

ORDINANCE NO. 4011

AN ORDINANCE to add a new Article F (PUBLIC RIGHTS-OF-WAY USE FEE) to Chapter 2 (STREETS AND SIDEWALKS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 2 of Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Article F, to read as follows:

ARTICLE F

Public Rights-of-Way Use Fee

Sec. 5-2-160 Definitions.

The following words and phrases, when used in this article, shall have the following meaning:

(a) "Access lines" includes residence and business telephone lines and other switched common lines connecting a customer's, or end user's, premises located in the city to the end office switch, but does not include local, state and federal government lines, access lines used to provide service to users as part of the Virginia Universal Service Plan, interstate and intrastate dedicated WATS lines, special access lines, off-premises extensions, official lines used by certified providers of telecommunications service for administrative, testing, intercept and verification purposes, or commercial mobile radio service lines.

(b) "Certificated provider of telecommunications service" or "certificated provider" means a public service corporation holding a certificate issued by the state corporation commission of Virginia to provide local exchange or interexchange telephone service.

Sec. 5-2-161 Public Rights-of-Way Use Fee.

(a) Pursuant to section 56-468.1 of the Code of Virginia (1950), as amended, the city elects to adopt the public rights-of-way fee provided for by said code section. Accordingly, there is hereby imposed upon each access line of every certificated provider of telecommunications service a public rights-of-way use fee in the amount to be calculated annually by the Virginia department of transportation under section 56-468.1(C) of the Code of Virginia.

(b) Every certificated provider that provides local exchange telephone service to end users in the city shall collect the public rights-of-way use fee on a per access line basis by adding the fee to each end user's monthly bill for local exchange telephone service.

(c) Until the end user pays the public rights-of-way use fee to the certificated provider, the fee shall constitute a debt of the user that is owed to the city. Whenever an end user fails or refuses to pay the fee, the certificated provider shall notify the

director of finance of the user's identify and the total amount of fees that the user has refused or failed to pay. Such notification of unpaid use fees shall be provided to the director of finance within two months after the end of each calendar quarter.

(d) After an end user pays the public rights-of-way use fee to the certificated provider, the collected fee shall be deemed to be held in trust by the provider until remitted to the director of finance. Within two months after the end of each calendar quarter, the certificated provider shall remit directly to the director of finance all public use fees that it has collected from end users during the quarter.

(e) Every certificated provider shall keep complete records showing all public rights-of-way use fees collected in each calendar quarter. Such records shall be kept open for inspection by the director of finance or the director's designee.

(f) Nothing in this section shall:

(1) relieve any certificated provider from complying with the requirements and restrictions imposed by this code, or by other law or regulations, regarding its use of and activities within public rights-of-way in the city, including but not limited to the placement, construction, repair, maintenance and removal of its facilities; provided, that any permit or other permission required by this code or city regulations that is sought by a certificated provider shall be granted or denied within 45 days of the submission of a complete application, and that any denial shall be accompanied by a written explanation of the reasons for the denial and the actions required to cure the denial;

(2) affect the amount payable by a certificated provider for the right to place facilities or otherwise use property of the city other than public rights-of-way;

(3) affect the authority of the city to impose a franchise fee upon cable television franchisees, or the obligation of such franchisees to pay the franchise fee imposed upon them, pursuant to section 9-3-232 of this code; or

(4) affect the authority of the city to impose a franchise fee upon persons who locate facilities or otherwise use public rights-of-way for purposes other than the provision of local exchange or interexchange telephone service or the provision of cable television service.

Section 2. That this ordinance shall become effective on July 1, 1998.

KERRY J. DONLEY
Mayor

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