

1 Introduced August 12, 2008, by Councilman  
2 Canada, seconded by Councilman Hursey, (by  
3 request of Administration)

4 **Item No. 08-08-2765**

5  
6 **ORDINANCE NO. 3499**

7 An ordinance requiring a permit for use of municipal property for business  
8 operations in the City of Slidell; requiring the provision of certain information prior to  
9 issuance of such permit; and otherwise providing with respect thereto.

10  
11 WHEREAS, pursuant to the provisions of LSA-R.S. 33:4401, LSA-RS.  
12 45:1361 et seq, this municipality's police powers, and Sections 1-05 and 1-06 of the Slidell  
13 Home Rule Charter and in order to protect the health, safety, and welfare of the public, the  
14 City of Slidell (herein referred to as "the City") recognizes its right, duty, and obligation to  
15 regulate and maintain the integrity and safety of the City's property and rights-of-way; and  
16

17  
18 WHEREAS, there are persons or entities which utilize and desire to utilize  
19 the City's property and rights-of-way to conduct business operations, including but not  
20 limited to the provision of telecommunication, internet, electrical, cable, water, gas or other  
21 services or products (hereinafter referred to as "Business Operations"); and  
22  
23

24  
25 WHEREAS, the City makes and adopts the following findings and purposes:  
26

- 27 (1) The City recognizes that it holds its property and the rights-of-way within its  
28 geographical boundaries as an asset in trust for its citizens. The City and other  
29 public entities have invested millions of dollars in public funds to acquire, build,  
30 and maintain the rights-of-way. It also recognizes that some persons, by  
31 placing their equipment in the rights-of-way and charging the citizens of the  
32 City for goods and services delivered thereby, are profiting from their use of  
33 this property held by the City for the public good;
- 34 (2) The City's rights-of-way are owned or held by the City primarily for the purpose  
35 of pedestrian and vehicular passage and for the City's provision of essential  
36 public safety services, including police, fire, and emergency medical response  
37 services; and public health services, including sanitary sewer, water, and  
38 storm drainage services (together, "Public Uses");  
39

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- 4 (3) Public Uses should in all cases be considered and treated as the dominant  
5 and preeminent uses of public property and rights-of-way;
- 6 (4) All other uses of public rights-of-way, including use for the provision of  
7 Business Operations, must be subordinate to Public Uses;
- 8
- 9 (5) In order to provide for the health, safety and well-being of its citizens, as well  
10 as to ensure the structural integrity of its rights-of-way and the City owned  
11 facilities located therein, the City strives to keep its rights-of-way in a state of  
12 good repair and free from unnecessary encumbrances;
- 13 (6) Right-of-way obstructions and deterioration disrupt the flow of vehicular and  
14 pedestrian traffic and are a source of frustration for merchants, business  
15 owners and the general population;
- 16 (7) The Louisiana legislature enacted Act 433 of 2008, codified as LSA - R.S. 45:  
17 1361- 1378 and known as the "Consumer Choice for Television Act," which  
18 provides for a state-issued certificate of franchise authority for cable and video  
19 services. In LSA - R.S. 45:1374, the legislature reserved to local government  
20 certain authority to regulate the holder of a state-issued certificate of franchise  
21 authority including the City's lawful exercise of its police powers; and
- 22 (8) In order for the City to properly protect the health, safety and welfare of its  
23 citizens, to enhance the Public Uses, and manage and maintain its property, it  
24 is appropriate and necessary that the City obtain and maintain current,  
25 accurate information concerning the location, construction, installation and  
26 maintenance of structures, facilities, and equipment occupying City Property  
27 for Business Operations ("System").

28 NOW THEREFORE BE IT ORDAINED by the City Council of the City of  
29 Slidell, State of Louisiana, that no person or entity may enter upon, traverse, either above  
30 ground or below, or otherwise utilize any property, servitude, or other property right,  
31 owned, leased, possessed, or controlled by the City (herein referred to as "City Property")  
32 for the conduct of Business Operations without first being issued a permit to enter City  
33 Property for Business Operations as more fully set forth hereafter.

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- 35
- 36
- 37 1. Location of any System for Business Operations within City Property without a  
38 valid permit from the City pursuant to this Ordinance presents a threat to the  
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4 health, safety, and welfare of the City's citizens and their property and is  
5 expressly forbidden.

- 6
- 7 2. The City recognizes and reserves any and all rights available to it to regulate  
8 use of any City Property.
- 9
- 10 3. The granting of any City license, permit, or other requirement for doing  
11 business within the City shall not be construed as authorizing any such person  
12 or entity the right to utilize City Property for the conduct of Business  
13 Operations.
- 14 4. Any person or entity desiring to operate a System occupying City Property  
15 "(Applicant") shall make a written request to the City for a permit, which shall  
16 include the following information:
- 17 a. Name, address, telephone number, and contact person of the person  
18 or entity making the request;
- 19 b. Necessary corporate information, if applicable;
- 20 c. Name, address, email address, and home, office and cell telephone  
21 numbers of a person with authority to act on behalf of the Applicant in  
22 case of emergency;
- 23 d. Description of the proposed activity;
- 24
- 25 e. Identification of the City Property which Applicant's System will occupy.  
26 Said identification shall include the following:
- 27 i. Map drawn to scale of the location of all of Applicant's System  
28 presently occupying City Property;
- 29
- 30 ii. Inventory of all equipment, structures, and facilities composing  
31 Applicant's System occupying City Property; and
- 32
- 33 iii. Description of all anticipated construction, major maintenance, and  
34 major installation activities which shall include the specific locations  
35 and the beginning and ending dates of all projects to be commenced  
36 during the next calendar year; and the tentative locations and  
37 beginning and ending dates for all projects contemplated for the two  
38 year period following the next calendar year.
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- 4 f. Proof of comprehensive general liability insurance covering and affecting  
5 the Applicant's Business Operations occupying City Property. Applicant  
6 shall notify the City of cancellation of such policy(ies) at least 30 days in  
7 advance of such cancellation; and
- 8 g. Name of all contractors acting or working on behalf of Applicant within  
9 City Property along with the name and home, office, and cell telephone  
10 numbers of a person with authority to act on behalf of the contractor in  
11 case of emergency.
- 12 5. Upon provision of all of the information required by Section (4), the City shall  
13 issue a permit allowing the Applicant/Permittee to enter City Property to  
14 conduct Business Operations in accordance with the specific information  
15 provided to the City by the Applicant/Permittee.
- 16 6. Standard provisions of each permit granted pursuant to this Ordinance shall  
17 include the following:
- 18 a. Conditions of Occupancy. The System shall be located so as to cause  
19 minimum interference with the Public Uses use of City Property and with  
20 the rights and reasonable convenience of property owners who own  
21 property that adjoins City Property.
- 22 b. Restoration of Public Ways. If, during the course of the Permittee's  
23 construction, installation, or maintenance of the System, there occurs a  
24 disturbance of any City Property by the Permittee, the Permittee shall  
25 replace and restore such City Property to a condition reasonably  
26 comparable to the condition of the City Property existing immediately prior  
27 to such disturbance.
- 28 c. Relocation at Request of the City. If the City shall lawfully elect to vacate,  
29 relocate, abandon, alter, reconstruct or change any City Property, the  
30 Permittee, upon thirty (30) days written notice by the City via certified mail  
31 to the Permittee, shall remove, re-lay and relocate its structure,  
32 equipment, and facilities at its own expense. Should the Permittee refuse  
33 or fail to remove System within thirty (30) days after written notification,  
34 the City shall have the right to remove the component parts of the System  
35 and charge the Permittee for the costs of removal.
- 36 d. Relocation at Request of Third Party. The Permittee shall, on the request  
37 of any person holding a lawful building moving permit, protect, support,  
38 raise, lower, temporarily disconnect, relocate in or remove from any City  
39

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4 Property, as necessary, any property of the Permittee provided: (i) the  
5 expense of such is paid by said person benefiting from the relocation,  
6 including, if required by the Permittee, making such payment in advance;  
7 and (ii) the Permittee is given reasonable advance written notice to  
8 prepare for such changes. For purposes of this Section, "reasonable  
9 advance written notice" shall be no less than thirty (30) days in the event  
10 of a temporary relocation, and no less than one hundred twenty (120)  
11 days for a permanent relocation.

12 e. Interference with Use of right-of-way. When working within City Property,  
13 Permittee shall not unreasonably interfere with Public Uses of said City  
14 Property and the safety, health, and convenience of the public in the  
15 public's use thereof for ordinary travel.

16 7. No less than three (3) business days prior to commencement of construction,  
17 installation or maintenance activities within City Property, the Permittee shall  
18 notify the City of the specific locations and beginning and ending dates of said  
19 construction, installation, or maintenance project and shall provide current,  
20 accurate contact information for both the Permittee and the contractor as  
21 outlined in Section (4). Upon receipt of this notification, the City shall determine  
22 whether the proposed construction, installation, or maintenance activities shall  
23 pose an unreasonable inference with Public Uses. If the City determines the  
24 proposed activity presents no such unreasonable interference; it shall issue  
25 the Permittee a notice to proceed. If the Permittee receives no written  
26 notification from the City within twenty-four hours of the proposed  
27 commencement of activities, the proposed activities may be deemed  
28 approved. This Section shall not apply to emergency repair projects or utility  
29 service extension projects which the Permittee could not have anticipated.

30 8. The Permittee shall keep all of the information required by Section (4) current  
31 at all times by immediately providing the City written notice of changes.

32 9. Any person or entity (1) whose System occupies City Property for Business  
33 Operations without obtaining the permit required in this Ordinance; (2) who  
34 fails to provide the 72-hour notice prior to commencement of construction,  
35 installation, or maintenance activities as required in Section 6; or who fails to  
36 maintain current, accurate information required by Section (4) concerning any  
37 System occupying City Property may have any permit granted pursuant to this  
38 Ordinance revoked and may be denied future authorization for construction,  
39 installation, or maintenance activities for a period of two years.

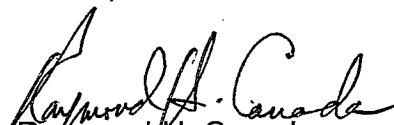
10. Any violation of this Ordinance shall afford the City the full range of remedies

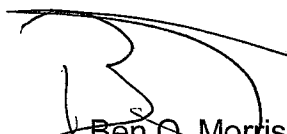
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4 available under any applicable law or regulation including the levying of fines.  
5 The election of one or more remedies shall not be construed as a waiver of  
6 any other legal and/or equitable remedy including, but not limited to the City's  
7 right to seek injunctive relief, damages, and attorney's fees as the law might  
8 allow.

9 BE IT FURTHER ORDAINED, that all ordinances and resolutions in conflict  
10 herewith are hereby repealed, except those approving any cable or video franchise  
11 agreement in force and effect between the City and any cable or video service provider.  
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15 **ADOPTED** this 9th day of September, 2008.

16  
17   
18 Raymond H. Canada  
19 President of the Council  
20 Councilman, District E

21  
22   
23 Ben O. Morris  
24 Mayor

25 

26 Thomas P. Reeves  
27 Council Administrator

DELIVERED	9:00 AM.
9/11/08	to the Mayor
RECEIVED	3:45 pm
9/15/08	from the Mayor