

prohibit the City from imposing requirements on other occupants of the public rights-of-ways that are greater than those imposed on Comcast.

RECOMMENDATION: That City Council:

1. Introduce and pass on first reading the proposed amendment to Section 9-3-117(p) of the City Code (Attachment 2); and
2. Schedule the ordinance for second reading, public hearing, and final passage on Saturday, November 12, 2022.

BACKGROUND AND DISCUSSION: The Code of Virginia prohibits the City from imposing requirements on any telecommunications provider that are greater than those imposed on other telecommunications providers, cable operators and providers of electric, natural gas, water and sanitary sewer services. Comcast, the City's sole cable television provider completed construction of its cable television system and facilities in the City in the 1990s. The City's Cable Act allows Comcast to install new facilities overhead if existing telecommunications providers and electrical lines are above ground. However, the City's undergrounding provisions set forth in City Code sections 5-5-1 through 5-3-3, require that all new telecommunications lines are to be placed underground. In addition, sections 56-468(C) and 56-462(C) of the Code of Virginia prohibit the City from imposing requirements on companies who use the City's rights-of-ways that are greater than others.

To remedy this arguably inequitable position between Comcast and other telecommunications providers, utilities, developers and others who occupy the City's public rights-of-ways, the City is proposing to amend the City's Cable Act to delete Comcast's ability to install new facilities aerially or overhead. This is consistent with existing City policy for all telecommunications providers, utilities and others who occupy the rights-of-ways. There is no prejudice or harm to Comcast and the status quo is essentially maintained. Comcast's system is fully built and the proposed amendment does not require that Comcast underground its existing aerial facilities (at least until the other utilities' and telecommunications providers' existing overhead facilities are required to be undergrounded). In addition, Comcast can repair and maintain its aerial facilities without being required to underground.

FISCAL IMPACT: There is no fiscal impact associated with this amendment to section 9-3-117(p) of the City Code.

ATTACHMENTS:

1. Ordinance Cover Sheet
2. Proposed Ordinance

STAFF:

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Karen S. Snow, Senior Assistant City Attorney