

# RECORD OF ORDINANCE

Date Presented 1/14/2025

Sponsor Mayor Sandine Ordinance No. 01-25 Date Passed Jan 14 <sup>Feb 3</sup> 2025

## AN ORDINANCE SUPPORTING THE OHIO MUNICIPAL LEAGUE'S CHALLENGE OF AT&T'S TARIFF APPLICATION AT THE PUBLIC UTILITIES COMMISSION OF OHIO.

**WHEREAS**, on December 18, 2024, the Ohio Bell Telephone Company dba AT&T Ohio ("AT&T") filed a Telecommunications Form related to a change in its tariff for "Construction Charges, Relocation of Facilities" with the Public Utilities Commission of Ohio (the "PUCO") in PUCO Case Nos. 24-1123-TP-ATA and 90-5032-TP-TRF (collectively referred to as "AT&T's Tariff Application");

**WHEREAS**, AT&T's Tariff Application proposes tariff changes which will require any municipalities in which AT&T is located in the municipality's public right-of-way to pay the full cost of any relocation or undergrounding of AT&T's facilities, regardless of the reason for the relocation. This is in direct contradiction of current Ohio law;

**WHEREAS**, AT&T's Tariff Application is subject to a thirty-day auto approval process, meaning that if the PUCO does not rule on the application, then the application is automatically approved, and the tariff change becomes effective on the thirty-first day after the filing of the application;

**WHEREAS**, if AT&T's Tariff Application goes unchallenged and becomes automatically effective, municipalities throughout Ohio (and, subsequently, constituents who may or may not be AT&T customers) would be required to pay for any relocation of AT&T facilities in the public rights-of-way, even if the relocation or undergrounding is required for health, safety, or public welfare purposes;

**WHEREAS**, any challenges to AT&T's application must be filed prior to the January 17, 2025, to allow the PUCO to pause the automatic approval process, allow challengers to be heard through an evidentiary hearing, and consider legal arguments. To challenge AT&T's Tariff Application, an interested stakeholder must file a motion to intervene with the PUCO showing that it has a real and substantial interest in AT&T's Tariff Application and the intervener is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest; and

WHEREAS, the Ohio Municipal League has engaged counsel to challenge AT&T's Tariff Application.

## NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LITHOPOLIS, FAIRFIELD COUNTY, STATE OF OHIO;

**SECTION 1:** Council finds that AT&T's Tariff Application directly changes and significantly impacts, to detriment to the Village how this Village manages and administers its public rights-of-way;

**SECTION 2:** Council hereby authorizes and agrees to participate in and to intervene in the proceeding at the PUCO in order to challenge AT&T's Tariff Application and any subsequent and/or necessary legal, administrative, legislative efforts; and

**SECTION 3:** Council has been advised by the Ohio Municipal League that future financial and/or other support from the Village may be necessary to the success of a challenge to AT&T's Tariff Application and any related legal, administrative, or legislative efforts. Lithopolis may take under consideration the specific amount or form of such financial and/or other support from Lithopolis at a subsequent meeting of this Council.

**SECTION 4:** The immediate necessity for this action is declared an emergency for the preservation of public peace, health, and safety, and for the reasons set forth above due to the timeliness in order to challenge this tariff request, and this ordinance shall take effect immediately upon passage.

Attest/Date: [Signature]  
Clerk

Signed/Date: [Signature]  
Mayor

Approved as to form: [Signature]  
Jon M. Browning

First Reading 1/14/25 Second Reading 2/3/25

Revised Second Reading \_\_\_\_\_ Third Reading ←

VOTE FOR 5 AGAINST 0