

ORDINANCE 23-5860

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT SECTION 22-407 OF THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING ENCROACHMENT PERMIT REQUIREMENTS FOR SMALL CELL WIRELESS FACILITIES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Section 22-407, Billings, Montana City Code, be amended to read as follows:

Sec. 22-407. Encroachment permit required.

- (a) No encroachment on any public right-of-way or public property shall be allowed except by authority of an encroachment permit issued by the city administrator or his designee. An applicant seeking to install and operate a small cell wireless facility in the public right-of-way shall obtain a revocable encroachment permit and enter into a license agreement with the City prior to constructing, attaching, and operating a small cell wireless facility in the public right-of-way. Application for an encroachment permit shall be made on the forms and in accordance with the procedure prescribed by the city administrator. A fee for the permit application shall be charged to cover the administrative costs of processing as prescribed by council resolution. If the issuance of the permit is approved, the city administrator or his designee shall issue the permit. If the permit is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the application. The applicant shall be entitled to appeal the denial of the permit to the city council as provided in subsection (b) below.
- (b) From the date of denial of the permit, the applicant shall have ten (10) days in which to submit a written notice appealing such denial to the city council. The notice of appeal shall be filed with the city clerk and shall state reasons supporting the grant of the encroachment permit, the applicant's correct mailing address and telephone number, shall be signed by the applicant and shall be accompanied by the processing fee as prescribed by council resolution. The appeal shall be placed on a city council agenda not more than twenty-one (21) days after receipt of notice. The applicant shall be notified in writing by certified mail, return receipt requested, of the date and time the matter will be considered on the agenda. In addition, notice of the hearing shall be published once in the official city legal newspaper prior to the hearing. The notice shall include the proposed encroachment encroaches, the extent of the encroachment and the duration. The applicant and all other interested persons may appear at the time and place and be heard either for or against.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions and ordinances of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or application, and, to this end, the provisions of this ordinance are declared severable.

PASSED by the City Council on first reading the 9th day of October, 2023.

PASSED, ADOPTED and APPROVED on second reading this 23rd day of October, 2023.



CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

Attest:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

City Council Regular

Date: 10/23/2023
Title: Second Reading - Ordinance Amending BMCC Section 22-407 Encroachment Permit Required
Presented by: Debi Meling
Department: Public Works
Presentation: No
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff recommends Council approve second reading of the ordinance amending section 22-407 of Billings Montana City Code requiring an encroachment permit and license agreement for the installation of small cell facilities.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

There is a potential for requests for small cell facilities to be installed within the right of way. City staff has developed language to add to Billings, MT City Code (BMCC) Section 22-407, Encroachment permit required, to require installers to apply for an encroachment permit and enter into a license agreement before installing the facilities. The language proposed to be added is as follows:

An applicant seeking to install and operate a small cell wireless facility in the public right-of-way shall obtain a revocable encroachment permit and enter into a license agreement with the City prior to constructing, attaching, and operating a small cell wireless facility in the public right-of-way.

In addition to the ordinance, a resolution was proposed and approved at the October 9, 2023, City Council meeting that directed the City Administrator to develop and publish uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way; to develop an encroachment permit application form and procedures for submission of applications for deployment or modification of small cell wireless facilities in the public rights-of-way; to develop a license agreement which permittee shall enter into with the City prior to constructing, attaching, or operating a small cell wireless facility on city infrastructure in the public rights-of-way; to take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into tolling agreements to mutually extend the time for action on an application.

The modified ordinance language in addition to the approved resolution will enable the City to effectively manage the deployment of small cell facilities in the rights of way. If approved, this ordinance would go into effect 30 days from the approval date.

ALTERNATIVES

City Council may:

- Approve the ordinance; or,
- Not Approve the ordinance. If not approved, there will not be a defined process to manage the deployment of small cell facilities in the rights of way.

FISCAL EFFECTS

There are no significant fiscal effects as a result of this amendment to city code.

