

**Amendments to Verizon Wireless Limited Right-of-Way Use Agreement
Ordinance No. 180379**

As an amendment to existing Section 3.A of Ordinance No. 180379, substitute the following:

- A. Amount. As compensation for the benefits and privileges under this Agreement, and in consideration of permission to use the Streets of the City, Verizon Wireless shall pay the following fees to the City through the duration of the Agreement for the right to install Facilities on Structures in the Streets:
1. The Minimum Annual Fee. The Minimum Annual Fee for this Agreement shall be \$10,000. The Minimum Annual Fee may be applied to the Right-of-Way Use Fee, below, but the combined Minimum Annual and Right-of-Way Use fees shall never be less than \$10,000.
 2. (a) Right-of-Way Use Fee. The Company shall pay as a Right-of-Way Use Fee \$5,000 per year per Structure that has any Attached Facilities. If Attached Facilities occupy a Structure for less than one year, the amount of this Fee for that year shall be prorated at \$417.00 per month. The Right-of-Way Use Fee is calculated from the first day of the month following the date Attached Facilities are installed on a Structure;
 - (b) The Right-of-Way Use Fee shall increase by the Consumer Price Index for Urban Age Earners and Clerical Workers for the Portland, Oregon metropolitan region for the prior year, unadjusted for seasonal variations, as determined by the Bureau of Labor Statistics of the Department of Labor. This increase is applicable beginning one year after the Effective Date of this Agreement and every year thereafter for the term of this Agreement.
 3. Installation and Application Fee.
 - (a) There shall be a one-time Installation and Application Fee of \$2,000 payable to the Portland Bureau of Transportation for each new Site that the company uses for Attached Facilities. A 'Site' is a Base Station (a fixed location with radio equipment used to serve one or more cells) that serves Attached Facilities on up to 10 Structures. An additional Installation and Application Fee will be due for every additional 10 Attached Facilities or portion thereof.
 - (i) Example: Company constructs a Site and places five Attached Facilities in the streets. One Installation and Application Fee is due. The following year company places an additional four Attached Facilities in the streets which connect to the same base station. No new Installation and Application Fee is due because company has not yet placed more than 10 Attached Facilities for this base station. The following year company places an additional three Attached Facilities in the streets which connect to the same base station. One new Installation and Application Fee is due because the base station serves more than 10 Attached Facilities.

(b) If the Attached Facilities will be placed on a Structure in a Priority 4 Street, then there shall be a separate one-time fee of \$2,000 payable to the Office of Cable Communications and Franchise Management.

4. Previous Occupancy Fee. This Fee only applies if the Company has had any Attached Facilities prior to the Effective Date of this Agreement. If it has, then it shall pay a Fee based only on the Right-of-Way Use Fee as stated in 2(a), above, for each of those Attached Facilities.

As an amendment to existing Section 6.D of Ordinance No. 180379, substitute the following:

D. Facility and Structure standards. This section establishes standards for attaching Facilities to Structures in the Streets.

Unless otherwise specified, all references in this subsection 6.D to the existing or allowed height of a Structure or utility pole are measured from ground level.

1. Structure selection

- a. Verizon Wireless shall site wireless facilities on existing Structures before placing them on Structures in the Streets. Existing Structures include but are not limited to buildings, water tanks, and cell towers, as well as utility poles located on City-owned property.
- b. All of Portland's streets are prioritized for siting wireless facilities on Structures. The categories for streets within the City may be identified by referring to the City's official map of Wireless Street Priorities. Verizon Wireless must use poles in the following order of priority:
 - i. Priority 1 Streets (generally freeways, highways, and streets in industrial areas), before using poles on
 - ii. Priority 2 Streets (generally high traffic volume streets), before using poles on
 - iii. Priority 3 Streets (generally medium traffic volume streets), before using poles on
 - iv. Priority 4 Streets (generally low traffic volume residential streets).

If Verizon Wireless selects a Structure to support its facilities on a Priority 4 street, Verizon Wireless shall provide RF contour maps (in color) illustrating the calculated coverage using the proposed antennas at the target signal level, plus and minus 5 dB, and the calculated coverage areas for all existing adjacent cell sites, to support the rejection of other structures. If other structures were ruled out for non-RF coverage reasons, Verizon Wireless shall identify and explain those reasons.

- c. For all Structures except those in Priority 1 Streets, Verizon Wireless must place antennas and Facilities first on Structures that carry high voltage transmission power lines before placing them on any other Structure. For the purposes of this subsection 6.D, "high voltage transmission" means lines with capacity for transmitting electricity of 57,000 volts or greater.

