

1 Introduced September 11, 2018, by  
2 Councilwoman Harbison, seconded by  
3 Councilman Borchert, (by request of  
4 Administration)

5 **Item No. 18-09-3244**

6  
7 **ORDINANCE NO. 3912**

8 An ordinance establishing standards for small wireless facilities in the Rights-  
9 of-way in the City of Slidell, Louisiana.

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11 WHEREAS, the City of Slidell, Louisiana ("City") desires to encourage  
12 wireless infrastructure investment by providing a fair and predictable process for the  
13 deployment of small wireless facilities, while enabling the City to promote the management  
14 of the rights-of-way in the overall interests of the public health, safety and welfare; and  
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18 WHEREAS, the City recognizes that small wireless facilities are critical to  
19 delivering wireless access to advanced technology, broadband and 9-1-1 services to  
20 homes, businesses, schools within the City; and  
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24 WHEREAS, the City recognizes that small wireless facilities, including  
25 facilities commonly referred to as small cells and distributed antenna systems, often may  
26 be deployed most effectively in the public rights-of-way; and,  
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29 WHEREAS, the City intends to fully comply with state and federal law to the  
30 extent it preempts local municipal control.  
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33 NOW THEREFORE BE IT ORDAINED by the Slidell City Council that a  
34 Division 3 be created and added to Chapter 25, Article II, to be entitled "Small Wireless  
35 Facilities", to contain Sections 25-50 through 25-59, and to read as follows:  
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4 **Section 25-50 – Purpose and Scope**

5 (A) Purpose. The purpose of this Division is to establish policies and procedures for the  
6 placement of small wireless facilities in rights-of-way within the City’s jurisdiction, which will  
7 provide public benefit consistent with the preservation of the integrity, safe usage, and  
8 visual qualities of the City rights-of-way and the City as a whole.  
9

10 (B) Intent. In enacting this Division, the City is establishing uniform standards to address  
11 the placement of small wireless facilities in the rights-of-way, including without limitation,  
12 to:

13 (1) prevent interference with the use of streets, sidewalks, alleys, parkways and  
14 other public ways and places;

15 (2) prevent the creation of visual and physical obstructions and other conditions  
16 that are hazardous to vehicular and pedestrian traffic;

17 (3) prevent interference with the facilities and operations of facilities lawfully  
18 located in rights-of-way or public property;

19 (4) protect against environmental damage, including damage to trees;

20 (5) preserve the character of the neighborhoods in which facilities are installed;  
21 and

22 (6) facilitate rapid deployment of small cell facilities to provide the benefits of  
23 advanced wireless services.  
24

25 (C) Conflicts with Other Ordinances. This Division supersedes all ordinances or parts of  
26 ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.  
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28 **Section 25-51 - Definitions**

29 (A) “Adverse Effect” means when an undertaking may alter, directly or indirectly, any of the  
30 characteristics of a historic property that qualify the property for inclusion in the  
31 National Register or local historic structure list in a manner that would diminish the  
32 integrity of the property’s location, design, setting, materials, workmanship, feeling, or  
33 association.  
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4 (B) "Antenna" means communications equipment that transmits or receives  
5 electromagnetic radio frequency signals used in the provision of wireless services.  
6

7 (C) "Antenna Structure" means the antenna and any structure to which it is attached.  
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9 (D) "Applicable Codes" means uniform building, fire, electrical, plumbing, or mechanical  
10 codes adopted by a recognized national code organization or local amendments to  
11 those codes enacted solely to address imminent threats of destruction of property or  
12 injury to persons to the extent not inconsistent with the terms of this Division.

13 (E) "Applicant" means any person who submits an application and is a wireless provider.  
14

15 (F) "Application" means a request submitted by an applicant (i) for a Permit to collocate  
16 small wireless facilities; or (ii) to approve the installation or modification of a utility pole  
17 or wireless support structure.

18 (G) "City Pole" means (i) a utility pole owned, managed or operated by the City or any  
19 subdivision thereof or any instrumentality of the same, including municipal electric  
20 utilities, in the rights-of-way, including a utility pole, and (ii) a pole or similar structure  
21 owned, managed or operated by the City in the ROW that supports only wireless  
22 facilities.  
23

24 (H) "Collocate" means to install, mount, maintain, modify, operate, or replace wireless  
25 facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a  
26 corresponding meaning.

27 (I) "Day" means calendar day.  
28

29 (J) "Decorative Pole" means a pole that is specially designed and placed for aesthetic  
30 purposes and on which no appurtenances or attachments, other than a small wireless  
31 facility or specially designed informational or directional signage or temporary holiday  
32 or special events attachments, have been placed or are permitted.

33 (K) "Fee" means a one-time charge.  
34

35 (L) "Historic District" means a group of buildings, properties, or sites that are either listed in  
36 the National Register of Historic Places or formally determined eligible for listing by the  
37 Keeper of the National Register, the individual who has been delegated the authority by  
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4 the federal agency to list properties and determine their eligibility for the National  
5 Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic  
6 Agreement codified at 47 C.F.R. Part 1, Appendix C or a group of group of buildings,  
7 properties, or sites listed on the City's Historic property list

8  
9 (M) "Permit" means a written authorization required by the City to perform an action or  
10 initiate, continue, or complete a project.

11 (N) "Person" means an individual, corporation, limited liability company, partnership,  
12 association, trust, or other entity or organization, including the City.

13  
14 (O) "Rate" means a recurring charge.

15 (P) "Rights-of-Way" or "ROW" means the area on, below, or above a public roadway,  
16 highway, street, sidewalk, alley, utility easement, or similar property, but not including a  
17 federal interstate highway.

18  
19 (Q) "Section 106" refers to Section 106 of the National Historic Preservation Act of 1966 as  
20 amended.

21 (R) "Small Wireless Facility" means a wireless facility that meets both of the following  
22 qualifications: (i) each wireless provider's antenna could fit within an enclosure of no  
23 more than six cubic feet in volume; and (ii) all other wireless equipment associated with  
24 the facility is cumulatively no more than 28 cubic feet in volume. The following types of  
25 associated ancillary equipment are not included in the calculation of equipment volume:  
26 electric meter, concealment elements, telecommunications demarcation box, grounding  
27 equipment, power transfer switch, cut-off switch, and vertical cable runs for the  
28 connection of power and other services.

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30 (S) "Technically Feasible" that by virtue of engineering or spectrum usage the proposed  
31 placement for a small wireless facility, or its design or site location can be implemented  
32 without a reduction in the functionality of the small wireless facility.

33 (T) "Utility Pole" means a pole or similar structure that is or may be used in whole or in  
34 part by or for wireline communications, electric distribution, lighting, traffic control,  
35 signage, or similar function, or for collocation of small wireless facilities; provided, such  
36 term shall not include wireless support structures or electric transmission structures.

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4 (U) "Wireless Facility" means equipment at a fixed location that enables wireless  
5 communications between user equipment and a communications network, including: (i)  
6 equipment associated with wireless communications; and (ii) radio transceivers,  
7 antennas, coaxial or fiber-optic cable, regular and backup power supplies, and  
8 comparable equipment, regardless of technological configuration. The term includes  
9 small wireless facilities. The term does not include: (i) the structure or improvements  
10 on, under, or within which the equipment is collocated; or (ii) coaxial or fiber-optic cable  
11 that is between wireless support structures or utility poles or that is otherwise not  
12 immediately adjacent to or directly associated with a particular antenna.

13 (V) "Wireless Infrastructure Provider" means any person, including a person authorized to  
14 provide telecommunications service in the state, that builds or installs wireless  
15 communication transmission equipment, wireless facilities or wireless support  
16 structures, but that is not a wireless services provider.

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18 (W) "Wireless Provider" means a wireless infrastructure provider or a wireless services  
19 provider.

20 (X) "Wireless Services" means any services, whether at a fixed location or mobile, provided  
21 using wireless facilities.

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23 (Y) "Wireless Services Provider" means a person who provides wireless services.

24  
25 (Z) "Wireless Support Structure" means a structure, such as a monopole; tower, either  
26 guyed or self-supporting; billboard; building or other existing or proposed structure  
27 designed to support or capable of supporting wireless facilities, other than a structure  
28 designed solely for the collocation of small wireless facilities. Such term shall not  
29 include a utility pole.

30 **Section 25-52 – Permitted Use; Application and Fees**

31 (A) Permitted Use: Collocation of a small cell facility or a new or modified utility pole for the  
32 collocation of a small cell facility shall be a permitted use subject to the restrictions in  
33 Section 25-54.

34  
35 (B) Permit Required. No person shall place a small wireless facility in the rights-of-way,  
36 without first filing a small wireless facility application and obtaining a permit therefore,  
37 except as otherwise provided in this Division.  
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4 (C) Permit Application. All small wireless facility applications for permits filed pursuant to  
5 this Division shall be on a form, paper or electronic, provided by the City. The applicant  
6 may designate portions of its application materials that it reasonably believes contain  
7 proprietary or confidential information as "proprietary" or "confidential" by clearly  
8 marking each page of such materials accordingly.

