CITY OF GRAND RAPIDS
ADMINISTRATIVE POLICY

NUMBER: 19-03	DATE: December 30, 2019
REVISIONS:	
ISSUED BY: City Manager	SIGNED:

SUBJECT: ADMINISTRATIVE RULES FOR SMALL WIRELESS FACILITIES

PURPOSE: To promote the expansion of 5G collocation, the FCC issued FCC Order No. 18-133 ("Order 133") which limit municipal control of the right-of-way ("ROW") as it pertains to wireless service providers. In response, Michigan passed 2018 PA 365, MCL 460.1301 *et seq.* ("Act 365"), which provides even more restrictive measures to encourage 5G development in the state as quickly as possible. On June 11, 2019, the City of Grand Rapids passed an Ordinance to govern small cell applications and collocations in a manner which conforms to Order 133 and Act 365. As a condition of adoption, the City wishes to implement an administrative policy to further regulate small cell facilities and to efficiently administer the regulation already imposed by the Ordinance.

POLICY: All policies implemented regarding Small Cell Wireless Facilities shall conform to the requirements and provisions of Michigan's Public Act 365 of 2018. These policies may be amended, as necessary, to conform to changes in local, state

and federal law or to respond to developing information regarding the health risks associated with small cell wireless technology.

Section 1: Receiving Applications

Application Portal

All requests for Small Cell Wireless Facilities shall come into the City through the Utility Permit online portal. Applicants shall use the following link to gain access to the portal in order to seek a permit: https://www.grandrapidsmi.gov/Services/Apply-for-a-Utility-Permit. **All applications submitted through the portal must be on behalf of a City-registered Metro Act or Franchise Utility to apply for a Utility Permit. Any user of the Portal must be an authorized agent of a License-holder under the Nonexclusive Small Cell Franchise Agreement.**

Submitting an Application

To submit an application, an Applicant must do the following:

1. **Become registered under the Metro Act or licensed as a Franchise Utility.** A prospective Applicant should begin the application process by signing the Non-exclusive Small Cell Franchise Agreement with the City of Grand Rapids to become a licensed utility. A registered utility under the METRO Act is also qualified to submit applications. Only a registered or licensed utility may submit applications for collocations, installations, or construction of a small cell facility.

   Applicants who are licensed to collocate in the right-of-way under the Uniform Video Services Local Franchise Act, Act 480 of 2006, as amended by Act 4 of 2009 and Act 191 of 2009, MCL 484.3301 *et seq.*, are not currently regulated under this policy.

2. **Create a Citizen Access Account.** The City uses a third party application called Citizen Access for our Utility Permit applications. First-time use by an authorized agent of a registered METRO Act or Franchise Utility requires activation of your account for online use. Call the number listed in the "Contact Us" section in the link above to request activation.

3. **Required documentation.** All Applicants shall have the following documents in electronic versions uploaded with the application:

   - A dimensional and scaled Site Plan including installation details, equipment specifications, means of affixing equipment, connection to backhaul, and means of powering equipment.

   - List or map depicting any other existing occupation in the ROW owned or controlled by the Applicant.

4. **Apply Online.** Log in to Citizen Access and complete a utility permit application.

5. **Application Review.** The City shall confirm, by email, receipt of your application within seven (7) business days. Keep in mind that you might

need to revise your application or attachments if we notice any missing or incorrect information.

6. **Monthly invoices.** The City shall mail an invoice for application or permit fees to the primary contact designated for the utility company. The invoice shall include any application or permit fees incurred in the previous month. Recurring rates shall be billed separately.

Recording Date of Receipt

All applications submitted through the City's Utility Permit online portal will be marked to indicate the date it was received by the City of Grand Rapids. If an application is deemed complete, the date it was originally received shall become its Date of Receipt. If an application is deemed incomplete, it shall be rejected and the Applicant shall be promptly informed in writing of what information is missing. If a revised application is resubmitted, it will be marked with the date the revised application was received by the City of Grand Rapids. Once the revised application is deemed complete, the date the revised application was resubmitted shall become its Date of Receipt.

An application is deemed complete when all necessary parts of the application have been received, without respect to compliance, feasibility, or likelihood it will be accepted. A completed application may still be rejected during the "Application Check" process or ultimately denied in the "Decision" process.

Date of Receipt shall be the recorded date from which all deadlines for notice or decision (shot clocks) shall be calculated. This may differ from the date assigned by Accela and should be manually verified.

