

## CHAPTER 23 – STREETS, SIDEWALKS AND PUBLIC IMPROVEMENTS

Sec 23-90. Telecommunications; license, revocable permit or franchise required; proposal.

(a) No Telecommunications Corporation shall install, maintain, ~~or~~ construct or operate telecommunications facilities in Public Highway of the City, or provide telecommunications service by means of such facilities installed, maintained or constructed in the city's rights-of-way, unless a license to use the highways to provide telecommunications services, has first been granted by the city under the charter or code, a revocable permit issued in accordance with this code or a franchise awarded by the electors pursuant to the Arizona Constitution and the city charter to such telecommunications corporation.

(b) Any license, revocable permit or franchise awarded, granted or issued to a telecommunications corporation shall not be exclusive.

(c) Any person desiring a license, revocable permit or franchise proposal to occupy the streets and other rights-of-way of the city to provide telecommunications services shall file an application with the Engineering Director in the form prescribed by the City and shall pay a filing fee as set forth in this code.

(d) Notwithstanding subsection (a), any telecommunications corporation that was providing telecommunications service within the State of Arizona as of October 31, 1997 pursuant to a grant made to it or its lawful predecessors prior to the effective date of the Constitution of the State of Arizona, may continue to provide telecommunications services pursuant to that state grant, until and unless the state grant is lawfully repealed, revoked or amended, and need not obtain any further grant from the city to provide telecommunication services; provided, however, that such telecommunications corporation must in all other respects comply with the requirements applicable to telecommunications corporations as provided in Title 9, Chapter 5, Article 7 of the Arizona Revised Statutes.

(e) A franchise, license or revocable permit to any telecommunications corporation to use the highways to install, maintain, construct or operate telecommunications facilities or to provide telecommunications services under this chapter shall not authorize the use of the highways to provide any other service; nor shall the issuance of the same invalidate any franchise, license or permit that authorizes the use of the highways for such other services; nor shall the fact that a telecommunications corporation holds a franchise, license or permit to make any other use of the highway or to provide any other service, authorize installation, maintenance, construction or operation of telecommunications facilities in any highway in the city, or permit such telecommunications corporation to provide telecommunications services by means of such facilities without obtaining a license or franchise hereunder."

(f) Nothing in this ordinance shall be deemed to affect the terms or conditions of any franchise, license or permit issued by the City prior to the effective date of the amendments of this ordinance or to release any party from its obligations thereunder.

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Those franchises, licenses or permits shall remain fully enforceable in accordance with their terms. The City Manager, with the consent of the City Council, may enter into agreements with franchise holders, licensees or permittees to modify or terminate an existing franchise, license or agreement.

(Ord. No. 97-115, 12/9/97, enacted)

(Ord. No. 99-12, 3/16/99, amended) (SUPP.1999-1)

State Law Reference: A.R.S. §9-501. Grant of Franchise.

(Ord. No. 02-41, 6/7/02, amended) SUPP 2002-2