

CORAL SPRINGS, FLORIDA

ORDINANCE 2018-104

AN ORDINANCE OF THE CITY OF CORAL SPRINGS, FLORIDA AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF CORAL SPRINGS BY AMENDING SECTION 101, ENTITLED "SPECIAL EXCEPTION FROM LITERAL ENFORCEMENT OF THE LAND DEVELOPMENT CODE;" AMENDING SECTION 190.1, ENTITLED "SCHEDULE OF CIVIL PENALTIES;" AMENDING SECTION 1901, ENTITLED "IMPROVEMENTS WITHIN PUBLIC RIGHTS-OF-WAY;" AMENDING SECTION 250105, ENTITLED "DEFINITIONS;" AMENDING SECTION 250129, ENTITLED "ACCESSORY STRUCTURES;" AMENDING SECTION 250130, ENTITLED "HEIGHT LIMITS;" AMENDING SECTION 250153, ENTITLED "PROCEDURES AND REQUIREMENTS FOR CONDITIONAL USES BEFORE THE PLANNING AND ZONING BOARD AND CITY COMMISSION;" REPEALING CHAPTER 25, ARTICLE XIV, ENTITLED "TELECOMMUNICATIONS TOWERS AND ANTENNAS;" CREATING ARTICLE XVI, ENTITLED "COMMUNICATIONS FACILITIES;" REPEALING CHAPTER 20 OF THE CODE OF ORDINANCES, ENTITLED "TELECOMMUNICATIONS;" PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City of Coral Springs ("City") staff periodically reviews City Ordinances and makes recommendations to the City Commission to revise its Ordinances; and

WHEREAS, in 1996, the City Commission adopted Chapter 25, Article XIV, Sections 2501010 through 2501016 of the Land Development Code of the City of Coral Springs ("LDC") to regulate the placement and maintenance of Communications Towers and Antennas; and

WHEREAS, on May 20, 1997, the City Commission adopted Chapter 20 of the Code of Ordinances of the City of Coral Springs, entitled "Telecommunications"; and

WHEREAS, the provision of wireless communications services is both an important amenity and a necessity of public and private life in the City; and

WHEREAS, the demand for wireless communications services has grown in recent years and continues to grow, and technology to provide such services continues to evolve and to be developed; and

WHEREAS, the City's regulation of facilities for the provision of wireless communications facilities is impacted by applicable federal and state law; and

WHEREAS, as a result of changes in technology involving wireless communications facilities and services, the demand for such services by the City and the City's businesses, residents and visitors, and changes in applicable state and federal law, City Staff recommends that the City Commission repeal, amend, and create certain provisions of the City's LDC and Code of Ordinances to address the City's regulation of wireless communications facilities consistent with current applicable federal and state law as provided in this Ordinance; and

WHEREAS, the Telecommunications Act of 1996, Public Law Number 104-104, codified at 47 U.S.C., §151, et seq. and regulations of the Federal Communications Commission ("FCC") adopted thereto, and as may be amended from time to time, address, *inter alia*, local governments' regulation of wireless antennas and wireless communications towers; and

WHEREAS, the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act"), 47 U.S.C. §1455(a), and regulations of the FCC adopted thereto in 2014, address, *inter alia*, local governments' regulation of the modification of existing wireless antenna support structures and base stations; and

WHEREAS, the Emergency Communications Number E911 Act, Chapter 365, Florida Statutes, addresses, *inter alia*, the authority of local governments to regulate the placement and maintenance of wireless communications facilities; and

WHEREAS, Section 337.401, Florida Statutes, addresses, *inter alia*, the authority of municipalities to regulate the placement and maintenance of communications facilities in public Rights-of-Way; and

WHEREAS, the City has received and expects to receive additional requests from owners of communications facilities and providers of communications service to site wireless communications towers and antennas within the municipal boundaries and is authorized by federal and state law to regulate the siting of such communications towers and antennas; and

WHEREAS, owners of wireless communications facilities have approached the City to obtain access to the City's public Rights-of-Way for such facilities; and

WHEREAS, the public Rights-of-Way are critical to the travel of persons and the transport of goods and other tangibles in the business and social life of the community by all citizens; are critical to the provision of utility services throughout the City; and are a unique and physically limited resource and proper management by the City is necessary to ensure public safety and security, maximize efficiency, and ensure reasonable costs to maintain the public Rights-of-Way in an efficient and effective manner; and

WHEREAS, it is the intent of the City to exercise its authority to adopt reasonable rules and regulations for the placement and maintenance of wireless communications facilities to the fullest extent allowed by federal and state law; and

WHEREAS, adoption of the following Ordinance is necessary to satisfy the above objective; and

WHEREAS, City Staff has determined that this Ordinance is consistent with the City of Coral Springs Comprehensive Plan, the LDC and the Code of Ordinances; and

WHEREAS, the City staff conducted a workshop with interested parties, including representatives of the wireless infrastructure industry and the wireline and wireless communications industries to review and to obtain input regarding the proposed Ordinance; and

WHEREAS, the Planning and Zoning Board has conducted a public hearing, has determined this Ordinance to be consistent with the Comprehensive Plan, the LDC and the Code of Ordinances and recommends approval as provided herein; and

WHEREAS, the City Commission deems it to be in the best interest of the City to amend the LDC and the Code of Ordinances, as more particularly set forth hereinafter; and

WHEREAS, the City Commission conducted a first and second reading of this Ordinance at duly noticed public meetings, as required by law, and after having received input from and participation by interested members of the public and staff, the City Commission has determined that this Ordinance is consistent with the City's Comprehensive Plan and in the best interest of the City, its residents, businesses and its visitors; and

WHEREAS, the City Commission has reviewed the regulations set forth in this Ordinance and has determined that such regulations are consistent with the City's plans.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CORAL SPRINGS, FLORIDA THAT:

Section 1. The foregoing WHEREAS clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. That Section 101 of the Land Development Code of the City of Coral Springs be amended as follows:

Sec. 101. – Special exception from literal enforcement of the land development code.

(a) Definition. "Special exception" [shall mean] relief granted by the city commission, which may be subject to conditions, whenever the commission finds and determines that a literal enforcement of any section of the land development code has one (1) of the two (2) following effects:

(1) Produces a result which is not only a burdensome hardship, but also inconsistent with the general public welfare.

(2) Produces a result which is not only inconsistent with municipal intent in the adoption of any particular section of the land development code, inclusive of the comprehensive plan, but also inconsistent with the general public welfare.

The criteria for a Special Exception for Wireless Communication Facilities shall be as provided for in Chapter 25, Article XVI.

Section 3. That Section 190.1 of the Land Development Code of the City of Coral Springs be amended as follows:

Sec. 190.1. - Schedule of civil penalties.

The following table sets forth the code violation for which civil penalties may be cited under this article. The descriptions of violations are provided for purposes of general identification only. Where specific code provisions apply, the same are indicated following the respective violation description. Amendments affecting the numbering of the referenced sections shall not affect the validity of the fines.

References to "MC" shall mean the Municipal Code of Ordinances of the City of Coral Springs, Florida. References to "LDC" shall mean the Land Development Code of the Code of Ordinances of the City of Coral Springs, Florida.

SCHEDULE OF CIVIL PENALTIES

	Violations pertaining to the following:	Fine	Fine
		First	Repeat
		Violation	Violation
(1)	Announcing Project Sign: LDC 1806 (C)	150.00	300.00

(73)	Massage establishments and massage practices: LDC 1030	150.00	300.00
(74)	<u>Access to the Public Rights-of-Way for Communications Facilities:</u> <u>LDC 2501038</u>	<u>\$250.00</u>	<u>\$500.00</u>

Section 4. That Section 1901 of the Land Development Code of the City of Coral Springs be amended as follows:

Sec. 1901. – Improvements within public rights-of-way.

(a) Purpose. The purpose of this section is to establish procedures and requirements for granting a permit to persons who seek to perform any work or place any improvement in the public Rights-of-Way and once permitted, to put the owner on notice of his duty to inspect, maintain and repair anything so placed.

(i) Requirements for Communication Facilities within the public Rights-of-Way shall be as provided for in Chapter 25, Article XVI.

(ij) [Fees.] Effective October 1, 2004, the fees shall be as provided in Chapter 3 of the Code of Ordinances of the City of Coral Springs. Any and all other provisions of this section shall remain in effect, to the extent not in conflict with the provisions of Chapter 3.

Section 5. That Section 250105 of the Land Development Code of the City of Coral Springs be amended as follows:

Sec. 250105. – Definitions.

~~Antenna: Any device, including but not limited to poles, masts, towers, dishes, wires or rods used to either transmit or receive electromagnetic waves. Common usage includes television, radio, or other similar uses. See Chapter 25, Article XVI.~~

Section 6. That Section 250129 of the Land Development Code of the City of Coral Springs be amended as follows:

Sec. 250129. – Accessory structures.

The following provisions shall apply to accessory structures, other than accessory structures as provided in Chapter 25, Article XVI:

(1) General provisions:

- (a) Except as provided below or elsewhere in this chapter, all accessory structures in residential districts shall be located in rear yards no closer than five (5) feet to the rear plot line and all accessory structures in nonresidential districts shall be located on that half of the plot the farthest distance-wise from any abutting street or streets, unless located within the building area:

- (g) Roof-mounted accessory structures, including but not limited to air conditioning systems ~~and antennas~~, shall be screened and be located so as to be substantially hidden from view at eye level from street Rights-of-Way and any adjacent residential properties. Whenever possible, solar panels must be placed on the slope of the roof away from the front of the structure or away from the side facing the road. Vent pipes, ~~whip antennas~~, nonmotorized turbines, skylights, cupolas, steeples, solar collectors and chimneys shall not be subject to this provision. Roof-mounted equipment shall be compatible with, or painted the same color as, the building.

Section 7. That Section 250130 of the Land Development Code of the City of Coral Springs be amended as follows:

Sec. 250130. - Height limits.

(1) *In general:* Maximum height of structures shall be limited in accordance with the height limitations as specified in each zoning district, subject to the additional limitations and exclusions of this section.

(2) *Antennas:* See Chapter 25, Article XVI

~~(a) *Single-family district.*~~

~~1. Outside antennas, antenna poles, antenna masts or antenna towers shall be permitted as accessory uses or structures in all one-family or two-family residentially zoned districts.~~

~~2. For outside antennas, antenna poles, antenna masts and antenna towers which must extend more than twelve (12) feet over the roofline in order to receive signals, the antenna owner must ensure the safety and integrity of the antenna by obtaining a structural permit for the installation of same.~~

~~(b) *Multiple-family district.*~~

~~1. Except as provided for in subsection 3. below, in multiple-family residentially zoned districts, tenants may install outside antennas, antenna poles, antenna masts or antenna towers on outdoor areas, which are part of the tenant's leased space and are under exclusive use or control of the tenant.~~

~~2. For outside antennas, antenna poles, antenna masts and antenna towers which must extend more than twelve (12) feet over the roofline in order to receive signals, the antenna owner must ensure the safety and integrity of the antenna by obtaining a structural permit for the installation of same.~~

~~3. An association, landlord, property owner, or other management entity may install a central antenna and thereby restrict the installation of individual antennas provided:~~

~~a. The tenant receives the same service that could be received with an individual antenna;~~

~~b. The signal quality of transmission to and from the person's house using the central antenna is as good as, or better than, the signal quality transmission with an individual antenna;~~

~~c. The costs associated with the use of the central antenna are not greater than the costs of installation, maintenance, and use of an individual antenna; and~~

~~d. The requirement to use the central antenna instead of an individual antenna does not unreasonably delay the viewers ability to receive service.~~

(e3) *Exceptions:*

~~1. *Concealment:* The limitations of this section shall not be construed to prohibit any antenna effectively concealed within any object permitted in residentially zoned districts.~~

~~2. *Licensed amateur radio operators:* The limitations of this section shall not be construed to prohibit any amateur radio antenna existing on the effective date of this section owned and operated by an amateur radio operator holding a valid Federal Communications Commission license to operate an amateur radio station, provided the following information is supplied to the city within thirty (30) days from the date of~~

~~adoption of this section:~~

- ~~a. Name of licensed operator;~~
- ~~b. Address of Coral Springs residence;~~
- ~~c. Federal Communications Commission radio license number;~~
- ~~d. Height of existing antenna;~~
- ~~e. Type of existing antenna; and~~
- ~~f. Installation date of existing antenna.~~

3a. *Flagpoles:* Flagpoles in all residentially zoned areas shall not be greater than twenty (20) feet in height above ground level and thirty-five (35) feet in height above grade in non-residential districts. Flagpoles permitted by section 1806(B) for a model row which shall not exceed thirty-five (35) feet.

4b. *Exclusion from height limits:*

a1. Mechanical equipment rooms, penthouses, towers, cupolas, steeples and domes not exceeding in gross area, at maximum horizontal section, thirty (30) per cent of the roof area may exceed the permissible zoning by not more than twenty (20) feet;

b2. Flagpoles ~~and antennas~~ in all nonresidential districts may exceed the maximum height allowed under the applicable zoning by not more than twenty (20) feet;

e3. Chimneys, stacks and tanks, used only for ornamental or mechanical purposes, may exceed the maximum height allowed under the applicable zoning by not more than twenty (20) feet;

d4. Parapet walls not exceeding ten (10) feet above the height of a building.

Section 8. That Section 250153 of the Land Development Code of the City of Coral Springs be amended as follows:

Sec. 250153. - Procedures and requirements for conditional uses before the planning and zoning board and city commission.

(a) No building permit for any structure or occupational license for any use shall be issued for any uses listed as conditional uses until the following procedure has been completed:

(b) The criteria above shall not apply to conditional uses granted in accordance with Chapter 25, Article XVI.

~~(b)~~ [Fees.] Effective October 1, 2004, the fees shall be as provided in Chapter 3 of the Code of Ordinances of the City of Coral Springs. Any and all other provisions of this section shall remain in effect, to the extent not in conflict with the provisions of Chapter 3.

Section 9. That Chapter 25, Article XIV, entitled "TELECOMMUNICATIONS TOWERS AND ANTENNAS," Sections 2501010 through 2501016 of the Land Development Code of the City of Coral Springs is hereby repealed in its entirety.

Section 10. That Chapter 25, Article XVI Sections 2501024 through 2501046 of the Land Development Code of the City of Coral Springs, entitled “COMMUNICATIONS FACILITIES,” is hereby created and shall provide as follows:

ARTICLE XVI. – COMMUNICATIONS FACILITIES

DIVISION 1. - GENERALLY

Sec. 2501024. - Purpose.

These regulations and requirements establish general guidelines for the siting of communications towers and antennas and are intended to accomplish the following purposes:

- (1) protect and promote the public health, safety and general welfare of the residents of the City;
- (2) establish uniform standards and general guidelines for the siting, design, and permitting of communications facilities in the City and Application and review procedures consistent with state and federal law;
- (3) encourage the location of towers in non-residential areas and to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (4) minimize towers throughout the community by strongly encouraging the collocation of antennas on existing structures, including existing towers as a primary option rather than construction of additional towers;
- (5) encourage owners of towers and antennas to configure them in a way that minimizes the adverse visual impact through careful design, siting, screening, and innovative concealment techniques;
- (6) establish appropriate locations in priority order of use, and, further, develop the requirements and standards for the siting of communications facilities within the City boundaries, with due consideration to the City’s Comprehensive Plan, Zoning Map, existing land uses and environmentally sensitive areas, including hurricane preparedness areas and hurricane evacuation routes;
- (7) minimize potential damage to persons and property by requiring such structures be soundly designed, constructed, modified and maintained; and
- (8) encourage the use and development of advanced technology that supports the provision of services while minimizing adverse impacts.

In furtherance of these goals, the City shall at all times give due consideration to the City’s Comprehensive Plan, Zoning Map, existing land uses, and environmentally sensitive areas, including hurricane preparedness areas and hurricane evacuation routes, in approving sites for the location of wireless communications facilities.

DIVISION 2. – WIRELESS COMMUNICATIONS FACILITIES NOT IN THE PUBLIC RIGHTS-OF-WAY

Sec. 2501025. - Definitions.

For purposes of this Article, the following terms, phrases, words and their 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 herein or in the City Code shall be construed to have their common and ordinary meaning only if such terms are not defined or ascribed meaning by federal or State laws and the Orders and Rules interpreting such laws. The following definitions apply only for purposes of this Article to the extent such terms are consistent with and not in conflict with federal or State law and Orders or Rules interpreting such laws.

“Abandonment” or “Abandon” shall mean the cessation of use of a Wireless Communications Facility; provided that this term shall not include cessation of all use of a Facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be “Abandonment” of a Facility in Public Rights-of-Way.

“ADA” shall mean the Americans With Disabilities Act, 42 U.S.C. Sec. 12101, et seq., as same shall be amended from time to time and regulations promulgated thereunder.

“Accessory or Ancillary Use” shall mean a use incidental to, subordinate to, and subservient to the main use of the property and is limited to no more than one-third (1/3) or less of the gross floor area of the principal building or use, unless otherwise allowed by State or federal law.

“Amateur Radio Towers” shall mean structural facilities used to support amateur radio antennas as licensed and operated by federally licensed amateur radio station operators.

“Antenna” shall mean a transmitting and/or receiving device used for personal wireless services that radiates or captures electromagnetic waves, including directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips, excluding radar antennas, amateur radio antennas and satellite earth stations.

“Applicant” shall mean a person and such person’s successor in interest submitting an Application.

“Application” shall mean the submission pursuant to the form and procedures required by the City to request to install, construct, operate, maintain, revise or remove a wireless communications facility within the City or that seeks any other relief from the City pursuant to this Article.

“Array” shall mean a group of multiple antennas, consisting of, but not limited to, panels, whips, and other electromagnetic transmit and/or receive devices that are either (i) mounted or side mounted on the rooftop of a building or rooftop structure(s); or (ii) directly or indirectly mounted on a communications tower.

“Arterial Roadway” shall mean a roadway route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance and constitutes the largest proportion of total travel as per the Broward

County Trafficways Plan maintained by Broward County or the City's Comprehensive Plan, as such Plans may be amended from time to time.

"Attach" means the placement or attachment of a Communications Facility on any Existing Structure, regardless of whether or not there is an existing Communications Facility located upon the Existing Structure.

"Backhaul Network" shall mean the physical copper, coaxial, or fiber-optic lines or microwave links that connect a provider's Cell Tower or Wireless Communications Facilities sites between one another and/or to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

"Base Station" shall mean a structure and/or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a Tower as defined herein or any equipment associated with a Tower. Base Station includes without limitation:

- (1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul network;
- (2) Radio transceivers, antennas, copper, coaxial or fiber-optic lines, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks); and
- (3) Any structure other than a Tower that, at the time the relevant Application is filed with the City under this Article, supports or houses equipment described in subparagraphs (1)-(2) above, that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant Application is filed with the City under this Article, does not support or house equipment described in (1)-(2) of this section.

"Broadcasting Facility" shall mean any Communications Tower or Antenna built primarily for the purpose of broadcasting AM, FM or television signals.

"Building Permit Review" shall mean a review for compliance with building construction standards adopted by the City under Chapter 553, Florida Statutes, and does not include a review for compliance with land development regulations.

"City" shall mean the City of Coral Springs, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

"City Commission" shall mean the governing body of the City.

"City Manager" shall mean the chief executive officer of the City and the administrative head of the City, as provided in the City Charter. The term City Manager also includes his or her designee.

“Code” shall mean the Land Development Code of the City of Coral Springs, Florida.

“Collector Roadway” shall mean a route providing service that is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs as per the Broward County Trafficways Plan maintained by Broward County or the City’s Comprehensive Plan, as such Plans may be amended from time to time.

“Collocation” or “Collocate” for purposes of an Eligible Facilities Request shall mean the mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. For purposes other than an Eligible Facilities Request, “Collocation” shall mean the situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent Antenna. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the Antennas.

“Communications Tower” or “Tower” shall mean any structure built for the sole or primary purpose of operating as an antenna, or supporting any FCC-licensed or authorized Antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site, and shall not include for example: utility poles, light poles, pedestrian signalized poles or signalized intersection poles, mastarms, or similar vertical structures that have a primary purpose or function independent of supporting a Wireless Communications Facility.

“Concealed” or “Concealed Facility” shall mean any wireless communication facility that is designed to blend into the surrounding environment or that camouflages or conceals the presence of the wireless communication facility. Examples of concealed Towers include, but are not limited to, man-made trees, clock towers, bell steeples, flag poles, flag pole styled poles (which do not require flag), light poles, and similar alternative-design mounting structures. Examples of concealed Antennas include, but are not limited to, architecturally screened roof-mounted Antennas, building-mounted Antennas painted to match the existing structure, and Antennas integrated into architectural elements. Examples may be found on the Community Development page at <http://www.coral springs.org>. Unless waived by the City, any such concealed facility shall function in the same manner as the facility it resembles in compliance with the City Code, at the expense of the applicant. By way of example, if an applicant installs a wireless facility that resembles nearby light poles, the facility shall include a light that is operated in the same manner as other light poles, a flag pole shall include a flag, etc., at the applicant’s expense.

“County” shall mean Broward County, Florida.

“Day(s)”. Except when otherwise referred to herein as “business days”, in computing any period of time expressed in day(s) in this Article, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the

period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is fourteen (14) days or less, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

“Eligible Facilities Request” shall mean any request in accordance with FCC regulations codified at 47 C.F.R. §1.40001 for modification of an Existing Tower or Base Station that does not Substantially Change the physical dimensions of such Tower or Base Station, involving:

- (1) Collocation of new transmission equipment;
- (2) Removal of transmission equipment; or
- (3) Replacement of transmission equipment.

“Eligible Support Structure” shall mean any Tower or Base Station as defined in this Article, provided that it is existing at the time the relevant Application is filed with the City under this Article.

“Equipment Facility” shall mean a room, cabinet, shelter, pedestal, build-out of an existing structure, building, or similar structure used to house ancillary equipment for a communications tower or Antenna. Each such cabinet, shelter, or building shall be considered a separate Equipment Facility.

“Established Grade” shall mean the average elevation of the public sidewalks around or abutting a plot, or in the absence of sidewalks, the average elevation of the public streets abutting the plot as measured at the crown of the road.

“Existing” means for purposes of this Article, a constructed Tower or Base Station if it has been reviewed and 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 existing for purposes of this section.

“Extraordinary Conditions” shall mean subsequent to a hurricane, flood, or other natural hazard or subsequent to a defective finding on a previous inspection.

“FAA” shall mean the Federal Aviation Administration.

“Facility” or “Facilities” shall mean a Wireless Communications Facility.

“FCC” or “Commission” shall mean the Federal Communications Commission.

“Florida Building Code” shall mean the Florida Building Code promulgated under Chapter 553, Florida Statutes and includes the Broward County Amendments thereto as both may be amended from time to time.

“Geographic Search Ring” shall mean an area designated by a wireless provider or operator for a new base station and/or tower produced in accordance with generally accepted principles of wireless engineering.

“Guyed Tower” shall mean a Communications tower that is supported, in whole or in part, by guy wires and ground anchors.

“Height” shall mean the vertical distance measured from the base of the tower or structure at established grade to the highest point of any part of the structure or as otherwise described in this Article.

“Historic Building, Structure, Site, Object, or District” shall mean any building, structure, site, object, or district that has been officially designated as a historic building, historic structure, historic site, historic object, or historic district through a federal, state or local designation program.

“In Public Rights-of-Way” or “in the Public Rights-of-Way” shall mean in, on, over, under or across the Public Rights-of-Way within the City over which the City has jurisdiction, control and authority to regulate. To the extent permitted by law, the term shall also include those Rights-of-Way over which the County or State has jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the City the authority to regulate the registration, permitting, placement, installation and maintenance of Wireless Communications Facilities.

“Interference” shall mean the impairment of transmission or reception of any desired communications or radio frequencies within the City. This term embraces electrical Interference in all of its forms, including, without limitation, co-channel Interference, Interference from intermodulation products, and blanketing Inference.

“Lattice Tower” shall mean a Communications tower that is constructed to be self-supporting by lattice type supports and without the use of guy wires or other supports.

“Local Road” shall mean a route providing service that is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property and is not included in the Broward County Trafficways Plan.

“Lot Size” shall mean the dimensions of the entire parcel as evidenced by the official records of Broward County, Florida.

“Microwave Dish Antenna” shall mean a dish-like Antenna used to link communications sites together by wireless transmission and/or receipt of voice or data.

“Monopole Tower” shall mean a Communications tower consisting of a single pole or spire self-supported on a permanent foundation, constructed without guy wires, ground anchors, or other supports.

“Pass-Through Provider” shall mean any person who places or maintains a wireless communications facility in the Public Rights-of-Way of the City and who does not remit taxes imposed by the City pursuant to Chapter 202, Florida Statutes, as same may be amended from time to time. Depending upon how the communications facility is utilized, the person who places or

maintains a particular wireless communications facility may be either a Pass-Through Provider, or a communications service provider as to that particular communications facility. A Utility as defined in 47 U.S.C. §224 is not a Pass-Through Provider.

“Permit” shall include, but not be limited to, engineering and construction permits issued by the City Manager or his or her designee.

“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, and shall include the City to the extent the City acts as a communications services provider.

“Personal Wireless Service” shall mean commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, and shall include “wireless service” as defined in Section 365.172, Florida Statutes, as amended, as well as “personal wireless services” as defined in 47 U.S.C. §322(c)(7)(C)(i), as amended, and includes but is not limited to, cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging service. Personal Wireless Services shall not be considered as essential services that directly relate to the health and safety of residents, including fire, police and rescue public safety telecommunications, public utilities or private utilities.

“Place” or “placement” or “placing” shall mean to erect, construct, install, place, extend, expand, remove, occupy, locate, relocate, or alter the configuration of an existing Communications Facility.

“Pole Attachment” shall mean any attachment of a Wireless Communications Facility by a provider of Personal Wireless Services to an existing Utility Pole or existing structure within a Public Right-of-Way.

“Pre-Existing Towers” and “Pre-Existing Antennas” shall mean a Communications Tower or Antenna for which a building permit has been properly issued prior to the effective date of this Article, including permitted Communications Towers or Antennas that have not yet been constructed so long as such approval is current and not expired.

“Public Rights-of-Way” shall mean a Public Right-of-Way, Arterial Roadway, Collector Roadway, Local Road, highway, street, lane, sidewalk, alley, waterway, or bridge for which the City is the authority that has jurisdiction and control and may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. The term does not include platted utility easements that are not part of a dedicated Public Right-of-Way. To the extent permitted by law, the term shall also include those Public Rights-of-Way within the corporate boundaries of the City over which the County or State has jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the City the authority to regulate the registration, permitting, placement, installation and maintenance of Communication Facilities. “Public Rights-of-Way” shall not include private property. “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 Safety Communications” shall mean any and all wireless communications to and from police, fire, and other emergency services operating within the City.

“Registration” shall mean the registration described in Section 2501038 of this Article.

“Rooftop” shall mean the exterior surface on the top of a building or structure.

“Setbacks” shall mean the required distance from the Communications tower or Equipment Facility to the property line of the parcel on which the wireless communications facility is located.

“Signage” shall mean 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.

“Site” shall mean, for Towers, the current boundaries of the leased or owned property surrounding a Tower and any access or utility easements currently related to the Site. For other Eligible Support Structures, “Site” shall be further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

“State” shall mean the State of Florida.

“Substantial Change” shall mean a modification that changes the physical dimensions of an Eligible Support Structure if it meets any of the following criteria:

- (1) For Towers other than Towers in the Public Rights-of-Way, it increases the Height of the Tower by more than 10% or by the Height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
- (2) For Towers other than Towers in the Public Rights-of-Way, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- (3) For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for Towers in the Public Rights-of-Way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground

cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

- (4) It entails any excavation or deployment outside the current site;
- (5) It would defeat the concealment elements of the eligible support structure; or
- (6) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in sub-paragraphs (1)-(4) of this section.

“Transmission Equipment” shall mean any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, Antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply. This definition includes equipment used in any technological configuration associated with any Commission-authorized wireless transmission, licensed or unlicensed, terrestrial or satellite, including commercial mobile, private mobile, broadcast, and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband.

“Utility” shall mean any person or entity who is a local exchange carrier or an electric, gas, water, steam or other public utility, and who owns or operates appurtenant facilities or equipment that are used for transmission of such Utility’s goods, commodities or services.

“Utility Pole” shall mean any pole or structure designed to maintain, or used for the purpose of, lines, cables, or wires for communications, cable, electricity, street lighting, other lighting standards, or comparable standards.

“Whip Antenna” shall mean a cylindrical Antenna that transmits signals in 360 degrees.

“Wireless Communications Facility” shall mean any facility used to provide Wireless Service and may include, but is not limited to, Antennas, Towers, Base Station, Equipment Facility, cabling, Antenna brackets, and other such equipment. It also means Personal Wireless Services facilities, as defined under federal law, 47 U.S.C. §332(c)(7)(C), as this definition may be amended from time to time, and includes, but is not limited to, Antennas and radio-transmitting Communications Towers, and associated facilities used to transmit communications signals. Utility Poles are only a support structure and are not a Wireless Communications Facility. An open video system is not a Wireless Communications Facility to the extent that it provides video services; a cable system is not a Wireless Communications Facility to the extent that it provides cable service.

“Wireless Communications Facility Provider” shall mean a person, other than a Wireless Service Provider, who installs, constructs, owns or operates a Wireless Communications Facility within the City for the purpose of leasing, licensing, subleasing, or subletting all or a portion of such Facility to one or more Wireless Service Providers. A Wireless Communications Facility Provider shall be considered a Pass-Through Provider if such Facility is located in Public Rights-of-Way.

“Wireless Service” shall mean communication service provided by means of radiofrequency signals pursuant to an FCC license or other FCC authorization, including, but not limited to, Personal Wireless Service.

“Wireless Service Provider” shall mean a person duly authorized and licensed by the FCC to deliver Wireless Service.

Sec. 2501026. - Applicability and Administration.

- (1) Right-of-Way applications, review procedures, development standards, and other regulations shall be solely governed by Sections 2501038 and 2501039.
- (2) All new Wireless Communications Facilities and repairs or modifications to existing Wireless Communications Facilities in the City shall be subject to the regulations in this Article to the full extent permitted under applicable state and federal law.
- (3) Pre-existing Communications Towers or Antennas shall not be required to meet the requirements of this Article, other than the specific requirements set forth herein.
- (4) Pending Applications. This Article shall apply to all pending Applications for Wireless Communications Facilities, Towers, and Antennas as defined herein unless prohibited by applicable law.
- (5) Non-Essential Services. The providing of Personal Wireless Services and the siting and construction of Wireless Communications Facilities shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services or public safety communications.
- (6) Except for matters herein specifically reserved to the City Commission, the City Manager shall be the principal City official responsible for the administration of this Article. The City Manager may delegate any or all of the duties hereunder unless prohibited by applicable law.
- (7) Array. For purposes of implementing this Article, an Array, consisting of one or more Tower units and supporting ground system which functions as one Broadcasting Facility Antenna, shall be considered one Tower. Measurements for Setbacks and separation distances shall be measured from the outer perimeter of the Towers included in the Array.

Sec. 2501027. - Application Requirements.

- (1) The City shall create an Application form that may be amended from time to time, for a person to apply for the construction, installation, or placement of a Wireless Communications Facility, Tower, Antenna or for an Eligible Facilities Request within the City consistent with the terms of this Article.
- (2) Prior to submitting an Application, an Applicant is strongly encouraged to conduct a pre-application meeting with the City to review the Application and discuss Applicant’s

plans. The pre-application meeting may be conducted by telephone or video conference at the Applicant's request.

(3) The following information must be included in an Application for an Eligible Facilities Request.

(a) Name and contact information for the Applicant and information as to the property owner.

(b) Lot size and a description of the current Site.

(c) The Applicant shall indicate whether the Application is for an Eligible Facilities Request, and if so, signed and sealed plans from a Florida licensed professional engineer or a qualified radio frequency engineer, which qualifications must be submitted to and approved by the City, that provides a description of the Facility that is the subject of the Application and demonstrate that the Application satisfies the requirements for an Eligible Facilities Request.

(d) Signed and sealed information from a Florida licensed professional engineer or a qualified radio frequency engineer, which qualifications must be submitted to and approved by the City, to demonstrate that the Facility is an Existing Tower or Base Station as defined in this Article, including the dates of such approvals and copies of applicable permits or permit numbers.

(e) Any conditions on such approvals including but not limited to any requirements for a Concealed Facility and information to demonstrate how the Application complies with such conditions (including photo simulations to scale if appropriate).

(f) The Applicant shall describe whether the request involves the Collocation of new Transmission Equipment, the removal of existing Transmission Equipment and/or the replacement of existing Transmission Equipment.

(g) The Applicant shall provide signed and sealed plans from a Florida licensed professional engineer of record to demonstrate that the request does not involve a Substantial Change, including information as to the Height and dimensions of the Facility before and after the proposed modification. Pursuant to 47 CFR § 1.40001(b)(7)(i)(A), as it may be amended, changes in Height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in Height should be measured from the dimensions of the Tower or Base Station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act. In addition, an ALTA survey shall be provided.

(h) Certification signed and sealed by a Florida licensed professional engineer or a qualified radio frequency engineer, which qualifications must be submitted to

and approved by the City, that the proposed Wireless Communications Facility meets all FCC standards and requirements.

(i) Certification signed and sealed by a Florida licensed professional engineer of record that the proposed Wireless Communications Facility will be structurally sound, in conformance with applicable provisions of the Florida Building Code and will not cause any quantifiable wind-loading stress on the Base Station or Tower requiring structural modifications, in compliance with ANSI/EIA/TIA-222 G (as amended) for Broward County, Florida.

(4) Collocations Governed by the Emergency Communications Number E911 Act.

(a) Each Application for Collocation of a second or subsequent Antenna on a Tower.

1. Each application for collocation of a second or subsequent Antenna on a Tower within the City's jurisdiction that satisfies all of the requirements of Section 365.172(13)(a)1.a., Florida Statutes, shall be subject only to building permit review and review for compliance with such Statute. Such collocations are not subject to any design or placement requirements of the City's land development regulations in effect at the time of the collocation that are more restrictive than those in effect at the time of the initial antenna placement approval, or to any other portion of the land development regulations. The applicant shall meet the same application requirements submitted for the initial antenna placement approval.

2. If only a portion of the collocation does not meet the requirements of Section 365.172(13)(a)1.a., Florida Statutes, where all other portions of the collocation meet the requirements of same, that portion of the collocation only shall be subject to the application requirements contained in Subsection 2501027(5) below.

(b) Each Application for Collocation of a second or subsequent Antenna on a Structure.

1. Each application for Collocation of a second or subsequent Antenna on a Structure, other than a historic building, structure, site, object, or district, within the City's jurisdiction that satisfies all of the requirements of Section 365.172(13)(a)1.b., Florida Statutes, shall be subject only to building permit review and review for compliance with such Statute. Such collocations are not subject to any portion of the City's land development regulations not addressed in such Statute. The applicant shall meet the same application requirements submitted for the initial antenna placement approval.

2. If only a portion of the collocation does not meet the requirements

of Section 365.172(13)(a)1.b., Florida Statutes, where all other portions of the collocation meet the requirements of same, that portion of the collocation only shall be subject to the application requirements contained in Subsection 2501027(5) below.

(5) The following information must be included in an Application for a Tower or Antenna or for an Application for Collocation other than an Eligible Facilities Request or collocations under Subsection 2501027(4) above.

(a) Name and contact information for the Applicant and information as to the property owner.

(b) Whether the proposed facility is the Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an Antenna or Tower on such lot. A statement regarding whether the Tower is a new installation or is a modification of an existing structure to be used as a tower. A statement regarding the proposed Antenna(s) that will be placed on the proposed tower or attached to or placed upon an existing building.

(c) Lot size. For purposes of determining whether the installation of a Communications Tower or Antenna complies with the zoning provisions, including, but not limited to, where applicable, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the Antenna or Communications Tower may be located on leased parcels within such lot.

(d) Signed and sealed plans from a Florida licensed professional engineer of record that provides a description of the Facility that is the subject of the Application, including the proposed location, Height, dimensions, and design of the proposed Wireless Communications Facilities. In addition, an ALTA survey and a Geographic Search Ring shall be provided.

(e) Inventory of existing sites. Each Applicant shall provide the City with an inventory of its Pre-Existing Towers within the City, and the pre-existing sites of other service providers' Communications Towers within the greater of a one (1) mile radius from the proposed site or the Geographic Search Ring regardless of City boundaries. This inventory is not required to include a Tower which has been approved, but not yet constructed.

(f) The City encourages and hereby establishes a preference for Collocation. For Applications for new Towers, the Applicant must provide information to demonstrate, pursuant to the procedures listed within this subsection that no Pre-Existing Tower or structure can accommodate or be modified to accommodate the Applicant's proposed Antenna. Evidence submitted to demonstrate that no Pre-Existing Tower or structure is suitable may consist of the following:

1. An affidavit with supporting plans and calculations demonstrating that pre-existing Towers or structures located within the geographic search ring as determined by a Florida professional engineer or a qualified radio frequency engineer experienced in the design of telecommunications systems, which qualifications must be submitted to and approved by the City, do not have the capacity to provide reasonable technical service consistent with the Applicant's technical system, including but not limited to, applicable FCC requirements.
 2. An affidavit by a Florida professional engineer or a qualified radio frequency engineer experienced in design of telecommunications systems, which qualifications must be submitted to and approved by the City, demonstrating that Pre-Existing Towers or structures are not of sufficient height to meet applicable FCC requirements, or engineering requirements of the Applicant.
 3. An affidavit with supporting plans and calculations by a Florida professional engineer experienced in design of telecommunications systems demonstrating that Pre-Existing Towers or structures do not have sufficient structural strength to support Applicant's proposed Antenna and related equipment.
 4. An affidavit that the Applicant's proposed Antenna on a Pre-Existing Tower or structure would cause interference with the City's Communications facilities.
 5. An affidavit demonstrating that the Applicant made diligent efforts but was unable to obtain permission to install or collocate the Applicant's Communications facilities on Pre-Existing Towers or usable Antenna support located within, as applicable, either the geographic search ring or a one (1) mile radius from the proposed site.
 6. An affidavit demonstrating that there are other limiting factors that render Pre-Existing Towers and structures unsuitable within the Geographic Search Ring.
- (g) Information to demonstrate compliance with land use siting hierarchies contained in Section 2501029.
- (h) An engineering report, certified by a Florida professional engineer experienced in the design of wireless communications systems that shall include:
1. Information for site plan and/or Planning and Zoning Board review, including without limitation, a legal description of the parent tract and leased parcel if applicable, on-site and adjacent land uses, Master Plan classification of the site, a visual impact analysis and photo digitalization to

scale and landscaping embellishment and/or methods used for concealment or camouflage of the proposed Wireless Communications Facilities viewed from the property line, as well as at a distance of two hundred and fifty (250) feet and five hundred (500) feet from all properties within that range, or at other points agreed upon.

2. Due consideration must be given to potential construction details, including preliminary structural analysis for any proposed structures, such as equipment screen walls.

3. A statement of compliance with this Article and all applicable building codes, associated regulations and safety standards. For all Wireless Communications Facilities attached to existing structures, the statement shall include certification that the structure can support all existing and additional superimposed loads from the Wireless Communications Facility, in compliance with all applicable building codes, associated regulations and safety standards.

4. A certification from a Florida professional engineer or a qualified radio frequency engineer, which qualifications must be submitted to and approved by the City, experienced in design of wireless communications systems that the proposed Facility including reception and transmission functions, will not interfere with or obstruct transmission to and from existing City communications facilities.

(i) Additional information that the City may request consistent with this Article, all other applicable City zoning requirements and applicable law to process the Application.

(j) If a Wireless Infrastructure Provider submits an application to place a Communications Tower, the application must include an attestation by an officer of the Applicant that an Antenna and Associated Equipment Facility will be attached on said Communications Tower and will be used by a wireless services provider to provide service within 9 months after the date the application is approved. A rendering of all concealed Antennas and their Associated Equipment Facilities which will be placed on the Communications Tower must also be provided.

(6) Applications for a Wireless Communications Facility on any property owned, leased or otherwise controlled by the City, except in the Public Rights-of-Way, shall also require a lease agreement approved by the City Commission and executed by the City and the owner of the proposed Wireless Communications facility. The City shall have no obligation whatsoever to enter into such lease. The City may require, as a condition of entering into a lease agreement, the dedication of space on the facility for City communications purposes, as well as property improvement on the leased space. As part of any Application to Collocate Facilities on City-owned property, except in the Public Rights-of-Way, the City may require that the Applicant improve the structural integrity of

the building, structure or other City facility. Any dedications and improvements shall be negotiated prior to execution of the lease.

(a) No lease granted pursuant to this Article shall convey the exclusive right, privilege, permit or franchise to occupy or to use the public lands of the City for delivery of wireless communications services or any other purpose.

(b) No lease granted pursuant to this Article shall convey any right, title or interest in the public lands other than a leasehold interest, and shall be deemed only to allow the use of the public lands for the limited purposes and term stated in the lease. No lease shall be construed as a conveyance of a title interest in the property.

(c) The City Manager may enter into an entry and testing agreement with a service provider to allow for the entry on City property for the purpose of testing. Such entry and testing agreements shall provide for a reasonable time period for such entry and testing, insurance and indemnification requirements, and shall be subject to the approval of the City Attorney's Office.

(7) Cell on Wheels. Upon a declaration of a public emergency, as part of a special event, or due to construction which requires the relocation or reconstruction of existing communications facilities, the City Manager may approve or deny an Application for a temporary Cell on Wheels or similar temporary Wireless Communications Facility on private property or property owned by the City. A Cell on Wheels (COW) is a portable mobile cellular site that provides temporary network and wireless coverage to locations where cellular coverage is minimal or compromised. A COW shall not be allowed in the Public Rights-of-Way. The City Manager's approval of such facility shall be for a maximum period of ninety (90) days, subject to renewal in the sole discretion of the City Manager. Any such approval shall be subject to the Applicant entering into an agreement subject to the approval of the City Attorney's Office providing that the City may terminate such approval at any time with or without cause, appropriate terms for insurance and indemnification of the City, and a security fund in favor of the City. Such installation shall be further subject to Building Permit Review pursuant to an appropriate Application.

(8) Application fee. The City shall establish application fees for all Applications. Application fees shall be established by resolution of the City Commission. The purpose of the application fee is to defray the City's costs in processing the Application. In addition to application fees, the Applicant shall also be responsible for any needed additional consultant fees where additional technical expertise is required (e.g. the City's traffic engineer or noise consultant).

(9) All Applications shall be executed by a person with authority to act on behalf of the Applicant and verified under penalty of perjury that the information contained within the Application is true and correct to the best of the person's knowledge. All subsequent information submitted to the City and appearances at City public hearings, as applicable, shall be by a person with authority to act on behalf of the Applicant.

Sec. 2501028. - Review process.

(1) Unless otherwise authorized by state or federal law, no person shall construct, install or maintain a Wireless Communications facility within the City without the City's approval pursuant to this Article. The City shall review and respond to an Application within the time dictated by the nature and scope of the individual Application, subject to the generally applicable time frames and consistent with the intent of the federal and Florida law.

(2) Reviews and Timeframes for Eligible Facilities Request.

(a) Upon receipt of an Application for an Eligible Facilities Request pursuant to this Chapter, the City shall review such Application to determine whether the Application so qualifies.

(b) Timeframe for Review. Within 60 Days of the date on which an Applicant submits an Application seeking approval for an Eligible Facilities Request, the City shall approve the Application unless it determines that the Application does not satisfy the requirements for such Request, in which case the City may deny the Application for the Eligible Facilities Request. If the City determines that the Application does not satisfy the requirements for an Eligible Facilities Request, the Applicant may request to convert the Application to an Application for Collocation or a new Wireless Communications Facility and may comply with the requirements for such Application. If the City does not act on the Application within the required timeframe, the Applicant may notify the City of its intention to proceed as if the Application has been deemed granted.

(c) Tolling of the Timeframe for Review. The 60-Day review period begins to run when the Application is filed, and may be tolled only by mutual agreement by City and the Applicant, or where the City determines that the Application is incomplete.

1. To toll the timeframe for incompleteness, the City must provide written notice to the Applicant within 30 Days of receipt of the Application, specifically delineating all missing documents or information required in the Application.

2. The timeframe for review begins running again when the Applicant makes a supplemental submission in response to the City's notice of incompleteness.

3. Following a supplemental submission, the City will notify the Applicant within 10 Days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents

or information that were not delineated in the original notice of incompleteness.

(3) Collocations Governed by the Emergency Communications Number E911 Act.

(a) Reviews and Timeframes for Collocation of a second or subsequent Antenna on a Tower.

1. Each Collocation of a second or subsequent Antenna on a Tower within the City's jurisdiction that satisfies all of the requirements of Section 365.172(13)(a)1.a., Florida Statutes, shall be subject only to building permit review and review for compliance with such statute, and shall be approved or denied by the City Manager within forty-five (45) business days after the date the properly completed Application is submitted to the City.

2. If only a portion of the collocation does not meet the requirements of Section 365.172(13)(a)1.a., Florida Statutes, where all other portions of the collocation meet the requirements of same, that portion of the collocation only shall be subject to the requirements contained in Subsection 2501028(4) below.

a. A collocation proposal under this subparagraph that increases the ground space area, otherwise known as the compound, approved in the original site plan for equipment enclosures and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the City's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing.

b. Reviews and Timeframes for Collocation of a second or subsequent Antenna on a Structure.

1. Each Collocation of a second or subsequent Antenna on a Structure, other than a historic building, structure, site, object, or district, within the City's jurisdiction that satisfies all of the requirements of Section 365.172(13)(a)1.b., Florida Statutes, shall be subject only to building permit review and review for compliance with such statute, and shall be approved or denied by the City Manager within forty-five (45) business days after the date the properly completed Application is submitted to the City.

2. If only a portion of the collocation does not meet the requirements of Section 365.172(13)(a)1.b., Florida Statutes, where all other portions of the collocation meet the

requirements of same, that portion of the collocation only shall be subject to the requirements contained in Subsection 2501028(4) below.

a. A collocation proposal under this subparagraph that increases the ground space area, otherwise known as the compound, approved in the original site plan for equipment enclosures and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the City's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing.

(4) For other Applications, the City shall review the Application for consistency with the City's Comprehensive Plan (CP), these regulations, and compatibility of the proposed Wireless Communications Facility with the surrounding neighborhood.

(a) The City may establish separate Applications for the various administrative approvals needed by an Applicant including, but not limited to, site plan, zoning compliance, public safety, and building permit reviews.

(b) The City shall notify the Applicant within twenty (20) business days after the date the Application is submitted or resubmitted as to whether the Application is, for administrative purposes only, properly completed, containing sufficiently reliable information, and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the Application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the Application properly completed. If the Application has been properly submitted, the Application shall be scheduled for the next regularly scheduled public hearing of the Planning and Zoning Board, if such a hearing is required herein and permitted by applicable law. In the event the City requests any additional information, the time in which an Application is processed shall be tolled pending receipt and further evaluation.

(c) Time frame for decision. Each Application for a new Tower, Attachment of an Antenna, or Collocation or portion of Collocation that does not meet the requirements of Section 365.172(13)1.a. or b., Florida Statutes, shall be approved or denied by the City within ninety (90) business days after the date that the properly completed Application is submitted to the City, provided that such Application complies with all applicable federal regulations, and applicable local zoning and/or land development regulations, including but not limited to any aesthetic requirements.

(d) Extension and waiver. Where action by a City Board, Committee, or the City Commission is required on an Application, the City may, by letter to the Applicant, extend the timeframe for a decision until the next available regularly scheduled meeting of the City Board, Committee, or City Commission. Notwithstanding the foregoing, the Applicant may voluntarily agree to waive the timeframes set forth above.

(e) Emergency extension. In addition to the extensions referenced in Subsection 2501028(4)(d) above, the City shall also have the discretion to declare a one (1) time waiver of the timeframes set forth herein in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities in the City.

(f) All Applications for the installation of a Wireless Communications Tower shall be subject to conditional use consideration by the City Commission and shall comply with the Application process set forth herein. The process requires that the Applications, including site plan, be submitted to the Development Review Committee, then to the Planning and Zoning Board and to the City Commission for a public hearings.

(g) All other Applications shall be subject to review by the City Manager unless otherwise provided herein.

(h) The City shall not approve an Application for a proposed Wireless Communications Facility that does not meet FCC standards and regulations, or is otherwise not in compliance with the City's Comprehensive Plan, this Article or any and all applicable provisions of State and federal law.

(5) Conditional Use Review Process.

(a) For all Applications subject to a public hearing before the City Commission, the Planning and Zoning Board and the City Manager shall issue written recommendations to the City Commission. In the event that the City Manager determines that a proposed Wireless Communications Facility subject to the City Commission's approval pursuant to this Article will interfere with any Public Safety Telecommunications, or is otherwise not in compliance with this Article, the City Manager shall recommend that the City Commission deny the Application and shall set forth the reasons for denial in writing.

(b) The City Commission shall consider any part of the Application, the City Manager's and Planning and Zoning Board's recommendation, and any additional evidence presented by the Applicant and the public. The City Commission's consideration of an Application may include, but is not limited to, the compatibility with the surrounding neighborhood or lack thereof, compliance or non-compliance with the Comprehensive Plan, this Article or any other Article of the Code or Code

of Ordinances, or any other lawful reason considered by the City. In the event of conflicts between this Article and these regulations, the more stringent provision with respect to the construction of a Wireless Communications Facility shall apply. If the Applicant wishes to have a court reporter record the City Commission meeting, the Applicant may do so at the Applicant's expense and, if the Applicant orders a copy of the transcript, shall furnish a copy of the transcript to the City within two weeks of receipt or upon filing an appeal with a court of competent jurisdiction, whichever comes first, at the Applicant's expense.

(c) The City Commission's decision either approving or denying an Application shall be by Order of the City Commission. Any decision of the City Commission to deny an Application shall authorize the City Manager to set forth in writing the City Commission's reasons for the denial and to provide such reasons for the decision. It is the intent of this Section to establish a procedure for compliance with the "written decision" and "substantial evidence" requirements of the Telecommunications Act, 47 U.S.C. §332(c)(7)(B)(iii). The City Commission's written reasons shall incorporate by reference the complete Application, minutes of public hearings, and any recommendations and findings by the City Manager, the Planning and Zoning Board and/or the City Commission.

(6) Appeals. Appeals shall be considered in accordance with the provisions of Article VI of the Code.

Sec. 2501029. - Development standards.

(1) General regulations. The standards listed in this Section apply specifically to all Antennas, Towers and Wireless Communications Facilities, other than an Eligible Facilities Requests or a Collocation governed by the Emergency Communications Number E911 Act which satisfies all of the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes, on private property or government owned property subject to the jurisdiction and approval by the City.

(2) Local, state or federal requirements. The construction, maintenance and repair of Wireless Communications Facilities are subject to the supervision of the City to the full extent permitted by applicable law, and shall be performed in compliance with all laws, ordinances and practices affecting such facility including, but not limited to, zoning codes, building codes, and safety codes, permitting requirements, and as provided herein. The construction, maintenance, and repair shall be performed in a manner consistent with applicable industry standards, including the Electronic Industries Association. All Communication Towers and Antennas must meet current standards and regulations of the FAA, the FCC, including emissions standards, and any other agency of the local, state or federal government with the authority to regulate Towers and Antennas. In addition, the entire tower or base station and all appurtenances shall be designed pursuant to the design requirements of ASCE 7 Series II Exposure Category C of the ANSI/EIA/TIA 222 G (as amended) for Broward County, Florida.

(3) Collocation. It is the intent of the City to encourage co-location of Antennas by more than one service provider on Pre-Existing Communications Towers and structures. Except as provided herein, all Towers shall have the capacity to permit multiple users. At a minimum, all Towers shall be designed and constructed to accommodate at least two (2) service providers. If a Tower is modified pursuant to an eligible facilities request, the Tower shall be designed and constructed to accommodate at least three (3) service providers. Collocation of a second or subsequent Antenna on a Tower or structure within the City's jurisdiction that satisfies all of the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes, shall be subject only to requirements contained therein. If only a portion of the collocation does not meet the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes, where all other portions of the collocation meet the requirements of same, that portion of the collocation only shall be subject to the requirements contained in this Section.

(4) Hierarchy of siting alternatives. Placement of Communications Towers, Antennas and Wireless Communications Facilities, other than an Eligible Facilities Requests or a second or subsequent Antenna on a Tower or structure within the City's jurisdiction that satisfies the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes, shall be in accordance with the following siting alternatives hierarchy.

(a) The order of ranking is from highest (1) to lowest (9). Where a lower ranked alternative is proposed, the Applicant must demonstrate in its Application that higher ranked options are not available. The availability of less expensive access to property on a lower ranked site is not sufficient in and of itself to justify using the lower ranked alternative where a higher ranked alternative is otherwise available unless the Applicant can demonstrate that the higher ranked alternative is only available at rates and term durations that are objectively unreasonable and clearly exceed current comparative rates and term durations.

1. Collocation on existing Concealed Tower on property used for a municipal purpose including, but not limited to, parks, public service and City maintenance yards, police and fire stations, City Hall, and community centers (hereinafter "municipal use property").

2. Collocation on existing Communications Tower on municipal use property.

3. Collocation on Existing structures on municipal use property.

4. Attached Wireless Communications Facility on municipal use property.

5. New Concealed Tower on municipal use property.

6. Collocation on Existing structures on private property.

7. Attached Wireless Communications Facility on private property.

8. Collocation on existing Concealed Tower on private property.

9. New Concealed Tower on privately owned property.

(b) For siting of new Communications Towers, the following secondary hierarchy of zoning districts from highest (1) to lowest (4) shall apply. Where a lower ranked alternative is proposed, the Applicant must set out in its Application that the higher ranked zoning alternatives are not available and demonstrate with particularity why they are not available. The availability of a less expensive lease on a lower ranked site is not sufficient in and of itself to justify using the lower ranked alternative where a higher ranked alternative is otherwise available unless the Applicant can demonstrate that the higher ranked alternative is only available at rates and term durations that are objectively unreasonable and clearly exceed current comparative rates and term durations.

1. Parks and Recreation (P) Districts.

2. Community Facility (CF-G) (CF-E)/Special Utility (SU) Districts.

3. Industrial (IC) (IRD) Districts.

4. Business (B-1) (B-2) (B-3) Districts or Downtown Mixed-Use (DTMU) District.

All other districts are least favored. New Communications Towers shall not be allowed in Residential use/districts, unless required by Section 365.172, Florida Statutes. If an Applicant seeks to locate Communications Towers in a residential zoning district, the Applicant may submit an Application to the City, with payment of the appropriate fee, for the City to cooperate in determining an appropriate site. Such Application, however, shall not be subject to the timeframes for action on an Application as otherwise provided in this Article. The placement of Towers or Antennas shall not be permitted in the Historic District which is reserved for the preservation and conservation of the City's natural resources. To minimize the visual impact of Wireless Communications facilities in all zoning districts listed herein, the City requires only Concealed Wireless Communications Facilities.

(5) Aesthetics. It is the intent of this Article to provide for appropriate screening to minimize the visual impact of all Wireless Communications Facilities located within the City.

(a) Wireless Communications Facilities and Towers shall be of a type of Concealed design that best fits into the surrounding area.

(b) Towers and Antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness or be painted a color as may be required by the City.
2. At a Communications Tower site, the design of the equipment facilities and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings to minimize the visual impact yet maintaining standards as set forth by the City Code.
3. The equipment facilities shall be completely surrounded by a decorative concrete block and stucco or pre-cast concrete wall, designed in a compatible architectural style as the Architectural Review Committee or the City Commission may require. This decorative wall shall be designed at the minimum height necessary to completely screen the equipment facilities so as not to be visible from abutting public streets. If it would blend in more with the surrounding area, opaque fencing may be used in lieu of the decorative wall.
4. Architectural embellishment to the decorative wall shall be integrated into the design. Adequate access shall be provided by opaque gates. Walls, gates and accessory structures shall be determined by the Architectural Review Committee and/or any applicable City Code provisions.
5. This decorative wall shall meet the minimum landscaping requirements for zoning districts as provided by Section 250833.
6. Communications tower sites must comply with any landscaping requirements of the City Code and all other applicable aesthetic and safety requirements of the City, and the City may require landscaping in excess of those requirements to enhance compatibility with adjacent land uses. All landscaping shall be properly maintained to ensure good health and viability at the owner's expense. Wireless Communications Facilities shall be landscaped as required by the City.
7. If an Antenna is installed on a structure other than a Communications Tower, the Antenna and supporting equipment facility shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible. The City shall have the discretion to require that any aesthetic screening required by the City exceed the height of the equipment associated with the Antenna by a minimum of one (1) foot.

8. No more than one (1) Communications tower shall be located on a single lot or single building site unless approved by the City.

(6) Antennas on pre-existing structure or rooftop.

(a) Any Antenna which is attached to any structure other than a Pre-existing Communications Tower may be approved by the City Manager as an accessory to any structure in the park, community facility, special utility, industrial, downtown mixed-use, low medium density multiple-family, medium density multiple-family, medium high density multiple-family, high density multiple-family, or business districts. All equipment necessary for the proper operation of the Antenna shall be located within the building upon which the Antenna is mounted, or in an equipment building or otherwise screened from public view. If the Equipment Facility is located on the roof of a building, the area of the Equipment Facility and all other equipment and structures shall not occupy more than one-third (1/3) of the roof area. Once one-third (1/3) of the roof area has been occupied by communications equipment and all other equipment and structures, additional Applications for the placement of Wireless Communications Facilities on that particular Rooftop must be approved as a Special Exception. The City's approval of Antennas or Equipment Facilities attached to a structure shall not relieve the structure's obligation to comply with the City Code and Florida Building Code.

(b) Roof-mounted equipment facilities shall be screened and be located so as to be substantially hidden from view at eye level from street Rights-of-Way and any adjacent residential properties. Roof-mounted equipment shall be compatible with, or painted the same color as, the building.

(7) Antennas on Pre-existing Communications Towers. An Antenna attached to a pre-existing Tower shall be consistent with the following:

(a) Height. For the attachment of an Antenna to a pre-existing Tower or a collocation that does not constitute an eligible facilities request or satisfies the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes, an Antenna may not extend more than ten (10) feet above the Communications Tower. The additional height referred to above shall not require an additional setback or distance separation, subject to City Manager approval. The maximum additional height that may be added to a Tower shall in no way exceed the height limitations in the zoning district.

(8) Minimum standards. Building mounted Antennas shall be subject to the following minimum standards:

(a) The Height of the Antenna, including support structures, shall not extend more than twenty (20) feet above the Height of the roof surface of the building or more than ten (10) feet above the highest point of the structure, whichever is lower.

(b) The building on which the Antenna is mounted must be at least twenty (20) feet in Height.

(c) All equipment necessary for the proper operation of the Antenna shall be located within the building upon which the Antenna is mounted, or in an equipment building or otherwise screened from public view.

(d) All Equipment Facilities shall meet all City design standards and comply with the Florida Building Code.

(e) No commercial advertising, including company name, shall be allowed on an Antenna, screen or Equipment Facility.

(f) No signals, lights, or illumination shall be permitted on an Antenna or equipment building unless required by the FCC or the FAA. Security lighting around the base of the Antenna and equipment building may be provided if such light conforms to the foot candle requirement in the City Code.

(g) The only signage that may be permanently attached to the building shall be for the purpose of identifying the party responsible for operation and maintenance of the facility, its address, telephone number and for safety and security.

(h) Mobile or stationary equipment not located within the building upon which the Antenna is mounted, or in an equipment building or cabinet, shall not be stored or parked on the site of a building mounted Antenna, unless repairs to the Antenna are being made.

(i) At the time of issuance of a building permit, the Applicant shall enter into a contractually enforceable agreement with the City that requires the Applicant or the owner of any Antenna support structure to remove it upon abandonment.

(j) Antennas and related Equipment Facilities shall be located or screened to minimize the visual impact of the Antenna and Equipment Facilities upon adjacent properties.

(k) No Antennas or Equipment Facilities shall be allowed on an Historic Building, Structure, Site, Object, or in an Historic District.

(l) The Antenna is not visible from the ground from a distance of five hundred (500) and one thousand (1000) feet, or other points agreed to by the City and the Applicant, or if visible, is painted to match the building and flush mounted. Screening from ground view may be provided by a parapet or some other type of wall or screening with the approval of the City.

(m) The Antenna is not to be located closer than eight (8) feet to any power line.

(n) The number of Antennas does not exceed three (3) per seven hundred and fifty (750) square feet of roof area per rooftop for buildings under one hundred and twenty five (125) feet in height.

(o) The number of Antennas is not limited for any one (1) building of one hundred and twenty-five (125) feet or higher.

(p) The Antenna shall be installed and maintained in accordance with all applicable code requirements.

(q) The Antenna complies with all applicable FCC and FAA regulations and all applicable building codes.

(r) The Antenna shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting building and shall be screened as required by the City so as to make the Antenna and related equipment as visually unobtrusive as possible.

(s) To minimize adverse visual impacts, Antennas shall be selected based upon the following priority:

1. Any Concealed Antenna (whether panel, whip or dish);

2. Panel;

3. Whip;

4. Dish;

Where a lower ranked alternative is proposed, the Applicant must demonstrate in its Application that higher ranked options are not available.

(9) Lighting. No signals, artificial lights, or illumination shall be permitted on any Antenna or Communications Tower unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Lighting design, if required or proposed, is required to comply with applicable Code provisions. Light fixtures types, if visible, shall be designed in accordance with the architectural design. Industrial type lighting such as wall packs shall be minimized, especially at a visible location.

(10) Setbacks. Communications Towers must be setback a minimum distance of 110% of the Height of the Communications Tower from the property line when adjacent to residential use. If not adjacent to residential use, a Tower may be setback a minimum distance of 110% of the Height of the Communications Tower from the property line unless the applicant provides evidence of tower design utilizing breakpoint technology, in which case the setback shall not be less than the required fall zone certified by a Florida licensed structural engineer. For purposes of measurement, Communications Tower setback

distances shall be calculated and applied to facilities located in the City irrespective of municipal and county jurisdictional boundaries.

(11) Separation. Towers must be separated from adjacent properties by a landscape buffer and fencing as required by the applicable zoning district.

(12) Height. Wireless Communications Towers shall not be constructed at any Heights in excess of that which is allowed in the applicable zoning district. If a maximum Height is not specified, the maximum Height for a Wireless Communications Tower shall be one hundred (100) feet. For the purpose of determining compliance with all requirements of this Article, Communications Tower Height shall be measured from established grade to the highest point on the Communications Tower or other structure, including the base pad and any Antenna extending over the top of the Tower structure itself. Wireless Communications Towers concealed as light poles in parks located in the Parks and Recreation (P) Zoning Districts shall be limited to the height of tallest existing Wireless Communications Towers concealed as a light pole in the same park. If none exist, the height shall be limited to one hundred (100) feet.

(13) Building codes, safety standards and inspections.

(a) To ensure the structural integrity of Wireless Communications Facilities, Towers and Antennas installed, the owner shall construct and maintain Wireless Communications Facilities, Towers, and Antennas in compliance with the Florida Building Code, and all other applicable codes and standards, as amended from time to time. In addition, the entire tower or base station and all appurtenances shall be designed pursuant to the design requirements of ASCE 7, Series II Exposure C of ANSI/EIA/TIA 222 G (as amended) for Broward County, Florida. A statement shall be submitted to the City by a Florida professional engineer experienced in structural design of Communications structures certifying compliance with this Article upon completion of construction and/or subsequent modification. Where a pre-existing structure, excluding light and power poles, is requested as a Concealed Facility, the Facility, and all modifications thereof, shall comply with all requirements as provided in this Article and all other applicable standards as may be amended from time to time.

(b) The owner of the Wireless Communications Facilities, Towers, or Antennas may be required by the City to have an inspection at its expense or provide other reports at its expense should there be an emergency, extraordinary conditions or other reason to believe that the structural, electrical and general systems integrity of the Wireless Communications Facility, Tower, or Antenna is jeopardized. The City shall charge a fee of one thousand dollars (\$1,000.00) to verify the self-inspection report by an independent third party. If, upon inspection, the City concludes that a Wireless Communications Facility, Tower, or Antenna fails to comply with such applicable codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner, opportunity for a hearing before the City's Special Magistrate, the owner shall commence work within thirty (30) days to bring such Wireless Communications Facility, Tower, or

Antenna into compliance with such standards. Failure to bring such Communications Facilities, Tower or Antenna into compliance within sixty (60) days of notice shall constitute grounds for the removal of the Communications Facilities, Tower, or Antenna at the owner's expense.

(14) Warning signs. Warning signs shall only be allowed as required by law.

(15) Licenses. Owners and/or operators of Towers or Antennas shall certify that all licenses required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all such required licenses with the City.

(16) Public Notice. If approved, upon the City's request, the owner of any Communications Tower shall provide notice of the location of the Communications Tower and the Tower's load capacity to other service providers. All costs related to the public notice shall be paid by the Applicant.

(17) Signs. No signs, except as otherwise provide for herein, whether or not posted temporarily, shall be allowed on any part of an Antenna, Wireless Communications Facility, or Communications Tower unless required by applicable law or permit.

(18) Parking. Each Wireless Communications Facility site may provide parking only for use by maintenance personnel. No vehicle storage shall occur.

(19) Outdoor storage. No outdoor storage of vehicles or maintenance equipment is permitted on sites approved for Wireless Communications Facilities.

(20) Equipment Facilities.

(a) Equipment Facilities for a Communications Tower or Antennas mounted on a Tower shall not exceed one thousand (1,000) square feet of gross floor area not including the surrounding concrete pad, or be more than ten (10) feet in Height and shall be located in accordance with the minimum setback requirements of the zoning district in which it is located.

(b) Equipment Facilities used in association with Antennas mounted on structures or Rooftops shall comply with the following:

1. All equipment facilities on a structure or Rooftop shall not be more than ten (10) feet in Height or as otherwise allowed by the City. This ten (10) foot height limitation shall be measured from the top of the structure or roofline to the highest point of the Equipment Facility and, if not screened or otherwise concealed from view, be set back ten (10) feet from the roofline. The base pad shall be considered part of the facility for purposes of measuring the height. In addition, for structures which are less than four (4) stories in height, the related unmanned equipment facility shall be located on the ground or inside the structure and shall not be located on the top of the structure or rooftop unless the equipment facility is completely

screened from sight, as to be demonstrated by a line of site analysis showing the equipment facility cannot be viewed by pedestrians within one (1) block of the structure.

2. If the equipment facility is located on the roof of a building, the area of the equipment facility and all other equipment and structures shall not occupy more than one-third (1/3) of the roof area. Once one-third (1/3) of the roof area has been occupied by communications equipment and all other equipment and structures, no additional Antennas or equipment may be placed on that rooftop. The City may grant a Special Exception to this provision allowing for additional equipment on a particular rooftop, if the Applicant first, at its own cost, conducts an examination of the structural integrity of the roof to determine whether the roof can accept the placement of additional equipment. The City shall balance this report with the aesthetic issues related thereto in considering whether to allow for additional equipment.

3. The City may require that equipment facilities installed on a building shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting building and shall be screened as required by the City so as to make the equipment facility as visually unobtrusive as possible. The City shall have the discretion to require that any aesthetic screening exceed the height of the equipment associated with the Antenna by a minimum of one (1) foot.

(c) Equipment Facilities shall comply with all applicable zoning and building codes, including minimum setback requirements as provided herein. However, where no minimum setback is established or the minimum setback established in the applicable zoning district is less than ten (10) feet, the minimum setback required shall be ten (10) feet.

(d) Mobile or immobile equipment not used in direct support of a Communications Tower shall not be stored or parked on the site of the Tower, except while repairs or inspections of the Communications Tower are being made.

(e) All buildings and equipment cabinets shall be unoccupied at all times except for routine maintenance.

Sec. 2501030. - Replacement or Modification of a Wireless Communication Facility.

(1) A Communications Tower that does not meet the requirements of Subsection 2501030(4) below and is being replaced to accommodate an additional Antenna and/or to improve network functionality and/or structural soundness in compliance with this Article, and which replacement requires movement onsite from its existing location shall require an Application for a new Tower, however said new Tower shall be subject to no more than City Manager review and building permit review so long as the following standards are met:

(a) Movement onsite: The replacement Tower shall be constructed in such a manner that no portion of the replacement Tower shall be a greater distance away from the existing Tower than is necessary to allow for the construction of the replacement Tower or seventy-five (75) feet, whichever is less.

(b) Setbacks: The replacement Tower shall be no closer to any property lines or dwelling units as the Tower and associated equipment facilities being replaced; however, if the use breakpoint technology dictates the setback distances should be greater than the existing Tower, the breakpoint technology setbacks shall prevail.

(c) Height: The height of the replacement Tower shall comply with the requirements of this Article.

(d) Breakpoint technology: The replacement Tower shall use breakpoint technology, in which case the setback shall not be less than the required fall zone certified by a Florida licensed structural engineer.

(e) Concealment: The replacement Tower shall be of a type of Concealed design that best fits into the surrounding area.

(f) Structural standards: The replacement Tower shall be constructed and maintained to meet the structural standards of ANSI/EIA/TIA-G (as amended) Series III, Exposure C or Exposure D, as applicable.

(g) Removal of existing Tower: The existing Tower being replaced shall be removed no later than 60 days after the replacement Tower receives all final inspections and approvals from the City. Removal shall mean all equipment and structures shall be removed from the location in their entirety down to the concrete base/footing, which may remain so long as it is below grade by at least twelve (12) inches, and the existing Tower footprint area is restored to its original condition and surface material (i.e. resodding).

Those replacement Towers which fail to meet any of the requirements listed above shall require an Application for a new Tower and shall be subject to Conditional Use Approval.

(2) Modification of Existing Wireless Communications Facility. Minor modification of a Wireless Communications Facility, including alteration of the Antenna Array shall not require an additional approval so long as the modification does not change the Height of the Communications Tower, increase the number of Antenna elements or feed lines, or enlarge the Equipment Facility and does not involve any Collocation. All other modifications shall require approval in accordance with this Article.

(3) Modification or Replacement of Wireless Communications Facility. The replacement of or modification to a wireless communications facility, except a tower, that results in a wireless communications facility not readily discernibly different in size, type, and appearance when viewed from ground level from surrounding properties, and the replacement or modification of equipment that is not visible from surrounding properties,

all as reasonably determined by the local government, are subject to no more than applicable building permit review.

(4) An existing Tower, including a nonconforming Tower, may be structurally modified to permit Collocation or may be replaced through no more than City Manager review and building permit review, if the overall Height of the Tower is not increased and, if a replacement, the replacement Tower is a Monopole Tower or, if the existing Tower is a Concealed Tower, the replacement Tower is a like-Concealed Tower.

(5) Rebuilding Damaged or Destroyed Towers or Antennas. For the purposes of this Paragraph, damaged or destroyed shall mean that the cost of rebuilding, repair, and/or reconstruction will exceed fifty (50) percent of the replacement cost of the Communications Tower and/or Antenna. Communications Towers or Antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval and without having to meet the separation requirements specified in this Article. The type, Height, and location of the Communications Tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be applied for and diligently pursued in good faith within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the Communications Tower or Antenna shall be deemed Abandoned as specified in this Article.

Sec. 2501031. - Public Safety and City Communications.

(1) City Wireless Communications Facilities and Wireless Services. To the extent permitted by State and/or federal law, the City may request appropriate space on Towers and structures, other than Wireless Facilities installed in the Public Rights-of-Way pursuant to Subsection 2501039, for location of City communications facilities as necessary for the City's internal communications, public safety, or public purposes as determined by the City for the health, safety and welfare of the City's residents.

(a) The City reserves the right to negotiate with an Applicant for a Communications Tower for space on the proposed Communications Tower as may be determined by the City and the Applicant.

(b) The City may request a developer or property owner seeking approvals from the City to permit the City without charge to the City to locate City communications facilities on their building, on another structure, or on their property to allow for the provision of City public safety or internal communications.

(c) The City may request that all developers or property owners allowing wireless facilities on their buildings, on other structures, or on their property that requires the City's approval shall reserve on their structure or property sufficient space as reasonably specified and required by the City to accommodate City Wireless Communications Facilities.

(d) The City may request a developer or property owner seeking approvals from the City to permit service providers to locate Wireless Communications Facilities on their buildings, on another structure, or on their property with reasonable compensation to allow for the provision of Personal Wireless Services within the City limits.

(2) Interference with City Wireless Communications Facilities. All Wireless Service Providers including the Facility Owner shall at all times (24/7) have a valid contact name and telephone number recorded with the City Manager, for immediate response to any such interference concerns. To the extent not inconsistent with applicable law, all service providers of and owners of Wireless Communications Facilities, buildings, or property within the City shall provide a Statement of Non-Interference in addition to complying with the following:

(a) No Wireless Communications Facility, building, or structure shall interfere with any public frequency or City Wireless Communications Facilities. Any service provider that causes interference with any public frequency or the operations of City Wireless Communications Facilities, shall, after receiving notice, rectify the interference immediately.

(b) Upon notification by the City Manager, if the operations of the service provider are causing objectionable technical interference, the service provider shall immediately undertake all steps necessary to determine the cause of and eliminate such interference utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time in any successor regulations, at the cost of the service provider. If said interference continues for a period in excess of 48 hours after notice from the City Manager, the City shall have the right to cause the service provider to cease operating the equipment that is causing the objectionable technical interference or to reduce the power sufficiently to ameliorate the objectionable technical interference until the condition causing said interference has abated. The City may, in addition to the foregoing, file a complaint with the FCC for resolution and/or seek an injunction and pursue other actions including criminal sanctions against the service provider pursuant to Florida law, including but not limited to Florida Statutes, §§ 843.025 and 843.165. Any person who is found to have violated this Subsection shall be subject to sanctions as provided by applicable law.

(c) In the event that the service provider interferes with City Wireless Communications Facilities, once it rectifies the interference, it shall, within thirty (30) days, file a report with the City by a Florida professional engineer or a qualified radio frequency engineer, which qualifications must be submitted to and approved by the City, experienced in design of Communications systems that includes, but is not limited to, the source of the interference, how the interference was rectified, and service provider's plans on preventing such interference from occurring in the future.

(d) The City's Building Official shall have the authority to authorize disconnection of electric service to a building, structure, or Wireless Communications Facility in case of emergency where necessary to address an immediate hazard to life or property. The Building Official shall notify the electric utility and whenever possible the owner of the building, structure, or Wireless Communications Facility of the decision to disconnect prior to disconnecting and shall notify the owner in writing as soon as practical thereafter.

Sec. 2501032. - Removal of Abandoned Antennas and Towers.

Any Antenna, equipment facility, or Communications Tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such Antenna, equipment facility, or Communications Tower shall remove the same within ninety (90) days of receipt of notice from the City. Failure to remove an abandoned Antenna, equipment facility, or Communications Tower within the ninety (90) days shall be grounds for the City to remove the Tower, Equipment Facility or Antenna at the owner's expense. If there are two (2) or more users of a single Communications Tower or Wireless Communications Facility, then this provision shall not become effective until all users cease using the Communications Tower or Wireless Communications Facility. Notwithstanding the foregoing, if the Wireless Communications 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 Wireless Communications Facility requires removal of the Facility only and does not require the removal of the Existing Structure.

Sec. 2501033. - Protection of the City and Residents.

(1) Indemnification. The City shall not enter into any lease agreement for City owned property until and unless the City obtains an adequate indemnity from such provider. The indemnity must at least:

(a) Release the City from and against any and all liability and responsibility in or arising out of the construction, modification, reconstruction, reconfiguration, operation or repair of the Wireless Communications Facility.

(b) Indemnify and hold harmless the City, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the City or any third party arising out of, or by reason of, or resulting from or of each Wireless Communications Facility operator, or its agents, employees, or servants negligent acts, errors, or omissions.

(c) Provide that the covenants and representations relating to the indemnification provision shall survive following the term of any agreement and continue in full force and effect for at least one (1) year following the termination of the party's agreement as to the party's responsibility to indemnify.

(d) In no event shall the City indemnify a Service Provider and/or the owner or operator of a Wireless Communications Facility.

(2) Insurance. The City shall not issue a permit for the installation of a Wireless Communications Facility or enter into any lease agreement for City owned property until and unless the City obtains assurance that such Applicant or lessee (and those acting on its behalf) has adequate insurance. At a minimum, the following requirements must be satisfied:

(a) A Wireless Communications Facility owner shall not commence construction or operation of the Facility without obtaining all insurance required under this Article and approval of such insurance by the City Manager, nor shall a Wireless Communications Facility operator allow any contractor or subcontractor to commence work on its contract or sub-contract until all similar such insurance required of the same has been obtained and approved. The required insurance must be obtained and maintained for the entire period the Wireless Communications Facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the City may order such entities to stop operations until the insurance is obtained and approved.

(b) Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the City. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse in coverage.

(c) These certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the City. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The City may amend its requirements pertaining to insurance from time to time and may require additional provisions pertaining to such insurance in a lease.

(d) In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the lease agreement with the City, then in that event, the Wireless Communications Facility operator shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period.

(3) Comprehensive general liability. A Wireless Communications Facility operator and its contractors or subcontractors engaged in work on the operator's behalf, shall maintain adequate insurance to cover liability, bodily injury and property damage in the amount to be determined by the City at the time of Application. Exposures to be covered include premises, operations, and those certain contracts relating to the construction, installation or maintenance of the Wireless Communications Facility. Coverage shall be written on an occurrence basis and shall be included, as applicable, in the lease agreement between the City and the Wireless Communications Facility operator. Certificates of insurance reflecting evidence of the required insurance shall be filed with the City.

(4) Self-insurance. The insurance requirements and conditions of this section may be satisfied under a self-insurance plan and/or retention. Wireless Communications Facility operator agrees to notify the City, and/or indicate on the certificate(s) of insurance, when self-insurance is relied upon or when a self-insured retention exceeds one hundred thousand dollars (\$100,000.00). The City reserves the right, but not the obligation, to request and review a copy of the Wireless Communications Facility operator's most recent annual report or audited financial statement, which the Wireless Communications Facility operator agrees to furnish for the purpose of determining the Wireless Communications Facility operator's financial capacity to self-insure.

(5) City reserves the right to review, modify, reject or accept any required policies of insurance or self-insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of this section. City reserves the right, but not the obligation, to review and reject any insurer or self-insurer providing coverage because of its poor financial condition or failure to operate legally.

Sec. 2501034. – Construction Bond.

(1) Prior to any construction on public property within the City, every Applicant shall establish a cash bond, or subject to the City's approval in its sole discretion, provide the City with an irrevocable letter of credit or performance bond ("Construction Bond") subject to the approval of the City Manager, in the amount specified in an agreement, permit, or other authorization as necessary to ensure the Applicant's faithful performance of construction and compliance with all permit conditions. The amount of the Construction Bond shall be established by the City based upon the facilities being constructed and potential costs to the City to remove the facilities and restore the property. The minimum amount of the Construction Bond for a Communications Tower shall be twenty-five thousand (\$25,000) dollars and the minimum amount for each Antenna shall be one thousand (\$1,000) dollars. The Construction Bond shall be refunded or released to the Applicant upon the successful construction of the Communications Tower or Antenna and receipt of all final inspections and approvals by the City.

(2) If the City in its discretion accepts a bond, the Applicant and the surety shall be jointly and severally liable under the terms of the bond. The bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the City Attorney's Office; and shall provide that:

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

(b) The rights reserved by the City with respect to any Construction Bond established pursuant to this Article are in addition to all other rights and remedies the City may have under the City Code, a permit, a lease, or at law or equity.

Sec. 2501035. - Amateur Radio Services Antenna Support Structures.

Antenna support structures used in the operation of amateur radio services shall be exempted from the provisions contained within this Article except as noted within this Section. Amateur radio services and Antenna support structures for Amateur Radio Towers shall be governed by the following:

(1) Application requirements and fees. An Application shall comply with the requirements of Section 2501027. The City may establish an application fee for such Application. Such application fee shall be established by resolution of the City Commission. The timeframes for review contained within Section 2501028 shall not apply to such Application. Other Application requirements may be requested as determined by the City Manager.

(2) Required reviews and permits.

(a) By right review. Applications for Antenna support structures less than sixty-five (65) feet in height shall be submitted to the City Manager for review and permit issuance.

(b) Conditional use review. Antenna support structures greater than sixty-five (65) feet in height require conditional use review. Conditional use review Applications shall be submitted to the City Manager for review. The City Manager shall provide a recommendation which shall be forwarded for public hearing review by the Planning and Zoning Board and City Commission at which all interested persons shall be afforded an opportunity to be heard. The Planning and Zoning Board shall make a recommendation to the City Commission. The City Commission approval, if granted shall be in Order form at one advertised public hearing.

(c) Permits shall be required for installation of all Antenna support structures.

(d) If approval is recommended and/or granted, City Manager, the Planning and Zoning Board and City Commission may proscribe conditions and safeguards to such approval.

(3) Requirements.

(a) Such Antenna support structures as a minimum shall be subject to the following standards.

1. Measurement of height. In computing the height of the installation, the top section of the pole, mast or Tower, including Antenna array, when fully extended, shall be considered the top for the purpose of these provisions.

2. Permitted locations and number permitted. A maximum of one (1) Antenna support structure shall be permitted on each building site within residential zoning districts.

3. Building site location. Antenna support structures shall be located behind the required primary/principal building within the rear and interior side yard of the property. Antenna support structures are prohibited within the front and side street yard areas.

4. Setbacks. Antenna support structures shall maintain the same rear and side setbacks as required for the principal building of the building site. All of the above shall also be a minimum of eight (8) feet from any overhead utility line(s) and power line(s). Where such Antenna support structure is located on a building site which is fronting upon two or more streets and/or alleys, the Antenna support structure shall maintain the same primary/principal building setback as required for each such street or alley.

5. Dismantling/tilting provisions for Antenna support structures exceeding fifty (50) feet in height. An Antenna support structure exceeding fifty (50) feet in height shall have the capability of being cranked up and down or being tilted over. Tilted Antenna support structures shall comply with all setbacks contained herein. In case of an impending hurricane or other natural disasters, the Antenna support structure shall be cranked down to its nested position or tilted over and Antenna shall be removed. Antenna engaged in emergency communications shall be exempted from the dismantling provisions.

6. Installation. The installation or modification of an Antenna support structure and foundation shall be in accordance with the manufacturer's prescribed installation and safety procedures and shall meet all applicable City, State and federal requirements, as amended including but not limited to following: Florida Building Code, City Code, National Electric Code and FCC regulations.

(4) Violations. Violations of any conditions and safeguards, when made part of the terms under which the Application is approved, shall be deemed grounds for revocation of the permit and punishable as a violation of the Code.

Sec. 2501036. - Special Exception.

(1) Nothing in this Ordinance may prohibit or have the effect of prohibiting the ability of a Service Provider to provide Personal Wireless Services in accordance with the Telecommunications Act.

(2) General. The provisions listed in this Section apply only where an Application for the construction of a Communications Tower or the placement of an Antenna or associated Equipment Facility in a zoning district does not meet the criteria for approval as provided

in this Article. An Applicant for a Special Exception shall submit information described in this section and the City's Code and any other reasonable information the City may require.

(3) The following provisions shall govern the issuance for Special Exception:

(a) Compliance with the procedures and requirements for Special Exceptions as required in this Section.

(b) In granting a permit, the City may impose conditions to the extent the City concludes such conditions are necessary to minimize any adverse effect of the proposed Communications Tower, Wireless Communications Facility or Antenna on adjoining properties or to satisfy the Special Exception criteria.

(c) Any information of an engineering nature that the Applicant submits, whether civil, mechanical, or electrical, shall be certified by an engineer licensed to practice in the State of Florida or by an engineer exempt from such requirement under Florida law, and with experience with radio frequency and Wireless Communications Facilities.

(d) Applicant shall file an updated site plan or map showing the separation distance from other Towers described in the inventory of existing sites within one-mile of the proposed facility submitted pursuant to this Ordinance. The Applicant shall also identify the type of construction of the existing Communications Tower(s) and the owner/operator of the existing Communications Tower(s), if known.

(4) Factors Considered in Granting Special Exception for Towers and Wireless Communications Facilities. In addition to any standards for consideration of permit Applications pursuant to the City's Code, including the zoning regulations, the City shall consider the following factors in determining whether to issue a Special Exception:

(a) Availability of suitable existing Communications Towers, Wireless Communications Facilities, other structures, or State of the Art technologies not requiring the use of Towers or structures;

(b) Height of the proposed Communications Tower or Wireless Communications Facility;

(c) The Setback and separation distances between the proposed Communications Tower or Wireless Communications Facility and the nearest residential units or residentially zoned properties;

(d) Proximity of the Communications Tower or Wireless Communications Facility to residential structures and residential district boundaries;

(e) Nature of uses on adjacent and nearby properties;

- (f) Surrounding topography;
- (g) Surrounding tree coverage and foliage;
- (h) Design of the Communications Tower or Wireless Communications Facility, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- (i) Proposed ingress and egress; and
- (j) Any other factor the City determines to be relevant.

(5) Public Notice. For purposes of this Chapter and notwithstanding any other requirements with regard to public notice in the City's Code, any request for a special exception on private property shall require a public hearing that shall be advertised at least ten (10) days before the public hearing in a newspaper of general circulation and readership in the municipality. A courtesy notice shall also be mailed to all affected property owners within four hundred (400) feet of the subject property prior to the public hearing. If approved, the owner of any Communications Tower approved for shared use shall provide notice of the location of the Communications Tower and the Tower's load capacity to all other providers regulated by this Ordinance. All costs related to the public notice shall be paid by the Applicant.

Sec. 2501037. - Penalties

(1) Any person, firm or corporation who knowingly breaches any provision of this Article shall upon receipt of written notice from the City be given a time schedule to cure the violation. Failure to commence to cure the violation within thirty (30) days and to complete cure, to the City's satisfaction, within sixty (60) days, or such longer time as the City may specify, shall result in revocation of any permit or license and the City shall seek any remedy or damages to the full extent of the law. This shall not preclude other penalties allowed by law.

(2) In addition to revoking any permit or license for violation of this Article, the City may enforce this Ordinance pursuant to the Local Government Code Enforcement Act, Chapter 162, Florida Statutes, as amended. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

DIVISION 3. – COMMUNICATIONS FACILITIES PUBLIC RIGHTS-OF-WAY REGULATIONS

Sec. 2501038. – Access to the Public Rights-of-Way for Communications Facilities

(1) Definitions. If a term is not defined herein, the definitions contained in Sections 2501025 or 2501039, shall be referenced for guidance. Otherwise, solely as it pertains to this Subsection 2501038, the term:

(a) “Communications facility” or “facility” shall mean a facility, and/or all of the supporting equipment and cabling thereto, which is used to provide one (1) or more communications services, any portion of which occupies the Public Rights-of-Way.

(b) “Communications services” shall mean the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, 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. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added. The term does not include:

1. Information services.
2. Installation or maintenance of wiring or equipment on a customer’s premises.
3. The sale or rental of tangible personal property.
4. The sale of advertising, including, but not limited to, directory advertising.
5. Bad check charges.
6. Late payment charges.
7. Billing and collection services.
8. Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.

(c) “Person” shall means any natural person or corporation, business association or other business entity, including, but not limited to a partnership, a sole proprietorship, a political subdivision, a public agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity that has or seeks to have facilities located in the rights-of-way.

(d) “Public Rights-of-Way“ shall mean the Public Rights-of-Way, Arterial Roadway, Collector Roadway, Local Road, highway, street, lane, sidewalk, alley, waterway, or bridge for which the City is the authority that has jurisdiction and control and may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. The term

does not include platted utility easements that are not part of a dedicated Public Right-of-Way. To the extent permitted by law, the term shall also include those Public Rights-of-Way within the corporate boundaries of the City over which the County or State has jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the City the authority to regulate the registration, permitting, placement, installation and maintenance of Communication Facilities. "Public Rights-of-Way" shall not include private property. "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.

(2) Administration. The City Manager or designee is responsible for enforcing and administering this Section, and the City Manager or designee is authorized to give any notice required by law. The City Manager or designee is also authorized to seek information from any communications facility operator, to establish forms for submission of applications and other information, and to take all other actions necessary or appropriate to the administration of this Section.

(3) General conditions upon use of rights-of-way.

(a) Responsibility for costs. Except as expressly provided otherwise, in this Section or under State law, any act that a communications facility operator, its contractors or subcontractors are required to perform under this Section shall be performed at their cost. If a communications facility operator fails to perform work that it is required to perform within the time provided for performance, the City may perform the work, and bill the communications facility operator therefore. The communications facility operator shall pay the amounts billed within thirty (30) calendar days, subject to the rights, if any, under Sections 337.403 and 337.404, Florida Statutes, as amended.

(b) Construction procedures and placement of facilities; obligation to minimize interference with use of rights-of-way.

1. The construction, operation and repair of communications facilities are subject to the supervision of all of the authorities of the City that have jurisdiction in such matters, and shall be performed in compliance with all laws, ordinances, departmental rules and regulations and practices affecting such system. By way of example, and not limitation, this includes zoning codes and safety codes. In addition, the construction, operation and repair shall be performed in a manner consistent with the highest industry standards. Persons engaged in the construction, operation or repair of communications

facilities shall exercise reasonable care in the performance of all their activities, and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public or to property.

2. All permits required by the City Code or regulations shall be obtained from the proper City officials and all required permit and associated fees, as applicable, paid before any work on a communications facility commences, and all work performed shall be performed in strict accordance with such permits. In any permit so issued, the City may impose as a condition of the granting of the permit such conditions and regulations as may be necessary to the management of the right-of-way including, by way of example and not limitation, conditions requiring notice to affected property owners, conditions imposed for the purpose of protecting any structures in the Public Rights-of-Way, for the proper restoration of such Public Rights-of-Way, and for the protection of the City and the continuity of pedestrian and vehicular traffic.

3. Without limiting the foregoing, all work on communications facilities within the City shall be performed in accordance with good engineering practices. No work on the facilities shall be performed except by experienced and properly trained personnel. The operator of a communications facility is responsible for all the acts of its contractors and subcontractors, and for ensuring that its contractors and subcontractors perform all work in compliance with this Section and any other applicable laws or codes.

4. Operators of communications facilities must follow City-established requirements for placement of facilities in rights-of-way, and must in any event install facilities in a manner that minimizes interference with the use of the rights-of-way by others, including others that may be installing communications facilities. The City may reasonably require that facilities be installed at a particular time as a condition of access to a particular right-of-way, and may require a person using the right-of-way to cooperate with others to minimize adverse impacts on the right-of-way through joint trenching and other arrangements.

