

**RESOLUTION
CITY OF PORTAGE, MICHIGAN
RESOLUTION AUTHORIZING LOCAL SMALL WIRELESS
COMMUNICATION FACILITY PERMITTING AND STANDARDS**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, on April 28, 2020 at 7:00 p.m. local time at City Hall in the City of Portage, Kalamazoo County, Michigan.

PRESENT: Burns, Ford, Knapp, Pearson, Randall, Reid, Urban.

ABSENT: None.

The following resolution was offered by:

COUNCILMEMBER: Ford and supported by

COUNCILMEMBER: Reid

WHEREAS, Public Act 365 of 2018 (The Small Wireless Communications Facilities Deployment Act, hereafter the "Act") provides for regulation by local government of wireless service providers and the various processes and equipment needed to provide wireless service (commonly known as "5G") to residents of the City of Portage ("City") through an application and permitting process; and

WHEREAS, the Act does not allow local governmental units to totally prohibit the installation of 5G service within the City's right of way if providers are in compliance with the Act; and

WHEREAS, the Act contains requirements for the permitting process and the content of the permit; and

WHEREAS, the Act authorizes the City to implement an application and permit process to regulate 5G provider activity to the extent allowed by the Act; and

WHEREAS, the Act requires that in order to enforce spacing requirements, stealth and concealment requirements, and applicable fees that such requirements be contained in an ordinance or resolution; and

WHEREAS, this resolution is adopted in compliance with the Act; and

WHEREAS, City takes note of inconsistencies as between the Act and certain potentially preemptive Federal Communications Commission ("FCC") Rulings as well as the Michigan Constitution; and

WHEREAS, the City does not intend that by adopting this resolution that it shall be waiving any rights under the FCC rulings or the Michigan Constitution; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, that City authorizes the City Manager or his designee to enter into, grant, terminate, administer, and revise permits and all other authority necessary to effectuate the permitting process between the City and 5G wireless providers. See Permit attached as "A".

BE IT FURTHER RESOLVED that pursuant to its authority under the Act, City hereby authorizes a schedule of fees (Exhibit E of Permit) and available to 5G providers and the public through a copy at the City Clerk's office and on the City's website; and

BE IT FURTHER RESOLVED that pursuant to its authority under the Act, the City hereby authorizes spacing requirements for 5G facilities (Exhibit B of Permit) and available to 5G providers and the public through a copy at the City Clerk's office and on the City's website; and

BE IT FURTHER RESOLVED that pursuant to its authority under the Act, the City hereby authorizes stealth and concealment requirements for 5G facilities (Exhibit B of Permit) and available to 5G providers and the public through a copy at the City Clerk's office and on the City's website; and

BE IT FURTHER RESOLVED that the City approval of the Small Cell Wireless Communications Facility Permitting and Standards shall not be construed or understood to be a waiver by City of its police powers; rights or authority it may possess under, the Act, Michigan law, the Michigan constitution, or federal law. In the event of any interpretations, including Judicial, Legislative or Administrative, contrary to the Act and/or FCC rules referenced above, the City specifically reserves the right to amend and or terminate this resolution and all related policies and procedures undertaken in furtherance hereof; and

BE IT FINALLY RESOLVED that the City administration is hereby authorized and directed to take all actions necessary to place the 5G Permit and Application process into effect in accordance with this resolution.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

ADOPTED: Seven to zero (7-0)

AYES: Councilmember Burns, Ford, Knapp, Pearson, Randall, Reid, Urban.

NAYS: Councilmember None.

ABSENT: Councilmember None.

Erica Eklov
Erica Eklov, City Clerk

CERTIFICATION

I, Erica Eklov, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage, Michigan, and that the foregoing resolution was adopted by the City of Portage on the 28th day of April, 2020.

Erica Eklov
Erica Eklov, City Clerk

Approved as to form:
Date: 3/19/2020
[Signature]
City Attorney