



**CITY COUNCIL
SPECIAL MEETING AGENDA
June 3, 2019**

**Marc D. Tall, Mayor
Ronald J. Beauchamp, Mayor Pro Tem
Ralph B. Blasier, Council Member
Michael R. Sattem, Council Member
Peggy O. Schumann, Council Member**

**Patrick S. Jordan, City Manager
Phil DeMay, City Clerk
Ralph B. K. Peterson, City Attorney**

City Council Chambers located at: City Hall – 410 Ludington Street – Room C101 – Escanaba MI 49829

The Council has adopted a policy to use a Consent Agenda, when appropriate. All items with an asterisk (*) are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event, the Item will be removed from the General Order of Business and considered in its normal sequence on the Agenda.

Special Meeting

Monday, June 3, 2019, at 9:00 a.m.

CALL TO ORDER

ROLL CALL

APPROVAL/ADJUSTMENTS TO THE AGENDA

CONFLICT OF INTEREST DECLARATION(S)

BRIEF PUBLIC COMMENT(S)

PUBLIC HEARINGS

1. **Approval – Electric Rate Ordinance, Wastewater Ordinance, Water Ordinance and Solid Waste Utility Ordinance.**
Explanation: Annually, on the first Monday of June, The Escanaba City Charter requires the Council to pass electric, wastewater, water and solid waste utility rate ordinances for the upcoming fiscal year. The following public hearings on the various ordinances will take place:
 - a. Second reading, public hearing and adoption of Ordinance No. 1207, the Electric Rate Ordinance. A 1.75 percent rate increase is being recommended.
 - b. Second reading, public hearing and adoption of Ordinance No. 1208, the Wastewater Rate Ordinance. A 20 percent rate increase is being recommended.
 - c. Second reading, public hearing and adoption of Ordinance No. 1209, the Water Rate Ordinance. A 45 percent rate increase is being recommended.
 - d. Second reading, public hearing and adoption of Ordinance No. 1210, the Solid Waste, Recycling, Yard Waste and Litter Ordinance. No rate increases are recommended.

UNFINISHED BUSINESS – None

NEW BUSINESS

1. **Approval – Public Act 365 of 2018 (the Small Wireless Communications Facilities Deployment Act).**
Explanation: Administration is seeking Council approval to hire McLean Engineering of Moultrie, GA to assist us with the requirements of Public Act 365 for not-to-exceed cost of \$5,000.
2. **Discussion – Water & Paving Work.**
Explanation: Administration is requesting a brief discussion regarding Water/Wastewater work prior to paving projects this summer.
3. **Evaluation and Review of City Clerk and Assistant Assessor.**
Explanation: City Council will review the evaluation of the City Clerk and Assistant Assessor submitted by the City Manager Patrick Jordan.

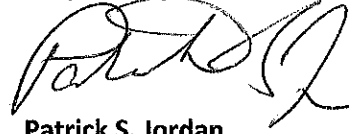
GENERAL PUBLIC COMMENT

ANNOUNCEMENTS

Agenda –June 3, 2019

ADJOURNMENT

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Patrick S. Jordan', with a long horizontal line extending to the right.

Patrick S. Jordan
City Manager

**ORDINANCE NO. 1207
ELECTRIC RATES**

AN ORDINANCE FIXING THE RATES TO BE CHARGED BY THE CITY OF ESCANABA FOR ELECTRIC ENERGY DEMAND AND AVAILABILITY OF SERVICE, TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2019 , AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE COUNCIL.

THE CITY OF ESCANABA ORDAINS:

**CHAPTER I
RATES**

Section 50.01. General Purpose - Rate Classification:

(A) Residential Energy Rate:

Applicable: To residential customers for all purposes except those otherwise specially rated.

\$.09630 net per KWH used per meter per month

(B) Commercial Energy Rate:

Applicable: To commercial customers for all purposes except those otherwise specially rated.

\$.09010 net per KWH used per meter per month

(C) Water Heating Energy Rate:

Applicable: To any customer for separately metered controlled water heating, subject to such wiring rules and regulations as are established by the utility.

\$0.09200 net per KWH used per meter per month.

(D) Electric Heat Rate:

Applicable: To all customers for such service when separately metered upon application and approval of permanently installed equipment; subject to such rules and regulations as are established by the utility. When air conditioning is installed in an electrically heated area, it may be connected to the same meter for space conditioning purposes.

\$0.09500 net per KWH per meter per month.

Upon application, the total annual charge for this energy may be paid in the following manner:

The estimated annual cost shall be divided into twelve (12) equal payments. Starting in July of each year, these payments shall become due and payable on the date indicated on the monthly bill. The payment for June of each year shall include an adjustment to correct the estimated annual cost to the actual annual cost. A three percent (3%) penalty charge will be made on all payments delinquent after date indicated on the bill.

(E) Special Municipal Energy Rates:

Applicable: For all use by Lake State Industries, Escanaba Public Schools, Parochial Schools, Bay de Noc College, and the City of Escanaba. If a customer who qualifies for this rate class also qualifies for the large power rate, they will fall under the same criteria found in section 50.06 (Large Power Rates).

\$0.12000 net per KWH for City street lighting.

\$0.09400 net per kWh used per meter per month.

- (F) Temporary Service-Single Phase 120 or 240 volt: Temporary service will be supplied to a customer upon written application and advance payment of \$105.00. Equipment for such installation will be supplied by the City in consideration of this charge. Other temporary services will be supplied on a private, work order basis.

Energy used for such installations will be metered and billed under the commercial rate schedule. The City reserves the right to determine the necessity for the type of installation and duration of temporary service.

In no event will said temporary service be allowed to remain after such time as it is practical to install permanent service. The City reserves the right to terminate said temporary service when, in their judgment, any provision herein is violated.

- (G) Multiple Use: In the event that a single customer uses energy for more than one of the above uses with a different rate for each, the higher rate will be charged unless the wiring is separated for metering purposes to the satisfaction of the City.

Section 50.02. Availability of Service Charge

- (A) To be added to the monthly billings for energy in Section 50.01. The following availability of service charge which will also constitute a minimum billing if no energy is utilized. This charge will be computed as follows:

RESIDENTIAL

City: Intra-City \$14.95 per meter per month.

Suburban: Out-City \$18.25 per meter per month.

WATER HEATING

City: Intra-City, \$4.00 per meter per month.

Suburban: Out-City, \$5.25 per meter per month.

ELECTRIC HEAT

City: Intra-City, \$5.50 per meter per month.

Suburban: Out-City, \$6.75 per meter per month.

SMALL COMMERCIAL

City: Intra-City \$15.50 per meter per month for a single phase meter, \$37.00 per meter per month for a three phase service.

Suburban: Out-City \$20.50 per meter per month for a single phase service, \$38.00 per meter per month for a three phase service.

MUNICIPAL

\$18.50 per meter per month for a single phase service, \$37.00 per month for a three phase service.

LARGE POWER

\$125.00 per meter per month.

Section 50.022. State of Michigan P.A. 295, of Public Acts 2008, commonly referred to as the Clean, Renewable and Efficient Energy Act mandates the electric utility collect the following charges from each electric utility customer:

(A) Energy Optimization Plan.

Residential \$0.00237/kWh

Commercial \$0.00194/kWh

Large Power \$0.00174/kWh

(B) Renewable Energy Plan.

Residential \$0.00/mo

Commercial \$0.00/mo

Large Power \$0.00/mo

Streetlight \$0.00/mo

Unmetered \$0.00/mo

Section 50.025. Meter Charges:

(A) A customer who installs a new electric service or upgrades an existing service that requires new transformer metering must pay a meter charge prior to receipt of services. Meter charges and specifications shall be established by the City Electric Superintendent and shall be adjusted as the cost of labor and material change. Customers are not permitted to remove meters at the end of their service contract.

Section 50.03. Special Standby Service Rates:

(A) A standby or breakdown 60 cycle A. C. electric service will be furnished under this classification to any customer qualifying for the large power rate who desires to self-produce all or part of the energy used in his operation.

The City will install transformers, meters, and service connections at the customer's expense to deliver energy to the customer during periods when his generating equipment is wholly or partially out of use at the following rates and conditions.

(B) Transformer KVA capacity, as used in these rates, shall be the sizes of the nearest standard rated transformers that will serve the customer's greatest use of electric energy, measured over a 15-minute period and called the yearly kilowatt peak demand for standby rate purposes.

Section 50.04. Standby Equipment Rate.

(A) The charge for equipment installed for standby or breakdown service and not used shall be \$3.00 per month for each KVA of transformer capacity determined by subtracting the monthly measured kilowatt peak demand of the partial energy used in any month from the KVA capacity as determined in Section 50.03 (B).

All energy supplied to the customer shall be charged at the regular rates applicable to the service rendered.

(B) The minimum charge shall be the demand charge created by his use, if such use is applicable to the large power rate, plus a kilowatt hour charge determined by multiplying the month peak demand by 200 hours, the result being kilowatt hours at the regular rate.

- (C) The customer must agree to isolate the self-produced energy from the City's electrical distribution system. Change-over to City distribution energy shall be accomplished through City approved double-throw switches furnished by the customer. The Electrical Department shall have the authority and access to inspect and seal or padlock the double-throw switch or switches to insure correct operation of the same.
- (D) Where the City has previously installed transformers, meters, and service connections, and where said equipment is not used, the charge for such equipment installed for standby or breakdown service shall be \$2.67 per month for each KVA of transformer capacity determined by subtracting the monthly measured kilowatt peak demand of the partial energy used in any month from the KVA capacity as determined in Section 50.03 (B) of this ordinance.

Section 50.05. Dusk to Dawn Rate:

- (A) Applicable: It is understood that the service request will be for a period of not less than one (1) year, and that said service will be installed only on existing utility facilities. If a new pole is required, the customer will furnish the pole, and the City will install the pole. The monthly charges for dusk to dawn lighting service will be:

Urban or Rural

\$12.00 per small lamp

\$ 18.00 per large lamp

- (B) Use and Reservations

The City will provide the necessary fixtures and apparatus and will replace lamps and keep this fixture properly maintained. The City does, however, reserve the right to discontinue service to any location which shows an excessive amount of damage resulting from vandalism or neglect.

Section 50.06. Large Power Rates:

- Applicable: To any customer desiring power and incidental lighting service for large power use who has a monthly demand of 100 KW or more, for at least six (6) months out of any rolling twelve (12) month period. Services meeting those conditions will be billed under the Large Power Rate. The nature of such service is alternating current, 60 Hertz, three-phase 208, 240 or 480 volts, and is metered on the primary side of the transformer. The City reserves the right to meter power on the secondary side of the transformer and in doing so will add two percent (2%) to the total energy and demand so used. For the purposes of computing rates under this section, each individual meter will be calculated separately, and under no circumstances will meter readings be combined.

\$.05950 net per KWH for all KWH used per meter per month

Plus Demand Charges of:

\$10.00 net per KW used per meter per month

Monthly maximum KW demand measured over an interval of fifteen (15) minutes.

Section 50.08. Connection Charge:

For every new meter set at the customer's request, there shall be a charge of \$10. Any customers who receive shut-off notices which are not paid by the due date and require final notification will be billed a \$10.00 notification

fee. Reconnections for non-pay which do not require the Electric Department service truck and a two-man service crew, will be \$30. Reconnections for non-pay which do require the Electric Department service truck and a two-man service crew, will be \$108.86 per hour for each hour the truck and crew are required.

This charge shall not apply when meters are reset for rotation, for meters reset for high bill complaints unless said meters are found to be accurate within two percent (2%) of registration, and for meters reset for the convenience of the City (landlords, lessors, etc.).

The maximum charge for reconnections or transfers for multiple metering such as domestic use, house heating, water heating, or commercial use, shall be \$10.