9 (D) Application Requirements. The small wireless facility permit application shall be made  
10 by the wireless provider or its duly authorized representative and shall contain the  
11 following:

- 12 (1) The applicant's name, address, telephone number, and e-mail address;
- 13 (2) The names, addresses, telephone numbers, and e-mail addresses of all  
14 consultants, if any, acting on behalf of the applicant with respect to the filing of  
15 the application.
- 16 (3) A general description of the proposed work and the purposes and intent of the  
17 small wireless facility. The scope and detail of such description shall be  
18 appropriate to the nature and character of the work to be performed, with  
19 special emphasis on those matters likely to be affected or impacted by the  
20 work proposed;
- 21 (4) A small wireless facility shall comply with all applicable codes.
- 22 (5) A diagram with associated details of the small wireless facility to include how it  
23 will be mounted to the structure, its concealment elements,  
24 telecommunications demarcation box, grounding equipment, power transfer  
25 switch, cut off switch, and vertical cable runs for connection to power and other  
26 services in sufficient detail and with any required engineer certifications to  
27 determine if the small wireless facility meets required wind load and does not  
28 constitute an adverse effect to a historic property.

29 (E) Routine Maintenance and Replacement. An application shall not be required for: (i)  
30 routine maintenance; and (ii) the replacement of a small wireless facility with another  
31 small wireless facility that is substantially similar or the same size or smaller in size  
32 and weight, height, and appearance in the City's Historic Preservation District.

33 (F) Information Updates. Any amendment to information contained in a permit application  
34 shall be submitted in writing to the City within thirty (30) days after the change  
35 necessitating the amendment.  
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4 (G) Application Fees. Application Fees shall be subject to the following requirements:

- 5  
6 (1) Unless otherwise provided by law, all applications for permits pursuant to this  
7 Chapter shall be accompanied by a fee for actual, direct, and reasonable costs  
8 incurred by the City related to processing the application, but shall not exceed  
9 \$100.00 each for up to five small wireless facilities addressed in the application  
10 and \$50.00 for each additional small wireless facility.
- 11 (2) The application fee for the installation, modification or replacement of a utility  
12 pole that is a permitted use in accordance with the specifications in Section 25-  
13 54 shall not exceed \$250.00 per utility pole in the rights-of-way.
- 14 (3) An application fee for the installation of a new utility pole associated with a  
15 small wireless facility that is not a permitted use in accordance with the  
16 specifications in Section 25-52 shall not exceed \$1,000.00.
- 17 (4) An application fee may not include: (i) travel expenses incurred by a third party  
18 in its review of an application; or (ii) direct payment or reimbursement of third  
19 party rates or fees charged on a contingency basis or a result-based  
20 arrangement.

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22 **Section 25-53 – Permit Applications**

23 (A) Review of Small Cell Facility Applications.

- 24  
25 (1) The City shall review the application for a small wireless facility permit in light of its  
26 conformity with applicable regulations of this Chapter, and shall issue a permit on  
27 nondiscriminatory terms and conditions subject to the following requirements:
- 28 (a) Within ten (10) days of receiving an Application, the City must determine and  
29 notify the Applicant whether the Application is complete. If an Application is  
30 incomplete, the City must specifically identify the missing information in writing.  
31 The processing deadline in subsection (b) is tolled from the date the City sends  
32 the notice of incompleteness to the date the applicant provides the missing  
33 information. The process deadline may also be tolled by agreement of the  
34 applicant and the City.
- 35 (b) Make its final decision to approve or deny the application within sixty (60) days;  
36 and  
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- 4 (c) Advise the applicant in writing of its final decision, and in the final decision  
5 document the basis for a denial, including specific code provisions on which the  
6 denial was based, and send the documentation to the applicant on or before the  
7 day the City denies the application. The applicant may cure the deficiencies  
8 identified by the City and resubmit the application within thirty (30) days of the  
9 denial without paying an additional application fee. The City shall approve or  
10 deny the revised application within thirty (30) days of receipt of the amended  
11 application. The subsequent review by the City shall be limited to the  
12 deficiencies cited in the original denial.
- 13 (2) If the City fails to act on an application within the sixty (60) day review period in  
14 subsection 25-53(A)(1)(b), the application is deemed approved.
- 15 (3) The City may only deny a proposed collocation of a small wireless facility or  
16 installation, modification or replacement of a utility pole for the collocation of a small  
17 wireless facility that meets the requirements in Section 25-54 if the proposed small  
18 cell facility:
- 19 a. Materially and demonstrably interferes with the safe operation of traffic  
20 control equipment;
  - 21 b. Materially and demonstrably interferes with sight lines or clear zones for  
22 transportation or pedestrians;
  - 23 c. Materially interferes with the Americans with Disabilities Act or similar federal  
24 or state standards regarding pedestrian access or movement;
  - 25 d. Fails to comply with applicable codes; or
  - 26 e. Does not comply with the provisions in this Division.
  - 27 f. Antenna appearance is determined by the City's Historic Preservation  
28 Commission to constitute an "adverse effect" to a property on the City's  
29 Historic Property list or in National Register of Historic Places.
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35 (4) An applicant seeking to collocate small wireless facilities may, at the applicant's  
36 discretion, file a consolidated application and receive a single permit for multiple small  
37 wireless facilities. Provided, that the City's denial of one or more small cell facilities in  
38 a consolidated application shall not delay the processing of any other small wireless  
39 facilities submitted in the same application.



