

RESOLUTION NO. 68-2018

**A RESOLUTION OF THE CITY OF WESTWOOD, KANSAS,
ESTABLISHING POLE ATTACHMENT FEES AND CONDUIT RENTAL
FEES FOR THE USE OF CITY OF WESTWOOD'S STREET LIGHT
POLES AND CONDUIT.**

WHEREAS, the City of Westwood is the chief steward of the public rights-of-way and possesses a duty to its citizens to manage the rights-of-way and incursions into the rights-of-way in recognition that the right-of-way is a limited resource, to balance the needs of all users of the public rights-of-way, and to preserve and promote the public health, safety, and welfare; and

WHEREAS, the City of Westwood possesses a propriety interest in and is responsible to its citizens for the use, management, function, maintenance, and structure of public facilities owned by the City, to use such facilities to the benefit of its citizens, to ensure just and fair compensation for permitting the use of the City's facilities, and to protect public finances for the use of or collocation upon public facilities; and

WHEREAS, the City of Westwood has received requests from external entities to attach or collocate wireless communication antennas and related equipment to the City's street light poles; and

WHEREAS, the City of Westwood has received requests from other entities to install communication fiber or backhaul in some of the excess capacity in the City's conduits; and

WHEREAS, the City is not required to make available the use of its light poles and conduits to other entities; the City is willing to do so for an annual rental fee when the use by such other entities does not interfere with the City's intended use of the facilities, will minimize incursions into the public right-of-way, and will not create any other public health, safety or welfare concern.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS, AS FOLLOWS:

Section 1. Street Light Pole Attachment Fees: The following street light pole attachment fees and charges are established based on the descriptions listed below. These fees/charges shall be administered in a competitively neutral and non-discriminatory manner. All fees/charges will be rounded to the nearest dollar.

1. Annual Attachment Fee: \$540 per attachment per year (\$45 per month) for the calendar year 2018. Commencing January 1, 2019, said Annual Attachment Fee shall be adjusted annually by any change in the Index known as the "United States Bureau of Labor Statistics, Consumer Price Index – All Urban Consumers, base period 1982-84=100 (CPI-U) (hereinafter referred to as the "CPI Index"); provided, however, in no event shall the amount of the Annual Attachment Fee decrease from the previous year.

The Annual Attachment Fee does not include the use of the City's electricity. The entity attaching or collocating wireless communication antennas and related equipment to the City's street light poles will be solely responsible for obtaining its own meter and electricity supply.

2. Non-recurring Fees or Charges:

a. Permit Application Fee: An amount equal to the fee for a Right-of-Way Permit, as set forth by separate Resolution. The Permit (or License) Application Fee is intended to reimburse the City for costs incurred for review of the permit application and site design approval.

b. Make-Ready Work Charges: Permittee or licensee shall reimburse the City for all actual work done or contracted by the City for any make ready or other work done to accommodate Permittee's antennae and other equipment. The charge for such work shall include all reasonable material, labor engineering and administrative costs and applicable overhead costs.

c. Inspection Fees: The permittee or licensee shall reimburse the City for all actual work done or contracted by the City for any necessary inspections. The charge for such work shall include all reasonable material, labor engineering and administrative costs, and applicable overhead costs.

d. Unauthorized Attachment Penalty Fee: 3x Annual Attachment Fee, per occurrence

e. Failure to Timely Transfer, Abandon or Remove Facilities Penalty: 1/5 Annual Attachment Fee per day, per pole, first 30 days; the Annual Attachment Fee per day, per pole, second 30 days and thereafter.

Section 2. Conduit Rental Fees for Non-Governmental Entities: The following conduit fees and charges are established based on the descriptions listed below. The City possesses very little conduit that is suitable for additional use or collocation, but, where applicable, the fees and charges for such use are established. These fees/charges shall be administered in a competitively neutral and non-discriminatory manner. All fees/charges will be rounded to the nearest dollar.

1. Annual Conduit Rental Fee: \$1.00 per linear foot per year (\$0.083 per linear foot per month) for the calendar year 2018. Commencing January 1, 2019, the Annual Conduit Rental Fee shall be adjusted annually by any change in the CPI Index; provided that, in no event shall the amount of the Annual Attachment Fee decrease from the previous year. The Annual Conduit Rental Fee does not include the use of the City's fiber or the City's electricity. The entity is responsible for obtaining its own meter and electricity supply.

2. Non-Recurring Fees/Charges:

a. Permit Application Fee: An amount equal to the fee for a Right-of-Way Permit, as set forth by separate Resolution. The Permit (or License) Application Fee is intended to

reimburse the City for costs incurred for review of the permit application and site design approval.

b. Make Ready Work Charges: The permittee or licensee shall reimburse the City for all actual work done or contracted by the City for any make ready or other work done to accommodate permittee's or licensee's fiber and other equipment. The charge for such work shall include all reasonable material, labor engineering and administrative costs, and applicable overhead costs.

c. Inspection Fees: Permittee or licensee shall reimburse the City for all actual work done or contracted by the City for any necessary inspections. The charge for such work shall include all reasonable material, labor engineering and administrative costs and applicable overhead costs.

d. Unauthorized Attachment Penalty Fee: 3x Annual Conduit Rental Fee, per occurrence.

e. Failure to Timely Transfer, Abandon or Remove Facilities Penalty: 1/5 Annual Conduit Rental Fee per day, per linear foot, first 30 days; the Annual Conduit Rental Fee per day, per linear foot, for the second 30 days and thereafter.

Section 3. Conduit Rental Fees for Governmental Entities: For a governmental entity using the City's conduit and/or fiber within the City's conduit for a governmental purpose, the City shall establish an Annual Conduit Rental Fee between the City and said governmental entity taking into consideration any established relationship between the parties. The governmental entity is responsible for obtaining its own meter and electricity supply.

Section 4. In-Kind Consideration. In lieu of payment of some or all of the above-established light pole attachment or conduit fees/charges, the City may agree, in its sole discretion, to accept in-kind consideration to be valued as at least roughly comparable to said fees/charges.

Section 5. Limitations, Regulations, and Design Standards. Nothing in this Resolution shall obligate the City to allow the use of any specific light pole or conduit by any entity. Each light pole attachment must be specifically approved by the City's Public Works Director (or his or her designee), and must meet all design, installation, and maintenance criteria established by the Public Works Director and consistent with applicable safety, engineering, and building standards. Each conduit installation must be specifically approved by the City's Public Works Director (or his or her designee), and must meet all design, installation and maintenance criteria established by the City. Payment of the above-cited fees/charges shall not exempt any entity from any applicable federal, state or local franchise, zoning, building code, permit or other requirements, ordinances or regulations, including, but not limited to, the City's Right-of-Way Ordinance, building and electrical codes, Manual of Infrastructure Standards, and Zoning Ordinance, all as amended.

Section 6. Effective Date. This Resolution shall take effect and be in full force immediately after its passage by the Governing Body.

THIS RESOLUTION IS ADOPTED by the Governing Body of the City of Westwood, Kansas, this 13th day of September, 2018.



ATTEST:

A handwritten signature in dark ink, appearing to read "F-L S", written over a horizontal line.

Frederick L. Sherman, City Clerk

(Seal)

CITY OF WESTWOOD, KANSAS

A handwritten signature in dark ink, appearing to read "John M. Yé", written over a horizontal line.

John M. Yé, Mayor

APPROVED AS TO FORM ONLY:

A handwritten signature in dark ink, appearing to read "Ryan Denk", written over a horizontal line.

Ryan Denk, City Attorney