

ORDINANCE NO. 4050

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PINELLAS PARK, PINELLAS COUNTY, FLORIDA, AMENDING CHAPTER 18 (LAND DEVELOPMENT CODE), ARTICLE 15 "ZONING", OF THE CODE OF ORDINANCES OF THE CITY OF PINELLAS PARK, FLORIDA; AMENDING SECTION 18-1502.2, DEFINITIONS, MODIFYING AND ADDING DEFINITIONS; CREATING SUBSECTIONS 18-1530.8(F) AND 18-1530.8(G), PROVIDING MINIMUM OBJECTIVE STANDARDS FOR AT-GRADE FACILITIES, BELOW-GRADE FACILITIES, WIRELINE FACILITIES, UTILITY POLES, AND SMALL WIRELESS FACILITIES; PROVIDING FOR THE INCLUSION OF SUCH AMENDED ORDINANCE IN THE CODE OF ORDINANCES OF THE CITY OF PINELLAS PARK, FLORIDA; DIRECTING MUNICODE TO RENUMBER OR RECLASSIFY AS APPROPRIATE; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR AN EFFECTIVE DATE. (LDC 2017-06)

WHEREAS, Chapter 2017-136 Laws of Florida provides for the co-location of small wireless facilities within rights-of-way; and

WHEREAS, said law does not permit local authorities to prohibit such use; and

WHEREAS, said law permits local authorities to enforce certain regulations controlling the placement of small cell wireless facilities in the rights-of-way; and

WHEREAS, the City of Pinellas Park, Florida adopted Ordinance No. 4038 providing rules and regulations for rights-of-way utilization permits, a telecommunications provider registration process and other matters related thereto; and

WHEREAS, this proposed ordinance primarily addresses the addition of new poles or wireless support structures to the City's rights-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PINELLAS PARK, PINELLAS COUNTY, FLORIDA, AS FOLLOWS:

SECTION ONE: That Chapter 18 (Land Development Code), Article 15 "Zoning" of the Code of Ordinances of the City Pinellas Park, Florida, is hereby amended by amending Section 18-1502.2 "Definitions", so that said subsection 18-1502.2 shall hereafter include the following terms and new or modified definitions in their proper alphabetic sequence:

AT-GRADE FACILITY. A Communications Facility (as defined in Section 14-203(10), Code of Ordinances) the structure of which is affixed to the ground at-grade with a portion of the structure extending vertically above grade. At-Grade Facilities may also, but not necessarily, extend vertically below grade. Utility Poles and ground-mounted equipment installed as part of a Small Cell Wireless Facility shall not be considered At-Grade Facilities.

BELOW-GRADE FACILITY. A Below-Grade Facility means a Communications Facility, including manholes or access points that are entirely contained below-grade within the Public Rights-of-way. A Below-Grade Facility is a type of Wireline Facility.

COMMUNICATION TOWER. A tower structure, whether placed on foundations, on another structure, or otherwise which is designed for use for radio, television, microwave, cellular, personal communication services, radar or any other similar communication purpose, and shall include any accessory equipment or building therefor. Communication Tower includes ground-mounted communication towers, either monopole (free-standing), guyed (anchored with guy wires) or lattice (self-supporting towers with three (3) or more sides of open-framed supports), and includes, but is not limited to, utility poles as the term is defined in Section 14-203(24), Code of Ordinances. Communication Tower shall not include amateur radio towers or antennas if licensed by the Federal Communications Commission. Communication tower shall not include satellite antennas or antennas as allowed by Section 18-1530.7, "Dish-Type Antennas."

WIRELINE FACILITY. An aerial facility used to provide Communications Services or a Below-Grade Facility. The term includes wireline backhaul facilities associated with a Wireless Facility and 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 of a Wireless Facility.

SECTION TWO: That Chapter 18 (Land Development Code), Article 15 "Zoning" of the Code of Ordinances of the City of Pinellas Park, Florida, is hereby amended by creating new Subsections 18-1530.8(F) and 18-1530.8(G) so that said Section 18-1530.8 COMMUNICATION TOWER shall hereafter be and read as follows:

Sec. 18-1530.8. - COMMUNICATION TOWER.

(A) PURPOSE AND INTENT. The regulations and requirements of this Section are intended to:

1. Promote the health, safety and general welfare of the citizens by regulating the location of communications towers within the City.
2. Provide for the appropriate location and development of communications towers within the City;
3. Minimize adverse visual effects of communications towers through careful design, siting, landscaping screening, flush mounted antennas mounted within six (6) horizontal inches of the tower, and innovative camouflaging techniques
4. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; and
5. Protect residential areas and land uses from potential adverse impacts of communication towers by maximizing use of any new or existing communications towers or structures through shared use or co-location, i.e., combining to reduce the number of towers needed.

(B) NEW COMMUNICATION TOWER. Applicants proposing to locate a new communication tower shall comply with the following:

1. All applicants for new towers shall investigate the possibility of co-locating or sharing use of available space on existing towers or structures prior to requesting conditional use approval for a new tower. The availability of co-location facilities or shared space, as demonstrated by the applicant, will be considered by the City in the evaluation of any application. The applicant is to provide, at minimum, the following information to demonstrate if an

existing structure or tower can accommodate the applicant's proposed antenna:

- (a) Whether there are existing towers or structures located within the geographic area required to meet the applicant's coverage requirements.
- (b) Whether there are existing towers or structures that have sufficient height to meet the applicant's engineering requirements.
- (c) Whether there are existing towers or structures that have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (d) Whether the applicant's proposed antenna would cause electromagnetic interference with or would be interfered with by other antennas if placed on any existing tower or structure.
- (e) Whether the fees, costs or contractual provisions required by the owner(s) of the existing tower or structure would prohibit the applicant from co-locating or sharing the aforementioned existing tower or structure.
- (f) Whether there are other limiting factors that render existing towers and structures incapable of meeting the applicant's engineering requirements.

Prior to the request for City approval, all applicants for new towers shall notify, by registered mail, return receipt requested, all other cellular and personal communication services providers doing business in Pinellas County, Florida, of the proposed tower and solicit firms for shared use/co-location. The notice shall advise the other cellular and personal communication services that they have thirty (30) days to respond.

- 3. Prior to obtaining conditional approval for any new communication tower, the owner/operator of the proposed tower shall enter into an agreement with the City requiring that the owner/operator of the proposed tower

will honor all reasonably and technically feasible requests for shared use/co-location of the tower.

(C) EXISTING COMMUNICATION TOWER. Owner(s)/operator(s) of existing towers shall comply with the following:

1. Whenever the use of a communication tower has been discontinued for a period of twelve (12) consecutive months, such use shall be void as a Conditional Use. In the event that public and/or private utilities serving the facility have been discontinued for a period of twelve (12) consecutive months, and/or no business license for the use has been issued during the past twelve (12) consecutive months, then the use of the tower shall be deemed to have been discontinued during such period. Such tower shall be dismantled and removed within sixty (60) days from the date of notice of abandonment or discontinuance issued by the City Manager.

Determination of the date of abandonment/ discontinuance shall be made by the City Manager who shall have the right to request documentation and/or affidavits from the communication tower owner/operator regarding the active use of the tower.

An existing communication tower may be increased in height through an administrative Conditional Use approval, provided that:

- (a) The communication tower increase in height does not exceed the existing tower height by twenty (20) feet for each additional user with a maximum height not to exceed one hundred sixty (160) feet;
- (b) Conditional Use regulations for communication towers are complied with.
- (c) If requested at any time, the owner/operator shall inform the City of the extent of the tower's use and identify all users of the tower.

(D) REPLACEMENT TOWER. An existing communication tower may be replaced with another communication tower under the following circumstances:

1. The replacement tower is located on the same lot as the tower that is being replaced;

The old tower and support facilities are to be removed within ninety (90) days of the completion of the replacement tower and the installation of the support facilities;

3. The communication tower's increase in height does not exceed the existing tower height; provided, however, that the tower height may be increased by twenty (20) feet for each actual additional user; increments of twenty (20) feet in height will be allowed for each actual user, not to exceed a maximum tower height of one hundred sixty (160) feet;
4. Conditional Use regulations for communication towers are complied with, except that administrative only review is required.
5. The replacement tower must be of the same type, e.g. monopole to monopole, guyed to guyed, and lattice to lattice.

(E) MINIMUM STANDARDS FOR COMMUNICATION TOWERS. All communication towers must meet the following minimum standards:

1. Under no circumstances shall the height of a communication tower exceed one hundred sixty (160) feet.
2. Communication towers designed and used for single users shall not exceed one hundred twenty (120) feet in height. Towers designated for multiple users may add twenty (20) feet for each additional user; provided, however, that additional height may not be added until the additional user actually commences use thereof, and provided further, however, the height does not exceed one hundred sixty (160) feet.
3. If there is a reduction of users on the tower, the height of the tower shall be reduced in height by twenty (20) feet for each disconnected user within sixty (60) days of discontinuance.
4. Monopole towers shall be set back from all property lines a minimum of twenty (20) feet or the distance from the designed collapse point to the top of the tower, whichever is greater. Guyed and lattice towers shall be set back from all property lines a minimum distance equal to fifty (50) percent of the tower height or the distance from the designed collapse point to the top of tower, whichever is greater.

5. All tower supports and peripheral anchors shall be located entirely within the boundaries of the property and in no case less than five (5) feet from the property lines.
6. All accessory buildings and structures utilized in conjunction with the tower shall conform to the setback requirements for the zoning district in which the use is located.
7. A chain-link fence or wall not less than eight (8) feet in height from finished grade shall be provided around each tower. Access to the tower(s) shall be through a locked gate.
8. If high voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence or wall shall display in large, bold letters the following: "HIGH VOLTAGE-DANGER."
9. No equipment, whether mobile or immobile, not used in direct support of the tower, antennas or equipment building shall be stored or parked on the site unless being used on the site in connection with repairs to the facility.
10. All towers shall be erected in accordance with all applicable governmental rules and regulations. The owner shall provide the City with a sworn statement verifying that all such rules and regulations have been complied with.
11. Towers and support structures shall be neutral (nonglare and nonreflective) color or finished so as to minimize visual obtrusiveness, subject to any applicable standards of the FAA.
12. Towers and support structures shall not be used for advertising purposes and shall not contain any signage.
13. All applications shall include a description of the geographic service area of each antenna to be placed on the tower.

(F) MINIMUM OBJECTIVE DESIGN STANDARDS FOR AT-GRADE FACILITIES, BELOW-GRADE FACILITIES, WIRELINE FACILITIES AND UTILITY POLES.

- (1) Intent and purpose. At-grade Facilities, Below-grade Facilities, Wireline Facilities and Utility Poles shall be designed in such a manner to ensure such Facilities and Utility Poles are placed in a safe location that does not interfere with the traveling public and shall be designed to maximize compatibility with the surrounding neighborhood and to minimize any negative visual impact on the surrounding neighborhood. As used in this Section, the term Facility shall be used to collectively refer to At-grade Facilities, Below-grade Facilities and Wireline Facilities. The following design standards shall apply, unless waived by the City Manager or his/her designee.
- (2) Stealth Design. Utility Poles shall be made of substantially the same material, color and design as other Utility Poles within the same Public Rights-of-way, however, a Utility Pole made of steel, concrete or fiberglass and of a neutral color, shall not require a waiver regardless of the material and color of other Utility Poles within the same Public Rights-of-way. A repurposed structure shall be of substantially similar design, material and color of the existing structure being replaced by the repurposed structure. The repurposed structure shall be located in approximately the same location as the existing structure. The repurposed structure shall continue to serve its primary function. If the City has a planned future project to replace Utility Poles in the subject Public Rights-of-way, the Repurposed Structure shall conform to the City's updated design, material and color.
- (3) Concealment. A proposed Facility and Utility Pole shall utilize the following concealment requirements unless waived.
- (a) No Signage. Registrants shall not place or maintain Signage on any Facility within the Public Rights-of-way unless otherwise required by State or Federal laws or regulations.
- (b) Lighting. A Facility shall not have any type of lighted signal, lights or illuminations unless required by applicable State or Federal laws or regulations or as permitted by the City.
- (c) At-grade Facilities shall be located in areas with existing foliage or other aesthetic features to obscure the view of the At-grade Facilities or shall

be designed to appear similar to other at-grade facilities in the same Public Rights-of-way. Any additional plantings proposed pursuant to this Subsection shall be approved by the City.

(4) Maximum height restrictions. A Utility Pole intended to support the Collocation of Small Wireless Facilities is limited to the tallest existing Utility Pole as of July 27, 2017, located in the same City Public Rights-of-way, other than a Utility Pole for which a waiver has previously been granted, measured from grade in place within five hundred (500) feet of the proposed location of the Utility Pole intended to support the Collocation of Small Wireless Facilities. If there is no Utility Pole within five hundred (500) feet, the Utility Pole intended to support the Collocation of Small Wireless Facilities shall be limited to fifty (50) feet. The Small Wireless Facility, including any attached Antennas, shall not exceed ten (10) feet above the Utility Pole intended to support the Collocation of Small Wireless Facilities.

(5) Location context. A proposed Utility Pole shall utilize the following location context requirements:

(a) Installation at outermost boundary of Public Rights-of-way. At-grade Facilities and Utility Poles shall be placed at the farthest distance practicable from the edge of pavement unless there is a designated corridor within the Public Rights-of-way.

(b) Equidistant requirement. Utility Poles are strongly encouraged to be placed equidistant between existing Utility Poles, if any, within the Public Rights-of-way.

(c) Common property line. For Placement within Residential Blocks, Utility Poles are strongly encouraged to be placed at the common property line of the parcels that abut the Public Rights-of-way.

(d) Prohibition against placement that significantly impairs view from principal structures within Residential Blocks. At-grade Facilities and Utility Poles, shall be Placed such that views from principal structures within Residential Blocks are not significantly impaired.

(e) Prohibition against Placement in location where facilities are placed underground. At-grade Facilities, aerial Wireline Facilities, and Utility Poles in the Public Rights-of-way shall comply with undergrounding requirements of the City that prohibit above ground structures in the Public Rights-of-way.

(6) A proposed utility pole as the term is defined in § 14-203(24) must simultaneously apply for and obtain a conditional use permit in accordance with the procedures of Section 18-1530, City Code, and does not qualify under § 18-1531(10(A) (86)).

(G) MINIMUM OBJECTIVE DESIGN STANDARDS FOR SMALL WIRELESS FACILITIES.

(1) Purpose and intent. Small Wireless Facilities shall be designed in such a manner that the Small Wireless Facilities are placed in a safe location that do not interfere with the traveling public, and shall be designed to maximize compatibility with the surrounding neighborhood and to minimize any negative visual impact on the surrounding neighborhood. The following objective design standards regulating the location context, color, stealth design, and concealment of the proposed Small Wireless Facility shall apply, unless waived.

(2) Stealth design. All proposed Small Wireless Facilities shall meet one of the following Stealth Design standards, unless waived.

(a) Preferred stealth design option 1: No exposed wires or cables; the use of Shrouds; and the use of a slim design wherein the top mounted Antenna does not exceed the diameter of the supporting Utility Pole at the level of the Antenna attachment and side mounted enclosures, if any, do not extend more than thirty (30) inches beyond the exterior dimensions of the existing structure, repurposed structure or Utility Pole at the level of Antenna attachment measured from the edge of the pole to the outermost surface of the Antenna.