5. Except as City may direct otherwise or as otherwise provided in Section 2501039, communications facilities may be constructed overhead where poles exist and electric or communications facilities are overhead, but where both electric or such telephone lines are underground, or are being initially placed underground (whether voluntarily or at the City's direction), other communications facilities shall be constructed underground. Except as City may direct otherwise, whenever and wherever the owner of the poles upon which aerial facilities are located moves its plant from overhead to underground placement in an area, all communications facilities in that area shall be similarly moved underground; provided however, that such

undergrounding requirement shall not apply to above grade facilities that must be located above grade specifically for the transmission or reception of electromagnetic radio frequency signals used in providing wireless service.

6. Any and all Public Rights-of-Way, public property, or private property that is disturbed or damaged during the construction, operation or repair of a communications facility shall be promptly repaired by the communications facility operator or an agent thereof.

7. Tree trimming shall be performed in strict accordance with the City Code.

(c) Relocation of facilities.

1. Unless prohibited by Sections 337.403 and 337.404, Florida Statutes, a communications facility operator shall, as provided in subsection a. below, protect, support, temporarily disconnect, relocate, or remove any of its property when required by the City by reason of traffic conditions; public safety; public right-of-way construction; public right-of-way repair (including resurfacing or widening); or for any municipal project including a change of public right-of-way grade; construction, installation or repair of sewers, drains, water pipes, publicly-owned power lines, signal lines, tracks, or any other type of government-owned communications system, public work or improvement or any government-owned utility; public right-of-way vacation; or for any other purpose where the work involved would be aided by the removal or relocation of the communications facility. Collectively, such matters are referred to below as the "public work."

a. Except in the case of emergencies, the City shall provide written notice describing where the public work is to be performed at least thirty (30) calendar days prior to the deadline by which a communications facility operator must protect, support, temporarily disconnect, relocate or remove its facilities. A communications facility operator may seek an extension of the time to perform such tasks where they cannot be performed in thirty (30) calendar days, and such request for an extension shall not be unreasonably refused.

b. In an emergency, or where a communications facility creates or is contributing to an imminent danger to health, safety, or property, the City may protect, support, temporarily disconnect, remove, or relocate any or all parts of the communications facility without prior notice, and charge the communications facility operator for costs incurred. In case of such emergency, where in the judgment of the City, conditions permit, the City shall reasonably attempt to notify the communications facility operator. The determination as to what constitutes an emergency

is a matter solely within the discretion of the City, in the exercise of its police powers.

2. A communications facility operator shall, on the request of any person holding a valid permit issued by a governmental authority, temporarily raise or lower its wires to permit the moving of buildings or other objects. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same. A communications facility operator shall be given not less than seven (7) calendar days advance notice to arrange for such temporary wire changes unless an alternate timeframe is agreed to by the parties.

3. If a state statute requires the City to compensate a person for the cost of relocation or removal, nothing in this chapter shall be read to abrogate any right such person may have to that compensation.

(d) Underground services alert. Each operator of a communications facility that places facilities underground shall be a member of the regional notification center for subsurface installations (underground services alert) and shall field mark the locations of its underground communications facilities upon request. The operator shall locate its facilities for the City at no charge.

(e) Publicizing work.

1. Before entering onto any private property to perform work, a communications facility operator shall use its best efforts to contact the property owner or (in the case of residential property) the resident at least one (1) day in advance, and describe the work to be performed, or as far in advance as is possible where the entry is required in order to perform work that must be completed in less than one (1) day.

2. Each communications facility owner shall provide the City a plan for any initial system construction, or for any substantial rebuild, upgrade or extension of its facility, which shall show its timetable for construction of each phase of the project, and the areas of the City that will be affected.

(f) Reports. To the extent permitted by law, the City may require operators of communications facilities to maintain records, and to prepare reports relevant to determining the compliance of the communications facility operator with the terms and conditions of this Section.

(g) Maps. Each communications facility operator shall maintain accurate maps and improvement plans which show the location, size, and a general description of all facilities installed in the rights-of-way and any power supply sources (including voltages and connections). Maps shall be based upon post-construction inspection

to verify location. To the extent permitted by law, such maps shall be made available to the City upon request.

(h) Compliance with laws. Each communications facility operator shall comply with all City laws and regulations heretofore and hereafter adopted.

(i) Transfer, sale or assignment of assets in Public Rights-of-Way.

1. If a registrant under Subsection 2501038(4) below transfers, sells or assigns its assets located in 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 Section. Written notice of any such transfer, sale or assignment shall be provided by such registrant to the City within twenty (20) days after the closing date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee must register as provided in Subsection 2501038(4) within 30 days following the closing date of the transfer, sale or assignment.

2. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the City Manager or designee that the transferee, buyer or assignee is the new applicant. The City shall not issue permits until the registration of the transferee, buyer or assignee becomes effective.

3. To the extent permitted by law, any mortgage, pledge, or other encumbrance on the communications facilities shall be subject to and subordinate to the rights of the City under this Section and applicable law.

(j) Suspension of permits.

1. Subject to Subsection 3 below, the City Manager, or designee, may suspend any and all permits for work in the Public Rights-of-Way for one or more of the following reasons:

a. Failure to satisfy permit conditions, including conditions set forth in this Section or other applicable City ordinances, codes or regulations governing placement or maintenance of communications facilities in Public Rights-of-Way, including without limitation, failure to take reasonable safety precautions to alert the public of work at the work site, or to restore any Public Rights-of-Way;

b. Misrepresentation or fraud by registrant in a registration or permit application to the City;

- c. Inaccurate information contained in a permit application; or
- d. Failure to properly renew or ineffectiveness of registration; or
- e. Failure to relocate or remove facilities as may be lawfully required by the City.

2. After the suspension of a permit pursuant to this section, the City Manager or designee shall provide written notice of the reason for the suspension to the registrant.

3. Appeals. Appeals shall be considered in accordance with the provisions of Chapter 1, Article VI of the Land Development Code.

(k) Enforcement remedies.

1. A registrant's failure to comply with provisions of this Section shall constitute a violation of this Section and shall subject the registrant to the code enforcement provisions and procedures as provided in Chapter 1, Article V of the Land Development Code of the City of Coral Springs as it may be amended from time to time.

2. In addition to, or as an alternative to, code enforcement action in accordance with Chapter 1, Article V of the Land Development Code of the City of Coral Springs, the City may seek legal or equitable relief from any court of competent jurisdiction.

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

4. Remedies cumulative. All remedies under this Section are cumulative unless otherwise expressly stated. The exercise of one (1) remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of damages or penalties relieve a communications facility operator of its obligations to comply with this Section or other applicable laws and codes. Recovery by the City of any amounts under insurance, the Construction Bond, or letter of credit, or otherwise does not limit a communications facility operator's duty to indemnify the City in any way; nor shall such recovery relieve a communications facility operator of its obligations under this Section or other applicable laws and codes, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have. Nothing herein shall be read to authorize the double-recovery of damages.

(4) Registration.

(a) Any person who uses or maintains, or seeks to use, place, or maintain, a communications facility in Public Rights-of-Way shall first register with the City in accordance with this Subsection. Subject to the terms and conditions prescribed in this Subsection, a registrant may use, place, or maintain a communications facility in Public Rights-of-Way if, and to the extent such use, placement, and/or maintenance complies with the City's ordinances, codes and regulations. Any person with an existing communications facility in the Public Rights-of-Way of the City as of the effective date of this Ordinance shall comply with this Subsection within sixty (60) days from the effective date of this article by completing the required registration, or be in violation hereof.

(b) A registration shall not convey any title or property interest, equitable or legal, to the registrant in the Public Rights-of-Way. A registration shall be revocable at-will to the extent permitted by state and federal law. Registration under this Subsection governs only the right to use, place, or maintain communications facilities in Public Rights-of-Way. A registrant may use, place and maintain communications facilities, if, and to the extent the registrant is in full compliance with City ordinances, codes or regulations. Registration does not excuse a registrant from obtaining appropriate permits, authorized access or pole attachment agreements before locating its facilities in the Public Rights-of-Way or on the City's or another person's facilities.

(c) A registration shall include the following information:

1. The name of the applicant;

2. The 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;

3. An indemnification agreement in accordance with Subsection 2501038(4)(d)1 below;

4. Evidence of the insurance coverage required under Subsection 2501038(4)(e) below;

5. A copy of the applicant's certificate of authorization issued by the Florida Public Service Commission, the Federal Communications Commission, or the Department of State, if applicable, and acknowledgment that registrant has received and reviewed a copy of this Section;

6. A statement of whether the applicant presently provides communications services within the jurisdictional limits of the City at the

time of registration and remits communications services taxes, whether the applicant intends to offer communications services or to be a pass-through provider, as defined in Subsection 2501025. This information will allow the City to determine, with the registrant, at the time the registrant begins to make physical use of the Public Rights-of-Way, whether the registrant should be charged a pass-through provider fee in accordance with Section 337.401(6)(b), Florida Statutes.

(d) Indemnification. Indemnification shall be conducted pursuant to the following:

1. The registrant shall, at its sole cost and expense, indemnify, hold and defend the City and its officers, directors, agents, servants, employees, successors, and assigns harmless from and against any and all claims, suits, actions, damages and causes of action for personal injury, death or property damage, any other losses, damages, charges of death or property damage, any other losses, damages, charges or expenses, including attorneys' fees, witness fees, court costs and any orders, judgments or decrees which may be entered which rise out of, in connection with or attributable to, registrant's construction, maintenance, occupation, placement, repair, relocation, removal or operation by the registrant of any portion of any communications facility excepting only those claims resulting from the gross negligence or the wanton and willful acts of the City. The registrant shall undertake at its own expense, the defense of any action which may be brought against the City for damages, injunctive relief or for any other cause of action arising or alleged to have arisen out of, in connection with or attributable to, the foregoing and, in the event any final judgment therein should be rendered against the City resulting from the foregoing, the registrant shall promptly pay the final judgment together with all costs relating thereto; the registrant being allowed, however, an appeal or appeals to the appropriate court or courts from the judgment rendered in any such suit or action upon the filing of such supersedeas bond as shall be required to prevent levy or judgment against the City during such appeal or appeals.

2. Nothing in this article shall prohibit the City from participating in the defense of any litigation by its own counsel and obtaining indemnification of the reasonable costs associated therewith upon a court order awarding such costs.

3. The City shall give prompt written notice to a registrant of any claim for which the City seeks indemnification. The registrant shall have the right to investigate, defend and compromise these claims subject to prior City approval, which approval shall not be unreasonably withheld. Failure of the City to provide written notice shall not waive the requirement of Subsection 2501038(4)(d)1. In no event shall the City indemnify a registrant.

4. Nothing contained in this provision shall be construed or interpreted as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

5. This indemnification provision shall survive following the termination of any registration. In no event shall the City indemnify a registrant and/or the owner or operator of a communications facility.

(e) Insurance. At a minimum, the following insurance requirements must be satisfied:

1. The insurance requirements for an effective registration are as follows:

a. Comprehensive general liability insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

1. Bodily injury:

a. Each occurrence..... \$1,000,000

b. Annual aggregate..... \$3,000,000

2. Property damage:

a. Each occurrence..... \$1,000,000

b. Annual aggregate..... \$3,000,000

3. Personal injury annual aggregate..... \$3,000,000

4. Property damage liability insurance shall include coverage for the following hazards: X - explosion, C - Collapse, U - underground.

b. Workers' compensation insurance shall be maintained to comply with statutory limits for all employees, and in the case any work is sublet, each communications facility operator shall require the subcontractors similarly to provide workers' compensation insurance for all the latter's employees unless such employees are covered by the protection afforded by each operator. Each communications facility operator and its contractors and subcontractors shall maintain during the life of this policy employers liability insurance. The following limits must be

maintained:

1. Workers' Compensation..... Statutory Limits
2. Employer's Liability, per occurrence..... \$500,000
- c. Comprehensive auto liability.
 1. Bodily injury:
 - a. Each occurrence..... \$1,000,000
 - b. Annual aggregate..... \$3,000,000
 2. Property damage:
 - a. Each occurrence..... \$1,000,000
 - b. Annual aggregate..... \$3,000,000
 3. Coverage shall include owned, hired and non-owned vehicles.

2. Each registrant shall hold the City, its agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of its construction, operation or repair of its communications facility and name the City as an additional insured.

3. A registrant shall not place or maintain a communications facility in the Public Rights-of-Way without obtaining all insurance required under this Subsection and approval of such insurance by the City Manager, nor shall a registrant allow any contractor or subcontractor to commence work in the Public Rights-of-Way until all insurance required of the subcontractor has been obtained and approved. The required insurance must be obtained and maintained for the entire period the registration remains effective. If the registrant, its contractors or subcontractors do not have the required insurance, the City may cancel any registration and suspend any permits and order such entities to stop any construction activities in the Public Rights-of-Way until the insurance is obtained and approved.

4. Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the City.

5. These certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the City. Policies shall be issued by

companies authorized to do business under the laws of the State of Florida. The City may amend its requirements pertaining to insurance from time to time and may require additional provisions pertaining to such insurance in a lease.

6. In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse, then in that event, the registrant shall furnish, at least thirty (30) days prior to the expiration of such insurance, a renewed certificate of insurance as proof that equal and like coverage has been obtained.

7. Self-insurance. Registrant may satisfy the insurance requirements and conditions of this section under a self-insurance plan and/or retention. Registrant agrees to notify the City, and/or indicate on the certificate(s) of insurance, when self-insurance is relied upon or when a self-insured retention exceeds one hundred thousand dollars (\$100,000.00). The City reserves the right, but not the obligation, to request and review a copy of the registrant's most recent annual report or audited financial statement, which the registrant agrees to furnish for the purpose of determining the registrant's financial capacity to self-insure.

8. City reserves the right to review, modify, reject or accept any required policies of insurance or self-insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of this section. City reserves the right, but not the obligation, to review and reject any insurer or self-insurer providing coverage because of its poor financial condition or failure to operate legally.

(f) The City Manager shall review the information submitted by the applicant for the registration. If the applicant submits information in accordance with this Subsection, the registration shall be effective upon the receipt of written notice from the City of the effectiveness of registration. If the City determines that the information has not been submitted in accordance with this Subsection 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 fifteen (15) days after receipt of registration information from the applicant. Upon notification of the noneffectiveness of the registration, nothing herein shall preclude the applicant from filing a subsequent application addressing the basis for the noneffectiveness.

(g) A registrant may cancel a registration upon written notice to the City stating that it will no longer use, place, or maintain any communications facilities in Public Rights-of-Way within the City and will no longer be applying for permits to perform work in Public Rights-of-Way. A registrant may not cancel a registration if the registrant continues to use, place or maintain any Communications Facilities in Public Rights-of-Way.

(h) Registration shall not in itself establish any right to place or maintain or reserve priority for the placement or maintenance of a Communications Facility in Public Rights-of-Way within the City. Registrations are expressly subject to any future amendment to or replacement of this Section and further subject to any additional City ordinances, as well as any applicable state or federal laws.

(i) A registrant shall renew its registration with the City by October 1 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 thirty (30) days of any change in the information required to be submitted pursuant to this Subsection, 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 suspending a registration and permits until the registrant has complied with the requirements of this Article.

(j) Unless as otherwise permitted in Section 2501039(2), a separate permit for work to be performed in the Public Rights-of-Way shall be required each time that a Communications Facility is placed or maintained in Public Rights-of-Way. An effective registration shall be a condition precedent to obtaining such permits.

(k) Notwithstanding an effective registration and except as otherwise provided in this Division, use, placement, and maintaining a Communications Facility in the Public Rights-of-Way is subject to all permitting requirements. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.

(l) Involuntary termination of registration.

1. The City may terminate a registration if:

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

b. The registrant's use, placement or maintenance of a communications facility in the Public Rights-of-Way presents 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; or

c. The registrant ceases to use all of its communications facilities in Public Rights-of-Way.

2. Prior to termination of a registration, the registrant shall be notified by the City Manager, or designee, with a written notice setting forth all matters pertinent to the proposed termination action, including which of (a) through (c) above is applicable as the reason therefore, and describing the proposed action of the City with respect thereto. The registrant shall have thirty (30) days after receipt of such notice within which to cure or within which to present a plan to cure, satisfactory to the City Manager, or his designee. If the plan is rejected, the City Manager, or his designee, shall provide written notice of such rejection to the registrant. The City shall make a final decision as to termination of registration. Appeals shall be considered in accordance with the provisions of Chapter 1, Article VI of the Land Development Code

3. In the event of termination, the former registrant shall: (a) notify the City of the assumption or anticipated assumption by another registrant of ownership of the registrant's communications facilities in Public Rights-of-Way; or (b) provide the City with an acceptable plan for disposition of its communications facilities in Public Rights-of-Way. If a registrant fails to comply with this subsection 3., the City may exercise any remedies or rights it has at law or in equity, including but not limiting to taking possession of the facilities, requiring the registrant within ninety (90) days of the termination to remove some or all of the facilities from the Public Rights-of-Way and restore the Public Rights-of-Way to its original condition before the removal, or requiring that some or all of the facilities be removed and the Public Rights-of-Way restored to its original condition before the removal at the registrant's expense.

4. In any event, a terminated registrant shall take such steps as are necessary to render every portion of the communications facilities remaining in the Public Rights-of-Way of the City safe.

Sec. 2501039. – Placement of Wireless Communications Facilities in the Public Rights-of-Way

(1) Applicability and Administration.

(a) Notwithstanding anything in this Article XVI, applications for Wireless Communications Facilities in the Public Rights-of-Way shall be limited to those facilities provided for in the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), Florida Statutes (2017), as may be amended from time to time, and shall be solely governed by the provisions contained in this Section.

(b) As of the effective date of this Ordinance, only those Antennas and Equipment Facilities provided for in Subsection 2501039(2), "The Advanced Wireless Infrastructure Deployment Act," may be installed or placed in the Public Rights-of-Way and only as approved pursuant to that Subsection.

(c) No Wireless Communications Facilities larger than Small Wireless Facilities may be installed or placed in the Public Rights-of-Way. However, as of the effective date of this Ordinance, if a Wireless Communications Facility currently exists in the Public Rights-of-Way which is not allowed pursuant to Subsection 2501039(2), a Wireless Communications Facility equivalent in size and dimension may be installed in accordance with the requirements of Subsection 2501039(3).