Section 50.09. Reconnection Charge:

The reconnection charge for seasonal service requested by any customer, such as summer cottages, seasonal businesses, or seasonal industries, shall be \$15 if the meter is reconnected at the same premises by the same user within one (1) year of disconnection.

The maximum charge per service for multiple metering, such as domestic service, house heating, water heating or commercial, shall be \$15.

Non-pay reconnections outside of normal business hours, which require a service truck and crew, shall be billed at \$297. Non-pay reconnects outside of normal business hours, which require one person, shall be billed at \$120.

Section 50.10. Service Extensions

For all new services, the customer, his agent, representative, contractor or developer shall pay for all materials including wire, conduit, meters, etc required to install such service in compliance with all applicable codes. Said materials will be charged at actual cost. The property owner at the time of the request shall bear responsibility for all such charges.

Underground services or line extensions will only be done between May 1st and November 1st. If a customer desires services or line extensions outside of this time frame, the customer will be responsible for providing a trench for such services or line extensions.

Section 50.11. Special Services

In the event that a customer requires special services from the department, i.e. temporary relocation or metering or other components of a service, the standard charge shall be \$108.86. Whenever the actual cost of such services exceeds \$108.86, the City reserves the right to charge the actual cost.

CHAPTER II
CONDITIONS OF SERVICE

Section 50.20. Late Payment Penalty:

Meters of all customers shall be read or estimated monthly and a three percent (3%) penalty charge will be made on all bills unpaid after the date indicated on bill. The penalty charge will be computed as of date of payment and will be computed on the amount of payment applied to the delinquent balance. The penalty charges may be waived at the discretion of the City for good reason, when the interest of the City would be best served by waiving said penalty, or if the customer proves that extraordinary circumstances intervened to prevent payment of the bill on

the due date; in all cases, it will be the exclusive right of the City to determine the facts and judge the validity of the request to waive penalty payments.

Section 50.21. Enforcement:

In addition to all other lawful enforcement methods, the City agrees and covenants to enforce all charges for electric energy supplied to any premises, if any such charges shall remain unpaid past the due date.

(A) Utility Liens

Charges for electric services applied by the system shall constitute a lien on the premises served and if not paid within six (6) months, shall be certified by the official in charge of the collection thereof to the tax assessing officer and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of Michigan and the City Charter applicable to the time and manner of certification and collection of delinquent City taxes levied against real estate in the City shall be observed in the certification and collection of such charges.

(B) Landlord Not Responsible

In all cases where a tenant is responsible for the payment of any such charge and the Utility Billing Office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice. In the event of the filing of such notice and after the date of such notice, the City shall render no further service to such premises until a cash deposit in an amount of the projected billing for not less than a one-month period and not more than a three-month period is received, said determination of deposit to be solely at the discretion of the City.

Section 50.22. Restrictions:

(A) Power Factor:

The City shall not be obligated to furnish service to a customer using equipment having a power factor lower than eighty-five percent (85%), which equipment can be improved by reasonable changes to a minimum of eighty-five percent (85%) lagging. Improvement of the power factor shall be at the customer's expense. The City reserves the right to measure power factor at any time by means of test or permanently installed metering equipment, and if the customer's power factor is found to be less than eighty-five percent (85%) lagging, the billing demand will be increased by the ratio that eighty-five percent (85%) bears to the customer's actual power factor.

(B) Discontinuation of Service:

The City may discontinue service following written notice in case the meter or wiring on the customer's premises is tampered with in any manner to allow unmetered current to be used. The customer shall pay the City the estimated cost of the unmetered energy used as determined by the City, and shall, at his own expense, place the wiring in such condition and meter box in such place as is approved by the City. The unauthorized connection to a utility power source or the bypassing of an electric meter will be construed as a theft of electricity and will be appropriately prosecuted. The City may also discontinue service when an account remains unpaid past the due date. The customer shall pay the full amount

of arrears, plus a reconnect fee in order to restore service.

Customers or Electrical Contractors shall not cut a meter seal to perform work without calling Escanaba Electric Department prior to beginning such work. Meter seals shall not be cut without prior approval except in the case of danger to life or property. In any case, permission will be given only to qualified persons to cut meter seals. Anyone not adhering to the meter seal-cutting paragraph in this ordinance shall be subject to a \$150.00 seal-cutting fee.

(C) Meter Location:

All meters must be located in such manner as to provide safe, reasonable access by City personnel for reading, inspection and maintenance, without the need for advance notice during regular City business hours. Conditions which can prevent access by City personnel include, but are not limited to, dogs, fences, locked gates, shrubbery, ice, snow, vehicles and debris in the way of the meter. Any customer who refuses to remedy a condition which prevents access shall have his or her services disconnected until said condition is corrected to the satisfaction of the utility.

New services: The meter must be located on the side of the house that the service will be fed from, or on one of the adjoining sides. The meter must not be located inside of a fenced area. All new residential underground services must have a meter pedestal. Meter bases for underground services will not be allowed. All new residential overhead services must have a rigid steel mast with an attachment point high enough to provide necessary clearance for the utility's wires.

(D) Safety and Code Compliance:

All wiring and electrical equipment must be installed, maintained, and operated in a safe manner so that it is not a hazard to life, health, or property. Wiring must be done in accordance with the latest edition of the National Electric Code and the rules and regulations of the City Electric Utility.

(E) Owner Delinquency

If a property owner has an account in his or her name and said account is delinquent or in arrears, then any transfers or name changes shall be prohibited until such time as the owner's account is brought current and is otherwise in good standing. This provision shall also apply to accounts held in the name of an owner's agent or property manager.

Section 50.23. Experience - Good Faith Deposit Requirement:

(A) Deposit Terms

If a customer of the City of Escanaba, whether he be a tenant, owner, or an owner by land contract, has a history of delinquent payments, or if the City has no history of customer's payments, or if owner or tenant customer service is located outside the corporate limits of the City of Escanaba, or if, in the judgment of the City, the existing deposit is insufficient based on current billings, the City may require a sum not to exceed the projected billing in an average four-month period as a good faith deposit. Projected billing for water sewer and electricity are combined for purposes of determining a customer's total deposit requirement. In no case will a customer's total deposit requirement be less than two hundred dollars (\$200). The minimum deposit will not be discounted for customers who do not have water service. This deposit will be held for twelve (12) consecutive months of payments without delinquency.

Deposits for commercial accounts will be estimated on an individual basis.

Commercial accounts will pay a deposit of an estimate of four (4) months' utility bills based on the estimated usage for the type of business.

(B) Deposit Interest

Interest will be paid on deposits at the rate of 1.0% per annum effective July 1, 2019. The deposit rate is based on the market rate the City receives on its deposit accounts on that date.

(C) Escrow and Letter of Credit

If a deposit of over \$500 is demanded from a commercial or large power customer, this deposit may be held in a special escrow account at the bank of the customer's choice, and interest will accrue to the benefit of the customer. Alternately, said customer may furnish an irrevocable bank letter of credit in lieu of a cash deposit.

Section 50.24. Qualification for Rate:

A customer, once placed in a rate classification, will remain in this rate classification unless, in the City's opinion, another rate classification becomes more appropriate. Customers desiring to change from one classification to another must notify the City in writing. It shall not be the City's responsibility to determine the most economical rate classification unless and until said written notice is received. In the event a change in rate classification results in reduced charges, there will be no retroactive adjustments beyond afore-referenced date of application.

In placing a customer in a rate classification, it is understood that such rate classification will remain in effect for said customer until, in the City's judgment, the rate classification is not applicable. Short duration transfers between rate classifications by customers will not be permitted. The City reserves the right of final determination as to when and whom a rate classification may be assigned or changed.

New classifications may be authorized by the City Manager if, in the opinion of the City, these new classifications provide a benefit to both the City and its customers. Customers will be placed in these classifications only at the request of the customer. These classifications will cease to exist at such time as a new rate ordinance is adopted, unless they are specifically included as a permanent rate classification under Section 50.01 and 50.02.

Section 50.25. Non-Sufficient Funds Charges (NSF)

Whenever a customer presents a check or draft instrument for which funds are not immediately available upon presentation for deposit at the City's bank, a charge of \$40 will be placed upon the account for which payment was intended. The NSF charge shall also apply to agreements for ACH account debits.

Section 50.27. Billing Recapture and Customer Credits

Whenever it becomes necessary for the billing department to recapture unbilled charges, the billing department shall use a "look-back" of two years. If it is determined that unbilled charges are the result of customer fraud, the billing department shall recover all unbilled charges.

If a billing error on the part of the City results in over-billed charges, the City will refund all such over-billings, to the extent that the amount can be reasonably determined.

If an over-billing is not the result of a City error, the billing department shall employ a two year look-back period in determining the amount of credit.

CHAPTER III

Section 50.30. Liability:

In case the supply of electricity shall be interrupted or fail, the City shall not be liable for damages by reason of such failure.

CHAPTER IV

Section 50.40. Other Ordinances:

All rules, regulations, and provisions which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect until modified or amended.

CHAPTER V

Section 50.50. Savings Clause:

If any section, subsection, sentence, clause, or phrase of this ordinance, is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

CHAPTER VI

Section 50.60. Effective Date:

In compliance with Section 4 of Chapter XVI of the City Charter, this ordinance shall be in full force and effect on bills for electric energy processed beginning July 1, 2019.

APPROVED:

APPROVED:

Ralph B. K. Peterson
City Attorney

Marc D. Tall
Mayor

Date Approved: (Month) (Day), 2019
Date Published: (Month) (Day), 2019

Attest:

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day) (Month) (Date), 2019, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Month) (Date), 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Phil DeMay
City Clerk

**ORDINANCE NO. 1208
WASTEWATER RATES**

AN ORDINANCE FIXING THE CHARGES TO BE ASSESSED BY THE CITY OF ESCANABA FOR WASTEWATER COLLECTION AND TREATMENT AND THE AVAILABILITY OF SERVICE TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2019 , AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE CITY COUNCIL.

THE CITY OF ESCANABA ORDAINS:

Section 1.00 SEWER SERVICE CHARGES

1.01 Charges for operation, maintenance, and replacement shall be levied monthly on the basis of metered water consumption, according to the following:

\$3.94 Net Per Thousand Gallons, plus monthly availability debt service charge based on the size of a customer's water service to be determined as follows:

5/8"&3/4"	Meter	\$ 9.34	per month
1"	Meter	11.57	per month
1 1/4"	Meter	16.28	per month
1 1/2"	Meter	23.33	per month
2"	Meter	34.92	per month
3"	Meter	69.92	per month
4"	Meter	93.23	per month
6"	Meter	209.75	per month
8"	Meter	302.96	per month
10"	Meter	419.50	per month
12"	Meter	466.12	per month

The minimum monthly bill shall be the "availability" charge herein set forth.

1.02 Outside the City Wastewater Rates

The outside City wastewater charges shall equal the City charge for operation, maintenance, and replacement and shall be twice the inside City charge for availability.

1.025 The flat rate charge for unmetered residential wastewater services shall be \$28.58 per month.

1.03 In the event that a user introduces a substance into the wastewater system that results in extraordinary treatment, procedures, or costs, the City reserves the right to bill the user in accordance with the Michigan Department of Natural Resources (DNR) approved water charge system, or if the substance cannot be treated feasibly, the City reserves the right to terminate utility service to the user.

1.04 In the event that a user introduces a substance into the system that results in damages to property or environment, said user will be solely responsible for compensatory and/or punitive damages.

1.05 The City Manager will set the charge for any service not covered by this ordinance.

1.06 Non-Sufficient Funds Charges (NSF)

Whenever a customer presents a check or draft instrument for which funds are not immediately available upon presentation for deposit at the City's bank, a charge of \$40 will be placed upon the account for which payment was intended. The NSF charge shall also apply to agreements for ACH account debits.

