



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

August 1, 2018

DEPARTMENT:

Administration

DIVISION:

- ☐ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☒ Ordinance - Adoption
- ☐ Public Hearing

TITLE:

Amendment to Yuma City Code: Title 9, Chapter 92, "Telecommunications"

SUMMARY RECOMMENDATION:

Amend Yuma City Code, Title 9, Chapter 92, to (i) comply with changes to state laws and regulations regarding use of the City's rights-of-ways by communications and telecommunications providers, and (ii) maintain and protect the public safety and welfare through the City's police and land use powers. (Administration) (Greg Wilkinson)

REPORT:

The City of Yuma ("City") has a non-delegable duty to keep its public highways reasonably safe. Over the past few years, providers of communication services ("Providers") have increasingly sought access to public rights-of-way to install the Providers' communications facilities, such as small cells, microcells, WiFi radio equipment, and even new poles and towers.

Certain state statutes and regulations require the City to issue licenses or permits to certain types of Providers to install, maintain, and operate facilities in the public highways if the Provider meets certain terms and conditions. For example, Arizona Revised Statutes ("A.R.S.") § 9-584 requires the City to allow cable operators and telecommunications corporations to connect microcell equipment to aerial strands, such as overhead cable or telephone wires, in the public highways, and A.R.S. § 9-506 requires the City to allow cable operators to attach WiFi radio equipment to the operators' existing system in public streets, roads or alleys.

The purpose of Chapter 92 of the Yuma City Code, *Telecommunications*, "is to establish a competitively neutral and non-discriminatory policy governing the management of public rights-of-way for the provision of telecommunications services." The chapter sets forth the conditions under which a provider may receive a license to use of the City's rights-of-way for communications and telecommunications services. Certain sections in Chapter 92 need to be updated to comply with new federal and state laws and regulations regarding use of the rights-of-way for communications and telecommunications services and align it with the updates to the zoning provisions set forth in Title 15, Chapter 154, Article 19.

The proposed amendment updates the definitions in Section 92-02; merges duplicative portions of Chapter 92; and makes some technical changes and clarifications throughout Chapter 92.

Definitions:

The amendment adds a definition for “wireless services” to distinguish such services from other communications services such as telecommunications services and commercial radio services. The definition for “commercial mobile radio service” was updated to reference to correct federal regulation and the definition for “facilities” was updated to clarify that it refers to the provision of *any* type of communications services.

License Proposals and Terms

Next, the amendment clarifies that Sections 92-15 through 92-17 apply to all providers of communications services, regardless of type of communication. Previously, it was unclear whether those sections were limited to telecommunication services providers or whether they also applied to providers of other communications services as defined in Chapter 92 (the definition excludes cable and open video services).

The amendment also deletes subsections (D) through (G) from Section 92-16 and merges them with Section 92-17 because the sections were redundant and could cause confusion. Furthermore, the amendment incorporates the requirement for applicants to comply with Yuma City Code Section 154-19.09 –the portion of zoning code regarding communications facilities – as well as the requirements set forth in Chapter 92 before installing any facilities.

Finally, some sections of Chapter 92 use the terms rights-of-way and public highways interchangeably. “Public highways”, however, is the only term defined in the chapter and in State law as it applies to communication services. The amendment removes the inconsistencies by replacing references to “rights-of-way” with “public highways” throughout the Chapter.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="radio"/> Department <input type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/10/2018	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		7/9/2018	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Ron Corbin		4/5/2018		
WRITTEN/SUBMITTED BY:		DATE:		