

ORDINANCE NO. O-026-2019

**AN ORDINANCE OF THE LAFAYETTE CITY-PARISH COUNCIL
ENACTING ARTICLE VI OF CHAPTER 78 OF THE LAFAYETTE CITY-
PARISH GOVERNMENT CODE OF ORDINANCES TO PROVIDE FOR
REGULATION OF WIRELESS COMMUNICATIONS FACILITIES WITHIN
THE RIGHTS-OF-WAY OWNED BY THE CITY OF LAFAYETTE, THE
PARISH OF LAFAYETTE, OR LAFAYETTE CITY-PARISH
CONSOLIDATED GOVERNMENT**

BE IT ORDAINED by the Lafayette City-Parish Council, that:

WHEREAS, The City of Lafayette, the Parish of Lafayette, and/or Lafayette City-Parish Consolidated Government own rights-of-way throughout the City and Parish of Lafayette; and

WHEREAS, through the exercise of their police power, and by virtue of their legal status as owners of those rights-of-way, the City of Lafayette, the Parish of Lafayette, and Lafayette City-Parish Consolidated Government have the right and obligation, in a manner consistent with applicable law, to regulate entry into and usage of their rights of way (including the imposition of fees upon entrants and users to defray the costs and burdens to the public associated with such entry and usage), to provide for the safe use and operation of their rights-of-way, and to reasonably manage those rights-of way in a manner that promotes the health, safety, and welfare of the citizens and businesses of the City and Parish of Lafayette; and

WHEREAS, to ensure that residents, businesses and public safety operations in the City and Parish of Lafayette have reliable access to wireless telecommunications network technology and state of the art mobile broadband communication services, the City of Lafayette, the Parish of Lafayette, and Lafayette City-Parish Consolidated Government desire to accommodate the deployment of wireless communications

facilities and services within their respective rights-of-way, while remaining consistent with their rights and obligations as above described; and

WHEREAS, considering the foregoing, the Lafayette City-Parish Council, in its capacity as the governing authority of the City of Lafayette, the Parish of Lafayette, and Lafayette City-Parish Consolidated Government, now desires to establish a comprehensive set of regulations governing access to and use of the rights-of way owned by the City of Lafayette, the Parish of Lafayette, and/or Lafayette City-Parish Consolidated Government by wireless telecommunications providers.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City-Parish Council, that:

SECTION 1: The “Whereas” provisions in the preamble of this Ordinance are hereby adopted as findings of the Lafayette-City Parish Council and as part of this Ordinance.

SECTION 2: Article VI of Chapter 78 of the Lafayette City-Parish Consolidated Government Code of Ordinances, consisting of Sections 78-321 through 78-331, inclusive, are hereby adopted, said provisions to read as follows:

ARTICLE VI. – WIRELESS COMMUNICATIONS FACILITIES

DIVISION 1. – IN GENERAL

Sec. 78-321. – Purpose and Interpretation.

- A. The purpose of this Article is to establish a comprehensive set of siting requirements for Antennas and Wireless Communications Facilities. These regulations are intended to provide for the managed development of Antennas and Wireless Communications Facilities in a manner that recognizes and enhances the community benefits of wireless telecommunications technology and reasonably accommodates the needs of citizens and Wireless Providers in accordance with federal and state rules and regulations. At the same time, these regulations are intended to protect the community from potential adverse impacts of such facilities, including but not limited to noise, traffic, aesthetic, safety, and other impacts over which the City-Parish has purview, and to preserve the

visual character of the established community through appropriate design, siting, screening, and maintenance and location standards.

- B. This article is intended to harmonize with the Uniform Development Code and to be interpreted as a supplement to the Unified Development Code where possible. However, this article supersedes all conflicting provisions of the Uniform Development Code to the extent of such conflict.

Sec. 78-322. – Definitions.

The following words, terms, phrases, and abbreviations in this Chapter shall have the meaning given below unless the context indicates otherwise. These meanings shall apply whether a word is in italics or not, capitalized or not, or is singular or plural.

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services.

Applicable Standards means all applicable engineering and safety standards governing the installation, maintenance, and operation of Wireless Communications Facilities and the performance of all work in the Public Right of Way, and includes the most current versions of National Electric Safety Code (“NESC”), the National Electrical Code (“NEC”), the regulations of the Federal Communications Commission (“FCC”) or the Occupational Safety and Health Administration (“OSHA”), and provisions of the LCG’s building, construction, zoning, and safety codes, including those of the LCG’s DPW and Department of Development and Planning, each of which is incorporated by reference in to this Agreement, and/or other reasonable safety, engineering, architectural or aesthetic requirements of the LCG or federal authority having jurisdiction over such Wireless Communications Facilities.

Collocate or Collocation means to install, mount, maintain, modify, operate, or replace Wireless Communications Facilities on or adjacent to an existing Wireless Support Structure or Pole.

Department of Public Works (“DPW”) means the Lafayette City-Parish Consolidated Government Department of Public Works.

LCG means the City of Lafayette, the Parish of Lafayette, and/or Lafayette City-Parish Consolidated Government, individually, collectively, or in any combination.

LUS means the Utilities Department of LCG, doing business as “Lafayette Utilities System.”

Master Public ROW License Agreement means an agreement between the City-Parish and a Wireless Provider authorizing the Wireless Provider to occupy the PROW pursuant to the terms of this Article.

Micro Wireless Facility means a Small Wireless Facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior Antenna, if any, no longer than 11 inches.

Pole means an above-grade structure located in the ROW, including a Utility Pole, Streetlight Pole, traffic light pole, or other street furniture, whether or not owned by LUS, the City-Parish, or a private utility.

Public Rights-of-Way (“PROW”) means the surface, the air space above the surface, and the area below the surface of any public street, bridge, tunnel, highway, lane, path, alley, sidewalk, or boulevard owned by LCG. Public Rights-of-Way shall not include any LCG buildings, LCG Streetlight Poles, LCG Utility Poles, or other LCG-owned structures or improvements, or any privately-owned Poles or facilities, regardless of whether they are situated in the Public Rights-of-Way.

Public Safety Facilities mean facilities used only for public safety functions, such as police, fire, and emergency operations.

Small Wireless Facility means a Wireless Communications Facility that meets both of the following qualifications: (i) each Antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an Antenna that has exposed elements, the Antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Streetlight Pole means a means a freestanding Streetlight Pole that is used for lighting purposes and is capable of supporting Wireless Communications Facilities.

UDC means the Lafayette City-Parish Consolidated Government Unified Development Code.

Utility Pole means a Pole that is used in whole or in part for the purposes of supporting electric, telecommunications and cable wires for the distribution of electric or communications services. Such term shall not include electric transmission facilities or freestanding structures that are primarily constructed to support Wireless Communications Facilities.

Wireless Facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities. The term does not include the structure or improvements on, under, or within which the equipment is Collocated.

Wireless Communications Facilities Permit (WCF Permit) means a permit issued by the DPW authorizing the installation, operation and maintenance of Wireless Communications Facilities within the PROW.

Wireless Infrastructure Provider means any person that builds or installs Wireless Facilities or Wireless Support Structures, but that is not a Wireless Services Provider.

Wireless Provider means a Wireless Infrastructure Provider or a Wireless Services Provider.

Wireless Services means any voice, video or data communications services, whether at a fixed location or mobile, that are provided through the use of Wireless Communications Facilities.

Wireless Services Provider means a person who provides Wireless Services.

Wireless Support Structure means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or, other existing or proposed structure primarily designed to support or capable of supporting Wireless Communications Facilities. Such term shall not include a Pole.

DIVISION 2. – WIRELESS COMMUNICATIONS FACILITIES

Sec. 78-323. –Application; Fees.

- A. **Master PROW License Agreement Required.** No person shall apply for or obtain WCF Permits or any other authorization to occupy the PROW for the installation and operation of Wireless Communications Facilities without entering into a Master PROW License Agreement with LCG, in such form as LCG may prescribe, incorporating the terms and conditions of this Chapter.
- B. **Permit Required.** No person shall place a Wireless Communications Facility in the City-Parish's PROW or on public or private property without first filing an WCF Permit Application and obtaining a WCF Permit therefor, except as otherwise provided in this Chapter. Unless specifically excepted, a building permit shall be required for the installation of Wireless Communications Facility.
- C. **Micro Wireless Facilities.** A Wireless Provider may install Micro Wireless Facilities by suspending such facilities from authorized communications cables attached to Utility Poles, without the need to obtain a permit, provided that the Wireless Provider provides advance notice to the DPW and LUS, and such installations comply with all Applicable Standards.
- D. **Pole Attachment Agreements Required.** Nothing herein shall confer any right to install Wireless Communications Facilities upon LCG-owned or privately owned Utility Poles or structures, absent a separate pole attachment agreement with the owners of such Poles and structures.
- E. **Application Requirements.** A WCF Permit Application shall be made by a Wireless Provider or its duly authorized representative and shall contain the following:
 - 1. The applicant's name, address, office telephone number, cellular telephone number, and email address.

2. The names, addresses, office and cellular telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.
3. A general description of the proposed work and the purposes and intent of the Wireless Communications Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed. The description shall include the type of equipment, number of Antennas, height to top of Antenna(s), radio frequency range, wattage output of equipment, statement of compliance with Federal Communications Commission (FCC) requirements, and description of concealment elements.
4. The applicant may designate portions of its application materials that it reasonably believes contains proprietary or confidential information.
5. A Wireless Communications Facility shall comply with all applicable federal, state and local codes, laws, and regulations. Failure to comply with same shall be grounds for WCF Permit revocation.
6. Site plan identifying all facility – related support and protection equipment, indication of fall zone, elevations of proposed communications structures and appurtenances, and composite elevations from the street(s) showing the proposed project and all buildings on the site, and landscaping plan.
7. Vicinity map depicting major roads and highways and including topographic area within both a 200 feet radius and a 1,000 feet radius from the proposed facility.
8. Noise and acoustical information for the base transceiver station(s), equipment buildings, and associated equipment such as backup generators.
9. A radio frequency (RF) analysis conducted and certified by a state licensed and certified RF engineer evaluating compliance with current FCC guidelines for human exposure to RF.
10. A security plan, including emergency contact information, main breaker switch, emergency procedures to follow; and a description of the anticipated maintenance program.
11. Written agreement evidencing approval of the owner of any Pole, building, Wireless Support Structure to which a Wireless Communications Facility or any of its associated equipment is proposed to be attached. The WCF Permit Application may be accepted without this attached document but shall not be approved without the executed agreement authorizing said approval.

F. **Batched Submittals.** The batched submittal process described in this section allows an applicant to combine individual WCF Permit Applications for new Small Wireless Facilities (that are proposed to be substantially the same and that would otherwise be

processed as separate individual applications) into a single batched submittal containing the individual applications to be processed at the same time.

1. An applicant may combine into a single batch application up to twenty-five (25) individual applications for WCF Permits (WTFPs) for new Small Wireless Facilities to be located in the City-Parish's PROW, provided that the proposed WTFs are of substantially the same design and style.
2. A single person or entity shall not submit a batch application for more than twenty-five locations for Small Wireless Facilities WTFs in any period of thirty (30) calendar days.

G. ***Information Updates.*** Any amendments to information contained in a WCF Permit Application shall be submitted in writing to the City-Parish within thirty (30) days after the change necessitating the amendment.

Sec. 78-324 - Fees.

Applicants shall submit to the DPW all documents and fees. A WCF Permit Application shall not be accepted if the accompanying fees are not included.

A. New Facilities – Individual Application.

1. **Application Processing Fee.** All individual applications for WCF Permits shall be accompanied by an application processing fee in the amount of \$100 made payable to LCG.
2. **Contractor Fee/Deposit for Individual Applications.** All individual applications for WCF Permits shall be accompanied by the required Contractor Fee/deposit made payable to the Lafayette City-Parish Consolidated Government. The Contractor Fee/deposit shall be held in an escrow account funded by the Applicant. Upon the presentation of invoices to the City-Parish, the City-Parish shall pay contractor from the escrow account for its services in an amount not to exceed two hundred and fifty dollars (\$250) per hour. Any remaining unexpended amount, after the issuance of the WCF Permit is refundable to the Applicant upon request. Such request shall be made before the ninety-first (91st) day after the date of the WCF Permit issuance, otherwise the unexpended amounts become non-refundable.
3. **ROW Usage Fee Upon Issuance of Permit and Annually Thereafter.** Upon notification of a decision for approval for the WCF Permit, applicants may obtain the Permit from the DPW, and upon obtaining such Permit, shall pay a Public Rights-of-Way usage fee of fifty (\$50) dollars. Thereafter, the Wireless Provider shall continue to pay fifty (\$50) per year for each Wireless Communications Facility that the Provider installs and maintains within the PROW.