1.07 Billing Recapture and Customer Credits

Whenever it becomes necessary for the billing department to recapture unbilled charges, the billing department shall use a "look-back" period of two years. If it is

determined that unbilled charges are the result of customer fraud, the billing department shall recover all unbilled charges.

If a billing error on the part of the City results in over-billed charges, the City will refund all such over-billings, to the extent that the amount can be reasonably determined.

If an over-billing is not the result of a City error, the billing department shall employ a two year look-back period in determining the amount of credit.

Section 2.00 USER CHARGE SYSTEM

2.01 Established Basis for Computations

Rates and charges for the use of the wastewater system of the City shall be based upon the methodology in the user charge system approved by the Michigan DNR. Revisions to the rates for total sewer service charges are to be established by ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance, and replacement costs, as well as debt service.

User charges for operation, maintenance and replacement shall be subject to the annual review of the user charge system. User charges shall be the same for all customers of the system regardless of geographical boundaries.

BOD (Biochemical Oxygen Demand) will be charged \$0.43/lb, above 300 mg/l.

SS (Suspended Solids) will be charged \$0.46/lb, above 300 mg/l.

Phosphorus will be charged \$6.91/lb, above 12 mg/l.

2.02 Amounts, Billings, Sewer Service Charges

The rates and charges for service furnished by such system shall be levied upon each lot or parcel of land, building or premises, having any sewer connection with such systems, on the basis of the equivalent residential units and shall be collected monthly, except in cases where the character of the sewage from a manufacturer is such that reasonable, additional burden is placed on the system.

2.03 Annual Audit

The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance, and replacement of the system as are necessary to preserve the same in good repair and working order.

Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on said audit, rates for sewage services shall be revised as necessary by the City to meet system expenses and to ensure that all user classes pay their proportionate share of operation, maintenance, and equipment replacement costs.

2.04 Free Services

No free services shall be allowed for any user of the wastewater treatment works.

2.05 Late Payment Penalty

Meters of all customers shall be read or estimated monthly and a three percent (3%) penalty charge will be made on all bills unpaid after the due date indicated on bill. Penalty charges may be waived at the discretion of the City for good reason. In all cases, it will be the exclusive right of the City to determine the facts and judge the validity of the request to waive the penalty payments.

2.06 Enforcement:

In addition to all other lawful enforcement methods, the City agrees and covenants to enforce all charges for wastewater services supplied to any

premises, if any such charges shall remain unpaid past the due date.

2.07 Utility Liens

Charges for wastewater services applied by the system shall constitute a lien on the premises served and if not paid within six (6) months, shall be certified by the official in charge of the collection thereof to the tax assessing officer and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of Michigan and the City Charter applicable to the time and manner of certification and collection of delinquent City taxes levied against real estate in the City shall be observed in the certification and collection of such charges.

2.075 Landlord Not Responsible

In all cases where a tenant is responsible for the payment of any such charge and the Utility Billing Office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice. In the event of the filing of such notice and after the date of such notice, the City shall render no further service to such premises until a cash deposit in an amount of the projected billing for not less than a one-month period and not more than a three-month period is received, said determination of deposit to be solely at the discretion of the City.

2.08 Experience - Good Faith Deposit Requirement

(A) Deposit Terms

If a customer of the City of Escanaba, whether he be a tenant, owner, or an owner by land contract, has a history of delinquent payments, or if the City has no history of customer's payments, or if owner or tenant customer service is located outside the corporate limits of the City of Escanaba, or if, in the judgment of the City, the existing deposit is insufficient based on current billings, the City may require a sum not to exceed the projected billing in an average four-month period as a good faith deposit. Projected billing for water sewer and electricity are combined for purposes of determining a customer's total deposit requirement. In no case will a customer's total deposit requirement be less than two hundred dollars (\$200). In the case of an account which does not include electric service, the total deposit requirement shall not be less than one hundred dollars (\$100). This deposit will be held for twelve (12) consecutive months of payments without delinquency.

Deposits for commercial accounts will be estimated on an individual basis. Commercial accounts will pay a deposit of an estimate of four (4) months' utility bills based on the estimated usage for the type of business.

(B) Deposit Interest

Interest will be paid on deposits at the rate of 1.0 % per annum effective July 1, 2019. The deposit rate is based on the market rate the City receives on its deposit accounts on that date.

(C) Escrow and Letter of Credit

If a deposit of over \$500 is demanded from a commercial or large power customer, this deposit may be held in a special escrow account at the bank of the customer's choice, and interest will accrue to the benefit of the customer. Alternately, said customer may furnish an irrevocable bank letter of credit in lieu of a cash deposit.

2.09 No user shall introduce any substance, including toxic matter, chemicals, or

flammable liquids, or water derived from other than metered City sources, into the City sewer system without first receiving specific approval from the Superintendent of Wastewater.

- 2.10 Water customers not introducing all of their usage into the sewer system may apply to the Utility Office for exemption from wastewater charges for the usage not introduced, by requesting the installation of a meter to determine, through the use of the meter, the purchased water that is not being introduced into the sewage system.
- 2.11 Exemptions.

Requests for special exemption from wastewater charges, due to extenuating circumstances, will be considered by the City Manager or her/his designated official. Each request will be assessed on the facts as determined by said official.

Section 3.00 VALIDITY, SEVERABILITY, CONFLICT, LIABILITY

- 3.01 The provisions of this article are severable, and if any of the provisions, words, phrases, clauses or terms, or the application thereof to any person, firm, or corporation, or to any circumstances, shall be held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality, or constitutionality of any other provisions, word phrase, clause or term, and they shall continue in full force and effect.
- 3.02 All rules, regulations, and provisions, which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect unless modified or amended by the terms of this ordinance.
- 3.03 All laws and parts of laws, all ordinances, codes and regulations which are inconsistent with or in conflict with or repugnant to any provisions of this ordinance, shall be deemed not to apply; provided that nothing herein contained shall be construed to prevent the adoption and enforcement of law, ordinance, or regulation which is more restrictive or establishes a higher standard than those provided in this article.

Section 4.0 EFFECTIVE DATE

This ordinance shall be in full force and effect for billings processed after June 30, 2019, and after the passage of this Ordinance and publication.

APPROVED:

Ralph B. K. Peterson
City Attorney

Date Approved: (Month) (Date), 2019
Date Published: (Month) (Date), 2019

APPROVED:

Marc D. Tall
Mayor

Attest:

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day), the (Date) day of (Month), 2019, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Day), 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Phil DeMay
City Clerk

**ORDINANCE NO. 1209
WATER RATES**

THE ORDINANCE FIXING THE RATES TO BE CHARGED BY THE CITY OF ESCANABA FOR WATER DISTRIBUTION, TREATMENT, AND AVAILABILITY TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2019, AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE COUNCIL.

THE CITY OF ESCANABA ORDAINS:

**CHAPTER I
RATES**

For water distribution and treatment, there shall be charged by the City of Escanaba the rates herewith set forth as follows:

Section 101. Metered Water Rates (Monthly):

\$ 4.15 Net Per Thousand Gallons

Plus, a monthly availability charge based on the size of the customer's service to be determined as follows:

5/8" & 3/4" Meter.....	\$ 22.82	per month
1" Meter.....	28.52	per month
1 1/4" Meter.....	39.85	per month
1 1/2" Meter.....	57.00	per month
2" Meter.....	85.58	per month
3" Meter.....	171.03	per month
4" Meter.....	227.97	per month
6" Meter.....	513.05	per month
8" Meter.....	741.28	per month
10" Meter.....	1026.02	per month
12" Meter.....	1,140.05	per month

Minimum Bill: The minimum monthly bill shall be the "availability" charge herein set forth.

Section 102. Outside City Metered Water Rates:

The outside City rates shall be twice the inside City rates.

Section 103. Construction Service:

103.1 Use of City Hydrants or Standpipes as a Source of Water.

- A deposit of \$100.00 shall be required for each hydrant connection;
- Payment of \$140.00 shall be made at time of application and will include the initial installation and 1st month rental fee for both hydrant and backflow device;
- Relocation fee shall be \$55.00 each time the meter is moved;
- Additional month meter rental shall be \$55.00 per month;
- Additional month back flow device rental shall be \$30.00 per month;
- All metered water shall be billed at \$4.15/1,000 gallons.

103.2 When a service line is installed at construction site and it is not feasible to set a meter, the flat rate charge for water used will be as follows:

1" Service Line . . . \$52.19 per month

103.3 Customers will be charged actual cost for construction of all services, regardless of size.

Section 104. Special Cases

The City Manager will set the charge for any service not included in this action, including charges for meters which are damaged or faulty. The City retains the right to discontinue service to a customer in order to bring the customer's installation up to City standards.

Section 105. Unmetered Water Sales

Unmetered water rates shall be charged at the rate of \$4.15 per thousand gallons on the estimated usage for each month, plus, a minimum monthly service charge based upon an estimated meter size requirement, if the consumer were metered, which shall be levied from the metered water rate service charge schedule.

The basis for estimating residential flat rate or unmetered water sales shall consist of a representative average residential usage for each month.

Section 106. Fire Protection Charges

Charge per fire hydrant will be computed at \$523.19 per year per hydrant. The annual availability charge for a special water line for a fire protection system shall be \$522.48 for a six-inch line, \$927.12 for an eight-inch line, \$1,449.48 for a ten-inch line, \$2,089.96 for a twelve-inch line, and \$3,713.67 for a sixteen-inch line. Rates for hydrant rental in Wells Township will be \$503.63 per year per hydrant.

Section 107. Connection To Public Water Supply

- (A) No person shall tap any water main or distribution pipe of the water distribution system, or insert therein any corporation cock, stop cock or any other fixture of appliance, or alter or disturb any service pipe, corporation stop, curb stop, gate valve, hydrant, water meter or any other attachment belonging to the water distribution system and attached thereto without the explicit and official permission of an authorized representative of the city. No person shall install any water service pipe or connect or disconnect any such service pipe with or from the mains or distribution pipes of said water distribution system, nor with or from any other service pipe now or hereafter connected with said system, nor make any repairs, additions to, or alterations of any such service pipe, tap, stop cock or any other fixture of attachments connected with any such service pipe, without proper permit for same.
- (B) The owner, tenant or occupant of each lot or parcel of land which abuts upon a street or other public way containing a water main or a water system upon which lot or parcel a building shall have been, is or will be constructed for residential, commercial or industrial use in the city shall connect such building with such water main and shall cease to use any other source of water supply for any purpose. An exception shall be made for outdoor irrigation purposes.
- (C) Any such owner, tenant or occupant of a lot or parcel of land in the city along a water main constructed prior to July 1, 2019, who has an existing domestic supply or source of potable water shall be exempt from the provision of this section. However, when the existing water source for the parcel is insufficient or requires maintenance or upgrade, the owner, tenant, or occupant shall immediately connect to the city water system. Buildings which are located more than 600 feet from the public water line are exempt from this article.
- (D) Any such owner, tenant or occupant of a lot or parcel of land in the city who has an existing domestic supply or source of potable water who is exempted from the provisions of this section as provided in this section shall be subject to all fees normally charged for non-users of the public water system for fire protection services.

- (E) No well, spring or other water supply shall be permitted for residential, commercial or industrial usage when property is adjacent to public water system.
- (F) The owner, tenant or occupant of each lot or parcel of land which abuts upon a street or other public way containing a water main or a water system upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use in the city who has an existing water system shall be required to connect to the public water system in the event the owner, tenant or occupant of any such lot shall cease to use the existing domestic supply or source of potable water or it requires maintenance.
- (G) All costs and expense incident to the installation and connection of the water service line shall be borne by the owner. The owner shall indemnify the city from any loss, damage or restoration costs that may be occasioned by the installation of the water service line.
- (H) The materials of construction of a water service line and the methods to be used in excavation, placing of the pipe, testing, disinfection and backfilling the trench shall all conform to the requirement of the building code or applicable state department of environment quality rules, regulations and engineering standards of the city. All excavations required for the water service line shall be open trench work, unless otherwise approved by the city engineer. No backfill shall be placed until the work has been inspected in accordance with this section.
- (I) Exceptions:
 - 1. Nothing contained in this article shall restrict the use of existing points, wells, springs or other sources of water supply for outside irrigation use, provided that there shall be no interconnection between such water supply and the city's water system.
 - 2. The city council or its duly designated representative, acting pursuant to rules, regulations and guidelines adopted by the council, may grant exceptions to the requirements of this article based on unusual circumstances existing in a particular case.

Section 107.1. Service Transfers and Fees

For each service transfer request, there shall be a charge of \$10.00. The transfer fee is limited to those situations which require only a meter reading. For any service calls during regular working hours, including meter sets and valve turning, there shall be a charge of \$15.00. These charges are applicable only to requests for turning on a service. There are no charges for the shut-off of a service. Charges for turning on a service outside of regular hours will be \$120.00.

Section 108. Reconnection Charge

The reconnection charge for seasonal service requested by any customer, such as people going away for the winter, seasonal businesses, or seasonal industries, shall be \$30.00 if the meter is reconnected at the same premises by the same user within one year of disconnection. There shall be a reconnection charge of \$30.00 for shut offs due to nonpayment. Non-pay reconnects outside of normal business hours shall be billed at \$120.00.

Section 109. Meter Charges In New Construction

A customer who installs a new water service that is not a replacement for an existing service must pay a one time meter charge equal to the actual cost of the meter plus 15% prior to receipt of services. Meter charges and specifications shall be established by the City Water Superintendent and

shall be adjusted at his discretion. Customers are not permitted to remove meters at the end of their service contract.

A customer who requests replacement of an existing, properly functioning, meter shall be charged the actual cost of the new meter plus 15%. In addition, such customer shall pay materials at actual cost plus 15%.

Section 110. Non Sufficient Funds Charges (NSF)

Whenever a customer presents a check or draft instrument for which funds are not immediately available upon presentation for deposit at the City's bank, a charge of \$40 will be placed upon the account for which payment was intended. The NSF charge shall also apply to agreements for ACH account debits.

Section 111. Billing Recapture and Customer Credits

Whenever it becomes necessary for the billing department to recapture unbilled charges, the billing department shall use a "look-back" period of two years. If it is determined that unbilled charges are the result of customer fraud, the billing department shall recover all unbilled charges.

If a billing error on the part of the City results in over-billed charges, the City will refund all such over-billings, to the extent that the amount can be reasonably determined.

If an over-billing is not the result of a City error, the billing department shall employ a two year look-back period in determining the amount of credit.

Section 113. Frozen Meter Charge

If a water meter freezes and becomes damaged as a result of freezing, the account holder shall be required to pay to the City, the actual replacement cost of the meter plus 15%.

Section 114. Cross Connections

The city hereby adopts by reference the Water Supply Cross Connection Rules of the state department of environmental quality, being R 325.11401 through R 325.11407 of the Michigan Administrative Code.

It shall be the duty of the water utility to cause inspections to be made of all properties serviced by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the water utility and as approved by the state department of environmental quality.

1. The representative of the city water utility shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
2. The water utility is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this article.

CHAPTER II
CONDITIONS OF SERVICE

Section 201. Late Payment Penalty

Meters of all customers shall be read or estimated monthly and a three percent (3%) penalty charge will be made on all bills unpaid after the due date indicated on bill. Penalty charges may be waived at the discretion of the City for good reason in all cases, it will be the exclusive right of the City to determine the facts and judge the validity of the request to waive the penalty payments.

Section 202. Enforcement

In addition to all other lawful enforcement methods, the City agrees and covenants to enforce all charges for water supplied to any premises by discontinuing the water service to such premises if any such charges shall remain unpaid past the due date.

(A) Utility Liens

Charges for water services applied by the system shall constitute a lien on the premises served and if not paid within six (6) months, shall be certified by the official in charge of the collection thereof to the tax assessing officer and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of Michigan and the City Charter applicable to the time and manner of certification and collection of delinquent City taxes levied against real estate in the City shall be observed in the certification and collection of such charges.

(B) Landlord Not Responsible

In all cases where a tenant is responsible for the payment of any such charge and the Utility Billing Office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice. In the event of the filing of such notice and after the date of such notice, the City shall render no further service to such premises until a cash deposit in an amount of the projected billing for not less than a one-month period and not more than a three-month period is received, said determination of deposit to be solely at the discretion of the City.

Section 203. Experience - Good Faith Deposit Requirement

(A) Deposit Terms

If a customer of the City of Escanaba, whether he be a tenant, owner, or an owner by land contract, has a history of delinquent payments, or if the City has no history of customer's payments, or if owner or tenant customer service is located outside the corporate limits of the City of Escanaba, or if, in the judgment of the City, the existing deposit is insufficient based on current billings, the City may require a sum not to exceed the projected billing in an average four-month period as a good faith deposit. Projected billing for water sewer and electricity are combined for purposes of determining a customer's total deposit requirement. In no case will a customer's total deposit requirement be less than two hundred dollars (\$200). In the case of an account which does not include electric service, the total deposit requirement shall not be less than one hundred dollars (\$100). This deposit will be held for twelve (12) consecutive months of

payments without delinquency.

Deposits for commercial accounts will be estimated on an individual basis. Commercial accounts will pay a deposit of an estimate of four (4) months' utility bills based on the estimated usage for the type of business.

(B) Deposit Interest

Interest will be paid on deposits at the rate of 1.0% per annum effective July 1, 2019. The deposit rate is based on the market rate the City receives on its deposit accounts on that date.

(C) Escrow and Letter of Credit

If a deposit of over \$500 is demanded from a commercial or large power customer, this deposit may be held in a special escrow account at the bank of the customer's choice, and interest will accrue to the benefit of the customer. Alternately, said customer may furnish an irrevocable bank letter of credit in lieu of a cash deposit.

Section 204. Discontinuation of Service

Water services may be discontinued if the wastewater charges are not paid.

Section 204.1 Tampering

The City may discontinue service following a written notice in the event that the user has tampered with the metering, bypassed said metering, or cross connected to the City system. Also, the unauthorized cross connection or tampering with the metering will result in the customer being billed for the estimated cost of the water used, as determined by the City, and the act of cross-connecting or bypassing the meter will be construed as a theft of utility water and appropriately prosecuted.

Section 204.2 Seal Cutting (note: broke out into new section)

Neither customers nor plumbing contractors shall cut a meter seal to perform work without calling the Escanaba Utility Billing Department prior to beginning such work. Permission will be given only to qualified persons to cut meter seals. Anyone not adhering to this provision shall be subject to a \$75.00 seal-cutting fee.

Section 205. Liability

In case the supply of water shall be interrupted or fail by reason of accident or causes beyond the control of the City, the City shall not be liable for damages by reason of such failure.

Section 206. Location of Meters

All meters must be located in such manner as to provide safe, reasonable access by City personnel for reading, inspection and maintenance, without the need for advance notice during regular City business hours. Conditions which can prevent access by City personnel include, but are not limited to, dogs, fences, locked gates, shrubbery, ice, snow, vehicles and debris in the way of the meter. Any customer who refuses to remedy a condition which prevents access shall have his or her services disconnected until said condition is corrected to the satisfaction of the utility.

Section 207. Backflow Device Testing

Anyone performing a test of a backflow or cross connection device must forward a copy of the test results to the City Water Department within 30 days of having completed said test. A property owner shall have sole

responsibility for compliance with this section. A property owner shall be responsible for all investigation costs if such investigation results in a finding of “non-compliance.” Failure to comply with this section shall be grounds for discontinuation of water service.

CHAPTER III
OTHER ORDINANCES

All rules, regulations, and provisions, which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect unless modified or amended by the terms of this ordinance.

CHAPTER IV
SAVINGS CLAUSE

If any section, subsection, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

CHAPTER V
EFFECTIVE DATE

In compliance with Section 4 of Chapter XVI of the City Charter, this ordinance shall be in full force and effect for billings processed after June 30, 2019, and after passage of this ordinance and its publication.

APPROVED:

APPROVED:

Ralph B. K. Peterson
City Attorney

Marc D. Tall
Mayor

Date Approved: (Month) (Date), 2019
Date Published: (Month) (Date), 2019

Attest:

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day) the (Date) day of (Month) 2019 , and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Date), 2019 , and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Phil DeMay
City Clerk

ORDINANCE NO. 1210
SOLID WASTE RATES

AN ORDINANCE TO AMEND CHAPTER 14, FIXING THE CHARGES TO BE ASSESSED BY THE CITY OF ESCANABA FOR SOLID WASTE, RECYCLING, YARD WASTE AND LITTERING, TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2019 AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE CITY COUNCIL OF THE CODE OF ORDINANCES OF THE CITY OF ESCANABA

THE CITY OF ESCANABA ORDAINS:

CHAPTER I

Chapter 14, Section 3, Collection of Charges; Liens, of the Code of Ordinances shall be amended as follows:

1. Each small garbage customer shall be charged the sum of Three Dollars (\$3.25) per month for the collection and disposal of up to three (3) solid waste carts of solid waste per week.

The City may, at its sole discretion, grant a small garbage exemption from solid waste charges if all of the following conditions exist: (a) a building or portion thereof must be unoccupied for the entire billing period in question; (b) a building or portion thereof must have either its electric or water service "shut off" for the entire billing period in question; and (c) no refuse may be placed for pickup at the occupancy in question during the billing period in question. Retroactive exemption will not be granted.

2. Each large garbage customer shall be charged the sum of Thirteen Dollars (\$13.00) per month for the collection and disposal of four (4) or five (5) solid waste carts of solid waste per week.

The City may, at its sole discretion, grant a large garbage exemption from solid waste charges if the customer in question furnishes the billing department with evidence of private collection. Retroactive exemptions will not be granted.

3. Any customer who exceeds five (5) solid waste carts of solid waste per week will be required to provide for the collection and disposal of their solid waste through other methods.
4. Should the State of Michigan or any other duly authorized governmental agency mandate any cost increases for the disposal of solid waste at the Delta Solid Waste Management Landfill, these additional costs will be added to the rates as previously described.
5. There is created and established a special fund to be known and designated as the "Solid Waste Fund" into which all sums collected under this chapter shall be deposited and kept by the City Treasurer and from which all expenses of the administration and operation of this chapter shall be paid.
6. All solid waste collection service charges shall be paid to the City Treasurer.
7. A three (3%) percent penalty charge will be made on all bills unpaid after the date indicated on the bill. The penalty charge will be computed as of the date of payment and will be computed on the amount of payment applied to the delinquent balance. The penalty charges may be waived at the discretion of the city for good reason when the interest of the city would be best served by waiving said penalty or if the customer proves extraordinary circumstances intervened to prevent payment of the bill on the due date. In all cases, it will be the exclusive right of the city to determine the facts and judge the validity of the request to waive the penalty payments.
8. In addition to all other remedies for the collection of delinquent charges or billing authorized by ordinances of the city pertaining to solid waste collection, the city shall have the right to such liens and procedures as may be established for the collection

of solid waste utility charges as are now or hereafter authorized by the laws of the state.

Chapter 14, Section 4. Enforcement, of the Code of Ordinances shall be amended as follows:

Charges for solid waste disposal shall constitute a lien on the premises served and if not paid within six (6) months shall be certified by the official in charge of the collection thereof to the tax assessing officer, and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general city taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of the state and the city charter applicable to the time and manner of certification and collection of delinquent city taxes levied against real estate in the city shall be observed in the certification and collection of such charges, provided, however, that in all cases where a tenant is responsible for the payment of any such charge and the utility billing office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice.

