

ORDINANCE NO. 06-2019

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CLIFTON, ARIZONA, DECLARING THE DOCUMENT ENTITLED "TOWN OF CLIFTON WIRELESS FACILITIES IN THE RIGHT-OF-WAY STANDARD TERMS AND CONDITIONS AMENDMENT NO. 1" AS A PUBLIC RECORD; AMENDING THE CODE OF CLIFTON, ARIZONA, AMENDING CHAPTER 113 WIRELESS FACILITIES IN THE RIGHT-OF-WAY; MICROCELL EQUIPMENT BY AMENDING SECTION 113.03 DEFINITIONS, SECTION. 113.04 GENERAL PROVISIONS, PARAGRAPH (A)(1), SECTION 113.05 SMALL WIRELESS FACILITIES, PARAGRAPH (C)(3) AND AMEND SECTION 113.06 OTHER WIRELESS FACILITIES, PARAGRAPH (B)(2) ALL RELATED TO THE USE OF THE PUBLIC RIGHT-OF-WAY IN THE TOWN BY WIRELESS PROVIDERS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, pursuant to A.R.S. Section 9-592, the Common Council of the City of Litchfield Park has adopted Standard Terms and Conditions (the "Terms") to govern the use of City-owned right-of-way for the placement of wireless facilities by a Wireless Services Provider as defined by the Arizona Revised Statutes, Section 9-591, *et seq.*

WHEREAS, the Federal Communications Commission adopted its Rule 18-133 that requires certain revisions to the Terms; and

WHEREAS, 47 CFR Section 1.600(b)(7) now mandates approval of insubstantial modifications to wireless communications facilities; and

WHEREAS, the City desires to update the Terms to comply with legal requirements.

WHEREAS, the document entitled "Town of Clifton Wireless Facilities in the Right-of-Way Standard Terms and Conditions Amendment No. 1", three copies of which are on file in the office of the Town Clerk, is hereby declared a public record.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Clifton, Arizona, as follows:

Section I. In General.

The Town Code of the Town of Clifton, Arizona, Chapter 113 Wireless Facilities in the Right-of-Way; Microcell Equipment on Strands in the Town is amended to amend Section 113.03 Definitions to amend the definitions of "Town Utility Pole" and "Standard Terms and Conditions" and to add a definition of "Shot Clock" to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

* * *

TOWN UTILITY POLE means a utility pole that is owned or operated by the town and that is in a right-of-way. TOWN UTILITY POLE DOES NOT INCLUDE A UTILITY POLE FOR ELECTRIC DISTRIBUTION.

* * *

SHOT CLOCK MEANS THE PERIOD OF TIME WITHIN WHICH THE CITY MUST APPROVE OR DENY AN APPLICATION. FOR COLOCATION OF A SMALL WIRELESS FACILITY ON AN EXISTING STRUCTURE, THE SHOT CLOCK IS SIXTY DAYS FROM THE DATE OF SUBMITTAL OF A COMPLETE APPLICATION. IF THE APPLICATION IS TO LOCATE A SMALL WIRELESS FACILITY USING A NEW STRUCTURE, THE SHOT CLOCK IS SEVENTY-FIVE DAYS FROM THE DATE OF SUBMITTAL OF A COMPLETE APPLICATION. THE SHOT CLOCK FOR ALL OTHER APPLICATIONS SHALL BE AS REQUIRED BY STATE OR FEDERAL LAW, WHICHEVER IS THE MOST RESTRICTIVE.

* * *

STANDARD TERMS AND CONDITIONS means the standard terms and conditions adopted by the Council as conditions for the construction, maintenance and collocation of wireless facilities in the right-of-way, AS AMENDED.

* * *

The Town Code of the Town of Clifton, Arizona, Chapter 113 Wireless Facilities in the Right-of-Way; Microcell Equipment on Strands in the Town is amended to amend Section 113.04 General Provisions, Paragraph (A)(1) to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

(1) Those documents entitled "Town of Clifton Wireless Facilities in the Right-of-Way Standard Terms and Conditions" and "Town of Clifton Design Standards, Concepts and Requirements – Wireless Facilities in the Right-of-Way", AND THE DOCUMENT ENTITLED WIRELESS FACILITIES IN THE RIGHT-OF-WAY STANDARD TERMS AND CONDITIONS AMENDMENT NO. 1, three copies of which are on file in the office of the Town Clerk, are adopted herein by this reference.

* * *

The Town Code of the Town of Clifton, Arizona, Chapter 113 Wireless Facilities in the Right-of-Way; Microcell Equipment on Strands in the Town is amended to amend Section

113.05 Small Wireless Facilities, Paragraph (C)(3) to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

(3) Within ~~twenty~~ TEN days after receiving an application, the Building Department shall determine and notify the applicant whether the application is complete or the application will be deemed complete. Small wireless facilities collocations may be removed from the application and considered separately if incomplete information was provided, the small wireless facilities does not qualify for consolidated treatment or the small wireless facilities is denied. If an application is incomplete, the town shall describe the information that is missing. If the Building Department fails to approve or deny the application ~~with seventy-five days after receiving a complete application~~ WITHIN THE APPLICABLE SHOT CLOCK, the application will be deemed approved. If the application is denied, the denial shall describe the specific code provisions, regulation or requirements on which the denial was based and provide that with the notice of denial. The town shall approve or deny the revised application within ~~thirty~~ days after receiving the revised application APPLICABLE SHOT CLOCK.

The Town Code of the Town of Clifton, Arizona, Chapter 113 Wireless Facilities in the Right-of-Way; Microcell Equipment on Strands in the Town is amended to amend Section 113.06 Other Wireless Facilities, Paragraph (B)(2) to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

* * *

(2) Within ~~thirty~~ TEN days after receiving an application, the Building Department shall determine and notify the applicant whether the application is complete. An application that requires zoning approval is not complete until the zoning approval is effective. If the application is incomplete, the Building Department will specifically identify the information that is missing. The Building Department shall approve or deny the application ~~within one hundred fifty days after receiving an application for the modification of existing or installation of new utility poles or wireless facilities or within ninety days after receipt of a complete application for the collocation of wireless facilities~~ WITHIN THE APPLICABLE SHOT CLOCK. The time period for approval may be tolled to accommodate timely requests for information required to complete the application or may be extended by mutual agreement. If a complete application is denied, the Building Department shall notify the applicant in writing and provide substantial supporting evidence of the reason for denial in the written record.

* * *

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a class one misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Clifton, Arizona, this 9th day of January, 2020 by the following vote:

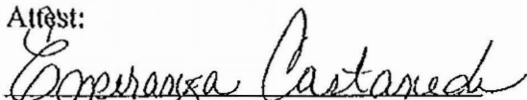
Approved this 9th day of January 2020.


AYES: Dorrell, West, Ahmann, Lorenzo, Reyes and Montoya

NAYES: None _____ ABSENT: None _____

EXCUSED: None _____ ABSTAINED: None _____


Luis M. Montoya, Mayor

Attest:

Esperanza Castaneda, Town Clerk

Approved as to Form:

Gust Rosenfeld, PLC, Town Attorneys
Susan D. Goodwin,

CERTIFICATION

I, ESPERANZA CASTANEDA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 06-2019 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF CLIFTON, ARIZONA, ON THE 9th DAY OF JANUARY, 2020 WAS POSTED IN THREE PLACES AND ON THE WEBSITE OF THE LEAGUE OF ARIZONA CITIES AND TOWNS ON THE 20 DAY OF January, 2020.

Esperanza Castaneda, Town Clerk