B. Batched Submittals for New Facilities.

1. **Application Processing Fee.** A maximum of twenty-five (25) WCF permit applications may be submitted in a batched submittal. All individual applications contained in a single batched submittal for WCF Permits shall be accompanied by an application processing fee of one hundred (\$100) dollars per application for the first five applications, and fifty (\$50) dollars per application for each additional application..
2. **Contractor Fee/Deposit for Batched Submittals.** All batched submittal applications for WCF Permits shall be accompanied by the required Contractor Fee/deposit made payable to the Lafayette City-Parish Consolidated Government. The Contractor fee/deposit shall be held in an escrow account funded by the applicant. Upon the presentation of invoices to the City-Parish, the City-Parish shall pay contractor from the escrow account for its services in an amount not to exceed two hundred and fifty dollars (\$250) per hour. Any remaining unexpended amount, after the issuance of each Certificate of Completion (COC), shall roll forward to the next individual application contained in the batched submittal. After the last WCF Permit is issued, in the batched submittal, any unexpended amounts are refundable to the Applicant upon request. Such request shall be made before the ninety-first (91st) day after the date of the last WCF Permit issuance, otherwise the unexpended amounts become non-refundable.
3. **ROW Usage Fee Upon Issuance of Permit and Annually Thereafter.** Upon notification of a decision for approval for the WCF Permit, applicants may obtain the Permit, from the DPW, and upon obtaining such Permit, shall pay a Public Rights-of-Way usage fee of fifty (\$50) dollars. Thereafter, the Wireless Provider shall continue to pay fifty (\$50) per year, for each Wireless Communications Facility that the Provider installs and maintains within the PROW.

C. Modifications

1. Any proposed change to an existing authorized Wireless Communications Facility that would constitute a “substantial change,” as defined by the FCC, shall be subject to the same Permit Fees as new Facilities.
2. Any proposed change to an existing authorized Wireless Communications Facility that would not constitute a “substantial change,” as defined by the FCC, shall be subject to the same WCF Permit Application Processing Fees but shall not be subject to a new WCF Permit Fee.

Sec. 78-325 - Action on Permit Applications.

A. Review of Wireless Communications Facility Permit Applications.

LCG shall review the WCF Permit Application for conformity with applicable provisions of this Chapter and shall issue a WCF Permit on nondiscriminatory terms and conditions, subject to the following requirements:

1. Sufficiency of Application

- a. Within ten (10) days of receiving an initial Application for a Small Wireless Facility Permit, LCG will notify the Applicant in writing if the Application is materially incomplete and shall clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit the requested information. Upon receipt of the requested information the applicable time period for LCG to complete its review of the Application will start over as if the Application were received on that date;
- b. Within thirty (30) days of receiving an initial Application for any other type of WCF Permit, LCG will notify the Applicant in writing if the Application is materially incomplete and shall clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit the requested information. Pending the receipt of the requested information the review period shall be tolled. Upon receipt of the requested information the applicable time period for LCG to complete its review of the Application shall resume.
- c. Within ten (10) days of receiving a resubmitted application in response to a notice of insufficiency for any type of WCF Permit Application, LCG will notify the Applicant in writing if the resubmitted Application continues to be materially incomplete and shall clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit the requested information. Pending the receipt of the requested information the review period shall be tolled. Upon receipt of the requested information the applicable time period for LCG to complete its review of the Application shall resume.
- d. Any subsequent review of an Application by LCG after notice of incompleteness shall be limited to the deficiencies cited in the notice.
- e. There shall be no additional Application Fee to review a resubmitted Application.

2. Time Period for Permit Application Review

- a. LCG shall make its final decision to approve or deny a WCF Permit Application within the following time frames, subject to such deadlines being reset or tolled in the event of an incomplete or deficient Application:
 - (i) Review of an Application to Collocate a Small Wireless Facility upon an existing structure: 60 days.
 - (ii) Review of an Application to Collocate a WCF other than a Small Wireless Facility using an existing structure: 90 days.

- (iii) Review of an Application to deploy a Small Wireless Facility using a new structure: 90 days.
 - (iv) Review of an Application to deploy a WCF other than a Small Wireless Facility using a new structure: 150 days.
- b. LCG shall advise the Applicant in writing of its final decision and shall include in the final decision document the basis for any denial(s), including specific code provisions on which the denial(s) were based. The applicant may cure the deficiencies identified by LCG and resubmit the Application within thirty (30) days of the denial(s) without paying an additional application fee. LCG will approve or deny the revised Application within thirty (30) days of receipt of the amended application. The subsequent review by LCG shall be limited to the deficiencies cited in the original denial(s).
- c. If LCG fails to act on a WCF Permit Application within the above prescribed time periods, the Applicant may provide notice that the time period for acting has lapsed, after which the Applicant may pursue such other remedies as may be available under then-prevailing law.
 - (i) If the WCF Permit Application is to modify existing authorized Wireless Communications Facilities and the proposed modification does not constitute a “substantial change,” as defined by the FCC, to the existing Wireless Communications Facilities, LCG will approve the WCF Permit Application within sixty (60) days or else the Permit Application shall be deemed granted.

B. Permit Application Review

1. Scope of Review.

- a. The City-Parish or an authorized third-party contractor working on behalf of the City-Parish shall review the WCF Permit Application, proposed findings, and proposed conditions. The review and evaluation may include, but shall not be limited to, such items as:
 - i. Completeness of the Application;
 - ii. The site plan’s compliance with federal, state, and local laws, regulations, codes LCG ordinances; facility related support and protection equipment; fall zone; land use and design standards; landscape plan,
 - iii. Completeness and sufficiency of the vicinity map;
 - iv. General project information, including type of facility, number of antennas, height to top of antennas, radio frequency range, wattage

output of equipment, compliance with FCC requirements, and concealment elements;

- v. Noise and acoustical information;
- vi. Applicant's certification that their proposed Wireless Facilities will comply with all applicable FCC radio frequency (RF) requirements;
- vii. Sufficiency of the security plan;
- viii. Adequacy of the maintenance program;
- ix. Recommendations of the City-Parish Engineer regarding the proposed installation, maintenance and modification to existing Wireless Communications Facilities; and
- x. Preparation of written report to City-Parish Engineer of recommended action on application.

(ii) .

Sec. 78-326. – Concealment and Spacing.

- A. **Design.** Wireless Communications Facilities shall be designed to blend into the surrounding environment and complement existing streetscape elements through the use of color, camouflaging and architectural treatment. Any equipment mounted to the support structures shall also match the support structure in color and general design. The City-Parish shall publish specifications for aesthetic and concealment design requirements, including spacing requirements that establish a minimum separation distance between Wireless Facilities installed by the same Wireless Provider.
- B. **Camouflage or Stealth.** In order to render Wireless Communications Facilities as visually inconspicuous as reasonably possible. Wireless Communications Facilities are subject to the following requirements:
 - 1. All building, roof, or structure mounted antennas and related equipment, and base stations, shall be camouflaged, screened and/or obscured within or behind the building, roof or structure and blend in with the building, roof or structure.
 - 2. All antennas and related equipment mounted to Poles shall be camouflaged, screened and/or obscured within the Poles so as to reasonably blend in with the Poles.
 - 3. **Adjacent Properties.** Reasonable efforts shall be undertaken to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification or removal of the Wireless Communications Facilities.

Sec. 78-327. – Height and Size; Undergrounding.

- A. **Maximum Size and Height of Permitted Use.**

Facilities in the PROW. Small Wireless Facilities and new or modified Poles and Wireless Support Structures for the collocation of Small Wireless Facilities may be placed in the PROW, as a permitted use, subject to the following requirements:

Each new or modified Pole or Wireless Support Structure installed in the PROW provided that the Small Wireless Facilities:

- Are mounted on structures 50 feet or less in height including their antennas, or
- Are mounted on structures no more than 10 percent taller than other adjacent structures, or
- Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater

- B. **Undergrounding Provisions.** Applicant shall comply with LCG Code requirements concerning undergrounding of utility and telecommunications facilities, which shall be applied on a non-discriminatory basis, provided that such requirements shall not prohibit the replacement of allowed existing structures with similar structures. Nor shall such requirements prohibit or effectively prohibit the provision of Wireless Services in the areas subject to undergrounding requirements.

Sec. 78-328. – Effect of Permit.

