

ORDINANCE NO. 2018-006

AN ORDINANCE OF ST. LUCIE COUNTY, FLORIDA AMENDING THE ST. LUCIE COUNTY LAND DEVELOPMENT CODE TO AMEND CHAPTER II, SECTION 2.00.00 DEFINITIONS; TO REPEAL CHAPTER VII, SECTION 7.10.27 COMMUNICATIONS; TO AMEND CHAPTER VI, SECTION 7.10.23, TELECOMMUNICATIONS TOWER SITING, BY AMENDING THE FOLLOWING SUBSECTIONS: DEFINITIONS; GENERAL PROVISIONS; APPLICATIONS FOR NEW WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS; BUILDING CODES/SAFETY STANDARDS; REQUIREMENT OF SITE PLAN AND ENGINEERING REPORT; SECURITY FUND; GENERAL REQUIREMENTS FOR THE LOCATION OF NEW WIRELESS TELECOMMUNICATIONS TOWERS ON COUNTY PROPERTY; INITIAL WIRELESS TELECOMMUNICATIONS ANTENNAS ON EXISTING STRUCTURES; COLLOCATION OF WIRELESS ANTENNAS ON EXISTING TOWERS AND STRUCTURES; ROOFTOP MOUNTED TELECOMMUNICATIONS TOWERS AND ANTENNAS; PROPOSED FACILITIES MODIFICATION APPLICATIONS; SETBACKS; SEPARATION/HEIGHT; BUILDING AND EQUIPMENT STORAGE AREAS; REMOVAL OF ABANDONED WIRELESS TELECOMMUNICATIONS TOWERS, FACILITIES AND ANTENNAS; PRE-EXISTING TELECOMMUNICATIONS TOWERS; INSPECTIONS, REPORTS, FEES, AND MONITORING; AMATEUR RADIO ANTENNAS; PENALTIES; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE AND PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR THE TERMINATION OF MORATORIUM ADOPTED PURSUANT TO ORDINANCE 17-018 AS EXTENDED BY RESOLUTION RES 2018-8; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Congress of the United States adopted the Telecommunications Act of 1996, 47 U.S.C. § 151 et seq. (“96 Act”) and the Federal Communications Commission (“FCC”) promulgated Orders thereto, providing federal regulation of wireless telecommunications, a technology of wireless voice, video and data communications systems rapidly becoming available, requiring land use facilities that impact planning and zoning concerns in St. Lucie County ("County") and throughout the United States; and

WHEREAS, Florida statutes apply to the County's authority to regulate the siting of wireless telecommunication facilities; and

WHEREAS, the “Middle Class Tax Relief and Job Creation Act (“Spectrum Act”) (PL-122-96; codified at 47 U.S.C. § 1455(a)) and FCC orders promulgated thereto, codified at 47

C.F.R. §1.40001, address, inter alia, local governments' regulation of the modification of existing wireless antenna support structures and base stations; and

WHEREAS, Article VIII, Section 1, of the Florida Constitution, vests the Board of County Commissioners with the authority to legislate countywide, except within a municipality that has adopted an ordinance which conflicts with a County ordinance; and

WHEREAS, it is the County's legislative intent to implement the adopted County Comprehensive Plan by continuing to ensure the highest quality living environment possible by developing zoning and development codes based on objectives and policies that will enhance St. Lucie County's natural and man-made resources while minimizing any damage or threat of degradation to the health, safety and welfare of the county's citizens, native wildlife and environment; and

WHEREAS, it is the County's intent to balance growth, safety, aesthetics, the compatibility of land uses and consistency with community vision; and

WHEREAS, it is the County's intent to establish standards in compliance with applicable federal and state laws; and

WHEREAS, this Board is authorized by Section 125.01(1)(t) to adopt ordinances and resolutions necessary for the exercise of its powers and to prescribe fines and penalties for the violations of ordinances in accordance with law; and

WHEREAS, on May 1, 2018, the Board adopted Ordinance 2018-002, amending Chapter 44, Article I, Sections 44-1 – 44-18, of the County Code, creating the St. Lucie County Communications Rights-of-Way Ordinance, providing for the processing of applications for communications facilities in the County public rights-of-way and the regulation of such facilities; and

WHEREAS, on August 1, 1990, the Board of County Commissioners of St. Lucie County, Florida, adopted the St. Lucie County Land Development Code; and

WHEREAS, the County has received and expects to receive additional requests from telecommunications service providers to site wireless telecommunications towers and antennas within the County boundaries and is authorized by federal, state and local law to regulate the siting of such telecommunications towers and antennas; and

WHEREAS, there have been significant advances in telecommunications technology as well as revisions in applicable federal and state law since the adoption of the Land Development Code; and

WHEREAS, Federal Communications Commission (FCC) licensed amateur radio is regulated only by Section 7.10.23(U) in this Ordinance; and

WHEREAS, the Board of County Commissioners seeks to avoid adverse impacts on residential zoning districts from the construction of new telecommunications towers; and

WHEREAS, on April 19, 2018, the Local Planning Agency/Planning and Zoning Commission held a public hearing on the proposed ordinance after publishing notice in the Tribune at least 10 days prior to the hearing and recommended that the proposed ordinance be approved; and

WHEREAS, on May 1, 2018, this Board held its first public hearing on the proposed ordinance, after publishing a notice of such hearing in the Tribune; and

WHEREAS, on May 15, 2018, this Board held its second public hearing on the proposed ordinance after publishing a notice of such hearing in the Tribune; and

WHEREAS, the proposed amendments to the St. Lucie County Land Development Code are consistent with the general purpose, goals, objectives and standards of the St. Lucie County Comprehensive Plan and are in the best interest of the health, safety and welfare of the citizens of St. Lucie County, Florida.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of the County of St. Lucie, Florida that:

PART A.

THE SPECIFIC AMENDMENTS TO THE ST. LUCIE COUNTY LAND DEVELOPMENT CODE TO READ AS FOLLOWS INCLUDE¹:

CHAPTER II – DEFINITIONS

2.00.00 – DEFINITIONS

When used in this Code, the following terms shall have the meanings herein ascribed to them:

~~Alternative Tower Structure: A design mounting structure that camouflages or conceals the presence of a tower; for example, man made trees, clock towers, bell steeples, utility poles, and similar alternative designs. An antenna mounted on a utility pole shall be subject to all requirements as stated in this ordinance. The following shall be considered not to be an alternative tower structure: 1) a structure supporting a utility transmission line(s) only; and 2) a structure up to one hundred fifty (150) feet in height supporting a 69KV or higher voltage utility transmission line(s), and antenna(e), when located in non-residential zoning districts; and 3) a structure supporting an amateur radio antenna only.~~

Accessory Security Residence: One dwelling unit contained within the commercial building, for on-site security purposes.

¹ Language to be deleted is indicated by a ~~strike through~~; language to be added is indicated by underline.

Accessory Use: For purposes of Section 7.10.23, means a secondary use including a use that is related to, incidental to, subordinate to and subservient to the main use of the property on which an antenna and or telecommunications tower is sited.

Amateur Radio Antenna: An antenna used to engage in amateur radio communications utilized by a Federal Communications Commission (FCC) licensed amateur radio operator.

Antenna: A transmitting and/or receiving device mounted on a tower, building or structure and used in telecommunications personal wireless services that radiates or captures electromagnetic waves, digital signal, analog signals, and radio frequencies, directional antennas such as panel and microwave dish antennas, and omni-directional antennas such as whips but excluding small wireless facilities as defined in the St. Lucie County Communications Rights-of-Way Ordinance, Chapter 44, Article I of the Code of Ordinances, radar antennas, amateur radio antennas, and satellite earth stations.

Applicant [owner, licensed contractor, and/or lessee]: For purposes of Section 7.10.23, a person or entity with property owner authorization, with an application before the County for a permit for a wireless service facility.

Backhaul Network: The lines that connect the towers/cell sites of a provider to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Base Station: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. To the extent not inconsistent with applicable law, this term Base Station does not include a utility pole for the collocation of a small wireless facility in the County's public rights-of-way pursuant to the St. Lucie County Communications Rights-of-Way Ordinance, Chapter 44, Article I, of the County Code. The term Base Station does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes but is not limited to:

- i. 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;
- ii. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks); and
- iii. Any structure other than a tower that, at the time the relevant application is filed with County under this article, supports or houses equipment described in subparagraphs (i)-(ii) above, and 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. Base Station does not include any structure that, at the time the relevant application is filed under this section, does not support or house equipment described in (a) or (b) of this section.

Broadcasting Facility: Any telecommunications tower built primarily for the purpose of broadcasting licensed AM, FM or television signals pursuant to 47 C.F.R. Part 73 of the FCC rules, as it may be amended.

Building-permit Review: A review for compliance with building constructions standards adopted by the County under Chapter 553 and Chapter XIII of the County Land Development Code and does not include a review for compliance with land development regulations.

~~*Camouflage Facility:* Any telecommunications facility which is designed to blend into the surrounding environment. For example, architecturally screened roof mounted antennae, building-mounted antennae painted to match the existing structure, antennae integrated into architectural elements, and communication towers designed to look like light poles, power poles, or trees.~~

Carrier: A company licensed by the Federal Communications Commission (FCC) that provides wireless services. A tower builder or owner is not a carrier unless licensed to provide wireless services.

Cell on Wheels (COW): A temporary, transportable wireless communications facility used to provide emergency or temporary transmission capacity.

Collocation: For purposes of an Eligible Facilities Modification, 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. “Collocation” for all other purposes, means the situation when a second or subsequent wireless carrier use an existing structure to locate a second or subsequent antennas. 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 antenna.

County: St. Lucie County, a political subdivision of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

Eligible Facilities Modification Application: A written document submitted to the County pursuant to this article for review and approval of a proposed eligible facilities modification.

Eligible Facilities Modification: Any request for modification of an existing tower or base station that does not result in a substantial change in the physical dimensions of such tower or base station, involving:

- Collocation of new transmission equipment;
- Removal of transmission equipment; or
- Replacement of transmission equipment.

Eligible Facilities Modification Permit: A written document issued by the County pursuant to this article, approving an eligible facilities modification application.

Eligible Support Structure: Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the County under this article.

Equipment Building: The cabinets, shelter, building or other such structure which contains the electronic equipment used in the operation of the antenna. Unless, the context indicates otherwise, the term includes generators, generator fuel supplies, cable connections and supports electrical panels and similar accessory components.

Essential Services: Those services provided by the County and other governmental entities that directly relate to the health and safety of its residents, including fire, police and rescue.

Existing: For purposes of an Eligible Facilities Modification, a constructed tower or base station that has been reviewed or approved under the applicable zoning or siting process of the County, 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 definition.

Existing Structure: As used in Section 7.10.23, means a structure that exists at the time an application for permission to place antennas on a structure is filed with the County. The term includes any structure that can structurally support the attachment of antennas in compliance with applicable codes.

Fall Radius: The calculated distance measured from the center of the base of a tower which defines the maximum circular area into which the tower ~~and/or~~ any further distance in which any part of a tower may fall in case of structural failure or collapse. ~~The fall radius is calculated through a breakpoint analysis prepared by a licensed engineer.~~

Historic Building, Resource, Structure, Site, Object, or District: When used in Section in 7.10.23, means any building, resource, structure, site, object, or district that has been officially designated as a historic building, historic resource, historic structure, historic site, historic object, or historic district through a federal, state or local designation program.

Interference or Interfere: The impairment of transmission or reception of any desired communications or radio frequencies

Land Development Regulations: Any ordinance enacted by the County for the regulation of any aspect of development, including zoning, subdivisions, landscaping, tree protection, or signs, the County's comprehensive plan, or any other ordinance concerning any aspect of the development of land. The term does not include any building construction standard adopted under and in compliance with Chapter 553.