Issuing Notice of Receipt/Triggering Shot Clock

At the time an application is deemed complete and the Date of Receipt is recorded, a notice shall be sent to the Applicant, by email or post, declaring receipt of the application and indicating each of the deadlines provided in Sec. 7.681 of the City's Small Cell Ordinance relative to the Date of Receipt. The notice shall be sent to the email or mailing address indicated on the application. The same dates as provided in the notice shall be tracked by the City.

Section 2: Tracking

Task Tracking Calendar

A Task Tracking Calendar shall be maintained by the City to coordinate processing for all applications received from wireless service providers seeking small cell wireless permits. The Task Tracking Calendar shall contain all dates, deadlines and notices for each application or set of applications received and shall serve as the master document for ensuring compliance with the shot clock provisions under state and local law.

Shot Clocks

All shot clock deadlines shall be included on the Task Tracking Calendar, including: incomplete applications (25 days), supplemental submissions (10

days), final decisions on a facility (60 days), final decision on a new pole/existing support structure (90 days), final decision on a new support structure (150 days).

Extensions
If multiple applications are received within a 7-day period, the applications shall be granted 15 additional days to issue a final decision regarding the permit. This extension does not apply to notice of incomplete applications.

If, for any reason, the City requires additional time to process an application, the City shall notify the Applicant in writing of the reasons an extension is necessary and shall be granted 15 additional days to issue a final decision regarding the permit. This may be done in addition to an extension granted by the above paragraph.

Section 3: Application Check

Preliminary Application Review
All applications received shall be preliminarily reviewed within twenty-five (25) days of their Date of Receipt by Grand Rapids City Engineering. The following checks shall be completed to determine whether an application is sufficient for additional consideration.

A sufficient application is an application which is complete and passes each of the Application Checks. An insufficient application fails one or more of the Application Checks.

An application which is deemed insufficient for failure to pass one of the checks detailed below may be corrected or updated without a full resubmission. However, a corrected or updated application containing substantial modifications may result in the assignment of a new Date of Receipt at the City's discretion. The Applicant shall be promptly notified in writing of the reason(s) a new Date of Receipt is being issued.

Application Checks

1. Site Plan
   A dimensional and scaled Site Plan shall be submitted with any application and shall include all installation details, specific equipment specifications, a detailed plan for affixing equipment, a detailed plan for connecting to backhaul, and a detailed plan for connecting to a power supply.

2. ADA Compliance Check
   All applications received by the City containing a proposed collocation, installation or construction related to a small cell wireless facility must be in compliance with the Americans with Disabilities Act of 1990, 42 USC § 12101 *et seq.* ("ADA") and all local ordinances regarding accessibility and accommodation for disabled persons. Any application proposing a facility or support structure which by location, design or otherwise, would violate any aspect of the ADA or disability accommodations contained within the City

Code shall be rejected and notice shall be promptly furnished to the Applicant.

3. Spacing Check
To the extent an application contains a proposed collocation, installation, or construction which fails to comply with the spacing requirements imposed by the City, it shall be rejected and notice shall be promptly furnished to the Applicant.

A small cell facility may not be located within 600' of an existing or proposed small cell facility installed or located by the same Permit Holder or Applicant.

A micro cell facility may not be located within 300' of an existing or proposed microcell facility installed or located by the same Permit Holder or Applicant.

No facility shall be located within the ROW in such a position that it would violate the Maximum Permissible Exposure (MPE) of radio frequency ("RF") exposure for pedestrians, vehicles, residential or commercial structures. MPE shall be initially defined by the Institute of Electrical and Electronic Engineers (IEEE) whose International Committee on Electromagnetic Safety has published the C95.1™ Standards for MPE based on the frequencies emitted from a small or micro cell facility. Unless otherwise decided by the Energy, Lighting and Communication Department, the City's MPE for RF shall conform to the most recent standards published by the IEEE. The Department shall review such standards periodically and may freely decide to amend, modify, or expand the City's standards for MPE in order to promote the health, safety and welfare of City residents, or to comply with local, state and federal law.

4. Traffic Control Check
To the extent an application contains a proposed collocation, installation, or construction which materially interferes with the safe operation of traffic control equipment, it shall be rejected and notice shall be promptly furnished to the Applicant.