CHAPTER II
SAVINGS CLAUSE

If any section, subsection, sentence, clause, or phrase of the within Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER III
REPEALING CHAPTER

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

CHAPTER IV
EFFECTIVE DATE

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

APPROVED:

Ralph B. K. Peterson
City Attorney

Marc D. Tall
Mayor

Attest:

Date Approved: (Month) (Date), 2019
Date Published: (Month) (Date), 2019

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day), the (Date) day of (Month) 2019, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Date), 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Phil DeMay
City Clerk

Agenda Item: NB-2
CC. 6/3/19

City Council Agenda Item Request

Date: 24MAY19

Name: Mike Furmanski

Department: Electric

Item: PA 365

Explanation for request:

Public Act 365 of 2018 (the Small Wireless Communications Facilities Deployment Act) requires pole owners to have a process in place that is nondiscriminatory and competitively neutral. Part of the requirement is to determine pole rental rates. The Michigan Municipal Electric Association has been using Sean Knowles of McLean Engineering to assist the group in meeting the requirements of the new law. Many of the members have also used Sean Knowles to assist them individually.

I would like to seek Council approval to hire McLean Engineering of Moultrie, GA to assist us with the requirements of Public Act 365 for a not-to-exceed cost of \$5000.



MICHIGAN MUNICIPAL
ELECTRIC ASSOCIATION

Pole Attachment Training

February 13, 2019
Lansing, MI

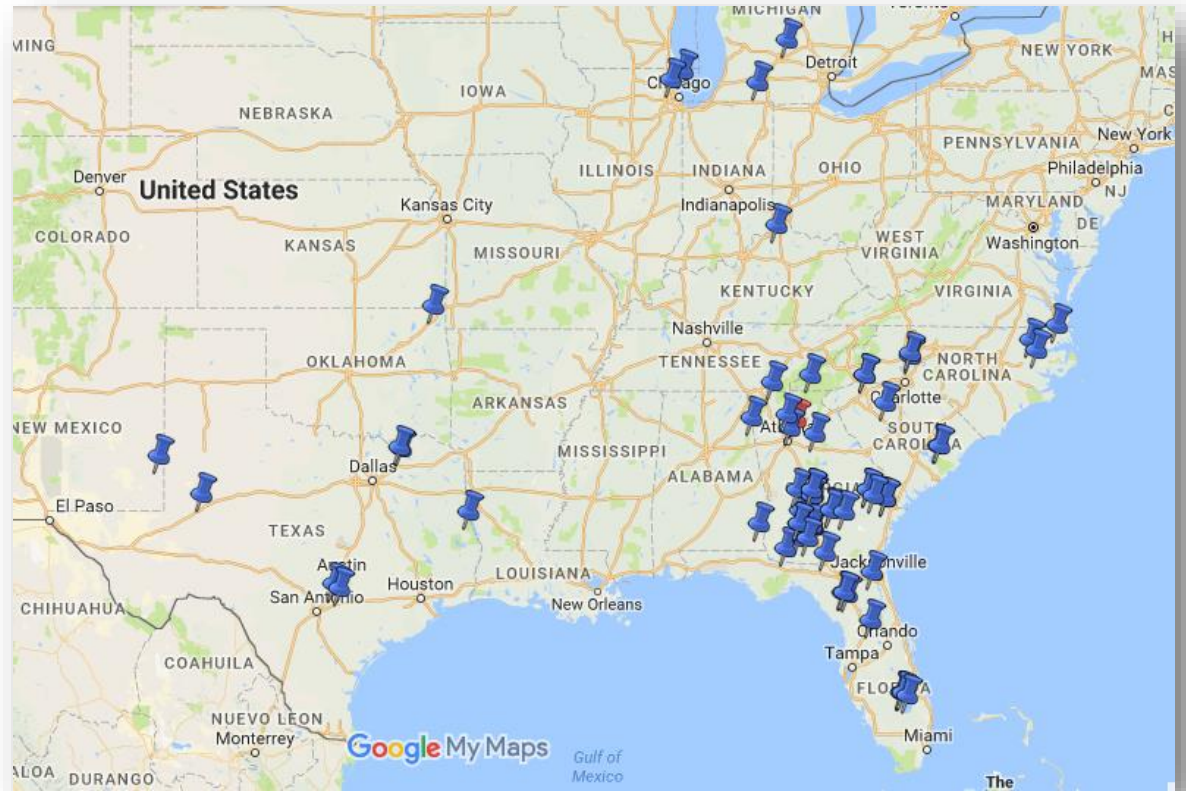
Agenda

- Introduction and Pole Attachment Overview
- SB 637/PA 365 Requirements
- Overview – MMEA Resources
 - Standard Pole Attachment Agreement
 - Wireless Pole Attachment Addendum
 - Permit Form
 - OTMR Toolkit
- FCC Rental Rate Cost Calculations
- Recap and Review

About Us

McLean Engineering, Est. 1936

- Pole Attachments
- Power Engineering Design
- Inspection



Introduction:

A Little “Pole-osophy”



Step Three: Mutual Benefit

Step Two: Improved Relationships

Step One: Reconciliation

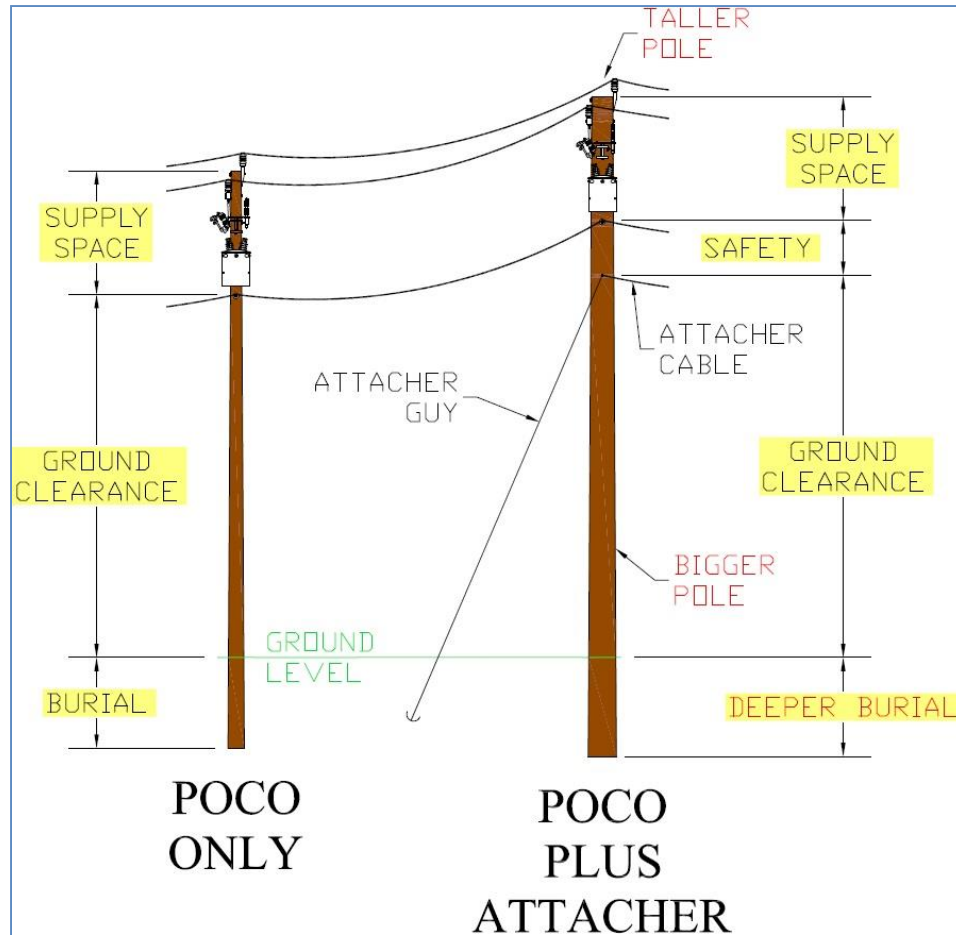
Introduction:

A Little “Pole-osophy”

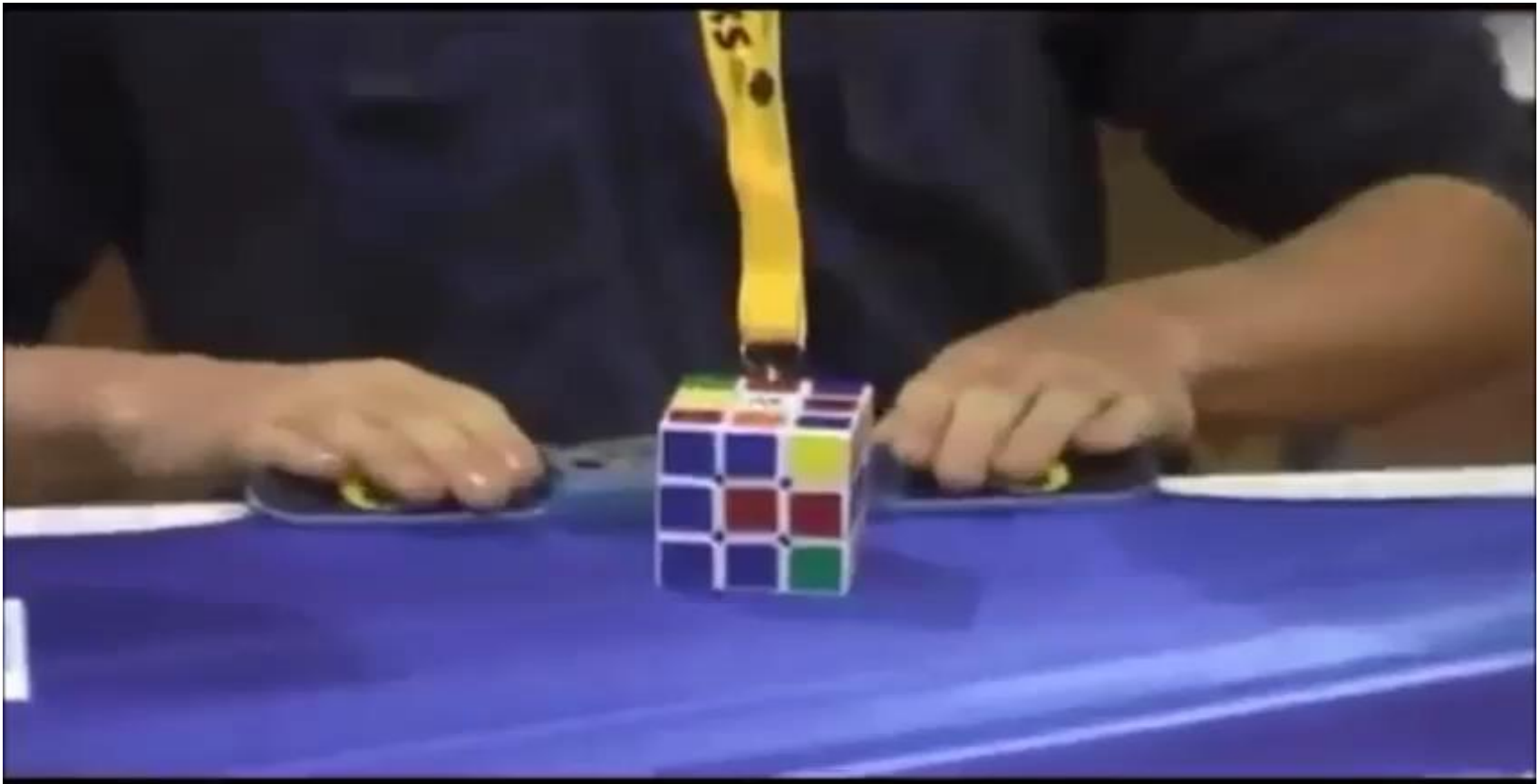
Step One: Reconciliation

- Achieve Normal Business Function
- Attachments Should Cover their Cost
- Correct Past, Present and Future Issues
- Remove Attachment “Headaches”

