

**CITY OF LIGHTHOUSE POINT  
FLORIDA**

**ORDINANCE NO. 2018 – 0960**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, AMENDING CHAPTER 20, “COMMUNICATIONS”, ARTICLE II, “COMMUNICATIONS RIGHT-OF-WAY” OF THE CITY OF LIGHTHOUSE POINT CODE OF ORDINANCES TO AMEND DEFINITIONS RELATED TO COMMUNICATIONS FACILITIES LOCATED IN THE RIGHTS-OF-WAY WITHIN THE CITY OF LIGHTHOUSE POINT; AND ENACTING A NEW SECTION 20-54, “SMALL AND MICRO WIRELESS FACILITIES” TO PROVIDE FOR THE REGULATION OF SMALL AND MICRO WIRELESS FACILITIES INSTALLED AND MAINTAINED WITHIN PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF LIGHTHOUSE POINT, CONSISTENT WITH SECTION 337.401(7), FLORIDA STATUTES, AS MAY BE AMENDED FROM TIME TO TIME; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, to promote the public health, safety, aesthetics, and general welfare, the City of Lighthouse Point has a substantial and significant public interest in maintaining and protecting its public rights-of-way in a non-discriminatory manner, and requiring that individuals and entities seeking permits to conduct any type of excavation, construction or other activity therein do so in a safe, expeditious, and professional manner; and,

**WHEREAS**, in 2017, the Florida Legislature enacted Section 337.401(7)(a), also known as the Advanced Wireless Infrastructure Deployment Act (the “Act”) which addresses, *inter alia*, local governments’ regulation of the placement, construction or modification of small and micro wireless communications facilities; and,

**WHEREAS**, Section 337.401 *et seq.* Florida Statutes, addresses, *inter alia*, the authority of municipalities to regulate the placement and maintenance of communications facilities in the public rights-of-way; and,

**WHEREAS**, said statutes authorize regulations of telecommunications facilities in the public rights-of-way that are related to the placement or maintenance of facilities in the public rights-of-way, are reasonable and non-discriminatory, and are necessary to the management of the public rights-of-way; and,

**WHEREAS**, the City Code provisions regulating telecommunications towers and antennas need to be updated to expressly address current practices related to small and micro wireless facilities, the placement of wireless service facilities in the public rights-of-way, and to protect the public interest by protecting, preserving and maintaining the health, safety and welfare of the users of the public rights-of-way, while also protecting, preserving and maintaining the aesthetic character of areas where such rights-of-way exist, and this ordinance achieves such purpose; and,

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**WHEREAS**, the City Clerk has provided at least ten days advance notice prior to first reading of this Ordinance to the Secretary of State.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, THAT:**

**Section 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and incorporated herein by this reference.

**Section 2.** Chapter 20 of the City of Lighthouse Point Code of Ordinances entitled “Communications,” Article II, “Communications Rights-of-Way,” is hereby amended as follows:

**Chapter 20 - COMMUNICATIONS**

**ARTICLE II. - COMMUNICATIONS RIGHTS-OF-WAY**

Sec. 20-32. - Title.

This article shall be known and may be cited as the City of Lighthouse Point Communications Rights-of-Way Ordinance.

Sec. 20-33. - Intent and purpose.

It is the intent of the City to promote the public health, safety, aesthetics and general welfare of the City by: providing for the placement or maintenance of communications or personal wireless service facilities in the ~~public rights-of-way~~Public Rights-of-Way within City; adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including F.S. § 337.401, as it may be amended, City's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other federal and state law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of communications facilities in the ~~public rights-of-way~~Public Rights-of-Way by all communications or personal wireless services providers; and minimizing disruption to the ~~public rights-of-way~~Public Rights-of-Way.

Sec. 20-34. - Definitions.

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For the purposes of this article, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated.

When 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; and the masculine gender includes the feminine gender. "And" and "or" may be read conjunctively or disjunctively. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated, words not defined in this article shall be given the meaning set forth in Title 47 of the United States Code, and, if not defined therein, their common and ordinary meaning. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision. References to laws, ordinances or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances and regulations now in force or hereinafter enacted or amended.

Abandonment shall mean the permanent cessation of all uses of a communications or a personal wireless services facility; provided that this term shall not include cessation of all use of a facility within a physical structure where the physical structure continues to be used. For example, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be "abandonment" of a facility in ~~public rights-of-way~~ Public Rights-of-Way.

Antenna means a transmitting and/or receiving device and/or relays used for ~~personal~~-wireless services, which radiates or captures electromagnetic waves, including directional ~~antenna~~ Antennas, such as panel and microwave dish ~~antenna~~ Antennas, and omni-directional ~~antenna~~ Antennas, such as whips, excluding radar ~~antenna~~ Antennas, amateur radio ~~antenna~~ Antennas and satellite earth stations.

Building permit review means a review for compliance with building and related construction standards adopted by the City, which does not include a review for compliance with land development regulations.

City shall mean City of Lighthouse Point, Florida.

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Communications Services shall mean 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, regardless of the protocol used for such transmission or conveyance. Notwithstanding the foregoing, for purposes of this section "cable service", as defined in F.S. § 202.11(2), as it may be amended, is not included in the definition of "eCommunications sServices" and cable service providers or providers of service via an open video system may be subject to other ordinances of the City.

Communications sServices ~~p~~Provider shall mean any person providing communications services through the placement or maintenance of a communications facility in ~~public rights-of-way~~Public Rights-of-Way. "Communications sServices Provider" shall also include any person that places or maintains a communications facility in ~~public rights-of-way~~Public Rights-of-Way but does not provide communications services.

Communications ~~f~~Facility or ~~f~~Facility or sSystem shall mean any permanent or temporary plant, equipment or property, including but not limited to cables, wires, conduits, ducts, fiber optics, poles, ~~antenna~~Antennae, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances, and other equipment or pathway placed or maintained or to be placed or maintained in the ~~public rights-of-way~~Public Rights-of-Way of the City and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communications sServices.

Communications Facilities Provider means a person (other than a communications services provider) operating one or more Communications Facilities located within the City, who is engaged, directly or indirectly, in the business of leasing, licensing, subleasing, subletting or hiring to one or more Communications Service Providers all or a portion of the tangible personal property used in a Communications Facility. A Pass-Through Provider may be a Communications Facility Provider.

FCC shall mean the Federal Communications Commission.

In ~~public rights-of-way~~Public Rights-of-Way or in the ~~public rights-of-way~~Public Rights-of-Way shall mean in, on, over, under or across the ~~public rights-of-way~~Public Rights-of-Way.

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Ordinance shall mean this article.

Pass-Through Provider means any person, municipality or county that places or maintains a Communications System or Communications Facilities in the Public Rights-of-Way but who does not provide Communications Services, including for example a company that places "dark fiber" or conduit in the Public Rights-of-Way and leases or otherwise provides those facilities to another company that does provide Communications Services to an end user. This definition of "Pass-Through Provider" is intended to include any person that places or maintains a Communications System or Communications Facilities in the Public Rights-of-Way, but does not provide Communications Services to an end user within the corporate limits of the City. A utility defined in 47 U.S.C. Sec. 224, is not a Pass-Through Provider.

Person shall include any individual, children, 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, and shall include City to the extent the City acts as a communications services provider.

Personal ~~w~~Wireless ~~s~~Services means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, and shall include "wireless service" as defined in F.S. § 365.172, as well as "personal wireless services" defined in 47 USC §332(c)(7)(C)(i), as they may be amended.

Personal ~~W~~wireless ~~s~~Service ~~f~~Facilities means ~~F~~facilities for the provision of ~~p~~Personal ~~w~~Wireless ~~s~~Services, and, for the purposes of this section, it shall include all of those "~~w~~Wireless ~~e~~Communications ~~f~~Facilities" as defined in F.S. § 365.172, as it may be amended, that are not also telecommunications towers as defined in this section. A power, light or other utility pole used exclusively as such prior to attachment of a ~~p~~Personal ~~w~~Wireless ~~s~~Service ~~f~~Facility shall not be considered a ~~p~~Personal ~~w~~Wireless ~~s~~Service ~~f~~Facility because of such attachment.

Place or maintain or placement or maintenance or placing or maintaining shall mean to erect, construct, install, maintain, grade, excavate, place, repair, extend, replace, expand, remove, occupy, locate or relocate. A ~~e~~Communications ~~S~~ervices ~~p~~Provider that owns or exercises physical control over ~~e~~Communications ~~f~~Facilities in ~~public rights-of-way~~Public Rights-of-Way, such as the physical control to maintain and repair, is "placing or maintaining" the ~~f~~Facilities. A party providing service only through resale or only through use of a

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third party's unbundled network elements is not "placing or maintaining" the ~~C~~ommunications ~~F~~acilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the ~~public rights-of-way~~Public Rights-of-Way does not constitute "placing or maintaining" ~~F~~acilities in the ~~public rights-of-way~~Public Rights-of-Way.

Public ~~R~~ights-of-~~w~~ay shall mean a ~~public right-of-way~~Public Right-of-Way, public utility easement, public highway, street, lane, bridge, sidewalk, road, waterway, tunnel, alley, or similar property for which the City is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the City holds a property interest therein. "~~Public rights-of-way~~Public Rights-of-Way" shall not include private property. "~~Public rights-of-way~~Public Rights-of-Way" shall not include any real or personal City property except as described above and shall not include City buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the ~~public rights-of-way~~Public Rights-of-Way. No reference herein, or in any permit, to ~~public rights-of-way~~Public Rights-of-Way shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a registrant shall be deemed to gain only those rights to use as are properly in the City and as the City may have the undisputed right and power to give.

Registrant shall mean a ~~C~~ommunications ~~S~~ervices ~~P~~rovider or other person that has registered with the City in accordance with the provisions of this ~~section~~article.

Registration or register shall mean the process described in this article whereby a ~~C~~ommunications ~~S~~ervices ~~P~~rovider, or a Pass-Through Provider provides certain information to the City.

Stealth ~~F~~acility means any ~~t~~Telecommunications ~~F~~acility which is designed to blend into the surrounding environment. Examples of ~~s~~Stealth ~~F~~acilities include architecturally screened ~~roof-mounted—antenna~~Antennas, ~~antenna~~Antennas integrated into architectural elements, poles in the rights-of-way that are designed to look like light poles, and ~~telecommunications towers~~wireless facilities designed to look like light poles, power poles or trees.

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Sec. 20-35. - Registration for placing or maintaining ~~e~~Communications ~~F~~facilities in ~~public rights-of-way~~Public Rights-of-Way.

(a) A ~~C~~Communications ~~S~~services ~~P~~Provider, Communications Facility Provider, or Pass-Through Provider that desires to place or maintain a ~~C~~Communications ~~F~~facility in ~~public rights-of-way~~Public Rights-of-Way in the City shall first register with the City in accordance with this article. Subject to the terms and conditions prescribed in this article, a registrant may place or maintain a ~~C~~Communications ~~F~~facility in ~~public rights-of-way~~Public Rights-of-Way. A ~~C~~Communications ~~S~~services ~~P~~Provider with an existing ~~C~~Communications ~~F~~facility in the ~~public rights-of-way~~Public Rights-of-Way of the City as of the effective date of this article shall comply with this article within 60 days from the effective date of this article, including, but not limited to, registration, or be in violation hereof.

(b) A registration shall not convey any title, equitable or legal, to the registrant in the ~~public rights-of-way~~Public Rights-of-Way. Registration under this article governs only the placement or maintenance of ~~C~~Communications ~~F~~facilities in ~~public rights-of-way~~Public Rights-of-Way. Registration does not excuse a ~~C~~Communications ~~S~~services ~~P~~Provider, Communications Facility Provider, or Pass-Through Provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the City's or another person's ~~F~~facilities. Registration does not excuse a ~~C~~Communications ~~S~~services ~~P~~Provider, Communications Facility Provider, or Pass-Through Provider from complying with all applicable City ordinances, codes or regulations, including this article.

(c) Each ~~C~~Communications ~~S~~services ~~P~~Provider, Communications Facility Provider, or Pass-Through Provider that desires to place or maintain a ~~C~~Communications ~~F~~facility in ~~public rights-of-way~~Public Rights-of-Way in the City shall file a single registration with the City which shall include the following information:

(1) Name of the applicant;

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

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(3) For registrations submitted prior to October 1, 2001, the applicant shall state whether it provides local service or toll service or both;

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

(5) A copy of the applicant's certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the Federal Communications Commission, or other federal or state authority, if any;

(6) For an applicant that does not provide a Florida Public Service Commission Certificate of Authorization Number, if the applicant is a corporation, proof of authority to do business in the state of Florida, including the number of the certificate of incorporation; and

(7) A security fund in accordance with this article.

(d) The City Administrator, or his designee, shall review the information submitted by the applicant. If the applicant submits information in accordance with subsection 20-35(c) above, the registration shall be effective and the City shall notify the applicant of the effectiveness of registration in writing. If the City determines that the information has not been submitted in accordance with subsection 20-35(c) above, the City shall notify the applicant of the non-effectiveness of registration, and reasons for the non-effectiveness, in writing. The City shall so reply to an applicant within 30 days after receipt of registration information from the applicant.

(e) A registrant may cancel a registration upon written notice to the City stating that it will no longer place or maintain any ~~C~~ommunications ~~F~~acilities in ~~public rights-of-way~~Public Rights-of-Way within the City and will no longer need to obtain permits to perform work in ~~public rights-of-way~~Public Rights-of-Way. A registrant cannot cancel a registration if the registrant continues to place or maintain any ~~C~~ommunications ~~F~~acilities in ~~public rights-of-way~~Public Rights-of-Way.

(f) Registration shall not in itself establish any right to place or maintain or priority for the placement or maintenance of a ~~C~~ommunications ~~F~~acility in ~~public rights-of-way~~Public Rights-of-Way within the City, but shall establish for the registrant a right to apply for a permit, if permitting is required by the City. Registrations are expressly subject to any future amendment to or replacement of

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this article and further subject to any additional City's ordinances, as well as any state or federal laws that may be enacted.

(g) A registrant shall renew its registration with the City by April 1<sup>st</sup> of even numbered years in accordance with the registration requirements in this article, 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. Within 30 days of any change in the information required to be submitted pursuant to subsection 20-35(c), except, as of October 1, 2001, subsection 20-35 (c)(3), a registrant shall provide updated information to the City. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may result in the City restricting the issuance of additional permits until the Ceommunications Sservices Pprovider, Communications Facility Provider, or Pass-Through Provider has complied with the registration requirements of this sectionarticle.

(h) In accordance with applicable City ordinances, codes or regulations and this article, a permit shall be required of a Ceommunications Sservices Pprovider, Communications Facility Provider, or Pass-Through Provider that desires to place or maintain a Ceommunications Ffacility in public rights-of-wayPublic Rights-of-Way. An effective registration shall be a condition precedent to obtaining a permit. Notwithstanding an effective registration, permitting requirements shall continue to apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.

(i) A registrant that places or maintains Ceommunications Ffacilities in the public rights-of-wayPublic Rights-of-Way and that pays communications services taxes shall not be required to pay a permit fee since the City has elected to collect the communications services tax pursuant to Ch. 202, Florida Statutes, as may be amended from time to time. Pass-Through Providers shall pay a fee pursuant to applicable resolution or City code provision, and section 337.401(5), Fla.Stat., as may be amended from time to time. A Pass-Through Provider that places or maintains a communications facility in the City's roads or rights-of-way shall pay the City an annual amount not to exceed \$500 per linear mile or portion thereof. The City's roads or rights-of-way do not include roads or rights-of-way that extend in or through the municipality but are state, county, or

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~~another authority's roads or rights-of-way shall be required to pay compensation to the city as required by applicable law and ordinances of the city.~~

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Sec. 20-54 – Small and Micro Wireless Facilities

This Section was adopted pursuant to the authority provided in chapter 2017-136, Laws of Florida, which enacted Section 337.401(7), Fla.Stat., known as the "Advanced Wireless Infrastructure Deployment Act," as may be amended from time to time. To the extent of any conflict between this section and state law, the applicable provisions of state law shall control.

(a). Definitions. For purposes of this Section, the following definitions shall apply:

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

Applicable Codes means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement Section 337.401, Fla.Stat. The term includes objective design standards adopted by ordinance that may require a new Utility Pole that replaces an existing Utility Pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards adopted by ordinance that may require a Small Wireless Facility to meet reasonable location context, color, stealth, and concealment requirements.

Applicant means a person who submits an Application and is a Wireless Provider.

Application means a request submitted by an Applicant to the City for a permit to Collocate Small Wireless Facilities.

City Utility Pole means a Utility Pole owned by the City and located in the right-of-way.

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Collocate or Collocation means 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.

Micro Wireless Facility means 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.

Small Wireless Facility means a wireless facility that meets the following qualifications:

- (1) 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
- (2) 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.

Utility Pole means 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 the City grants a waiver for such pole.

Wireless Provider means a wireless infrastructure provider or a wireless services provider.

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Wireless Support Structure means 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.

(b). Location; alternative location procedure. Small Wireless Facilities shall not be subject to the minimum separation distances set forth in Sec. 20-38(c)(8) of the City code, except as expressly permitted by law. Within 14 days after the date of filing a complete Application for a Small Wireless Facility, the City 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 City Utility Pole or support structure or may place a new Utility Pole. The City 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. At the conclusion of the negotiation period, if the alternative location is accepted by the Applicant, the Applicant must notify the City 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. If an agreement is not reached, the Applicant must notify the City of such non-agreement and the City shall grant or deny the original Application within 90 days after the date the Application was filed. 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). Height. The height of a Small Wireless Facility shall not exceed 10 feet above the Utility Pole or structure upon which the Small Wireless Facility is to be Collocated. The height for a new Utility Pole is limited to the tallest existing Utility Pole as of July 1, 2017, located in the same right-of-way, other than a Utility Pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the Small Wireless Facility. If there is no Utility Pole within 500 feet, the height of the Utility Pole upon which the Small Wireless Facility is to be collocated shall not exceed 50 feet.

(d). Collocation application process. Within 14 days after receiving an Application for a permit to Collocate a Small Wireless Facility, the City shall determine and notify the Applicant by electronic mail as to whether the Application is complete. If an Application is deemed incomplete, the City shall specifically identify the missing information. An Application is deemed complete if the City fails to provide notification to the Applicant within 14 days.

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Pursuant to Section 337.401(7), Fla.Stat., as may be amended from time to time, a complete Application to Collocate a Small Wireless Facility is deemed approved if the City fails to approve or deny the Application within 60 days after receipt of the Application. If the City does not use the 30-day negotiation period provided in subsection (b) above, the parties may mutually agree to extend the 60-day Application review period. The City shall grant or deny the Application at the end of the extended period. A permit issued pursuant to an approved Collocation Application shall remain effective for 1 year unless extended by the City.

(e). Written approval or denial. The City shall notify the Applicant of approval or denial by electronic mail. The City shall approve a complete Application unless it does not meet the Applicable Codes. If the Application is denied, the City shall specify in writing the basis for denial, including the specific code provision(s) on which the denial was based, and send the documentation to the Applicant by electronic mail on the day the City denies the Application. The Applicant may cure the deficiencies identified by the City and resubmit the Application within 30 days after notice of the denial is sent to the Applicant. The City shall approve or deny the revised Application within 30 days after receipt or the Application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

(f). Consolidated Application. An Applicant seeking to Collocate Small Wireless Facilities within the City may, at the Applicant's direction, file a consolidated Application and receive a single permit for the Collocation of up to 30 Small Wireless Facilities. If the Application includes multiple Small Wireless Facilities, the City may separately address Small Wireless Facility Collocations for which incomplete information has been received or which are denied.

(g) Basis for denial. The City 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;

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- (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.

(h) Exemptions: The following shall not require permit approval, fees, or other charges:

- 1) Routine maintenance;
- 2) Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or
- 3) Installation, placement, maintenance, or replacement of Micro Wireless Facilities that are suspended on cables strung between existing Utility Poles in compliance with Applicable Codes by or for a Communications Services Provider authorized to occupy the Rights-of-Way and who is remitting taxes under Chapter 202, Florida Statutes.

(i) Collocation on City Utility Poles.

- 1) The fee to Collocate a Small Wireless Facility on a City Utility Pole shall be \$150 per pole annually.
- 2) The City may reserve space on a City Utility Pole for future public safety uses. However, a reservation of space may not preclude Collocation of a Small Wireless Facility. If replacement of the City 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.
- 3) For a City Utility Pole that supports an aerial facility used to provide communication services or electrical service, the City and Applicant shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the City for any make-ready work necessary to enable the pole to support the requested Collocation must include pole replacement, if necessary.
- 4) For a City Utility Pole that does not support an aerial facility used to provide communications services or electric service, the City 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, shall be completed within 60 days after written acceptance of the good faith

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estimate by the Applicant. Alternatively, the City may require the Applicant seeking to Collocate a Small Wireless Facility to provide a make-ready estimate at the Applicant's expense of 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 City 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 for work in the rights-of-way.

- 5) The make-ready work specified in subsections (3) and (4) above shall be subject to the City's usual construction restoration standards for work in the right-of-way. The replaced or altered City Utility Pole shall remain the property of the City.

(j) Design standards. The City's design standards set forth in the Applicable Codes may be waived by the City Commission 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 for a Small Wireless Facility. The waiver shall be granted or denied within 45 days after the date of the request.

(k) Permitting. An Applicant for installation of a Small Wireless Facility shall obtain a right-of-way permit from the City for any work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

(l) Airport airspace. A structure granted a permit and installed pursuant to this section shall comply with Chapter 333, Florida Statutes, and federal regulations pertaining to airport airspace protections.

(m) No authorization to Collocate on City Utility Poles; no Application to Homeowner's Association restricted pole. This section does not authorize a person to Collocate Small Wireless Facilities or Micro Wireless Facilities on a City Utility Pole, unless otherwise permitted by applicable law, or erect a Wireless Support Structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association.

**Section 3. Conflict.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

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**Section 4. Severability.** If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

**Section 5. Codification.** It is the intention of the City Commission of the City of Lighthouse Point that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lighthouse Point, Florida, that the Sections of this ordinance may be renumbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

**(SIGNATURE PAGE TO FOLLOW)**

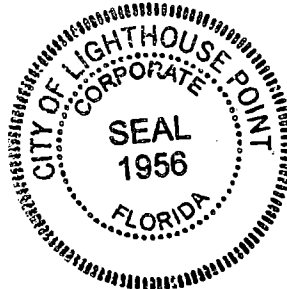
**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE FIRST READING, THIS 13TH DAY OF FEBRUARY, 2018.**

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE SECOND AND FINAL READING, THIS 27th DAY OF February, 2018.**

BY: *Sandy Johnson*  
Sandy Johnson, Commission President

ATTEST:

*Jennifer M. Oh*  
Jennifer M. Oh, City Clerk



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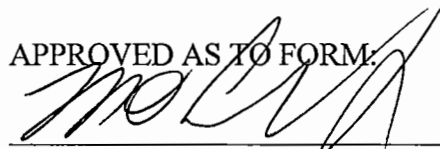
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APPROVED AS TO FORM:

  
\_\_\_\_\_  
Office of the City Attorney

	Yes	No	Absent
Commission President Sandy Johnson	<u>x</u>	_____	_____
Commissioner Vice President Jason D. Joffe	<u>x</u>	_____	_____
Commissioner Michael S. Long	<u>x</u>	_____	_____
Commissioner Earl Maucker	<u>x</u>	_____	_____
Commissioner Kyle Van Buskirk	<u>x</u>	_____	_____

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