- A. **Authority Granted; No Property Right or Other Interest Created.** A WCF Permit from LCG authorizes a permittee to undertake only certain activities in accordance with the terms of the Permit and this Article and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may already have an interest in the PROW.
- B. **Duration.** No WCF Permit for construction of a new facility issued under this Chapter shall remain valid for a period longer than twelve (12) months unless construction has actually begun within that period and is thereafter diligently pursued to completion. Any approved and issued WCF Permit will automatically expire ten (10) years from the issuance date.
- C. **Other approvals.** The issuance of a WCF Permit shall not relieve a Wireless Provider of the obligation to obtain all other applicable permits, approvals, and agreements necessary to install and operate its Wireless Communications Facilities in conformance with federal, state, and local laws, rules, and regulations.

Sec. 78-329. – Removal, Relocation or Modification of Wireless Communications Facility.

- A. Within ninety (90) days following written notice from LCG, a Wireless Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change, or alter the position of any Wireless Communications Facilities whenever LCG has determined that such removal, relocation, change, or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any LCG improvement in or upon the PROW, or the operations of LCG, or LUS utility

facilities, in or upon the PROW, or whenever LCG has determined that the Wireless Communications Facility does not conform to the permits granted by LCG.

- B. **Emergency Removal or Relocation of Facilities.** LCG retains the right and privilege to move or rearrange any Wireless Communications Facility located within the PROW of LCG, as LCG may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, LCG shall notify the Wireless Provider and provide the Wireless Provider an opportunity to move its own Facilities prior to rearranging or removing a Facility and shall notify the Wireless Provider after removing or rearranging a Wireless Communications Facility. LCG shall not be liable for any damages to the Wireless Communications Facility or for an interruption in service resulting from such rearrangements or removals when undertaken in response to a public safety or emergency.
- C. **Abandonment of Facilities.** Upon abandonment of a Wireless Communications Facility, LCG may direct the Wireless Provider to remove all or any portion of the Wireless Communications Facility if LCG determines that such removal will be in the interest of the public health, safety and welfare. For purposes of this provision, “abandonment” shall be inactive or non-use of a Small Wireless Facility for a period of one hundred and eighty (180) consecutive days.

Sec. 78-330. - Attachment to LCG-Owned Utility Poles, LCG-Owned Streetlight Poles, or Other LCG-Owned Structures in the Public Rights-of-Way.

- A. **Attachment Agreement Required.** A Wireless Provider shall not attach Wireless Communications Facilities to a LCG-owned Utility Pole, LCG-owned Streetlight Pole, or any other LCG-owned structure without first obtaining a pole attachment agreement with LCG.
- B. **Annual Rate.** The rate to place a Small Wireless Facility on a LCG-owned Utility Pole, LCG Streetlight Pole, or other LCG-owned structure in the PROW shall be two-hundred and twenty dollars (\$220) per year.
- C. **Make-Ready.** For LCG-owned Utility Poles, LCG-owned Streetlight Poles, or other LCG-owned structures in the PROW, LCG shall provide a good faith estimate of any make-ready work necessary to enable the pole or facility to support the requested Wireless Communications Facility, including Pole replacement if necessary, within 60 days after receipt of a completed request. Make-ready work for attachments including any Pole replacement shall be completed within sixty (60) days of the Wireless Provider’s written acceptance of LUS’s or the LCG’s good faith estimate, except that attachments located in or above the electric space of a LCG Utility Pole shall be completed within ninety (90) days of acceptance.

Sec. 78-330.. – Indemnification, Liability and Performance Bond.

- A. **Indemnification.** Each Wireless Provider shall defend, indemnify, and hold harmless LCG, its elected/appointed officials, its departments, offices, agencies, and employees (collectively “the Indemnified Parties”), from and against any and all losses and

liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorney's fees), which any of the Indemnified Parties may hereafter incur, be responsible for, or pay as a result of any and all legal liabilities associated with the use of the PROW by the Provider, provided that the Provider shall not be so obligated to the extent that the claim or occurrence at issue arose out of the gross negligence or willful misconduct of the Indemnified Parties.

- B. **Procedure for Indemnification.** LCG shall give prompt written notice to a Provider of any claim or threatened claim against any of the Indemnified Parties, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit, or proceeding filed by a third party against LCG or any other Indemnified Party, LCG shall give reasonable notice after LCG receives written notice of the action, suit, or proceeding. Failure on the part of LCG to give timely notice of a claim will not affect a Provider's duty to indemnify, unless such failure was unreasonable and had a direct and material negative impact on the amount of the claim or the ability of the Provider to defend against such claim.
- C. **No Waiver or Limitation.** Nothing herein shall act as a waiver or limitation on any governmental or sovereign immunity applicable to LCG, its elected/appointed officials, or its departments, offices, agencies, and employees.
- D. **Damage to PROW or LCG Facilities.** If a Wireless Provider or its employees, agents, subcontractors, or others acting on its behalf damages the PROW, or damages or interferes with the operation of any LCG facilities, equipment, or structures, the Wireless Provider shall, at its own expense, immediately do all things reasonable to correct the damages and avoid further injury or damages, direct and incidental, resulting therefrom and shall notify LCG.
- E. **Insurance.** A Wireless Provider shall procure and maintain throughout the period in which it maintains any wireless facilities, insurance in the minimum requirements:
 - 1. Workers' compensation insurance covering all employees in statutory limits who perform any of the obligations assumed by a provider under this Article.
 - 2. Commercial general liability insurance covering all operations accepted under this Article; combined single limit of liability of \$1,000,000 per occurrence for claims of bodily injury, death, property damage and \$2,000,000 aggregate for accidents during the policy period. LCG, its elected/appointed officials, and its departments, offices, agencies, and employees shall be named as additional insureds in this policy or policies.
 - 3. Automobile liability insurance on all self-propelled vehicles used in connection with work authorized under this Article, whether owned, non-owned, hired, or otherwise. This policy shall be comprehensive automobile liability policy as approved by the National Bureau of Casualty Underwriters and the Insurance Department of the State of Louisiana with accident liability limits of not less than \$1,000,000 combined single liability for claims of bodily injury, death and property damage.

4. A Wireless Provider shall procure and maintain an umbrella liability policy certificate in addition to the certificates listed above with minimum acceptable limits of liability to be \$5,000,000 per occurrence.
5. Failure of a Wireless Provider to maintain the proper insurance required under this Section 78-330 shall result in termination of the right to maintain wireless facilities authorized under this Article unless said failure is cured within the time specified by Section 78-331.

D. Performance and Payment Bond. A Wireless Provider shall furnish a performance and payment bond executed by a surety company reasonably acceptable to LCG which is duly authorized to do business in the state of Louisiana in the amount of twenty-five thousand dollars (\$25,000.00) for the duration of any authorizations granted hereunder as security for the faithful performance of the terms and conditions of its WCF Permits, and for the payment of all fees, and persons performing labor and furnishing materials in connection with its installation and use of wireless facilities in the public rights-of-way.

Sec. 78-331. – Non-Compliance

- A. Event of Non-Compliance.** If a Wireless Provider fails to comply with any material term or condition of this Article or any WCF Permit issued under it, the Provider shall be in Non-Compliance with this Article.
- B. Remedies Following Failure to Cure.** In the event that a Wireless Provider is found to be in Non-Compliance with this Article the City-Parish shall give the Wireless Provider forty-five (45) days written notice to cure the violation(s), or diligently commence the cure for matters that cannot reasonably be cured within forty-five (45) days. In the event of an uncured material failure to comply with this Article, LCG, at its option, shall be entitled to pursue any and all remedies that it may have in law or at equity, including terminating the non-compliant Wireless Provider's Master Wireless PROW License Agreement and/or any WCF Permits issued to the non-compliant Wireless Provider by LCG, and drawing down the non-compliant Wireless Provider's performance and payment bond to cover any fees, costs, damages, expenses, or penalties that a Wireless Provider has not paid.
- C. Removal of Facilities.** Upon termination for Non-Compliance, a Wireless Provider shall remove its Wireless Communication Facilities from the PROW within six (6) months of receiving notice, or at a rate of twenty-five (25) of its Wireless Communications Facilities per month, whichever period results in the shortest length of time for completing removal. A Wireless Provider shall restore the PROW to its prior condition at the commencement of its WCF Permit Applications, except for reasonable wear and tear. If not so removed within that time period, LCG shall have the right, but not the obligation, to treat Wireless Provider's Attachments as abandoned and to take title, store, sell, or otherwise dispose of them. A Wireless Provider shall be required to pay LCG's actual and documented costs and a penalty of one hundred and fifty percent (150%) of such actual and documented costs, within forty-five (45) calendar days after it has received an invoice from LCG.

SECTION 3: All ordinances or resolutions or parts thereof in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall become effective upon signature of the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon override of a veto, whichever occurs first.

* * * * *