4  
5 (B) Review of Eligible Facilities Requests. Notwithstanding any other provision of this  
6 Division, the City shall approve and may not deny applications for eligible facilities  
7 requests within sixty (60) days according to the procedures established under 47 CFR  
8 1.40001(c).

9 **Section 25-54 – Small Wireless Facilities in the ROW; Maximum Height; Other**  
10 **Requirements**

11 (A) Maximum Size of Permitted Use. Small wireless facilities, and new or modified utility  
12 poles for the collocation of small wireless facilities may be placed in the rights-of-way  
13 as a permitted use subject to the following requirements:  
14

15 (1) Each new or modified utility pole installed in the rights-of-way shall not exceed the  
16 greater of:

17 (a) Ten (10) feet in height above the tallest existing utility pole in the rights-of-  
18 way in place as of the effective date of this Division located within five  
19 hundred (500) feet of the new pole in the same rights-of-way; or,

20 (b) Fifty (50) feet above ground level.  
21

22 (2) New small wireless facilities in the rights-of-way may not extend:  
23

24 (a) More than ten (10) feet above an existing utility pole in the rights-of-way in  
25 place as of the effective date of this Division; or  
26

27 (b) Above the height for a new utility pole under subsection 25-54(A)(1).  
28

29 (B) Zoning. Any wireless provider that seeks to install, modify, operate or replace a utility  
30 pole in the rights-of-way that exceeds the height or size limits contained in this section,  
31 shall be subject to applicable zoning requirements.  
32

33 (C) Decorative Poles: A wireless provider shall be permitted to replace a decorative pole  
34 when necessary to collocate a small wireless facility, but any replacement pole shall  
35 reasonably conform to the design aesthetics of the decorative pole being replaced.

36 (D) Underground District. In areas designated solely for underground or buried cable and  
37 utility facilities, the City shall allow replacement of City poles in the designated area.  
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4 The wireless provider is permitted to seek a waiver of the undergrounding requirements  
5 for the placement of a new utility pole to support small wireless facilities.

6  
7 (E) Historic District. The City may require reasonable, technically feasible, non-  
8 discriminatory and technologically neutral design or concealment measures in a  
9 Historic Preservation District. Any such design or concealment measures may not  
10 have the effect of prohibiting any provider's technology; nor may any such measure be  
11 considered part of the small wireless facility for purpose of the size restrictions in the  
12 definition of small wireless facility.

13 **Section 25-55 – Effect of Permit**

14 (A) No Property Right or Other Interest Created. A permit from the City authorizes an  
15 applicant to undertake only certain activities in accordance with this Division, and does  
16 not create a property right or grant authority to the applicant to impinge upon the rights  
17 of others who may already have an interest in the rights-of-way.

18  
19 (B) Permit Duration. A permit granted pursuant to this Division shall be completed within  
20 one hundred eighty (180) days of the Permit issuance date unless the City and  
21 applicant agree to extend this period due to delay caused by the lack of commercial  
22 power or communications facilities. Subject to applicable relocation requirements and  
23 applicant's right to terminate a permit at any time, the permit is valid for a period of ten  
24 years, and must be renewed for an equivalent duration so long as the wireless provider  
25 is in compliance with the other requirements in this Division.