Lattice Tower: A telecommunications tower that is constructed to be self-supporting by lattice type supports and without the use of guy wires or other supports.

Licensed Engineer: A person who satisfies the requirements of Section 471.003, Florida Statutes.

Microwave Dish Antenna: A dish-shaped device used to transmit and/or receive microwave signals in a straight line to and from similarly earth bound point sources.

Monopole Tower: A telecommunications tower consisting of a single pole or spire self-supported on a permanent foundation, constructed without guy wires, ground anchors, or other supports.

Personal Wireless Service: Commercial mobile services, licensed 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 USC §322(c)(7)(C)(i), as amended.

Personal Wireless Service Facilities: Facilities for the provision of personal wireless services. A power, light, or other utility pole used exclusively as such prior to attachment of a personal wireless service facility shall not be considered a personal wireless service facility because of such attachment.

Pre-Existing Towers and Pre-Existing Antennas: Any permitted existing tower or antenna constructed or existing prior to September 2, 1997, or any telecommunications tower or antenna for which a building permit or special use permit has been properly issued and finalized, including permitted telecommunications towers or antennas that have not yet been constructed so long as such approval and building permit is current and not expired.

Proposed Facilities Modification: Any request for modification of an eligible support structure which the applicant asserts is subject to review under the Middle Class Tax Relief and Job Creation Act (“Spectrum Act”) (PL-122-96; codified at 47 U.S.C. § 1455(a)) and FCC orders promulgated thereto, codified at 47 C.F.R. §1.40001, and involving:

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

Public Safety Communications Facility: Any wireless communications facilities used by municipal, County, state or federal government agencies for the primary purpose of providing public safety related communications, including but not limited to, wireless communications for police, fire and emergency services.

Search Area: The geographic area, in which a telecommunications facility must be located in order to provide FCC required coverage of the applicant’s designed service areas, as certified through an affidavit by an Radio Frequency (RF) engineer as to radio frequency waves, or other such appropriate technical expert.

Stealth Tower or Camouflage Tower, Equipment Building or Antenna Structure: A designed structure that encloses, obscures or conceals the presence of an antenna, equipment building and/or telecommunications tower such that the tower, equipment building and/or antenna blends into the environment. For example, the following may be determined to be a stealth, or camouflage tower, equipment building or antenna: towers and antennas integrated into man-made trees that are similar in height, branches and leaf coverage to natural trees occurring on the proposed site, clock towers, bell steeples, light poles, architecturally screened roof mounted antennas, equipment buildings installed below grade or not visible beyond the property as a result of landscaping or

other buffering, and similar alternative designs. Stealth or camouflage tower may also be referenced as an “Alternative Tower Structure.”

Substantial Change: A modification that changes the physical dimensions of an Eligible Support Structure if it meets any of the following criteria:

- i. 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;
- ii. 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;
- iii. 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;
- iv. It entails any excavation or deployment outside the current site;
- v. It would defeat the concealment elements of the eligible support structure; or
- vi. 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 (i)-(iv) of this section.

~~*Telecommunications Facility:* A facility that is used to provide one (1) or more telecommunications services, including, without limitation, radio transmitting towers, other supporting structures, and associated facilities used to transmit telecommunications signals. An open video system is not a telecommunications facility to the extent that it only provides video services; a cable system is not a telecommunications facility to the extent that it only provides cable service.~~

~~*Telecommunications Facility Operator:* A provider of telecommunications services, or an owner or operator of a Telecommunications Facility.~~

~~*Telecommunications Services:* The offering of telecommunications (or the transmission between or among points, specified by the user of information of the user's choosing without change in the form or content of the information as sent and received) for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.~~

~~*Telecommunications Tower or Tower:* Any structure, and support thereto, designed and constructed primarily for the purpose of supporting one (1) or more antennae intended to provide telecommunication services including lattice, monopole and guyed towers. The term includes personal wireless service, facilities used for the provision of commercial mobile services, unlicensed wireless services (telecommunication services using duly authorized devices which do not require individual licenses) and common carrier wireless exchange access services. For purposes of this Code the term include radio and television transmission towers. The following shall be considered not to be a telecommunications tower:~~

- ~~a) A structure supporting a utility transmission line(s) only, and~~
- ~~b) A structure up to one hundred fifty (150) feet in height supporting a 69KV or higher voltage utility transmission line(s), and antenna(e), when located in non-residential zoning districts, and~~
- ~~c) A structure supporting an amateur radio antenna only,~~
- ~~and~~
- ~~d) A structure supporting a radio, television or satellite receiving antenna for residential uses only.~~

~~*Telecommunications Tower Height or Height:* When referring to a wireless telecommunications tower or other structure, the distance measured from the finished grade of a parcel to the highest point on the tower or other structure, including the base pad and any antenna, but excluding lights and lightening rods.~~

Transmission Equipment: Equipment that facilitates transmissions for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with 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, masts, or similar vertical structures that have a primary purpose or function independent of supporting a wireless telecommunications facility.

Wireless Communications Facility or Telecommunications Facility: Any equipment or facility used to provide wireless telecommunications service and may include, but is not limited to, antennas, towers, equipment enclosures, cabling, antenna brackets, and other such equipment. Placing a wireless communications facility on an existing structure does not cause the existing structure to become a wireless communications facility. Such definition shall not include facilities of a governmental entity where such facilities are utilized to provide intra-governmental communications, not generally available to the public, to protect the health, safety and welfare of the public, including but not limited to the South Florida Water Management District.

Wireless Telecommunications Service: Personal wireless service or "commercial mobile radio service" as provided under ss. 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. §§ 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, August 10, 1993, 107 Stat. 312. The term includes service provided by any wireless real-time two-way communication device, including radio-telephone communications used in cellular telephone service; personal communications service; or the functional or competitive equivalent

of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line. The term does not include wireless providers that offer mainly dispatch service in a more localized, noncellular configuration; providers offering only data, one-way, or stored-voice services on an interconnected basis; providers of air-to-ground services; or public coast stations.

