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## PUBLIC NOTICE – TAX AND FEE CHANGES REPORT

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SUBJECT: SMALL WIRELESS FACILITIES AND WIRELESS MONOPOLE STRUCTURES IN CITY RIGHT OF WAY – POTENTIAL CITY ORDINANCE CHANGES  
SMALL WIRELESS FACILITIES AND WIRELESS MONOPOLE STRUCTURES IN CITY RIGHT OF WAY – POTENTIAL CITY ORDINANCE CHANGES

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This report provides information regarding a new state law concerning wireless communication facilities in City right-of-way, the impacts to the City, and the steps City staff is taking to ensure compliance with the new law.

### Summary

On Aug. 9, 2017, House Bill 2365 (HB 2365) became law and made changes to Arizona Revised Statutes Section 9-591 through 9-599 that impact the City of Phoenix. The bill makes the installation of small wireless facilities (SWF) in the right-of-way a matter of right, provides strict timelines for application and permitting of installations, and significantly restricts the rates and fees the City may charge wireless providers for the use of City right-of-way. The bill impacts cities and counties throughout the State, but does exempt some entities including Arizona Public Service (APS), Salt River Project (SRP), and the City of Yuma. The bill grants cities and counties until Feb. 9, 2018 to establish and publish rates, fees and procedures for SWF installations, and to come into compliance with state law.

### Small Wireless Facilities

Small wireless facilities are used by wireless providers to equip their Fourth Generation (4G) wireless networks with wider coverage and greater capacity, and are used to complement larger wireless network towers. Although the coverage of each 4G SWF is not as broad as larger network towers, each 4G SWF can cover several thousand feet. As such, 4G SWF are in greater concentration and number in comparison to wireless network towers.

Currently, wireless providers are planning and preparing for the roll-out of their Fifth Generation (5G) networks, which are not anticipated to be in place for another 3-5 years. The details and specifications of 5G networks are relatively unknown and not yet defined. However, it is commonly assumed that 5G networks will operate at higher bandwidths, and that 5G SWF will cover significantly less area than comparable 4G SWF. Wireless providers have indicated that each 5G SWF will cover only several hundred feet, with a concentration of 5G SWF ten times that of 4G SWF. The anticipation of the 5G network infrastructure needs is the primary reason the wireless providers advocated for the passage of HB 2365 in Arizona, as well as similar legislation in other states.

### Current City Ordinance and Procedures

In 2012, the City adopted an amended ordinance to establish a rate and fee structure specific for wireless communications equipment, or SWF, in the right-of-way. In crafting the ordinance, City staff worked closely with wireless providers. To date, the City has approximately 200 active permitted SWF installations and is processing approximately 100 additional SWF installations to support wireless provider installations. SWF installations in the City have utilized street light and traffic signal poles for the placement of SWF equipment.

Although the ordinance and the partnership between the City and wireless providers have been successful, the City will need to amend its current ordinance to comply with the new state law. The City has until Feb. 9, 2018, to adopt new procedures, rates and fees that will govern the City's review and permitting of SWF in the right-of-way.

### House Bill 2365 - State Law Requirements

State law grants authority for wireless providers to locate SWF in the right-of-way as a matter of right in the State of Arizona, and SWF installations will generally fall into four categories of City owned infrastructure:

1. Installations on existing traffic signal, street light, or other utility poles in the right-of-way;
2. Installations on existing traffic signal, street light, or other utility poles in the right-of-way that must be modified or replaced to accommodate the installation of SWF;
3. Installations that will include a new utility pole in the right-of-way; and
4. Installations that will include a new large monopole (more than 50' tall and up to 40" in diameter at ground level) in the right-of-way.

Although monopole installations are included in the new state law, during recent meetings with City staff, various wireless providers indicated they do not plan to install monopoles in the City right-of-way.

SWF installations in the right-of-way consist of two components: the antenna and related equipment. Although the antenna is pole-mounted, the related equipment may be installed on the ground adjacent to the pole or mounted on or inside the pole. The antenna and equipment sizes and placement vary between wireless providers. State law limits SWF antennas and related equipment to six cubic feet and twenty-eight cubic feet, respectively.

Although the law includes many provisions and requirements regarding the installation of wireless facilities in the right-of-way, it also establishes strict timelines for City staff to review and approve new installations. Under existing City ordinance and procedures, City staff review each installation site application to ensure the site and planned installation are safe and compliant with the Americans with Disabilities Act (ADA), sight visibility, underground utility conflicts, site location in right-of-way and overall wireless

site design. In addition, a public notification and outreach process is incorporated into each installation site application. Under the new state law, City staff has 75 days to review and approve each application, but wireless providers can submit up to 25 sites per application.

State law also significantly limits the amount a City can charge a wireless provider for use of City right-of-way and for the City’s review and approval of SWF installation applications. For the use of City right-of-way, the City can charge only \$50 to \$100 per location per year for most SWF installations. Similarly, the fee the City can charge for processing a SWF application ranges from \$50 to \$750 per application, which does not cover the time staff typically spends to conduct due diligence on proposed SWF installations.

By comparison, under current City ordinance and agreements with wireless providers, SWF providers are charged \$3,700 per site per year for use of City right-of-way, and reimburse the City for staff time spent to review, process, and inspect each SWF installation.

City Ordinance Modifications

Per state law, the City must modify its current ordinance, SWF license agreements, and its application procedures. To meet the Feb. 9, 2018 deadline, City staff plan to present recommended ordinance changes to the Transportation and Infrastructure (T&I) Subcommittee on Nov. 14, 2017, and to Council on Dec. 13, 2017. The new rates and fees will also be publicly posted 60 days prior to Council action in accordance with state law. Modifications to SWF license agreements and application procedures will be completed in January 2018 based on the Council-adopted ordinance changes.

Although the timeline to adopt new ordinance language is extremely restrictive, staff plans to review the proposed ordinance changes with the wireless providers prior to the Nov. 14, 2017 T&I Subcommittee meeting.

Proposed Rate and/or Fee Changes

The fee table below describes the rate and/or fee changes that will be proposed for Council adoption as part of the ordinance changes. Generally, a rate is an ongoing charge and a fee is a one-time charge.

Rate / Fee Table

<b>SMALL WIRELESS FACILITIES AND WIRELESS MONOPOLE STRUCTURES IN CITY RIGHT OF WAY – POTENTIAL CITY ORDINANCE CHANGES</b>	<b>Rate / Fee Description</b>	<b>Rate / Fee</b>
<b>SMALL WIRELESS FACILITIES AND WIRELESS MONOPOLE STRUCTURES IN CITY RIGHT OF WAY – POTENTIAL CITY ORDINANCE CHANGES</b>		
Site Walk Fee	½ Day (4 hours)	\$ 800

	Full Day (8 hours)	\$ 1,600
City Pole Reservation Fee	Per pole (for 90 days)	\$ 500
Special District Pole Reservation Fee		\$1,000
Application Fee		
Pole Type-Structure #1: Existing Non-City Pole (no modification or replacement)	Per Site (1 – 5 sites)	\$ 100
	Per Site (6 – 25 sites)	\$ 50
Pole Type-Structure #2: Existing City Pole (no modification or replacement)	Per Site (1 – 5 sites)	\$ 100
	Per Site (6 – 25 sites)	\$ 50
Pole Type-Structure #3: Existing Non-City Pole (modification or replacement required)	Per Site	\$ 750
Pole Type Structure #4: Existing City Pole (modification or replacement required)	Per Site	\$ 750
Pole Type-Structure #5: New City Pole (<50' tall)	Per Site	\$ 750
Pole Type-Structure #6: New Non-City Pole (<50' tall)	Per Site	\$ 750
Pole Type-Structure #7: New Pole (>50' tall)	Per Site	\$ 1,000
Pole Type-Structure #8: New/modified monopole	Per Site	\$ 1,000
Special Review Fee		
Downtown Urban / Reinvent Phoenix Area Review Fee	Per Site	\$ 750
Historic Preservation/District Review Fee	Per Site	\$ 750
Inspection Fee		
Pole Type-Structure #1: Existing Non-City Pole (no modification or replacement)	Per Site	\$ 1,500
Pole Type-Structure #2: Existing City Pole (no modification or replacement)	Per Site	\$ 1,500
Pole Type-Structure #3: Existing Non-City Pole (modification or replacement required)	Per Site	\$ 3,000
Pole Type Structure #4: Existing City Pole (modification or replacement required)	Per Site	\$ 3,000
Pole Type-Structure #5: New City Pole (<50' tall)	Per Site	\$ 4,000
Pole Type-Structure #6: New Non-City Pole (<50' tall)	Per Site	\$ 4,000
Pole Type-Structure #7: New Pole (>50' tall)	Per Site	\$ 5,000
Pole Type-Structure #8:	Per Site	\$ 5,000

New/modified monopole		
One Time Permit Extension Fee (permit good for 180 days)	Per Site	\$200
Right of Way Use Rate		
Pole Type-Structure #1: Existing Non-City Pole (no modification or replacement)	Per Site	\$ 50 per year
Pole Type-Structure #2: Existing City Pole (no modification or replacement)	Per Site	\$ 100 per year
Pole Type-Structure #3: Existing Non-City Pole (modification or replacement required)	Per Site	\$ 50 per year
Pole Type Structure #4: Existing City Pole (modification or replacement required)	Per Site	\$ 100 per year
Pole Type-Structure #5: New City Pole (<50' tall)	Per Site	\$ 100 per year
Pole Type-Structure #6: New Non-City Pole (<50' tall)	Per Site	\$ 50 per year
Pole Type-Structure #7: New Pole (>50' tall)	Per Site	\$ 5,000 per year
Pole Type-Structure #8: New/modified monopole	Per Site	\$ 10,000 per year
Agreement Renewal Fee		
Pole Type-Structure #1: Existing Non-City Pole (no modification or replacement)	Per Site	\$ 800
Pole Type-Structure #2: Existing City Pole (no modification or replacement)	Per Site	\$ 800
Pole Type-Structure #3: Existing Non-City Pole (modification or replacement required)	Per Site	\$ 1,600
Pole Type Structure #4: Existing City Pole (modification or replacement required)	Per Site	\$ 1,600
Pole Type-Structure #5: New City Pole (<50' tall)	Per Site	\$ 2,000
Pole Type-Structure #6: New Non-City Pole (<50' tall)	Per Site	\$ 2,000
Pole Type-Structure #7: New Pole (>50' tall)	Per Site	\$ 5,000
Pole Type-Structure #8: New/modified monopole	Per Site	\$ 5,000