Attachments

Ordinance Redlined

Ord. 23-5860

| | |
|----------------|-----------------------------------|
| COUNCIL ACTION | |
| Neese | Approved 10-0 Absent / Excused |
| OCT 23 2023 | |
| db | |
| CITY CLERK | |

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT SECTION 22-407 OF THE BILLINGS,
MONTANA CITY CODE BE AMENDED BY ADDING
ENCROACHMENT PERMIT REQUIREMENTS FOR
SMALL CELL WIRELESS FACILITIES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

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- (b) From the date of denial of the permit, the applicant shall have ten (10) days in which to submit a written notice appealing such denial to the city council. The notice of appeal shall be filed with the city clerk and shall state reasons supporting the grant of the encroachment permit, the applicant's correct mailing address and telephone number, shall be signed by the applicant and shall be accompanied by the processing fee as prescribed by council resolution. The appeal shall be placed on a city council agenda not more than twenty-one (21) days after receipt of notice. The applicant shall be notified in writing by certified mail, return receipt requested, of the date and time the matter will be considered on the agenda. In addition, notice of the hearing shall be published once in the official city legal newspaper prior to the hearing. The notice shall include the proposed encroachment encroaches, the extent of the encroachment and the duration. The applicant and all other interested persons may appear at the time and place and be heard either for or against.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions and ordinances of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or application, and, to this end, the provisions of this ordinance are declared severable.

PASSED by the City Council on first reading the 9th day of October, 2023.

PASSED, ADOPTED and APPROVED on second reading this 23rd day of October, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

City Council Regular

Date: 10/09/2023
Title: Public Hearing and First Reading Ordinance Amending BMCC, Article 22-407, Encroachment Permit Required
Presented by: Debi Meling
Department: Public Works
Presentation: Yes
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff recommends the City Council hold a public hearing and approve first reading of the ordinance amending Billings, Montana City Code (BMCC), Article 22-407, Encroachment Permit Required.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

There is a potential for requests for small cell facilities to be installed within the right of way. City staff has developed language to add to Billings, Montana City Code (BMCC) Section 22-407, Encroachment permit required, to require installers to apply for an encroachment permit and enter into a license agreement before installing the facilities. The language proposed to be added is as follows:

An applicant seeking to install and operate a small cell wireless facility in the public right-of-way shall obtain a revocable encroachment permit and enter into a license agreement with the City prior to constructing, attaching, and operating a small cell wireless facility in the public right-of-way.

In addition to the ordinance, a resolution is needed and is also being considered by City Council on this meeting agenda. The resolution will direct the City Administrator to develop and publish uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way; to develop an encroachment permit application form and procedures for submission of applications for deployment or modification of small cell wireless facilities in the public rights-of-way; to develop a license agreement which permittee shall enter into with the City prior to constructing, attaching, or operating a small cell wireless facility on city infrastructure in the public rights-of-way; to take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into tolling agreements to mutually extend the time for action on an application.

The modified ordinance language in addition to the approved resolution will enable the City to effectively manage the deployment of small cell facilities in the rights of way. If approved, this ordinance will have a second reading on October 9, 2023, and if approved then, would go into effect 30 days from the approval date.

ALTERNATIVES

City Council may:

- Approve the amendment to BMCC, Article 22-407 Encroachment Permit Required; or,
- Not approve the amendment. If the amendment is not approved, the process to permit small cell facilities in the right of way will not be defined.

FISCAL EFFECTS

There are minimal fiscal effects as a result of adopting this ordinance. There are fees that are defined by the Federal Communication Commission (FCC) for small cell facilities in the rights of way that could be collected with or without the ordinance and the city has right of way permit fees that would still be in effect. However, without the ordinance, an encroachment permit and license agreement would not be required so the fees would not be as clearly defined.

Attachments

Ordinance redlined
 Ordinance clean copy
 Presentation

COUNCIL ACTION

OCT 09 2023



CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS,
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Section 3. REPEALER. All resolutions and ordinances of the City Code inconsistent herewith are hereby repealed.

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PASSED by the City Council on first reading the 9th day of October, 2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

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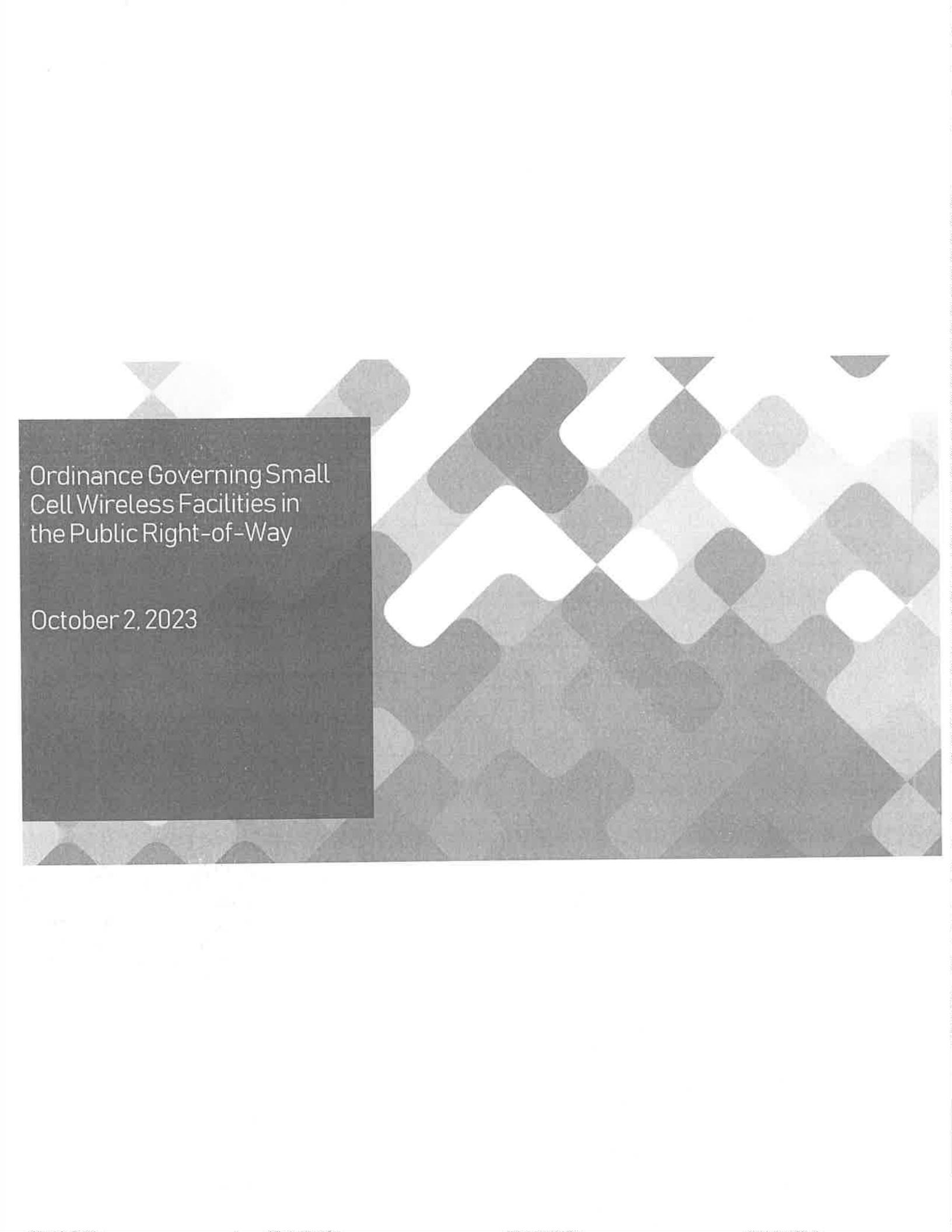
PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

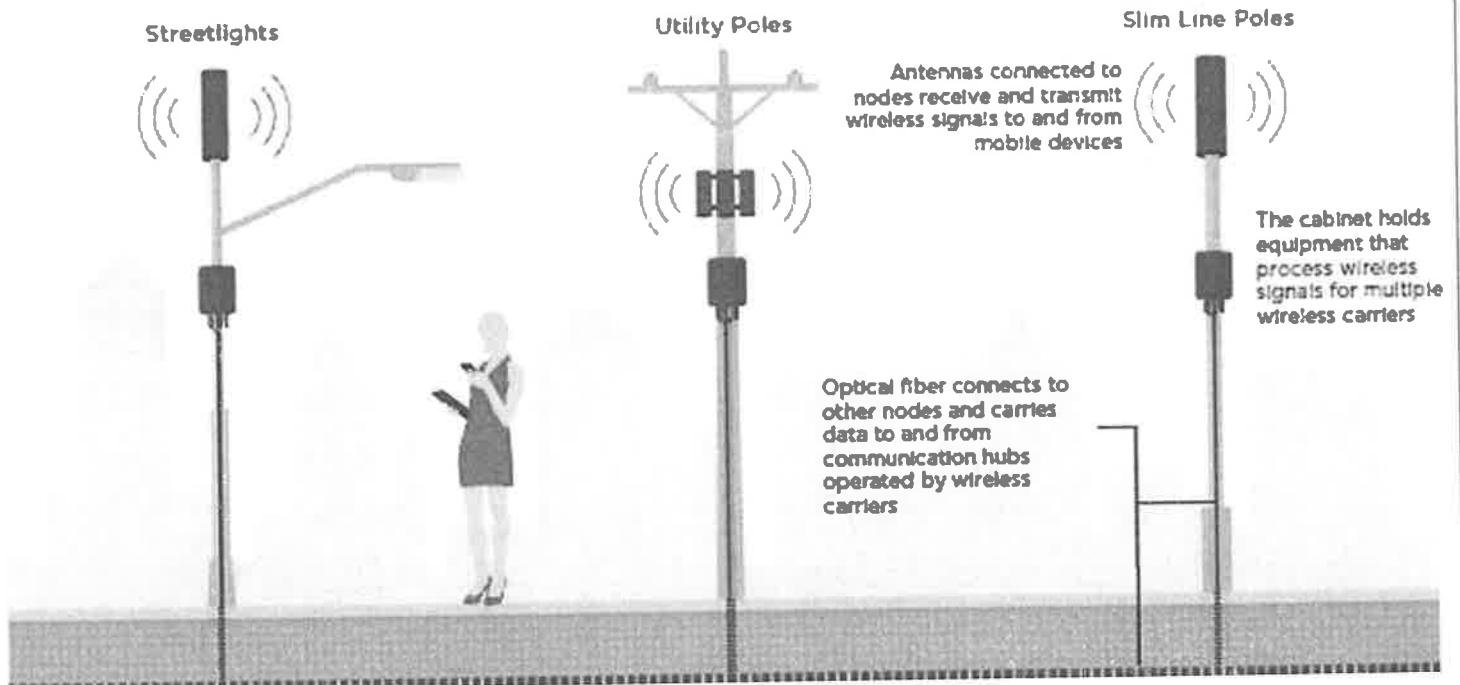


Ordinance Governing Small Cell Wireless Facilities in the Public Right-of-Way

October 2, 2023

What Are Small Cell Deployments?

Small cell deployments are complementary to towers, adding much needed coverage and capacity to urban and residential areas, venues, and anywhere large crowds gather



Federal
Telecommunications
Act of 1996
authorizes wireless
providers to have the
absolute right to
place Small Cell
wireless facilities in
the ROW, subject to:

Design Review of
the Small Cell

Density (Location)
Standards

Recoupment of
Costs of Application
Review and ROW
Management

Fees charged to Providers cannot effectively prohibit deployment

Fees for application review, right-of-way access and attachment to public property are allowed but must be cost-based and objectively reasonable. The FCC has established the following “safe harbor” fees amounts:

- *One-time fees:* \$500 for an application covering up to five small cell attachments to existing public property; \$100 for each additional attachment; and \$1,000 for a new pole containing small cell equipment.
- *Recurring fees:* an annual fee of \$270 per unit to cover costs, such as right-of-way maintenance.

The FCC says it believes cities will be able to justify charging higher amounts only in very limited circumstances, and that providers are unlikely to take a city to court if its fees do not exceed these amounts.

What needs to be in place?

Resolution

- Uniform standards
- Encroachment permit application and procedures
- License agreement
- Other steps as may be required

Ordinance

- Includes small cell structures as encroachments

Small Cell Wireless – Ordinance modification

Add to 22-407:

An applicant seeking to install and operate a small cell wireless facility in the public right-of-way shall obtain a revocable encroachment permit and enter into a license agreement with the City prior to constructing, attaching, and operating a small cell wireless facility in the public right-of-way.