Wireless Tower or Telecommunications Tower or Tower: Any structure, and support thereto, designed and constructed for the sole or primary purpose of supporting one (1) or more antennas and their associated equipment intended for transmitting or receiving wireless telecommunications services, telephone, radio and similar communication purposes, licensed or authorized by the FCC to the extent required, including lattice, monopole and guyed telecommunications towers. Unless otherwise expressly excluded, the term includes transmission telecommunications towers, microwave telecommunications towers, common-carrier telecommunications towers, cellular telephone telecommunications towers, alternative telecommunications tower structures, among others. To the extent not inconsistent with applicable law, the term Wireless Tower or Telecommunications Tower does not include a utility pole for the collocation of a small wireless facility in the County's public rights-of-way pursuant to the St. Lucie County Communications Rights-of-Way Ordinance, Chapter 44, Article I, of the County Code. A Wireless Tower, Telecommunications Tower or Tower shall not include the following:

1. A cell-on-wheels authorized pursuant to Section 7.10.23,
2. A structure supporting a utility transmission line(s) only,
3. A structure up to one hundred fifty (150) feet in height supporting a 69KV or higher voltage utility transmission line(s), and antenna(e), when located in non-residential zoning districts,
4. An amateur radio antenna or its support apparatus, and
5. A structure supporting a radio, television or satellite receiving antenna for residential uses only.

CHAPTER VII – DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

SECTION 7.10.27. ~~COMMUNICATIONS. RESERVED.~~

~~1. *Intent and Purpose.* St. Lucie County (the "County") hereby declares as a legislative finding that the public rights-of-way within the County are a unique and physically limited resource that are critical to the travel and transport of persons and property in the County; that the public rights-of-way must be managed and controlled in a manner that enhances the health, safety and general welfare of the County and its citizens; and that the use and occupancy of the public rights-of-way by providers of Communications services must be subject to regulation which can ensure minimal inconvenience to the public, coordinate users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of an optimal number of providers of cable, Communications, and other services in the public interest.~~

~~It is the intent of the County to promote the public health, safety and general welfare by: providing for the placement or maintenance of Communications facilities in the public rights-of-way within~~

~~the County limits; adopting and administering reasonable rules, regulations and general conditions not inconsistent with state and federal law, including F.S. § 337.401, as it may be amended from time to time, and in accordance with the provisions of the Federal Communications Act of 1996 and other federal and state law; establish reasonable rules, regulations and general conditions necessary to manage the placement and maintenance of Communications facilities in the public rights-of-way by all Communications service providers; minimize disruption to the public rights-of-way; and require the restoration of the public rights-of-way to original condition.~~

~~This ordinance shall apply to any entity who seeks to construct, place, install, maintain or operate a Communications system or facilities, as such terms are defined herein, in the public rights-of-way, unless otherwise exempt by operation of applicable state law.~~

2. ~~*Definitions.* For the purpose of this ordinance, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not otherwise defined in this section or in any permit that might be granted under this article shall be given the meaning set forth in the Communications Act of 1934, 47 U.S.C. Section 151 et seq., as amended (collectively, the "Communications Act"); and, if not defined therein, as defined by state statute; and, if not defined therein, be construed to mean the common and ordinary meaning.~~

A. ~~*Abandonment* means the permanent cessation of all uses of a 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 the public rights-of-way.~~

B. ~~*Affiliate* means each person, directly or indirectly, controlling, controlled by, or under common control with a Communications services provider that is registered with the County; provided that affiliate shall in no event mean any limited partner, member, or shareholder holding an interest of less than fifteen percent (15%) in such Communications services provider.~~

C. ~~*As-builts* mean, consistent with F.S. Ch. 556, the final and complete drawings in hard copy and the final and complete electronic overview map (in autocad, microstation, mapinfo or ESRI format) presented in the available computer input medium such as cd-rom, dvd or zip. Upon request of the County, as-builts, in both the drawings and the electronic overview map, must show the present state of a Communications services provider's facilities in the public rights-of-way, including, but not limited to, the horizontal and vertical location of facilities located at least every one hundred (100) feet and at any alignment change. Horizontal locations on all points of facilities shall be from street centerline, or section or quarter section lines or corners. Vertical locations on all points of facilities shall consist of elevations in either County datum or United States Geological Survey datum.~~

D. ~~*Co-locate or co-location* means the shared use of facilities, such as poles, ducts or conduit, including but not limited to the placement of conduit owned by more than one (1) user of the public rights-of-way in the same trench or boring and the placement of equipment owned by more than one (1) user in the same conduit. Co-location does not include interconnection of facilities or the sale or purchase of capacity.~~

E. ~~*Communications Company or Telecommunications Company* has the meaning set forth in F.S. § 364.02(12), and includes any company providing communications services as defined in Section 202.11(2) and Section 337.401(6).~~

