

## ORDINANCE NO. 438

An ordinance to amend Appendix B of the Code of Ordinances by adding thereto a new article, Article VI, regulating Distributed Antenna Systems and Small Cell Networks.

### THE CITY OF SWARTZ CREEK ORDAINS:

Section 1. Amendment of Appendix B of the Code of Ordinances by the Addition of Article VI.

The City Council hereby amends Appendix B of the Code of Ordinances of the City of Swartz Creek by adding Article VI thereto, that article to read as follows:

### ARTICLE VI. DISTRIBUTED ANTENNA SYSTEMS AND SMALL CELL NETWORKS

#### Section 1. Franchise Required.

No person, entity or legal body shall install or operate any telecommunication facilities or related equipment for the provision of commercial mobile radio service carriers pursuant to a distributed antenna system or small cell network without a franchise agreement substantially in the form approved by Resolution No. \_\_, or subsequent replacement resolution, which rates established therein are hereby incorporated herein by reference.

#### Section 2. Interpretation of this Article and Franchise Agreement.

It is the intent of the City Council in adopting this provision that all provisions in this Article and in the franchise agreement required by this article be construed to protect the peace, health, safety and welfare of the residents of Swartz Creek as well as the aesthetics of the City of Swartz Creek. Only reasonably inconspicuous telecommunication facilities and related equipment are to be permitted in the city right-of-way pursuant to the terms of any franchise agreement. The franchisee shall at all times take the required measures to use the most inconspicuous equipment reasonably feasible at the time of installation. Franchisee shall also remove and/or replace existing equipment in the future when less conspicuous equipment becomes reasonably feasible or when and if the number of antennas for the system is no longer reasonably necessary and reduction of the number of antennas becomes reasonably feasible.

Any franchise agreement entered into pursuant to this Article shall remain in effect only to the extent the rates and regulations and other material provisions established in the franchise agreement and this Article remain in full force and effect. To the extent state or federal law makes unlawful and/or unenforceable any material provision of the franchise agreement required by this Article or any provision of this Article, the unlawful provisions are not severable and the franchise agreement shall terminate and be of no force and effect. To the extent authorized by law, under such circumstance, franchisee shall remove all such facilities placed in the city right-of-way pursuant to the franchise agreement unless the parties agree on a new franchise agreement that is compliant with the then-existing law.

#### Section 3. Franchise Nonexclusive and Revocable.

In accordance with the City Charter, any franchise authorized by this article shall be nonexclusive and shall be revocable at the will of the Council.

**Section 2. Effective date.**

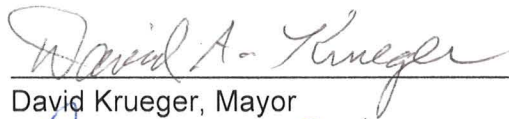
This Ordinance shall take effect upon publication.

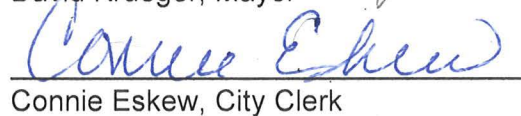
At a regular meeting of the City Council of Swartz Creek held on the 3rd day of December 2018, Councilmember Cramer moved for adoption of the ordinance and Councilmember Farmer supported the motion.

Voting for: Porath, Cramer, Farmer, Gilbert, Hicks, Krueger, Pinkston.

Voting against: None.

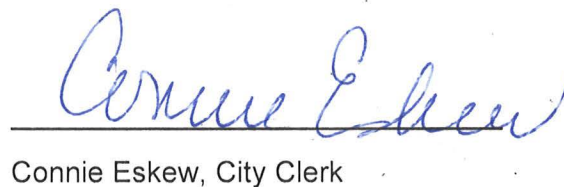
The Mayor declared the ordinance adopted.

  
\_\_\_\_\_  
David Krueger, Mayor

  
\_\_\_\_\_  
Connie Eskew, City Clerk

**CERTIFICATION**

The foregoing is a true copy of Ordinance No. 438 which was enacted by the City Council of the City of Swartz Creek at a regular meeting held on December 3, 2018.

  
\_\_\_\_\_  
Connie Eskew, City Clerk

YES: Porath, Cramer, Farmer, Gilbert, Hicks, Krueger, Pinkston.

NO: None. Motion Declared Carried.