Next Steps

Resolution tonight

Ordinance

PH and 1st Reading - tonight

2nd Reading – Oct 23 2023

In effect – 30 days later



RESOLUTION 23-11170

**A RESOLUTION OF THE CITY OF BILLINGS
ESTABLISHING A PROCESS MANAGING DEPLOYMENT
OF SMALL CELL WIRELESS FACILITIES IN PUBLIC
RIGHTS-OF-WAY**

WHEREAS, the City desires to establish a process and uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way consistent with the City's obligation to promote the public health, safety, and welfare, and to manage and ensure that the public's use of the public rights-of-way is not incommodeed by the placement of wireless facilities; and

WHEREAS, the City recognizes the importance of small cell wireless facilities to provide high-quality information and communications services to residents and businesses within the City; and

WHEREAS, the City also recognizes its obligation to comply with applicable federal law regarding the placement of personal wireless services facilities in its public rights-of-way.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Billings, Montana, that the City Administrator is directed to develop and publish uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way; to develop an encroachment permit application form and procedures for submission of applications for deployment or modification of small cell wireless facilities in the public rights-of-way; to develop a license agreement which permittee shall enter into with the City prior to constructing, attaching, or operating a small cell wireless facility on city infrastructure in the public rights-of-way; to take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into tolling agreements to mutually extend the time for action on an application.

EFFECTIVE DATE. This resolution shall be effective upon adoption.

PASSED, ADOPTED and APPROVED on this 9th day of October, 2023.



CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

Attest:

BY:

Denise R. Bohlman
Denise R. Bohlman, City Clerk

City Council Regular

Date: 10/09/2023
Title: Resolution for Managing Deployment of Small Cell Facilities in the Right of Way
Presented by: Debi Meling
Department: Public Works
Presentation: Yes
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff recommends that City Council approve the resolution for managing deployment of small cell facilities in the right of way.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

There is a potential for requests for small cell facilities to be installed within the right of way. A resolution is being proposed that directs the City Administrator to develop and publish uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way; to develop an encroachment permit application form and procedures for submission of applications for deployment or modification of small cell wireless facilities in the public rights-of-way; to develop a license agreement which permittee shall enter into with the City prior to constructing, attaching, or operating a small cell wireless facility on city infrastructure in the public rights-of-way; to take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into tolling agreements to mutually extend the time for action on an application.

In addition to the resolution, city staff has developed language to add to Billings, MT City Code (BMCC) Section 22-407, Encroachment permit required, to require installers to apply for an encroachment permit and enter into a license agreement before installing the facilities. The first reading of the ordinance is on this same City Council agenda for approval. The resolution in addition to the modified ordinance language will enable the City to effectively manage the deployment of small cell facilities in the rights of way.

ALTERNATIVES

City Council may:

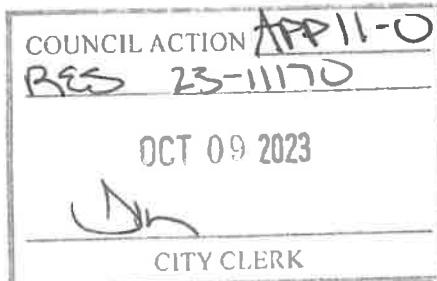
- Approve the resolution; or,
- Not approve the resolution. If the resolution is not approved, small cell facilities will be installed in the right of way without design standards, license agreement or encroachment permits.

FISCAL EFFECTS

There are no direct fiscal effects with the approval of this resolution. The permit fees will be included in future right of way permit resolutions. The cost to not approving the resolution would be in the form of added cost to the city to manage improperly installed facilities.

Attachments

Resolution



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF BILLINGS
ESTABLISHING A PROCESS MANAGING DEPLOYMENT
OF SMALL CELL WIRELESS FACILITIES IN PUBLIC
RIGHTS-OF-WAY**

WHEREAS, the City desires to establish a process and uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way, consistent with the City's obligation to promote the public health, safety, and welfare, and to manage and ensure that the public's use of the public rights-of-way is not incommodeed by the placement of wireless facilities; and

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EFFECTIVE DATE. This resolution shall be effective upon adoption.