- ~~F. *Communications facility, facility or facilities* means any facility that may be used to provide Communications Services, including but not limited to, equipment or property, including, but not limited to, cables, conduits, converters, splice boxes, cabinets, manholes, vaults, equipment, drains, surface location markers, appurtenances, located, to be located, used, or intended to be used, in the Public Rights of Way of the County to transmit, convey, route, receive, distribute, provide or offer Communications Services.~~
- ~~G. *Communications Pass-Through Provider* means any person who places or maintains a Communications Facility in the roads or right-of-way of the County and who does not remit taxes imposed pursuant to F.S. Ch. 202.~~
- ~~H. *Communications services* shall include, without limitation, the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by and through 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~~
- ~~I. *Communications services provider* shall refer to any Person making available or providing Communications Services, as defined herein, through the placement or use of a Communications Facility in the Public Rights of way.~~
- ~~J. *Communications system or systems* means any permanent or temporary plant, equipment and property placed or maintained in the public rights of way that is occupied or used, or is capable of being occupied or used, by a Communications services provider for the purpose of producing, conveying, routing, transmitting, receiving, amplifying, distributing, providing or offering Communications services including, but not limited to cables, wires, lines, conduits, fiber optics, antennae, radios and any associated poles, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, and other plant, equipment and pathway.~~
- ~~K. *County* means St. Lucie County, Florida, a political subdivision of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.~~
- ~~L. *Excavation or other similar formulation of that term* means the cutting, trenching or other disturbance to the public rights-of-way intended to change the grade or level of land or that causes any cavity, gap, depression, penetration or hole in the surface of the public rights of way.~~
- ~~M. *FCC* means the Federal Communications Commission.~~
- ~~N. *Government* means the United States of America, the State of Florida or St. Lucie County, Florida, and any of their respective agencies, departments or bureaus.~~
- ~~O. *In the public rights of way* means in, along, on, over, under, across or through the public rights of way, excluding only those public utility easements over which the County lacks jurisdiction under Florida law~~
- ~~P. *Law* means any local, state or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirements, as amended, now in effect or subsequently enacted or issued including, but not limited to, the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended by the Communications Act of 1996, 47 U.S.C.A § 151 et seq. (1996), and all orders, rules, tariffs, guidelines and regulations issued by the Federal Communications Commission or the governing State authority pursuant thereto.~~
- ~~Q. *Person* means any individual, firm, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, association, corporation, company, organization or legal entity of~~

~~any kind, including any affiliate, successor, assignee, transferee or personal representative thereof, and all other groups or combinations, and shall include the County to the extent that the County acts as a Communications services provider.~~

~~R. *Placement or maintenance or other similar formulation of that term* means the named actions interpreted broadly to encompass, among other things, erection, construction, reconstruction, installation, inspection, maintenance, placement, replacement, extension, expansion, repair, removal, operation, occupation, location, relocation, grading, undergrounding, trenching or excavation. Any Communications services provider that owns, leases or otherwise controls the use of a Communications system or facility in the public rights-of-way, including the physical control to maintain and repair, is "placing or maintaining" a Communications system or facility. A person providing service only through buying wholesale and then reselling is not "placing or maintaining" the Communications facilities through which services is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way does not constitute "placing or maintaining" facilities in the public rights-of-way.~~

~~S. *PSC* means the Florida Public Service Commission.~~

~~T. *Public rights-of-way* means a road, street, highway, bridge, tunnel or alley that is owned by the County, publicly held by the County or dedicated to the County for public use and over which the County has jurisdiction and control and may lawfully grant access pursuant to applicable law, and includes the space above, at or below the surface of such right of way. "Public rights-of-way" shall include public utility easements and County services easements that are under the jurisdiction and control of the County wherein the County now or hereafter acquires the right to locate or permit the location of Communications facilities; provided that the terms and conditions of any such easement expressly prohibit the use of particular easement for purposes other than which it was conveyed, dedicated or condemned. "Public rights-of-way" shall not include (1) city, state or federal rights-of-way, (2) property owned by any person other than the county, (3) service entrances or driveways leading from the road or street onto adjoining property or (4) except as described above, any real or personal property of the County, such as, but not limited to, County parks, buildings, fixtures, poles, conduits, sewer lines, facilities or other structures or improvement, regardless of whether they are situated in the public rights-of-way.~~

~~U. *Registrant or facility owner* shall mean a Communications company or other person which seeks to use the public rights-of-way that has registered with the County in accordance with the provisions of this ordinance.~~

~~V. *Registration and register* shall mean the process described in subsection 3, whereby a Communications service provider provides certain information to the County.~~

~~3. *Registration.*~~

~~A. Each Communications service provider that desires to place, erect, construct, install, locate, maintain, repair, extend, expand, remove, or relocate any Communications facilities in, under, over or across any public rights-of-way in the County shall be considered to be using the public rights-of-way and shall be required to register with the County in accordance with the terms of this ordinance.~~

~~B. Any Communications service provider desiring to use the public rights-of-way shall file a registration with the County Administrator or his/her designee, which shall include the following information:~~

- ~~1. Identity of the applicant and name, address and telephone number of applicant's primary contact person in connection with the registration;~~
 - ~~— A statement of whether the applicant presently provides retail services to any Communications services customers within the jurisdictional limits of the County at the time of registration or whether the applicant simply intends to lease its facilities to other Communication service providers who will be providing direct service to retail customers within the jurisdictional limits of the County. This information will allow the County to follow up with the registrant at the time the registrant begins to make physical use of the public rights-of-way, and to determine whether a linear mile charge is applicable in accordance with subsection 4 of this ordinance.~~
 - ~~3. Evidence of the insurance coverage required under this ordinance and acknowledgment that registrant has received and reviewed a copy of this ordinance;~~
 - ~~4. A copy of federal and/or state certification authorizing the applicant to provide Communications services; and~~
 - ~~5. A security fund in accordance with this ordinance.~~
 - ~~6. Acknowledgment that Registrant has received and reviewed a copy of this Ordinance.~~
- ~~C. The County will review the information submitted by the applicant. Such review will be by the County Administrator or designee. If the applicant submits information in accordance with subsection 3 above, the registration shall be effective and the County shall notify the applicant of the effectiveness of registration in writing. If the County determines that the information has not been submitted in accordance with subsection 3 above, the County shall notify the applicant of the non-effectiveness of registration, and reasons for the non-effectiveness, in writing. The County shall so reply to an applicant within thirty (30) days after receipt of registration information from the applicant. Upon notification of the non-effectiveness of the registration, nothing herein shall preclude the applicant from filing a subsequent application addressing the basis for the non-effectiveness. If the registrant disputes the determination of non-effectiveness for the particular application submitted, the only avenue of redress shall be an appeal under subsection 7(P). Failure to comply with the appeals section for the particular application found to be non-effective shall be sufficient grounds for the County to reject that particular application in the future. A registrant may cancel a registration upon written notice to the County Administrator or his/her designee stating that it will no longer maintain facilities in the public rights-of-way and will no longer need to pull permits to perform work in public rights-of-way. Within thirty (30) days of any change in the information required to be submitted pursuant to subsection 3, registrant shall provide updated information to the County.~~
- ~~D. A registration shall not convey title, equitable or legal, in the public rights-of-way. Registrants may only occupy public rights-of-way for Communications facilities. Registration does not excuse a Communications service provider from obtaining appropriate access or pole attachment consents before locating its facilities on another person's facilities. Registration does not excuse a Communications service provider from complying with all applicable County ordinances, including this ordinance.~~
- ~~E. Registration with the County shall be non-exclusive. Registration does not establish any priority for the use of the public rights-of-way by a registrant or any other registrants. Registrations are expressly subject to any future amendment to or replacement of this~~

ordinance and further subject to any additional County ordinances, as well as any state or federal laws that may be enacted during the term of the registration.