Pole Attachment Overview



Pole Attachment Overview



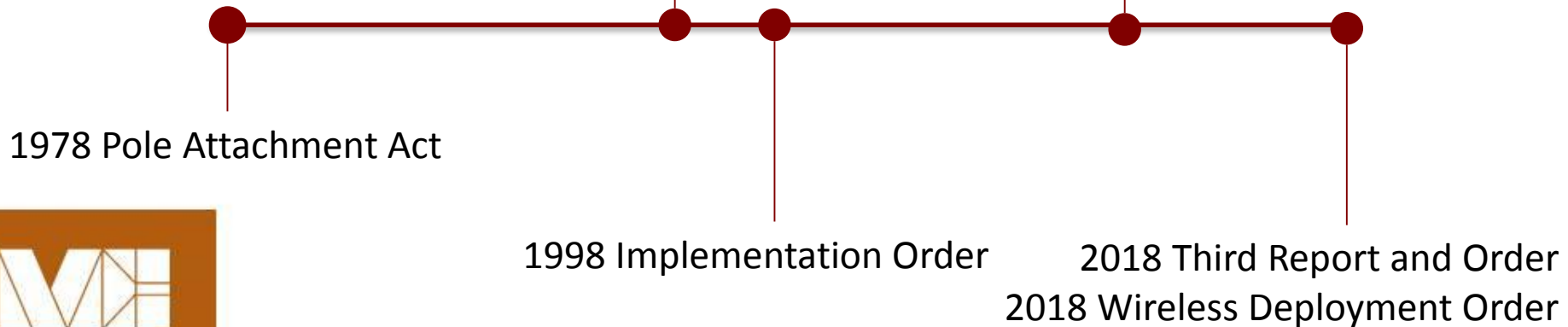
Pole Attachment Overview

- Universal Truths
 - Agreements and Regulatory Environments are NOT Created Equal
 - Streamline the Process to Attach
 - Correct Past, Present and Future Issues
 - Remove Attachment “Headaches”
 - Attachments Process Should Not Lose Money

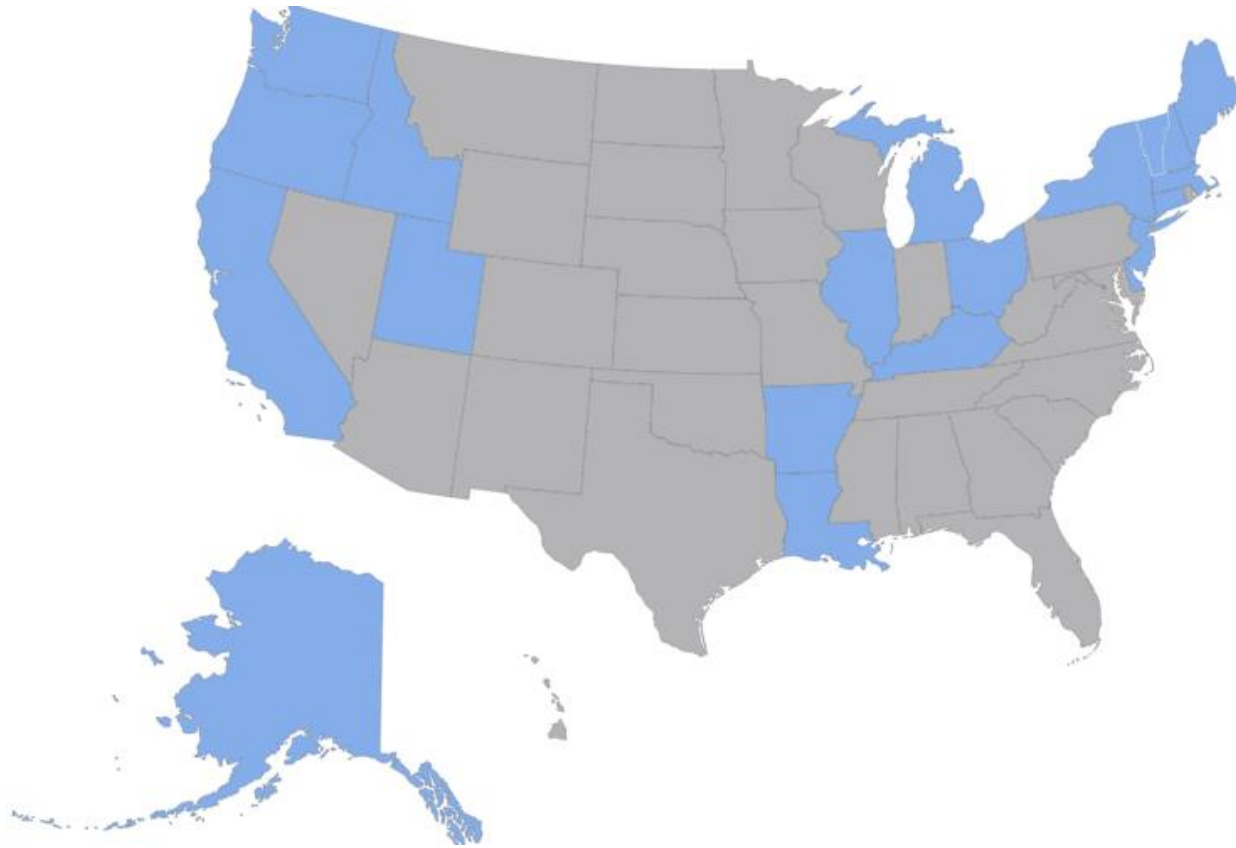
A Brief History...



Telecommunications Act of 1996



States That Regulate



Small Wireless Communications Facilities Deployment Act

PA 365 of 2018

Purpose

***** Act 365 of 2018 THIS NEW ACT IS EFFECTIVE MARCH 12, 2019 *****
SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT ACT
Act 365 of 2018

AN ACT to provide for the regulation by state or local government authorities and municipally owned

(2) The purpose of the act is to do all of the following:

(a) Increase investment in wireless networks that will benefit the citizens of this state by providing better access to emergency services, advanced technology, and information.

(b) Increase investment in wireless networks that will enhance the competitiveness of this state in the global economy.

(c) Encourage the deployment of advanced wireless services by streamlining the process for the permitting, construction, modification, maintenance, and operation of wireless facilities in the public rights-of-way.

(d) Allow wireless services providers and wireless infrastructure providers access to the public rights-of-way and the ability to attach to poles and structures in the public rights-of-way to enhance their networks and provide next generation services.

(a) Increase investment in wireless networks that will benefit the citizens of this state by providing better access to emergency services, advanced technology, and information.

(b) Increase investment in wireless networks that will enhance the competitiveness of this state in the

(f) Address the timely design, engineering, permitting, construction, modification, maintenance, and operation of wireless facilities as matters of statewide concern and interest.

networks and provide next generation services.

(e) Ensure the reasonable and fair control and management of public rights-of-way by governmental authorities within this state.

(f) Address the timely design, engineering, permitting, construction, modification, maintenance, and

(i) Prioritize, as provided in this act, the use of existing utility poles and wireless support structures for collocation over the installation of new utility poles or wireless support structures.

providers.

(iii) Allows for a level playing field for competitive communications service providers.

(iv) Protects public health, safety, and welfare.

(b) Increase the connectivity for autonomous and connected vehicles through the deployment of small cell wireless facilities with full access and compatibility for connected and autonomous vehicles as determined and approved by the state transportation department, county road commissions, and authorities.

(i) Prioritize, as provided in this act, the use of existing utility poles and wireless support structures for collocation over the installation of new utility poles or wireless support structures.

History: 2018, Act 365, I.E. Mar. 12, 2019.

***** 460.1303.new THIS NEW SECTION IS EFFECTIVE MARCH 12, 2019 *****

460.1303.new Definitions; A, B.

Sec. 3. As used in this act:

Rendered Wednesday, February 6, 2019

Page 1

Michigan Compiled Law Complete Through PA 530 of 2018

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Courtesy of www.legislature.mi.gov

SB 637 – Key Provisions

Definitions:

- ***Small Cell Wireless Facility:*** Wireless facility that meets the following:
 - Antenna <6 cubic feet
 - All other wireless equipment <25 cubic feet
- ***Micro Wireless Facility:*** Small cell wireless facility not more than:
 - 24” Long
 - 15” Wide
 - 12” High
 - Exterior Antenna <11”
- ***Non-Authority Pole:*** Controlled by the governing body of a municipally-owned electric utility. Separate from “Authority” or “Utility” Pole.





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SB 637 – Key Provisions

Sec 21:

- Non-discriminatory, competitively neutral access
- Adhere to NESC/Utility's standards
- Wireless providers MUST execute standard pole attachment agreement if required for other attachers
- MUST have a permitting process in place within 180 days of the bill becoming law
- CANNOT impose moratorium on processing permits
- CANNOT require in-kind work or contributions

SB 637 – Key Provisions

Sec 21 (cont):

- Max application fee: \$100/Pole
+ \$100 fee if request requires engineering analysis (+ make-ready)
- Max rental rate: \$50/year for wireless attachments.
- 10% increase every 5 years
- If Utility has Make-Ready process, Wireless Providers must follow
- If Utility has no process, wireless providers must to follow FCC guidelines
- Make-Ready MUST be based on actual costs; documentation provided

SB 637 – Key Provisions

Sec 23:

- Attaching entities must comply with safety, reliability, and engineering standards, including OSHA, NESC and utility's standards
- Wireline providers required to execute Utilities' standard agreement
- Maximum allowable pole attachment rental rate set at FCC max
- Attaching entities must notify and allow opportunity for cure before filing lawsuit Re: pole attachment rental rate

SB 637 – Key Provisions

Provisions N/A to Electric Utilities/“Non-Authorities”:

- Public Rights-of-Way
- Easements
- Zoning
- Local Govt Permitting and Fees

SB 637 – Key Dates

Effective Date:

Process Deadline:

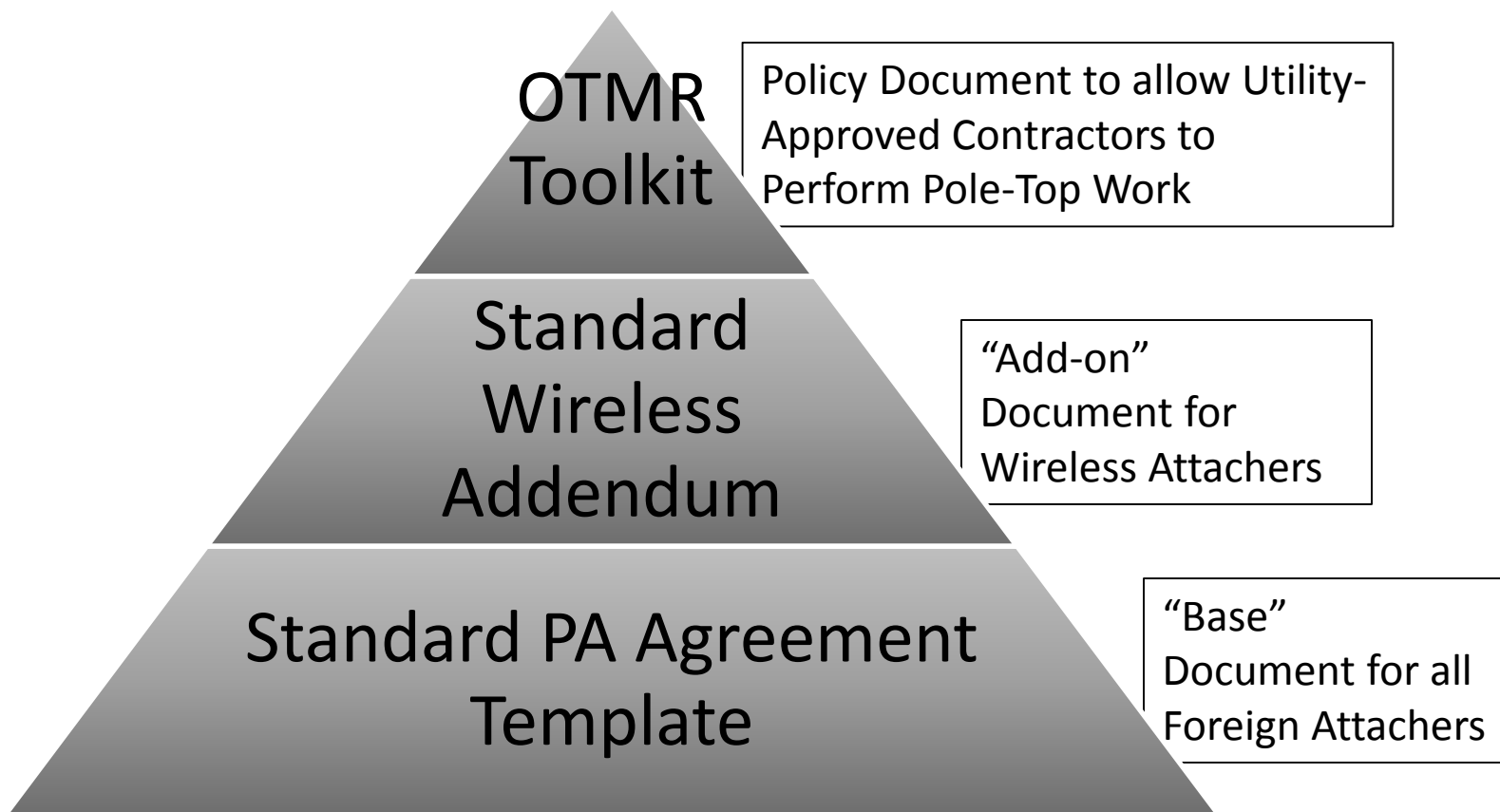
March 2019						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June 2019						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Tuesday, Mar 12th 2019

Monday, Jun 10th 2019

MMEA Resources



All Available via MMEA Web Portal

MMEA Standard Pole Attachment Agreement

Contract Provisions

- Article II – Explanation of Terms
- Article III – Specifications
- Article IV - Establishing Attachment to Poles
- Article VII - Maintenance of Poles and Attachments
- Article VIII - Safety Inspections
- Article IX - Division of Costs
- Article X - Unauthorized Attachments
- Article XII - Adjustment Payments
- Article XIII - Fees and Charges
- Appendix A - Request to Attach/Modify Attachments on Existing Pole
- Appendix B – Specifications
- Appendix C – Performance Bonds
- Appendix D – Electric Utility Standard Pole and Supply Space

Fees and Charges

- Permit Application Fee
- Inventory Inspection Fees
- Make Ready Charges
- Safety Inspection Fees
- Untimely Transfer Fees
- Unauthorized Attachment Fee
- Annual Rental Fee

Unauthorized Attachment Fee

- FCC 11-50: “...we will consider contract-based penalties for unauthorized attachments to be presumptively reasonable if they do not exceed:
 - An unauthorized attachment fee of \$500 per pole for pole occupants without a contract (i.e., when there is no pole attachment agreement between the parties);
 - An unauthorized attachment fee of five times the current annual rental fee per pole if the pole occupant does not have a permit and the violation is self-reported or discovered through a joint inspection, with an additional sanction of \$100 per pole if the violation is found by the pole owner in an inspection in which the pole occupant has declined to participate.
 - A requirement that the pole owner provide specific notice of a violation (including pole number and location) before seeking relief against a pole occupant.
 - An opportunity for attachers to avoid sanctions by submitting plans of correction within 60 calendar days of receipt of notification of a violation or by correcting the violation and providing notice of the correction to the owner within 180 calendar days of receipt of notification of the violation.
 - A mutual obligation of pole owners and pole occupants to correct immediately violations that pose imminent danger to life or property. If a party corrects another party’s violation, the party responsible for the violation must reimburse the correcting party for the actual cost of corrections.
 - The opportunity for resolution of factual disputes via settlement conferences before an alternative dispute resolution forum.

MMEA Standard Wireless Addendum

Addendum Provisions

- Article I – Explanation of Terms
- Article II – General Conditions and Procedures
- Article III – Radio Frequency
- Article IV – Establishing Attachments
- Article V – Fees and Charges

Fees and Charges

- Make-Ready Charges
- Permit Application Fee
- Rental Rate (with Escalator)

New Agreements

- Questions to Ask When Amending or Creating
 1. Is this provision balanced?
 - If no, who benefits?
 2. What is the break-even solution?
 3. Is there a way both parties can benefit?

Negotiating an Agreement

- Don't Discriminate = Don't Negotiate
 - Have a Standard Agreement
 - If you are in the business, sign a standard agreement with “yourself”

Negotiating an Agreement

If you must...

- Don't be the Boss
- Attorneys are Excellent
- Negotiate Based on Cost not Affordability
- Love the One You're With

Article IV/Appendix A

- “Critical”
- “Fundamental”
- “Necessary”

Why?

1. Communication
2. Record-keeping
3. Business Rhythm
4. Communication
5. RELATIONSHIP

APPENDIX A - REQUEST TO ATTACH/MODIFY ATTACHMENTS TO POLES

Licensee Job # _____ (to be completed by Licensee)

Electric Utility Work Order # _____ (to be completed by Electric Utility)

SECTION 1 - REQUEST FOR APPROVAL TO PLACE ATTACHMENTS ON A POLE (to be completed by Licensee)

Company		Poles with Attachments (specify quantity)	Added	
Project			Removed	
Request Date			Overlashed	
Name			Modified	
Title		Estimated Construction Dates	Start	
Phone			Completion	
Email		Fees Submitted:	Application	
Signature:			Other	
Make Ready Anticipated? (Yes or No)				

Location of Attachment Request (Street Address and Coordinates (Lat, Long)):

Checklist of Attached Documents (Containing Licensee Job #):

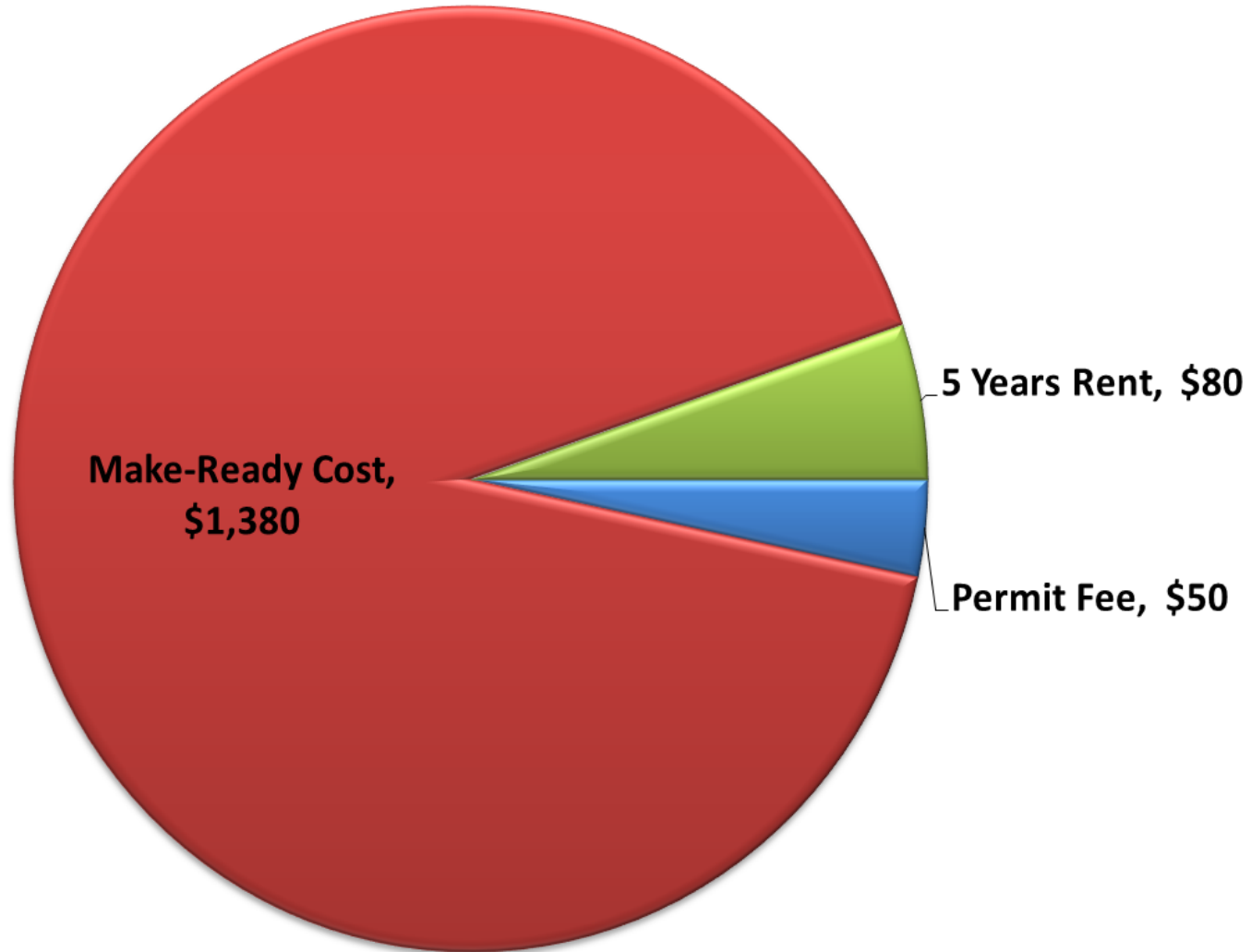
- Detailed construction plans and drawings
- Necessary maps, containing the following:
- | | |
|--|---|
| <input type="checkbox"/> Poles that we wish to use | <input type="checkbox"/> Relocations or replacements of poles |
| <input type="checkbox"/> Point of attachment (proposed height) on each pole | <input type="checkbox"/> Rearrangements of fixtures and equipment necessary |
| <input type="checkbox"/> Number and type of attachments to be placed on each pole (including anchor type and distance from | <input type="checkbox"/> Additional poles required |

The included information represents our proposed facilities. Any changes will be submitted to Electric Utility for approval prior to construction. The Licensee will obtain all authorizations, permits, and approvals from all Municipal, State, and Federal authorities for the Licensee's proposed service and all easements, licenses, rights-of-way and permits necessary for the proposed use of these poles.