26 **Section 25-56 – Removal, Relocation or Modification of Small Wireless Facility in the**  
27 **ROW**

28 (A) Notice. Within ninety (90) days following written notice from the City, wireless provider  
29 shall, at its own expense, protect, support, temporarily or permanently disconnect,  
30 remove, relocate, change or alter the position of any small wireless facilities within the  
31 rights-of-way whenever the City has determined that such removal, relocation, change  
32 or alteration, is reasonably necessary for the construction, repair, maintenance, or  
33 installation of any City improvement in or upon, or the operations of the City in or  
34 upon, the rights-of-way.

35 (B) Emergency Removal or Relocation of Facilities. The City retains the right and privilege  
36 to cut or move any small wireless facility located within the rights-of-way of the City, as  
37 the City may determine to be necessary, appropriate or useful in response to any  
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4 public health or safety emergency. If circumstances permit, the City shall notify the  
5 wireless provider and provide the wireless provider an opportunity to move its own  
6 facilities prior to cutting or removing a facility and shall notify the wireless provider after  
7 cutting or removing a small wireless facility.

8  
9 (C) Abandonment of Facilities. Upon abandonment of a small wireless facility within the  
10 rights-of-way of the City, the wireless provider shall notify the City within ninety (90)  
11 days. Following receipt of such notice the City may direct the wireless provider to  
12 remove all or any portion of the small wireless facility if the City determines that such  
13 removal will be in the best interest of the public health, safety and welfare.

14 (D) Damage and Repair. The City may require a wireless provider to repair all damage to  
15 the rights-of-way caused by the activities of the wireless provider and return the rights-  
16 of-way to its functional equivalence before the damage. If the wireless provider fails to  
17 make the repairs within one hundred twenty (120) days after written notice, the City  
18 may affect those repairs and charge the applicable party the reasonable, documented  
19 cost of such repairs.

20 **Section 25-57 – ROW Rates**

21 (A) Annual Rate. A wireless provider authorized to place small wireless facilities in the  
22 rights-of-way shall pay to the City compensation for use of the rights-of-way in the  
23 amount of \$200.00 annually per small wireless facility.

24 (B) Cease Payment. A wireless provider is authorized to remove its facilities at any time  
25 from the rights-of-way and cease paying the City compensation for use of the rights-of-  
26 way.

27 **Section 25-58 – Attachment to City Poles in the ROW**

28  
29 (A) Collocation on City Poles. Small wireless facilities may be collocated on City poles  
30 pursuant to this Chapter. No person will be permitted an exclusive arrangement to  
31 attach to city poles.

32 (B) Annual Rate. The rate for collocation of a small wireless facility on a City pole in the  
33 right-of-way shall be \$20.00 per year. Such compensation together with the application  
34 fee and the rights-of-way fee specified in this Division shall be the sole compensation  
35 that the wireless provider shall be required to pay the City.

36  
37 (C) Cease Payment. A wireless provider is authorized to remove its facilities at any time  
38 from a City pole in the rights-of-way and cease paying the annual rate to the City.  
39

5 (D) Make-Ready. The rates, fees, terms and conditions for the make-ready work to  
6 collocate a small wireless facility on a City pole must be nondiscriminatory,  
7 competitively neutral, comply with this Act and be subject to the following:

8  
9 (1) The City or any person owning, managing, or controlling the City poles shall provide  
10 a good faith estimate for any make-ready work necessary to enable the pole to  
11 support the requested small wireless facility, including pole replacement if  
12 necessary, within 60 days after receipt of a completed request. Make-ready work  
13 including any pole replacement shall be completed within sixty (60) days of written  
14 acceptance of the good faith estimate by the wireless provider.

15 (2) The City or any person owning, managing, or controlling the City poles shall not  
16 require more make-ready work than required to meet applicable codes or industry  
17 standards. Fees for make-ready work shall not include costs related to pre-existing  
18 for prior damage and non-compliance. Fees for make-ready work including any  
19 pole replacement shall not exceed actual costs or the amount charged to others for  
20 similar work and shall not include any consultant fees or expenses.

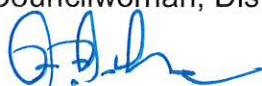
21 **Section 25-59 – Effective Date**

22 This Ordinance shall become effective upon adoption.

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25 **ADOPTED** this 9th day of October, 2018.

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28 Kim Harbison  
29 President of the Council  
30 Councilwoman, District F

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32  
33 Greg Cromer  
34 Mayor

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36 Thomas P. Reeves  
37 Council Administrator

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DELIVERED	10/11/18
9:00 am	to the Mayor
RECEIVED	10/15/18
1:30 pm	from the Mayor