4. ~~*Fees and Payments.*~~

- A. ~~In consideration for the rights, privileges and permission granted hereunder, a Registrant hereunder shall pay an annual Communications Service Tax. Said tax shall be in addition to any permit fees imposed by the County pursuant to an election made by the County pursuant to F.S. Ch. 202.~~
- B. ~~A Registrant who places or maintains a Communications Facility in the roads or rights-of-way of the County but who does not remit taxes imposed and is as a Pass Through Provider, shall pay to the County annually five hundred dollars (\$500.00) per linear mile or portion thereof in addition to any permit fees the County is authorized to collect. The linear mile charge authorized by this Section shall be based on the linear miles of roads or Rights-of-way where a Communications Facility is placed, not based on a summation of the lengths of individual cables, conduits, strands or fiber.~~
- C. ~~Notwithstanding anything to the contrary, the County hereby reserves the right to require the maximum compensation allowed by law.~~
- D. ~~Pursuant to Chapter 337.401(3)(f), nothing herein shall prohibit or impair any voluntary agreement between a Registrant and the County which provides for or allows for the provision of in-kind compensation by the Registrant to the County in addition to the fees and payments set forth in Sections A and B above.~~

5. ~~*Reports and Records.*~~

- A. ~~A registrant shall provide the following documents to the County as received or filed:
 - (1) Any pleadings, petitions, notices and documents regarding any legal proceeding involving any provisions of this ordinance or any permit or Agreement granted pursuant to this Ordinance.
 - (2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.~~
- B. ~~In addition, the County may, at its option and upon reasonable notice to the registrant, inspect the facilities in the public rights-of-way and to require applicable reports and records including but not limited to FCC compliance and performance tests to ensure the safety of its residents.~~
- C. ~~Unless prohibited by applicable law, such other books, records, accounts and materials reasonably required by the County to determine compliance with this ordinance.~~
- D. ~~The County shall keep any documentation, books and records of the registrant confidential to the extent permitted under Florida Statutes.~~

6. ~~*Underground Installation; Relocation.*~~

- A. ~~A registrant shall install its facilities underground, unless such undergrounding is not technically feasible. This provision shall apply only prospectively for all new facilities and only to the extent that this obligation is not expressly prohibited by federal law, state law or applicable PSC rules and regulations.~~
- B. ~~Every registrant that places or constructs Communications facilities underground shall maintain appropriate participation in the regional notification center for subsurface installations.~~
- C. ~~Any Communications facilities heretofore or hereafter placed upon, under, over, or along any public rights of way that is found by the County to be unreasonably interfering in any way with the convenient, safe or continuous use, or the maintenance, improvement,~~

~~extension or expansion of such public rights of way shall, upon written notice to the registrant or its agent, be removed or relocated by such registrant at its own expense, within thirty (30) days of such notice, consistent with F.S. § 337.403. The County Administrator or his/her designee may extend the time within which a registrant shall remove or relocate a Communications facility for good cause shown.~~

- ~~D. The Registrant shall not in any way displace, damage, or destroy any facilities, including, but not limited to, gas, sewer, water main, pipe, cable, conduit, fiber optic, or other pathway or any other facilities belonging to the County. Except to the extent damage is caused by the County's negligence or the County's failure to comply with applicable law, subject to applicable law, the registrant shall be liable to the County for the costs of any repairs made necessary by any such displacement, damage or destruction, of facilities belonging to the County, and the registrant shall pay such costs upon demand. In the case of an emergency, the County may commence repairs without any prior notice to the registrant. The term emergency shall mean a condition that may affect the public's health, safety or welfare. In the event of an emergency, the County may cause the repairs to be made at the facility owner's expense, utilizing County employees, agents or contractors, charge any and all costs, and require reimbursement within thirty (30) days after the submission of the bill by the County to the registrant. After thirty (30) days, the County may obtain reimbursement from the security fund. In all other non-emergency circumstances, the registrant shall be given prior written notice. If such repairs are not performed in a reasonable and satisfactory manner within the thirty (30) calendar days after receiving notice, the County may cause the repairs to be made at the facility owner's expense, utilizing County employees, agents or contractors, charge any and all costs, and require reimbursement within thirty (30) days after the submission of the bill by the County to the registrant. Again, after thirty (30) days, the County may obtain reimbursement from the security fund.~~
- ~~E. Subject to F.S. § 337.403, whenever an order of the County requires such removal or change in the location of any Communications facility from the public rights of way, and the facility owner fails to remove or change the same at its own expense to conform to the directive within the time stated in the notice, the County may proceed to cause the Communications facility to be removed. The expense thereby incurred, except as provided in F.S. § 337.403(1)(a) – (c), shall be paid out of any money available therefore, and such expense shall be charged against the owner of the Communications facility and levied, collected and paid to the County.~~
- ~~F. Subject to F.S. § 337.404, whenever it shall be necessary for the County to remove or relocate any Communications facility, the owner of the Communications facility, or the owner's chief agent, shall be given written notice of such removal or relocation and requiring the payment of the costs thereof, and shall be given reasonable time, which shall not be less than twenty (20) nor more than thirty (30) days, to file an appeal with the Board of County Commissioners to contest the reasonableness of the order. Upon receipt of a written appeal, the Board of County Commissioners shall place the matter on its agenda for consideration within forty five (45) working days. Should the owner or the owner's representative not appear, the determination of the cost to the owner shall be final, in accordance with F.S. § 337.404.~~

- ~~G. A final order of the County, imposed pursuant to Florida Statutes and applicable provisions of this ordinance and the County code, if any, shall constitute a lien on any property of the owner and may be enforced as provided therein.~~
- ~~H. The County retains the right and privilege to cut or remove any facilities located within the public rights of way as the County Administrator or his/her designee in reasonable discretion may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the County shall attempt to notify the owner of the facility, if known, prior to cutting or removing a facility and shall notify the owner of the facility, if known, after cutting or removing a facility.~~
- ~~I. Upon abandonment of a facility within the public rights of way of the County, the owner of the facility shall notify the County within ninety (90) days. Following receipt of such notice, the County may direct the facility owner to remove all or any portion of the facility if the County determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the County does not direct the removal of the abandoned facility by the owner of the facility and the facility owner chooses not to remove its facilities, then such owner, by its notice of abandonment to the County, shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.~~
- ~~J. A registrant shall, on the request of any person holding a permit issued by the County, temporarily raise or lower its Communications facilities to permit the work authorized by the permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than thirty (30) days advance notice to arrange for such temporary relocation.~~
- ~~7. Use of Rights of Way.~~
- ~~A. A facility owner agrees at all times to comply with and abide by all applicable provisions of the state statutes and local laws including, but not limited to, applicable zoning regulations not inconsistent with state and federal laws.~~
- ~~B. Except in the case of an emergency, no Communications service provider shall construct any facility over, under or within any public rights of way which disrupts the public rights of way without first filing an application with and obtaining a permit from the County therefore, pursuant to applicable permitting requirements of the County and other applicable County Code requirements, except as otherwise provided in this ordinance. The term "emergency" shall mean a condition that affects the public's health, safety or welfare, which includes an unplanned out of service condition of a pre-existing service. Registrant shall still be required to provide prior notice to the County in the event of an emergency. For the purposes of the notice requirements herein, the County shall provide the registrant with a County contract. When work is performed on an emergency basis, the registrant must still apply for a permit by the following business day in accordance with the County's permitting guidelines. In all instances, the registrant shall restore all damaged property and indemnify the County from any and all damages caused by the registrant's emergency work. Unless otherwise required by this ordinance, the County may waive the permit requirement in cases where there will be no disruption of the public rights of way.~~

- ~~C. As part of any permit application with respect to new or existing facilities in the public rights of way, where applicable, the registrant shall provide a proposal for construction of the Communications facility that sets forth at least the following:~~
- ~~(1) An engineering plan identifying the location of the proposed facility, including a description of the facilities to be installed, where it is to be located, and the approximate size of facilities and equipment that will be located in, on, over, or above the public rights of way. The plan shall include a current survey of all existing improvements.~~
 - ~~(2) Maps showing the routing of new construction that involves an alteration to the surface or subsurface of the public rights of way. A registrant may not begin construction until the plans and drawings have been approved in writing by the County Engineer or his/her designee and a permit is issued.~~
 - ~~(3) A description of the manner in which the facility will be installed (i.e., anticipated construction methods and/or techniques).~~
 - ~~(4) The time required to place the facility.~~
 - ~~(5) A maintenance of traffic plan for any disruption of the public rights of way which meets or exceeds any requirements set forth by the State of Florida Department of Transportation.~~
 - ~~(6) Information on the ability of the public rights of way to accommodate the proposed facility, if available (such information shall be provided without certification as to correctness, to the extent obtained from other users of the public rights of way)~~
 - ~~(7) If appropriate, given the facility proposed, an estimate of the cost of restoration of the public rights of way.~~
 - ~~(8) And, such plan shall include the timetable for construction for each phase of the project and the areas of the County that will be affected.~~
 - ~~(9) Any such additional information as the County Engineer finds reasonably necessary to review an application for a permit to perform work in the public rights of way.~~
- ~~D. If there is insufficient space to accommodate all of the requests to occupy or use the rights of way, to the extent not otherwise prohibited by state or federal law, the County shall have the power to prohibit or limit the placement of new or additional facilities within the public rights of way for the protection of existing facilities in the public rights of way, or for County plans for public improvements, which have been determined by the County to be in the public interest.~~
- ~~(1) In case of conflict or interference between the facilities of different registrants, the registrant whose facilities were first permitted shall have priority over a competing registrant's use of the public rights of way. The resolution of any conflict or interference shall be made in a manner that is consistent with the non-discrimination provisions of the Federal Communications Act of 1996.~~
 - ~~(2) There may be from time to time within the County various easements and streets, which the County does not have the unqualified right to authorize registrant to use; therefore, the County does not warrant or represent as to any particular easement, rights of way, or portion of a right of way or easement, that it has the right to authorize the registrant to install or maintain portions of its facilities therein, and in each case the burden and responsibility for making such determination in advance of the installation shall be upon the registrant. The County shall not be required to assume any responsibility for the securing of any rights of way, easements or other~~

rights that may be required by the registrant for the installations of its facilities, nor shall the County be responsible for securing any permits or agreements with other persons or utilities.

