

*(Ordinance Summary published in the Kingman Leader Courier on February 2, 2023 and the full text of the Ordinance made available at [www.cityofkingman.com](http://www.cityofkingman.com) for a minimum of one (1) week from the date of publication.)*

## ORDINANCE NO. 2101

AN ORDINANCE AMENDING CHAPTER 15 TO CREATE ARTICLE 10, SECTIONS 15-1001 THROUGH 15-1005 OF THE CODE OF THE CITY OF KINGMAN, KANSAS, PROVIDING A UTILITY POLE ATTACHMENT FEE RATE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF KINGMAN, KANSAS,

SECTION 1. Chapter 15, Article 10, Sections 15-1001 through 15-1005 of the Code of the City of Kingman, Kansas (the "Code") are hereby created and read as follows:

### **15-1001. Pole Attachments.**

No person or entity, other than the city or a department thereof, shall attach or maintain any fixture to or place or maintain any facilities or wires on any city facilities, including any utility pole or other fixture or facility of the city, within city rights-of-way or easements without: (1) a valid and unexpired pole attachment license agreement approved by the governing body after the date hereof and executed by such applicable person or entity, and (2) payment of a pole attachment fee as set forth in Section 15-1002, or as may be hereinafter approved as alternative lawful compensation in a pole attachment license agreement approved by the governing body after the date hereof, or such other amount as may be established hereinafter by the governing body by resolution or ordinance. Failure to hold and maintain a current and valid pole attachment license agreement with the city shall not excuse payment of the pole attachment fee at the rate required herein and plus additional penalties. Where a pole attachment license agreement expires, and in addition to any penalties or other requirements, the licensee during any holdover period shall pay monthly one-twelfth (1/12) of the rate set forth in Section 15-1002 until a valid agreement is obtained or the attachments are removed. The licensee shall indemnify and be responsible to pay all costs incurred by the city in any way due or arising from any such attachment or violation of any provision hereof or of any pole attachment license agreement including, but not limited to, attorneys' fees, except as may be otherwise expressly provided by agreement.

### **15-1002. Pole Attachment Fee Rates.**

The pole attachment fee rate shall be in the amount as approved by the governing body and listed in the latest City of Kingman Schedule of Fees, and shall be on a per attachment, per pole, per year basis and shall take effect on February 2, 2023.

The pole attachment fee rate shall apply to all existing and future pole attachments, regardless of the terms of any existing pole attachment license agreement. Each attachment of any of a licensee's facilities in direct contact with or otherwise supported by a pole or other city

facilities shall be considered a separate pole attachment. An "attachment" shall include, but not be limited to, each line, wire, conduit, or other approved equipment physically connected directly or indirectly to the applicable pole or other city facility.

**15-1003. Payment and Affidavit.**

The annual pole attachment fee rate shall be prorated and due at the time of permit issuance for the year that the city grants a permit for the placement of such attachment(s) and must be paid prior to commencement of work, and thereafter will be payable on or before the thirtieth (30<sup>th</sup>) day of January each year. Any amount unpaid after such date shall accrue interest payable to the city at the rate of nine (9) percent per annum, compounded monthly. Each payment shall be accompanied by an affidavit of the number of attachments to city owned poles, fixtures, or facilities which exist as of January 1 that year and computation of the fee based on the number of attachments as of that date.

**15-1004. Agreement Required.**

No pole attachment shall be authorized except by authorized pole attachment license agreement, which shall include such provisions as necessary to protect the public interest and provide for payment of the required compensation consistent with this section. An application may be required containing such information as may be necessary to determine the appropriateness of the attachment and may contain a fee requirement in an amount sufficient to reimburse the city its costs or such other reasonable basis as permitted by law. A franchise or public ways use permit agreement shall not be deemed to authorize pole attachments unless hereinafter expressly so provided therein. Unless otherwise authorized by law, no pole attachment license agreement shall be granted to any person or entity unless such person has a valid franchise or public ways use permit agreement with the city, whether separately granted or expressly incorporated in the pole attachment license agreement. A pole attachment agreement shall be reviewed and approved, denied, or conditioned as the public interest dictates subject to all applicable law. Nothing herein shall be interpreted as a waiver of any rights in a duly authorized and lawful existing agreement with the city.

**15-1005. Penalty for Violation.**

Any person or entity violating any provision of this section shall be punished as provided in Section 1-116 of this code in addition to being subject to all other remedies contained herein or contained in a franchise agreement executed by the person or entity. Each day's violation shall constitute a separate offense under this code.

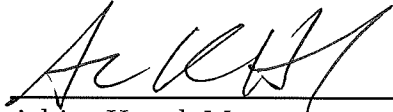
SECTION 2. This Ordinance shall take effect on and be in full force after its adoption by the governing body of the City, approval by the Mayor and either (a) publication once in the official newspaper of the City, or (b) publication of a summary hereof certified as legally accurate and sufficient by the City Attorney.

PASSED, ADOPTED AND APPROVED by the governing body of the City of Kingman, Kansas, this 26<sup>th</sup> day of January, 2023.

BOARD OF CITY COMMISSIONERS  
OF KINGMAN, KANSAS

ATTEST:

  
\_\_\_\_\_  
Cindy Corrardy, City Clerk

  
\_\_\_\_\_  
Adrian Harrel, Mayor  
City of Kingman