(d) Pre-Existing Wireless Communications Facilities, including Towers, Antennas and Equipment Facilities, in the Public Rights-of-Way shall be considered nonconforming.

(2) The Advanced Wireless Infrastructure Deployment Act (Small Wireless Facilities).

(a) The City reserves all authority with respect to applications for wireless facilities and wireless support structures in the public Rights-of-Way. This Subsection is intended to implement the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), Florida Statutes, and is designed solely to administer "small wireless facilities" as that term is defined herein. In the event the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), Florida Statutes, is repealed, amended, or overturned by a court of competent jurisdiction, in whole or in part, provisions of this Subsection may no longer apply, and pending and future applications for wireless facilities or wireless support structures in the Public Rights-of-Way will be governed by Subsection 2501039(3) to the extent allowed by state and federal law.

(b) Applications submitted pursuant to this subsection shall be exempted from the provisions contained within this Article except as noted within this Subsection.

(c) Definitions. If a term is not defined herein, the definitions contained in Sections 2501025 and 2501038, shall be referenced for guidance. Otherwise, solely as it pertains to this Subsection 2501039(2), the term:

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

2. "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 City codes or ordinances adopted to implement Section 337.401(7), Florida Statutes. The term includes objective design standards adopted by City 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 City ordinance 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 authority 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. The waiver shall be granted or denied within 45 days after the date of the request.

3. "Applicant" means a person who submits an application and is a wireless provider.

4. "Application" means a request submitted by an applicant to an authority for a permit to place or collocate small wireless facilities or utility poles.

5. "Authority" means the City. The term does not include the Department of Transportation. Rights-of-Way under the jurisdiction and control of the department are excluded from this Subsection.

6. "Authority utility pole" means a utility pole owned by the City in the right-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the right- of-way within:

a. A retirement community that:

1. Is deed restricted as housing for older persons as defined in Section 760.29(4)(b), Florida Statutes.

2. Has more than 5,000 residents; and

3. Has underground utilities for electric transmission or distribution.

7. "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.

8. "FCC" means the Federal Communications Commission.

9. "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.

10. "Small wireless facility" means 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.

11. "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 an authority grants a waiver for such pole.

12. "Wireless facility" means 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.

13. "Wireless infrastructure provider" means an entity that 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.

14. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

15. "Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities. An unlicensed wireless provider shall utilize FCC type approved equipment.

16. "Wireless services provider" means a person who provides wireless services.

17. "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.

18. "Wrap" means an aesthetic covering depicting art, image, scenic imagery such as city scenes or landmarks, or vegetation, which blends with the surrounding area. Imagery in a wrap may not contain any advertising.

(d) Application Requirements.

1. Prior to submitting an application pursuant to this Subsection, an Applicant is strongly encouraged conduct a pre-application meeting with the City to discuss the application and the Applicant's plans. The pre-application meeting may be conducted by telephone or video conference at the Applicant's request.

2. An application for a permit to install a small wireless facility or utility pole pursuant to this subsection shall comply with the applicable application below.

a. Signed and sealed plans from the Florida licensed professional engineer of record that show the location of the proposed small wireless facility or utility pole, including a description of the small wireless facility or utility pole to be installed, where the small wireless facility or utility pole is to be located, how the pole attachment will be accomplished, height and dimensions of the Utility Pole or structure that the small wireless facility and the approximate size of small wireless facility or utility pole that will be located in Public Rights-of-Way. In addition, a survey shall be provided.

b. A statement prepared by Florida Licensed professional engineer that the pole attachment will be structurally sound and in conformance with the applicable provisions of the Florida Building Code, other applicable standards and laws, or does not cause any quantifiable wind-loading stress on the Utility Pole or Existing Structure requiring structural modifications to the Utility Pole or Existing Structure in compliance with ANSI/EIA/TIA-222 G (as amended) for Broward County, Florida.

c. A description of the manner in which the small wireless facility or utility pole will be installed and/or modified (i.e. anticipated construction methods or techniques).

d. A temporary sidewalk closure plan, if appropriate given the small wireless facility or utility pole proposed, to accommodate installation and/or modification of the small wireless facility or utility pole.

e. A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the small wireless facility or utility pole proposed, to accommodate installation and/or modification of the small wireless facility or utility pole.

f. Information on the ability of the Public Rights-of-Way to physically accommodate the proposed small wireless facility or utility pole and compliance with the ADA and the Code of Ordinances and the Land Development Code of the City of Coral Springs.

g. If appropriate given the small wireless facility or utility pole proposed, a restoration plan and an estimate of the cost of restoration of the Public Rights-of-Way.

h. The timetable for construction of the project or each phase thereof.

i. Information satisfactory to the City to demonstrate consent of the structure or utility pole owner, such as a pole attachment agreement, franchise, permit or other applicable authorization, to attach the proposed small wireless facility or utility pole to its utility pole or structure. An Applicant may provide the first page and signature page of any pole attachment agreement or a notarized letter of authorization from the owner of the utility pole or structure indicating the applicant is authorized to install the proposed small wireless facility.

j. Information satisfactory to the City, including but not limited to a survey, to demonstrate that the proposed location is in the Public Rights-of-Way.

k. Certification by a qualified radio frequency engineer, which qualifications must be submitted to and approved by the City, that the proposed small wireless facility will not interfere with any public frequency or the operations of City Communications Facilities.

l. An Applicant to install a small wireless facility or utility pole in the Public Rights-of-Way must submit an approved Registration pursuant to Section 2501038 and Section 337.401, Florida Statutes prior to submitting an application.

m. Such additional information as the City finds reasonably necessary to demonstrate compliance with this section for the placement of the small wireless facility or utility pole that is the subject of the permit application to review such permit application.

n. If a Wireless Infrastructure Provider submits an application to place a new utility pole in the Public Rights-of-Way, the application must include an attestation by an officer of the Applicant that small wireless facilities will be collocated on the utility pole or structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved.

o. Certification by an appropriate traffic engineer or land use professional licensed in Florida to the satisfaction of the City of the following:

1. That the proposed small wireless facility or utility pole will not materially interfere with the safe operation of traffic control equipment;

2. That the proposed small wireless facility or utility pole will not materially interfere with sight lines, sight triangles, or clear zones for transportation, pedestrians, or public safety purposes.

3. The small wireless facility or utility pole will not displace, damage, destroy or prevent ready access to any facilities, including but not limited to, sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables or conduits of the City or any other Person's facilities lawfully

occupying the Public Rights-of-Way of the City. An Applicant shall not modify or relocate any other Person's facilities that are lawfully occupying the Public Rights-of-Way of the City without the consent of the City and affected Person.

4. That the proposed small wireless facility or utility pole will not materially interfere with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

5. That the proposed small wireless facility or utility pole will not materially fail to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual;

6. That the proposed small wireless facility or utility pole complies with the objective design standards set forth in this subsection.

p. Information by a Florida licensed engineer to the satisfaction of the City that the requested wireless facility satisfies the size and height restrictions in this subsection.

q. If the application includes a backup power supply, information to the satisfaction of the City that the backup power supply and proposed fuel storage satisfies the City Code.

3. Project Permits.

a. An applicant seeking to collocate multiple small wireless facilities may file a consolidated application and receive a single permit ("Project Permit") for the collocation of up to 30 small wireless facilities. The application must include the information required in Subsection 2501039(2)(d) above for all requested small wireless facilities. In addition, prior to submitting an application for a Project Permit, the applicant is strongly encouraged to engage in a pre-application meeting with the City to discuss all proposed small cell facilities. The pre-application meeting may be conducted by telephone or video conference at the Applicant's request.

b. Notwithstanding the above, the City may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

(e) Review Procedure.

1. Within 14 business days after receiving an application, the City Manager will notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the City will specifically identify the missing information.

2. Negotiation Process.

a. Within 14 days after the date of filing the application, the City Manager 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 Manager 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.

b. 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.

c. If an agreement is not reached, the applicant must notify the City of such non-agreement and the City must grant or deny the original application within 90 days after the date the application was filed. Failure of the applicant to so notify the City as required herein shall be deemed to constitute the applicant's consent to the City'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.

3. The City Manager must process all applications on a nondiscriminatory basis. Unless the City and the applicant engage in negotiations as provided above, the City Manager will approve or deny the application and will notify the applicant by electronic mail whether the application is approved or denied within 60 days after the receipt of a completed application.

4. Extension of Time. If the City and the applicant do not engage in negotiations, the parties may mutually agree to extend the 60-day application review period.

5. The City Manager may deny a proposed collocation/placement of a small wireless facility or utility pole in the Public Rights-of-Way if the proposed collocation:

a. Materially interferes with the safe operation of traffic control equipment.

b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

d. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.

e. Fails to comply with applicable codes.

6. Cure Procedure.

a. If the application is denied, the City will specify the basis for the denial, including the specific code provisions on which the denial was based on the day the City denies the application.

b. The applicant may cure the deficiencies identified by the City and resubmit the application within 30 calendar days after the notice of denial is sent.

c. If an attempt to cure is made by the applicant, the City 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 City, the applicant shall submit a new application. If the revised information in the application is necessary to cure any deficiency, the applicant shall submit a new application, but it shall not be treated as a new application for purposes of the review timeframes noted above.

d. The City's second and subsequent reviews of revised applications will be limited to the deficiencies cited in the denial notice.

7. The City may not require a permit or fees or other charges for:

a. Routine maintenance that does not involve any excavation, construction, or disruption to transportation in the Public Rights-of-Way;

b. Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or

c. 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.

d. Notwithstanding this Subsection 2501039(2)(e)7, the City shall require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

8. A permit issued pursuant to an approved application shall remain in effect for one (1) year unless otherwise extended, suspended, or terminated by the City 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 comply with the development standards and provide the Construction Bond required in this subsection.

(f) Development Standards.

1. Any small wireless facility or utility pole to be installed in the Public Rights-of-Way shall be subject to all permitting requirements of the City as applicable.

2. Small wireless facilities shall be limited to ten (10) feet above the utility pole or structure upon which the small wireless facility or utility pole is to be collocated. A small wireless facility or utility pole 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 definition of a small wireless facility.

3. The height for a new utility pole installed pursuant to this Subsection shall not exceed the height of the tallest existing utility pole as of July 1, 2017, in the same right-of-way, 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 shall be limited to 50 feet measured from grade.

4. All small wireless facilities, micro wireless facilities, new utility poles or support structures, and any equipment associated therewith, installed pursuant to this subsection shall be of a type of concealed objective design standard to best fit into the surrounding area. Such objective design

may include, but is not limited to, landscaping where appropriate as determined by the City, planters, wrap, architectural design to resemble other structures in the area of the Public Rights-of-Way such as, but not limited to, trash receptacles, bus shelters, recycling receptacles, pet facilities, water fountain, wayfinding facilities, light poles, utility poles, flag poles, flag pole styled poles (which do not require flag), and/or other architectural design approved by the City. Unless waived by the City, any such concealed facility shall function in the same manner as the facility it resembles in compliance with the City Code, at the expense of the applicant. By way of example, if an applicant installs a small wireless facility or utility pole that resembles nearby light poles, the facility shall include a light that is operated in the same manner as other light poles, a flag pole shall include a flag, etc., at the applicant's expense. All concealed elements, e.g. the light feature of a small wireless facility concealed as a light pole, shall be maintained in good working condition for the life of the small wireless facility.

5. The equipment facilities supporting small cell facilities shall be placed in any of the following areas (subject to applicable standards herein):

- a. Underground in the Public Rights-of-Way with approval of the City;
- b. On an adjacent property, with the consent of the property owner, provided that all wiring is underground;
- c. On the Utility Pole or Pole itself covered by a shroud and located in a manner that would be least visible to nearby residents or users of the Rights-of-Way; or
- d. On the ground at Established Grade subject to the concealment requirements of the City.

6. FCC compliance. All small wireless facilities shall comply with any applicable FCC standards including but not limited to signal interference to other radio equipment and all related emissions standards for the type of service.

7. Noise compliance. All small wireless facilities shall comply with any applicable City noise requirements in the zoning district adjacent to the Public-Rights-of-Ways where the small wireless facilities are installed.

8. For purposes of fees to be paid to the City for use of the Public Rights-of-Way, unless prohibited by applicable law, an owner of a small wireless facility or utility pole in the Public Rights-of-Way, unless remitting

communications services taxes to the City, shall be considered a Pass-Through Provider and shall pay the appropriate fee.

9. In the event that the owner's Registration with the City ceases to be effective, the registrant's designated contact person shall be provided with written notice of the expired or otherwise ineffective Registration at the address provided in the Registration. In the event the Registration deficiency is not cured within thirty (30) days, the owner shall remove its small wireless facility or utility pole from the Public Rights-of-Way at its expense.

10. Signs. No signs, whether or not posted temporarily, shall be allowed on any part of a small wireless facility or utility pole unless required by applicable law or permit.

(g) Compensation.

1. A registrant that places or maintains small wireless facility or utility pole in the Public Rights-of-Way shall be required to pay compensation to the City for access to the Public Rights-of-Way as required by applicable law and ordinances of the City. A communications services provider that is remitting communications services taxes to the City is not required to pay additional compensation to the City. Compensation for access to the Public Rights-of-Way shall be in addition to any compensation or fees for attaching or collocating Small Wireless Facilities on City Utility Poles or otherwise using infrastructure or property owned by the City. The City Commission hereby authorizes the City Manager to impose the maximum fee allowed under applicable law.

2. A registrant Pass-through Provider that places or maintains Small Wireless Facilities in the Public Rights-of-Way and does not remit communications services tax imposed by the City pursuant to Chapter 202, Florida Statutes, as a condition for occupying or using the Public Rights-of-Way shall pay to the City annually \$500.00 per linear mile or portion thereof, of any small wireless facility or utility pole that is physically located in the Public Rights-of-Way. Such payment shall be made prior to the City issuing permits and annually thereafter. A registrant shall provide the City with information as to the locations and linear miles or portions thereof of its facilities. Any misrepresentation of a material fact that has the effect of reducing or avoiding the payment of fees is expressly prohibited and will be cause for revocation of the registration, as well as subject the registrant to prosecution and penalties as provided in the City Code.

3. Notwithstanding anything herein to the contrary, the City shall at all times hereby require the maximum compensation allowed under applicable

law for use of the Public Rights-of-Way.

4. Except to the extent prohibited by applicable law:

a. The fee payments to be made pursuant to this article shall not be deemed to be in the nature of a tax;

b. Such fee payments shall be in addition to any and all taxes of a general applicability;

c. A registrant shall not have or make any claim for any deduction or other credit of all or any part of the amount of said fee payments from or against any of said City taxes or other fees or charges of general applicability which registrant is required to pay to the City, except as required by law; and

d. The fee specified herein is the consideration for use of the Public Rights-of-Way, including all public easements, for the purpose of placing and maintaining a small wireless facility or utility pole. A registrant shall pay applicable fees for placement or maintenance of a small wireless facility or utility pole for so long as the registrant owns any such facility and such facility remains in the Public Rights-of-Way.

(h) Construction Bond.

1. Prior to any construction, every applicant shall establish a cash bond, or subject to the City's approval in its sole discretion, provide the City with an irrevocable letter of credit or performance bond ("Construction Bond") subject to the approval of the City Manager, in the amount specified in an agreement, permit, or other authorization as necessary to ensure the Applicant's faithful performance of construction and compliance with all permit conditions. The amount of the Construction Bond shall be established by the City based upon the facilities being constructed and potential costs to the City to remove the facilities and restore the property. The minimum amount of the Construction Bond for each new utility pole or small wireless facility shall be one thousand (\$1,000) dollars. The City reserves the right to require a Construction Bond for a micro wireless facility, unless prohibited by applicable law. The Construction Bond shall be refunded or released to the Applicant upon the successful construction of the small wireless facility or utility pole and receipt of all final approvals by the City.

2. If the City in its discretion accepts a bond, the applicant and the surety shall be jointly and severally liable under the terms of the bond. The bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the City Attorney's Office; and shall provide that:

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

b. The rights reserved by the City with respect to any Construction Bond established pursuant to this subsection are in addition to all other rights and remedies the City may have under the City Code, a permit, or at law or equity.

(h) State of Emergency. The time periods for action by an applicant or the City hereunder for processing an application or implementation of a permit shall be tolled automatically and an application shall not be deemed approved and/or granted for any failure to review and approve or deny, or any other delay in the timeframes allotted to the City or applicant herein, for the period that such failure or delay is the result of the State of Florida, the City or other governmental authority with jurisdiction, declaring a state of emergency that affects the City’s ability to process applications.

(i) Abandonment. Any small wireless facility, micro wireless facility, or utility pole, installed pursuant to this subsection that is not operated for a continuous period of six (6) months shall be considered abandoned, and the applicant shall remove the same within ninety (90) days of receipt of notice from the City. Notwithstanding the foregoing, for a new utility pole that is not used for a small wireless facility within nine (9) months pursuant to the attestation submitted with an application, shall be deemed Abandoned. Failure to remove a small wireless facility, micro wireless facility, or utility pole within the ninety (90) days shall be grounds for the City to remove the small wireless facility, micro wireless facility, or utility pole at the applicant’s expense. If there are two (2) or more users of a single small wireless facility, micro wireless facility, or utility pole then this provision shall not become effective until all users cease using the small wireless facility, micro wireless facility, or utility pole. Notwithstanding the foregoing, if the small wireless facility or micro wireless 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 small wireless facility or micro wireless facility requires removal of the Facility only and does not require the removal of the Existing Structure.

(j) Historic Preservation. This subsection does not limit the City's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. s. 332(c)(7), the requirements for facility modifications under 47 U.S.C. s. 1455(a), or the National Historic Preservation Act of 1966, as amended, and the regulations adopted to implement such laws effective April 1, 2017.

(k) This subsection 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.

(l) Special Exception. Small wireless facilities or utility poles to be installed in the Public Rights-of-Way shall comply with all of the provisions contained herein. No special exception petition shall be considered by the City for the installation of any small wireless facilities or utility poles inconsistent with the requirements contained herein.

(3) Requirements for Wireless Communications Facilities Larger than Small Wireless Facilities in the Public Rights-of-Way.

Applicability. This Subsection shall apply to Wireless Communications Facilities that exceed the size limitations as set forth in Subsection 2501039(2) above.

(a) Definitions. The definitions contained in Section 2501025 shall be applicable to this Subsection 2501039(3).

(b) Registration. All Applicants seeking to submit an application pursuant to this Subsection shall first comply with the City's registration requirements as provided for in Subsection 2501038(4).

(c) Compensation.

1. A registrant that places or maintains Wireless Communications Facilities in the Public Rights-of-Way, other than those facilities governed by subsection 2501039(2) above, shall be required to pay compensation to the City for access to the Public Rights-of-Way as required by applicable law and ordinances of the City. Compensation for access to the Public Rights-of-Way shall be in addition to any compensation or fees for attaching or collocating Wireless Communications Facilities on City Utility Poles or otherwise using infrastructure or property owned by the City. The City Commission hereby authorizes the City Manager to impose the maximum fee allowed under applicable law for collocation or use of City property. Compensation for access to the Public Rights-of-Way shall be in addition to any fees or compensation pursuant to pole attachment agreements or other agreements between a registrant, and the City, which agreement shall be subject to the approval of the City Commission.

2. A registrant Pass-through Provider that places or maintains Wireless Communications Facilities in the Public Rights-of-Way and does not remit communications services tax imposed by the City pursuant to Chapter 202, Florida Statutes, as a condition for occupying or using the Public Rights-of-Way shall pay to the City annually \$500.00 per linear mile or portion

thereof, of any Wireless Communications Facility that is physically located in the Public Rights-of-Way. Such payment shall be made prior to the City issuing permits and annually thereafter. A registrant shall provide the City with information as to the locations and linear miles or portions thereof of its facilities. Any misrepresentation of a material fact that has the effect of reducing or avoiding the payment of fees is expressly prohibited and will be cause for revocation of the registration, as well as subject the registrant to prosecution and penalties as provided in the City Code.

3. Notwithstanding anything herein to the contrary, the City shall at all times hereby require the maximum compensation allowed under applicable law for use of the Public Rights-of-Way.

4. Except to the extent prohibited by applicable law:

a. The fee payments to be made pursuant to this article shall not be deemed to be in the nature of a tax;

b. Such fee payments shall be in addition to any and all taxes of a general applicability;

c. A registrant shall not have or make any claim for any deduction or other credit of all or any part of the amount of said fee payments from or against any of said City taxes or other fees or charges of general applicability which registrant is required to pay to the City, except as required by law; and

d. The fee specified herein is the consideration for use of the Public Rights-of-Way, including all public easements, for the purpose of placing and maintaining a communications facility. A registrant shall pay applicable fees for placement or maintenance of a Wireless Communications Facility for so long as the registrant owns any such facility and such facility remains in the Public Rights-of-Way.

(d) Application Requirements.

Prior to submitting an application pursuant to this Subsection, an Applicant is strongly encouraged to conduct a pre-application meeting with the City to discuss the application and Applicant's plans. The pre-application meeting may be conducted by telephone or video conference at the Applicant's request. An application for the Collocation governed by the Emergency Communications Number E911 Act shall comply with the requirements of Subsection 2501027(4). An application to place Antennas and associated Equipment Facility in the Public Rights-of-Way shall include the information in Subsection 2501027(5) if the application is for a new Antenna or a Collocation other than an Eligible Facilities

Request or the information in Subsection 2501027(3) if the application is for an Eligible Facilities Request and shall also include the following information:

1. Signed and sealed plans from the Florida licensed professional engineer of record that show the location of the proposed Facilities, including a description of the Facilities to be installed, where the Facilities are to be located, how the Pole Attachment will be accomplished, height and dimensions of the Utility Pole or structure that the Facilities will be attached to, and the approximate size of Facilities that will be located in Public Rights-of-Way and a certification that the Antenna and associated Equipment Facility are designed to be structurally sound, and, at a minimum, in conformance with the applicable provision of the Florida Building Code and other applicable standards and laws. In addition, a survey shall be provided.
2. A signed and sealed statement prepared by Florida Licensed professional engineer that the Pole Attachment will be structurally sound and in conformance with the applicable provisions of the Florida Building Code, other applicable standards and laws, or does not cause any quantifiable wind-loading stress on the Utility Pole or Existing Structure requiring structural modifications to the Utility Pole or Existing Structure in compliance with ANSI/EIA/TIA-222 G (as amended) for Broward County, Florida.
3. A description of the manner in which the Facility will be installed and/or modified (i.e. anticipated construction methods or techniques).
4. A temporary sidewalk closure plan, if appropriate given the Facility proposed, to accommodate installation and/or modification of the Antenna and associated Equipment Facility.
5. A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the Facility proposed, to accommodate installation and/or modification of the Antenna and associated Equipment Facility.
6. Information on the ability of the Public Rights-of-Way to physically accommodate the proposed Antenna and associated Equipment Facility and compliance with the ADA and the Code of Ordinances and the Land Development Code of the City of Coral Springs.
7. If appropriate given the Facility proposed, a restoration plan and an estimate of the cost of restoration of the Public Rights-of-Way.
8. The timetable for construction of the project or each phase thereof, and the intended areas of the City to be served by the Antenna and associated Equipment Facility.

9. Information satisfactory to the City to demonstrate satisfaction of the siting hierarchy in Subsection 2501029(4).

10. Information satisfactory to the City to demonstrate consent of the structure or Utility Pole owner, such as a pole attachment agreement, franchise, permit or other applicable authorization, to attach the proposed Antenna and associated Equipment Facility to its Utility Pole or structure.

11. Information satisfactory to the City, including but not limited to a survey, to demonstrate that the proposed location is in the Public Rights-of-Way.

12. Certification by a qualified radio frequency engineer, which qualifications must be submitted to and approved by the City, that the proposed wireless communications facility will not interfere with any public frequency or the operations of City Wireless Communications Facilities.

13. An Applicant to install an Antenna and associated Equipment Facility in the Public Rights-of-Way must submit an approved Registration pursuant to Section 2501038(4) and Section 337.401, Florida Statutes prior to submitting an application.

14. Such additional information as the City finds reasonably necessary with respect to the placement or maintenance of the Antenna and associated Equipment Facility that is the subject of the permit application to review such permit application.

15. If a Wireless Infrastructure Provider submits an application to place a structure governed by this Subsection 2501039(3) in the Public Rights-of-Way, the application must include an attestation by an officer of the Applicant that an Antenna and associated Equipment Facility will be attached to said structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved.

(e) Review Procedures.

1. The application to install Antennas and associated Equipment Facility in the Public Rights-of-Way shall be subject to review and approval of the City Manager. The timeframes set forth in Subsection 2501028(2), (3), or (4), as applicable, shall apply. If the Applicant asserts that the application is subject to specific time frames for review under applicable state or federal law, the Applicant shall provide such authority in its application and the time frames applicable to new Antennas shall apply, to the extent not inconsistent with applicable state or federal law.

2. The City may approve a Wireless Communications Facility in the Public Rights-of-Way for Collector Roadways and Arterial Roadways.

3. The City shall not approve a Wireless Communications Facility in the Public Rights-of-Way in any of the following:

a. On a structure that supports a traffic, intersection or pedestrian signal.

b. On a Utility Pole or structure in the Public Rights-of-Way on a Local Roadway or on any other road other than the following roads within the City: University Drive, Sample Road, State Road 7/441, and Atlantic Boulevard, unless otherwise allowed pursuant to 47 U.S.C. §224.

c. Where such Facility would cause the Public Rights-of-Way to be in violation of the ADA or would interfere with the use of the Public Rights-of-Way by other Persons.

d. Where the Wireless Communications Facility is not at least two hundred and fifty (250) feet from the nearest residential units or residentially zoned properties.

4. The City shall not approve a Wireless Communications Facility on a Utility Pole in the Public Rights-of-Way if the City has plans to underground utilities or on a structure in the Public Rights-of-Way if the City has plans that will impact the Public Rights-of-Way or potential location of the Facility.

5. Construction, installation, replacement and removal of a Wireless Communications Facility approved by the City pursuant to this Article shall be subject to obtaining appropriate permits.

6. An approval or permit issued by the City pursuant to this Article does not create a property right or grant authority to impact the rights of others who may have an interest in the Public Rights-of-Way.

(f) To the extent not inconsistent with applicable law, the City shall charge an application fee and cost recovery for review pursuant to this Article. The application fee shall be established by resolution of the City Commission. The purpose of the application fee is to defray the City's costs in processing the application. All reasonable expenses incurred by the City in considering and processing the application, including, but not limited to, consulting and legal costs, shall be off-set from the application fee. If, however, the expenses exceed the amount of the application fee, to the extent not prohibited by applicable law, the Applicant shall pay the difference within thirty (30) days of the date it receives notice of such additional expenses or prior to any hearing or final review of the

application, whichever is earlier. Failure to comply with the application fee and cost recovery requirements shall cause the application to be deemed withdrawn or any approvals previously issued pursuant to the corresponding application to be revoked. To the extent that the Wireless Communications Facility approved pursuant to this Article satisfies the requirements for the waiver of permit fees pursuant to Section 337.401(3)(c)(1)(b), Florida Statutes, and the City Code, the City will not charge applicable permit fees for Building Permit Review for such Facility.

(g) Development Standards.

1. The standards listed in this Section apply specifically to all Antennas and associated Equipment Facilities, other than an Eligible Facilities Requests, Small Wireless Facilities, exemptions governed by The Advanced Wireless Deployment Act, or a Collocation governed by the Emergency Communications Number E911 Act which satisfies all of the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes.

2. Collocation of a second or subsequent Antenna on a Tower or structure within the City's Right-of-Way that satisfies all of the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes, shall be subject only to requirements contained therein. If only a portion of the collocation does not meet the requirements of Section 365.172(13)(a)1.a. or b., Florida Statutes, where all other portions of the collocation meet the requirements of same, that portion of the collocation only shall be subject to the requirements contained in this Section.

3. Any Antenna and associated Equipment Facility to be installed in the Public Rights-of-Way, and its accompanying Equipment Facilities, shall be subject to all site plan review and permitting requirements of the City.

4. Wireless Communications Facilities located on a Utility Pole or structure in the Public Rights-of-Way shall not extend above the Height of the Utility Pole or structure.

5. All Antennas and associated Equipment Facilities installed pursuant to this subsection shall be of a type of concealed objective design standard to best fit into the surrounding area. Such objective design shall involve may include, but is not limited to, landscaping where appropriate as determined by the City in compliance with the City Code, planters, wrap, architectural design to resemble other structures in the area of the Public Rights-of-Way such as, but not limited to, trash receptacles, bus shelters, recycling receptacles, pet facilities, water fountain, wayfinding facilities, light poles, utility poles, flag poles, flag pole styled poles (which do not require flag), and/or other architectural design approved by the City. Unless waived by the City, any such concealed facility shall function in the same manner as the facility it resembles in compliance with the City Code.

at the expense of the applicant. By way of example, if an applicant installs a small wireless facility or utility pole that resembles nearby light poles, the facility shall include a light that is operated in the same manner as other light poles, a flag pole shall include a flag, etc., at the applicant's expense. All concealed elements, e.g. the light feature of a small wireless facility concealed as a light pole, shall be maintained in good working condition for the life of the small wireless facility.

6. Associated Equipment Facilities shall be placed in any of the following areas (subject to applicable standards herein):

a. Underground in the Public Rights-of-Way with approval of the City;

b. On an adjacent property, with the consent of the property owner, provided that all wiring is underground;

c. On the Utility Pole or Pole itself covered by a shroud and located in a manner that would be least visible to nearby residents or users of the Rights-of-Way; or

d. On the ground at Established Grade subject to the concealment requirements of the City.

7. An existing Utility Pole or structure that does not constitute a Base Station or Tower for the purpose of an eligible facilities request may be modified, replaced or rebuilt to accommodate an Antenna so long as the Height or girth of such structure is not increased from its existing Height or girth.

8. Lighting. A Wireless Communications Facility shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation, the FAA or law; provided, however, the City may require at the Applicant's expense, the installation of an LED street light on the Pole to function as a light pole.

9. FCC compliance. All Wireless Communications Facilities shall comply with any applicable FCC standards including but not limited to signal interference to other radio equipment and all related emissions standards for the type of service.

10. Noise compliance. All Wireless Communications Facilities shall comply with any applicable City noise requirements in the zoning district adjacent to the Public-Rights-of-Ways where the Facilities are installed.

11. For purposes of fees to be paid to the City for use of the Public Rights-of-Way, unless prohibited by applicable law, an owner of a Wireless

Communications Facility in the Public Rights-of-Way, unless remitting communications services taxes to the City, shall be considered a Pass-Through Provider and shall pay the appropriate fee.

12. An Applicant shall not place or maintain a Wireless Communications Facilities so as to interfere with the use of the Public Rights-of-Way by other parties, including with respect to the following:

a. An Applicant shall not place or maintain a Wireless Communication Facility that would displace, damage, destroy or prevent ready access to any facilities, including but not limited to, sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables or conduits of the City or any other Person's facilities lawfully occupying the Public Rights-of-Way of the City. An Applicant shall not modify or relocate any other Person's facilities that are lawfully occupying the Public Rights-of-Way of the City without the consent of the City and affected Person.

b. An Applicant shall not place or maintain a Wireless Communication Facility that would interfere with a clear zone, site triangle, safe use of Rights-of-Way by others, drainage area or other use of the Public Rights-of-Way.

13. Removal, Replacement or Relocation of Utility Pole or Structure. To the extent permitted by law, if a Utility Pole or structure to which a Wireless Communications Facility is Attached is no longer used for its primary utility, lighting or other permitted purpose, or is to be removed, replaced, or relocated as a result of action by the City or other Person with authority, the owner of the Wireless Communications Facility or owner of the Utility Pole or structure shall remove the Wireless Communications Facility at its expense on or before such date, and the permit authorizing the Attachment shall be revoked with no further obligation by the City. The City reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in Public Rights-of-Way occupied by the Applicant. The City further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the Public Rights-of-Way within the limits of the City and within said limits as same may from time to time be altered. A Wireless Communications Facility installed in the Public Rights-of-Way pursuant to this Article shall not be considered a utility under Florida law, and shall not subject the City to any limitations or potential liability for costs in the event of its required removal, replacement or relocation.

14. Temporary raising and lowering of Communication Facilities as accommodation. An owner of a Wireless Communications Facility shall, on the request of any Person holding a permit issued by the City, temporarily raise or lower its Wireless Communications Facilities to permit the work authorized by the permit within the Public Rights-of-Way. The expense of such temporary raising or lowering of Facilities shall be paid by the Person requesting the same, and the owner shall have the authority to require such payment in advance. The owner shall be given not less than thirty (30) days advance written notice to arrange for such temporary relocation.

15. Upon Abandonment of a Wireless Communications Facility in the Public Rights-of-Way, the owner shall notify the City and shall remove its Facility at its expense within ninety (90) days, subject to obtaining an appropriate permit.

16. In the event that the owner's Registration with the City ceases to be effective, the owner shall remove its Wireless Communications Facility from the Public Rights-of-Way at its expense within thirty (30) days of being directed to do so by the City.

17. Signs. No signs, except as otherwise provided for herein, whether or not posted temporarily, shall be allowed on any part of an Antenna, Wireless Communications Facility, or Communications Tower unless required by applicable law or permit.

(h) Construction Bond.

1. Prior to any construction, every Applicant shall establish a cash bond, or subject to the City's approval in its sole discretion, provide the City with an irrevocable letter of credit or performance bond ("Construction Bond") subject to the approval of the City Manager, in the amount specified in an agreement, permit, or other authorization as necessary to ensure the Applicant's faithful performance of construction and compliance with all permit conditions. The amount of the Construction Bond for a permit shall be established by the City based upon the facilities being constructed and potential costs to the City to remove the facilities and restore the property. The minimum amount of the Construction Bond for each Antenna or Equipment Facilities shall be one thousand (\$1,000) dollars. The Construction Bond shall be refunded or released to the Applicant upon the successful construction of the Antenna or Equipment Facilities and receipt of all final approvals by the City.

2. If the City in its discretion accepts a bond, the Applicant and the surety shall be jointly and severally liable under the terms of the bond. The bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the City Attorney's Office; and shall provide that:

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

b. The rights reserved by the City with respect to any Construction Bond established pursuant to this Article are in addition to all other rights and remedies the City may have under the City Code, a permit, a lease, or at law or equity.

(i) Special Exception. Wireless Communications Facilities to be installed in the Public Rights-of-Way shall comply with all of the provisions contained herein. No special exception petition shall be considered by the City for the installation of any Wireless Communications Facilities in the public right-of-way inconsistent with the requirements contained herein.

DIVISION 4. - CONFLICTS

Sec. 2501040. – Conflicts

To the extent any provision of this Article conflicts with any other provision of the Code of Ordinances or the Land Development Code, this Article shall control.

Sec. 2501041-2501046. – Reserved.

Section 11. That Chapter 20 of the Code of Ordinances of the City of Coral Springs is repealed in its entirety and shall be reserved.

Section 12. Severability. The various parts, sections and clauses of this Article are hereby declared to be severable. If any part, sentence, paragraph, Section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, the provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding under this Ordinance.

Section 13. Inclusion in the Land Development Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Land Development Code and the Code of Ordinances of the City of Coral Springs, Florida; 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 14. Provisions of this Ordinance to Control. Notwithstanding any contrary provisions of the Code of Ordinances and the Land Development Code of the City of Coral Springs, the provisions of this Ordinance shall control.

Section 15. Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 16. Effective Date. This Ordinance shall be effective immediately upon its passage.

PASSED ON FIRST READING THIS 16th DAY OF MAY, 2018.

PASSED ON SECOND READING THIS 6th DAY OF JUNE, 2018.

CITY OF CORAL SPRINGS, FLORIDA

Walter G. Campbell, Jr.

WALTER G. CAMPBELL, JR., Mayor

ATTEST:

Debra Thomas

DEBRA THOMAS, CMC, City Clerk

Unanimous _____
Motion/2nd _____

Yes No

☒	☐	Mayor Campbell	☒	☐
☒	☐	Vice Mayor Cimaglia	☒	☐
☐	☐	Commissioner Vignola	☐	☒
☐	☐	Commissioner Daley	☒	☐
☐	☒	Commissioner Carter	☒	☐