

Proposed: 06/15/2020

ORDINANCE NO. 54-2020 (MS), *Second Reading*

By Council Member Dunbar

An Ordinance amending Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures,” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights; and declaring an emergency.

WHEREAS, Substitute House Bill 478 (Sub. H.B. 478) took effect on August 1, 2018 and amended ORC Chapter 4939 with regard to the authority of municipalities to regulate the installation of small cell wireless facilities in the public right-of-way, including on utility poles and street lights, including municipally-owned facilities, and to construct, maintain, modify, operate, or replace wireless support structures in the right-of-way; and

WHEREAS, this Council on July 16, 2018 adopted Ordinance No. 82-2018 creating a new Chapter 943 of the Codified Ordinances of the City of Cleveland Heights to regulate the use and occupancy of the public rights of way within the City for small cell wireless facilities and support structures as well as enacting design guidelines applicable to small cell wireless facilities and support structures pursuant to Sub. H.B. 478; and

WHEREAS, on September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Order known as the “Small Cell Order,” that limited and revised state and local regulatory authority concerning certain small cell wireless installations within public rights-of-way nationwide; and

WHEREAS, this Council on May 6, 2019, adopted Ordinance No. 29-2019 amending Chapter 943, “Use of Public Ways for Small Cell Wireless Support Structures,” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights to lawfully exercise municipal authority on this subject in a manner that is consistent with Ohio Revised Code Chapter 4939 and the FCC’s Small Cell Order.; and

WHEREAS, this Council herein determines to further amend Chapter 943 to be consistent with the City’s Small Cell Facilities Use Permit Application, recently further updated in order to reflect the FCC Small Cell Order.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights shall be, and is hereby, enacted and adopted in its entirety to read as set forth in Exhibit A, attached hereto and fully incorporated herein. A complete copy of Exhibit A is also on file with the Clerk of Council.

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SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to take immediate action to accommodate requests for Facilities permits filed pursuant to the FCC's Small Cell Order. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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JASON S. STEIN, Mayor  
President of the Council

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AMY HIMMELEIN  
Clerk of Council

PASSED: