 6) Fees to recover legal costs resulting from enforcement to any noncompliance including, but not limited to, administrative expenses, investigation, testing, legal proceedings and filings, and continued monitoring; and
 - 7) Other fees as the Town may determine necessary to carry out the requirements contained herein.
- B. All rates and fees set or amended pursuant to this article shall be reasonable and shall not exceed the amounts permitted by state law.
- C. The Town shall publish and make available its schedule of rates and fees.
- D. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the Town.