PASSED, ADOPTED and APPROVED on this 9th day of October, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

City Council Regular

Date: 09/25/2023

Title: Public Hearing and First Reading Ordinance Amending BMCC, Article 22-407, Encroachment Permit Required

Presented by: Debi Meling

Department: Public Works

Presentation: Yes

Legal Review: Yes

Project Number: N/A

*Premoval Approved 8-0**Tidwell, Boyett, Rupsis
Absent / EXCUSED
SEP 25 2023**db**CITY CLERK**Removed Due to
Advertising
Error***RECOMMENDATION**

Staff recommends the City Council hold a public hearing and approve first reading of the ordinance amending Billings, Montana City Code (BMCC), Article 22-407, Encroachment Permit Required.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

There is a potential for requests for small cell facilities to be installed within the right of way. City staff has developed language to add to Billings, Montana City Code (BMCC) Section 22-407, Encroachment permit required, to require installers to apply for an encroachment permit and enter into a license agreement before installing the facilities. The language proposed to be added is as follows:

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In addition to the ordinance, a resolution is needed and is also being considered by City Council on this meeting agenda. The resolution will direct the City Administrator to develop and publish uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way; to develop an encroachment permit application form and procedures for submission of applications for deployment or modification of small cell wireless facilities in the public rights-of-way; to develop a license agreement which permittee shall enter into with the City prior to constructing, attaching, or operating a small cell wireless facility on city infrastructure in the public rights-of-way; to take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into tolling agreements to mutually extend the time for action on an application.

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ALTERNATIVES

City Council may:

- Approve the amendment to BMCC, Article 22-407 Encroachment Permit Required; or,
- Not approve the amendment. If the amendment is not approved, the process to permit small cell facilities in the right of way will not be defined.

FISCAL EFFECTS

There are minimal fiscal effects as a result of adopting this ordinance. There are fees that are defined by the Federal Communication Commission (FCC) for small cell facilities in the rights of way that could be collected with or without the ordinance and the city has right of way permit fees that would still be in effect. However, without the ordinance, an encroachment permit and license agreement would not be required so the fees would not be as clearly defined.

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- (b) From the date of denial of the permit, the applicant shall have ten (10) days in which to submit a written notice appealing such denial to the city council. The notice of appeal shall be filed with the city clerk and shall state reasons supporting the grant of the encroachment permit, the applicant's correct mailing address and telephone number, shall be signed by the applicant and shall be accompanied by the processing fee as prescribed by council resolution. The appeal shall be placed on a city council agenda not more than twenty-one (21) days after receipt of notice. The applicant shall be notified in writing by certified mail, return receipt requested, of the date and time the matter will be considered on the agenda. In addition, notice of the hearing shall be published once in the official city legal newspaper prior to the hearing. The notice shall include the proposed encroachment encroaches, the extent of the encroachment and the duration. The applicant and all other interested persons may appear at the time and place and be heard either for or against.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions and ordinances of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or application, and, to this end, the provisions of this ordinance are declared severable.

PASSED by the City Council on first reading the 25th day of September, 2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT SECTION 22-407 OF THE BILLINGS,
MONTANA CITY CODE BE AMENDED BY ADDING
ENCROACHMENT PERMIT REQUIREMENTS FOR
SMALL CELL WIRELESS FACILITIES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Section 22-407, Billings, Montana City Code, be amended to read as follows:

Sec. 22-407. Encroachment permit required.

- (a) No encroachment on any public right-of-way or public property shall be allowed except by authority of an encroachment permit issued by the city administrator or his designee. An applicant seeking to install and operate a small cell wireless facility in the public right-of-way shall obtain a revocable encroachment permit and enter into a license agreement with the City prior to constructing, attaching, and operating a small cell wireless facility in the public right-of-way. Application for an encroachment permit shall be made on the forms and in accordance with the procedure prescribed by the city administrator. A fee for the permit application shall be charged to cover the administrative costs of processing as prescribed by council resolution. If the issuance of the permit is approved, the city administrator or his designee shall issue the permit. If the permit is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the application. The applicant shall be entitled to appeal the denial of the permit to the city council as provided in subsection (b) below.
- (b) From the date of denial of the permit, the applicant shall have ten (10) days in which to submit a written notice appealing such denial to the city council. The notice of appeal shall be filed with the city clerk and shall state reasons supporting the grant of the encroachment permit, the applicant's correct mailing address and telephone number, shall be signed by the applicant and shall be accompanied by the processing fee as prescribed by council resolution. The appeal shall be placed on a city council agenda not more than twenty-one (21) days after receipt of notice. The applicant shall be notified in writing by certified mail, return receipt requested, of the date and time the matter will be considered on the agenda. In addition, notice of the hearing shall be published once in the official city legal newspaper prior to the hearing. The notice shall include the proposed encroachment encroaches, the extent of the encroachment and the duration. The applicant and all other interested persons may appear at the time and place and be heard either for or against.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions and ordinances of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or application, and, to this end, the provisions of this ordinance are declared severable.