SECTION 2 - APPROVAL/DENIAL OF REQUEST (to be completed by Electric Utility)

Response Date		Utility Make Ready Construction Required?	
Name		Total Estimated Cost to Licensee	
Title		(Detailed invoice to be provided)	
Phone		Permit #	
Email			
Request	Approve		If denied, reason for denial:
Response	Deny		
Signature:			

Example - Pole Attachment
Pole Changed (make-ready required)
5 - Year Overview



Assumptions:

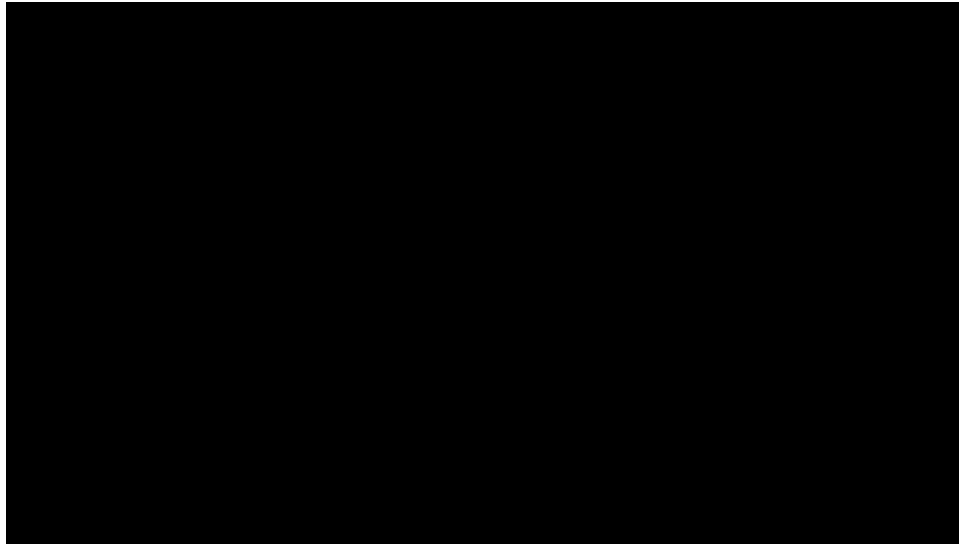
- 5-Year Overview
- Cable Attachment
- Pole Change-out was required
- \$16.00 Annual Attachment Rate
- Using Typical Make-Ready Costs
- \$50.00 Permit Fee

The Permit Process

- First (sometimes only) bite at the apple
- Best Practice:
 - Review once a year with attachers
 - Review once a year with internal stakeholders

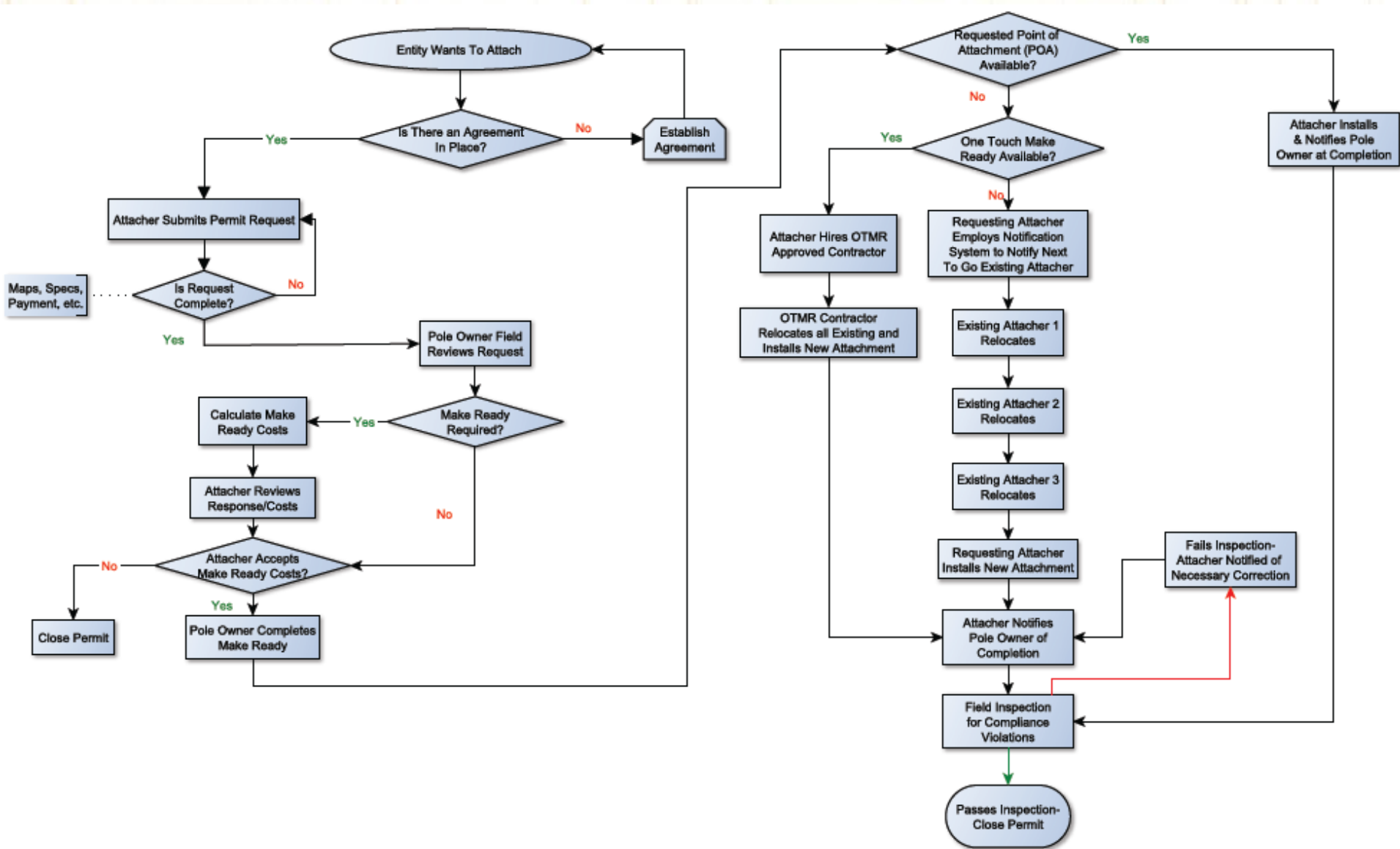
MMEA One-Touch Make-Ready (OTMR) Toolkit

What is OTMR?



What Does OTMR Require?

- Approved Contractors
 - Make-Ready Engineering
 - Field Survey
 - Make-Ready Construction
- Processes
- Communication



MMEA Resources

Questions?

FCC Rental Rate Calculations

FCC Rental Rate

PA 365, Sec. 23 (3):

“The governing body of a municipally owned electric utility shall not charge an attaching entity a rate for wire or cable pole attachments within the communication space on a nonauthority pole greater than the maximum allowable rate pursuant to 47 USC 224(d) and (e) as established in Federal Communications Commission Order on Reconsideration 15-151.”

FCC Rental Rate

Cable Method:

Net Cost of a Bare Pole (\$)
Carrying Charge Rate (%)
Space Factor (%)
Pole Attachment Rate (\$)

Telecom Method:

Net Cost of a Bare Pole (\$)
Carrying Charge Rate (%)
Space Factor (%)
FCC Adjustment Factor (%)
Pole Attachment Rate (\$)

Space Factor



Space Factor

FCC Rebuttable Presumptions for Space Factor

Pole Height	37.5
Communication Space	1
Unusable (Common) Space	24
Usable Space	13.5
Clearance/Safety Space	4
"Normal Space" for Utility	9.5

All Measurements in Feet

Communication Space as Portion of Usable Space 7.4%

Usable Space

Use Case	FCC	Dist Pole	Dist Pole
Pole Height	37.5	35	40
Buried Depth	5.75	5.5	6
Ground Clearance	18	18	18
Clearance/Safety Space	3.33	3.33	3.33
Communication Space	1	1	1
<hr/>			
"Normal Space" for Utility	9.42	7.2	11.7
Usable Space	13.75	11.50	16.00
Unusable Space	23.75	23.50	24.00
	7.3%	8.7%	6.3%

All Measurements in Feet

FCC Rental Rate Calculation

Cable Method

Net Cost of a Bare Pole (\$)

Carrying Charge Rate (%)

Space Factor (%)

Pole Attachment Rate (\$)

FCC Rental Rate Calculation

Cable Method

<u>Net Cost of a Bare Pole Calculation</u>	FY 2017	
Gross plant (Acct. 364)	\$ 651,073.00	
Accumulated depreciation (Acct. 364)	\$ 361,436.81	
Net plant (Acct. 364)	\$ 289,636.19	
Appurtenances factor	0.85	
Net plant allocable to attachments	\$ 246,190.77	
Total number of distribution poles	1,450	
Net cost of a bare pole	\$ 169.79	

FCC Rental Rate Calculation

Cable Method

<u>Carrying Charge Calculation</u>			
Total general and administrative (Accts. 920 - 926)	\$	1,607,393.00	
Total utility net plant (Accts. 310 - 398)	\$	9,920,286.00	
Administrative carrying charge			16.20%
Distribution maintenance expense (Acct. 590 - 598)	\$	170,981.00	
Total distribution net plant (Acct. 360 - 373)	\$	9,920,286.00	
Maintenance carrying charge			1.72%
Depreciation rate for gross plant (Acct. 364)			3.33%
Net plant adjustment factor			2.25
Depreciation carrying charge			7.49%
Payment in lieu of taxes			4.50%
Taxes carrying charge			4.50%
Rate of return			7.52%
Return carrying charge			7.52%
Total carrying charge			37.44%

FCC Rental Rate Calculation

Cable Method

<u>Space Factor Calculation</u>			
Space occupied		1	ft.
Usable Space		13.5	ft.
Common Space		24.0	
Number of attaching entities		2.13	
Pole height		37.5	ft.
Space factor		7.41%	

FCC Rental Rate Calculation

Cable Method

<u>RATE CALCULATION</u>			
Net Cost of a Bare Pole	\$	169.79	
Carrying Charge Rate		37.44%	
Cost	\$	63.57	
Space Factor		7.41%	
Pole Attachment Rate	\$	4.71	

FCC Rental Rate Calculation

- Challenges:
 - Designed for IOUs
 - Availability of Input Data
 - Assumes FERC Accounting

Recap and Review

Step One: Reconciliation

Step Two: Improved Relationships

Step Three: Mutual Benefit

Recap and Review

Step One: Reconciliation

- Achieve Normal Business Function
- Attachments Should Cover their Cost
- Correct Past, Present and Future Issues
- Remove Attachment “Headaches”

Recap and Review

- Enforce Existing Agreement
- Permitting Process is Essential
- Perform Inventories and Safety Inspections
- Communicate with the Attachers
- Recover the Cost of the Attachment Process
 - Attachments should not be an additional cost
- Remove Risk and Liability
- Create a Predictable Business Environment

Recap and Review

Utility Pole Attachment Maturity Model	
Pioneering 5	<ol style="list-style-type: none"> 1. One-Touch Make-Ready 2. Paperless Permitting Process 3. Use of Attachment Mapping for Predictive Planning and Asset Management 4. Gaining <i>Advantage</i> from having Attachers
Optimizing 4	<ol style="list-style-type: none"> 1. Minimize Permitting Time Required 2. Shared Mapping Viewer Between Utility and Attacher 3. OTMR Policy in Use
Integrating 3	<ol style="list-style-type: none"> 1. Pole Attachment Audit Schedule/Process in Place 2. Integrated view of attached assets and electric GIS/mapping system 3. Safety/Compliance Remediation Process in Place 4. Management of Transfers and Attachment Modifications
Enabling 2	<ol style="list-style-type: none"> 1. Signed Agreements 2. Attachment Points of Contact 3. Joint-Use Communications Tool (NJUNS or Equivalent) 4. Work Flow Process for Permits 5. Staffing Pole Attachment Team 6. Standardized Mapping and Pole Numbering/ID System
Initiating 1	<ol style="list-style-type: none"> 1. Financial Model of Joint Use/Attachment Revenue and Related Costs 2. Attachment Rental Rate and Other Pricing 3. Pole Attachment Agreement 4. Pole Attachment Standards 5. Permitting Process
Default 0	

Thank You

Sean Knowles

VP, Business Development/Principal, Pole Attachments

sean.knowles@mcleanengineering.com

404.520.0288



Agenda Item: NB-3
C.C. 6/3/19

City Council Agenda Item Request

Date: For June 3rd Meeting, 5/30/

Name: Jeff Lampi

Department: W_WW

Item: Discussion for Water & Paving Work

Explanation for request:

Administration is requesting a brief discussion regarding water wastewater work prior to paving projects this summer.