

RESOLUTION NO. 3934

A RESOLUTION OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, ESTABLISHING APPLICATION FEES AND ANNUAL RATES FOR WIRELESS FACILITIES IN TOWN RIGHT-OF-WAY; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR SEVERABILITY

WHEREAS, the Town of Gilbert desires to establish application fees and annual rates for wireless facilities in Town right-of-way to recoup costs associated with processing applications and managing the rights-of-way of the Town;

WHEREAS, House Bill 2365 allows the Town to charge certain application fees and annual rates for the use of right-of-way, for the construction, installation, maintenance, modification, operation or replacement of a support structure in the right-of-way, and for the collocation of a small wireless facility on a Town-owned pole; and

WHEREAS, the Town has complied with the notice requirements under state law relating to the adoption of fees.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the Town of Gilbert, Arizona, that application fees and annual rates for wireless facilities in Town right-of-way shall be applied as follows:

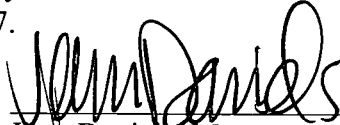
Facility Type	Application Fees	Annual Rates
New/Replacement poles NOT subject to Zoning review	\$750	\$50 use of right-of-way \$50 use of Town-owned pole
New/Replacement poles subject to zoning review	\$1,000	\$200 use of right-of-way (solely based on the actual cost of processing applications and the cost associated with conducting regular inspections of existing poles)
Collocation on existing support structure	\$100 per facility (Up to 5) \$50 per additional facility (above 5, up to 25)	\$50 use of right-of-way \$50 use of Town-owned pole

BE IT FURTHER RESOLVED that all parts of any resolution in conflict with the provisions of this Resolution are hereby repealed.

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, phrase or portion of this Resolution 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.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this second day of November, 2017.



Jenn Daniels, Mayor

ATTEST:




Lisa Maxwell, Town Clerk

APPROVED AS TO FORM:



Chris Payne, Town Attorney

I hereby certify the above foregoing Resolution No. 3934 was duly passed by the Council of the Town of Gilbert, Arizona, at a regular meeting held on 2nd day of November, 2017, and that quorum was present thereat and that the vote thereon was 6 ayes and 0 nays and 0 abstentions. 1 Council members were absent or excused.



Lisa Maxwell, Town Clerk,
Town of Gilbert

I, LISA MAXWELL, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF RESOLUTION NO. 3934, ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 2ND DAY OF NOVEMBER, 2017, WAS POSTED IN FOUR PLACES ON THE 9th DAY OF NOVEMBER, 2017.

A handwritten signature in cursive script, appearing to read "L. Maxwell", written in black ink.

Lisa Maxwell, Town Clerk

**TOWN OF GILBERT
NOTICE OF PROPOSED
NEW OR INCREASED TAX OR FEE**

Pursuant to A.R.S. § 9-499.15, the Town of Gilbert, Arizona (“Gilbert”) hereby gives notice that it may adopt an ordinance/resolution to impose a new or increased tax or fee on businesses.

Application Fees and Annual Rates for Wireless Facilities in Town Right-of-way

Facility Type	Application Fees	Annual Rates
New/Replacement poles NOT subject to Zoning review	\$750	\$50 use of right-of-way \$50 use of Town-owned pole
New/Replacement poles subject to Zoning review	\$1,000	\$200 use of right-of-way
Collocation on existing support structure	\$100 per facility (Up to 5) \$50 per additional facility (above 5, up to 25)	\$50 use of right-of-way \$50 use of Town-owned pole

The proposed application fees and annual rates for wireless facilities in the Town’s right-of-way are intended to recoup costs associated with the processing and permitting of wireless facility applications, inspections and annual fees for use of Town rights-of-way and for collocation of equipment on a Town-owned utility pole. While the total costs associated with the processing and permitting are greater than the proposed fees and rates, new legislation (House Bill 2365) sets a maximum for the amount an authority may charge to install wireless facilities in rights-of-way.

REPORT SUPPORTING NEW RATES/FEEES

House Bill 2365 (HB2365) allows wireless providers to install, operate and maintain small wireless facilities in the Town’s right-of-way. The legislation allows the Town to charge certain application fees and annual rates for the use of right-of-way, for the construction, installation, maintenance, modification, operation or replacement of a support structure in the right-of-way or for the collocation of a small wireless facility on a Town owned utility pole.

Based on the new legislation, there are three (3) different categories of facilities that the Town may charge for as defined by HB2365: New/replacement poles that are not subject to zoning review; New/replacement poles that are subject to zoning review; and collocation on existing support structures with no changes proposed to the pole – applications for the last type of facilities are allowed to be “batched” applications.

Application Fees

The process for approving all small wireless facilities in Gilbert will include a pre-application meeting with representatives from several departments. The current pre-application fee is \$200. A formal submittal will then occur after the pre-application meeting. This submittal will be

routed to representatives of several departments for the review and approval of the application and construction drawings in order to issue a construction permit.

New/replacement poles that are not subject to zoning review

This process combines both the Town's Administrative Design Review Process and Building/Engineering Permit process. The Administrative Design Review Process fee is currently \$615.00 and the Building/Engineering Permit Review Fee is based on the valuation of the project and for this type of project would be approximately \$800.00.

- The total cost of reviewing and permitting a small wireless facility is estimated to be \$1,615.00; however, the legislation caps the allowable application fee at \$750.00.

New/replacement poles subject to zoning review

If zoning review is required, either an Administrative Use Permit or a Use Permit would be the required process. The current costs for these applications are \$615.00 and \$1,590.00 respectively. Additionally, the Building/Engineering Permit Review Fee is based on the valuation of the project and for this type of project would be approximately \$800.00.

- The total cost of review and permitting a wireless facility that needs zoning review is either \$1,615.00 with an Administrative Use Permit or \$2,590.00 with a Use Permit, and the legislation caps the allowable fee at \$1,000.00.

Collocation on existing support structures

If there are no proposed changes to the existing support structure, the applications may be "batched" together.

- The process for reviewing these facilities would be the same as the first category for new/replacement poles and is estimated to be \$1,615. The legislation sets the application fees for up to five (5) facilities at \$100 per facility and an additional \$50 per facility above five (5).

Annual Rates

The legislation (HB2365) grants authorities the right to collect annual rates for the use of right-of-way for the purposes of installing wireless facilities.

- For the category of new/replacement poles that are not subject to zoning review, the annual rate for use of the right-of way is \$50.00 and the annual rate for attaching to a Town-owned utility pole is \$50.00 – both set by the state legislation (HB2365).
- For new/replacement poles that are subject to zoning review, the annual rate is \$200 and is based on the calculation of direct and actual costs of managing the right-of-way, as allowed by the state legislation (HB2365).
- For collocation on support structures that don't require any modification, the annual rates are allowed to be charged and cannot exceed an amount equal to \$50 multiplied by the number of small wireless facilities within the jurisdiction located in the right-of-way and \$50 multiplied by the number of small wireless facilities collocated on Town-owned poles.

The Gilbert Town Council will consider this matter at its regular Town Council meeting to be held at the Gilbert Town Council Chambers, located at 50 East Civic Center Drive, Gilbert, Arizona 85296, on **November 2, 2017, at 6:30 p.m.** Following such consideration, the Town Council may approve, disapprove or modify said ordinance/resolution.

Information about the proposed fee is available at the Town Clerk's office during normal office hours, Monday through Thursday, 7:00 AM-6:00 PM, and on Gilbert's website at <https://www.gilbertaz.gov/departments/clerk-s-office/proposed-new-and-increased-taxes-or-fees>.

DATE POSTED ON GILBERT WEBSITE: August 30th, 2017