PASSED by the City Council on first reading the 25th day of September, 2023.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

City Council Regular

Date: 09/25/2023
Title: Resolution for Managing Deployment of Small Cell Facilities in the Right of Way
Presented by: Debi Meling
Department: Public Works
Presentation: Yes
Legal Review: Yes
Project Number: N/A

RECOMMENDATION

Staff recommends that City Council approve the resolution for managing deployment of small cell facilities in the right of way.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

There is a potential for requests for small cell facilities to be installed within the right of way. A resolution is being proposed that directs the City Administrator to develop and publish uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way; to develop an encroachment permit application form and procedures for submission of applications for deployment or modification of small cell wireless facilities in the public rights-of-way; to develop a license agreement which permittee shall enter into with the City prior to constructing, attaching, or operating a small cell wireless facility on city infrastructure in the public rights-of-way; to take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into tolling agreements to mutually extend the time for action on an application.

In addition to the resolution, city staff has developed language to add to Billings, MT City Code (BMCC) Section 22-407, Encroachment permit required, to require installers to apply for an encroachment permit and enter into a license agreement before installing the facilities. The first reading of the ordinance is on this same City Council agenda for approval. The resolution in addition to the modified ordinance language will enable the City to effectively manage the deployment of small cell facilities in the rights of way.

ALTERNATIVES

City Council may:

- Approve the resolution; or,
- Not approve the resolution. If the resolution is not approved, small cell facilities will be installed in the right of way without design standards, license agreement or encroachment permits.

FISCAL EFFECTS

There are no direct fiscal effects with the approval of this resolution. The permit fees will be included in future right of way permit resolutions. The cost to not approving the resolution would be in the form of added cost to the city to manage improperly installed facilities.

Resolution

Removed due
to Advertising Error

Attachments

Removal Approved 8-0

| | |
|-------------------------|---------|
| COUNCIL ACTION | |
| Tidwell, Boyett, Rupsis | |
| Absent | Excused |
| SEP 25 2023 | |
| db | |
| CITY CLERK | |

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF BILLINGS
ESTABLISHING A PROCESS MANAGING DEPLOYMENT
OF SMALL CELL WIRELESS FACILITIES IN PUBLIC
RIGHTS-OF-WAY**

WHEREAS, the City desires to establish a process and uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way consistent with the City's obligation to promote the public health, safety, and welfare, and to manage and ensure that the public's use of the public rights-of-way is not incommodeed by the placement of wireless facilities; and

WHEREAS, the City recognizes the importance of small cell wireless facilities to provide high-quality information and communications services to residents and businesses within the City; and

WHEREAS, the City also recognizes its obligation to comply with applicable federal law regarding the placement of personal wireless services facilities in its public rights-of-way.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Billings, Montana, as follows:

1. **NOTICE OF HEARING.** On Monday, September 28, 2023, at 5:30 p.m., or as soon thereafter as the matter could be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council heard objections to the adoption of this resolution. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News.
2. The City Administrator is directed to develop and publish uniform standards managing the deployment of small cell wireless facilities in the public rights-of-way; to develop an encroachment permit application form and procedures for submission of applications for deployment or modification of small cell wireless facilities in the public rights-of-way; to develop a license agreement which permittee shall enter into with the City prior to constructing, attaching, or operating a small cell wireless facility on city infrastructure in the public rights-of-way; to take such other steps as may be required to timely act upon applications for placement of wireless facilities, including issuing written decisions and entering into tolling agreements to mutually extend the time for action on an application.

3. EFFECTIVE DATE. This resolution shall be effective upon adoption.

PASSED, ADOPTED and APPROVED on this 25th day of September, 2023.

CITY OF BILLINGS

BY: _____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk