

**CITY OF HOMESTEAD, FLORIDA**

**ORDINANCE NO. 2013-12-26**

AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA AMENDING THE CITY CODE BY AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS", **BY CREATING ARTICLE XIV "PUBLIC SAFETY RADIO SYSTEM PROTECTION" TO PROTECT RADIO COMMUNICATIONS IN ORDER TO ENSURE PUBLIC SAFETY WITHIN THE CITY;** PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City Council of the City of Homestead ("City") finds that it is necessary to further enhance the provisions of Chapter 6 of the City Code of Ordinances ("City Code") concerning buildings and building regulations, to provide for the protection of radio communications to ensure public safety within the City; and

**WHEREAS**, this Ordinance provides for adequate protection of the City's public safety radio system coverage in buildings and structures, in order to protect the public safety radio system and ensure that police officers, first responders, firefighters and other public safety officials using the radio system may communicate during emergency situations; and

**WHEREAS**, the City Police Department has evaluated deficiencies in adequate radio coverage for the City's Police Department radio system and the interoperability of the City's Police Department radio system with other first responder and public safety communications, and has determined that such deficiencies predominately occur in buildings or structures designed or used for commercial, multi-family dwelling, or institutional use which have over 40,000 square feet of floor area, and that buildings of

this size and larger are associated with greater incidences of emergency situations requiring radio communications by the City Police Department and other first responders; and

**WHEREAS**, City Council has held duly noticed public hearings on this Ordinance in accordance with law; and

**WHEREAS**, the City Council finds that this Ordinance is necessary and serves to further enhance the protection of the public health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed.

**Section 2. City Code Amended.** Chapter 6 "Buildings and Building Regulations" of the City Code of Ordinances, is hereby amended by creating Article XIV, "Public Safety Radio System Protection," to read as follows:

**Article XIV. Public Safety Radio System Protection.**

**Section 6-542. Public Safety Radio System Protection**

a) **In General.** To the fullest extent allowed by applicable law, it is hereby provided that no person shall knowingly maintain, erect, or construct any building or structure used for multi-family, commercial or institutional use which is subject to this article, or install or operate any electronic device, system, metals, or apply any coating or

paint that degrades, blocks or limits the penetration or transmission of radio waves into or out of any building or structure which is subject to this article, which creates a deficiency in adequate radio coverage for the City's Police Department radio system or the City Police Department's interoperability with other first responder communications. For purposes of this article, the term "adequate radio coverage" shall include each of the following:

- 1) Minimum signal strength of 95 dbm received at the City's radio site when transmitted from 90% of the area of each floor of the building;
- 2) A minimum signal strength of 95 dbm available in 90% of the area of each floor of the building when transmitted from the City's radio site;
- 3) Supportive of the frequency range licensed by the FCC to the City Police Department (150 MHz through 160 MHz); and
- 4) A 95% reliability factor.

b) Amplifications Systems Allowed. Buildings and structures which are subject to this article and cannot support the required level of radio coverage shall be equipped with either a radiating cable or an internal multiple antenna system with or without FCC type accepted bi-directional amplifiers, which at a minimum supports the City Police Department frequencies in the range of 150 MHz through 160 MHz. Prior to installation of an amplification system, a list of all specific public safety radio frequencies to be configured into and repeated by the amplification system shall be obtained by the applicant from the City Police Department, and the amplification system shall be programmed to support these frequencies. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on

an independent battery and/or generator system for a minimum period of twelve (12) hours without external power input. The battery system shall automatically recharge with external power input. If used, the bi-directional amplifiers shall include filters to reduce adjacent frequency interference at least 3dbm below the National Public Safety Planning Advisory Committee band.

c) Testing Procedures. The following testing procedures shall apply to all buildings and structures which are subject to this article:

1) Initial Test and Certification. Initial testing will be performed by the City Police Department personnel or any assigned representative qualified to conduct such testing as authorized by the City Police Department. Failure of a building or structure to support the required level of radio coverage shall require correction of such failure by installation of an amplification system in accordance with subsection (b). The City Police Department shall review the building or structure for compliance with this article subject to the following:

1. Upon the submission of an application for a certificate of occupancy for a building or structure; or
2. Following the completion of a substantial improvement to an existing building or structure; or
3. Upon completion of any modifications, improvements or amplification system changes.

No certificate of occupancy shall be issued for any building or structure which fails to comply with the standards and requirements set forth within this article.

2) Annual Testing and Certification. Annual testing for recertification shall be conducted of all buildings and structures which were previously subject to initial testing and certification pursuant to subsection (c)(1) in order to ensure continued compliance with the standards and requirements set forth within this article.

d) Restriction. To the fullest extent allowed by applicable law, no existing or future telecommunications facilities, telecommunications towers, antennas, personal wireless services facilities or other facilities or structures shall interfere with any public safety radio communications systems including, but not limited to, frequencies licensed by the FCC to the City Police Department in the range of 150 MHz through 160 MHz. The owner or operator of these facilities shall be responsible for compliance with these performance standards. If any such facilities are found to interfere with the City's public safety radio communication system, the facilities operator will, to the extent allowed by applicable law, cease operation of the facility within twenty-four (24) hours of receipt of notice from the City until the interference problem is rectified to the satisfaction of the City Police Department. A violation of these performance standards constitutes a public nuisance and will be prosecuted in accordance with Chapter 19 "Nuisances" and Chapter 7 "Code Enforcement" of this Code.

e) Applicability for Buildings and Structures. To the fullest extent allowed by applicable law, after the effective date of this article, this article shall be applicable to all

buildings or structures designed or used for commercial, multi-family dwelling, or institutional use having at least 40,000 square feet of floor area, upon the occurrence of one of the following:

1) *New buildings or structures.* Submittal of an application for a certificate of occupancy for such building or structure following the effective date of this article;

or

2) *Substantial improvements to qualifying buildings or structures.* For purposes of this subsection only, substantial improvement means any repair, reconstruction or improvement of a building or structure designed or used for commercial, multi-family dwelling, or institutional use having at least 40,000 square feet of floor area, the cost of which equals or exceeds twenty (20) percent of the market value of the building or structure, as determined by the Miami-Dade County Property Appraiser, either: (1) before the improvement or repair is started, or (2) if the building or structure has been damaged and is being restored, before the damage occurred.

f) Compliance. Any building or structure which is subject to applicability of this article pursuant to subsection (e) and which degrades, blocks or limits the penetration and or transmission of radio waves into or out of any building or structure and fails to support adequate radio coverage for the City's Police Department radio system, shall comply with this article. No certificate of occupancy shall be issued for any building or structure unless a compliance determination concerning the requirements of this article

has been made by the City's Police Department based upon Adequate Radio Coverage as provided for in subsection (b) and testing as provided for in subsection (c).

g) **Fees.** Fees for permits, applications, and inspections by the City shall be set by Resolution.

h) **Enforcement.** This article shall be enforceable in accordance with the provisions of Chapter 7 "Code Enforcement" and Chapter 19 "Nuisances" of this Code. The City may take any appropriate legal action, including but not limited to emergency prohibitory and mandatory injunctive action, which may be necessary to enforce the provisions of this article.

**Section 3. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in the Code.** That it is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Homestead; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 5. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 20<sup>th</sup> day of November, 2013.

PASSED AND ADOPTED on second reading this 18<sup>th</sup> day of December, 2013.

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JEFF PORTER  
Mayor

ATTEST:

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ELIZABETH SEWELL, MMC  
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND BENEFIT OF THE CITY ONLY:

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WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, P.L.  
City Attorney

Motion to adopt by Councilman Burgess, seconded by Vice Mayor Shelley.

**FINAL VOTE AT ADOPTION**

<i>Mayor Jeff Porter</i>	<u>YES</u>
<i>Vice Mayor Stephen Shelley</i>	<u>YES</u>
<i>Councilman Jon Burgess</i>	<u>YES</u>
<i>Councilwoman Patricia Fairclough</i>	<u>YES</u>
<i>Councilman Elvis Maldonado</i>	<u>YES</u>
<i>Councilman Stephen Shelley</i>	<u>YES</u>
<i>Councilwoman Judy Waldman</i>	<u>ABSENT</u>
<i>Councilman Jimmie L. Williams, III</i>	<u>YES</u>