

City of Cheney FAST Internet – Acceptable Use Policy

Article I. Introduction

- (a) Please read this Acceptable Use Policy for Services (“**AUP**”) carefully. The City of Cheney, Washington (“**SERVICE PROVIDER**”) provides Internet connections through SERVICE PROVIDER’S use of fixed wireless network services (“**Services**”) to customers (in the singular, the “**CUSTOMER**”). CUSTOMER use of SERVICE PROVIDER’S Services constitutes CUSTOMER’S acceptance of and agreement to comply with the provisions of this AUP to the extent its provisions are applicable to the Services used by CUSTOMER. SERVICE PROVIDER may modify this AUP at any time without notice. CUSTOMER’S continued use of the Services after such modification constitutes acceptance of the modified AUP.
- (b) CUSTOMER is responsible for ensuring that all users of Services comply with this AUP, including guests, minors, and unauthorized users. This AUP applies to CUSTOMER’S use of Services under any agreement with SERVICE PROVIDER (collectively, the “**Agreement**”).
- (c) To the extent the provisions of this AUP conflict with any provisions of the Agreement, the provisions of the Agreement control.
- (d) Although SERVICE PROVIDER nor its affiliates, including Avista Edge, Inc. (“**AE**”) will not monitor, screen or otherwise access the content of data transmitted using any Service, SERVICE PROVIDER reserves the right to do so at any time to identify violations of this AUP, or where required to do so by law. SERVICE PROVIDER reserves the right, in its sole discretion, to (i) remove or block any traffic that SERVICE PROVIDER determines is illegal, deceptive, harmful, offensive or otherwise in violation of this AUP, and/or (ii) suspend or terminate CUSTOMER’S Services without notice and without liability to SERVICE PROVIDER if a violation of this AUP occurs through CUSTOMER’S Services.
- (e) Any violation of this AUP for any Services received by CUSTOMER grants SERVICE PROVIDER permission to take action and restrict, suspend, or terminate access to and use of Services. SERVICE PROVIDER’S failure to enforce this AUP in any one or more instances does not constitute a waiver of SERVICE PROVIDER’S right to enforce this AUP at any time in the future.
- (f) CUSTOMER agrees to indemnify, defend, and hold SERVICE PROVIDER and its suppliers and subcontractors, and its affiliates, including AE harmless from and against all claims and expenses, including reasonable attorneys’ fees and costs, resulting from CUSTOMER’S violation of the AUP. The CUSTOMER’S indemnification obligations will survive any termination of Service.

Article II. Prohibited Activities

- (a) Prohibited uses of Services include, but are not limited to, the following:
 - i. Illegal or Unlawful Use. Using Services to engage in, undertake, accomplish, instigate, encourage or further any illegal or unlawful purpose or activity. This includes any and all illegal or unlawful purposes and activities that are not expressly described elsewhere in this AUP.
 - ii. Unauthorized Hacking. Using Services to perform, attempt to perform, encourage or enable unauthorized hacking of any kind. This includes, but is not limited to: (1) breaching or circumventing the network security system of any host, network, server, database or user account, whether on SERVICE PROVIDER’S network or on another carrier’s network, without permission; (2) initiating, performing, participating in or assisting in the performance of denial of service or DDoS attacks; (3) using or

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distributing tools designed to circumvent or compromise network security, such as ransomware, spyware, malware, password cracking or network probing algorithms or analyzers, encryption circumvention devices, or Trojan Horse programs.

- iii. Fraudulent Activity. Using Services to engage in, commit, encourage or further fraudulent activities or other deceptive practices. This includes, but is not limited to, identity theft, credit card fraud, forgery, or impersonation of any person or entity.
- iv. Violating Intellectual Property Rights. Using Services in a manner that violates the intellectual property rights of any third party. This includes, but is not limited to, transmitting, reproducing, or distributing information, data, software or other material that is protected by copyright, trademark, patent, trade secret or other proprietary rights laws, rules or regulations without obtaining permission of the owner.
- v. Privacy Violations. Using Services in a manner that violates the privacy of others. This includes, but is not limited to, collecting (or attempting to collect) or disseminating personal information about third parties without their consent. More information about this can be found in SERVICE PROVIDER'S [Privacy Policy](https://www.cityofcheney.org/462/High-Speed-Internet-Service), available at <https://www.cityofcheney.org/462/High-Speed-Internet-Service>.
- vi. Offensive or Objectionable Use. Using Services in a manner that a reasonable person deems to be offensive or objectionable, regardless of whether or not the use is lawful. This includes, but is not limited to, using Services to: (1) harass, annoy, or threaten others; (2) transmit or disseminate material which a reasonable person could deem to be objectionable, defamatory, offensive, indecent, vulgar, hateful or otherwise inappropriate; or (3) send or collect responses from unsolicited bulk communications (e.g., "spam").
- vii. Causing Network Performance Degradation. Using Services in a manner that causes (or is likely to cause) performance degradation of SERVICE PROVIDER'S network and/or inhibits, interferes with or impedes other authorized users of SERVICE PROVIDER'S network from making normal and reasonable use of their Services. This includes, but is not limited to, the generation of excessive levels of network traffic, regardless of intent, purpose or knowledge.
- viii. Unauthorized Resale. SERVICE PROVIDER'S Services are exclusively for the use of the CUSTOMER and may not be re-sold or otherwise distributed.
- ix. Violating Other Online Policies. CUSTOMER use of the Services in a manner that violates the rules, regulations, or policies established by or applicable to any non-SERVICE PROVIDER network, server, database, or website that CUSTOMER accesses using SERVICE PROVIDER'S Services.

Article III. Security.

- (a) As a user of Services, CUSTOMER is responsible to secure his/her network from external threats such as DDoS attacks, ransomware, viruses, worms and other methods of unauthorized intrusion. CUSTOMER is required to take any and all steps to ensure that others do not gain unauthorized access to Services or use Services in an unauthorized manner.
- (b) CUSTOMER is solely responsible for the security of any device connected to CUSTOMER'S Service, including any data stored or shared on that device.

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- (c) CUSTOMER is responsible for any misuse of Services, even if the misuse was committed without the authorization of the CUSTOMER.

Article IV. Digital Millennium Copyright Act.

- (a) SERVICE PROVIDER is committed to complying with U.S. copyright and related laws, and requires all customers and users of the Service to comply with these laws. Owners of copyrighted works who believe that their rights under U.S. copyright law have been infringed may take advantage of certain provisions of the Digital Millennium Copyright Act of 1998 (the "**DMCA**") to report alleged infringements.
- (b) CUSTOMER may not store any material or content, or access, share or distribute any material or content using the Services, in any manner that constitutes an infringement of third party copyright rights, or allow guests, minors, or unauthorized users to engage in the same behavior prohibited above.
- (c) Under the DMCA, anyone who knowingly makes misrepresentations regarding alleged copyright infringement may be liable to SERVICE PROVIDER, the alleged infringer, and the affected copyright owner for any damages incurred in connection with the removal, blocking, or replacement of allegedly infringing material.
- (d) In accordance with the DMCA and other applicable laws, SERVICE PROVIDER and its subcontractors and its affiliates, including AE, reserve the right to restrict the use of or terminate Services provided to any CUSTOMER who is either found to (1) infringe third party copyright or other intellectual property rights, including alleged repeat infringers, or (2) who SERVICE PROVIDER, in its sole discretion, believes is or may likely be infringing these rights. SERVICE PROVIDER may terminate the Service of any such CUSTOMER at any time with or without notice.
- (e) Copyright owners may report alleged infringements of their works that are committed using the Services by sending SERVICE PROVIDER'S authorized agent a notification of claimed infringement that satisfies the requirements of the DMCA.
 - i. Upon SERVICE PROVIDER'S receipt of a satisfactory notice of claimed infringement for these works, SERVICE PROVIDER will take appropriate action as described in the AUP and the Agreement.
 - ii. If CUSTOMER believes in good faith that the allegedly infringing works have been removed or blocked by mistake or misidentification, then CUSTOMER may send a counter notification to SERVICE PROVIDER.
 - iii. Upon SERVICE PROVIDER'S receipt of a counter notification that satisfies the requirements of DMCA, SERVICE PROVIDER will provide a copy of the counter notification to the person who sent the original notification of claimed infringement and will follow the DMCA's procedures with respect to a received counter notification.
- (f) For a complaint to be valid under the DMCA, the notification must include the following:
 - i. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
 - ii. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.

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- iii. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the SERVICE PROVIDER to locate the material.
 - iv. Information reasonably sufficient to permit the SERVICE PROVIDER to contact the complaining party, such as an address, telephone number, and if available, an electronic mail address at which the complaining party may be contacted.
 - v. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
 - vi. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- (g) If a notification of claimed infringement has been filed against the CUSTOMER, he/she may file a counter notification with SERVICE PROVIDER'S designated agent using the contact information shown below. All counter notifications must satisfy the requirements of Section 512(g)(3) of the U.S. Copyright Act.
- (h) Copyright owners may use any form of notification of claimed infringement form that satisfies the requirements of Section 512(c)(3) of the U.S. Copyright Act. Under the DMCA anyone who knowingly makes misrepresentations regarding alleged copyright infringement may be liable to SERVICE PROVIDER, the alleged infringer, and the affected copyright owner for any damages incurred in connection with the removal, blocking, or replacement of allegedly infringing material.
- (i) Copyright owners may send SERVICE PROVIDER a notification of claimed infringement to report alleged infringements of their works to SERVICE PROVIDER'S designated agent at:
support@avistaedge.net
- (j) In all events, CUSTOMER expressly agrees that SERVICE PROVIDER will not be a party to any disputes or lawsuits regarding alleged copyright infringement.

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