

**CITY OF SILVERTON**  
**ORDINANCE**  
**19-12**

**AN ORDINANCE OF THE SILVERTON CITY COUNCIL AMENDING SILVERTON MUNICIPAL CODE; TITLE 5, ADDING CHAPTER 5.55: IMPOSING A NANO RADIO FREQUENCY TRANSMISSION FACILITY LICENSE FEE AND PROVIDING FOR ENFORCEMENT, ADMINISTRATION, AND COLLECTION OF THE FEE**

**WHEREAS**, the City is amending the Silverton Development Code to allow Nano Radio Frequency Transmission Facilities within the City Limits; and

**WHEREAS**, the City wishes to enact a license fee for general revenue purposes.

**NOW THEREFORE THE CITY OF SILVERTON ORDAINS AS FOLLOWS:**

Section 1: The Silverton Municipal Code is amended to add the following Chapter 5.55 (“Nano Radio Frequency Transmission Facility License Fee”):

**Chapter 5.55**

**NANO RADIO FREQUENCY TRANSMISSION FACILITY LICENSE FEE**

**5.55.010 Definitions.**

As used in this chapter, unless the context requires otherwise:

- A. “City” means the city of Silverton, Oregon.
- B. “Council” means the Silverton City Council.
- C. “Gross revenue” means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts from the furnishing or sale of communications or associated services by or from a Nano Radio Frequency Transmission Facility, or any revenue earned by a Nano Radio Frequency Transmission Facility within the City from the use, rental, or lease of operating facilities.
- D. “Nano Radio Frequency Transmission Facility” means any radio frequency transmission facilities, per Silverton Development Code Section 2.200.O.
- E. “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

**5.55.020 Fees for revenue.**

The term “license” as used in this Chapter shall not be construed to mean a regulatory permit. The fees prescribed in this Chapter are for general revenue purposes and are not regulatory permit fees.

**5.55.030 License required.**

Any person, operating a Nano Radio Frequency Transmission Facility (Facility), per SDC 2.2.200.O, within the City of Silverton (City) shall obtain a license for such business covering the period of the calendar year, from January 1 through December 31, or if application is made after January 1 of any year, then for the balance of the same calendar year.

**5.55.040 Application and issuance.**

- A. Any person, operating or proposing a Nano Radio Frequency Transmission Facility, per SDC 2.2.200.O, shall file an application for a license on forms supplied by the City.
- B. Applications for licenses shall be filed with the City on or before December 31 for each subsequent calendar year. In the case of any person operating a Facility coming within the provisions of this Chapter which commences operations after the effective date of this Chapter, the person operating such Facility shall apply for a license on or before the date of commencing such operations. The application shall include such information as the City may require.
- C. Upon receiving a completed application, the City shall issue a license to the applicant. A license shall be valid for no longer than one year. Each license shall expire on December 31 of the year of issuance.
- D. The City shall prepare application forms and make them publicly available. Failure to receive or secure a form shall not relieve any person from the obligation to obtain a license and pay the license fee under this Chapter.

**5.55.050 Fees and payments.**

- A. The fee for a license shall be measured by a percentage of the gross revenues earned by the Facility for each quarter year period of licensed operation. Gross revenue means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts from the furnishing or sale of communications or associated services by or from a Nano Radio Frequency Transmission Facility, or any revenue earned by a Nano Radio Frequency Transmission Facility within the City from the use, rental, or lease of operating facilities.
- B. The licensee shall compute the license fee by multiplying five (5) percent by the gross revenues received during the quarter.
- C. The licensee shall pay the license fee to the City on the following basis: on or before May 15 the fee for the period extending from January 1 through March 31, inclusive, of the same calendar year; on or before August 15 the fee for the period extending from April 1

through June 30, inclusive, of the same calendar year; on or before November 15 the fee for the period extending from July 1 through September 30, inclusive, of the same calendar year; on or before February 15 the fee for the period extending from October 1 through December 31, inclusive, of the preceding calendar year.

- D. A licensee commencing operations as provided in Subsection 5.55.040 B. shall make the initial license fee payment to the City on or before the payment date following the first quarter year period after commencing operations. In the event a licensee terminates operations which come within the provisions of this Chapter, the final payment shall be made on or before the 45th day following the date of such termination.

**5.55.060 Examining books and accounts of a Facility.**

The City, or any person authorized in writing by the City, may examine during normal business hours the books, papers and accounting records relating to Facility operations, after notification to the Facility liable for the fee, and may investigate the business of the Facility in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid. Examination of the accounts must be made available within the city limits of the City of Silverton.

**5.55.070 Confidentiality.**

The city shall protect the confidential business operations or similar information obtained to implement this chapter; provided, that nothing in this section shall be construed to prevent:

- A. The disclosure to, or the examination of records and equipment by, another city official, employee or agent for collection of license fees for the sole purpose of administering or enforcing any provisions of this chapter, or collecting license fee imposed under this chapter.
- B. The disclosure of information as to any paid license fee, any unpaid license fee or amount of license fee required to be collected, or interest, and penalties; provided, however, that the city approves each such disclosure and that the city may refuse to make any disclosure referred to in this subsection when the public interest would suffer thereby.
- C. The disclosure of the names and addresses of any Facility.
- D. The disclosure of general statistics regarding license fees collected or business done in the city.
- E. The disclosure of information in accordance with the public records law.

**5.55.080 Refund procedures.**

Whenever the amount of any fee, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded,

provided a verified claim in writing thereof, stating the specific reason upon which the claim is founded, is filed with the City within three years from the date of payment. The claim shall be made on forms provided by the City. If the claim is approved by the City, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balance may be refunded to such Facility or the Facility's administrators, executors or assignees.

**5.55.090 Records to be kept by Facilities.**

Every Facility must keep a record in such manner required by the city of all purchases, invoices, bills of lading, receipts, sales and distribution of service for not less than three years. The records must include copies of all invoices or bills of all such sales. All records described in this section are subject to inspection by the city or its authorized agents during the Facility's normal business hours.

**5.55.100 Appeals to council.**

Any person aggrieved by any decision of the City may appeal to the council, by filing a notice of appeal with the City within 10 days of the serving or the mailing of the notice of the decision given by the City. The City shall transmit the notice of appeal, together with the file of such appealed matter, to the city manager, who shall fix a time and place for hearing such appeal from the decision of the City. The city manager shall give the appellant not less than 10 days' written notice of the time and place of hearing of such appealed matter. Action by the council on appeals shall be decided by a majority of the members present at the meeting where such appeal is considered.


**5.55.110 Violation – penalty.**

Any Facility or other person who fails or refuses to furnish any return, supplemental return or other data required in this chapter or by the City, or, with intent to defeat or evade the determination of any amount due under this chapter, shall make, render, sign or verify any false or fraudulent report, commits an offense which constitutes a violation of this chapter punishable in accordance with the general penalty provisions of SMC 1.08.010.

Section 2: Effective Date. The fee imposed by this chapter shall take effect 30 days after adoption.

Section 3: Severability. If any portion of Chapter 5.55 is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Ordinance adopted by the City Council of the City of Silverton, this 5<sup>th</sup> day of August 2019.

  
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Mayor, City of Silverton  
Kyle Palmer

ATTEST

  
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City Manager/Recorder, City of Silverton  
Christy S. Wurster