2. Original Structures. Facilities may be attached to Original Structures in the Streets, provided:
 - a. The requirements in 6.D.1 are met;
 - b. Facilities do not jeopardize the physical integrity of the Structure;
 - c. Antennas and antenna mounting devices below the top of the Structure shall be mounted flush with the Structure or on extension arms that are no greater than one (1) foot in length.
 - d. Antennas and antenna mounting devices above the top of the Structure:
 - i. Mounting devices and antennas other than omni-directional, or “whip” antennas shall be concealed within a canister or unicell-style cylinder, the diameter of which shall be no greater than twelve inches (12”) more than the diameter of the Structure as measured six (6) feet from the butt of the Structure.
 - ii. The combined height of the antennas and mounting device on a Structure that carries high voltage transmission lines shall not project more than:
 - A. Twenty (20) feet above the Structure if the Structure is in a Priority 2 or 3 Street.
 - B. Fifteen (15) feet above the Structure if the Structure is 1) in a Priority 4 Street, and 2) less than or equal to fifty (50) feet in height; or
 - C. Twenty (20) feet above the Structure if the Structure is 1) in a Priority 4 Street, and 2) more than fifty (50) feet in height.
 - D. The combined height of the antenna and mounting device on Structures in Priority 1 Streets is not regulated.
 - iii. The combined height of the antennas and mounting device on a Structure that does not carry high voltage transmission lines shall not project more than:
 - A. Fifteen (15) feet above a Structure in a Priority 2 or 3 Street; or
 - B. Ten (10) feet above a Structure in a Priority 4 Street.
 - C. The combined height of the antennae and mounting device on Structures in Priority 1 Streets is not regulated.
 - e. All Facilities mounted on an Original Structure shall be painted, coated, or given a surface application to conform to the color and surface of the Structure. If cabinets require a special heat-reducing paint finish, they must be a neutral color such as beige, off-white, or light gray; and
 - f. The dimensions of equipment cabinets mounted on poles in Priority 1, 2, and 3 Streets are not regulated. The height plus width plus depth of equipment cabinets mounted on poles in Priority 4 Streets shall be no more than 120 lineal inches combined.
 - g. The Original Structure is not replaced with a taller Structure, except as authorized in Sections 6.D.3.

3. Replacement Structures. For purposes of this Section “Replacement Structure” shall mean a Structure that a) replaces an existing Structure or Original Structure to accommodate Facilities; and b) does not result in an increase in the total number of utility or guy poles in the Streets. Facilities may be attached to Replacement Structures in the Streets, provided:
- a. The Replacement Structure is of sufficient integrity to support the Facilities;
 - b. The Replacement Structure must comply with the requirements of 6.D.1.a, b and c, and 6.D.2.e and f;
 - c. For all Structures except those in Priority 1 Streets, Verizon Wireless shall place antennas and Facilities first on Structures that carry high voltage transmission power lines before placing them on any other Structure. For the purposes of this subsection, “high voltage transmission” means either power lines with capacity for transmitting electricity of 57,000 volts or greater, or a skipped pole between high voltage transmission power lines. Skipped poles are defined in subsection 6.D.3.e.ii, below.
 - d. Color. Prior to installation, if the Replacement Structure is not made entirely of wood, it shall be painted, coated, or given a surface application to conform to the color of the Original Structure.
 - e. Replacement Height Limits. A Structure or Original Structure may be replaced with a Replacement Structure that is taller than the Original Structure. The total combined height of a Replacement Structure and any mounting devices shall be no greater than that allowed in Table 1, below.
 - i. Guy poles. Guy poles are shorter than the utility poles they support. On Priority 1, 2, and 3 streets a guy pole may be replaced as if it is the same height as the pole it supports using Table 1, below. On Priority 4 streets a Guy pole can be replaced up to the height of the pole it supports.

Example 1: A 20 foot guy pole that supports a 30 foot utility pole in a Priority 3 Street may be replaced as if it is 30’ tall. Therefore, it can be replaced with a pole 45 feet tall (30’ + 50% of 30’);

Example 2: A 20 foot guy pole that supports a 30 foot utility pole in a Priority 4 Street may be replaced up to a maximum of 30 feet.
 - ii. Skipped poles. There are Streets where runs of taller poles (typically high voltage transmission) and shorter poles (typically low voltage distribution or communication) are located on the same side of the Street. Where the shorter pole is situated adjacent and between two taller poles in the same run, the shorter pole is known as a “skipped pole.” A skipped pole may be replaced with a pole of the same height as the adjacent taller poles.

Example: A 45 foot (45’) pole is situated adjacent and between two 65 foot (65’) poles on the same side of a Priority 4 Street. The 45’ pole can be replaced as if it were 65’

using Table 1, below. Therefore, it can be replaced with a pole 80 feet tall (65' + 15'). If the 45' pole is on the opposite side of the Priority 4 Street from the taller poles, it cannot be replaced as if it were 65'; it can only be replaced up to a height of 60 feet (45' + 15').

Table 1

Maximum Combined Additional Height Allowed for Replacement Structures and Antenna Mounting Devices (All figures are in feet over the height of the existing Structure measured from ground level)	
Street Type	Additional Height
Priority 1 (freeways, highways, and streets in industrial areas)	80'
Priority 2 (high traffic volumes)	Lesser of 40' or 50% of the height of the pole
Priority 3 (medium traffic volumes)	Lesser of 35' or 50% of the height of the pole
Priority 4 (low traffic volumes; residential streets)	Lesser of 15' or 45% of the height of the pole

- f. Antennas above the top of the Replacement Structure and Mounting Device. Antennas and antenna mounting devices shall be mounted flush with the Replacement Structure or on extension arms that are no greater than one (1) foot in length. Antennas shall not project more than three (3) feet above the maximum allowable height of the Replacement Structure and mounting device. Example: A 35 foot pole on a Priority 4 Street may be replaced with a pole and mounting device, the top of which is no more than 50 feet tall, and the measurement to the top of the antennas may be no more than 53 feet.
- g. Replacement Structure Engineering. In the event that a Structure needs to be replaced to provide structural capacity to support the Facility, Verizon Wireless must provide to the City a written statement from the pole owner that the Replacement Structure is no greater in width than the engineering minimum required by the Oregon Public Utility Commission.
- h. Street Trees. If a Structure in a Priority 4 street is proposed for replacement, Verizon Wireless shall submit the sum of One Thousand Dollars (\$1,000) to the Bureau of Parks to fund street tree planting. Verizon Wireless shall consult with the owner of the Structure and the Bureau of Parks to determine if a tree could be planted in the parking strip such that a mature tree canopy could develop around the Replacement Structure to reduce the visual impact of the Replacement Structure to the abutting property. If a tree cannot be planted with this result, then the Park Bureau shall deposit the funds into the Tree Damage Fund for its use.
- i. Notice and Meeting. When Facilities are proposed on an existing or Replacement Structure that is in or within 400 feet of a Priority 4 Street, Verizon Wireless shall provide written notice and participate in or conduct a meeting as follows:

- A. Verizon Wireless will provide written notice to residents and property owners within a 400 foot radius of the existing or Replacement Structure. The notice shall: clearly state the name of the wireless carrier directing the work and what work will occur; identify the Structure or Replacement Structure, identify the Facilities that will be added; identify when the change is scheduled to begin and end; provide a contact name and telephone number of a representative of the wireless carrier, the pole owner, and the City of Portland; provide the date, time and location of a meeting to present and discuss the changes; and be sent no less than 14 days and no more than 30 days from the meeting date. A copy of this notice shall be provided to one or more officers of the city-recognized neighborhood association, business association, Neighborhood Coalition office or its equivalent, a representative of the pole owner, and the City.
- B. Verizon Wireless shall participate in or conduct a meeting in coordination with the city-recognized neighborhood association and business association where the Structure or Replacement Structure is located. The meeting shall occur at least 30 days before Verizon Wireless submits its application to the City to place Facilities on a Structure or Replacement Structure. If no neighborhood association or business association meeting can be arranged the carrier shall arrange a separate meeting at reasonably convenient date, time and location for the recipients of the notice.
- C. At the meeting, Verizon Wireless shall provide a photograph of the pole as it currently exists, and a photo simulation of what it will look like after the proposed changes. The photo simulation must be from the same perspective (distance, height, and angle) as the original photograph.
4. Carrier shall not locate any Facilities, such as cabinets, at grade within the Streets, but may connect its Facilities in the Streets to Facilities located on property adjacent to the Streets in accordance with applicable City codes and with the permission of the adjacent property owner.
 5. Carrier may make excavations in the City Streets for any Facility needed for the maintenance or extension of its Mobile Telecommunications System, subject to obtaining permits from the City. Prior to doing such work, carrier must apply for, and obtain, appropriate permits from the City, and give appropriate notices to any franchisees, licensees, or permittees of the City, or bureaus of the City, or other units of government owning or maintaining facilities that may be affected by the proposed excavation.
 6. In the event that emergency repairs are necessary for carrier's underground Facilities in the Streets, carrier shall immediately notify the City of the need for such repairs. Carrier may immediately initiate such emergency repairs, and shall apply for appropriate permits the next business day following discovery of the emergency. Carrier must comply with all Charter and ordinance provisions relating to such excavations or construction, including the payment of permit or license fees.
 7. Locates. Carrier shall comply with the requirements of the Oregon Utility Notification Law, codified at ORS 757.542 to 757.562 and 757.993 (2007), and the rules and regulations promulgated thereunder.

