

ORDINANCE NO. 2018-012

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE," ARTICLE III, "ZONING REGULATIONS," DIVISION 4, "ACCESSORY USES AND STRUCTURES," BY AMENDING ALL OF SUBDIVISION IX, "WIRELESS COMMUNICATIONS FACILITIES," CHANGING THE SUBDIVISION TITLE TO "COMMUNICATIONS FACILITIES," AND CHANGING ALL SECTIONS THEREIN IN ORDER TO UPDATE THE CITY'S TELECOMMUNICATIONS ORDINANCES TO COMPORT WITH RECENT CHANGES TO STATE AND FEDERAL LAW AND TO ENSURE CONSISTENCY WITH INDUSTRY STANDARDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, at the conclusion of the 2017 Legislative Session, the Florida Legislature passed House Bill 687, which amended Section 337.401, Florida Statutes, to create the "Advance Wireless Infrastructure Deployment Act" effective July 1, 2017; and

**WHEREAS**, to allow the City sufficient time and opportunity to research the implications of the new law and amend the City's current telecommunications regulations accordingly, in August 2017, a moratorium was enacted for one hundred fifty (150) days with a possible ninety (90) day extension; and

**WHEREAS**, on January 25, 2018, at first reading, the City Commission considered several proposed amendments to certain sections within Subdivision IX, "Wireless Communications Facilities," and although it passed, much deliberation was had on whether the amendments cover all aspects necessary under the new law; and

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**WHEREAS**, on February 8, 2018, at second reading of the proposed amendments, issues were raised by the telecommunications industry representatives concerning the overall consistency of the City’s regulations on the subject matter, and it was determined that the item would be tabled for further revisions to be made; and

**WHEREAS**, the City has put considerable effort into re-writing the entire Subdivision to include both wireless and wireline communications facilities, both inside and outside of the City’s rights-of-way; and

**WHEREAS**, the proposed amendments to the newly titled Subdivision IX, “Communications Facilities,” are tantamount to an entire re-write of the regulations governing the subject matter and provide for consistency throughout the Subdivision with the new state and federal laws; and

**WHEREAS**, the Planning and Zoning Board has reviewed these amendments at a duly noticed hearing on May 9, 2018, and recommended their adoption; and

**WHEREAS**, the City finds and determines that these new regulations are in the best interest of the residents of the City and seek to protect the general public health, safety, and welfare.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA AS FOLLOWS:**

**Section 1: Ratification.** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2:** That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 13, “Land Development Code,” Article III, “Zoning Regulations,” Division 4, “Accessory Uses and Structures,” Subdivision IX, “Wireless Communications Facilities,” to read as follows:

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Chapter 13 - LAND DEVELOPMENT CODE

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ARTICLE III. - ZONING REGULATIONS

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DIVISION 4. - ACCESSORY USES AND STRUCTURES

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Subdivision IX. - ~~Wireless~~ Communications Facilities

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Sec. 13-535. - Intent.

(a) It is the intent of the city to promote the public health, safety and general welfare by: providing for the placement and maintenance of wireline and wireless communications facilities throughout the City and in the City's rights-of-way; adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including Section 337.401, Florida Statutes., as it may be amended, the city's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other federal and state law; establishing reasonable rules and regulations necessary to manage the placement and maintenance of wireline and wireless communications facilities throughout the City and in the City's rights-of-way; and minimizing disruption to the City's zoning and uses already existing in the public rights-of-way. In regulating its public rights-of-way, the City shall be governed by and shall comply with all applicable federal and state laws.

(b) The goals of this articlesubdivision are to:

- (1) Minimize the impacts of wireless and wireline communications facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility;
- (2) Avoid conflict with existing and future eCity and publicly owned utilities and other facilities;
- (3) Avoid potential injury to persons and properties from tower failure and debris hazards through structural standards and setback requirements;
- (4) Preserve the aesthetic, scenic and visual character of the area by encouraging the location, design and architectural treatment of wireless communications facilities to avoid the disruption of the natural and built

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environment and to ensure harmony and compatibility with surrounding land use patterns;

- (5) Facilitate the provision of ~~wireless~~ communications services to residents, businesses, and visitors;
- (6) Provide a uniform and comprehensive framework for evaluating proposals for ~~wireless~~ communications facilities;
- (7) Encourage builders and tenants of wireless and wireline communications facilities and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (8) Encourage the location and ~~co-location~~ collocation of wireless and wireline communications equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts; minimizing effects upon the natural environment and wildlife; and reducing the need for additional antenna support structures;
- (9) Accommodate the growing need and demand for ~~wireless~~ communications services;
- (10) Encourage coordination between suppliers and providers of ~~wireless~~ communications services;
- (11) Establish predictable and balanced codes governing the construction and location of ~~wireless~~ communications facilities, within the confines of permissible local regulations;
- (12) Establish review procedures to ensure that applications for wireless and wireline communications facilities are reviewed and acted upon within a reasonable period of time and in accordance with F.S. §§ Sections 365.172 and 337.401, Florida Statutes, if applicable;
- (13) Respond to the policies embodied in the Telecommunications Act of 1996, if applicable, in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services facilities or to prohibit or have the effect of prohibiting personal wireless services as those terms are defined in the Act; and
- (14) Encourage the use of public lands, buildings, and structures as locations for wireless and wireline communications infrastructure demonstrating concealed technologies and revenue generating methodologies.

Sec. 13-536. - General Terms and Regulations ~~rules of interpretation~~.

(a) Rules of Interpretation. *Certain terms used in this subdivision have been defined in this section.* In the absence of definitions, the standard dictionary meaning shall be utilized. In any event, the director of development services shall have the right to interpret the terms contained in this subdivision. In construing the meaning of the subdivision, the following rules shall apply:

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- (1) Words used in the present tense also include the future tense.
- (2) Words used in the singular number also include the plural and vice-versa.
- (3) The word "shall" is mandatory. The word "may" is permissible.
- (4) The word "development" shall refer also to "project" and the area in which a project takes place.
- (5) The words "used" or "occupied" shall be construed to include arranged, designed, constructed, altered, converted, rented, leased or intended to be used, intended to be occupied.
- (6) The word "lot" shall refer also to plot, parcel, tract and premises.
- (7) The word "building" shall refer also to structure, mobile home, dwelling and residence.
- (8) The words "area" and "district" may indicate and include the meaning "zone."
- (9) Except where specified, the provisions of this article shall be construed to mean the minimum standards, requirements and regulations adopted in pursuit of the purposes of this subdivision.

(b) *Definitions.* For the purposes of this article, the following terms, phrases, words and derivations shall have the meanings given. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended (collectively the "Communications Act"); and if not defined in the Communications Act, as defined by Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning.

~~Abandonment or Abandoned:~~ Shall mean the cessation of all uses of a communications facility ~~Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of one hundred eighty (180) consecutive days or more. Where a wireless infrastructure provider has applied to place utility poles in the public rights-of-way to support the collocation of small wireless facilities, and such collocation is not used by a wireless services provider to provide service within nine (9) months after the date the application is approved, same shall be deemed abandoned.~~

~~Abandonment:~~ Shall mean the permanent cessation of all uses of a wireless communications facility; provided that this term shall not include cessation of all use of a facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of an antenna mounted on a streetlight, where the streetlight continues to be used, shall not be "abandonment" of a facility in public rights-of-way.

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*Accessory use:* A use incidental to, subordinate to, and subservient to the main use of the property. As defined in this section an accessory use is a secondary use.

*Alternative structure:* A structure that is not primarily constructed for the purpose of supporting antennas, but on which one (1) or more antennas may be mounted. Alternative structures include, but are not limited to, buildings, water tanks, light stanchions, church steeples and electric power transmission towers.

*Ancillary equipment:* For the purposes of this subdivision~~article~~, any form of development associated with a ~~wireless~~ communications facility, including but not limited to foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

*Antenna:* Any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to telephonic, radio or television communications. Types of elements include, but are not limited to omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM and TV), yagi, or parabolic (dish) antennas.

*Antenna array:* A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

*Antenna element:* Any antenna or antenna array.

*Antenna support structure:* A vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty (20) feet. Types of support structures include the following: guy, lattice, and monopole structures.

*Applicable codes:* Shall mean uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement Section 337.401(7), Florida Statutes, the "Advanced Wireless Infrastructure Deployment Act," as amended. The term includes objective design standards adopted by ordinance that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground-mounted equipment.

*Applicant:* Shall mean a person who submits an application and is either a wireless or wireline communications service provider.

Application: Shall mean a request submitted by a registered applicant to the City for a permit to construct communications facilities in the City's rights-of-way or to collocate small wireless facilities.

As-Built Survey(s): Shall mean the final and complete drawing(s) in hard copy signed and sealed by a professional surveyor and mapper, as defined in Section 472.005, Florida Statutes. An As-Built Survey is a survey performed to obtain horizontal and/or vertical dimensional data, so that constructed improvements can be located and delineated (also known as a Record Survey). As-Built Surveys depict the present/existing state of facilities/improvements in/on/over/through right(s)-of-way and/or land(s).

Authority: Shall mean a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation. Rights-of-way under the jurisdiction and control of the Department of Transportation are excluded from this subdivision.

Authority utility pole: Shall mean a utility pole owned by an authority in the right-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the right-of-way within: a. A retirement community that: (I) Is deed restricted as housing for older persons as defined in Section 760.29(4)(b), Florida Statutes; (II) Has more than 5,000 residents; and (III) Has underground utilities for electric transmission or distribution. b. A municipality that: (I) Is located on a coastal barrier island as defined in Section 161.053(1)(b)3, Florida Statutes; (II) Has a land area of less than five (5) square miles; (III) Has less than 10,000 residents; and (IV) Has, before July 1, 2017, received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

Base station: The electronic equipment utilized by the wireless communication provider(s) for the transmission and reception of radio signals.

Cable service: Shall mean the transmission of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of any such programming service, regardless of whether the programming is transmitted over facilities owned or operated by the cable service provider or over facilities owned or operated by one (1) or more other providers of communications services. The term includes point-to-point or point-to-multipoint distribution services by which programming is transmitted or broadcast by microwave or other equipment directly to the purchaser's premises, but does not include direct-to-home satellite service. The term includes basic, extended, premium, pay-per-view, digital, and music services.

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*City:* Shall mean Coconut Creek, Florida, ~~an incorporated municipality~~ a municipal corporation of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

~~*Collocation or Collocate*~~ *Co-location:* Shall mean to install, mount, maintain, modify, operate, or replace one (1) or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole within a public right-of-way subject to Section 337.401, Florida Statutes, as amended from time to time. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way. Collocation outside of a public right-of-way means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, where an eligible support structure is a tower or other structure that already has wireless communication equipment located thereon. ~~The practice of installing and operating multiple wireless service providers, and/or radio common carrier service providers on the same antenna support structure or attached wireless communications facility using different and separate antenna, feed lines and radio frequency generating equipment.~~

*Combined antenna:* An antenna or an antenna array designed and utilized to provide services for more than one (1) wireless provider, or a single wireless provider utilizing more than one (1) frequency band or spectrum, for the same or similar type of services.

*Communications facility:* Shall mean a facility that may be used to provide communications services. Multiple cables, conduits, strands, or fibers located within the same conduit shall be considered one communications facility for purposes of this subdivision. This definition includes wireless communication facilities (micro and small wireless facilities) and wireline communication facilities.

*Communications services:* Shall mean the definition ascribed thereto in Section 202.11, Florida Statutes, as may be amended, and also includes but is not limited to wireless services, as defined in this subdivision. The term shall be inclusive of personal wireless services.

*Concealed:* A tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two (2) types of concealed facilities: 1) antenna attachments; examples of antenna attachments include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure; and 2) freestanding; freestanding concealed towers usually have a secondary, obvious function which may be, but is not limited to the following: ~~church steeple~~, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

*Consolidated wireless facilities collocation application:* Shall mean a single permit application that would otherwise require individual permit applications of the collocation



of two (2) and no more than thirty (30) small or micro wireless facilities to existing structures within the public rights-of-way.

*DAS—Distributed antenna system:* A DAS system consists of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one (1) antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site; and (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through the antennas. A DAS installation shall be considered a non-concealed attached antenna for purposes of these regulations.

*DAS hub:* Ancillary equipment usually contained in a shelter or other enclosure which does not have any wireless transmission or receive equipment contained therein but is utilized in the deployment and operation of wireless DAS receive/transmit infrastructure that is located elsewhere same shall be considered wireless equipment for purposes of this subdivision.

*Equipment cabinet:* Any structure ~~above the base flood elevation~~ including cabinets, shelters, pedestals, and other similar structures. ~~Equipment cabinets that~~ are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

*Equipment compound:* The fenced area surrounding the ground-based communication facility including the areas inside or under the following: an antenna support structure's framework and ancillary structures such as equipment necessary to operate the antenna on the tower that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

*Equipment shelter:* Any structure ~~used above the base flood elevation~~ for enclosure of all related electronic equipment, including but not limited to combiners, switching equipment, batteries, and generators (if applicable) necessary for the transmission or reception of wireless communication signals.

*Emergency:* Shall mean a condition that poses clear and immediate danger to the life, safety, or health of one or more persons, or poses clear and immediate danger of significant damage to property.

*Emergency action:* Shall mean any action in the public rights-of-way, including repair, replacement, or maintenance of any existing equipment or facility, which is necessary to alleviate an emergency.

*Extraordinary conditions:* Subsequent to a hurricane, flood or other natural hazard or subsequent to a defective finding on a previous inspection.

*FAA:* The Federal Aviation Administration.

*FCC:* The Federal Communications Commission.

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*Feed lines:* Cables used as the interconnecting media between the transmission and/or receiving base station and the antenna.

*Flush-mounted:* Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

*Geographic search ring:* An area designated by a qualified wireless communication services provider or operator utilized to determine the location for a new base station, produced in accordance with generally accepted principles of wireless engineering.

*Guyed structure:* A style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

*Handoff candidate:* A wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless facility.

*Height:* The measurement of any freestanding and guyed structure as measured at ground level to the top of the tower structure, including antenna(s) and lightning rods.

*In public rights-of-way or in the public rights-of-way:* Shall mean in, on, over, under or across the public rights-of-way.

*Lattice structure:* A tapered self-supporting structure that consists of vertical and horizontal members with multiple legs and cross-bracing, and metal crossed diagonal strips or rods.

*Master telecommunications plan:* A plan developed for the City of Coconut Creek by the eCity's telecommunications consultant intended to enforce the planning and zoning issues of the eCity while complying with all applicable laws, rules, and mandates of all governing bodies.

~~*Microcell facility:* A wireless communications facility consisting of an antenna (as defined above) and related equipment which is located either on a tower or affixed to a structure in some fashion for the provision of wireless services.~~

*Micro wireless facility:* Shall mean a small wireless facility having dimensions no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and an exterior antenna, if any, no longer than eleven (11) inches.

*Microwave:* A wireless service intended for point to point communications.

*Mitigation:* A modification of an existing antenna support structure to increase the height or to improve its integrity, by replacing or removing one (1) or several antenna support structures located in proximity to a proposed new antenna support structure in

order to encourage compliance with this ~~article~~subdivision or improve aesthetics or functionality of the overall wireless network.

*Monopole structure:* A style of freestanding antenna support structure consisting of a single shaft usually composed of two (2) or more stacked hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

*Neutral host antenna:* An antenna or an antenna array designed and utilized to provide services for more than one (1) wireless provider, or a single wireless provider utilizing more than one (1) frequency band or spectrum, for the same or similar type of services.

*Non-concealed:* A ~~wireless~~ communications facility that is readily identifiable as such and can be either freestanding or attached.

*Ordinance:* Ordinance shall mean this ~~article~~subdivision.

*Panel antenna:* An antenna consisting of a grouping of radiating or receiving elements within a single container.

*Pass-through provider:* Shall mean any person who, ~~upon registering with the city,~~ places or maintains a ~~wireless~~ communications facility in the eCity's roads or rights-of-way and that does not remit communications service taxes as imposed by the eCity pursuant to ~~F.S. ch.~~ Chapter 202, Florida Statutes.

*Permit:* Shall mean an official document authorizing performance and setting forth conditions of a specific activity regulated by this subdivision.

*Person:* Shall include any individual, child, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative, and all other groups or combinations, but shall not include the eCity to the extent permitted by applicable law.

*Personal wireless service:* Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

*Personal wireless service facilities:* Facilities for the provision of personal wireless services and, for the purposes of this ~~article~~subdivision, shall include all of those "wireless communication facilities" as defined in Section F.S. § 365.172, Florida Statutes, as it may be amended. Facilities used for communications to remotely facilitate, monitor, or control the distribution or transmission of electricity on electric infrastructure are not included in the definition of personal wireless service facilities. ~~Personal wireless service facilities shall not be used to provide for any form of surveillance or photography through wireless communication or other form of transmission.~~

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*Place or maintain or placement or maintenance or placing or maintaining:* Shall mean to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A communications services provider or pass-through provider that owns or exercises physical control over ~~wireless~~ communications facilities in public rights-of-way, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A party providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the communications facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way is not placing or maintaining facilities in the public rights-of-way.

*Public rights-of-way:* Shall mean a ~~road~~public right-of-way, ~~public utility easement~~, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path, sidewalk, or alley or any other property for which the eCity is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the city holds a property interest therein. "Public rights-of-way" shall not include private property. "Public rights-of-way" shall not include any real or personal eCity property except as described above and shall not include eCity buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the public rights-of-way.

*Public safety communications equipment:* All communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the eCity and operating within the frequency range of 150 MHz, 450 MHz, 700 MHz and 800 MHz and any future spectrum allocations at the direction of the FCC.

*Radio frequency emissions:* Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

*Registrant ~~or facility owner~~:* Shall mean a ~~wireless~~ communications services provider, pass-through provider, or other person that has registered with the eCity in accordance with the provisions of this ~~article~~subdivision.

*Registration and register:* Shall mean the process described in this ~~article~~subdivision whereby a ~~wireless~~ communications services provider or pass-through provider provides certain information to the eCity.

*Replacement tower:* The removal of an existing tower for purposes of erecting a new tower of nearly equal dimensions usually for the purposes of improvement of structural integrity.

*Roofline:* The overall ridge line of the structure which does not include cupolas, elevator towers, clock towers or other features that are permitted to exceed the maximum height of the buildings.

*Satellite earth station:* A single or group of parabolic (or dish) antennas are mounted to a support device that may be a pole or truss assembly attached to a foundation in the

ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Small wireless facility: Shall mean a wireless facility that meets the following qualifications: a. Each antenna associated with the facility is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of antenna that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than six (6) cubic feet in volume; and b. All other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

~~Standalone small cell:~~ Shall mean a wireless service facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three (3) cubic feet; and (2) primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

Tower: Means any structure built for the sole or primary purpose of supporting any Federal Communications Commission-licensed or other governmentally authorized antennas and their associated facilities. ~~staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other telecommunications, and usually consisting of a tower or towers, an antenna or group of antennas, transmission cables, and equipment cabinets.~~

*Tower base:* The geometric center of the tower.

*Tower height:* The vertical distance measured from the grade line to the highest point of the tower, including any antenna, lighting, lightning protection or other equipment affixed thereto.

*Tower site:* The land area that contains, or will contain, a proposed tower, support structures, base station equipment and other related buildings and improvements.

Utility pole: Shall mean a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic

lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure fifteen (15) feet in height or less unless an authority grants a waiver for such pole.

*Whip antenna:* A cylindrical antenna that transmits and/or receives signals in three hundred sixty (360) degrees.

~~*Wireless broadband facility:* A sub-type of wireless communications facility for the wireless transmission and/or reception of broadband data services exclusively, usually consisting of a tower, an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure.~~

~~*Wireless communications facility ("WCF"):* A staffed or unstaffed location for the wireless transmission and/or reception of voice/data services, including new, mitigated, or existing towers, antenna support structures, public antenna support structures, replacement antenna support structures, co-location on existing antenna support structures, attached wireless communications facilities, concealed wireless communications facilities, and non-concealed wireless communications facilities. Antenna support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty (20) feet. Types of support structures include but are not limited to guyed, lattice, monopole, and other similar type towers, utility distribution poles, and water tanks. Shall mean equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include: (a) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated; (b) Wireline backhaul facilities; or (c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.~~

*Wireless infrastructure provider:* Shall mean a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

*Wireless provider:* Shall mean a wireless infrastructure provider or a wireless services provider.

*Wireless services:* Shall mean any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

*Wireless services provider:* Shall mean a person who provides wireless services.

*Wireless support structure:* Shall mean a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure

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designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

*Wireline communications facility:* Shall mean equipment at a fixed location which enables wireline communications between user equipment and a communications network, including wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireline communications.

Sec. 13-536.1 – Registration for placing or maintaining communications facilities in the City rights-of-way.

(a) A communications services provider or pass-through provider or wireless infrastructure provider that desires to place or maintain a communications facility within the City rights-of-way and/or in public rights-of-way in the City shall first register with the City in accordance with this subdivision. A communications services provider or pass-through provider or wireless infrastructure provider with an existing communications facility in the City rights-of-way or in the public rights-of-way of the City as of the effective date of the passage of this section has sixty (60) days from the effective date of the passage of this section to comply with the terms of this subdivision, including, but not limited to, registration, or be in violation thereof. Maintenance, repair, and replacement of communications facilities in existence at the time of the enactment of this section shall be in accordance with the non-conforming standards in the City's Land Development Code.

(b) A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this section governs only the placement or maintenance of communications facilities located within the City rights-of-way and/or in the public rights-of-way. Registration does not establish a right to place or maintain, or priority for the placement or maintenance of, a communications facility in roads or rights-of-way of the City or on City property; the City retains the authority to regulate and manage the City's roads and rights-of-way, and other City property, in exercising its police power. Registration does not excuse a communications services provider or pass-through provider or wireless infrastructure provider from obtaining appropriate access or pole attachment agreements before locating its facilities in the City's rights-of-way or another person's facilities or property. Registration does not excuse a communications services provider or pass-through provider or wireless infrastructure provider from complying with all applicable law, including City ordinances, codes or regulations, including this subdivision.

(c) Each communications services provider or pass-through provider or wireless infrastructure provider that desires to place or maintain a communications facility in the City rights-of-way and/or public rights-of-way within the City shall file a single registration with the City that shall include the following information:

(1) Name of the registrant;

(2) Name, address and telephone number of the registrant's primary contact person in connection with the registration and of the person to contact in case of an emergency;

(3) Evidence of the insurance coverage required under this subdivision and acknowledgment that registrant has received and reviewed a copy of this subdivision; and

(4) A copy of federal or state certification authorizing the registrant (or associated communications service provider) to provide communications services; a pass-through provider and a wireless infrastructure provider must furnish evidence of a legal commitment of a communications service provider to operate equipment on the proposed communications facility once constructed to avoid a determination of abandonment consistent with the definition contained within this subdivision.

(5) If the registrant is a corporation, proof of authority to do business in the State of Florida, which may be satisfied by the number of the corporate certification or by other means; and

(d) The City Manager or his/her designee shall review the information submitted by the registrant. If the registrant submits information in accordance with subsection (c) above, the registration shall become effective upon the City's notification to the registrant of the effectiveness of registration in writing. If the City determines that the information has not been submitted in accordance with subsection (c) above, the city shall notify the registrant in writing of the non-effectiveness of registration, and reasons for the non-effectiveness. The City shall notify a registrant within thirty (30) days after receipt of registration information from the registrant of the effectiveness of the registration.

(e) Reports and records; inspections. A registrant shall provide the following documents to the City as received or filed, and the City shall keep any documentation, books or records of the registrant confidential to the extent required under Florida Statutes:

(1) Upon reasonable request, any pleadings, petitions, notices, and documents, which may directly impact the obligations under this subdivision and which are reasonably necessary for the City to protect its interests under this subdivision.

(2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.

(f) A registrant may cancel a registration upon written notice to the City that the registrant will no longer place or maintain any communications facilities in public rights-of-way or in the City rights-of-way and will no longer need to obtain permits to perform work in the City. A registrant cannot cancel a registration if the registrant continues to place or maintain any communications facilities in the City rights-of-way or public rights-of-way within the City.



(g) Registration shall be nonexclusive. Registration shall not establish any right or priority to place or maintain a wireless communications facility in any particular area in public rights-of-way within the City. Registrations are expressly subject to any future amendment to or replacement of this subdivision and further subject to any additional City ordinances, as well as any state or federal laws that may be enacted.

(h) A registrant shall renew its registration with the City by October 1 annually. Within thirty (30) days of any change in the information required to be submitted pursuant to subsection 13-541.2(c), a registrant shall provide updated information to the City. Failure to renew a registration may result in the City restricting the issuance of additional permits until the communications services provider or pass-through provider or wireless infrastructure provider has complied with the registration requirements of this section.

(i) In accordance with applicable City ordinances, codes or regulations and this subdivision, a permit shall be required of a communications services provider or pass-through provider or wireless infrastructure provider that desires to place or maintain a communications facility in the City rights-of-way. An effective registration shall be a condition of obtaining a permit. Notwithstanding an effective registration, permitting requirements shall continue to apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.

(j) Insurance.

(1) A registrant shall provide, pay for and maintain satisfactory to the City the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a rating in best's insurance guide of "A" or better or having a rating acceptable to the City. All insurance coverage shall be primary over any City insurance coverage. Further, all insurance coverage shall be "by occurrence" rather than on a "claims made" basis. All liability policies shall provide that the city is an additional insured in the endorsement. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the City annually. Thirty (30) days' advance written notice by registered or certified mail must be given to the City of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of other types of insurance acceptable to the City's Risk Manager.

(2) The limits of coverage of insurance required shall be not less than the following:

a. Worker's compensation and employer's liability insurance. Worker's compensation –statutory requirements. Employer's liability—Five hundred thousand dollar (\$500,000.00) limit each occurrence, five hundred thousand dollars (\$500,000.00) limit per each employee.

- b. Comprehensive general liability. Bodily injury and property damage—Three million dollars (\$3,000,000.00) combined single limit each occurrence. Said coverage shall not exclude contractual liability, products/completed operations or independent contractors.
- c. Business automobile liability. Bodily injury and property damage— Three million dollars (\$3,000,000.00) combined single limit each occurrence.
- (3) Umbrella or excess liability. Registrant may satisfy the minimum limits required above for either commercial general liability, business auto liability and employer's liability coverage under umbrella or excess liability. The umbrella or excess liability shall have an aggregate limit not less than the highest "each occurrence" limit for commercial general liability, business auto liability or employer's liability. The City shall be specifically endorsed as an "additional insured" on the umbrella or excess liability, unless the certificate of insurance states the umbrella or excess liability provides coverage on a "follow-form" basis.
- (4) Right to review. City reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of this section. City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.
- (5) This section shall not be construed to affect in any way the City's rights, privileges and immunities as set forth in Section 768.28, Florida Statutes, as may be amended. Insurance under this section shall run continuously with the presence of the registrant's wireless communications facilities in the public right-of-way and any termination or lapse of such insurance shall be a violation of this section and subject to the remedies as set forth herein. Notwithstanding the foregoing, the City may, in its sole discretion require increased or decreased levels of insurance for any other object placed in the City's rights-of-way by way of individual license or lease agreements.
- (k) Indemnification. A registrant shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the City arising out of the placement or maintenance of its communications facilities in City rights-of-way or public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this subdivision, provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the negligence, gross negligence or wanton or willful acts of the City. This provision includes, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. City agrees to notify the registrant, in writing, within a reasonable time of City receiving notice, of any issue it determines may require

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indemnification. Nothing in this section shall prohibit the City from participating in the defense of any litigation by its own counsel and at its own cost if in the City's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted: (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) as consent by the city to be sued; or (3) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes, as it may be amended.

(l) Termination of registration.

- (1) The involuntary termination of a previously effective registration may only be accomplished by an action of the City Commission. The City may declare the registration terminated and revoke and cancel all privileges granted under that registration if:
  - a. A federal or Florida authority suspends, denies, or revokes a registrant's certification or license to provide communications service,
  - b. The registrant's placement and maintenance in the City rights-of-way or public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way or other City property,
  - c. The registrant abandons all of its communications facilities in the City rights-of-way or public rights-of-way, or
  - d. A pass-through provider fails to comply with the requirements of set forth in this subdivision and specifically those located in section 13-539.1, "Pass-through Providers."
- (2) Prior to such termination for any of the reasons set forth in this subsection, the City Manager or his/her designee shall notify the registrant in writing setting forth the matters pertinent to such reasons and describing the proposed action of the City with respect thereto. The registrant shall have sixty (60) days after receipt of such notice within which to cure the violation, or within which to present a plan, satisfactory to the City Commission, to accomplish the same.
- (3) In the event of a vote by the City Commission to terminate the registration, the registrant shall, within a reasonable time following such termination, provide an acceptable plan for transferring ownership of the communications facilities to another person in accordance with this subdivision or shall remove or abandon the facilities and take such steps as are necessary to render every portion of the facilities remaining in the City's rights-of-way or on public rights-of-way safe. If the registrant has either abandoned its facilities or chooses to abandon its facilities, the City may either (i) require the registrant or the registrant's bonding company to remove some or all of

the facilities from the City's rights-of-way or public rights-of-way and restore same to its condition immediately prior to the removal; or (ii) require that some or all of the facilities be removed from the City's rights-of-way or public rights-of-way using City employees, agents or contractors, and charge any and all costs to the registrant for reimbursement to the City; or (iii) utilize or allow other persons to utilize the registrant's abandoned facilities; or (iv) follow such procedures outlined in section 13-536.2, "Abandonment." The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the City to cause the removal of any facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing federal or state agency, where required, and is properly registered with the City, for such certificated service, where required, and does not cause a clear and present danger to the public.

Sec. 13-536.2 – Abandonment of a communications facility within City rights-of-way.

(a) Upon purposeful abandonment of a communications facility located in the City rights-of-way or public rights-of-way, the registrant shall notify the City of such abandonment within ninety (90) days of same. Such notice of abandonment shall be deemed to be consent to the alteration or removal of all or any portion of the abandoned facility by the City or another person at such third party's cost.

(b) Removal of abandoned or unused facilities; Public Health, Safety or Welfare.

(1) The City may direct the registrant by written notice to immediately remove all or any portion of such abandoned facility at the registrant's sole expense if the City determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility:

a. Compromises safety at any time for any City or public right-of-way user or during construction or maintenance in a City or public right-of-way;

b. Prevents another person from locating facilities in the area of City or public rights-of-way where the abandoned facility is located when other alternative locations are not reasonably available. In the event the abandoned facility prevents another person from locating facilities in the area, the City may require the third person to coordinate with the registrant that owns the existing facility for joint removal and placement, where agreed to by the registrant; or

c. Creates a maintenance condition that is disruptive to the City or public rights-of-way's use.

(2) If the registrant fails to remove all or any portion of an abandoned communications facility as directed by the City within a reasonable time period as may be required by the City under the circumstances, the City may

perform such removal and charge the cost of the removal against the registrant.

(c) Removal of abandoned or unused facilities; other circumstances. A provider who owns communications facility infrastructure in the City rights-of-way that determines to discontinue its operations or part of its operations in the City rights-of-way must either:

(1) Remove its own facilities.

(2) Provide information satisfactory to the City Manager or his/her designee that the provider's obligations for its equipment in the right-of-way or public easement under this subdivision have been lawfully assumed by another provider; or

(3) Submit to the City Manager or designee a proposal and instruments for transferring ownership of its equipment to the City. If a provider proceeds under this clause, the City may, at its option:

a. Assume ownership of the equipment with a ten (\$10.00) dollar nominal consideration, or

b. Require the provider, at its own expense, to remove it, or

c. Require the provider to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the equipment. Equipment of a provider who fails to comply with the preceding paragraph and which, for one hundred eighty (180) consecutive days, remains unused for communications services shall be deemed to be abandoned. Abandoned equipment is deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to (i) abating the nuisance, or (ii) taking possession of the equipment and restoring it to a useable condition.

#### Sec. 13-536.3 – Force Majeure.

In the event a registrant's performance of or compliance with any of the provisions of this subdivision is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such registrant uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For purposes of this subdivision, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or

comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of registrant's directors, officers, employees, contractors or agents.

Sec. 13-536.4. - Reservation of rights.

(a) The City reserves the right to amend this subdivision as it shall find necessary in the lawful exercise of its police powers.

(b) The provisions of this subdivision shall be applicable to all communications facilities located in the City, as specified, on or after the effective date of the ordinance from which the provisions derive and shall apply to all existing communications facilities located in the City, as specified, prior to the effective date of this subdivision, to the full extent permitted by state and federal law, except that any provision of this subdivision regarding size, composition, or location of physical facilities shall not apply to physical facilities lawfully placed within the City prior to the effective date of the ordinance from which such provision is derived.

Sec. 13-536.5 – Appeals

Final, written decisions of the City Manager’s or his/her designee’s interpretation that causes the suspension or denial of a permit, valid registration, or denial of renewal of a registration are subject to appeal. An appeal must be filed in accordance with the procedures set forth in Section 13-34, “Appeals.”

Sec. 13-537.1 - Wireless communications facilities outside of City rights-of-way.

(a) This section does not authorize a person to collocate or attach wireless communications facilities, including any antenna, micro wireless facility, or small wireless facility, nor construct or install wireless communications facilities on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless communications support structure, or other private property without first obtaining the consent of the property owner.

(b) A wireless communications facility may be allowed on property owned by the City. The City may authorize the use of City property after a communications service provider submits the appropriate permit documentation and executes a written agreement acceptable to the City setting forth the applicable terms and provisions of such use. The City shall have no obligation whatsoever to execute such written agreement even if the applicant does meet the criteria set forth herein. As part of any written agreement, the City shall receive reasonable rental fees based on fair market value for the use of public lands, structures, and buildings. Any permit to develop a wireless communications facility on City-owned property, including City-owned structures, granted pursuant to this subdivision shall not become effective until the owner of the communications facility and the City have executed a written agreement.

(c) Minimum standards for all wireless facilities outside rights-of-way. Except where a special land use grants otherwise, every wireless facility outside rights-of-way must meet the following minimum standards:

(1) As part of a building, electrical, and/or an engineering permit, a site development plan shall be presented for approval to the department of sustainable development. Each application for a proposed wireless facility shall include all requirements for site development plan approval as required by sections 13-546 through 13-549 of the land development code. The City Manager or his/her designee may waive all or some of these provisions for concealed towers which are designed to emulate existing structures already on the site, including but not limited to light, power, or telephone poles. Approval of the City Manager or his/her designee to ensure consistency with the definition of concealed facility is required. Each application shall contain a rendering or photograph of the tower including, but not limited to, colors and screening devices.

(2) Proposed New Freestanding structures.

a. When the construction of a new freestanding tower is proposed, a statement shall be submitted, including technical data demonstrating that all antenna attachments and collocation options (including all potentially useable High Voltage Electrical Transmission (HVET) poles), replacement towers and other elevated structures within the proposed service area, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons why existing facilities, such as HVET poles and other elevated structures, are not acceptable alternatives to a new freestanding tower. The report regarding the adequacy of alternative existing facilities or the replacement or mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing wireless facility could accommodate the applicant's proposed facility shall consist of any of the following:

1. No existing wireless facility located within the geographic search ring meets the applicant's engineering requirements, and why.
2. Existing wireless facilities are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height.
3. Existing wireless facilities do not have sufficient structural integrity to support the applicant's proposed wireless facility and related equipment, and the existing facility cannot be sufficiently improved or replaced.
4. Other limiting factors that render existing wireless facilities unsuitable.

Technical data included in the report shall include certification by a radio frequency engineer or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed wireless facility, and accompanying maps and calculations demonstrating the need for the proposed wireless facility. All new freestanding towers shall have the capacity to permit multiple users; at a minimum monopole towers shall accommodate four (4) users and self-support/lattice or guyed structures shall, at a minimum, accommodate five (5) users.

(3) Aircraft hazard. Prior to the issuance of a building permit by the building division, department of sustainable development, the applicant shall provide evidence that the wireless facilities or antennas are in compliance with Federal Aviation Administration (FAA) regulation, and chapter 333, Florida Statutes, pertaining to airport airspace protections. Where an antenna will not exceed the highest point of the existing structure upon which it is to be mounted, such evidence shall not be required.

(4) Approval required from other governmental agencies. Each application for a wireless facility may be required to include written approval or a statement of no objection from other federal or state agencies that may regulate wireless facilities siting, design, and construction.

(5) FCC emissions standards. All proposed wireless facilities shall comply with current radio frequency emissions standards of the Federal Communications Commission, or other legal regulating body. Applicants shall furnish a statement from a qualified professional engineer certifying to the compliance with such standards for the proposed installation of wireless equipment, both individually and on a cumulative basis.

(6) Buffering.

a. For ground mounted communications facilities, an eight (8) foot opaque fence or wall constructed in accordance with section 13-379, "Fences, walls and enclosures," of the Land Development Code, as measured from the finished grade of the site, shall be required around the base of any lattice structure and may be required around any accessory buildings or structures.

b. For ground mounted communications facilities, landscaping, consistent with the requirements of chapter 13, article II, division 4, subdivision IV of the Land Development Code, shall be installed around the entire perimeter of any fence or wall. Additional landscaping may be required around the perimeter of the fence or wall and around any or all anchors or supports if deemed necessary to buffer adjacent properties. The City may require landscaping in excess of the requirements of the City code in order to enhance compatibility with adjacent residential and nonresidential land uses. Landscaping shall be installed on the outside of the perimeter fence or wall. Landscaping consistent with the perimeter and on-site requirements of



chapter 13, article III, division 4, subdivision IV of the Land Development Code, shall be installed around any accessory buildings or structures.

c. Towers including appurtenances shall have a minimum horizontal separation of ten (10) feet from any city-owned utility and City-owned underground facility. Ten (10) feet from closest outer diameter (OD) or outer edge (OE) to OD or OE.

(7) High voltage and "no trespassing" and other warning signs.

a. If high voltage is necessary for the operation of the tower or any accessory structures, "HIGH VOLTAGE - DANGER" warning signs shall be permanently attached to the structure, fence, or wall and shall be spaced no more than forty (40) feet apart measured on a horizontal plane.

b. Where an enclosure is required, "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart measured on a horizontal plane.

c. The letters for the "HIGH VOLTAGE - DANGER" and "NO TRESPASSING" warning signs shall be at least six (6) inches in height. The two (2) warning signs may be combined into one (1) sign. The warning signs shall be installed at least five (5) feet above the finished grade of the structure, fence or wall.

d. Where an enclosure is required, the warning signs may be attached to freestanding poles or wireless support structures only if the content of the signs is or will be obstructed by landscaping.

e. Signs noting federal registration (if required) shall be attached to the wireless facility in compliance with federal regulation.

(8) Equipment storage. Mobile or immobile equipment not used in direct support of a wireless facility shall not be stored or parked on the site of the wireless facility, unless repairs to the wireless facility is being made.

(9) Signs and advertising. The use of any portion of a wireless facility or support structure for signs or advertising purposes including company name, banners, streamers, etc., shall be strictly prohibited. For purposes of emergency contact, the owner of the wireless facility shall place one (1) identification label on the wireless facility or support structure or its equipment not larger than two (2) square feet in size advising of the name and contact telephone number of the owner of the wireless facility and, if applicable, FCC Antenna Structure Registration Number.

(10) Accessory buildings or structures. All accessory buildings or structures shall meet all building design standards as listed in this Code, and in accordance with the provisions of the Florida Building Code. All accessory buildings or structures shall require a building permit issued by the building division, department of sustainable development.

(11) Colors. Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over wireless facilities and their support structures, and accompanying equipment cabinets/hubs, same shall be painted or constructed in neutral colors, or design wrapped, for the purpose of blending into the surrounding environment or complying with the City's public art master plan.

(12) Non-interference. Each application to allow construction of a wireless facility shall include a certified statement from a qualified professional engineer that the construction and placement of the wireless facility, will not unnecessarily interfere with public safety communications and the usual and customary transmission or reception of radio, and television, service enjoyed by adjacent residential and non-residential properties. A statement shall be prepared by a registered professional engineer identifying any interference that may result from the proposed construction and placement. Whenever the City has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one (1) or more wireless facilities, the City shall provide notification to all communications service providers operating in the City of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the City and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "good engineering practices," as may be amended or revised by the FCC from time to time in any successor regulations. If any equipment owner fails to cooperate with the City in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the City public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the City for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the City to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "best practices guide" within twenty-four (24) hours of City's notification.

(13) Inspection report.

- a. Wireless communications facility owners shall submit a report to the City building division, department of sustainable development, certifying structural and electrical integrity on the following schedule:
  1. Monopole structures—once every five (5) years;
  2. Self-support/lattice structures—once every two (2) years;

and

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3. Guyed structures—once every two (2) years.

- b. Inspections shall be conducted by an engineer licensed to practice in the State of Florida. The results of such inspections shall be provided to the building division, department of sustainable development. Based upon the results of an inspection, the building official may require repair or removal of a wireless facility.
- c. The building division, department of sustainable development, may conduct periodic inspections, with the cost of such inspection paid by the tower owner and/or owner of the land in which the tower is situated, of towers containing wireless facilities to ensure structural and electrical integrity. The owner of the tower may be required by City to have more frequent inspections should there be reason to believe that the structural and electrical integrity of the tower is jeopardized. The City reserves the right to require additional inspections if there is evidence that the tower has a safety problem or is exposed to extraordinary conditions.
- d. Following the completion of construction of a wireless facility in the City, the owner shall submit a report to the department of sustainable development certifying “as-built” compliance with the permitted structural and electrical parameters. The City shall conduct a post-construction inspection to verify the submitted report and confirm the constructed facility does not present a public safety hazard.
- e. An owner of a wireless communications facility located within the City shall maintain its communications facility in a manner consistent with accepted industry practice and applicable law.

(14) Existing towers.

- a. Notwithstanding the above provisions of this section, towers in existence as of January 23, 1997, may be replaced with a tower of equal or less visual impact after approval by the City manager or his/her designee, and proceed through the permitting process outline herein. However, if the proposed new tower would not be consistent with the minimum standards under this section, replacement must be approved by the City Commission as a special land use.

(15) Modifications or replacements. Modification or replacement of any communications facilities in the City shall be subject to permit approval of the City, subject to the exception provided herein. Any removal or replacement of communications facilities that substantially changes the physical dimensions of an antenna node site shall be subject to permit approval. Notwithstanding anything to the contrary in this section, for an “eligible facilities request” under section 6409 of

the Middle Class Tax Relief and Job Creation Act of 2012, (47 USC § 1455(a)), the application shall be subject only to the City Manager's or his/her designee's review and approval process.

(16) Cooperative determination. In the event an applicant demonstrates, in writing, to the satisfaction of the City Manager, or designee, that the operation of this section produces a result which is either: (i) overly burdensome and a hardship on the applicant, and is inconsistent with the general public welfare; or (ii) inconsistent with the intent of the particular provisions of this section, and inconsistent with the general public welfare, the applicant and the City Manager, or designee, shall cooperate to determine an appropriate location and aesthetic design for the proposed facility. In any such cooperative determination there shall be a preference for collocation with existing wireless facilities or other utility facilities, or for use of unused capacity on existing wireless facilities. Where facilities cannot be collocated and no such unused capacity exists, there shall be a preference for the use of free-standing concealed type structures which are consistent, to the extent possible, with this section. The City Manager, or designee, may require a written statement certifying that the proposed location is needed by a communication services provider to close a significant gap in its service to the affected areas.

(d) Zoning for Wireless communications facilities outside of the City's rights-of-way.

(1) All wireless communications facilities, ("WCF"), installations located outside the City's rights-of-way, but still subject to the City's jurisdiction, require issuance of the appropriate permits prior to installation. ~~Wireless communications facilities, ("WCF") including wireless broadband facilities, monopole, and concealed towers and microcell facilities~~ New micro wireless facilities and neutral host antenna facilities shall be allowed in the following zoning districts subject only to an administrative review. All other WCFs are subject to the grant of a special land use ~~permitted~~ as an accessory use in the following zoning districts:

- a. (B-2) Convenience shopping district; ~~(1) (P) Parks and recreation greater than one and one quarter (1.25) acres.~~
- b. (B-3) Community shopping district; ~~(2) (CF) Community facility.~~
- c. (B-4) Regional shopping district;
- d. (IO-1) Industrial office district;
- e. (IM-1) Industrial manufacturing district;
- f. (PCD) Portions designated a land use as noted in e. above;

- g. (RM-10) Medium high density multiple-family;
- h. (CF) Community facility;
- i. (P) Parks and recreation;
- j. (PUD) portions designated a land use as noted in i. above;
- k. (SU) Special utility overlay district (subject to the scope of the utility easement); and
- l. (PMDD) Planned MainStreet Design District.

~~(3) On property owned by the city, the city shall authorize the application and use of city property after the applicant executes a lease agreement acceptable to the city. The city shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein.~~

(2) Exceptions to zoning. The location of a new wireless communications facility outside of City rights-of-way in any zoning district other than those districts specified in this section shall be prohibited unless approved as a special land use and subject to the additional conditions specified below:

1. Antenna attachments (including DAS systems) proposed for location on utility poles outside of City rights-of-way may only be located on existing franchised utility poles or poles owned by the City and for poles owned by the City, subject to a separately executed agreement with the City.

2. The antenna shall be of a size and placement that is structurally compatible with the engineering design of the wireless support structure or utility pole desired for placement pursuant to the Florida Building Code (and relevant amendments) and attested to by a registered engineer.

3. The antenna shall not extend more than ten (10) feet above the existing pole height for which the antenna is proposed to be attached. If the pole is replaced to withstand the addition of communications equipment, then the same restriction shall apply except that the replacement utility pole may be no more than ten (10) feet higher than the adjacent pole heights.

4. No commercial advertising shall be allowed on the antenna, wireless facility equipment or support structure.

5. The location of a new wireless communications facility, including any micro wireless facility located on a tower, in any nonresidential zoning district other than those districts specified in this section, must be proposed as a concealed facility or monopole.

~~(b)~~ (1) (3) Subject to the above, a wireless communications facility WCF that is proposed as part of existing high voltage electrical transmission poles shall be permitted as an accessory use in the following zoning overlay district: located within the Special utility overlay area (SU). WCF shall be constructed as part of the existing high voltage electrical transmission ("HVET") poles or as replacements for existing HVET poles, but shall not be more than twenty (20) feet in height over the original existing HVET poles. The height restriction for utility poles within the special utility overlay area shall be limited to one hundred twenty (120) feet. No freestanding WCF wireless communications facilities constructed exclusively for personal wireless services shall be permitted. Subject to the provisions of [subsection] 13-538(f), nNon-concealed attachments shall only be allowed on HVET utility poles subject to approval by the utility company, the development standards set forth in this ~~section~~ subdivision and in compliance with existing legal restrictions contained in any easement or deed granted for the realty containing said HVET poles. Associated non-antenna equipment cabinets for ~~WCF~~ wireless communications facilities on HVET poles shall be located on the ground and landscaped/screened in accordance with this subdivision.~~the provisions of section 13-35.~~

~~(c)~~ (4) Subject to the above, Ffreestanding wireless communications facilities ~~WCF shall be permitted,~~ are allowed as a special land use, in the industrial zoning districts and industrial portions of a ~~p~~ Planned eCommerce ~~d~~ District (PCD) zoning district, provided the wireless communications facilities ~~WCF~~ are an accessory use ~~and subject to the procedure and requirements of section 13-35 of the land development code.~~ This provision does not preclude the use of vacant property in the industrial zoning district; however, a concealed facility or monopole must be utilized and processed as a special land use.

(5) A special land use granted pursuant to this section shall be revocable by the City Commission upon a showing that the wireless communications facility has been abandoned as defined herein.

~~(d)~~ (6) Exceptions for Satellite earth station (SES).

~~The location of a new WCF, including any microcell facility located on a tower, in any nonresidential zoning district other than those districts specified in this section, must be approved as a special land use and be proposed as a concealed facility or monopole. Satellite earth stations which~~

are one meter (39.37 inches) or less in size, intended to receive signals from orbiting or geo-stationary satellites and other sources, or to link wireless service sites together by wireless transmission of voice or data shall be permitted as accessory uses in all zoning districts.

~~(e) Minimum standards. Except where a special land use is granted, every WCF must meet the following minimum standards:~~

~~(1) Prior to the issuance of a building, electrical, or an engineering permit, a site development plan shall be presented for approval to the department of sustainable development. Each application for a proposed WCF shall include all requirements for site development plan approval as required by sections 13-546 through 13-549 of the land development code. The director of sustainable development or designee may waive all or some of these provisions for concealed towers which are designed to emulate existing structures already on the site, including but not limited to light, power, or telephone poles. Approval of the director of sustainable development or designee to ensure consistency with the definition of concealed facility is required. Each application shall contain a rendering or photograph of the tower including, but not limited to, colors and screening devices.~~

~~(2) A statement shall be submitted, including technical data demonstrating that all antenna attachments and co-location options (including all potentially useable HVET poles), replacement towers and other elevated structures within the proposed service area, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons why existing facilities, such as HVET poles and other elevated structures, are not acceptable alternatives to a new freestanding tower. The report regarding the adequacy of alternative existing facilities or the replacement or mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing WCF could accommodate the applicant's proposed facility shall consist of any of the following:~~

~~a. No existing WCF located within the geographic search ring meet the applicant's engineering requirements, and why.~~

~~b. Existing WCF are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height.~~

~~c. Existing WCF do not have sufficient structural integrity to support the applicant's proposed WCF and related equipment, and the existing facility cannot be sufficiently improved or replaced.~~

~~d. Other limiting factors that render existing WCF unsuitable.~~

~~Technical data included in the report shall include certification by a radio frequency engineer or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed WCF, and accompanying maps and calculations demonstrating~~

~~the need for the proposed WCF. For all WCF attached to alternative structures, the statement shall include certification that the structure can support the load superimposed from the WCF. All new freestanding towers shall have the capacity to permit multiple users; at a minimum monopole towers shall accommodate four (4) users and self-support/lattice or guyed structures shall, at a minimum, accommodate five (5) users.~~

~~(3)~~ (e) Design standards.

(1) Height/setbacks and related location requirements related to towers, monopoles, and wireless support structures.

- a. The height of a tower shall not exceed one hundred fifty (150) feet. Tower height shall be measured from the crown of the road of the nearest public street.
- b. Towers shall conform with the setbacks established for the underlying zoning district.
- c. Monopole, lattice or guyed structures shall not be permitted within two hundred (200) feet of any residential district or residential portion of a PUD/PMDD unless the property is designated as a part of the ~~s~~Special utility overlay area~~district.~~
- d. Monopole, lattice or guyed structures shall not be located within seven hundred fifty (750) feet of any existing monopole, lattice or guyed structures. This distance restriction shall not apply to any monopole, lattice or guyed structure owned by a public agency or entity or be part of an AM broadcasting tower array.
- e. All buildings and other structures to be located on the same property as a tower shall conform with the setbacks established for the underlying zoning district.

(2) Building or rooftop concealed antennas shall be subject to the following minimum standards:

- a. No lettering, text, logos, or commercial advertising shall be allowed on an antenna;
- b. No signals, lights, or illumination shall be allowed on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;
- c. Any related unmanned equipment compound or cabinet shall not contain more than seven hundred fifty (750) square feet of gross floor area or be more than twelve (12) feet in height, and



- d. If the equipment cabinet is located on the roof of the building, the area of the equipment cabinet shall not occupy more than twenty-five (25) percent of the roof area.
- e. Approval of the City Manager or his/her designee to ensure consistency with the definition of concealed facility is required. Each application shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices.
- f. Concealed antennas attached to, but not above, rooftop structures shall be exempt from a prohibition against extending more than twenty (20) feet above the highest point of a roof.

(3) Building or rooftop non-concealed antennas shall be subject to the following minimum standards:

- a. Antennas shall only be allowed on nonresidential structures that are at least thirty (30) feet tall. Antennas may be placed on nonresidential structures that are less than thirty (30) feet tall in the Parks and recreation or Community facility districts, if public safety needs warrant the antenna;
- b. Antennas may not extend more than twenty (20) feet above highest point of a roof. Antennas may exceed twenty (20) feet above the roof in the Parks and recreation or Community facility districts if public safety needs warrant additional height;
- c. Antennas, and related equipment compounds or cabinets, shall be located or screened to minimize the visual impact of the antenna upon adjacent properties and shall be of a material or color which matches the exterior of the building or structure upon which it is situated;
- d. No lettering, text, logos, or commercial advertising shall be allowed on an antenna;
- e. No signals, lights, or illumination shall be permitted on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;
- f. Any related unmanned equipment compound or cabinet shall not contain more than seven hundred fifty (750) square feet of gross floor area of where it is proposed to be placed or be more than twelve (12) feet in height; and
- g. If the equipment cabinet is located on the roof of the building, the area of the equipment cabinet shall not occupy more than twenty-five (25) percent of the roof area.

(4) Antenna types. To minimize adverse visual impacts, concealed antenna types shall be preferred. If a non-concealed antenna is proposed, the applicant shall be required to demonstrate, in a technical manner acceptable to the City Manager or his/her designee, why the concealed antenna (i.e. an antenna incorporated into the architecture of the building or fully screened from view from sight proximate to the antenna) cannot be used for the particular application. This does not preclude a combination of the various types of antenna, including flush-mounting if concealed is not feasible.

(5) Antenna dimensions. Antenna dimensions shall be reviewed by the City Manager or his/her designee as required by existing technology. A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the state or qualified professional exempt pursuant to Section 417.003, Florida Statutes, as may be amended, and competent to evaluate antenna choices, to certify the need for the required dimensions, to include power level and type.

~~(4) Aircraft hazard. Prior to the issuance of a building permit by the building division, department of sustainable development, the applicant shall provide evidence that the WCF facilities or antennas are in compliance with Federal Aviation Administration (FAA) regulation. Where an antenna will not exceed the highest point of the existing structure upon which it is to be mounted, such evidence shall not be required.~~

~~(5) Approval required from other governmental agencies. Each application for a WCF facility may be required to include written approval or a statement of no objection from other federal or state agencies that may regulate WCF facilities siting, design, and construction.~~

~~(6) FCC emissions standards. All proposed WCF facilities shall comply with current radio frequency emissions standards of the Federal Communications Commission, or other legal regulating body.~~

~~(7) Buffering.~~

~~a. An eight (8) foot opaque fence or wall constructed in accordance with section 13-379 of the Land Development Code, as measured from the finished grade of the site, shall be required around the base of any lattice structure and may be required around any accessory buildings or structures.~~

~~b. Landscaping, consistent with the requirements of chapter 13, article II, division 4, subdivision IV of the Land Development Code, shall be installed around the entire perimeter of any fence or wall. Additional landscaping may be required around the perimeter of the fence or wall and around any or all anchors or supports if deemed necessary to buffer adjacent properties. The city may require landscaping in excess of the requirements of the city code in order to enhance compatibility~~

~~with adjacent residential and nonresidential land uses. Landscaping shall be installed on the outside of the perimeter fence or wall.~~

~~c. Landscaping consistent with perimeter and on-site requirements of chapter 13, article III, division 4, subdivision IV of the Land Development Code, shall be installed around any accessory buildings or structures.~~

~~d. Reserved.~~

~~e. Towers including appurtenances shall have a minimum horizontal separation of ten (10) feet from any city-owned utility and city-owned underground facility. Ten (10) feet from closest outer diameter (OD) or outer edge (OE) to OD or OE.~~

~~(8) High voltage and "no trespassing" and other warning signs.~~

~~a. If high voltage is necessary for the operation of the tower or any accessory structures, "HIGH VOLTAGE DANGER" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.~~

~~b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.~~

~~c. The letters for the "HIGH VOLTAGE DANGER" and "NO TRESPASSING" warning signs shall be at least six (6) inches in height. The two (2) warning signs may be combined into one (1) sign. The warning signs shall be installed at least five (5) feet above the finished grade of the fence.~~

~~d. The warning signs may be attached to freestanding poles if the content of the signs may be obstructed by landscaping.~~

~~e. Signs noting federal registration (if required) shall be attached to the tower structure in compliance with federal regulation.~~

~~(9) Equipment storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the WCF facilities, unless repairs to the WCF facilities are being made.~~

~~(10) Removal of abandoned or unused facilities. A provider who has determined to discontinue its operations or part of its operations in the city must either:~~

~~a. Remove its own facilities.~~

~~b. Provide information satisfactory to the director that the provider's obligations for its equipment in the right-of-way or public easement or private property under this division have been lawfully assumed by another provider; or~~

- c. ~~Submit to the director a proposal and instruments for transferring ownership of its equipment to the city. If a provider proceeds under this clause, the city may, at its option:~~
- ~~1. Assume ownership of the equipment with a ten (\$10.00) dollar nominal consideration, or~~
  - ~~2. Require the provider, at its own expense, to remove it, or~~
  - ~~3. Require the provider to post a bond in an amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the equipment. Equipment of a provider who fails to comply with the preceding paragraph and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned equipment is deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to (i) abating the nuisance, (ii) taking possession of the equipment and restoring it to a useable condition, or (iii) requiring removal of the equipment by the provider or by the provider's surety under the bond required by subsection 13-282(c). WCF being utilized for other purposes, including but not limited to light standards and power poles, may be exempt from this provision.~~

~~(11) Signs and advertising. The use of any portion of a tower for signs or advertising purposes including company name, banners, streamers, etc., shall be strictly prohibited.~~

~~(12) Accessory buildings or structures. All accessory buildings or structures shall meet all building design standards as listed in this Code, and in accordance with the provisions of the Florida Building Code. All accessory buildings or structures shall require a building permit issued by the building division, department of development services.~~

~~(13) Colors. Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over towers, towers shall be painted or constructed in neutral colors, designed to blend into the surrounding environment.~~

~~(14) Non-interference. Each application to allow construction of a WCF shall include a certified statement that the construction and placement of the WCF, will not unnecessarily interfere with public safety communications and the usual and customary transmission or reception of radio, and television, service enjoyed by adjacent residential and non-residential properties. A statement shall be prepared by a registered professional engineer identifying any interference that may result from the proposed construction and placement. Whenever the city has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one (1) or more WCF, the city shall provide notification to all wireless service providers operating in the city of possible~~

~~interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the city and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "good engineering practices," as may be amended or revised by the FCC from time to time in any successor regulations. If any equipment owner fails to cooperate with the city in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the city public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the city for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the city to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "best practices guide" within twenty-four (24) hours of city's notification.~~

~~(f) — Inspection report/review fee.~~

~~d. — Wireless communications facility owners shall submit a report to the city building division, department of sustainable development, certifying structural and electrical integrity on the following schedule:~~

~~1. Monopole structures — once every five (5) years;~~

~~2. Self-support/lattice structures — once every two (2) years;  
and~~

~~3. Guyed structures — once every two (2) years.~~

~~e. — Inspections shall be conducted by an engineer licensed to practice in the State of Florida. The results of such inspections shall be provided to the building division, department of sustainable development. Based upon the results of an inspection, the building official may require repair or removal of a WCF.~~

~~f. — The building division, department of sustainable development, may conduct periodic inspections, with the cost of such inspection paid by the tower owner, of towers containing WCF to ensure structural and electrical integrity. The owner of the tower may be required by city to have more frequent inspections should there be reason to believe that the structural and electrical integrity of the tower is jeopardized. The city reserves the right to require additional inspections if there is evidence that the tower has a safety problem or is exposed to extraordinary conditions.~~

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~~(g) Existing towers.~~

~~b. Notwithstanding the above provisions of this section, additional antennas and wireless broadband facilities may be placed on existing towers with sufficient loading capacity after approval by the director of sustainable development. The capacity shall be certified by a registered professional engineer licensed to practice in the state.~~

~~c. Notwithstanding the above provisions of this section, towers in existence as of January 23, 1997, may be replaced with a tower of equal or less visual impact after approval by the city manager or his designee. However, if the proposed new tower would not be consistent with the minimum standards under this section, replacement must be approved by the city commission.~~

~~(h) Fees and charges.~~

~~(1) A filing fee in the amount of six thousand five hundred dollars (\$6,500.00) for new freestanding WCF shall be submitted to the development review committee upon application for site development approval. In addition, an inspection fee of one thousand dollars (\$1,000.00) is due the city at the time of inspection referenced in subsection 13-93(1).~~

~~(2) Public land or right-of-way lease agreements shall be established by separate instrument.~~

~~(i) Satellite earth station (SES).~~

~~(1) Satellite earth stations which are one meter (39.37 inches) or less in size, intended to receive signals from orbiting or geo-stationary satellites and other sources, or to link wireless service sites together by wireless transmission of voice or data shall be permitted as accessory uses in all zoning districts.~~

Section 13-537.2 - Wireless communications facilities inside the City rights-of-ways.

(a) Generally. The purpose of this section is to protect and limit deterioration and obstruction of the City rights-of-way. The City herein adopts uniform regulations for the construction, placement, and maintenance of equipment and wireless communications facilities in the rights-of-way. Such rights-of-way within the City are a unique and physically limited resource that are critical to the travel and transport of persons and property and must be managed and controlled in the best interest of the citizens of the City of Coconut Creek, consistent with applicable federal and state law. When applicable, all communications facilities proposed to be installed in the City's rights-of-way must comply with Section 13-142, "Underground utilities; required."

(b) Consistent with Section 337.401, Florida Statutes, as may be amended, only small wireless facilities and micro wireless facilities may be considered for placement within the City's rights-of-way, and same shall be limited to the size parameters listed therein and any other design specifications detailed in this subdivision, and compliant with the requirements of subsections 13-537.1(c)(12), above. Due to the unique nature of wireless signals and the specific equipment needed for transmission and reception of wireless signals, placement of wireless communications facilities in the public right-of-way shall comply with the following:

(1) Placement of Small Wireless Facilities and Non-Exempt Micro Wireless Facilities; requirements.

a. Collocation or use of concealed facilities. A small or non-exempt micro wireless facility and any antennas in the public right-of-way shall, to the extent possible, be collocated on an existing power, light or other utility pole. When collocation of an antenna or small wireless facility or non-exempt micro wireless facility is not possible, a freestanding concealed facility is preferred. The applicant shall submit a permit application to the Department of Sustainable Development for approval prior to any installation. The City prefers that small wireless facilities and non-exempt micro wireless facilities located in the public right-of-way, whether collocated or freestanding, be technically capable of servicing a minimum of four (4) wireless service providers with like technical facilities through the use of neutral host antenna.

a. When collocation occurs upon City utility poles within the City's rights-of-way, in addition to the permit, the City shall require the communications service provider and/or owner, if different parties, to execute a lease agreement and collect an annual rent of one hundred and fifty dollars (\$150) per City utility pole.

(2) Height, setbacks and related location requirements.

a. The height limitation of a small wireless or non-exempt micro wireless facility is ten (10) feet above the utility pole or structure upon which the small wireless or non-exempt micro wireless facility is to be collocated. Unless waived by the City, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a

utility pole for which a waiver has previously been granted, measured from grade in place within five hundred (500) feet of the proposed location of the small wireless facility. If there is no utility pole within five hundred (500) feet, the City shall limit the height of the new utility pole to fifty (50) feet.

- b. Except as otherwise provided herein, small wireless or non-exempt micro wireless facilities in the public rights-of-way shall conform to the standards and requirements set forth in the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.
- c. No antenna attached to a freestanding pole in the public rights-of-way with a ground mounted equipment, other than as a collocation with an existing power, light or other utility pole, or unless installed as a concealed facility, shall be permitted within fifty (50) feet of any principal residential structure.
- d. An external box or cabinet housing the equipment connected to an antenna attached to a freestanding pole in the public rights-of-way shall be vaulted underground or wrapped with a design that screens it from view consistent with the requirements of this subdivision, or complies with the City's public art master plan.
- e. Small wireless or non-exempt micro wireless communications facilities shall be located in state or county arterial or collector rights-of-way, whenever possible. Placement of small wireless or non-exempt micro wireless facilities in a City collector street, cul-de-sac, local street and marginal access street rights-of-way shall be discouraged unless the applicant cannot otherwise provide service to a particular customer or customers without doing so, and the inability to place facilities in such rights-of-way is necessary to accomplish requirements of nondiscriminatory treatment of the applicant in relation to the City's treatment of other communications service providers. In such circumstances, the applicant shall include with its City permit application, sufficient evidence consistent with industry standards, to justify such placement. Whenever wireless facilities must be placed in a right-of-way with residential uses on one (1) or both sides, neither poles, equipment,



antennas or other structures shall be placed directly in front of a residential structure. If a right-of-way has residential structures on only one (1) side, the wireless facilities shall be located on the opposite side of the right-of-way whenever possible. All wireless facilities shall be located in such a way that they do not unreasonably interfere with views from residential structures, such as placement that is at the farthest point from the principle structure within the property line.

(3) Concealment. All new wireless facilities within a public right-of-way shall be constructed using concealment techniques. In all residential and non-residential districts, the concealment technique to be utilized shall be through the installation of a decorative banner pole capable of concealing all equipment and related appurtenances within the pole structure or located under the ground, or design wrapped on the ground adjacent to the wireless facility support structure. In the MainStreet RAC Area, the concealment technique to be utilized shall be through the installation of a decorative banner and/or pedestrian scale light pole capable of concealing all equipment and related appurtenances within the pole structure and shall be consistent in design, shape, diameter and color with the MainStreet RAC Design Standards (Cooper Lighting Model 902-PT Series Metallic Bronze), as amended.

a. Buffering. The use of landscaping around any pole or external equipment, cabinet, box or vault may be required as a buffer. Such landscaping shall be consistent with the landscaping otherwise located in the public rights-of-way. Additional landscaping may be required if deemed necessary to buffer adjacent properties. In addition for concealment purposes, all communications facilities and accompanying equipment must blend into the surrounding environment by utilizing appropriate design wraps and colors, or such design wraps that are consistent with the City's public art master plan. As a condition of approval the City Manager, or his/her designee, may require: all buffering required in connection with the use of communications facilities in the public rights-of-way shall be maintained by the owner of such facilities at its own cost.

(4) Maintenance of Small Wireless Facilities and Non-exempt Micro Wireless facilities in the City rights-of-way.

a. All equipment should be contained within the vertical infrastructure installed in the right-of-way except where insufficient interior physical space or incapable loading issues are present, in which event external cabinets, boxes and vaults may be used. No permit or order shall be granted authorizing the placement, construction or modification in the public right-of-way of an external wireless facility cabinet, box or vault exceeding twenty-eight (28) cubic feet in volume, consistent with Section 337.401, Florida Statutes, as amended.

b. Antennas.

1. Each permit application for a small wireless facility or non-exempt micro wireless facility shall contain a rendering or photograph of the proposed antenna which depicts its aesthetic features including, but not limited to, the use of colors and screening devices. The permit application shall be subject to administrative review regarding consistency with the requirements of this section. The City Manager, or his or her designee, may require, to the extent possible, that aesthetic features, including but not limited, to the use of colors and screening devices, be used so that antennas blend into the surrounding environment.
2. No signals, lights, or illumination shall be permitted on an antenna or, except in the case of a light pole or a concealed facility designed to emulate a light pole, on a pole to which such antenna is attached, unless required by applicable state or federal laws or rules.
3. Antennas shall be mounted at a height and location that will not interfere with use of the public rights-of-way.
4. No antenna shall be mounted where the edge of the antenna is more than four (4) inches from the exterior side of the pole to which it is attached unless it is attached as a collocation to an existing power, light or other utility pole. No part of the antenna shall be allowed to extend more than twenty-four (24) inches away from the exterior side of the pole.

5. When a new small wireless facility or non-exempt micro wireless facility proposes ground-mounted support equipment, there shall be a minimum distance between antenna locations/number of antenna locations within a specified area. To minimize the adverse visual impacts associated with the proliferation and clustering of antennas with associated ground-mounted support equipment, the City prefers that no small wireless facility nor non-exempt micro wireless facility in the public rights-of-way shall be located within five hundred (500) feet of any other wireless communications facility. In the event an applicant proposes a small wireless facility or non-exempt micro wireless facility within a right-of-way that is within five hundred (500) feet of an existing wireless communications facility, the City shall engage in the alternative location process provided in Section 13-540, "Permits."

(5) Exterior looping of excess cable length installed on any small wireless facility or non-exempt micro wireless facility located in the public right-of-way is prohibited and all cabling and interconnecting wires must be concealed.

(6) Equipment. The location in the public rights-of-way of any equipment or equipment cabinets, boxes or vaults associated with small wireless facilities or non-exempt micro wireless facilities shall be subject to the approval of the City Manager or designee. Any such cabinets, boxes, vaults, or equipment must be approved by the City Manager or designee as to structural design and structural/electrical safety in accordance with applicable structural and electrical codes, and shall not physically interfere with the use of the public rights-of-way. The City Manager or designee may require a statement certifying the need for the proposed equipment and location. No generators utilized in connection with wireless communications facilities may be placed in the public rights-of-way, except temporarily in the case of emergency and only if approved within forty-eight (48) hours of placement by the City Manager or designee.

Sec. 13-538. - Wireline Communications facilities inside City rights-of-way. Antennas not located on towers.

(a) Generally. The purpose of this section is to protect and limit deterioration and obstruction of the City rights-of-way. The City herein adopts uniform regulations for the construction, placement, and maintenance of equipment and wireline

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communications facilities in the rights-of-way. Such rights-of-way within the City are a unique and physically limited resource that are critical to the travel and transport of persons and property and must be managed and controlled in the best interest of the citizens of the City of Coconut Creek, consistent with applicable federal and state law. When applicable, all wireline communications facilities proposed to be installed in the City's rights-of-way must comply with Section 13-142, "Underground utilities; required."

(b) This section does not authorize a person to place wireline communications facilities, including cables or wires, nor construct or install wireline facilities on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned communications facility support structure, or other private property without first obtaining the consent of the property owner.

(c) A wireline facility may be allowed on property owned by the City. The City may authorize the use of City property after a registered communications service provider submits the appropriate permit documentation and executes a written agreement acceptable to the City setting forth the applicable terms and provisions of such use. The City shall have no obligation whatsoever to execute such written agreement even if the applicant does meet the criteria set forth herein. As part of any written agreement, the City shall receive reasonable rental fees based on fair market value for the use of public lands, structures, and buildings. Any permit to develop a wireline facility on City-owned property, including City-owned structures, granted pursuant to this subdivision shall not become effective until the owner of the wireline communications facility and the City have executed a written agreement.

(d) As part of a building, electrical, and/or an engineering permit application, a site development plan shall be presented for approval to the Department of Sustainable Development. Each application for a proposed wireline facility, shall include all requirements for site development plan approval as required by Sections 13-546 through 13-549 of the Land Development Code. The City Manager or his/her designee may waive all or some of these provisions for underground facilities that comply with Section 13-142, "Underground utilities, required," in order to achieve the objectives of that section. Each application shall contain a rendering or photograph of the wireline structures including, but not limited to, colors and screening devices.

(1) A statement shall be submitted, including technical data demonstrating that all wireline facilities and collocation options (including all potentially useable HVET poles), replacement poles and other elevated structures within the proposed service area have been examined, and found unacceptable for attachment of new wireline system. The report shall

include reasons why existing facilities, such as HVET poles and other elevated structures, are not acceptable alternatives to a new freestanding communications support structures. The report regarding the adequacy of alternative existing facilities or the replacement or mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing structures could accommodate the applicant's proposed facility shall consist of any of the following:

- a. No existing poles located within the geographic area meet the applicant's engineering requirements to attach wireline facilities to, and why.
- b. Existing poles are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height.
- c. Existing poles do not have sufficient structural integrity to support the applicant's proposed wireline communications facilities and related equipment, and the existing facility cannot be sufficiently improved or replaced.
- d. Other limiting factors that render existing poles unsuitable.

(e) Wireline communications facilities; inside the City's rights-of-way. Because of the unique nature of communications services transmitted via wires, cables, fiber optic, or other hardline transmission equipment and the specific structures needed for construction and/or assembly of same, placement of wireline communications facilities in the public right-of-way shall comply with the following:

(1) All newly proposed wireline and/or pole fixtures for wireline communications facilities, whether above or below ground, must not unreasonably interfere with the presently existing infrastructure systems and other operations within the City's rights-of-way. Before consideration of constructing new infrastructure for hardline or wireline communications services, the communication services provider must show that other existing conduits or poles to cannot be used. An applicant for a permit under this subsection shall notify the City when it enters into an agreement for use of existing poles and conduits.

(2) Any wireline communications system located within the City's rights-of-way shall meet or exceed the technical standards set forth in 47 C.F.R. § 76.601, as applicable, and any other applicable technical standards.

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- (3) Any wireline communications system shall perform all tests necessary to demonstrate compliance with the technical and performance standards established by applicable law. Unless an applicable law provides otherwise, all tests shall be conducted in accordance with federal rules and in accordance with the most recent edition of National Cable Television Association's "Recommended Practices for Measurements on Cable Television Systems," or such other manual as may be directed under FCC regulations. A written report of compliant test results shall be filed with the City within seven (7) days of a request by the City. If a location fails to meet technical or performance specifications, the owner of the wireline communications facility, without requirement of additional notice or request from City, shall promptly notify the City of such noncompliance, take corrective action, and retest the locations.
- (4) Wireline communications facilities shall have the same distance separation requirements from any principal residential structure as wireless communications service facilities.
- (5) Minimum separation from City-owned equipment.
- a. Wireline communications facilities including appurtenances shall have a minimum horizontal separation of ten (10) feet from any city-owned utility pole and city-owned underground facility. Ten (10) feet shall be measured from closest outer diameter (OD) or outer edge (OE) to OD or OE.
- (6) High voltage and "no trespassing" and other warning signs.
- a. If high voltage is necessary for the operation of the wireline communications facility or any accessory structures, "HIGH VOLTAGE - DANGER" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.
- b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.
- c. The letters for the "HIGH VOLTAGE - DANGER" and "NO TRESPASSING" warning signs shall be at least six (6) inches in height. The two (2) warning signs may be combined into one (1) sign. The warning signs shall be installed at least five (5) feet above the finished grade of the fence.
- d. The warning signs may be attached to freestanding poles if the content of the signs may be obstructed by landscaping.

e. Signs noting federal registration (if required) shall be attached to the wireline communications facility in compliance with federal regulation.

(7) Equipment storage. Mobile or immobile equipment not used in direct support of a wireline communications facility shall not be stored or parked on the site of the wireline communications facility, unless repairs to same are being made.

(8) Signs and advertising. The use of any portion of a tower for signs or advertising purposes including company name, banners, streamers, etc., shall be strictly prohibited.

(9) Accessory buildings or structures. All accessory buildings or structures shall meet all building design standards as listed in this Code, and in accordance with the provisions of the Florida Building Code. All accessory buildings or structures shall require a building permit issued by the building division, department of development services.

(10) Colors. Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over towers, towers shall be painted or constructed in neutral colors, designed to blend into the surrounding environment.

(11) Inspection report.

a. Wireline communications facility owners shall submit a report to the City building division, department of sustainable development, certifying structural and electrical integrity every two (2) years.

b. Inspections shall be conducted by an engineer licensed to practice in the State of Florida. The results of such inspections shall be provided to the building division, department of sustainable development. Based upon the results of an inspection, the building official may require repair or removal of a wireline communications facility.

c. The building division, department of sustainable development, may conduct periodic inspections, with the cost of such inspection paid by the wirelines facilities' owner to ensure structural and electrical integrity. The owner of the wireline communications facility may be required by City to have more frequent inspections should there be reason to believe that the structural and electrical integrity of the wireline communications facility and its support structures are jeopardized. The City reserves the right to require additional inspections if there is evidence that the wireline communications facilities and support structures have a safety problem or are exposed to extraordinary conditions.

d. Following the completion of construction of a wireline communications facility in the City, the owner shall submit a report to the department of sustainable development certifying "as-built" compliance with the permitted structural and electrical parameters. The City shall conduct a

post-construction inspection to verify the submitted report and confirm the constructed facility does not present a public safety hazard.

(12) Existing wireline infrastructure.

- a. Notwithstanding the above provisions of this section, wireline communications facilities in existence as of January 23, 1997, may be replaced with equal or less visually impacting facilities after approval by the City manager or his/her designee, and same are processed through the permitting process outlined herein. However, if the proposed new facilities would not be consistent with the minimum standards under this section, replacement must be approved by the City Commission as a special land use, if located outside the City's rights-of-way.

(13) System maintenance. Scheduled maintenance shall be performed so as to ensure the integrity of the structures and adjoining wirelines minimize potentially hazardous conditions, and minimize the existence and effect of any downed lines in the City's rights-of-way.

(14) All regulations stated herein applicable to wireless communications facilities are, as deemed appropriate based on the nature of the equipment and type of wireline installation, equally applicable to proposed wireline communications facilities.

(15) Modifications or replacements. Modification or replacement of any wireline communications facilities in the City shall be subject to permit approval of the City consistent with the requirements of Section 13-40, "Engineering Permits." Any removal or replacement of communications facilities that substantially changes the physical dimensions of a wireline system shall be subject to permit approval.

(16) Cooperative determination. In the event an applicant demonstrates, in writing, to the satisfaction of the City Manager, or designee, that the operation of this section produces a result which is either: (i) overly burdensome and a hardship on the applicant, and is inconsistent with the general public welfare; or (ii) inconsistent with the intent of the particular provisions of this section, and inconsistent with the general public welfare, the applicant and the City Manager, or designee, shall cooperate to determine an appropriate location and aesthetic design for the proposed wireline communications facility. In any such cooperative determination there shall be a preference for collocation with existing wireline communications facilities or other utility facilities, or for use of unused space on existing wireline communications facilities. Where wireline communications facilities cannot be collocated and no such unused space

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exists, there shall be a preference for the use of concealed type structures which are consistent, to the extent possible, with this section.

~~(a) Antennas shall be permitted as follows:~~

~~(1) Concealed rooftop or building mounted antennas not exceeding twenty (20) feet above roofline and not exceeding twenty (20) feet above maximum height of applicable zoning district shall be permitted as an accessory use in the following zoning districts:~~

- ~~a. (B-2) Convenience shopping district (twenty-four (24) feet)~~
- ~~b. (B-3) Community shopping district (thirty-six (36) feet)~~
- ~~c. (B-4) Regional shopping district (thirty-six (36) feet)~~
- ~~d. (IO-1) Industrial office district~~
- ~~e. (IM-1) Industrial manufacturing district~~
- ~~f. (PCD) Portions designated a land use as noted in e. above~~
- ~~g. (RM-10) Medium high density multiple family~~
- ~~h. (CF) Community facility~~
- ~~i. (P) Parks and recreation~~
- ~~j. (PUD) portions designated a land use as noted in i. above~~
- ~~k. (SU) Special utility overlay district~~

~~(2) Non-concealed rooftop or building mounted antennas shall only be permitted if not exceeding the greater of either twenty (20) feet above the highest point of roof of the subject building or the maximum height in the applicable zoning district as an accessory use in the following zoning districts subject to the procedure and requirements provided elsewhere in this chapter:~~

- ~~a. (B-2) Convenience shopping district~~
- ~~b. (B-3) Community shopping district~~
- ~~c. (B-4) Regional shopping district~~
- ~~d. (IO-1) Industrial office district~~
- ~~e. (IM-1) Industrial manufacturing district~~
- ~~f. (PCD) Portions designated a land use as noted in e. above~~
- ~~g. (RM-10) Medium high density multiple family~~
- ~~h. (CF) Community facility~~
- ~~i. (P) Parks and recreation~~
- ~~j. (PUD) portions designated a land use as noted in i. above~~

- k. ~~(SU) Special utility overlay district~~
- (b) ~~Minimum standards. Building or rooftop antennas shall be subject to the following minimum standards:~~
- (1) ~~Building rooftop concealed antennas shall be subject to the following minimum standards:~~
- a. ~~No lettering, text, logos, or commercial advertising shall be allowed on an antenna;~~
  - b. ~~No signals, lights, or illumination shall be permitted on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;~~
  - c. ~~Any related unmanned equipment compound or cabinet shall not contain more than seven hundred fifty (750) square feet of gross floor area or be more than twelve (12) feet in height, and~~
  - d. ~~If the equipment cabinet is located on the roof of the building, the area of the equipment cabinet shall not occupy more than twenty five (25) percent of the roof area.~~
  - e. ~~Approval of the director of sustainable development to ensure consistency with the definition of concealed facility is required. Each application shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices.~~
- (2) ~~Building rooftop non-concealed antennas shall be subject to the following minimum standards:~~
- a. ~~Antennas shall only be permitted on buildings which are at least fifty (50) feet tall. Antennas may be placed on buildings less than fifty (50) feet tall in the P or CF district if public safety needs warrant the antenna;~~
  - b. ~~Antennas may not extend more than twenty (20) feet above highest point of a roof. Concealed antennas attached to but not above rooftop structures shall be exempt from this provision. Antennas may exceed twenty (20) feet above the roof in the P or CF district if public safety needs warrant additional height;~~
  - c. ~~Antennas, and related equipment compounds or cabinets, shall be located or screened to minimize the visual impact of the antenna upon adjacent properties and shall be of a material or color which matches the exterior of the building or structure upon which it is situated;~~
  - d. ~~No lettering, text, logos, or commercial advertising shall be allowed on an antenna;~~
  - e. ~~No signals, lights, or illumination shall be permitted on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;~~

- ~~f. Any related unmanned equipment compound or cabinet shall not contain more than seven hundred fifty (750) square feet of gross floor area or be more than twelve (12) feet in height; and~~
  - ~~g. If the equipment cabinet is located on the roof of the building, the area of the equipment cabinet shall not occupy more than twenty five (25) percent of the roof area.~~
- ~~(c) Antenna types. To minimize adverse visual impacts, concealed antenna types shall be preferred. If a non-concealed antenna is proposed, the application shall be required to demonstrate, in a technical manner acceptable to the director of sustainable development, why the concealed antenna (i.e. an antenna incorporated into the architecture of the building or fully screened from view from sight proximate to the antenna) cannot be used for the particular application. This does not preclude a combination of the various types of antenna, including flush-mounting if concealed is not feasible.~~
- ~~(d) Antenna dimensions. Antenna dimensions shall be reviewed by the director of development services as required by existing technology. A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the state, and competent to evaluate antenna choices, to certify the need for the required dimensions.~~
- ~~(e) Aircraft hazard. Prior to the issuance of a building permit by the building division, department of sustainable development, the application shall provide evidence that the WCF or antennas are in compliance with Federal Aviation Administration (FAA) regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is to be mounted, such evidence shall not be required.~~
- ~~(f) Exceptions. The location of a new antenna in any zoning district other than those districts specified in this section shall be prohibited unless approved as a special land use or as specified below:~~
- ~~(1) Antenna attachments (including DAS systems) may be located on existing franchised utility poles or poles owned by the city consistent with F.S. § 337.401, pursuant to the following regulations:~~
    - ~~a. The utility poles shall be located within public easements or public rights-of-way.~~
    - ~~b. Fees related to utility pole antenna attachment installation.~~
      - ~~i. A filing fee in the amount of six thousand five hundred dollars (\$6,500.00) for new freestanding WCF shall be submitted to the city upon application for site development approval. In addition, an inspection fee of one thousand dollars (\$1,000.00) is due the city at the time of an inspection pursuant to subsection 13-537(f).~~
      - ~~ii. An engineering permit fee may be required if the pole is replaced to accommodate telecommunications equipment.~~

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- c. ~~The antenna shall be of a size and placement that is structurally compatible with the engineering design of the pole pursuant to the SFBC and attested to by a registered engineer.~~
- d. ~~The antenna shall not extend more than ten (10) feet above the existing pole height. If the pole is replaced to withstand the addition of telecommunications equipment, then the same restriction shall apply except that the replacement utility pole may be ten (10) feet higher than the adjacent pole heights.~~
- e. ~~Placement of an antenna on a utility pole shall only be on poles owned or operated by a city franchisee or the city.~~
- f. ~~No commercial advertising shall be allowed on the antenna.~~
- g. ~~The height restriction for utility poles within a special utility overlay district shall be limited to one hundred twenty (120) feet.~~

~~(g) Fees.~~

- (1) ~~A filing fee in the amount of four thousand dollars (\$4,000.00) shall be submitted to the city upon application for site development approval. In addition, an inspection fee of one thousand dollars (\$1,000.00) is due to the city at the time of an inspection pursuant to subsection 13-537(f).~~
- (2) ~~Public land lease agreements will be established by separate instrument.~~

Sec. 13-539. - Shared use of wireless communication facilities outside City rights-of-way.

- (a) Notwithstanding any other provision of this ~~article~~subdivision, to minimize adverse visual impacts associated with the proliferation and clustering of wireless communications facilities, "WCF," ~~co-location~~collocation of WCF on existing or new towers, utility poles, of other structures shall be encouraged by:
  - (1) Issuing permits to qualified shared facilities at locations where it appears there may be more demand for WCF~~towers~~ than the property can reasonably accommodate; or
  - (2) Giving preference to qualified shared facilities over other WCF in authorizing use at particular locations.
- (b) For a facility to become a "qualified shared facility", the WCF owner must show that:
  - (1) The WCF is appropriately designed for ~~co-location~~collocation; and
  - (2) The WCF owner is prepared to offer adequate space on the tower or other structure to others on fair and reasonable, nondiscriminatory terms.

- (c) To satisfy the requirements of ~~(b)(1)~~ of this section, the WCF owner must submit a written evaluation of the structural capacity of the tower or other structure.
- (d) The requirements of ~~(b)(1)~~ of this section will be deemed to have been met when an affidavit attesting to the execution, by the tower or structure owner/operator, of an agreement to authorize the ~~co-location~~collocation of antenna or other ~~similar~~ telecommunications device is presented. A condition of any permit for a qualified shared facility shall be that the permit shall be terminated, and the facility removed or turned over to the eCity, if the eCity finds that the facility owner is not complying with its obligations under this section and associated agreements with the eCity. The owner shall have sixty (60) days from the City's notice of noncompliance to remedy the deficiency.
- (e) ~~co-location~~Collocation of wireless communication antennas by more than one (1) provider on existing or new WCF shall take precedence over the construction of new single-use WCF. Accordingly, each permit application for a WCF shall include the following:
- (1) A written evaluation of the feasibility of sharing a WCF, if an appropriate facility or facilities is/are available. The evaluation shall analyze one (1) or more of the following factors:
    - a. Structural capacity of the facility or facilities;
    - b. Radio frequency interference;
    - c. Geographical service area requirements;
    - d. Mechanical or electrical incompatibility;
    - e. Inability or ability to locate equipment on the facility or facilities;
    - f. Availability of facility for ~~co-location~~collocation;
    - g. Any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the facility;
    - h. Additional information requested by the eCity.
    - i. Capability of a facility to serve as a combined antenna support structure if so designed by the eCity.
- (f) A WCF that is determined to be inappropriate for sharing shall be assumed to be inappropriate for sharing the same types of facilities in the future. Such facilities will not need to be evaluated in the future regarding sharing with the same type of facility for which it has been determined to be inappropriate. The sustainable development department shall retain a list of such towers, and such other structures, and will provide a copy of the list to all potential applicants. The eCity may require additional sharing feasibility evaluations if warranted by changes in technology.

(g) For any WCF approved for shared use, the owner of the tower or other structure shall provide notice of the location of the WCF and the tower's or structure's availability of shared use load capacity to all other providers and the eCity's telecommunications consultant.

(h) Collocation Applications under this subsection that are entitled to the streamlined processes described in F.S. § Section 365.172(1213)(d), Florida Statutes, as amended from time to time, must request such streamlined processing in their application and shall meet all of the following requirements:

(1) A shared use application requesting and entitled to streamlined processing shall be reviewed by the eCity within forty-five (45) business days of a completed submission (or within some other mutually agreed upon timeframe). The eCity shall notify an applicant within twenty (20) business days of initial submission if there are any deficiencies relating to the application materials, otherwise the initial submission shall be deemed complete.

(2) Approval or denial of the application shall be in writing and shall be postmarked to the applicant by the forty-fifth (45<sup>th</sup>) business day from the date of the application being deemed complete. Denials shall identify the deficiencies in the application which, if cured, would make the application complete.

(3) Upon resubmittal of the revised site plan application, the eCity shall follow the process identified in (1) and (2) above until all deficiencies identified are deemed cured.

(4) If the eCity does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.

(5) Applicants seeking approval under these streamlined processes must submit all required applications (including sustainable development department and building division) applications at the same time and the processing timeline set forth above shall not commence until all applications are properly submitted and deemed complete.

(i) Collocation Applications under this subsection that are entitled to streamlined processing pursuant to section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC § 1455(a)) must request such streamlined processing in their application and shall be approved provided they meet the following requirements:

(1) A WCF ~~co-location~~ collocation on an existing antenna-supporting structure not in a public right-of-way shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than ten (10) percent or twenty (20) feet, whichever is greater. A WCF ~~co-location~~ collocation on an existing antenna-supporting structure within a public right-of-way shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than ten (10) percent or ten (10) feet, whichever is greater.

- (2) A WCF ~~co-location~~collocation eligible under this subsection ~~13-539(i)~~ for towers or other structures not in a public right-of-way shall not protrude from the antenna-supporting structure more than twenty (20) feet or the width of the structure at the elevation of the ~~collocation~~co-location, and for towers or other structures within a public right-of-way, protrude from the antenna-supporting structure more than six (6) feet.
- (3) Any WCF ~~co-location~~collocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).
- (4) A WCF ~~co-location~~collocation shall not add more than four (4) additional equipment cabinets or one (1) additional equipment shelter to be eligible as a ~~co-location~~collocation under this subsection 13-539(i).
- (5) A WCF ~~co-location~~collocation eligible under this subsection 13-539(i) shall not require excavation outside of the existing leased or owned parcel or existing easements.
- (6) A WCF ~~co-location~~collocation eligible under this subsection 13-539(i) shall not defeat any existing concealment elements of the antenna- or wire- supporting structure.
- (7) A WCF ~~co-location~~collocation eligible under this subsection 13-539(i) shall comply with all conditions associated with the prior approval of the antenna- or wire- supporting structure except for modification of parameters as permitted in this subsection 13-539(i).
- (8) A WCF ~~co-location~~collocation application entitled to streamlined processing under this subsection ~~(i)~~ shall be deemed complete unless the eCity notifies the applicant within thirty (30) days of submission (or within some other mutually agreed upon timeframe) that the submission is incomplete. Notices regarding incomplete applications shall specifically identify the deficiencies in the application which, if cured, would make the application complete. Upon notice of deficiency, the timeline for a decision shall be tolled until the applicant corrects such deficiency by resubmitting an application. The eCity shall, within ten (10) days of re-submission, notify the applicant of continuing deficiencies or the application will be deemed complete. The timeline for a decision shall be likewise tolled during the additional re-submission deficiency period until the second resubmission. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the sixtieth (60<sup>th</sup>) day after the initial submission is received, excluding any tolling period.
- (9) Proposed WCF ~~co-location~~collocation that do not meet the standards of this subsection ~~13-539(i)~~ shall be processed pursuant to subsection 13-539(h) above if qualified, or pursuant to subsections 13-539 (a) through (g), if requested, or through section 13-540, "Permits," as applicable. ~~either pursuant to subsection 13-539(h) above or pursuant to this section 13-539, as applicable.~~

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(j) Fees. Fees for permit processing and inspections for collocation pursuant to this subsection shall be as set forth in section 13-540, "Permits."

~~(1) A filing fee in the amount of four thousand dollars (\$4,000.00) shall be submitted to the city upon application for site development approval for collocations. In addition, an inspection fee of one thousand dollars (\$1,000.00) is due the city at the time of inspection pursuant to subsection 13-537(f).~~

Sec. 13-539.1. - Pass-through provider fees and charges.

(a) Pass-through providers shall pay to the City on an annual basis an amount equal to five hundred dollars (\$500.00) per linear mile or portion thereof of communications facilities placed and/or maintained in the City's rights-of-way. For purposes of this section, the City's rights-of-way do not include rights-of-way that extend in or through the City but are state, county or another authority's rights-of-way.

(b) The amounts charged pursuant to this section shall be based on the linear miles of rights-of-way where communications facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.

(c) Any annual amount charged shall be reduced for a prorated portion of any twelve-month period during which the pass-through provider remits taxes imposed by the City pursuant to Chapter 202, Florida Statutes, as may be amended, or ceases to be a pass-through provider.

(d) Annual payments shall be due and payable on October 1 of each year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the City shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the City may have for additional sums due and payable. All fee payments shall be subject to audit by the City, and assessment or refund may be appropriate if any payment is found to be in error. If such audit results in an assessment by the City and an additional payment is owed to the City, such additional payment shall be subject to interest at the rate of one (1) percent per month until the date payment is made.

(e) If the payments required by this section are not made within ninety (90) days after the due date, the City Manager or his/her designee may withhold the issuance of any permits to the registrant until the amount past due is paid in full.

(f) The charges authorized in this section shall not be applied with respect to any communications facility that is used exclusively for the internal communications of an electric utility or other person in the business of transmitting or distributing electric energy.

Sec. 13-539.2. - Transfer of control, sale or assignment of assets.

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(a) If a registrant transfers, sells or assigns its registration or its communications facilities in the public rights-of-way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this subdivision. Written notice of any such transfer, sale or assignment shall be provided to the City within twenty (20) days of the effective closing or consummation date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided in this subdivision within sixty (60) days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the appropriate City officials, in writing, that the transferee, buyer or assignee is the new applicant.

(b) Any mortgage, pledge, lease or other encumbrance on the communications facilities shall be subject and subordinate to the rights of the City under this subdivision and applicable law.

Sec. 13-540. - Permits Applications.

(a) General requirements.

(1) Applicants seeking to install a communications facility in the City shall submit an application for permit approval through the Department of Sustainable Development. The permit application for wireline communications facilities shall proceed pursuant to Section 13-40, "Engineering Permits." A permit application for installation or maintenance of a wireless communications facility shall proceed under this subdivision and consist of the following:

a. Cover letter with name, phone number, and email address of the owner of the proposed wireless communications facility or facilities, and the contact person for the project;

b. For facilities within a right-of-way, proof of registration pursuant to Section 13-526.1, "Registration for placing or maintaining communications facilities in the City rights-of-way;"

c. Permit Application form provided by the City identifying the type of wireless communications facility:

1. New wireless communications facility;

2. Collocation of wireless communications facility;

3. Modification or Replacement of wireless communications facility;

4. Small Wireless Facility or Non-Exempt Micro Wireless Facility within right-of-way.

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- d. Detailed explanation of the work to be performed.
- e. Name, contact information, and license number of the contractor who is performing the work.
- f. The site or property's street address where the work is to be performed.
- g. A scaled site plan depicting an area within a five hundred (500) foot radius from the center of the proposed communications facility, and showing the proposed antennas, equipment, related infrastructure, sidewalks, all existing utilities, antennas, towers, concealed facilities, the right-of-way boundaries, communications facility boundary, road improvements, all ingress and egress to nearby streets, major vegetation, required grading, existing and proposed elevations, easements, and other significant features of the site.
- h. Certification signed by the permit applicant confirming the distance separation from other communications facilities, including both wireline and wireless communications facilities. The distance requirements provided in this Subdivision relate to the distance measured in feet from one (1) ground-mounted communications facility to another. For neutral host antennas, the distance separation does not apply to the multiple communications service providers' facilities' equipment cabinets or boxes utilizing the same neutral host antenna.
- i. Certification of completion of all required neighborhood notifications as provided herein and required by the City Manager or his/her designee.
- j. A statement or statements shall be submitted certifying that the construction of communications facilities proposed to be located in the City will comply with applicable standards as set forth in the Florida Building Code, Broward County Amendments, latest editions, the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (when proposed to be located in the City rights-of-way), and applicable electrical codes; and describing the proposed wireless communications facility capacity to permit multiple users, if applicable, including an example of the number and type of antennas or other attachments that can be accommodated on the proposed support structures. No communication facility which exceeds its support structure's loading capacity, which causes any pole or structure to exceed its loading capacity or which does not conform to applicable electrical codes shall be permitted in the City.
- k. A statement certifying compliance with FCC emissions standards. All communications facilities in the City shall comply with current radio frequency emissions standards of the Federal Communications Commission.

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I. Proof of Approval required from other governmental agencies and owners. Each application for the location of a communications facility in the public rights-of-way or on private property or City property, may be required to include written approval, or a statement of no objection, from agencies that regulate siting, design, and construction of such facilities, or have jurisdiction over the relevant proposed location, if any such agencies or owners require the applicant to seek their review or approval. An existing communications facility or utility pole/structure in the public rights-of-way shall only be utilized in a manner consistent with the City Code and with the written permission of the owner.

m. Such other information as is required by the City's Application Form.

(b) Permit Issuance. The city shall act promptly on any permit application submitted in accordance with the provisions of sections 13-535 through 13-539 of this chapter this subdivision once an application is determined to be complete. Except for streamlined collocation applications as defined in subsection 13-539(h) or 13-539(i) which shall be processed and adjudicated in accordance with the applicable state or federal law referenced therein. Notwithstanding the foregoing provisions, in the event the application is for a facility which requires a lease or other written agreement from the City, the approval of such application shall be contingent upon approval of a lease or other written agreement with the City, which shall not be subject to the time parameters set forth in this section. The reasons for rejecting any application filed under these provisions shall be explained and set forth in writing. The rejection of an application under this article does not prevent a person from filing an application for a special land use in accordance with applicable law. Applications entitled to the streamlined processes described in section 13-539 above and F.S. § 365.172(12), shall meet the requirements set forth therein.

(1) Any other application shall be reviewed by the city within ninety (90) business days of a completed submission, (or within some other mutually agreed upon timeframe). The city shall notify an applicant within twenty (20) business days of initial submission or any subsequent resubmission if there are any deficiencies relating to the application materials, otherwise the initial submission shall be deemed complete. Initial and subsequent notices of application incompleteness shall identify specifically the deficiencies in the application which, if cured, would make the application complete.

(2) Approval or denial of the application shall be in writing and shall be postmarked to the applicant by the ninetieth (90<sup>th</sup>) business day from the date of the application being deemed complete. Denials shall identify the

~~deficiencies in the application which, if cured, would make the application complete.~~

- ~~(3) Upon resubmittal of the revised site plan application, the city shall follow the process identified in subsections 13-540a. and 13-540b. above until all deficiencies identified are deemed cured.~~
- ~~(4) If the city does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.~~
- ~~(5) Notwithstanding the foregoing provisions, in the event the application is for a facility which requires a lease from the City, the approval of such application shall be contingent upon approval of a lease with the City, which shall not be subject to the time parameters set forth in this section.~~

(c) Completeness Review; time limitation for wireless communications facilities not located within public rights-of-way. An application for a new wireless communications facility or collocation of a wireless communications facility not located within a public right-of way is deemed submitted or resubmitted on the date the application is received by the department of sustainable development. The department of sustainable development shall notify the applicant in writing within twenty (20) business days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the City's requirements. If the application is not completed in compliance with the City's requirements, the department of sustainable development shall so notify the applicant specifying any missing information or deficiencies which, if cured, make the application properly completed. An application is deemed complete if the City fails to provide notification to the applicant within twenty (20) business days. Upon resubmission of information to cure the stated deficiencies, the department of sustainable development shall notify the applicant, in writing no later than twenty (20) business days after the additional information is submitted, of any remaining deficiencies that must be cured. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the department of sustainable development may continue to request the information until such time as the specified deficiency is cured or may establish a reasonable time frame within which the required information to cure the application deficiency is to be provided. If the curative information is not provided within such time frame, the application will be considered withdrawn or closed for incompleteness.

(d) Completeness review; time limitation for wireless communications facilities located within public rights-of-way. A permit application is deemed submitted or resubmitted on the date the application is received by the department of sustainable development. The department of sustainable development shall notify the applicant in writing via electronic mail within fourteen (14) days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the city's requirements. If the application is not completed in compliance with the city's requirements, the department of sustainable development shall so notify the applicant specifying any missing information or deficiencies which, if cured, make the application properly completed. An application is deemed complete if the City fails to provide notification to the applicant within fourteen (14) days. Upon resubmission of information to cure the stated deficiencies, the department of sustainable development shall notify the applicant, in writing via electronic mail, no later than fourteen (14) days after the additional information is submitted, of any remaining deficiencies that must be cured. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the department of sustainable development may continue to request the information until such time as the specified deficiency is cured, or may establish a reasonable time frame within which the required information to cure the application deficiency is to be provided. If the curative information is not provided within such time frame, the application will be considered withdrawn or closed for incompleteness.

(e) Permit for collocation within public right-of-way. A permit applicant seeking to collocate small wireless facilities or non-exempt micro wireless facilities within the City right-of-way may file a consolidated communications services collocation application and receive a single permit for the collocation of up to thirty (30) small wireless facilities. If the permit application includes multiple small wireless facilities or non-exempt micro wireless facilities, the City may separately address small wireless facility or non-exempt micro wireless facility collocations for which incomplete information has been received or which are denied. A consolidated communications services collocation application must include the general permit information listed herein.

(1) The City may deny a proposed collocation of a small wireless facilities or non-exempt micro wireless facility in the public rights-of-way if the proposed collocation:

- a. Materially interferes with the safe operation of traffic control equipment.
  - b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.
  - c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
  - d. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.
  - e. Fails to comply with applicable codes.
  - f. If the City finds and determines that it is necessary to reserve space on its utility pole that is proposed to be the location of the collocation, and the permit applicant is unwilling to replace the City's pole at no cost to the City in order to make space for the collocation and the future public safety use.
- (f) Unless otherwise specified, the City shall grant or deny a properly completed application for small wireless facilities or non-exempt micro wireless facilities in the public right-of-way within sixty (60) days or, as required by federal and state law, after the date the application is determined to be properly completed. Failure to take any action on the permit application within that time, shall be deemed to be approval of such application. Unless the parties engage in alternate location negotiations as provided herein, the parties may mutually agree to extend the sixty (60) day application review period. At the end of such extended time, the City shall grant or deny the permit application. A permit issued pursuant to this subdivision shall remain effective for one (1) year unless extended by the City. If a permit is denied pursuant to this subdivision, The specific reasons for rejecting the permit application including the specific code provisions on which the denial was based shall be explained and set forth in writing via electronic mail to the permit applicant on the day the City denies the application. The permit applicant may cure the deficiencies identified by the City and resubmit the application within thirty (30) days after notice of the denial is sent to the applicant. The City shall approve or deny the revised application within thirty (30) days after receipt, otherwise the application is deemed approved. The subsequent review shall be limited to the deficiencies cited in the denial.
- (g) Alternate location negotiation period for small wireless facilities or non-exempt micro facilities proposed in the public right-of-way. Within fourteen (14) days after receipt of an application to install a small wireless facilities or non-exempt

micro facility within the public right-of-way, the City may request the applicant via e-mail to move the proposed small wireless facility or non-exempt micro wireless facility to another utility pole within the right-of-way or to construct a new utility pole or support structure within the right-of-way. The City and applicant shall negotiate the design, location and spacing of the alternate wireless facility for thirty (30) days after the date of the request. At the conclusion of the negotiation period, the applicant shall either accept the proposed modification which will thereafter be approved by the City or reject the proposed modification in which event the City shall process the original application for a decision to be made within ninety (90) days of original submission. Decisions issued by the City must be in writing and provided by electronic mail.

(h) Public notice. Prior to the issuance of any permit pertaining to the placement and maintenance of communications facilities within the public rights-of-way located in residential zoning districts, the City Manager or designee shall require the permittee to issue notice of the proposed work, via writing, to property owners within 250 feet of such rights-of-way, as well as provide notification to any affected home owners' association or neighborhood association (the "notification area"). The City may further require the permittee to hold a public information meeting for purposes of answering questions and taking comments from affected property owners. Such public information meeting shall be held within ten (10) days of the City's receipt of request for same. Comments may be submitted in person or in writing to the City. The process for submitting written comments shall be provided to all property owners in the notification area by the permittee. Should a public information meeting be required, the permittee shall submit a report to the City, no later than ten (10) days after such meeting, stating the public comments received and any responses provided by the permittee. The permittee shall meet with City staff as soon as practical to review comments received at the public information meeting, and attempt to resolve all negative comments or issues raised. No permit application will be deemed complete, nor permit shall be issued, by the City until this process, if required, has been completed.

(i) General provisions for all communications facilities permits.

(1) A permit to install a communications facility issued by the City constitutes authorization to undertake only certain activities in the City in accordance with this subdivision, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in

the property on which the communications facility is permitted to be installed.

- (2) In the interest of the public's health, safety and welfare, upon request of the city, a permittee shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable time frame in the subject public rights-of-way or on City property. The City may require a permittee to alter its placement or maintenance schedule as the City determines to be reasonably necessary so as to minimize disruptions and disturbance in the public rights-of-way and on City property. The City may provide a more definite time frame based on individual City construction or maintenance schedules, as are relevant.
- (3) A permit applicant or owner of the communications facility shall, at its own expense, upon completion of any placement or maintenance of a communications facility in public rights-of-way, or each phase thereof, restore the public rights-of-way to at least its original condition before such work began. If the permit applicant or owner of the communications facility fails to make such restoration within thirty (30) days following the completion of such placement or maintenance, the City may perform such restoration as it deems necessary and charge all costs of the restoration against the permit applicant and/or owner of the communications facility in accordance with Section 337.402, Florida Statutes, as it may be amended. The permit applicant and owner of the communications facility, if different parties, shall jointly and severally guarantee the restoration work for twelve (12) months following the original completion of the work.
- (4) Removal or relocation at the direction of the City of a permit applicant's communications facility in the public rights-of-way shall be governed by the provisions of Sections 337.403 and 337.404, Florida Statutes, as they may be amended.
- (5) The City makes no warranties or representations regarding the fitness, suitability, or availability of City's property or public rights-of-way for the permittee's communications facilities and any performance of work or costs incurred by permittee or provision of services shall be at permittee's sole risk. Nothing in this subdivision shall affect the City's authority to add, vacate or abandon public rights-of-way and City makes no warranties or



representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.

- (6) The City reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the city in public rights-of-way or City property occupied by the permittee. Permittee shall, if the permittee so agrees, allow City facilities to be collocated within City's public rights-of-way through the use of a joint trench during permittee's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between the permittee and the city and may be subjected to other city rights-of-way requirements. The city further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the public rights-of-way within the limits of the City and within said limits as same may from time to time be altered.
- (7) A subsequent permittee shall, on the request of any person previously issued a permit by the City, temporarily raise or lower its communications facilities to permit the work authorized by the subsequent permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the previous permittee shall have the authority to require such payment in advance. The previous permittee shall be given not less than thirty (30) days' advance written notice to arrange for such temporary relocation. If the City requests a temporary raising or lowering of a facility for a public purpose, the City shall not be charged for the temporary raising or lowering of the facility.
- (8) No permit granted under this subdivision shall convey any exclusive right, privilege, permit, or franchise to occupy or use the publicly-owned sites of the jurisdiction for delivery of communications services or any other purpose.
- (9) No permit granted under this-subdivision shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the agreement between the lessor and lessee. Further, no permit shall be construed as a conveyance of a title interest in the property.

(10) Conditional use of public rights-of-way.

a. In the event permittee desires to use its existing facilities or to construct new facilities for the purpose of providing services other than communications services to existing or potential consumers or resellers, or for providing any other use to existing or potential consumers, a permittee shall seek such additional and separate authorization from the City, including but not limited to re-applying for a permit, for such activities as may be required by applicable law.

b. To the extent that any person or permittee leases or otherwise uses the communications facilities of a person that is duly registered and permitted, or otherwise authorized to place or maintain communication facilities in the public rights-of-way of the City, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the City's rights, including requiring the removal of such communications facilities from the public rights-of-way of the City, regardless of the effect on authorized person's ability to place or maintain its own communications facilities in public rights-of-way of the City.

(j) Exemptions. The City does not require a permit for the following, unless same involves sidewalk closures, vehicular lane closures, excavation, a general physical disturbance of the roads or rights-of-way, or denial of access to or full use of the roads or rights-of-way:

(1) Routine maintenance of an already existing communications facilities.

(2) Replacement of an existing small or micro wireless facility or an existing wireline facility with another substantially similar or of the same or smaller size facility.

(3) Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider registered in the City and authorized to occupy the rights-of-way and who is remitting taxes under Chapter 202, Florida Statutes, as may be amended.

(k) Permit Fees. The permit fees for installation of a communications facility within the City, not including any rental of space on City-owned property, as applicable, are as follows:

(1) In the City's rights-of-way:

a. Small wireless facilities and non-exempt micro wireless facilities.....\$0.

b. Wireline communications facilities.....\$0.

(2) Outside the City's rights-of-way:

a. New small wireless facilities and micro wireless facilities.....\$3500

b. Collocations/Modifications/Replacements.....\$4000

c. New wireless communications facilities.....\$6500

d. Wireline communication facilities.....\$1000

(3) Permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under Section 556.108(5)(a)2, Florida Statutes, as amended from time to time.

(4) The City's permit fees associated with construction or placement of communication facilities within the City's rights-of-way are waived. However, where applicable, all communications facilities proposed to be installed in the City's rights-of-way must comply with Section 13-142, "Underground utilities; required."

Sec. 13-540.1. - Construction bonds.

(a) Prior to performing any permitted work in the City's rights-of-way, the City shall require the permittee and/or owner of the communications facility to establish in the City's favor a performance and payment bonds in an amount equal to a minimum of one hundred (100) percent of the cost of the work being permitted exclusive of equipment cost to secure the restoration of the public rights-of-way and to ensure the permittee's and/or owner's faithful performance of the construction or other obligations related to the work in the public rights-of-way, in accordance with applicable sections of the City Code of Ordinances.

(b) In the event a permittee and/or owner of the communications facility fails to complete the work in accordance with the provisions of the permit and this

subdivision, or fails to complete all restoration work in the right-of-way as required by the City, including but not limited to repair or replacement of damaged landscaping, structures, hardscape, underground utility facilities, structures or equipment, or any other item or feature disturbed by the permitted work, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the permittee or owner, or the cost of completing the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.

(c) No less than twelve (12) months after completion of the construction and satisfaction of all obligations in accordance with the bonds, the permittee and/or owner of the communications facility may request the City Manager or his/her designee to remove the requirement to continue the bonds and the City, if appropriate, shall release the bonds within ten (10) days. Notwithstanding, the City shall require a new bond for any subsequent work performed in the public rights-of-way.

(d) The bonds shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the City Attorney; and shall provide that:

"Unless released by the City, this bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

(e) The rights reserved by the City with respect to any bond established pursuant to this section are in addition to all other rights and remedies the City may have under this section, or at law or equity, and no action, proceeding or exercise of a right with respect to the bonds will affect any other right the City may have.

#### Section 13-540.2 - Inspections.

- (a) Owners or operators of communications facilities in the City shall ensure that the department of sustainable development has current contact information for such owner or its authorized representative.
- (b) The owner or operator of a communications facility in the City shall submit a report to the department of sustainable development, certifying the integrity of the communications facility and the safety of electrical components at least once every two (2) years.
- (c) Statements and certifications. Any statement or certification submitted by or on behalf of a permit applicant pursuant to the provisions of this section shall be

prepared applying rational analysis by one (1) or more engineers registered and licensed in the state, or by such other person or persons designated by the permit applicant who are qualified to perform the required analysis. Any person or persons providing such a statement or statements shall also certify as to his or her competence in the discipline or disciplines necessary to perform the analysis and to provide the statement.

- (d) The City shall have the right to make such inspections of communications facilities placed or maintained in public rights-of-way or on City property as it finds necessary to ensure compliance with this subdivision. In the event the City determines that a violation exists with respect to permittee's placement or maintenance of facilities in the public rights-of-way or on City property that is not considered to be an emergency or danger to the public health, safety or welfare, the City will provide the permittee at least three (3) days' written notice setting forth the violation and requesting correction.
- (e) No liability or warranty. Nothing contained in this subdivision shall be construed to make or hold the City responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the permittee's communications facilities; or by reason of any inspection or reinspection authorized herein or failure to inspect or reinspect. Nor shall the issuance of any permit or the approval or disapproval of any placement or maintenance of the permittee's communications facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, nor create any liability upon, the City or any official, agent or employee thereof.

Sec. 13-540.3. - Suspension of permits.

(a) Subject to providing reasonable notice and an opportunity to cure, the City Manager or his/her designee may suspend a permit issued or deny an application for a subsequent permit for work in the City for one (1) or more of the following:

(1) Failure to satisfy permit conditions, or conditions set forth in this subdivision or other applicable City codes or regulations governing placement or maintenance of communications facilities, including without limitation, failure to take reasonable safety precautions to alert the public of work at the work site when in the public rights-of-way, or to restore any public rights-of-way;

(2) Misrepresentation or fraud by permittee in a registration or permit application to the City;

(3) Failure to properly renew or expiration of registration, when applicable.

(4) Failure to relocate or to remove communications facilities or other equipment as may be lawfully required by the City.

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(b) After the suspension or denial of a permit pursuant to this section, the City shall provide written notice of the reason to the permittee or permit applicant.

Sec. 13-541. - Enforcement remedies.~~Master telecommunications plan.~~

(a) In addition to any other remedies available at law, including but not limited to Section 166.0415, Florida Statutes, as may be amended, and Chapter 162, Florida Statutes, as may be amended, or equity or as provided in this subdivision, the City may apply any one (1) or combination of the following remedies in the event a registrant and/or permittee violates this subdivision, or applicable local law or order related to the public rights-of-way:

(1) Failure to comply with the provisions of the subdivision or other law applicable to occupants of the public rights-of-way, may result in the imposition of penalties to be paid by the registrant and/or permittee to the City in an amount of not less than five hundred dollars (\$500.00) per day or part thereof that the violation continues.

(2) Failure of an approved communications facility to be installed and operational within one (1) year after application approval pursuant to this subdivision shall constitute a failure to comply with the provisions of this subdivision and shall result in the revocation of permit granted herein.

(3) In addition to or instead of any other remedy, the City may seek legal or equitable relief from any court of competent jurisdiction.

(b) Before imposing a fine pursuant to this section, the City shall give written notice of the violation and its intention to assess such penalties, which notice shall contain a description of the alleged violation. Following receipt of such notice, the registrant and/or permittee shall have ten (10) days to either: (a) cure the violation to the City's satisfaction and the City shall make good faith reasonable efforts to assist in resolving the violation; or (b) file an appeal with the City to contest the alleged violation. Section 13-34, "Appeals," shall govern such appeal. If no appeal is filed and if the violation is not cured within the thirty (30) day period, the City may collect all fines owed, beginning with the first day of the violation, through any means allowed by law.

(c) In determining which remedy or remedies are appropriate, the City shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the City determines are appropriate to the public interest.

(d) Failure of the City to enforce any requirements of this subdivision shall not constitute a waiver of the City's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

(e) In any proceeding before the City where there exists an issue with respect to a registrant's and/or permittee's performance of its obligations pursuant to this

subdivision, the registrant and/or permittee shall be given the opportunity to provide such information as it may have concerning its compliance with the terms and conditions of this subdivision. The City may find a registrant and/or permittee that does not demonstrate compliance with the terms and conditions of this subdivision in default and apply any one (1) or a combination of the remedies otherwise authorized by this subdivision.

(f) The City Manager or his/her designee shall be responsible for administration and enforcement of this subdivision, and is authorized to give any notice required by law.

- ~~(a) The city has developed and adopted a master telecommunications plan ("plan") pursuant to applicable law, the city has contracted with a third party to administer publicly owned sites for purposes of developing the sites as part of the plan, consistent with the terms of this section. Except as specifically provided herein, the terms of this section, and the requirements established thereby, shall be applicable to all antenna support facilities to be developed or collocated on city-owned sites.~~
- ~~(b) If an applicant requests a permit to develop a site on city-owned property, the permit granted hereunder shall not become effective until the applicant and the city have executed a written agreement or lease setting forth the particular terms and provisions under which the permit to occupy and use the public lands of the jurisdiction will be granted.~~
- ~~(c) No permit granted under this section shall convey any exclusive right, privilege, permit, or franchise to occupy or use the publicly-owned sites of the jurisdiction for delivery of wireless communications services or any other purpose.~~
- ~~(d) No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the agreement between the lessor and lessee. Further, no permit shall be construed as a conveyance of a title interest in the property.~~

~~Sec. 13-541.1. Intent and purpose.~~

~~It is the intent of the city to promote the public health, safety and general welfare by: providing for the placement and maintenance of wireless communications facilities in the public rights-of-way within the city; adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including F.S. § 337.401, as it may be amended, the city's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other federal and state law; establishing reasonable rules and regulations necessary to manage the placement and maintenance of wireless communications facilities in the public rights-of-way; and minimizing disruption to the public rights-of-way. In regulating its public rights-of-way, the city shall be governed by and shall comply with all applicable federal and state laws. The placement and maintenance of wireless communications facilities on private~~

property or property owned, leased or controlled by the city, other than rights-of-way, is governed by sections 13-535 through 13-541 of the city's Code of Ordinances.

Sec. 13-541.2. - Registration for placing or maintaining wireless communications facilities in public rights-of-way.

- (a) ~~A wireless communications services provider or pass-through provider that desires to place or maintain a wireless communications facility in public rights-of-way in the city shall first register with the city in accordance with this article. Subject to the terms and conditions prescribed in this article, a registrant may place or maintain a wireless communications facility which has a federally licensed wireless service provider associated with such facility in public rights-of-way. A wireless communications services provider or pass-through provider with an existing wireless communications facility in the public rights-of-way of the city as of the effective date of the passage of this article has sixty (60) days from the effective date of the passage of this article to comply with the terms of this article, including, but not limited to, registration, or be in violation thereof.~~
- (b) ~~A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this section governs only the placement or maintenance of wireless communications facilities in public rights-of-way. Registration does not excuse a wireless communications services provider or pass-through provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the city's or another person's facilities. Registration does not excuse a wireless communications services provider or pass-through provider from complying with all applicable law, including city ordinances, codes or regulations, including this article.~~
- (c) ~~Each wireless communications services provider or pass-through provider that desires to place or maintain a wireless communications facility in public rights-of-way in the city shall file a single registration with the city that shall include the following information:~~
- ~~(1) Name of the registrant;~~
  - ~~(2) Name, address and telephone number of the registrant's primary contact person in connection with the registration and of the person to contact in case of an emergency;~~
  - ~~(3) Evidence of the insurance coverage required under this article and acknowledgment that registrant has received and reviewed a copy of this article; and~~
  - ~~(4) A copy of federal or state certification authorizing the registrant (or associated wireless service provider) to provide wireless communications services; a pass-through provider must furnish evidence of a legal commitment of a wireless communications service provider to install and operate equipment on the proposed wireless communications facility once constructed.~~

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- (5) ~~If the registrant is a corporation, proof of authority to do business in the State of Florida, which may be satisfied by the number of the corporate certification or by other means; and~~
- (6) ~~A security fund in accordance with section 13-541.12.~~
- (d) ~~The director of sustainable development or designee shall review the information submitted by the registrant. If the registrant submits information in accordance with subsection (c) above, the registration shall be effective and the city shall notify the registrant of the effectiveness of registration in writing. If the city determines that the information has not been submitted in accordance with subsection (c) above, the city shall notify the registrant in writing of the non-effectiveness of registration, and reasons for the non-effectiveness. The city shall so notify a registrant within thirty (30) days after receipt of registration information from the registrant.~~
- (e) ~~A registrant may cancel a registration upon written notice to the city that the registrant will no longer place or maintain any wireless communications facilities in public rights-of-way and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain any wireless communications facilities in public rights-of-way.~~
- (f) ~~Registration shall be nonexclusive. Registration shall not establish any right or priority to place or maintain a wireless communications facility in any particular area in public rights-of-way within the city. Registrations are expressly subject to any future amendment to or replacement of this article and further subject to any additional city ordinances, as well as any state or federal laws that may be enacted.~~
- (g) ~~A registrant shall renew its registration with the city by April 1 annually. Within thirty (30) days of any change in the information required to be submitted pursuant to subsection 13-541.2(c), a registrant shall provide updated information to the city. Registration renewals shall include an inventory of the registrant's newly installed facilities or abandoned facilities since the prior registration or registration renewal. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may result in the city restricting the issuance of additional permits until the wireless communications services provider or pass-through provider has complied with the registration requirements of this section.~~
- (h) ~~In accordance with applicable city ordinances, codes or regulations and this article, a permit shall be required of a wireless communications services provider or pass-through provider that desires to place or maintain a wireless communications facility in public rights-of-way. An effective registration shall be a condition of obtaining a permit. Notwithstanding an effective registration, permitting requirements shall continue to apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.~~

~~(i) A registrant that places or maintains wireless communications facilities in the public right-of-way shall be required to pay compensation to the city as required by applicable law and ordinances of the city.~~

~~Sec. 13-541.3. Placement or maintenance of a wireless communications facility in public rights-of-way.~~

~~(a) Registrant shall at all times comply with and abide by all applicable provisions of state, federal and local law and city ordinances, codes and regulations, as amended, in placing or maintaining a communications facility or a personal wireless service facility in public rights-of-way.~~

~~(b) To the extent not otherwise prohibited by state or federal law, the city shall have the power to prohibit or limit the placement of new or additional communications facilities and personal wireless service facilities within a particular area of a public right-of-way. The city shall have the power to prohibit or limit the placement of new or additional communications facilities and personal wireless service facilities within the public rights-of-way if there is insufficient space to accommodate all of the requests to place and maintain facilities in that area of the public right-of-way, for the protection of existing facilities in the public right-of-way or to accommodate city plans for public improvements or projects that the city determines are in the public's interest.~~

~~(c) All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities and personal wireless service facilities.~~

~~(d) Personal wireless service facilities located in the public rights-of-way must meet the following minimum standards:~~

~~(1) Required approvals. No application for placement of personal wireless service facilities in the public rights-of-way shall be permitted without approval of the department of sustainable development.~~

~~(2) a. Because an antenna must be placed above ground in order to transmit and receive signals, an applicant proposing placement of an antenna in the public right-of-way, shall submit an application for approval through the department of sustainable development. The application shall consist of the following:~~

~~i. Application form provided by the city accompanied by the required application fee identifying the type of wireless facility as either:~~

~~a. Stand-alone small cell or~~

~~b. DAS HUB system;~~

~~ii. Copy of current business tax receipt;~~

~~iii. A scaled site plan depicting an area within a six hundred (600) foot radius from the center of the proposed personal wireless service facility,~~

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~~and showing the proposed antennas, equipment, related infrastructure, sidewalks, all existing utilities, antennas, towers, concealed facilities, the right-of-way boundaries, wireless communications facility boundary, road improvements, all ingress and egress to nearby streets, major vegetation, required grading, existing and proposed elevations, easements, and other significant features of the site.~~

~~iv. Certification signed by the applicant confirming the distance separation from other personal wireless service facilities.~~

~~b. No permits shall be issued by the city prior to the approval of a development plan where required pursuant to this subsection 13-609(d)(2).~~

~~(3) Completeness review; time limitation. The city shall grant or deny a properly completed application for personal wireless service facilities in the public right-of-way within ninety (90) days or, as required by federal and state law, after the date the application is determined to be properly completed. An application is deemed submitted or resubmitted on the date the application is received by the department of sustainable development. The department of sustainable development shall notify the applicant within twenty (20) days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the city's requirements. If the application is not completed in compliance with the city's requirements, the department of sustainable development shall so notify the applicant in writing indicating with specificity any deficiencies which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the department of sustainable development shall notify the applicant, in writing, no later than twenty (20) days after the additional information is submitted, of any remaining deficiencies that must be cured. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the department of sustainable development may continue to request the information until such time as the specified deficiency is cured, or may establish a reasonable time frame within which the required information to cure the application deficiency is to be provided. If the curative information is not provided within such time frame, the application will be considered withdrawn or closed.~~

~~(4) Co-location or use of concealed facilities. An antenna in the public right-of-way shall, to the extent possible, be co-located on an existing power, light or other utility pole. When co-location of an antenna is not possible, a freestanding concealed facility is preferred. For co-locations, the applicant shall submit an application to the department of sustainable development for approval. Any facility located in the public right-of-way, whether co-located or freestanding, shall be technically capable of servicing a minimum of four (4) wireless service providers with like technical facilities.~~

~~(5) Statement. A statement or statements shall be submitted certifying that the construction of personal wireless service facilities proposed to be located in the~~

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~~public right-of-way will comply with applicable standards as set forth in the Florida Building Code, latest edition, the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, and applicable electrical codes; and describing the proposed personal wireless service facilities' capacity to permit multiple users, including an example of the number and type of antennas or other attachments that can be accommodated on support structures. No personal wireless service facility which exceeds its support structure's loading capacity, which causes any pole or structure to exceed its loading capacity or which does not conform to applicable electrical codes shall be permitted in the public right-of-way.~~

~~(6) All equipment should be contained within the vertical infrastructure installed in the right-of-way except where insufficient interior physical space or incapable loading issues are present, in which event cabinets, boxes and vaults may be used. No permit or order shall be granted authorizing the placement, construction or modification in the public right-of-way of a personal wireless service facility cabinet, box or vault exceeding three (3) feet wide by three (3) feet long by five (5) feet high in size.~~

~~(7) Height, setbacks and related location requirements.~~

~~a. The height of a new personal wireless service facility in the public right-of-way to which an antenna is attached shall not exceed the height of existing poles or structures in the public rights-of-way within one hundred (100) feet of such proposed new personal wireless service facility, or if no such existing poles are present in the public rights-of-way within one hundred (100) feet of such proposed new personal wireless service facility, the new personal wireless service facility shall not exceed a height of thirty (30) feet. Height shall be measured from the crown of the road of the nearest public street.~~

~~b. Except as otherwise provided herein, personal wireless service facilities in the public rights-of-way shall conform to the standards and requirements set forth in the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.~~

~~c. No antenna attached to a freestanding pole in the public rights-of-way, other than as a co-location with an existing power, light or other utility pole, or unless installed as a concealed facility, shall be permitted within fifty (50) feet of any principal residential structure.~~

~~d. A box or cabinet housing the equipment connected to an antenna attached to a freestanding pole in the public rights-of-way shall be placed on the ground instead of attached to the pole supporting the antenna, and shall be screened from view.~~

~~e. Personal wireless service facilities shall be located in state or county arterial or collector rights-of-way, whenever possible. Placement of personal wireless service facilities in city collector street, cul-de-sac, local street and marginal access street rights-of-way shall be prohibited unless the applicant cannot otherwise provide service to a particular customer or customers without doing so, and the inability to place facilities in such rights-of-way is necessary to accomplish requirements of nondiscriminatory treatment of the applicant in relation to the city's treatment of other communications service providers. In such circumstances, the applicant shall include with its city permit application, sufficient evidence consistent with industry standards, to justify such placement. Whenever personal wireless service facilities must be placed in a right-of-way with residential uses on one (1) or both sides, neither poles, equipment, antennas or other structures shall be placed in front of a residential structure. If a right-of-way has residential structures on only one (1) side, the personal wireless service facilities shall be located on the opposite side of the right-of-way whenever possible. All personal wireless service facilities shall be located in such a way that they do not interfere with views from residential structures.~~

~~(8) Antennas.~~

- ~~a. Each application for a personal wireless service facility shall contain a rendering or photograph of the proposed antenna which depicts its aesthetic features including, but not limited to, the use of colors and screening devices. The application shall be subject to administrative review regarding consistency with the requirements of this section. The director of department of sustainable development, or his or her designee, may require, to the extent possible, that aesthetic features, including but not limited, to the use of colors and screening devices, be used so that antennas blend into the surrounding environment.~~
- ~~b. No signals, lights, or illumination shall be permitted on an antenna or, except in the case of a light pole or a concealed facility designed to emulate a light pole, on a pole to which such antenna is attached, unless required by applicable state or federal laws or rules.~~
- ~~c. Antennas shall be mounted at a height and location that will not interfere with use of the public rights-of-way.~~
- ~~d. No exterior antenna in the public rights-of-way shall exceed the height of the pole to which it is attached by more than twenty-four (24) inches, unless it is attached as a co-location to an existing power, light or other utility pole or on a pole designed to emulate a light pole. Further, if any part of the antenna extends above the top of the pole it shall not be allowed to extend away from the exterior side of the pole in an amount greater than twelve (12) inches on any side.~~

- e. ~~No antenna shall be mounted where the edge of the antenna is more than four (4) inches from the exterior side of the pole to which it is attached unless it is attached as a co-location to an existing power, light or other utility pole. No part of the antenna shall be allowed to extend more than twenty-four (24) inches away from the exterior side of the pole.~~
- f. ~~Exterior looping of excess cable length installed on any personal wireless service facility located in the public right-of-way is prohibited and all cabling and interconnecting wires must be concealed.~~
- g. ~~Distance between antenna locations/number of antenna locations within a specified area. To minimize the adverse visual impacts associated with the proliferation and clustering of antennas and associated above-ground personal wireless service facilities, no antenna site in the public rights-of-way shall be located within six hundred (600) feet of any other such antenna site or telecommunications tower. Further, no more than thirteen (13) antenna sites may be located within an area of one (1) square mile. This subsection 13-541.2(d)(8)g. shall not apply to any antenna co-located on an existing power, light or other utility pole within the public rights-of-way.~~
- (9) ~~Co-locations. For the purposes of this section, co-location means the mounting or installation of an antenna on an existing power, light or other utility pole for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. In any co-location, the existing power, light or other utility pole may be modified or replaced to accommodate the new attachment, provided however that the modified or replacement pole complies with the height, setback and related location requirements, unless such requirements are waived. For the purposes of this section, an existing power, light or other utility pole modified or replaced to accommodate a new attachment shall continue to be considered an existing pole after replacement or modification.~~
- (10) ~~Approval required from other governmental agencies and owners. Each application for the location of a personal wireless service facility in the public rights-of-way may be required to include written approval, or a statement of no objection, from agencies that regulate siting, design, and construction of such facilities, or have jurisdiction over the public rights-of-way, if any such agencies require the applicant to seek their review or approval. An existing facility in the public rights-of-way shall only be utilized in a manner consistent with the City Code and with the written permission of the facility owner.~~
- (11) ~~FCC emissions standards. All personal wireless service facilities in the public rights-of-way shall comply with current radio frequency emissions standards of the Federal Communications Commission.~~
- (12) ~~Buffering.~~
  - a. ~~As a condition of approval the director of the department of sustainable development, or his or her designee, may require the use of a fence as a~~

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~~buffer that is consistent in design and function with existing fencing used in the public rights-of-way.~~

~~b. As a condition of approval the director of the department of sustainable development, or designee, may require the use of landscaping as a buffer, which landscaping is consistent with the landscaping otherwise located in the public rights-of-way. Additional landscaping may be required if deemed necessary to buffer adjacent properties. The director of the department of sustainable development, or designee, may require landscaping in excess of the requirements of the city code to enhance compatibility with adjacent residential and nonresidential land uses.~~

~~c. All buffering required in connection with the use of personal wireless service facilities in the public rights-of-way shall be maintained by the owner of such facilities at its own cost.~~

~~(13) Equipment. The location in the public rights-of-way of any equipment or equipment cabinets associated with personal wireless service facilities shall be subject to the approval of the director of the department of sustainable development or designee. Any such cabinets or equipment must be approved by the director of the department of sustainable development or designee as to safety, and shall not interfere with the use of the public rights-of-way. The director of department of sustainable development or designee may require a statement certifying the need for the proposed equipment and location. No generators utilized in connection with personal wireless services facilities may be placed in the public rights-of-way, except temporarily in the case of emergency and only if approved within forty-eight (48) hours of placement by the director of department of sustainable development or designee.~~

~~(14) Signs and advertising. The use of any portion of a personal wireless service facility in the public rights-of-way for the posting of signs or for advertising purposes, including, but not limited to, the display of lights, banners and streamers is strictly prohibited. For purposes of emergency contact, the owner of the personal wireless service facility shall place one (1) identification label on the equipment advising of the name and contact telephone number of the owner of the personal wireless service facility.~~

~~(15) Inspections.~~

~~a. Owners or operators of personal wireless service facilities in the public rights-of-way shall ensure that the department of sustainable development has current contact information for such owner or its authorized representative.~~

~~b. The owner or operator of a personal wireless service facility in the public rights-of-way shall submit a report to the department of sustainable development, certifying the integrity of the personal wireless service facility and the safety of electrical components at least once every two (2) years.~~

- ~~(16) Cooperative determination. In the event an applicant demonstrates, in writing, to the satisfaction of the director of department of sustainable development, or designee, that the operation of this section produces a result which is either (i) a burdensome hardship on the applicant, and is inconsistent with the general public welfare; or (ii) inconsistent with the intent of the particular provisions of this section, and inconsistent with the general public welfare, the applicant and the director of department of sustainable development, or designee, shall cooperate to determine an appropriate location and aesthetic design for the proposed facility. In any such cooperative determination there shall be a preference for co-location with existing personal wireless service facilities or other utility facilities, or for use of unused capacity on existing personal wireless service facilities. Where facilities cannot be co-located and no such unused capacity exists, there shall be a preference for the use of free-standing concealed type structures which are consistent, to the extent possible, with this section. The director of department of sustainable development, or designee, may require a written statement certifying that the proposed location is needed by a personal wireless services provider to close a significant gap in its service to the affected areas.~~
- ~~(17) Modifications or replacements. Modification or replacement of any personal wireless service facilities in the public rights-of-way shall be subject to approval of the department of sustainable development. Any co-location of personal wireless service facilities, removal of personal wireless service facilities or replacement of personal wireless service facilities that substantially changes the physical dimensions of an antenna node site shall be subject to approval of the department of sustainable development. Notwithstanding anything to the contrary in this section, for an eligible facilities request under section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, (47 USC § 1455(a)), the application shall be subject only to the department of sustainable development's review and approval process.~~
- ~~(18) Statements and certifications. Any statement or certification submitted by or on behalf of an applicant pursuant to the provisions of this section shall be prepared applying rational analysis by one (1) or more engineers registered and licensed in the state, or by such other person or persons designated by the applicant who are qualified to perform the required analysis. Any person or persons providing such a statement or statements shall also certify as to his or her competence in the discipline or disciplines necessary to perform the analysis and to provide the statement.~~
- ~~(e) A registrant shall, at its own expense, restore the public rights-of-way to at least its original condition before such work after the completion of any placement or maintenance of a communications facility or personal wireless service facility in public rights-of-way or each phase thereof. If the registrant fails to make such restoration within thirty (30) days following the completion of such placement or maintenance, the city may perform such restoration as it deems necessary and~~



~~charge all costs of the restoration against the registrant in accordance with F.S. § 337.402 as it may be amended. The registrant shall guarantee its restoration work and shall correct any improper restoration work at its own expense for twelve (12) months following the original completion of the work.~~

- ~~(f) Removal or relocation at the direction of the city of a registrant's communications facility or personal wireless service facility in public rights-of-way shall be governed by the provisions of F.S. § 337.403 and 337.404 as they may be amended.~~
- ~~(g) A permit from the city constitutes authorization to undertake only certain activities on public rights-of-way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.~~
- ~~(h) A registrant shall maintain its communications facility or personal wireless service facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law.~~
- ~~(i) In the interest of the public's health, safety and welfare, upon request of the city, a registrant shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable time frame in the subject public rights-of-way. The city may require a registrant to alter its placement or maintenance schedule as the city determines to be reasonably necessary so as to minimize disruptions and disturbance in the public rights-of-way. The city may provide a more definite time frame based on individual city construction or maintenance schedules.~~
- ~~(j) The city makes no warranties or representations regarding the fitness, suitability, or availability of city's public rights-of-way for the registrant's communications facilities or personal wireless service facilities and any performance of work or costs incurred by registrant or provision of services shall be at registrant's sole risk. Nothing in this article shall affect the city's authority to add, vacate or abandon public rights-of-way and city makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities or personal wireless service facilities.~~
- ~~(k) The city shall have the right to make such inspections of communications facilities and personal wireless service facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the city determines that a violation exists with respect to registrant's placement or maintenance of facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the city will provide the registrant at least three (3) days' written notice setting forth the violation and requesting correction.~~
- ~~(l) The city reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper~~

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~~by the city in public rights-of-way occupied by the registrant. Registrant shall, if the registrant so agrees, allow city facilities to be co-located within city's public rights-of-way through the use of a joint trench during registrant's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between the registrant and the city and may be subjected to other city rights-of-way requirements. The city further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the public rights-of-way within the limits of the city and within said limits as same may from time to time be altered.~~

~~(m) A registrant shall, on the request of any person holding a permit issued by the city, temporarily raise or lower its communications facilities or personal wireless service facilities to permit the work authorized by the permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than thirty (30) days' advance written notice to arrange for such temporary relocation. If the city requests a temporary raising or lowering of a facility for a public purpose, the city shall not be charged for the temporary raising or lowering of the facility.~~

~~(n) Prior to the issuance of any permit pertaining to the placement and maintenance of personal wireless service facilities within the public rights-of-way located in residential zoning districts, the director of the department of sustainable development shall require the registrant to issue notice of the work to property owners who adjoin such rights-of-way (the "notification area"), and based on the scope of the proposed work, the number of affected property owners, and the potential severity of the impact to such property owners, shall further require the registrant to hold a public information meeting for purposes of answering questions and taking comments from affected property owners. Comments may be submitted in person or in writing to the city. The process for submitting written comments shall be provided to all property owners in the notification area by the registrant. The notification area may be expanded at the city's discretion and notice shall be affected in a manner deemed appropriate by the director of sustainable development or designee. Should a public information meeting be required, the registrant shall submit a report to the city, no later than ten (10) days after such meeting, stating the public comments received and any responses provided by the registrant. The registrant shall meet with city staff as soon as practical to review comments received at the public information meeting, and attempt to resolve all negative comments or issues raised. No permits shall be issued by the city until this process, if required, has been completed.~~

#### ~~Sec. 13-541.4. - Suspension of permits.~~

~~(a) Subject to section 13-541.5 below and to providing reasonable notice and an opportunity to cure, the director of sustainable development or designee may suspend a permit issued or deny an application for a subsequent permit to a registrant for work in the public rights-of-way for one (1) or more of the following:~~

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- ~~(1) Failure to satisfy permit conditions, or conditions set forth in this article or other applicable city codes or regulations governing placement or maintenance of communications facilities or wireless communications facilities in public rights-of-way, including without limitation, failure to take reasonable safety precautions to alert the public of work at the work site, or to restore any public rights-of-way;~~
  - ~~(2) Misrepresentation or fraud by registrant in a registration or permit application to the city;~~
  - ~~(3) Failure to properly renew or ineffectiveness of registration.~~
  - ~~(4) Failure to relocate or to remove facilities as may be lawfully required by the city.~~
- ~~(b) After the suspension or denial of a permit pursuant to this section, the city shall provide written notice of the reason to the registrant.~~

~~Sec. 13-541.5. Appeals.~~

- ~~(a) Final, written decisions of the director of sustainable development or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the city clerk within thirty (30) days of the date of the final, written decision to be appealed. Any appeal not timely filed as set forth above shall be waived. The city manager shall hear or appoint a hearing officer to consider the appeal. The hearing shall occur within thirty (30) days of the receipt of the appeal, unless waived by the registrant, and a written decision shall be rendered within twenty (20) days of the hearing. Upon correction of any grounds that gave rise to a suspension or denial, the suspension or denial shall be lifted.~~
- ~~(b) Nothing in this article shall affect or limit the remedies the city has available under applicable law.~~

~~Sec. 13-541.6. Conditional use of public rights-of-way.~~

- ~~(a) In the event registrant desires to use its existing facilities or to construct new facilities for the purpose of providing other utility or non-utility services to existing or potential consumers or resellers, by providing any other services other than the provision of wireless communications service, or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from city for such activities as may be required by applicable law.~~
- ~~(b) To the extent that any person or registrant leases or otherwise uses the facilities of a person that is duly registered or otherwise authorized to place or maintain facilities in the public rights-of-way of the city, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the city's rights, including requiring the removal of such facilities from the public rights-of-way of the city, regardless of the effect on registrant's ability to place or maintain its own wireless communications facilities in public rights-of-way of the city.~~

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~~Sec. 13-541.7. Termination of registration.~~

- ~~(a) The involuntary termination of a previously effective registration may only be accomplished by an action of the city commission. The city may declare the registration terminated and revoke and cancel all privileges granted under that registration if: (a) a federal or Florida authority suspends, denies, or revokes a registrant's certification or license to provide wireless communications service, (b) the registrant's placement and maintenance in the public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way, (c) the registrant abandons all of its wireless communications facilities in the public rights-of-way, or (d) a pass-through provider fails to comply with the requirements of section 13-541.19.~~
- ~~(b) Prior to such termination for any of the reasons set forth in this section, the director of sustainable development or designee shall notify the registrant in writing setting forth the matters pertinent to such reasons and describing the proposed action of the city with respect thereto. The registrant shall have sixty (60) days after receipt of such notice within which to cure the violation, or within which to present a plan, satisfactory to the city commission, to accomplish the same.~~
- ~~(c) In the event of a vote by the city commission to terminate the registration, the registrant shall, within a reasonable time following such termination, provide an acceptable plan for transferring ownership of the wireless communications facilities to another person in accordance with this article or shall remove or abandon the facilities and take such steps as are necessary to render every portion of the facilities remaining in the public rights-of-way of the city safe. If the registrant has either abandoned its facilities or chooses to abandon its facilities, the city may either (a) require the registrant or the registrant's bonding company to remove some or all of the facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal; or (b) require that some or all of the facilities be removed and the public rights-of-way restored to its such condition at the registrant's expense, using city employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or (c) utilize or allow other persons to utilize the registrant's abandoned facilities. The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the city to cause the removal of any facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing federal or state agency, where required, and is properly registered with the city, for such certificated service, where required.~~

~~Sec. 13-541.8. Transfer or control, sale or assignment of assets.~~

- ~~(a) If a registrant transfers, sells or assigns its registration or its wireless communications facilities in the public rights-of-way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer,~~

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~~sale or assignment shall be provided to the city within twenty (20) days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided in section 13-541.2 within sixty (60) days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the appropriate city officials that the transferee, buyer or assignee is the new applicant.~~

- ~~(b) Any mortgage, pledge, lease or other encumbrance on the wireless communications facilities shall be subject and subordinate to the rights of the city under this article and applicable law.~~

~~Sec. 13-541.9. - Insurance.~~

- ~~(a) A registrant shall provide, pay for and maintain satisfactory to the city the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a rating in best's insurance guide of A or better or having a rating acceptable to the city. All insurance coverage shall be primary over any city insurance coverage. Further, all insurance coverage shall be "by occurrence" rather than on a "claims made" basis. All liability policies shall provide that the city is an additional insured in the endorsement. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the city annually. Thirty (30) days' advance written notice by registered or certified mail must be given to the city of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the city's risk manager.~~

- ~~(b) The limits of coverage of insurance required shall be not less than the following:~~

~~(1) Worker's compensation and employer's liability insurance. Employer's liability—Five hundred thousand dollar (\$500,000.00) limit each occurrence, five hundred thousand dollars (\$500,000.00) limit per each employee.~~

~~(2) Comprehensive general liability. Bodily injury and property damage—Three million dollars (\$3,000,000.00) combined single limit each occurrence. Said coverage shall not exclude contractual liability, products/completed operations or independent contractors.~~

~~(3) Business automobile liability. Bodily injury and property damage—Three million dollars (\$3,000,000.00) combined single limit each occurrence.~~

- ~~(c) Umbrella or excess liability. Registrant may satisfy the minimum limits required above for either commercial general liability, business auto liability and employer's liability coverage under umbrella or excess liability. The umbrella or excess liability shall have an aggregate limit not less than the highest "each occurrence" limit for~~

~~commercial general liability, business auto liability or employer's liability. The city shall be specifically endorsed as an "additional insured" on the umbrella or excess liability, unless the certificate of insurance states the umbrella or excess liability provides coverage on a "follow form" basis.~~

- ~~(d) Self-insurance. Registrant may satisfy the insurance requirements and conditions of this section under a self-insurance plan and/or retention. Registrant agrees to notify the city, and/or indicate on the certificate(s) of insurance, when self-insurance is relied upon or when a self-insured retention exceeds one hundred thousand dollars (\$100,000.00). The city reserves the right, but not the obligation, to request and review a copy of the registrant's most recent annual report or audited financial statement, which the registrant agrees to furnish for the purpose of determining the registrant's financial capacity to self-insure.~~
- ~~(e) Right to review. City reserves the right to review, modify, reject or accept any required policies of insurance or self-insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of this section. City reserves the right, but not the obligation, to review and reject any insurer or self-insurer providing coverage because of its poor financial condition or failure to operate legally.~~
- ~~(f) This section shall not be construed to affect in any way the city's rights, privileges and immunities as set forth in F.S. § 768.28. Insurance under this section shall run continuously with the presence of the registrant's wireless communications facilities in the public right-of-way and any termination or lapse of such insurance shall be a violation of this section and subject to the remedies as set forth herein. Notwithstanding the foregoing, the city may, in its sole discretion require increased or decreased levels of insurance for any other object placed in the city's rights-of-way by way of individual license agreements.~~

~~Sec. 13-541.10. Indemnification.~~

~~A registrant shall, at its sole cost and expense, indemnify, hold harmless and defend the city, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the city arising out of the placement or maintenance of its wireless communications facilities in public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this article, provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the negligence, gross negligence or wanton or willful acts of the city. This provision includes, but is not limited to, the city's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. City agrees to notify the registrant, in writing, within a reasonable time of city receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the city from participating in the defense of any litigation by its own counsel and at its own cost if in the city's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be~~

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~~construed or interpreted: (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) as consent by the city to be sued; or (3) as a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28 as it may be amended.~~

~~Sec. 13-541.11. - Construction bond.~~

- ~~(a) — Prior to performing any permitted work in the public rights-of-way, the city shall require the registrant to establish in the city's favor a construction bond in an amount equal to a minimum of one hundred twenty-five (125) percent of the cost of the work being permitted exclusive of equipment cost to secure the restoration of the public rights-of-way and to ensure the registrant's faithful performance of the construction or other work in the public rights-of-way, in accordance with applicable sections of the city Code of Ordinances.~~
- ~~(b) — In the event a registrant fails to complete the work in accordance with the provisions of the permit and this article, or fails to complete all restoration work in the right of way as required in section 13-541.2, including but not limited to repair or replacement of damaged landscaping, structures, hardscape, underground utility facilities, structures or equipment, or any other item or feature disturbed by the permitted work, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of completing the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.~~
- ~~(c) — No less than twelve (12) months after completion of the construction and satisfaction of all obligations in accordance with the bond, the registrant may request the director of sustainable development or designee to remove the requirement to continue the construction bond and the city shall release the bond within ten (10) days. Notwithstanding, the city shall require a new bond for any subsequent work performed in the public rights-of-way.~~
- ~~(d) — The construction bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the city attorney; and shall provide that:~~
- ~~"Unless released by the city, this bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the city, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."~~
- ~~(e) — The rights reserved by the city with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the city may have under this section, or at law or equity, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the city may have.~~

~~Sec. 13-541.12. - Security fund.~~

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~~At the time of registration and as a condition of receiving its first permit to place or maintain a wireless communications facility in public rights-of-way after the effective date of this article, the registrant shall be required to file with the city, for city approval, an annual bond, cash deposit or irrevocable letter of credit in the sum of fifty thousand dollars (\$50,000.00) having as a surety a company qualified to do business in the State of Florida, and acceptable to the director of sustainable development or designee, which shall be referred to as the "security fund." The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon registrant by the provisions of this article. The bond or guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this article, subject to section 13-541.13 of this article, there shall be recoverable, jointly and severally from the security fund and/or from the principal and surety of the bond, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund. The city may in its reasonable discretion accept a corporate guarantee of the registrant or its parent company.~~

~~Sec. 13-541.13. - Enforcement remedies.~~

- ~~(a) In addition to any other remedies available at law, including but not limited to F.S. § 166.0415, and F.S. ch. 162, or equity or as provided in this article, the city may apply any one (1) or combination of the following remedies in the event a registrant violates this article, or applicable local law or order related to the public rights-of-way:~~
- ~~(1) Failure to comply with the provisions of the article or other law applicable to occupants of the public rights-of-way, may result in imposition of penalties to be paid by the registrant to the city in an amount of not less than five hundred dollars (\$500.00) per day or part thereof that the violation continues.~~
  - ~~(2) In addition to or instead of any other remedy, the city may seek legal or equitable relief from any court of competent jurisdiction.~~
- ~~(b) Before imposing a fine pursuant to subsection (a)(1) of this section, the city shall give written notice of the violation and its intention to assess such penalties, which notice shall contain a description of the alleged violation. Following receipt of such notice, the registrant shall have ten (10) days to either: (a) cure the violation to the city's satisfaction and the city shall make good faith reasonable efforts to assist in resolving the violation; or (b) file an appeal with the city to contest the alleged violation. Section 13-541.5 shall govern such appeal. If no appeal is filed and if the violation is not cured within the thirty-day period, the city may collect all fines owed, beginning with the first day of the violation, through any means allowed by law.~~
- ~~(c) In determining which remedy or remedies are appropriate, the city shall take into consideration the nature of the violation, the person or persons bearing the impact~~

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~~of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the city determines are appropriate to the public interest.~~

- ~~(d) Failure of the city to enforce any requirements of this article shall not constitute a waiver of the city's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.~~
- ~~(e) In any proceeding before the city where there exists an issue with respect to a registrant's performance of its obligations pursuant to this article, the registrant shall be given the opportunity to provide such information as it may have concerning its compliance with the terms and conditions of this article. The city may find a registrant that does not demonstrate compliance with the terms and conditions of this article in default and apply any one (1) or combination of the remedies otherwise authorized by this article.~~
- ~~(f) The director of sustainable development or designee shall be responsible for administration and enforcement of this article, and is authorized to give any notice required by law.~~

~~Sec. 13-541.14. Reports and records; inspections.~~

- ~~(a) A registrant shall provide the following documents to the city as received or filed:
  - ~~(1) Upon reasonable request, any pleadings, petitions, notices, and documents, which may directly impact the obligations under this article and which are reasonably necessary for the city to protect its interests under this article.~~
  - ~~(2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.~~~~
- ~~(b) Nothing in this subsection shall affect the remedies registrant has available under applicable law.~~
- ~~(c) In addition, the city may, at its option, and upon reasonable notice to the registrant, inspect the facilities in the public rights-of-way to ensure the safety of its residents.~~
- ~~(d) The city shall keep any documentation, books and records of the registrant confidential to the extent required under Florida Statutes.~~

~~Sec. 13-541.15. Abandonment of a wireless communications facility.~~

- ~~(a) Upon abandonment of a wireless communications facility owned by a registrant located in the public rights-of-way, the registrant shall notify the city of such abandonment within ninety (90) days.~~
- ~~(b) The city may direct the registrant by written notice to remove all or any portion of such abandoned facility at the registrant's sole expense if the city determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility:~~

- ~~(1) — Compromises safety at any time for any public right-of-way user or during construction or maintenance in public right-of-way;~~
  - ~~(2) — Prevents another person from locating facilities in the area of public rights-of-way where the abandoned facility is located when other alternative locations are not reasonably available; or~~
  - ~~(3) — Creates a maintenance condition that is disruptive to the public rights-of-way's use. In the event of subsection 13-541.15(b)(2), the city may require the third person to coordinate with the registrant that owns the existing facility for joint removal and placement, where agreed to by the registrant.~~
- ~~(c) — In the event that the city does not direct the removal of the abandoned facility, the registrant, by its notice of abandonment to the city, shall be deemed to consent to the alteration or removal of all or any portion of the facility by the city or another person at such third party's cost.~~
- ~~(d) — If the registrant fails to remove all or any portion of an abandoned wireless communications facility as directed by the city within a reasonable time period as may be required by the city under the circumstances, the city may perform such removal and charge the cost of the removal against the registrant.~~

~~Sec. 13-541.16. — Force majeure.~~

~~In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such registrant uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of registrant's directors, officers, employees, contractors or agents.~~

~~Sec. 13-541.17. — Reservation of rights.~~

- ~~(a) — The city reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers.~~
- ~~(b) — This provisions of this article shall be applicable to all wireless communications facilities placed in the public rights-of-way on or after the effective date of the ordinance from which the provisions derive and shall apply to all existing wireless communications facilities placed in the public rights-of-way prior to the effective date of this article, to the full extent permitted by state and federal law, except that any provision of this article regarding size, composition, or location of physical facilities~~

~~shall not apply to physical facilities lawfully placed within any public right-of-way prior to the effective date of the ordinance from which such provision is derived.~~

~~Sec. 13-541.18. - No liability or warranty.~~

~~Nothing contained in this article shall be construed to make or hold the city responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the registrant's wireless communications facilities; or by reason of any inspection or reinspection authorized herein or failure to inspect or reinspect. Nor shall the issuance of any permit or the approval or disapproval of any placement or maintenance of the registrant's wireless communications facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, nor create any liability upon, the city or any official, agent or employee thereof.~~

~~Sec. 13-541.19. - Pass-through provider fees and charges.~~

- ~~(a) Pass-through providers shall pay to the city on an annual basis an amount equal to five hundred dollars (\$500.00) per linear mile or portion thereof of wireless communications facilities placed and/or maintained in the city's rights-of-way. For purposes of this section, the city's rights-of-way do not include rights-of-way that extend in or through the city but are state, county or another authority's rights-of-way.~~
- ~~(b) The amounts charged pursuant to this section shall be based on the linear miles of rights-of-way where wireless communications facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.~~
- ~~(c) Any annual amount charged shall be reduced for a prorated portion of any twelve-month period during which the pass-through provider remits taxes imposed by the city pursuant to F.S. ch. 202.~~
- ~~(d) Annual payments shall be due and payable on April 1 of each year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the city shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the city may have for additional sums due and payable. All fee payments shall be subject to audit by the city, and assessment or refund if any payment is found to be in error. If such audit results in an assessment by and an additional payment to the city, such additional payment shall be subject to interest at the rate of one (1) percent per month until the date payment is made.~~
- ~~(e) If the payments required by this section are not made within ninety (90) days after the due date, the director of sustainable development or designee may withhold the issuance of any permits to the registrant until the amount past due is paid in full.~~

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**Section 3: Conflicts.** That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 4: Severability.** That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

**Section 5: Codification.** That the provisions of this Ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

**Section 6: Effective Date.** That this Ordinance shall become effective upon its passage on second and final reading.

**PASSED FIRST READING THIS 10<sup>TH</sup> DAY OF MAY, 2018.**

**PASSED SECOND READING THIS 28<sup>TH</sup> DAY OF JUNE, 2018.**

\_\_\_\_\_  
Joshua Rydell, Mayor

Attest:

\_\_\_\_\_  
Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Belvedere	<u>Aye</u>	<u>Aye</u>

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5/26/18

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