

Pursuant to Article 12, paragraph 1, item 1 and Article 29 of the Electronic Communications Act (Official Gazette 73/2008), the Council of the Croatian Post and Electronic Communications Agency hereby passes the following

ORDINANCE

ON RIGHT OF WAY CERTIFICATE AND FEE

I GENERAL PROVISIONS

Contents of the Ordinance

Article 1

This Ordinance prescribes the procedure of granting, the format and the content of the right of way certificate, the calculation and the amount of fee and the manner of payment on the basis of the granted right of way certificate.

Right of Way

Article 2

(1) It shall be regarded that the infrastructure operator has the right of way if it has built electronic communications infrastructure and associated facilities on public property, on the property owned by the Republic of Croatia and local and regional self-government units, as well as on the property owned by other legal entity or natural persons and if any of the following conditions have been met:

- a) the operator has acquired a building permit issued in its name or in the name of its universal or individual legal predecessors;
- b) the operator has used electronic communications infrastructure and associated facilities without a court dispute with the manager of public property or owner of private property, on which the infrastructure was built, for at least three years since it was first used.

(2) If consent from the manager of public property or owner of private property is necessary in the process of granting building permits and other licenses in accordance with a special law regulating physical planning for the construction of electronic communications infrastructure and associated facilities on public property or property owned by the Republic of Croatia or units of local and regional self-government, and such consent is not suitable to establish real right on the property or any other legal relation between the infrastructure operator and the manager of public property or owner of private property, the date of granting this consent, pursuant to the Electronic Communications Act (hereinafter: the Act) and other special laws, shall be regarded as the date of establishment of the right of way on this public or private property.

(3) The right of way shall be regarded as established on the day of granting consent to the infrastructure operator referred to in paragraph 2 of this Article for the use of property owned by a legal entity or a natural person, if the infrastructure operator and the owner of the property do not agree upon some other type of legal relation in accordance with special regulations.

(4) The application for granting the right of way certificate for building facilities shall be submitted to the Croatian Post and Electronic Communications Agency (hereinafter: the Agency) only on a condition that all valid building permits have been obtained.

II RIGHT OF WAY CERTIFICATE

Application for issuing the right of way certificate

Article 3

(1) For the purpose of issuing the right of way certificate, pursuant to this Ordinance, the infrastructure operator shall submit the application for issuing the right of way certificate to the Agency.

(2) The application referred to in paragraph 1 of this Article shall contain the following information:

- a) Information on the infrastructure operator
- b) The list of land plots to which the application refers to, the list of owners of those land plots or the managers of public property and area occupied by electronic communications infrastructure and associated facilities, classified according to the type of public and private property.
- c) The proof of payment of the fee for the use of public or private property if different from the fee for the right of way,
- d) Utility cadastre certificate for routes for which the right of way is requested
- e) Notarized land register certificates for the land plots on which electronic communications infrastructure and associated facilities are built, not older than sixty (60) days from the date of the submission of application.

(3) If the electronic communications infrastructure and associated facilities have not been registered in the utility cadastre, the application shall include the physical plan of the route, ducts (cables) and associated facilities of electronic communications networks that have been registered in the utility cadastre (telephone network ducts, fibre-optic cables or metal cables, connections, cable TV ducts and radio-relay routes). The facilities that are a part of the electronic communications network duct system are telephone exchange, network node points, manholes (vault, chambers, street cabinets), duct supporters, broadcasting facilities,

radio-relay stations, antenna and television masts and repeaters. The physical plans shall define the area that the electronic communications infrastructure and associated facilities occupy.

(4) In the case referred to in Article 2, paragraphs 2 and 3 of this Ordinance, the applicant shall, in addition to the information referred to in paragraph 2 of this Article, submit the following:

- a) the consent referred to in Article 2, paragraph 2 of this Ordinance
- b) evidence that such consent is not suitable to establish real right on the property or any other legal relation between the infrastructure operator and the manager of public property or the owner of private property

(5) In the case referred to in Article 2, paragraph 1, item a) of this Ordinance, the applicant shall, in addition to the information referred to in paragraph 2 of this Article, submit the following:

- a) the utilisation permit for the built electronic communications infrastructure and associated facilities, issued in the name of the applicant or in the name of its universal or individual legal predecessors. If the utilisation permit for the built electronic communications infrastructures has not been issued, the applicant shall submit proof that the investor specified in the building permit has built the infrastructure and associated facilities in subject,
- b) the building permit issued in the name of the applicant or in the name of its universal or individual legal predecessors, as well as the design as an integral part of the building permit.

(6) In the case referred to in Article 2, paragraph 1, item b) of this Ordinance, the applicant shall, in addition to the information referred to in paragraph 2 of this Article, submit the following:

- a) proof that electronic communications infrastructure and associated facilities was built (capital construction documentation),
- b) certified statement by the infrastructure operator, declared under penalty, that electronic communications infrastructure and associated facilities have been used without a court dispute with the manager of public property or owner of private property for at least three (3) years prior to the date of submitting the application .

Right of way certificate

Article 4

(1) The Agency shall issue the right of way certificate upon establishing that all conditions for issuing the certificate stipulated by the Act and this Ordinance have been met, within thirty (30) days from the date of receipt of the complete application. The Agency shall invite the infrastructure operator who submitted incomplete documentation to complete the documentation in subject within a maximum of fifteen (15) days from the date of the receipt of the application for the right of way certificate.

(2) The form of the right of way certificate represents an integral part of this Ordinance and is attached as Appendix 1.

(3) Upon issuing the right of way certificate referred to in paragraph 1 of this Article, the Agency shall inform the manager of public property or the owner of private property within eight (8) days from the date of issuing the certificate.

III FEE FOR USE OF PROPERTY ON THE BASIS OF RIGHT OF WAY

Article 5

(1) The fee for the use of public property and property owned by the Republic of Croatia and local and regional self-government units and property owned by other legal entities or natural persons shall be paid on an annual basis per square metre of land and shall be established unequivocally for each individual type of property on the entire territory of the Republic of Croatia.

(2) The types of property referred to in paragraph 1 of this Article, determined in accordance with the usage of the land plot or its parts (abbreviated designations in brackets) are:

- 1) agricultural land: ungraded agricultural land, arable land, arable land-greenhouse, arable land-plastic house, garden, garden-greenhouse, garden-plastic house, orchard, orchard-nursery, olive grove, olive grove-nursery, vineyard, vineyard-nursery, meadow, pasture, reed-patch and fish-farm (A)
- 2) woodland: forest and other woodland (B)
- 3) waters: river, stream, channel, lake, pond, swamp, fish-farm and maritime culture (C)
- 4) natural unproductive land: unproductive land, rocky land, cliffs, dry stone wall, sand, land-slide, gully, bank, rock coast, gravel coast and sand coast (D)
- 5) land used as: developed area, land parcel under the buildings, yard, park, sport and recreation fields, playground, market, fairground, graveyard, attended beach, port,

marina, airport, stone-pit, gravel-pit, sandstone, open-pit, dike, cutting, lock, depot, street, square, road, pathway, highway, railroad (E),

- 6) type of property (land) for which special legal regime, maritime property, water property, cultural property, strict reserve, national park, special reserve, nature park, regional park, natural monument, important landscape, park forest, monument of garden architecture, protected area has been established on the land plot (F).

Article 6

(1) The amount of the fee for the right of way shall be calculated according to the area of land used for the installation of electronic communications infrastructure and associated facilities in the following amounts:

NUMBER	TYPE OF PROPERTY (abbreviated designation)	FEE
1	A	HRK 10/m ²
2	B	HRK 5/m ²
3	C	HRK 4/m ²
4	D	HRK 4/m ²
5	E	HRK 6/m ²
6	F	HRK 10/m ²

(2) The area of land for which the fee for electronic communications duct system and ducts to be placed outside the duct system is determined, shall be calculated by multiplying the width by the length of the pit.

(3) The area for which the fee for masts shall be determined is two (2) square meters.

(4) The infrastructure operator can decide, in agreement with the owner of the property, to pay a one-off fee for the right of way in the case when the owner of the property is a legal entity or a natural person, and if such agreement has been reached with the owner. In addition to the prescribed attachments to the application for the right of way certificate, the infrastructure operator shall enclose the statement of the owner agreeing to a one-off fee. If this case, the fee shall be determined as the annual fee multiplied by 20, or as 20 annual fees.

(5) The obligation to pay the fee for the right of way shall start on the day of issuing the right of way certificate, and the fee shall be paid within fifteen (15) days from the day of the receipt of the certificate.

Article 7

(1) The fee for the right of way on public property, property owned by the Republic of Croatia and local and regional self-government units and property owned by other legal entities or natural persons shall include the fee for the right of access to electronic communications infrastructure and associated facilities and the fee for occupying the property as protected area of electronic communications infrastructure and associated facilities where no works may be carried out and no new buildings likely to damage or disturb the operation of such infrastructure or facilities may be constructed.

(2) When the right of way is established, the managers of public property or owners of private property must allow the infrastructure operator to access the property on which electronic communications infrastructure and associated facilities are constructed or are under construction, for the purposes of installation, use, maintenance, inspection, user switch-on or switch-off, and cutting down trees and other vegetation that might endanger the facilities.

(3) The infrastructure operator must inform the manager of public property or the owner of private property on performing the works referred to in paragraph 2 of this Article, and immediately upon terminating the works, repair all damage and bring the property into its original state.

(4) If the repairs and recovery of the original state are not performed after the works referred to in paragraph 2 of this Article, the manager of public property and the owners of private property are entitled to compensation or indemnification in accordance with general regulations.

Article 8

(1) The obligation to pay the fee for the right of way shall cease if the infrastructure operator establishes any other real right on the property for which the right of way has been established or establishes any other legal relation with the manager of public property or the owner of private property for which the right of way has been established, determining the obligation to pay the fee for the use of public or private property.

(2) The infrastructure operator shall notify the Agency on the circumstances referred to in paragraph 1 of this Article.

(3) In the case of receiving the notification referred to in paragraph 2 of this Article, the Agency shall delete the right of way certificate from the register and notify the infrastructure operator.

Article 9

(1) In the case of relocation of electronic communications infrastructure, the infrastructure operator shall submit the application for modification of the right of way certificate to the Agency.

(2) In the case of complete relocation outside the property defined in the right of way certificate, the infrastructure operator shall submit to the Agency the request for deleting the right of way certificate from the Agency's register. The Agency shall notify the infrastructure operator and the manager of public property or the owner of private property.

(3) The request referred to in paragraph 2 of this Article shall include a certified statement by the manager of public property or the owner of private property confirming that the used part of the property has been repaired after the relocation and all damages resulting from the process of relocation have been eliminated.

Article 10

(1) This Ordinance shall come into force on the eight day following its publication in the Official Gazette.

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Reg. No.: 376-11-09-1

Zagreb, 26 February 2009

Chairman of the Agency's Council

Gašper Gačina, B.Sc. m.p.

Appendix 1

The right of way certificate form

Croatian Post and Electronic Communications Agency



RIGHT OF WAY CERTIFICATE

Number.....

1.	Name, surname and address, or name and seat of the infrastructure operator	
2.	Name, surname and address or name and seat of the owner or manager of the property	
3.	Property data (cadastral plot, cadastral district, county, type of property)	
4.	The area occupied by electronic communications infrastructure and associated facilities and amount of fee	
5.	The list of documents on the basis of which the right of way certificate has been issued	

Place and date:

SEAL

Verification of the Agency:
