

ORDINANCE NO. 19-01-03

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, RELATING TO CHAPTER 26, UTILITIES; CREATING ARTICLE IV, PEMBROKE PARK COMMUNICATIONS RIGHTS-OF-WAY ORDINANCE; PROVIDING FOR SHORT TITLE; INTENT AND PURPOSES; APPLICABILITY; AUTHORITY TO IMPLEMENT; DEFINITIONS; REGISTRATION FOR PLACING OR MAINTAINING COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; REQUIREMENT FOR PERMIT; PERMIT APPLICATION REQUIREMENTS AND REVIEW PROCEDURES; PERFORMANCE CONSTRUCTION BOND; CONSTRUCTION METHODS FOR PLACING OR MAINTAINING COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; DEVELOPMENT AND OBJECTIVE DESIGN STANDARDS FOR THE PLACEMENT OR MAINTENANCE OF COMMUNICATION FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; FEES AND TAXES FOR ACCESS TO PUBLIC RIGHTS-OF-WAY; ENFORCEMENT REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; SUPERSEDING CONFLICTING ORDINANCES AND RESOLUTIONS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Town of Pembroke Park ("Town") staff periodically reviews Town Ordinances and makes recommendations to the Town Commission to revise its Ordinances; and

WHEREAS, it is necessary to amend the provisions of the Town Code to conform with current Federal and state regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA:

Section 1: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-123, which section reads as follows:

"Sec. 26-123. Short title.

This article shall be known and may be cited as the "Pembroke Park Communications Rights-of-Way Ordinance."

Section 2: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-124, which section reads as follows:

"Sec. 26-124. Intent and purpose; Applicability; Authority to Implement.

(a) Intent and purpose. It is the intent of the Town to promote the public health, safety and general welfare by: providing for the placement and maintenance of communications facilities in the public rights-of-way within the Town; adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including the United States and Florida Constitutions, F.S. § 337.401, as it may be amended, the Town's home-rule authority, and in accordance with the provisions of the Federal Communications Act and Telecommunications Act of 1996, the Spectrum Act, FCC regulations, and other federal and state law; establishing reasonable rules and regulations necessary to manage the placement and maintenance of communications facilities in the public rights-of-way by all communications services providers after the effective date of this section; and minimizing disruption to the public rights-of-way. In regulating its public rights-of-way, the Town shall be governed by and shall comply with all applicable federal and state laws.

(b) Applicability. This Article shall apply to all facilities for communications services placed or maintained in the Town public rights-of-way pursuant to Section 337.401, F.S., including but not limited to any person holding a certificate of franchise authority pursuant to Section 610.103, Florida Statutes, communications services providers, pass-through providers, and wireless providers. To the extent not prohibited by applicable law, this Ordinance shall apply to all applications pending at the time of adoption of this Ordinance, to place or maintain communications facilities in the public rights-of-way. Persons seeking to place or maintain communications facilities on private property or other property to which the Town, any municipality, Broward County, Broward County School Board, State of Florida, or federal government has a fee simple or leasehold interest in real property, not within and exclusive of the public rights-of-way, located within the jurisdictional boundaries of the Town shall comply with the applicable provisions of the Town Zoning Code, if any, unless such property is addressed expressly in this Ordinance. This article is not applicable to communication facilities outside the public rights-of-way. Pursuant to this article, a person may be authorized to place or to maintain small wireless facilities, micro wireless facilities, or utility poles for collocation of small wireless facilities in the Town public rights-of-way. Wireless support structures, telecommunications towers and other wireless facilities, including but not limited to an antenna that is not part of a small wireless facility or micro wireless facility, shall not be allowed to be placed or maintained in the public rights-of-way, to the extent not inconsistent with applicable law. This article applies to the placement of conduit, fiber or cable for the purpose of providing backhaul or communications service. Consistent with Section 337.401, Florida Statutes, this article applies to a cable or video service provider that has been issued and holds a certificate of franchise authority from the Florida Department of State pursuant to Section 610.103, Florida Statutes, that places or maintains a cable system or wireline facilities in the Town's public rights-of-way. This article does not apply to electric utility poles for an electric distribution system located in the Town public rights of way pursuant to a valid franchise agreement with the Town. However, collocation of small wireless facilities on such utility poles and any utility poles not for an electric distribution system placed or maintained by a Town franchised utility in the public rights of way will be governed by the applicable provisions of this Ordinance. Ordinances approving a franchise agreement with an electric utility shall remain in full force and effect, notwithstanding any provision of this Ordinance. This Article shall not apply to wireless facilities owned by the Town or by a person, including an electric cooperative, to the extent such facilities are utilized on an internal, non-commercial basis by said person.

(1) This Article implements *inter alia*, the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), F.S. ("Wireless Act"). By adopting this Article, the Town does not waive any rights with respect to the Wireless Act including any rights that may exist under federal law, the Florida Constitution and the U.S. Constitution. In the event the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), is repealed, amended, or overturned by a court of competent jurisdiction, or preempted by applicable federal law or regulation, in whole or in part, provisions of this Article may no longer apply, in which case pending and future applications for small wireless facilities or utility poles intended to support the collocation of small wireless facilities in the public rights-of-way, will be governed by applicable law. In addition, permits issued pursuant to this Article may be suspended or revoked, and facilities installed pursuant to permits issued pursuant to this Article or without permits as authorized by this Article may be required to be removed at the facility owner's expense, to the extent consistent with applicable law. It is the Town's intent not to create any vested rights in placing and maintaining facilities addressed in the Wireless Act in the public rights-of-way as a result of this Article or any permit issued pursuant to this Article, to the extent not inconsistent with applicable law.

(2) To the extent any provision of this Article conflicts with the Code of Ordinances or Zoning Code of the Town of Pembroke Park, this Ordinance shall control.

(3) This Article shall be applicable to all communications facilities placed in the public rights-of-way on or after the effective date of this Article, all pending applications for permits subject to this Article, and all existing 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. A person with existing communications facilities in the public rights-of-way shall comply with the registration and permitting requirements set forth in this Article by the earlier of the following: ninety (90) days from the effective date of this Article or prior to submitting an application for a permit pursuant to this Article. This provision shall not require the removal or alteration of existing communications facilities placed or maintained in the public rights-of-way pursuant to a previously issued

permit or otherwise lawfully installed prior to the effective date of this Ordinance unless such facilities are abandoned or otherwise required to be altered or removed by the Town Manager consistent with applicable law.

(4) Reservation of rights. The Town reserves the right to amend this Article as it shall find necessary in the lawful exercise of its police powers.

(c) Authority to implement Ordinance. The Town Manager is authorized to adopt, to modify, and to repeal rules and regulations to carry out the intent and purposes of this Article.”

Section 3: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-125, which section reads as follows:

“Sec. 26-125. 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 Article 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 or the Spectrum Act, 47 U.S.C. §1455(a) (collectively the “Communications Act”), and if not defined in the Communications Act, as defined by Florida Statutes; and, if not defined by Florida Statutes, as defined in the code, and if not defined in the code, shall be construed to mean the common and ordinary meaning.

Abandonment or Abandoned. The cessation of all uses of a communications facility for a period of one hundred eighty (180) or more consecutive days provided this term shall not include the cessation of all use of a communications facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the communications facility. By way of example, cessation of all use of a cable within a conduit, where the conduit continues to be used for some purpose or use accessory to the communications facility, shall not be *Abandonment* of a communications facility. A wireless infrastructure provider’s failure to have a wireless service provider provide service through a small wireless facility collocated on a utility pole within nine (9) months after the application is approved in accordance with Section 337.401(7)(j), F.S., shall constitute abandonment. The terms Abandonment or Abandoned are not intended to include a dropped line from a potential or existing customer in the event the communications services provider reasonably anticipates future use of the dropped line.

Abut. When used in conjunction with a lot or parcel of land or public right-of-way, means a lot or parcel of land or public right-of-way that shares all or a part of a common lot line or boundary line with another lot or parcel of land or public right-of-way.

Adjacent Properties or Properties Adjacent. (i) Those lots or parcels of land that abut another lot or parcel of land or public right-of-way that is contiguous to a communications facility site or proposed site and (ii) the lots or parcels of land or public right-of-way that would be contiguous to lots or parcels or public rights-of-way but for an intervening local or collector roadway.

Antenna. Communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

Applicable Codes. 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, including, but not limited expressly to the Florida Building Code, National Electrical Code, National Electrical Safety Code, 2010 Florida Department of Transportation Utility Accommodation Manual, the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States, as may be amended, and Town codes or ordinances adopted to implement Section 337.401, *Florida Statutes*, including but not limited to this Article. The term includes objective design standards

adopted by this Article 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. The term includes objective design standards adopted by this Article that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived by the Town upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense.

Applicant. A registrant who submits an application for a permit to locate a communications facility or utility pole within the public rights-of-way.

Application. A request submitted by an applicant to the Town for a permit to collocate small wireless facilities, or to locate a communications facility or utility pole within the public rights-of-way, or any request pursuant to this Article.

Article. This Ordinance or Article.

As-Built Plans. A set of final and complete drawings in a format as specified by the Town submitted upon completion of a project, signed and sealed by professional surveyor or mapper as defined in Section 472.005, F.S., or licensed engineer, that reflect all changes made during the construction process, and show the exact dimensions, geometry and location of all elements of the work completed under the permit.

Authority. The Town to the extent it has 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, which are excluded from this Section.

Authority or Town Utility Pole. A utility pole owned by the Town in the public 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.

Below-Grade Communications Facility. Communications facilities, including manholes or access points, that are entirely contained below grade within the public rights-of-way.

Clear Zone. Consistent with the latest edition of the Florida Department of Transportation Index, the roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, recoverable slope, non-recoverable slope, clear runout area, or combination thereof. The width of the clear zone is dependent upon the traffic volumes and speeds, and on the roadside geometry.

Collocation or Collocate. To install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.

Communications Facility or Facility or System. Any permanent or temporary plant, equipment and property, including but not limited to cables, wires, conduits, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances, wireless facilities, wireless support structure, wireline backhaul facilities, small wireless facilities, micro wireless facility, and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer communications services. A utility pole intended for collocation of a small wireless facility shall be considered a facility for purposes of this Article.

Communications Services. The transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, including wireless services, regardless of the protocol used for such transmission or conveyance, and shall also include cable service and video service as defined in F.S. §§610.103(1) and (11).

Communications Services Provider. Any person making available or providing communications services through the placement or maintenance of a communications facility in public rights-of-way, or a wireless infrastructure provider.

Communications Services Tax. The local communications services tax authorized to be levied and collected by counties and municipalities upon communication service providers for communications services, pursuant to Section 202.19, F.S. as amended.

Consolidated Permit Application. A single permit application that would otherwise require individual permit applications for the collocation of between two (2) and thirty (30) small wireless facilities to existing structures within the public rights-of-way.

Eligible Facilities Modifications. Any request in accordance with FCC regulations codified at 47 C.F.R. §1.40001 for modification of an existing tower or base station in the public rights-of-way that does not substantially change the physical dimensions of such tower or base station, involving:

- i. Collocation of new transmission equipment;
- ii. Removal of transmission equipment; or
- iii. Replacement of transmission equipment.

Existing Tower or Base Station. A constructed tower or base station in the public rights-of-way that has been approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is an existing tower for purposes of this definition. A utility pole placed or maintained in the public rights-of-way for collocation of a small wireless facility pursuant to a permit issued by the Town is not an existing tower or base station.

FCC. The Federal Communications Commission.

Florida Building Code. The Florida Building Code promulgated under Chapter 553, Florida Statutes and includes the applicable amendments thereto as both may be amended from time to time.

Florida Greenbook. The latest edition of the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance of Streets and Highways.

Force Majeure Event. A cause or event not within a person's control that 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 a person's control, and thus not constituting a force majeure event for purposes of this Article, shall include, without limitation, the financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of person's directors, officers, employees, contractors or agents.

Graffiti. Any inscriptions, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any communications facility whether or not authorized by the registrant of the communications facility, other than identification of the owner, contact information, or otherwise required by FCC regulations or applicable codes. A wrap shall not be considered graffiti.

Historic Property. Any prehistoric or historic district, site, building, structure as may be defined in the Town's Land Development Code or Zoning Code, as either may be amended, or object or other real or personal property, of historical, architectural or archaeological value. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, engineering works, treasure troves, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, or culture of the Town.

Homeowners' Association. An incorporated association whose members consist of owners of single-family homes or condominium units that manage or control property owned by the association.

In Public Rights-Of-Way or In The Public Rights-Of-Way. In, on, over, under or across the public rights-of-way.

Licensed Engineer. A Florida registered professional engineer, or person who is exempt from such registration requirements as provided in F.S. § 471.003.

Lot. A designated parcel of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

Micro Wireless Facility. A small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Parcel. Any piece of real property that has a single parcel identification number assigned to it by the Broward County Property Appraiser.

Pass-Through Provider. Any person who places or maintains a communications facility in the public rights-of-way and who does not remit taxes imposed by the Town pursuant to Chapter 202, F.S., as amended. A pass-through provider can also be a wireless infrastructure provider as defined herein, and/or an owner of a communications facility pursuant to this Article.

Permit. The public right-of-way permit that must be obtained before a person may construct in the public right-of-way and shall include, but not be limited to, right-of-way engineering and construction permits issued by the Town.

Person. Shall include any individual, 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 Town.

Place or Maintain or Placement or Maintenance or Placing or Maintaining. To erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A communications services provider that owns or exercises physical control over communications facilities in public rights-of-way, such as the physical control to maintain and repair, is placing or maintaining the facilities. To the extent required by applicable law, 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.

PSC. The Florida Public Service Commission.

Public Rights-Of-Way. A public right-of-way, public easement, highway, street, bridge, tunnel, waterway, dock, wharf, court, lane, path, or alley, or any other way for which the Town 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. PUBLIC RIGHTS-OF-WAY shall not include private property. PUBLIC RIGHTS-OF-WAY shall not include any real or personal Town property except as described above, and shall not include Town parks, buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the PUBLIC RIGHTS-OF-

WAY.

Registrant or Facility Owner. A communications services provider or other person that has registered with the Town in accordance with the provisions of this Article.

Registration and Register. The process described in this Article whereby a communications services provider provides certain information to the Town.

Shroud. A covering or enclosure of equipment associated with a small wireless facility, other than the antenna, collocated on an existing structure or wireless support structure.

Signage. Any display of characters, ornamentation, letters or other display such as, but not limited to, a symbol, logo, picture, or other device used to attract attention, or to identify, or as an advertisement, announcement, or to indicate directions, including the structure or frame used in the display. The term Signage shall not include identification of the owner and contact information of the communications services provider or utility pole, or identification of wires, cables, etc. necessary to aid in safety or hazard work or maintenance or repair work of the communications facility.

Small Wireless Facility. A wireless facility that meets the following qualifications:

(a) Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and

(b) All other wireless equipment associated with the facility is cumulatively no more than 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.

Stealth Design. A method of camouflaging any wireless support structure, antenna or other communications facility, including, but not limited to, supporting electrical or mechanical equipment, small wireless facility, or utility pole which is designed to enhance compatibility with the surrounding neighborhood and be as visually unobtrusive as possible.

Surrounding Neighborhood. The area within a five hundred (500) foot radius of a communications facility site or proposed communications facility site.

Town. The Town of Pembroke Park, Florida, a municipal corporation of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

Town Manager. The Town of Pembroke Park, Florida, Town Manager or his/her designee.

Utility. Any electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in Florida Statutes Sections 337.401, 337.402, 337.403, and 337.404 as the “utility.”

Utility Pole. 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 15 feet in height or less unless an authority grants a waiver for such pole.

Wireless Facility. 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. 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. A wireless infrastructure provider or a wireless services provider.

Wireless Services. Any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

Wireless Services Provider. A person who provides wireless services.

Wireless Support Structure. A freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

Wrap. An aesthetic covering depicting artistic or scenic imagery. Imagery in a wrap may not contain any advertising.”

Section 4: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-126, which section reads as follows:

“Sec. 26-126. Registration For Placing or Maintaining Communications Facilities in the Public Rights-Of-Way.

(a) All persons, including, but not limited to a communications services provider seeking to place or maintain a communications facility, backhaul facility, utility pole for collocation of a small wireless facility, or wireless support structure in public rights-of-way in the Town pursuant to this Article shall first register with the Town in accordance with this Article before being eligible to receive a permit. Subject to the terms and conditions prescribed in this Article and approval of a permit, a registrant may place or maintain a communications facility in public rights-of-way. A communications services provider with an existing communications facility in the public rights-of-way of the Town as of the effective date of this Article has ninety (90) days from the effective date of this Article to comply with the terms of this Article, including, but not limited to obtaining an effective registration, or be in violation thereof. This provision shall not require the removal or alteration of existing communications facilities placed or maintained in the public rights-of-way pursuant to a previously issued permit or otherwise lawfully installed prior to the effective date of this Ordinance unless such facilities are abandoned or otherwise required to be altered or removed by the Town Manager consistent with applicable law.

(b) Requirements for an effective registration. A person that desires to place or maintain a communications facility, backhaul facilities and a wireless infrastructure provider that seeks to apply to install a utility pole for collocation of a small wireless facility in the public rights-of-way in the Town shall file an original registration, along with two complete copies with the Town manager 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 name, address, telephone number and email addresses of the registrant’s primary contact person in the event of an emergency or issue involving its facilities, which shall be monitored 24 hours per day, 7 days per week.

(3) Whether the registrant provides or intends to provide communications services within the Town, and if it does not provide or intend to provide communications services within the Town, indicate that the registrant is a communications facility provider, wireless infrastructure provider, or pass-through provider, as the case may be, and whether the registrant currently remits or intends to remit Communications Service Tax,

as authorized in Ch. 202, F.S.:

(4) Evidence of the insurance coverage required under this Article;

(5) Acknowledgment that registrant has received and reviewed a copy of this Article;

(6) A copy of the registrant's certificate of authorization, public convenience and necessity, or other similar certification or licenses issued by the Florida Public Service Commission, the Florida Department of State, the FCC, or other federal authority. A copy of federal or state certification authorizing the registrant to provide communications services, if any;

(7) If the registrant is a corporation, proof of authority to do business in the State of Florida, including the number of the corporate certification; and

(8) A permanent performance bond to guarantee compliance in accordance with this Article.

(c) Insurance.

(1) Registrant shall provide, pay for and maintain satisfactory to the Town, 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 Town. All liability policies shall provide that the Town 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 Town annually. Thirty-days advance written notice by registered or certified mail must be given to the Town of any cancellation, intent not to renew, or reduction in the policy coverages. In addition to the certificate of insurance, the registrant shall provide a copy of the insurance policy, if requested by the Town.

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

i. Worker's compensation and employer's liability. Insurance employer's liability: Florida statutory requirements.

ii. Comprehensive general liability. Bodily injury and property damage: \$3,000,000 combined single limit each occurrence. Said coverage shall not exclude contractual liability, products/completed operations, independent or contractors.

iii. Automobile liability. Bodily injury and property damage: \$3,000,000 combined single limit each accident.

iv. 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 Town 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.

v. Self-insurance. Registrant may satisfy the insurance requirements and conditions of this division under a self-insurance plan and/or retention if acceptable to the Town in its sole discretion based on the Town's evaluation of the registrant's ability to comply with the code. Registrant agrees to notify the Town, and/or indicate on the certificate(s) of insurance when self-insurance is relied upon or when a self-insured retention meets or exceeds \$100,000. The Town 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 self-insure.

(3) Right to review. Town, by and through its risk manager, reserves the right to review, 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 Article. Town 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.

(4) This Article shall not be construed to affect in any way the Town's rights, privileges and immunities as set forth in F.S. §768.28. Insurance under this Article shall

run continuously with the presence of the registrant's facilities in the public rights-of-way, and any termination or lapse of such insurance shall be a violation of this Article and subject to the remedies as set forth herein. Notwithstanding the foregoing, the Town may, in its sole discretion, require increased or decreased levels of insurance.

(d) Permanent Performance Bond to Guarantee Compliance. For an effective registration, a registrant shall file with the Town, for Town approval, a performance bond in the amount of twenty-five thousand dollars (\$25,000), in the form of a cash deposit or irrevocable letter of credit. Any cash deposit shall be held in an existing or a separate account maintained by the Town and shall be used solely as provided in this Article. The letter of credit shall be from a financial institution within Broward County, FL and shall be in a form and issued by a financial institution acceptable to the Town Attorney. The permanent performance bond shall not be deemed to be a fee, tax or other imposition on a registrant in its capacity, if applicable, as a dealer of communications services or as compensation for use of the public rights-of-way. The permanent performance bond is required and shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed by the provisions of this Article, including but not limited to requirements to restore the public rights-of-way and guarantee such restoration, remove abandoned facilities, pay appropriate compensation to the Town for collocation on Town poles, indemnify the Town and pay for damages to Town or other facilities as a result of registrant's placement or maintenance of communications facilities. Should the Town draw upon the permanent performance bond, the Town shall promptly notify the registrant, and the registrant shall promptly restore the cash deposit and/or letter of credit, as may be necessary, to the full amount. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this Article, subject to appropriate notice, there shall be recoverable from the performance bond any damages or loss suffered by the Town 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. The cash deposit or letter of credit shall be furnished as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. A registrant may request that the Town return the cash deposit or letter of credit or approve the cancellation of the performance bond upon the expiration of a registrant's obligations pursuant to this Article and in no event while a registrant maintains obligations with respect to facilities in the public rights-of-way. In the event the Town returns the cash deposit, it shall be without interest.

(e) Review of Registration. The Town shall review the information submitted by the registration applicant. If the applicant submits information in accordance with this subsection the Town shall notify the applicant of the effectiveness of registration in writing. If the Town determines that the information has not been submitted in accordance with this subsection, the Town shall notify the applicant in writing of the non-effectiveness of registration, and reasons for the non-effectiveness. The Town shall undertake efforts to notify an applicant within thirty (30) days after receipt of registration information from the applicant. A notice of non-effectiveness of a registration shall not preclude an applicant from reapplying or filing subsequent applications for registration under the provisions of this Article.

(f) Regulations Applicable to Registrations.

(1) A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this Article governs only the placement or maintenance of communications facilities in public rights-of-way. To the extent not inconsistent with applicable law, registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the Town's or another person's facilities. Within 30 days of any change in the information required to be submitted by a registrant, a registrant shall provide updated information to the Town.

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

(3) Unregistered use of public rights of way. To the extent that a communications services provider, wireless infrastructure provider or pass-through provider with facilities in the public rights-of-way, is not registered as required herein, said person shall register with the Town pursuant to this Article within ninety (90) days from the effective date of this Article. No new permits shall be issued to unregistered persons with communications facilities within the public rights-of-way and such persons may be subject to the

enforcement remedies.

(4) Registration renewal. A registrant shall renew its registration with the Town by September 30, of even-numbered years in accordance with the registration requirements in this Article, as may be amended, except that a registrant that initially registers during the even-numbered year when renewal would be due, or the odd-numbered year immediately preceding such even-numbered year, shall not be required to renew until the next even-numbered year. 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 Town restricting the issuance of additional permits until the communications services provider has complied with the registration requirements of this Article.

(5) Indemnification. A registrant shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, 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 Town arising out of the placement or maintenance of its communications system or facilities in public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this Article or permit issued by the Town, provided however, that a registrant's obligations hereunder shall not extend to any damages caused by the gross negligence, or wanton or willful acts of the Town and to the extent not inconsistent with applicable law. In no event shall the Town be liable for any damage or destruction to a communications facility placed in the Town public rights-of-way including on a Town utility pole. This provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. Town agrees to notify the registrant, in writing, within a reasonable time of Town receiving notice, of any issue it determines may require indemnification. Nothing in this Article shall prohibit the Town from participating in the defense of any litigation by its own counsel and at its own cost, if in the Town's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this Article shall be construed or interpreted:

- i. as denying to either party any remedy or defense available to such party under the laws of the State of Florida;
- ii. as consent by the Town to be sued; or
- iii. as a waiver of sovereign immunity beyond the waiver provided in F.S. §768.28, as it may be amended.

(6) A registrant may cancel a registration upon written notice to the Town that the registrant will no longer place or maintain any 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 shall not cancel a registration if the registrant continues to place or maintain any communications facilities in public rights-of-way.

(7) Liens. No liens shall apply to public rights-of-way or Town property as a result of the placement or maintenance of a registrant's facilities in the public rights-of-way or on a Town utility pole. Any liens on a registrant's facilities shall be subordinate to the rights of the Town pursuant to this Article. In the event any liens are filed on the Town property or public rights-of-way, the registrant shall discharge such lien at its expense within ten (10) days of receiving notice, or the Town may discharge such lien, and charge such costs plus reasonable attorney's fees to registrant.

(8) A registrant shall pay any personal property or other taxes or assessments that may be imposed on the registrant's facilities placed or maintained in the public rights-of-way or on the Town's property including a utility pole as a result of a registrant's collocation on a Town utility pole. A registrant shall reimburse the Town for taxes paid by the Town as a result of a registrant's facilities being placed or maintained in the public rights-of-way or on a Town-owned utility pole.

(9) Reports and records.

(a) Upon reasonable request, a registrant shall provide the following documents to the Town as received or filed:

- i. Any pleadings, petitions, notices, and documents, which may directly impact the obligations under this Article and which are reasonably necessary for the Town to protect its interests under this Article.
- ii. Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.

(b) The Town shall keep any documentation, books and records of the

registrant confidential to the extent required under Florida Statutes.

(10) Termination of Registration. The Town may terminate a registration if:

(a) A federal or state authority suspends, denies, or revokes a registrant's certification or license required to provide communications services;

(b) The registrant's placement or maintenance of a communications facility in the public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way and the registrant fails to remedy the danger promptly after receipt of written notice;

(c) The registrant abandons its facilities in the public rights-of-way; or

(d) The registrant commits substantial and material violations of any of the provisions of applicable codes including but not limited to this Article.

(11) Notice of intent to terminate. Prior to termination, the Town shall notify the registrant with a written notice setting forth all matters pertinent to the proposed termination action, including the reason therefore. The registrant shall have thirty (30) days after receipt of such notice within which to address or to eliminate the reasons or within which to present a plan, satisfactory to the Town, to accomplish the same and to take such steps as are necessary to render every portion of the facilities remaining in the public rights-of-way of the Town safe. If the plan is rejected by the Town, the Town shall provide written notice of such rejection within fifteen (15) days of receipt of the plan to the registrant and shall make a final determination as to termination of the registration and the terms and conditions relative thereto.

(12) Post termination action. In the event of termination, following any appeal period, the former registrant shall: (a) in accordance with the provisions of this Article and as may otherwise be provided under state law, notify the Town of the assumption or anticipated assumption by another registrant of ownership of the registrant's communications facilities in the public rights-of-way; or (b) provide the Town with an acceptable plan for removal or disposition of its communications facilities in the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal. If a registrant fails to comply with this subsection, the communications facilities are deemed to be abandoned and the Town may exercise any remedies or rights it has at law or in equity as well as the Town's remedies pursuant to this Article, including but not limited to, utilize or allow other persons to utilize the registrant's facilities. The obligations of the registrant hereunder shall survive the termination of a registration. A registrant that has its registration terminated by the Town under this Article may reapply for registration one (1) year after the termination date of the prior registration, unless otherwise permitted to reapply at the sole discretion of the Town.

(13) When removal not authorized or required. In the event of termination of a registration, this Article does not authorize the Town to cause the removal of communications facilities used to provide another service for which the registrant or another person who owns or exercises physical control over the communications facilities holds a valid certification or license with the governing federal or state agency, if required, for the provision of such service, and is registered with the Town, if required.

(14) Transfer or control, sale or assignment of assets. If a registrant transfers, sells or assigns its registration or its 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, sale or assignment shall be provided to the Town within 20 days of the effective closing date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, and is in compliance with the provisions of this Article, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, or has an effective registration that is not in compliance with this Article as it may have been amended, then the transferee, buyer or assignee shall register as provided in this Article within 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 Town officials that the transferee, buyer or assignee is the new applicant.

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

(16) Town makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the registrant's communications 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 Town's authority to add, vacate or abandon public rights-of-way, and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.

(17) 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 communications service, or for providing any other use not associated with communications services to existing or potential consumers, a registrant shall seek such additional and separate authorization from the Town 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 Town, such person or registrant shall make no claim, nor assert any right which will impede the lawful exercise of the Town's rights, including requiring the removal of such facilities from the public rights-of-way of the Town, regardless of the effect on registrant's ability to place or maintain its own communications facilities in public rights-of-way of the Town.”

Section 5: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-127, which section reads as follows:

“Sec. 26-127. Requirement of a Permit.

(a) In accordance with applicable law, Town ordinances, codes and regulations, including this Article, a right-of-way use permit issued by the Town shall be required to place or to maintain a communications facility in the public rights-of-way unless otherwise exempt pursuant to this Article. 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. A registrant shall not commence to place or to maintain a communications facility in the public rights-of-way until all applicable permits have been issued by the Town or other appropriate authority. Registrant shall comply with all Town requirements for issuing permits, including reasonable rules or regulations governing the placement or maintenance of a communications facility in public rights-of-way. Permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements.

(b) Limited Exceptions to Permit Requirement.

(1) A registrant shall be allowed to perform emergency maintenance within the public rights-of-way without first obtaining a permit or providing a performance bond. The term EMERGENCY shall mean a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a pre-existing service. Registrant shall provide prompt notice to the Town of the placement or maintenance of a communications facility in public rights-of-way in the event of an emergency and, within three (3) business days of commencing the emergency maintenance, unless such other time period is authorized by the Town Manager, apply for a permit if such activity required a permit under this Article.

(2) A registrant shall be allowed to perform routine maintenance within the public rights-of-way if such proposed routine maintenance does not involve excavation, construction, or disruption to transportation or utilities in the public rights-of-way. In the case of routine maintenance except routine maintenance that is not expected to require more than four (4) hours and would not involve disruption to the travelling public, a registrant shall provide reasonable advance written notice to the Town identifying the areas where such maintenance will occur, scope of maintenance, date(s) and duration of work to be performed. If routine maintenance requires the closure of the public rights-of-way, a permit shall be required.

(3) A permit shall not be required for replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size.

(4) A registrant shall be allowed to place or to maintain a service drop within the public rights-of-way without first obtaining a permit if such proposed work does not involve excavation, construction, or the temporary closure of the public rights-of-way.

(5) A permit shall not be required for the installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cable strung between existing utility poles in the public rights-of-way, in compliance with applicable codes by or for a communications services provider authorized to occupy the public rights-of-way and who is remitting Communications Services Tax under Chapter 202, Florida Statutes. Prior to placing a micro wireless facility in the public rights-of-way pursuant to this subsection, at least thirty (30) days prior to commencing said work, the registrant shall submit a certification or manufacturer's specifications with the micro wireless facility's dimensions to the Town for review to confirm compliance with Section 337.401(7) and this Article. A registrant's submission to demonstrate a micro wireless facility's dimensions may apply to all identical micro wireless facilities sought to be placed in the public rights-of-way by such registrant and the registrant is not required to submit a new certification or manufacturer's specifications confirming a micro wireless facility's dimensions unless the registrant seeks to place a micro wireless facility with a different manufacturer or with different dimensions in the public rights-of-way. If the micro wireless facility's dimensions exceed the dimensions to constitute a micro wireless facility, the registrant shall not be authorized to place such facility in the public rights-of-way.

(c) The Town Manager may cause an immediate stop work order where any permitted or unpermitted construction or other work in the public rights-of-way poses a serious threat to the health, safety or welfare of the public until such serious threat has been abated. Failure to comply with such order may subject a registrant, and its agents, employees, and contractors as applicable to appropriate enforcement remedies as set forth in this Article and applicable law."

Section 6: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-128, which section reads as follows:

"Sec. 26-128. Permit Application Requirements and Review Procedures.

(a) Pre-submittal meeting. To minimize issues related to a permit application, prior to submitting materials for a permit application, to the extent not inconsistent with applicable law based on the facilities proposed to be place within the public rights-of-way, a registrant shall conduct a pre-submittal meeting with the Town to discuss the registrant's plans and network goals for placing or maintaining facilities in the public rights-of-way. The Town shall undertake efforts to accommodate a registrant's request for a pre-submittal meeting within ten (10) business days of a request. At a registrant's request, the Town, in its sole discretion, may waive the requirement of a pre-submittal meeting for good cause based on the scope of the proposed permit and registrant's compliance with this Article. In no event shall the requirement of a pre-submittal meeting that is not inconsistent with applicable law be waived for a consolidated permit. Even if a pre-application meeting is inconsistent with applicable law, registrants are strongly encouraged to engage in a pre-application meeting.

(b) Application requirements for all communications facilities in the public rights-of-way. As part of any permit application to place or maintain any facility pursuant to this Article in the public rights-of-way, a registrant or a registrant's agent or contractor shall provide a permit application on a form provided by the Town that, at a minimum, includes the following information:

(1) If the applicant for the permit is not the registrant, a statement of authority by the registrant for the applicant to act on behalf of the registrant. In addition, if the applicant is a contractor, the contractor's license or registration and contractor's insurance information confirming the contractor's authority to perform construction in the Town and statements as to whether the contractor has any open permits with the Town, and if so, the permit identification number or information.

(2) Confirmation that the applicant engaged in a required pre-submittal meeting or such meeting was waived by the Town and that the applicant has an effective registration with the Town.

(3) Engineering plan. An engineering plan signed and sealed by a Florida licensed engineer, that includes the following:

(a) Except for applications to collocate small wireless facilities on existing utility poles in the public rights-of-way, an American Land Title Association (ALTA) or other survey that may be specified in the Town's application form submitted by a licensed engineer or professional surveyor as defined in Section 472.005, F.S., demonstrating that the proposed location of the facility or utility pole is within the public rights-of-way, unless waived by the Town in its sole discretion, pursuant to an applicant's attestation that the proposed facility is located with the public rights-of-way;

(b) The type of proposed facility, location of the proposed facility, and the dimensions, height, footprint, stealth design, and concealment features of the proposed facility;

(c) The Global Positioning System (GPS) coordinates of the proposed facility. The GPS coordinates shall be based on the reading from a handheld mobile GPS unit set to Datum NAD 83 or WGS84. GPS coordinates based on Google Earth or similar application may be used where areas of shading occur due to overhead canopy. GPS Coordinates shall be provided in decimal degrees at a six (6) decimal point precision;

(d) Whether the proposed facility is proposed within a location subject to restrictions pursuant to subsection 26-131(b) of this Article;

(e) For new communications facilities, within a fifty (50) foot radius, a sketch showing pavement, sidewalks, driveways, ramps, trees, below-grade utilities, and other above-grade and below-grade structures and facilities located within the public rights-of-way and the distances from the proposed facility and the edge of nearby pavement, sidewalks, driveways, ramps, the nearest residential properties, nearby drainage systems, trees, ground-mounted equipment, nearby structures in the public rights-of-way, underground utilities and other above-grade and below-grade structures and utilities located within the public rights-of-way;

(f) Sufficient specificity demonstrating compliance with applicable codes, the Florida Building Code, most current edition, specifically including but not limited to terms of compliance with the High Velocity Zone Criteria specified therein, the 2010 Florida Department of Transportation Utility Accommodation Manual, as applicable; National Electrical Code, the National Electrical Safety Code and the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States, as may be amended;

(g) If applicable, the routes of all proposed new transmission and distribution lines to be placed or maintained in the public rights-of-way in connection with the proposed facility (such lines may be subject to separate permit requirements) and any connection or tie-in to any existing lines in the public rights-of-way;

(h) Certification that the proposed facility will not materially interfere with the safe operation of traffic control equipment;

(i) Certification that the proposed facility will not interfere with sight lines or clear zones for transportation, pedestrians, or public safety purposes or result in the public rights-of-way being inconsistent with the Florida Greenbook;

(j) Certification that the proposed facility will not materially interfere with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement; and

(k) Other engineering information that may be requested by the Town.

(4) Trees or landscaping proposed to be removed or impacted upon the placement or maintenance of the proposed facility.

(5) Photographic or video documentation of the pre-construction condition of the public rights-of-way in the area to be affected by the installation of the proposed facility.

(6) Description of installation or construction. A description of the method by which the facility will be installed and/or modified (i.e. anticipated construction methods or techniques).

(7) Temporary sidewalk closure plan. The applicant shall provide a temporary sidewalk closure plan, if appropriate, to accommodate placement or maintenance of the facility.

(8) Temporary Traffic Control (TTC) plan. The applicant shall provide a temporary traffic lane closure and Temporary Traffic Control (TTC), if appropriate, to accommodate placement or maintenance of the facility.

(9) Restoration plan and estimated cost of restoration of the public rights-of-way. A restoration plan and a good faith estimate of the cost of restoration of the public rights-of-way. Such good faith estimate shall be accepted by the Town unless the Town determines such estimated costs are not representative of the actual costs of the restoration of the public rights-of-way. Estimates of the cost to restore the public rights-of-way shall include all costs necessary to restore the public rights-of-way to its original condition. Such good faith estimate may include, but shall not be limited to, costs to restore the paving, curbs/gutters, sidewalks, multi-purpose trails, and landscaping. All planted or naturally occurring shrubbery or vegetation, including sod, damaged or destroyed during work in the public rights-of-way shall be replaced. Tree or landscaping removal shown on the permit shall not be considered damage or impairment to be restored to the original condition provided the applicant complies with the approved mitigation plan, if any.

(10) Timetable for construction or installation. The timetable for construction, placement or maintenance of the proposed facility or each phase thereof.

(11) Indemnification. A statement shall be included with the permit application that by execution of the application and by applying for the permit, the applicant shall be bound to the Town with respect to the indemnification provisions set forth in subsection 26-126(f)(5) of this Article.

(12) Airport airspace protection. If applicable, the applicant shall confirm compliance with Chapter 333, F.S. and all Town, State and federal laws and regulations, as amended, pertaining to airport airspace protections.

(13) Attestation. For applications by a wireless infrastructure provider or its contractor for the placement or maintenance of a utility pole in the public rights-of-way for collocation of a small wireless facility, the applicant shall provide an attestation by an officer of the registrant that a small wireless facility will be collocated on the utility pole and will be used by a wireless services provider to provide communication service within nine (9) months after the date the application is approved.

(14) Pole attachment agreement. If applicable for the proposed facility, except for applicants whose pole attachments are regulated by 47 U.S.C. § 224, the applicant shall provide a copy of a fully executed valid pole attachment agreement between the owner of the utility pole and registrant. In lieu of providing the complete pole attachment agreement between the owner of the utility pole and registrant, the applicant may provide the first page of such agreement and the signature page or a notarized letter of authorization from the owner of the utility pole, providing adequate identifying information, acceptable to the Town, and indicating the registrant is authorized to install its facility on the identified utility pole. By submitting an application, the applicant certifies to the Town that it has authority from the utility pole owner to collocate its facility.

(15) Information regarding height limitations. For an application for a new utility pole to support the collocation of a small wireless facility, the applicant shall provide information regarding the height and GPS location of the tallest utility pole located in the same public rights-of-way as of July 1, 2017, measured from grade in place within five hundred (500) feet of the proposed location of the utility pole. If there is no utility pole within five hundred (500) feet of the proposed utility pole as of July 1, 2017, the applicant shall so certify.

(16) If the permit application includes a backup power supply, information to demonstrate that the backup power supply and proposed fuel storage satisfies the applicable codes as well as codes and standards of the National Fire Protection Association.

(17) In addition to the requirements herein, as part of any permit application to place or maintain a small wireless facility in the public rights-of-way, the applicant shall provide the following:

(a) Documentation to the satisfaction of the Town from a Florida licensed engineer, that the structure and foundation of the utility pole intended to support the collocation of the small wireless facility can support the additional load of the proposed small wireless facility consistent with the requirements of the Florida Building Code;

(b) If not already submitted pursuant to prior application requirements, certification and description by the applicant to the satisfaction of the Town how the proposed small wireless facility complies with the objective design standards set forth in this Article. For a proposed ground-mounted small wireless facility,

such information shall include whether the proposed small wireless facility includes a wrap that has been approved by the Town or is of an architectural design that is substantially similar to other infrastructure in the area of the public rights-of-way or has been approved by the Town.

(c) Accurate photo simulations of the proposed small wireless facility and if applicable, as collocated on the utility pole.

(18) Applicable permit fees including reimbursement for Town consultants, to the extent not inconsistent with applicable law.

(19) Consolidated permit application and single application for multiple locations. A registrant may submit a single application to place or to maintain multiple facilities in the public rights-of-way, where it would be more efficient for the registrant and the Town to address multiple facilities in one permit application. In addition, an applicant seeking to collocate multiple small wireless facilities may file a consolidated permit application and receive a single permit for the collocation of up to 30 small wireless facilities. The application must include the information required for an application for each of the proposed small wireless facilities. In addition, prior to applying for a consolidated permit, the applicant must engage in a pre-submittal meeting with the Town to discuss all proposed small wireless facilities to the extent not prohibited by applicable law. If the application includes multiple small wireless facilities, the Town may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

(20) To the extent not inconsistent with applicable law, such additional information requested by the Town reasonably necessary for the permit application to determine compliance with applicable codes.

(c) Application Review and Procedures for Small Wireless Facilities and Utility Poles for Collocation of Small Wireless Facilities.

(1) Time periods within this subsection may be extended for the period of time impacted by a force majeure event or by a declared State of Emergency by a local, state or federal authority that directly affects the administration of all permitting activities of the Town (“force majeure extension”). If an applicant opposes a force majeure extension pursuant to this subsection, it shall notify the Town within 48 hours of such extension becoming effective or the applicant shall be deemed to have consented to the extension.

(a) Unless extended by mutual consent of the applicant and Town, within 14 days after receiving an application, the Town manager will notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the Town will specifically identify the missing information. An application is deemed complete if the Town fails to provide notification to the applicant within 14 days.

(b) Negotiation Process.

(1) Unless extended by mutual consent of the applicant and the Town, within 14 days after the date of filing the application, the Town may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative Town utility pole or support structure or may place a new utility pole. The Town and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request.

(2) At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the Town of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application unless such locations have previously been denied by the Town.

(3) If an agreement is not reached, the applicant must notify the Town of such nonagreement and the Town must grant or deny the original application within 90 days after the date the application was filed unless extended by mutual consent of the applicant and Town. Failure of the applicant to so notify the Town as required herein shall be deemed to constitute the applicant’s consent to the Town’s alternative location. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

(c) The Town processes all applications on a nondiscriminatory basis. Unless the Town and the applicant engage in negotiations as provided above or mutually agree to an extension, the Town will approve or deny a complete application and will notify the applicant by electronic mail whether the application is approved or denied within 60 days after the receipt of the application. An application that is not complete shall not be deemed approved if the Town fails to grant or to deny the application within 60 days after receipt of the application.

(d) Extension of time. If the Town and the applicant do not engage in negotiations, the applicant and Town may mutually agree to extend the 60-day application review period. The Town shall grant or deny the application at the end of the extended period.

(e) The Town may deny a proposed collocation of a small wireless facility in the public rights-of-way if the proposed collocation:

(1) Materially interferes with the safe operation of traffic control equipment;

(2) Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes;

(3) Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

(4) Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual; or

(5) Fails to comply with applicable codes.

(f) Cure Procedure.

(1) If the application is denied, the Town will specify the basis for the denial in writing, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the Town denies the application.

(2) The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days after the notice of denial is sent.

(3) If an attempt to cure is made by the applicant, the Town will approve or deny the revised application within 30 days after receipt of the revised application. If the applicant revises any information in the application other than to address expressly the deficiencies identified by the Town, the applicant shall submit a new application.

(4) The Town's second and subsequent reviews of revised applications will be limited to the deficiencies cited in the denial notice.

(g) A permit issued pursuant to an approved application shall remain in effect for one (1) year unless otherwise extended, suspended, or revoked by the Town pursuant to this Article. If a small wireless facility or utility pole is installed without a permit pursuant to applicable state or federal law, the applicant shall nevertheless be required to have an effective registration, comply with development standards and provide the performance bond required in this Article prior to performing construction.

(h) A permit from the Town constitutes authorization to undertake only certain activities in the 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.

(2) Review procedures for applications for all other communications facilities. The Town shall review and process applications for other communications facilities not subject to the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), F.S., consistent with applicable law.

(3) Specific Application Requirements and Procedures Applicable to Applications for Eligible Facilities Modifications.

(a) An application for an eligible facilities request shall be in writing and shall include the following information, attested to by the authorized person submitting the application on behalf of the applicant, certifying the truth and accuracy of the information provided in the application:

1. The legal and dba names, mailing address, tax Identification number, and contact phone number(s) of applicant.

2. If a corporation, the name and address of the registered agent of applicant in the State of Florida and the State of incorporation of the applicant.

3. If applicant is an entity, other than a corporation, such a partnership or limited liability company, the names and business addresses of the principles.

4. An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act and that the modification does not constitute a substantial change to the tower or base station.

5. If the applicant is not the owner or person in control of the eligible support structure and/or site, the following shall be required:

(i) An attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facilities modification.

(ii) If the eligible support structure is located in a public right of way, the Applicant must also attest that Applicant has authorization to install, maintain and operate transmission equipment in, under and above the public right of way.

6. If the applicant proposes a modification that will result in an increase in height of the eligible support structure, the application shall include record drawings, as built plans, or the equivalent, showing the height of the eligible support structure, (1) as originally constructed and granted approval by the Town or other applicable local zoning or similar regulatory authority, or (2) as of the most recent modification that received Town, or other local zoning or regulatory approval, prior to the passage of the Spectrum Act, whichever height is greater.

7. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing restrictions or requirements imposed by the Town pursuant to authority granted under the Town Code, or an ordinance or a municipal code of another local government authority, the application shall include a copy of the document (e.g., permit or conditional approval) setting forth such pre-existing restrictions or requirements together with a certification that the proposed facilities modification conforms to such restrictions or requirements; provided that, such certification shall have no application to the extent the proposed facilities modification relates solely to an increase in height, increase in width, addition of cabinets, or new excavation, that does not result in a substantial change in the physical dimensions of the eligible support structure.

8. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing concealment restrictions or requirements, or was constructed with concealment elements, the following shall be required:

(i) Applicant shall set forth the facts and circumstances demonstrating that the proposed modification would not defeat the existing concealment elements of the eligible support structure.

(ii) If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, Applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

9. If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, the application shall include record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.

10. If the applicant proposes a modification to an eligible support structure that will include any excavation or would result in a protrusion

from the edge of a tower that exceeds an existing protrusion of any transmission equipment attached to a tower, or would protrude from the edge of a non-tower eligible support structure, the following shall be required:

(i) A description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions, depicting the boundaries of the site in relation to the tower or base station proposed to be modified and depicting the proposed location, elevation and dimensions of the new or replacement transmission equipment.

(ii) The Town may require a survey by a land surveyor licensed in the state of Florida when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site to determine if the proposed facilities modification would result in a substantial change in the physical dimensions of the eligible support structure.

11. If the applicant proposes a modification to the eligible support structure that includes hardening through structural enhancement, the following shall be required:

(i) A technical report by a qualified licensed engineer, demonstrating that the structural enhancement is performed in connection with and is necessary to support the proposed collocation, removal, or replacement of transmission equipment and conforms to applicable code requirements.

(ii) The Town may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the Applicant's demonstration of necessity.

12. If the applicant proposes a modification to a tower, the following shall be required:

(a) A stamped report by a licensed engineer demonstrating that the tower with the proposed modifications will comply with applicable structural, electrical and safety codes, including by way of example, and not limitation, EIA/TIA-222-Revision G, published by the American National Standards Institute (as amended), allowable wind speed for the applicable zone in which the tower is located, and describing the general structural capacity of the tower with the proposed modifications, including:

i. The number and type of antennas that can be accommodated;

ii. The basis of calculation of capacity; and

iii. A written statement that the proposed complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standard.

13. The Town may retain, at the expense of the applicant to the extent not inconsistent with applicable law, the services of an independent technical expert to review, evaluate and provide an opinion regarding the applicant's demonstration of compliance.

14. If the applicant proposes a modification to a base station, the application shall include a stamped report by a Florida licensed engineer demonstrating that the base station, with the proposed modifications, will comply with applicable structural, electrical and safety codes.

15. If the applicant proposes a modification requiring, alteration to the eligible support structure, excavation, installation of new equipment cabinets, or any other activities impacting or altering the land, existing structures, fencing, or landscaping on the site, the following shall be required:

(a) A detailed site plan and drawings, showing the true north point, a graphic scale and, drawn to an appropriate decimal scale, indicating and depicting:

1. The location, elevation and dimensions of the existing eligible support structure;

2. The location, elevation and dimensions of the existing transmission equipment,

3. The location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment,

4. The location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each;

5. Any proposed modification to the eligible support structure,

6. The location of existing structures on the site, including fencing, screening, trees, and other significant site features, and

7. The location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.

16. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by 47 C.F.R. Part 1 (PART 1 –PRACTICE AND PROCEDURE), Section 1.1307, as amended, or, in the event that an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment.

(b) Review of Application. The Town shall review applications for Eligible Facilities Modifications pursuant to this section, to determine whether the application qualifies.

1. The Town shall notify the applicant within thirty (30) days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the Town's requirements. If the application is not completed in compliance with the Town's requirements, the Town shall so notify the applicant in writing delineating all missing documents and information required in the application that if are cured would deem the application properly completed.

2. Upon resubmission of information to cure the stated deficiencies, the Town shall notify the applicant, in writing, no later than 10 days after the additional information is submitted, of any remaining deficiencies that must be cured, delineating missing information. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the Town 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. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified herein. If the curative information is not provided within such time frame, the application will be considered withdrawn or closed and the application will be denied.

3. *Completeness review; time limitation.* The Town shall grant or deny a properly completed application for Eligible Facilities Modification within sixty (60) days of the date of the applicant's submission of an application seeking approval under this Article. An application is deemed submitted or resubmitted on the date the application is received by the Town. The sixty (60) day review period begins to run when the application is filed and may be tolled by mutual agreement of the Town and the applicant or in cases where the Town determines that the applications is incomplete. The timeframe is not tolled by a moratorium on review of applications.

(c) Eligible Facilities Modification Permit: An eligible facilities modification permit issued pursuant to this Article or any deemed approved application, shall be valid for a term of 180 days from the date of issuance, or the date the application is deemed approved.

(4) Suspension and revocation of permits.

(a) The Town may order the suspension of placement and maintenance work under a permit and ultimately may suspend or revoke any permit, in the event of a material breach of the terms and conditions of any applicable codes including but not limited to this Ordinance, State and federal laws and regulations, or any condition of the permit. A material breach by the permittee may include, but is not limited to:

(1) The violation of any material provision of the permit or applicable codes;

(2) An evasion or attempt to evade any material provision of the permit or the perpetration or attempt to perpetrate any fraud or deceit upon the Town;

(3) Any material misrepresentation of fact in the process of permittee's request for a permit or registration;

(4) The failure to maintain the required permanent performance bond, construction performance bond, or insurance;

(5) The failure to properly restore the public rights-of-way;

(6) The failure to comply within the specified time with an order issued by the Town

(7) The failure to register, renew a registration, or provide notice of transfer in accordance with this Article;

(8) The failure to relocate or remove facilities pursuant to this Article and Sections 337.402, 337.403 and 337.404, F.S., as amended;

(9) Conducting work in the public rights-of-way without a permit, if required.

(b) If the Town determines that a registrant has committed a substantial breach of a term or condition of the permit or violation of applicable codes including but not limited to this Article, the Town shall make a written demand upon the registrant to remedy such violation. The demand shall state that the continued violation(s) may be cause for suspension or revocation of the permit. Further, the Town may place additional or revised permit conditions on the permit following a substantial breach. In addition, the Town may refuse to issue new permits and may deny an application for a new permit to a registrant or registrant's contractor that has materially violated any provisions of a permit or applicable codes including but not limited to this Article, until such time as the registrant cures the violation to the satisfaction of the Town, including paying any damages, costs or penalties that may have been assessed.

(c) Within thirty (30) days of receiving notification of the breach, the permittee shall contact the Town and provide a plan, acceptable to the Town. The Town shall provide additional time as reasonably necessary for a permittee to establish an acceptable plan taking into account the nature and scope of the alleged breach. The permittee's failure to so contact the Town, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for revocation or suspension of the permit. A final determination to suspend or to revoke a permit may be appealed in accordance with the procedures set forth in this Article. Nothing herein shall affect the Town's ability to take immediate action or to cause a registrant to take immediate action pursuant to this Article or applicable law to address any condition that threatens the health, safety or welfare of persons or property.

(d) If a permit is revoked, the permittee shall reimburse the Town for the Town's reasonable costs, including restoration costs, administrative costs, and the cost of collection. These costs may also be deducted from the registrant's permanent performance cash bond in the Town's discretion.

(e) The Town manager may cause an immediate stop work order where the construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

(5) Requests for waivers.

(a) Nothing in this Article shall be construed to prohibit or have the effect of prohibiting the nondiscriminatory and competitively neutral use of public rights-of-way by communications service providers, communications facility providers or pass-through providers, in violation of federal or state law.

(b) A waiver may be granted by the Town Manager in those circumstances where a competitively neutral use of the public rights-of-way is impaired by strict

application of the requirements of this Article.

(c) A request for a waiver shall be filed either prior to or contemporaneously with the permit application. The request for waiver shall contain each provision for which a waiver is sought. A request for a waiver shall include the following information:

(1) A detailed explanation, with supporting engineering information by a Florida licensed engineer or other data as applicable, as to why a waiver from the requirements of this Article is required to allow the applicant to have nondiscriminatory and competitively neutral use of the public rights-of-way, including a detailed explanation addressing the relevant engineering criteria;

(2) Nature and characteristics of the surrounding neighborhood;

(3) Any special conditions and circumstances affecting the proposed site which prevent compliance with the Article or subsection for which a waiver is being sought;

(4) If applicable, topography, tree coverage and foliage in the immediate surrounding area of the proposed facility or within the surrounding neighborhood;

(5) Design of the proposed facility with particular reference to achieving compatibility with the surrounding neighborhood and other structures in the public rights-of-way and eliminating adverse visual impacts;

(6) If the proposed waiver is compliant with the Americans With Disabilities Act, 42 U.S.C. §12101, *et seq.*, and applicable codes;

(7) Any other information the Town may reasonably require to process the request for waiver.

(d) The Town shall grant or deny a request for a waiver within forty-five (45) days after receiving the request for waiver or time frame under applicable law unless the applicant and Town consent to an extension. In granting any waiver, the Town may impose conditions to the extent the Town determines such conditions are necessary to minimize any adverse effects of the proposed facility on the surrounding neighborhood or to protect the health, safety and welfare of the public.

(e) Should a request for waiver, and ultimately a permit, be denied by the Town, the denial of the waiver may be appealed with an appeal of the permit denial in accordance with this Article.

(6) Appeals.

(a) Final, written decisions of a designee of the Town Manager, including but not limited to, a decision suspending, revoking, or denying a permit, denying a registration, denying a renewal of a registration, suspending or terminating a registration or denying a request for a waiver, or imposing costs or a fine, are subject to appeal to the Town Manager, subject to the process for resubmission and review by the Town to cure any deficiencies identified in the denial by a designee of the Town Manager, if applicable. An appeal must be filed with the Town Manager within thirty (30) days of the date of the final, written decision to be appealed. An applicant shall waive any appeal that is not timely filed as set forth herein. The Town Manager shall hear or may appoint a hearing officer to consider the appeal. The decision on appeal shall be based on the information submitted previously to the Town and no new information shall be considered. Subject to a force majeure event, the hearing shall occur within 30 days of the receipt of the appeal, unless waived by the applicant, and a written decision shall be rendered within 20 days of the hearing.

(b) An appeal from a decision of the Town Manager or a hearing officer may be appealed to the Town Commission within 30 days, by filing a written notice of appeal with the Town clerk and providing copies to the Town Manager and the Town Attorney. Any appeal not timely filed shall be waived. The notice of appeal shall state the decision which is being appealed, the grounds for appeal, a brief summary of the relief which is sought, and shall be accompanied by a nonrefundable fee to be established by the Town Manager or Commission. The Town Commission may affirm, modify or reverse the decision of the Town Manager. The Town Manager shall notify any party who has filed a written request for such notification of the date when the matter will be presented to the

Town Commission. Nothing contained herein shall preclude the Town Commission from seeking additional information prior to rendering a final decision. The decision of the Town Commission shall be by resolution and a copy of the decision shall be forwarded to the Town manager and the appealing party. Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the Town Commission may appeal an adverse decision to the Circuit Court In And For Broward County or applicable federal district court. The party making the appeal shall be required to pay to the Town a fee to be established by the Town Manager or Commission, to defray the costs of preparing the record on appeal. Said fee shall be effective upon approval by the Commission.”

Section 7: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-129, which section reads as follows:

“Sec. 26-129. Performance construction bond.

(a) Prior to the issuance of any permit in accordance with this Article, or performing any work in the public rights-of-way, either pursuant to a permit or without a permit if authorized by applicable law except in the case of an emergency pursuant to this Article, a registrant or contractor that applies for a permit on behalf of a registrant shall deposit with the Town a cash performance construction bond to secure the restoration of the public rights-of-way, and to ensure the registrant's or contractor's faithful performance of the construction or other work in the public rights-of-way, in accordance with applicable sections of the code. The cash performance construction bond shall be conditioned upon the full and faithful compliance by the registrant or contractor with all requirements, duties, and obligations imposed by the permit and provisions of this Article during and through completion of the placement or maintenance project. The performance construction bond shall be in an amount as determined by the Town based on one-hundred ten percent (110%) of the estimated costs of the restoration of the public rights-of-way submitted by the applicant. For a consolidated permit, the registrant or contractor shall provide a cash performance construction bond based on the amount of the total costs of the restoration of the public rights-of-way for all small wireless facilities to be collocated on utility poles within the public rights-of-way, but in no event, shall be less than ten thousand dollars (\$10,000). Notwithstanding any provision herein, the minimum amount of the performance construction bond for a new or replaced utility pole or ground-mounted small wireless facility up to 28 cubic feet shall be twenty-five thousand dollars (\$25,000). The Town shall not require a performance construction bond if the estimated cost of restoration of the public rights-of-way is less than one thousand dollars (\$1,000).

(b) In the event a registrant or contractor subject to such a cash performance construction bond fails to complete the work in a safe, timely and competent manner in accordance with the provisions of the permit or code, there shall be recoverable, from such cash construction bond, any damages or loss suffered by the Town 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) The performance construction bond shall be non-cancelable and shall be for a term of not less than one-year after the anticipated date of the later of completion of construction, restoration and Town inspection. No less than one-year after completion of the construction and satisfaction of all obligations in accordance with the bond, the registrant or contractor may request that the Town remove the requirement to continue the performance construction bond. In accordance with the current standards of the Town, and satisfaction of all obligations in accordance with the bond, the Town shall return the cash performance construction bond without interest. Notwithstanding, the Town shall require a new cash performance construction bond for any subsequent work performed in the public rights-of-way as required by this Article.

(d) The rights reserved by the Town with respect to any performance construction bond established pursuant to this division are in addition to all other rights and remedies the Town may have under this Article, or at law or equity, and no action, proceeding or exercise of a right with respect to the performance construction bond will affect any other right the Town may have.”

Section 8: That the Code of Ordinances of the Town of Pembroke Park, Florida is

hereby amended by adding a section, to be numbered 26-130, which section reads as follows:

“Sec. 26-130. Construction Methods for Placing or Maintaining Communications Facilities in Public Rights-of-Ways.”

(a) A registrant shall place and maintain its communications facility in public rights-of-way in a manner consistent with accepted industry practice and applicable codes. All safety practices required by applicable codes or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities, including but not limited to, Chapter 33 of the Florida Building Code. Registrant shall use and exercise due caution, care and skill in performing work in the public rights-of-way, and shall take all reasonable steps to safeguard work site areas including maintenance of traffic.

(b) In connection with excavation in the public rights-of-way, the requirements of this Article shall control to the extent of any conflict with any other provision in the Town code.

(c) In addition, in connection with excavation in the public rights-of-way, a registrant shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in F.S. Ch. 556, as it may be amended. In the event of any conflicts with existing utilities or utility service laterals, the proposed location of the communications facility will be adjusted, not the utility.

(d) To the extent not inconsistent with applicable codes, underground cables, where required, shall have consistent alignment parallel with the edge of pavement, a thirty-six-inch (36”) depth of cover for the paved portion of roadways, sidewalks and driveway aprons a twenty-four-inch (24”) to thirty-inch (30”) depth of cover in all areas except the paved portion of roadways, sidewalks and driveway aprons, and shall have a three-foot (3’) horizontal clearance from underground utilities and their appurtenances. A below grade communication facility shall not be allowed under a swale or ditch unless such restriction is waived by the Public Works Department or Town Manager with appropriate conditions of a permit that the registrant or permittee clean or re-excavate the swale or ditch to its appropriate grade prior to installation of the facility.

(e) Grounding rods and pull boxes. The grounding rod may not extend above the top of the public right-of-way or sidewalk and must be placed in a pull box, and the ground wire between the pole and ground rod must be inside an underground conduit. All pull boxes shall be vehicle load bearing, comply with applicable codes and current FDOT Standards, for example, specification 635, and be listed on the FDOT Approved Products List. A concrete pad shall be installed around all pull boxes not located in the sidewalk. No new or replacement pull boxes shall be located in pedestrian ramps.

(f) Consistent with the Town code, as applicable, the Town may require the use of trenchless technology (i.e., directional bore method) or may prohibit underground missile boring for the installation of facilities underground in the public rights-of-way. The registrant shall be solely liable for the displacement, damage or destruction of any property, public rights-of-way, irrigation system, utility, or landscaping as a result of the placement or maintenance of its facility within the public rights-of-way. The Town may issue such rules and regulations concerning the method for placement or maintenance of a communications facility in public rights-of-way as may be consistent with this Article and other applicable codes and standards. The provisions of this subsection are not intended to prevent the use of any method of construction not specifically prescribed by this subsection, provided that any such method has been approved by the Town.

(g) In an effort to minimize adverse impacts and disruption in the public rights-of-way and to other municipal improvements, the Town may require a communications services provider to coordinate the placement or maintenance of its facilities with any work, construction, installation in or repairs of the subject public rights-of-way or other facilities therein, that is occurring or is scheduled to occur within a reasonable time from the date(s) requested in the communications services provider’s permit application. The Town may require a registrant to alter reasonably its placement or maintenance schedule as necessary to minimize disruptions and disturbance in the public rights-of-way. The Town may provide a more definite time frame based on specific Town construction or maintenance schedules. Within the public rights-of-way, every communications services provider shall make space available in its trench and/or conduit to other communications services providers consistent with the federal requirements of 47 U.S.C. §224. Every communications services provider shall utilize existing conduits, pathways and other facilities whenever possible, and shall not place or maintain any new, different, or additional poles, conduits, pathways or other facilities, whether in the public rights-of-way or on privately-owned property, until written approval is obtained from the Town or other appropriate governmental authority, and, where applicable, from the private property owner.

(h) Limits on excavation in restored rights-of-way. To avoid continual disruption and

degradation to the public rights-of-way and in the interest of public safety, an area of the public rights-of-way that has been subject to excavation and restored shall not be subject to re-excavation until at least two (2) years following the completion of such restoration, to the extent not inconsistent with applicable law, unless waived by the Town. If the areas where the excavation is to occur has not been fully restored by a permittee, the subsequent permittee may apply for and the Town may issue a permit that requires the subsequent permittee to restore the public rights-of-way to the original condition and to warrant such restoration consistent with this Article. For the purpose of this Article, excavation shall have the meaning set forth in Section 556.102(6), Florida Statutes, as it may be amended. Registrants seeking to place communications facilities in the public rights-of-way through excavation are strongly encouraged to contact other registrants and communications services providers to coordinate the placement of communications facilities in the public rights-of-way.

(i) Trees. A registrant shall comply with the requirements of the Town Code with respect to the proposed removal or disturbance of any trees on private property. A registrant shall not prune, remove or materially disturb trees during placement or maintenance of communications facilities, small wireless facilities, micro wireless facility, or utility poles in the public rights-of-way, unless approved pursuant to an applicable permit issued by the Town, to the extent not inconsistent with applicable law. Tree removal or pruning is not permitted within the public rights-of-way to increase signal strength or to provide a line-of-sight for wireless facilities. Landscaping may only be disturbed or removed during placement or maintenance of communications facilities pursuant to a permit issued by the Town. The Town may require that any landscaping or trees so removed shall be replaced or mitigated in accordance with the approved restoration plan.

(j) Restoration of public rights-of-way. A registrant shall, at its own expense, restore the public rights-of-way to at least its original condition before such work in public rights-of-way was initiated, subject to the Town's satisfaction upon inspection. Registrant shall warrant its restoration for a period of 12 months after completion of such restoration. If the registrant fails to make such restoration within thirty (30) calendar days after completion of construction, or such other time as may be required by the Town, the Town may, after written notice to the registrant, perform such restoration using Town employees, agents or contractors, and charge all costs of the restoration to the registrant in accordance with F.S. §337.402, as it may be amended, and require reimbursement within 30 days after the submission of the invoice by the Town to the registrant. Consistent with the code, if the registrant fails to complete restoration work by the estimated date for completion listed in the permit, following notice to the registrant or permittee, the Town shall have the right to restore the right-of-way and to charge the registrant or permittee for actual costs of such restoration work plus 25 percent of such costs for administrative expenses, to the extent not inconsistent with Section 337.402, Florida Statutes, as it may be amended. The costs and administrative expenses shall not be eligible for credit against any other payments that may be owed by the registrant to the Town. Consistent with the code, the Town manager shall make inspections to administer and enforce the provisions of this subsection. The registrant or permittee shall notify the Town manager 48 hours prior to commencing construction and at the time of completion of work under the permit. Upon completion, the Town manager shall inspect the work to determine whether the restoration has been acceptably completed. In such event, the Town shall notify the applicant in writing that the 12-month restoration warranty period has begun.

(k) A registrant shall immediately notify the Town of any damage to Town utilities, Town fiber or other Town facilities as a result of a registrant's construction in the public rights-of-way. The registrant shall repair such damage at its expense within the time frame required by the Town given the nature of the damage and impact on Town services. In its discretion, the Town may repair or arrange for the repair of such damage and charge such expense to the registrant.

(l) Any communications facilities heretofore or hereafter placed upon, under, over, or along any public rights-of-way that is found by the Town to be unreasonably interfering in any way with the convenient, safe or continuous use or the maintenance, improvement, extension or expansion of such public rights-of-way shall, upon thirty (30) days' written notice to the registrant or its agent, be removed or relocated by such registrant at its own expense except as explicitly provided under F.S. §337.403. The Town may waive or extend the time within which a registrant shall remove or relocate a communications facility for good cause shown.

(m) Removal or relocation at the direction of the Town of a registrant's communications 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. Subject to F.S. §337.403, whenever an order of the Town requires such removal or change in the location of any communications facility from the public rights-of-way, and the facility owner fails to remove or charge the same at its own expense to

conform to the order within the time stated in the notice, the Town may proceed to cause the communications facility to be removed. The expense thereby incurred except as provided in F.S. §337.403(1)(a)—(c), shall be paid out of any money available therefor, and such expense shall be charged against the registrant of the communications facility and levied, collected and paid to the Town.

(n) Subject to F.S. §337.403, whenever it shall be necessary for the Town to remove or relocate any communications facility, the registrant of the communications facility shall be given notice of such removal or relocation and an order requiring the payment of the costs thereof, and shall be given reasonable time, which shall not be less than twenty (20) nor more than thirty (30) days in which to appear before the Town Commission to contest the reasonableness of the order. Should the registrant not appear, the determination of the cost to the registrant shall be final, in accordance with F.S. § 337.404.

(o) A final order of the Town shall constitute a lien on any property of the registrant and may be enforced by filing an authenticated copy of the order in the office of the clerk of the circuit court of the county wherein the registrant's property is located and/or by drawing upon the registrant's permanent performance bond and/or performance construction bond.

(p) The Town retains the right and privilege to cut or move any communications facilities located within the public rights-of-way of the Town, as the Town may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Town shall attempt to notify the registrant of the communications facility, if known, prior to cutting or removing a communications facility and shall notify the registrant of the communications facility, if known, after cutting or removing a facility.

(q) The Town shall have the right to make such inspections of facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this Article. The Town shall have access without charge to any manholes or hand holes at any time, of a communications services provider in which the Town has facilities, provided the Town has given such provider reasonable prior notice so that such provider can have trained personnel present when the accesses such manholes. Notwithstanding the foregoing, the Town, in the proper exercise of its municipal police powers and duties with respect to the public rights-of-way, shall have access to all manholes and hand holes without charge of such provider. In the event the Town 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 Town will provide registrant no less than three days' following receipt of written notice setting forth the violation to correct the violation.

(r) Following the completion of construction to place a new or replace an existing communications facility in the public rights-of-way, the registrant shall promptly provide revised plans and As Built Plans upon completion of any installation or construction. The plans shall be in a digitized PDF and CAD (Computer Aided Design) file formats, showing the two-dimensional location of the facilities, based on the Town's geographical database or other format acceptable to the Town. The registrant shall provide such plans at no cost to the Town. The Town shall maintain the confidentiality of such plans and any other information provided in accordance with F.S. §202.195, as it may be amended.

(s) The Town reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, fiber, 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 Town in public rights-of-way occupied by the registrant. To the extent not inconsistent with applicable law, a registrant shall allow Town facilities to be collocated within Town'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 registrant and Town and may be subjected to other Town rights-of-way requirements. The Town 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 Town and within said limits as same may from time to time be altered, subject to applicable law.

(t) A registrant shall, on the request of any person holding a permit issued by the Town, temporarily raise or lower its communications 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 30-days advance written notice to arrange for such temporary relocation. If the Town requests a temporary raising or lowering of a facility for a public purpose, the Town shall not be charged for the temporary raising or lowering of the facility, subject to Sections 337.403 and 337.404, Florida Statutes.

(u) This Article does not authorize a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately-owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately-owned wireless support structure, or other private property without the consent of the property owner.

(v) Abandonment. Upon determination by a registrant or communications services provider that one or more of its communications facilities in the public rights-of-way is to be abandoned, the provider shall notify the Town no later than ninety (90) days from such determination, or no later than thirty (30) days following such abandonment, whichever is sooner. The Town may independently establish that a communications facility has been abandoned. In reaching such determination, the Town may request documentation and/or affidavits from the communications services provider or registrant regarding the active use of the facility. If the provider or registrant fails to provide the requested documentation within thirty (30) days, a rebuttable presumption shall exist that the provider or registrant has abandoned the communications facility. Any small wireless facility, micro wireless facility, utility pole for collocation of a small wireless facility, or other communications facility installed within the public rights-of-way that is abandoned shall be removed by the registrant or communications services provider at its expense within thirty (30) days of receipt of notice from the Town. Failure to remove an abandoned facility within the thirty (30) days' period shall be deemed to be the registrant's or communications provider's consent for the Town to remove the facility at the registrant's or provider's expense or for the Town to allow another person to remove the facility at the registrant's or provider's expense. The communications services provider or registrant shall be responsible for all damage to the public rights-of-way and any facilities or utilities damaged as a result of such removal, and shall restore the public rights-of-way as required in this subsection.

(w) If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility. Notwithstanding the foregoing, if the facility is attached to an existing structure that has an independent function such as a light pole, intersection signal, pedestrian signal, utility pole or the like, said abandonment of the facility requires removal of the facility only and does not require the removal of the existing structure."

Section 9: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-131, which section reads as follows:

"Sec. 26-131. Development and Objective Design Standards for the Placement or Maintenance of Communications Facilities in the Public-Rights-Of-Way.

(a) Terms and conditions for collocation on Town utility poles.

(1) The Town shall not enter into an exclusive arrangement with any person for the right to attach equipment to Town utility poles. The Town reserves the right to enter into agreements for collocation on Town utility poles in its discretion.

(2) Reservation of space on Town utility poles. The Town may reserve space on Town utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the Town utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use. The replaced pole shall continue to be owned by the Town.

(3) The rate to collocate a small wireless facility on a Town utility pole shall be one-hundred fifty dollars (\$150) per pole annually, or the highest rate authorized by applicable law. This amount shall not be deducted from any fees or taxes that may be due to the Town. The fee shall be paid upon the Town's issuance of a permit to collocate a small wireless facility on a Town utility pole and annually thereafter on October 1.

(4) Agreements between the Town and wireless providers that were in effect on July 1, 2017, and that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on Town utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms established under this Article for small wireless facilities and utility poles that are the subject of an application submitted after the rates, fees, and terms become effective.

(5) For a Town utility pole that supports an aerial facility used to provide

communications services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. §224 and implementing regulations. The good faith estimate of the Town for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

(6) For a Town utility pole that does not support an aerial facility used to provide communications services or electric service, the Town shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, the Town may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. The Town may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the Town. If the applicant does not accept the estimate for make ready work that the applicant provides or that is consistent with Section 337.401.F.S., the application shall be denied.

(7) The Town may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to communications services providers other than wireless services providers for similar work and may not include any consultant fee or expense. In no event shall the Town be responsible for costs associated with any pole make ready work or replacement.

(8) A collocation of a small wireless facility on a Town utility pole shall comply with all applicable codes including this Article, and shall not compromise the Town utility pole's finish, functionality, or structural integrity particularly with respect to vulnerability to high velocity wind conditions.

(9) A collocation of a small wireless facility on a Town utility pole shall not affect the Town's ability to remove or to replace the pole in its sole discretion. A Town utility pole that has been partially removed or has been designated to be removed by the Town shall not be available for collocation or repurpose for collocation. Within thirty (30) days after receiving notification that the Town intends to remove or to replace the utility pole, the registrant shall remove its collocated small wireless facility at its cost. In the interest of public safety and safety of Town employees, a Town structure in the public rights-of-way used to support an avian structure or facility shall not be available for collocation or repurpose or replacement for collocation. A Town building or Town utility pole extending from a building in the public rights-of-way shall not be available for collocation, or repurpose or replacement for collocation.

(b) Location context and public safety regulations. A proposed communications facility shall comply with the following location context requirements unless waived by the Town. In conjunction with granting such waiver, the Town may require conditions on the permit approving such facility.

(1) A registrant shall comply with and abide by all applicable provisions of the state law and Town ordinances, applicable codes and regulations, quasi-judicially approved conditions for approvals, settlement agreements, applicable contracts, applicable court orders, and applicable provisions of federal statutes, FCC regulations and PSC regulations in placing or maintaining a communications facility in the public rights-of-way. Wireless support structures, small wireless facilities, and utility poles for collocation of small wireless facilities shall be considered to be structures under the Florida Building Code, Building Risk Category IV, Structures, Chapter 16 Section 1620 – 1621, High Velocity Hurricane Zone Area, unless otherwise addressed in the Florida Building Code, as amended.

(2) All communications facilities shall be placed and maintained so as not to interfere with, create any safety hazard, or create a visual or physical obstruction to the traveling public's use of the public rights-of-way or the use of bicycle lanes or multipurpose trails. To avoid such obstructions, no utility poles for collocation of small wireless facilities or ground mounted small wireless facilities shall be located within

traffic circles.

(3) For public safety purposes, aboveground communications facilities, including but not limited to, small wireless facilities, micro wireless facilities and utility poles for collocation of small wireless facilities, shall not be placed or maintained on multipurpose trails.

(4) Communications facilities shall be placed between the property line and the curb line of a street and shall not be located within a clear zone.

(5) All communications facilities shall be placed and maintained so as not to cause unreasonable interference with the rights, accessibility and safety of property owners who abut any of the public rights-of-way. By way of example, the placement or maintenance of a communications facility in the public rights-of-way shall not cause excessive noise or light levels in violation of the Town Code, based upon the use occupancy category of the adjacent property, shall not impede ingress and egress to adjacent property, materially block views from or into a business or residence, or materially block visibility of address or other signage on abutting properties.

(6) A registrant shall not place or maintain its communications facilities to interfere, displace, damage or destroy any facilities, including but not limited to, the Town drainage plan, sewers, ponds, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's facilities or utilities lawfully occupying the public rights-of-way of the Town, unless waived by the Town.

(7) The Town may prohibit or limit the placement of new or additional communications facilities within the public rights-of-way if there is insufficient space to accommodate all of the requests to place and maintain facilities and utilities in the proposed location of the public rights-of-way, to safely accommodate additional installations at any location, for the protection of existing facilities and utilities in the public rights-of-way, or to accommodate approved Town plans for public improvements, other approved capital improvements projects as part of the Town Comprehensive Plan, if applicable, or projects the Town determines are in the public interest.

(8) Facilities to be installed underground.

(a) All facilities shall be subject to the Town's non-discriminatory undergrounding requirements that prohibit above-ground structures and utilities in the public rights-of-way. Unless waived by the Town, all new communications facilities shall be placed underground, to the extent that new utilities other than fire hydrants are required to be located underground, including new electric and communications utilities in accordance the Town Code. In addition, to the extent required by applicable PSC rules and regulations, applicable codes, restrictive covenants, quasi-judicially approved conditions of a development, planned unit development, community development district, or court order, a registrant shall install its facilities underground. Additionally, a registrant shall endeavor to place all new facilities underground unless prevented from doing so by existing technology or by the physical characteristics of the installation location.

(b) A registrant shall not place or maintain utility poles for the collocation of small wireless facilities or small wireless facilities in a location in the public rights-of-way where there are no existing electric or communications utility poles and where new electric and communications utilities are required to be installed underground to the extent not inconsistent with applicable law.

(c) New proposed wireline fiber or coaxial backhaul facilities for small wireless facilities or other communications services shall be installed underground consistent with applicable codes, unless waived by the Town.

(d) For purposes of this subsection, unless inconsistent with applicable law, adoption of a final resolution by the Town Commission shall constitute an undergrounding requirement over any area of the public rights-of-way. This subsection does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities, provided that if the Town notifies the registrant of the micro wireless facility that aerial communications or electric distribution utilities will be converted to underground utilities, the registrant shall remove its micro wireless facility at its expense within the time frame required by the Town.

(e) Conversion of overhead utilities to underground. No utility poles for the collocation of small wireless facilities, micro wireless facilities, ground mounted small wireless facilities, or small wireless facilities collocated on utility poles shall be placed in a location in the public rights-of-way where the Town

Commission has determined that existing above ground electric and communications utilities should be removed and relocated underground. The presence of small wireless facilities or micro wireless facilities shall not be a basis not to comply with the Town's requirements to convert above ground utilities to underground. To comply with the Town's undergrounding requirements, subject to applicable law, a registrant shall remove its small wireless facilities, micro wireless facilities, and utility poles for collocation of small wireless facilities at its expense within 60 days of being notified by the Town that such facilities must be removed. The Town shall have the right to remove such facilities at the registrant's expense if the registrant fails to do so.

(9) Prohibition against placement in violation of OSHA or NESC or NERC rules and regulations. Communications facilities, including but not limited to small wireless facilities and utility poles for the collocation of small wireless facilities shall not be placed in a location which violates rules and regulations set by Occupational Safety and Health Administration, or applicable codes including the National Electrical Safety Code, or the North American Electric Reliability Corporation standards.

(10) Prohibition against placement within a location subject to homeowners' association restrictions. Small wireless facilities shall not be placed in a location subject to covenants, restrictions, articles of incorporation, or bylaws of a homeowners' association unless specifically authorized by the homeowners' association. For purposes of this subsection, to the extent not inconsistent with applicable law, a location in a public right-of-way that abuts parcels within a homeowners' association on both sides of its width shall be considered a location subject to covenants, restrictions, articles of incorporation, or bylaws of such homeowners' association. This subsection shall not apply to limit the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facility.

(11) Placement in relation to adjacent uses of property and building facades thereon. Where parking and/or loading spaces are not permitted between a building façade and the corresponding property line (i.e. front façade and front property line, side street façade and side street property line) by design standard, or such spaces do not exist in those locations on existing properties, new communication facilities and new utility poles for collocation of small wireless facilities shall be placed in-line with the common, interior side lot lines or within the virtual side setback line within the public rights-of-way and shall not be placed in-line with the front/principal façade of a residence, place of business, or any other principal use building located on property that abuts the public rights-of-way.

(12) A structure granted a permit and installed pursuant to this Article shall comply with Chapter 333, F.S., and Town or federal regulations pertaining to airport airspace protections.

(13) Historic preservation. This Article does not limit the Town's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. §332(c)(7), the requirements for facility modifications under 47 U.S.C. §1455(a), or the National Historic Preservation Act of 1966, as amended, and the regulations adopted to implement such laws. Communications facilities shall not be permitted to be collocated on or to interfere with historic property or landmark that may be within or adjacent to the public rights-of-way unless waived by the Town. The Town shall not allow small wireless facilities, utility poles for the collocation of small wireless facilities or micro wireless facilities to be located in a manner that would impact negatively historic property or landmark unless waived by the Town. Historic properties and landmarks may be so designated as being listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended, a property within a National Register-listed district, or individually listed in the Florida or Town Register of Historic Places, consistent with Town codes, administrative rules, or regulations that were adopted by Town ordinance on or before April 1, 2017, which are applicable to a historic area designation by the state or Town.

(c) Objective design standards.

(1) Intent and purpose. Small wireless facilities in the public rights-of-way and utility poles installed or repurposed in the public rights-of-way for collocation of small wireless facilities shall be designed in such a manner to maximize compatibility with the surrounding neighborhood and to minimize any negative visual impact on the surrounding neighborhood. The objective design standards contained in this Article regulating the location context, color, stealth design, and concealment of the proposed

small wireless facility shall apply, unless waived by the Town.

(2) Applicants shall not place or maintain signage on communications facilities, including small wireless facilities or utility poles for collocation of small wireless facilities, in public rights-of-way, unless otherwise required by federal or State law, provided; however, existing structures that lawfully supported signage before being repurposed may continue to support signage as otherwise permitted by law.

(3) A small wireless facility shall not have any type of lighted signal, lights, or illuminations unless required by applicable codes, local codes or regulations, a permit issued by the Town, or state and federal laws and regulations or as permitted by the Town.

(4) Design standards for Utility Poles. All proposed new or replaced utility poles for collocation of small wireless facilities shall comply with applicable codes and shall meet the design standards contained in this subsection unless waived by the Town. To limit the number of new utility poles installed for collocation of small wireless facilities, registrants are encouraged to share utility poles and to accommodate more than one small wireless facility on each utility pole.

(a) A replaced or restructured utility pole to accommodate the collocation of a small wireless facility shall be in substantially the same location as the original utility pole.

(b) The replaced or restructured utility pole shall be substantially similar in finish, base and pole design, diameter, material and height as the original pole being replaced, unless the Town requires a different design, color or composition to be consistent with applicable Town standards for new utility poles.

(c) Unless waived by the Town, the height for a new utility pole or replaced utility pole installed pursuant to this Article shall not exceed the height of the tallest existing utility pole as of July 1, 2017, 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 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet in the same public right-of-way as of July 1, 2017, the height shall be limited to 50 feet measured from grade. Height shall include only the height of the utility pole and shall not include any light, antennas, masts or other attachments to the utility pole.

(d) Unless waived by the Town, a new utility pole shall be designed to be substantially similar in design to other utility poles in the same block or vicinity of the public rights-of-way. Such design aspects to follow include the material, base, substantially the same pole diameter and style, location and style of attachments, finish, and cap, as applicable. By way of example, if existing utility poles in the same area of the public rights-of-way are light poles, the new utility pole should be designed substantially similar to such light poles and to the extent consistent with location context regulations, equidistant between existing poles. Unless waived by the Town, any such stealth utility pole for collocation of a small wireless facility shall function in the same manner as the facility it is intended to resemble in compliance with the code, at the expense of the registrant to the extent not inconsistent with applicable law. By way of example, if a registrant installs a utility pole for collocation small wireless facility to resemble a nearby light pole, the registrant is encouraged to include a light that is operated in the same manner as other light poles, at the applicant's expense. The Town Manager may, in the exercise of discretion, approve a collocation of a small wireless facility on a Town light pole that would otherwise not qualify for collocation under this Article.

(e) Notwithstanding this subsection, if the proposed location of a new utility pole for collocation of a small wireless facility is within a public right-of-way that is within a particular zoning district, planned unit development, community development district, or community redevelopment agency that has design standards applicable to utility poles, such proposed utility pole shall substantially comply with such design standards.

(f) If there are no existing utility poles in close proximity to a new utility pole for collocation to resemble or any applicable design standards based on the location, the new utility pole shall be a concrete or fiberglass pole with a black finish, or designed pursuant to standards established by the Town Manager.

(g) This subsection does not authorize the installation of a new utility pole

for collocation of a small wireless facility in a location that is otherwise prohibited pursuant to court order or applicable codes, including but not limited to this Article.

(5) Stealth design for collocation of small wireless facilities.

(a) Wires, cables and equipment to be collocated on a utility pole shall be within the utility pole or if not possible to being installed within the utility pole, covered with a shroud. No exposed wires or cables are permitted.

(b) If the utility pole for the proposed collocation of a small wireless facility is a light pole, a street light fixture substantially similar in design to the existing street light fixture shall be used to camouflage the small wireless facility such as through replacement of the cobra head with a new cobra head containing the small wireless facility, or a side-mounted light may be replaced with a substantially similarly designed side mounted light containing the small wireless facility. Unless consistent with the design of the utility pole, a small wireless facility shall not be collocated on a mast of a utility pole. In no event shall a small wireless facility be collocated on the mast of a utility pole that serves as a traffic signal pole. Any street light fixture installed by the registrant shall be maintained in good working order by the registrant at its cost.

(c) Unless waived by the Town, slim design shall be used wherein the top mounted antenna does not exceed the diameter of the supporting utility pole at the level of the antenna attachment by more than six inches, or if applicable for other than round poles, by more than six inches on each side, and side mounted enclosures, if any, do not extend more than twenty-four (24) inches beyond the exterior dimensions of the existing structure, repurposed structure or utility pole at the level of antenna attachment measured from the edge of the pole to the outermost surface of the antenna.

(d) Maximum height restrictions. A small wireless facility, including any attached antennas, shall not exceed ten (10) feet above the existing structure, repurposed structure or utility pole upon which the small wireless facility is to be collocated. A small wireless facility in the public rights-of-way shall not be used for the attachment of any communications facilities or fiber other than the equipment included within the small wireless facility.

(6) Small wireless facilities not collocated on utility poles or existing structures.

(a) Ground-mounted small wireless facilities up to 28 cu. ft. in dimension shall be located within a ten (10) foot radius of the existing structure or utility pole for the collocated small wireless facility. Pursuant to Section 337.401(7)(b)(2), F.S., ground-mounted small wireless facilities shall be located with reasonable spacing of at least 200 feet from other ground-mounted small wireless facilities.

(b) The ground-mounted small wireless facility shall be architecturally designed and of the same materials and color finish to be substantially similar to other at-grade infrastructure within 500 feet of the proposed location in the public rights-of-way such as waste receptacles or utility facilities. If the ground-mounted small wireless facility is not substantially similar to other at-grade infrastructure as set forth herein, the proposed small wireless facility shall be submitted to the Town for review and approval.

(c) To the extent not inconsistent with applicable codes, at the Town's direction, ground-mounted small wireless facilities shall be enclosed in a wrap the design of which has been approved by the Town staff. The registrant shall maintain the wrap in good condition at its sole cost and expense. The Town may designate specific areas of the Town where all ground-mounted small wireless facilities must be enclosed in a wrap.

(d) To the extent not inconsistent with applicable codes, at the Town's direction the registrant owner of a ground mounted small wireless facility in the public rights-of-way shall conceal the facility with landscaping and plantings. Landscaping and plantings pursuant to this subsection shall be subject to the Town's approval and be maintained by the registrant at its sole cost and expense consistent with the Town Code for so long as the small wireless facility remains in the public rights-of-way.

(e) The Town Manager is authorized to create a manual showing figures of acceptable and unacceptable designs for facilities to be placed or maintained in the public rights-of-way.

(7) Development standards for communications facilities other than small wireless facilities and utility poles for collocation of small wireless facilities.

(a) Dimensional limits. No communications facility other than small wireless facilities located aboveground, excluding utility poles, having exterior dimensions greater than four feet high, by four and one-half feet long, by two and one-half feet wide, or having a total volume exceeding 45 cubic feet, shall be granted a permit for construction

or installation nor shall be constructed within the corporate limits of the Town on any public rights-of-way unless:

(1) The communication service provider can properly demonstrate in its permit application for placement of communication facilities in the public rights-of-way that strict compliance with the dimensional limits in this subsection will prevent the communications service provider from installing, constructing, maintaining, or providing its communications network; and

(2) The communication service provider demonstrates in its permit application that the proposed communications facilities it desires to construct which exceeds the dimensional limits set forth above in this subsection are necessary to provide adequate capacity to meet the requirements of the applicant at a specific location, or that said limits are otherwise technologically infeasible at the location, and that the proposed equipment the service provider desires to utilize is of the minimum size available to meet the requirements of the applicant's communications network; and

(3) The communications service provider demonstrates in its permit application that the proposed communications facilities are located and composed in a manner to minimize adverse impacts to abutting properties and the surrounding neighborhood and does not create a hazard by impairment of visibility to motorists or pedestrians at the proposed site and does not negatively impact or violate location and other regulations contained in this Article: and

(4) The communications facility proposed by the communications provider does not otherwise create a hazard to the public health, safety and welfare

(b) Notice to residential areas. Whenever a communications service provider subject to this subsection submits a permit application to locate communications equipment which exceeds the dimensional limits in this subsection within residentially-zoned districts in the Town, the applicant shall provide notice by posting an 18" x 24" sign, satisfactory to the Town, at the proposed location advising residents that they may review the permit application at the Town and provide their comments to the Town. The sign shall be posted a minimum of 30 days prior to any decision being made on the permit application to allow adequate time for input by residents and so as not to unduly delay the processing of any application.”

Section 10: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-132, which section reads as follows:

“Sec. 26-132. Fees and Taxes for Access to Public Rights-of-Way.

(a) A registrant that places or maintains communications facilities in the public rights-of-way shall be required to pay fees and taxes as required by applicable law and ordinances of the Town, including this Article.

(b) Pass-through providers shall pay to the Town 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 public rights-of-way. The amounts charged pursuant to this Article shall be based on the linear miles of public rights-of-way or portion thereof, where communications facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.

(c) The Town shall discontinue charging pass-through provider fees to a person that has ceased being a pass-through provider. Any annual amounts charged shall be reduced for a prorated portion of any 12-month period during which the pass-through provider remits communications services taxes imposed by the Town pursuant to Chapter 202, F.S., as amended.

(d) The initial amount of pass-through provider fees shall be paid prior to issuance of a permit to a pass-through provider based on the facilities authorized to be installed in the public rights-of-way pursuant to the permit. The amount due may be modified based upon the as-builts submitted by the pass-through provider. Subsequent annual payments of pass-through provider fees 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 Town 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 Town may have for additional sums due and payable. All fee payments shall be subject to audit by the Town, 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 Town, 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 Town may withhold the issuance of any permits to the registrant until the amount past due is paid in full, in addition to any other remedies available pursuant to this Article and applicable law, including but not limited to drawing upon a registrant's permanent performance bond.

(f) The Town may charge fees for registrations and to process applications for permits pursuant to this Article to the extent not prohibited by applicable law."

Section 11: That the Code of Ordinances of the Town of Pembroke Park, Florida is hereby amended by adding a section, to be numbered 26-133, which section reads as follows:

Sec. 26-133. Enforcement Remedies.

(a) Nothing in this Article shall affect or limit the remedies the Town has available under applicable law. In addition to any other remedies available at law, including but not limited to F.S. §§166.0415(municipalities) and Ch. 162, (municipalities and counties), or equity or provided in this section, the Town may apply any one 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.

(b) In addition to the Town's ability to terminate a registration pursuant to this Article or to deny, suspend or revoke permits, the failure to comply with the provisions of this Article or other law applicable to occupants of the public rights-of-way may result in imposition of penalties to be paid by the responsible person to the Town in an amount of not less than \$100.00 per day or part thereof that the violation continues. A registrant's or person's failure to obtain a permit before commencing work, except where a permit is not required pursuant to this Article, may result in imposition of penalties to be paid to the Town in an amount of not less than \$250.00 per day or part thereof that the violation continues for the first violation, or an amount of not less than \$500.00 per day or part thereof for a repeat violation.

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

(d) Before imposing a fine, the Town 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 person shall have 30 days to either:

i. Cure the violation to the Town's satisfaction, and the Town shall make good faith reasonable efforts to assist in resolving the violation; or

ii. File an appeal with the Town to contest the alleged violation pursuant to this Section, which shall govern such appeal. If no appeal is filed and if the violation is not cured within the 30-day period, the Town may collect all fines owed, beginning with the first day of the violation, through any means allowed by law.

(e) In determining which remedy or remedies are appropriate, the Town or hearing officer 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 to prevent further violations, and such other matters as the Town or hearing officer determines are appropriate to the public interest.

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

(g) In any proceeding before the Town 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 Town may find a registrant that does not demonstrate compliance with the terms and conditions of this Article in default and apply any one or combination of the remedies otherwise authorized by this Section.

(h) Force majeure. In the event a registrant's performance of or compliance with any of the provisions of this Article is prevented by a force majeure 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 cure or correct any such inability to comply expeditiously.

Section 12: That in the event any section, paragraph, sentence or word of this Ordinance or application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, that invalidity shall not affect the other sections, paragraphs, sentences or words or application of this Ordinance.

Section 13: That it is the intention of the Town Commission of the Town of Pembroke Park, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Pembroke Park's Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 14: That all Ordinances, or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby superseded to the extent of such conflict. The temporary moratorium adopted by the Town Commission pursuant to Ordinance No. 18-03-02 shall terminate upon the effective date of this Ordinance.

Section 15: That this Ordinance shall be in force and take effect immediately its passage and adoption.

PASSED AND ADOPTED on First Reading the 12th day of September, 2018.

PASSED AND ADOPTED on Second Reading the 9th day of January, 2019.

ATTEST:

ASHIRA A. MOHAMMED
Mayor-Commissioner

NATASHA JOSEPH
Deputy Town Clerk

VOTE

ASHIRA MOHAMMED	YES
GEORGINA COHEN	YES
HOWARD P. CLARK, JR.	YES