5. Sight Lines or Clear Zones Check
To the extent an application contains a proposed collocation, installation, or construction which materially interferes with sight lines or clear zones for transportation or pedestrians, it shall be rejected and notice shall be promptly furnished to the Applicant.

6. Drain System Check
To the extent an application contains a proposed collocation, installation, or construction which materially interferes with any aspect of the drain system, it shall be rejected and notice shall be promptly furnished to the Applicant.

7. Public Utility Check
To the extent an application contains a proposed collocation, installation, or construction which materially interferes with any public utility, it shall be

rejected and notice shall be promptly furnished to the Applicant. A public utility is any utility under the jurisdiction of the City.

8. Backhaul
All applications received containing a proposed collocation of a small cell wireless facility shall propose a plan to provide a sufficient backhaul connection to the site of the proposed collocation. Failure to provide such a plan shall result in the rejection of the application and notice shall be promptly furnished to the Applicant.

9. Pole or Wireless Support Structure Sufficiency Check
All applications received containing a proposed collocation, the installation of a new utility pole, or wireless support structure must meet the Energy, Lighting and Communications Department standards for load bearing, shrouding and concealment. A proposed pole or wireless support structure must not exceed forty (40) feet and a facility shall not extend more than five (5) feet above any utility pole or wireless support structure. It shall be the responsibility of the Applicant to work with the original equipment manufacturer to purchase a utility pole sufficient for the proposed collocation.

10. Facility Compliance Check
To the extent an application contains proposed facilities which exceed the standards for a small or micro cell facility, it shall be rejected and notice shall be promptly furnished to the Applicant.

A proposed small cell facility's antenna must not exceed six (6) cubic feet in volume, or if antennae are exposed all elements would fit within an imaginary enclosure that does not exceed six (6) cubic feet. All other equipment associated with the facility must not exceed twenty-five (25) cubic feet in volume.

A proposed micro facility must not exceed one (1) foot in height, two (2) feet in length, and fifteen (15) inches in width and does not have an antenna more than eleven (11) inches in length.

11. Existing Building/Infrastructure Impact Check
All applications containing proposed collocations, installations, or construction related to a small cell wireless facility must not materially interfere with public or private infrastructure, existing buildings, or construction projects at any stage.

Applications containing proposed collocations, installations, or construction that causes such material interference shall be flagged and the Applicant shall be given notice as soon as possible. If reasonable, technically feasible, and technologically neutral alternatives are possible, they shall be proposed to the Applicant. To the extent that there exists no such alternative and the collocation is required under Act 36, all costs associated with accommodating the proposed project shall be assessed to the Applicant as Make-ready Work fees.

12. Insurance and Bond Check
Although not required at the time of the initial application, all Applicants must furnish a certificate of commercial general liability (CGL) insurance and a bond deposit prior to the issuance of a permit.

CGL coverage must include a minimum combined bodily injury and property damage single limit of Three Million Dollars ($3,000,000) per occurrence and Six Million Dollars ($6,000,000) general aggregate, with the City listed as an additional insured.

Bond Deposit must reflect a bond of $1,000 per facility. Cash bond may be required from Applicants who have defaulted or failed to maintain or perform on a previous bond given to the City. The City's Energy, Lighting and Communications Department shall maintain the bond.

13. Additional Permit Check
Although not required at the time of the initial application, all Applicants must furnish any additional permits required by City Code for the proposed project, including any required planning, zoning, or construction permits (traffic control permit, temporary occupancy permit).

14. Make-Ready Work Requests
All applications containing a proposed collocation, installation, or construction related to a small cell wireless facility which requires additional work necessary to enable any utility pole to support a facility proposed by an Applicant shall be flagged. All such work shall be assigned immediately to the Energy, Lighting and Communications Department and/or City Approved Contractor and completed with sixty (60) days of the date of receipt. The Energy, Lighting and Communications Department shall calculate the commercially reasonable, competitively neutral, nondiscriminatory, good faith costs of actual charges necessary to make the proposed collocation site compliant with industry standards, and all such charges shall be assessed to the Applicant. Applicants shall receive prompt notice of the completion of Make-ready Work. All Make-ready Work shall be completed before collocation, installation, or construction may begin.

15. Fees
All applications containing a proposed collocation, installation, or construction related to a small cell wireless facility must include all necessary fees before the application is deemed complete. The initial fees, subject to amendment by resolution of the City Commission, are included in Sec. 7.677 of the City Ordinance regulating small cell wireless facilities. At the time this administrative policy takes effect, the application fees are scheduled as follows:

Energy, Lighting and Communications

$200/each	Small Cell Facility on a pole owned by a municipally-owned electric utility
$300/each	Small Cell Facility on a pole owned by a municipally-owned electric utility in which an engineering report is required

$100/each	Addition of new utility pole
Direct Costs	Make-Ready Work as described by section 7.660.

Zoning

$500/each	Zoning Approval: New facilities or modification of existing facilities
$1,000/each	Zoning Approval: New Wireless Support Structure or modification of existing Wireless Support Structure

All application fees must be received before a Permit is issued. Recurring collocation rates may be assessed after a facility has been approved.

Section 4: Non-exclusive Small Cell Franchise Agreement

Non-exclusive Small Cell Franchise Agreement

Before initiating an application for a small or micro cell facility, all Applicants must have signed either the "Non-Exclusive Small Cell Franchise Agreement" or the former "Nonexclusive Micro-Cell License Contract" and furnished it to the City. This Agreement must be maintained at all times while small or micro cell wireless facilities are occupying the ROW. Failure to maintain this Agreement shall result in the revocation of all existing permits and licenses and will require the Applicant to vacate the ROW.

Section 5: Decision Process

Final Review

An application which is deemed sufficient and is also approved by all relevant City departments shall enter final review by the Energy, Lighting and Communications Department and the application shall be deemed approved.

Application Approval

Notice of Approval

At the time an application is approved, notice by email or post shall be provided to the Applicant within seventy-two (72) hours of the decision. The notice shall inform the Applicant of the decision and provide notice of any documentation that is further required before a Permit may be issued.

Permit

Once an application have been approved and the City receives a certificate of insurance certificates, certificate of bond, payment of fees and completion of all Make-ready Work, the City shall promptly issue a Permit to the Applicant who shall then be considered a Permit Holder and may begin collocation, installation, or construction.

Application Denial

Notice of Denial

If an application is denied for failure to pass any of the Application Checks provided above, or for failure to comply with any additional requirements under Act 365, City Codes or Ordinances, a written denial shall be promptly sent to the Applicant. The written denial shall clearly and specifically state the reasons for

the denial and shall provide the Applicant with general information sufficient to correct the error and resubmit an application. The City will not be responsible for engineering, manufacturing or designing to a specification level.

Resubmissions
Applications that are resubmitted with corrections following a denial for incompletion shall be reviewed and notice of completion shall be provided within ten (10) days of its date of receipt. The new shot clock deadline shall be calculated from the resubmitted application's date of receipt.

Section 6: Rates

Recurring Rental Rates
All wireless service providers occupying the right of way pursuant to a permit issued through this process shall be subject to recurring charges for use of space in the municipally controlled ROW. The initial rates, subject to amendment by resolution of the City Commission, are included in Sec. 7.678 of the City Ordinance regulating small cell wireless facilities. At the time this administrative policy was drafted, the rental rates are scheduled as follows:

$20/each	Rental of an existing Authority-owned Utility Pole or Wireless Support Structure
$125/each	Rental of an Authority-owned Utility Pole or Wireless Support Structure that has been erected by or on behalf of the Wireless Provider after March 12, 2019.

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$30/each	Collocation on an Authority-owned pole

Collection of rates shall be administered through the Energy, Lighting and Communications Department which shall issue an annual invoice for rental of City-owned structures. The rates shall be assessed according to the City's Fiscal Calendar from July 1 to June 30. Invoices shall be sent by mail to the address indicated on the original application.

Section 7: Notice and Monitoring

Notice to Public
The City will provide notice to residents in the following manner:

1. The location of all facilities that are approved as of the effective date of this policy will be published in the next issue of the "We Are GR" newsletter. The initial mailed communication will include all existing facilities and the option to opt-in for ongoing notices for new facilities by email.

2. The status of all facilities will be listed and shall appear on the interactive map on the Energy, Lighting, and Communications webpage.

3. All new facilities will be published on the interactive map on the Energy, Lighting, and Communications webpage and will be published quarterly on the City of Grand Rapids Facebook page.

4. Residents who opt in through the ELC webpage, 311 or the "We Are GR" prompt will receive quarterly email notifications of all new facilities.

5. The Communications Office will use their social media outlets initially to make persons aware of the web-based tools that the City is making available. Subsequently those same channels will be used to provide quarterly updates

6. Residents may also track permitting activity by following the Building Eye system found on the Development Permits Map found at:

   https://www.grandrapidsmi.gov/About/Maps/Development-Permits-Map?BestBetMatch=building%20eye%20map|d13b95b2-5146-4b00-9e3e-a80c73739a64|4f05f368-ecaa-4a93-b749-7ad6c4867c1f|en-US

7. Residents without access to internet may utilize the 3-1-1 system to request quarterly notice by mail.

Notice to City Workers and City Contractors

All City workers and approved City Contractors shall adhere to all applicable OSHA and FCC rules and regulations, with an emphasis on RF warning signs and safety work boundaries. Permit holders shall assure all facilities have labeling and signage as required by the FCC. To the extent possible, such signage shall be placed on the street side of the facility in a location visible to a municipal worker or contractor working from the road.

Periodic RF Safety Testing and Monitoring

The City's Energy, Lighting and Communications Department shall test all new facilities within the first year of their installation.

The City's Energy, Lighting and Communications Department shall perform RF Testing on the balance of all existing facilities within the ROW on a three (3) year rotational cycle. The Department shall compare the results against existing safety standards issued by the Federal Communications Commission (FCC), International Commission on Non-Ionizing Radiation Protection (ICNIRP), Health Canada (Canada Code 6), and/or other applicable International Standards. Failure to meet the safe testing levels issued by any of these organizations shall result in notice being sent to the provider with a request to correct the RF emission levels. Testing results will be posted on the City's Energy, Lighting, and Communications website. Failure to correct RF emission concerns may result in municipal action, including revocation of the permit for that location.

GIS mapping of small cell locations in Grand Rapids

The Energy, Lighting and Communications Department shall map all Small-Cell locations within the City of Grand Rapids, maintain a GIS database of all small cell occupations within the City's jurisdiction and post a map of said facilities on the City's website.

Section 8: Restricted Areas

The City Manager has discretion to restrict any City-owned property, except the ROW which must be permitted under Act 365 and these rules. The City Manager may designate, subject to amendment at any time, areas for which permits for collocation under the City's Small Cell Ordinance shall not be issued. While subject to the City's discretion and the limitations of Act 365, this list may include any sites in which the City determines Small Cell collocation would be disruptive, unnecessary, or excessive, or sites in which the absence of Small Cell collocation would be desirable.

The most up-to-date list shall be maintained both at the Executive Department and the Energy, Lighting and Communications Department.

Section 9: Small Cell Collocations as a "Public Utility"

A small cell facility permitted through this policy and the City's Small Cell Ordinance does not constitute a public utility under the Michigan Constitution. Accordingly, it shall not be impacted by any existing or subsequent provision of the Michigan Constitution that does not explicitly extend to the telecommunications industry by its terms or through judicial construction.

Section 10: Removal

Ordinance Compliance

Any Permit Holder collocating, installing, or engaging in construction within the municipally-owned ROW shall be compliant with the removal provisions of Sec. 7.686 of the Ordinance regulating small cell wireless facilities. Prior to the removal of any facility, utility pole, or wireless support structure, the Permit Holder shall submit an application for a utility permit through the City's Utility Permit online portal with a Removal Plan to restore the ROW to its pre-installation condition. The Removal Plan shall include a timeline for removal. Upon receipt of a Removal Plan, the Energy, Lighting and Communications Department shall approve or deny the proposed plan within fourteen (14) days.

Discontinuance of Use

The Energy, Lighting and Communications Department shall monitor all existing Permits and occasionally inspect Permit locations for active use. If the Energy, Lighting and Communications Department determines that the wireless provider has discontinued use of the site, that site shall be flagged and revisited in forty-five (45) days. A provider which has discontinued use of a permitted site for forty-five (45) days or has failed to remove facilities from the site after the expiration of a Permit for forty-five (45) days shall forfeit all of its rights to that location and the City may remove the equipment, restore the site and assess all costs to the former Permit Holder.

Verification of ROW Restoration

The City's Energy, Lighting and Communications Department and Engineering Department shall perform final inspections to verify the restoration of the ROW has been satisfactorily completed to its pre-installation condition.

Release of Bond

After verification of ROW Restoration has been confirmed, the Energy, Lighting and Communications Department shall release any bond deposit or destroy any bond certificate possessed by the City for the removed facility within forty-eight (48) hours.

Section 11: Effective Date

These administrative rules shall be effective December 30, 2019.