(b) Preferred stealth design option 2: No exposed wires or cables; the use of Shrouds; and the

use of a street light fixture to camouflage the Small Wireless Facility. Any street light fixture shall be maintained in good working order by the Applicant or pole owner unless the City accepts maintenance responsibility in writing. If the City accepts the maintenance responsibility of a street light fixture on an Authority Utility Pole, the ownership of the street light fixture shall transfer to the City.

(c) Preferred stealth design option 3: No exposed wires or cables; the use of Shrouds; and the use of Wraps.

(3) Concealment. A proposed Small Wireless Facility shall utilize the following concealment requirements unless waived.

(a) Applicants shall not place or maintain Signage on Communications Facilities in Public Rights-of-way, unless otherwise required by applicable State or federal laws or regulations, provided however, that existing structures that lawfully supported signage before being repurposed may continue to support signage as otherwise permitted by law.

(b) A Small Wireless Facility shall not have any type of lighted signal, lights, or illuminations unless required by applicable State or federal laws or regulations or as permitted by the City.

(c) Ground-mounted equipment for Small Wireless Facilities shall be located within a ten (10) foot radius of the supporting structure for the Small Wireless Facility and, if possible, in areas with existing foliage or other aesthetic features to obscure the view of the ground-mounted equipment. The ground-mounted equipment shall be designed to appear similar to other at-grade facilities in the same Public Rights-of-way and may be further concealed with additional plantings. Any additional plantings proposed pursuant to this subsection shall be approved by the City.

(4) Maximum height restrictions. A Small Wireless Facility, including any attached Antennas, shall not exceed ten (10) feet above the Existing Structure, Repurposed Structure or Utility Pole upon which the Small Wireless Facility is to be Collocated.

(5) Location context. A proposed Small Wireless Facility shall utilize the following location context requirements, unless waived.

(a) Prohibition against Placement within a location subject to Homeowners' Association restrictions. Small Wireless Facilities shall not be Collocated in a location subject to covenants, restrictions, articles of incorporation, or bylaws of a Homeowners' Association unless specifically authorized by the Homeowners' Association. This subsection shall not limit the installation, Placement, Maintenance, or replacement of Micro Wireless Facilities on any existing and duly authorized aerial Wireline Facility.

(b) Prohibition against Placement in location where facilities are placed underground. Small Wireless Facilities and Utility Poles intended to support the Collocation of a Small Wireless Facility in the Public Rights-of-way shall comply with nondiscriminatory undergrounding requirements of the City that prohibit aboveground structures in the Public Rights-of-way. Any such requirements may be waived by the City. This Section does not apply to the installation, Placement, Maintenance, or replacement of Micro Wireless Facilities on any existing and duly authorized aerial Communications Facilities, provided that once aerial facilities are converted to underground facilities, any such Collocation or construction shall be only as provided by the City's Code of Ordinances.

SECTION THREE: That the City Council does hereby certify that this Ordinance is consistent with the City's Comprehensive

Plan and elements thereof adopted pursuant to the Local Government Comprehensive Planning and Land Development Act.

SECTION FOUR: It is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the "Land Development Code" of the City of Pinellas Park, Florida, and the publisher of the Land Development Code may renumber, reclassify or otherwise insert this ordinance in an appropriate place to accomplish such intention.

SECTION FIVE: That all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are, and they are hereby repealed insofar as the same affect this Ordinance.

PUBLISHED THE _____ DAY OF _____, 2017.

FIRST READING _____ DAY OF _____, 2018.

PUBLIC HEARING THE _____ DAY OF _____, 2018.

PUBLISHED THE _____ DAY OF _____, 2018.

PUBLIC HEARING THE _____ DAY OF _____, 2018.

ADOPTED THIS _____ DAY OF _____, 2018.

AYES: ()

NAYES: ()

ABSENT: ()

ABSTAIN: (0)

APPROVED THIS _____ DAY OF _____, 2018.

Sandra L. Bradbury

MAYOR

ATTEST:

Diane M. Corna, MMC
CITY CLERK