~~(3) Nothing in this ordinance shall affect the County's authority to add, vacate, or abandon public rights of way, and the County makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights of way for Communications facilities.~~

~~(4) Upon request of the County, a registrant may be required to coordinate the placement or maintenance of facilities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable time frame in the subject public rights of way, and registrant may be required to reasonably alter its placement or maintenance schedule as necessary so as to minimize disruptions and disturbances in the public rights of way.~~

~~E. All facilities shall be installed, located and maintained so as not to unreasonably interfere with the use of the public rights of way by the public and so as not to cause unreasonable interference with the rights and convenience of property owners who adjoin any of the public rights of way. The registrant shall be liable for costs and expenses for the displacement, damage or destruction of any irrigation system or landscaping within the public rights of way, to the extent not covered by the construction bond. In the event the registrant fails to make the appropriate repairs to restore such property to as good a condition as existed prior to the commencement of the work, the affected property owner may file a complaint with the County Administrator or his/her designee. In this instance, the registrant shall be given prior written notice of the necessary repairs by the County Administrator or his/her designee. If such repairs are not performed in a reasonable and satisfactory manner within thirty (30) calendar days after receiving notice, the County may cause the repairs to be made at the facility owner's expense, utilizing County employees, agents or contractors, charge any and all costs, and require reimbursement within thirty (30) days after the submission of the bill by the County to the registrant. After thirty (30) days, the County may obtain reimbursement from the security fund. The prior written notice described in this subsection shall be considered a final written decision for purposes of the appellate rights outlined in subsection (P) of this Section.~~

~~F. The use of trenchless technology (i.e., directional bore method) for the installation of facilities in the public rights of way, as well as joint trenching and/or the co-location of facilities in existing conduit, is strongly encouraged and should be employed wherever possible.~~

~~G. The County Administrator or his/her designee may issue such additional rules and regulations concerning the placement and maintenance of a Communications facility in the public rights of way as may be consistent with applicable law and not inconsistent with this ordinance.~~

~~H. All safety practices required by applicable law, or accepted industry practices and standards, shall be used during construction, maintenance and repair of the Communications facilities. Registrant's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares or other devices, as are required by the Manual on Uniform Traffic Control Devices (FDOT) and/or any requirements of the County to protect all members of the public having occasion to use the portion of the streets involved or adjacent property.~~

- I. ~~If, at any time during the term of the rights granted herein, the County shall lawfully elect to alter, or change the grade of, any public rights of way, upon reasonable notice by the County, the registrant shall make any necessary removals, relaying and relocations of its Communications facilities at its own expense, in accordance with applicable law. The County reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, Communications or other types of facilities, cables or conduits, 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 County in the public rights of way occupied by the registrant.~~
- J. ~~A facility owner shall obtain any and all required permits and pay any and all required fees before commencing any construction on or otherwise disturbing any public rights of way as a result of its construction.~~
- (1) ~~The registrant shall, at its own expense, restore such property to as good a condition as existed prior to commencement of work. A registrant shall guarantee its restoration for a period of twelve (12) months after the completion of such restoration. If such restoration is not performed in a reasonable and satisfactory manner within thirty (30) calendar days after the completion of construction, the County may, after prior written notice to registrant, cause the repairs to be made at the facility's owner expense, utilizing County employees, agents or contractors, charge any and all costs, and require reimbursement within thirty (30) days after the submission of the bill by the County to the registrant.~~
- (2) ~~A permit from the County constitutes authorization to undertake only certain activities on public rights of way in accordance with this ordinance, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights of way.~~
- K. ~~All ongoing installation, construction and maintenance of a Communications facility located in the public rights of way shall be subject to the County's periodic inspection for compliance with this ordinance, or any applicable provisions of this ordinance and County Codes.~~
- L. ~~A facility owner shall not place its facilities so as to interfere unreasonably with any other person lawfully using the public rights of way of the County.~~
- M. ~~The registrant shall, upon request of the County Engineer or his/her designee, and at no cost to the County, produce and provide to the County Engineer or his/her designee a complete set of as-built plans including but not limited to, horizontal and typical vertical profiles, within sixty (60) days after construction of any portion of the system. A registrant shall cooperate with the County by providing timely and complete information under this subsection. Upon completion of any installation or construction of new facilities in public rights of way, the registrant shall provide, at no cost to the County, such information as may be requested showing the exact location of its facilities and structures, including but not limited to, maps, geographical information systems, plats, construction documents, drawings and any other information the County may find reasonably necessary. If available, such plans shall be provided in digitized format showing the two-dimensional location of the facilities based upon the County's geographical database datums, or other format acceptable to the County Administrator. All information required by this Section shall be maintained in accordance with the public records laws of the State of Florida.~~

- ~~N. Suspension or denial of Permits. Subject to subsection P. below, the County Administrator or a designee may suspend an existing permit or deny an application for a permit for work in the public rights-of-way for one (1) or more of the following reasons:~~
- ~~(1) Violation of permit conditions, including conditions set forth in this ordinance or other applicable provisions of this ordinance or County Codes or regulations governing use of public rights-of-way; or~~
 - ~~(2) Misrepresentation or fraud by registrant in a registration or permit application to the County; or~~
 - ~~(3) Failure to relocate or remove facilities as may be lawfully required by the County; or~~
 - ~~(4) Failure of registrant, its employees, agents or subcontractors, in connection with the subject permit, to:~~
 - ~~(a) Place barricades or signs around the work area;~~
 - ~~(b) Take reasonable safety precautions to alert the public of work at the work site; or~~
 - ~~(c) Repair, replace and restore any public or private property including without limitation any sidewalk, street, alley, pavement, water, sewer or other utility line or appurtenance, soil, landscaping, dirt or other improvement, property or structure of any nature.~~
- ~~In the event of such failure, the County may perform the work utilizing County employees, agents or contractors, charge any and all costs, and registrant shall be required to reimburse the County within thirty (30) calendar days after the submission of the bill by the County to registrant. In the event the County incurred costs as described herein, the registrant shall be required to reimburse the County for any and all such costs before the suspension or denial can be lifted. The County Administrator or his/her designee shall have the discretion to waive this requirement.~~
- ~~O. Immediately after the suspension or denial of permit pursuant to this Section, the County shall provide written notice of the violation, which notice shall contain a description of the violation. A final written decision of the County Administrator suspending a permit or denying an application for a registration is subject to appeal. Upon correction of any violation that gave rise to a suspension or denial of permit, the suspension or denial shall be lifted.~~
- ~~P. All final written decisions may be appealed by filing a written notice of appeal with the County Clerk and providing copies to the County Administrator and County Attorney. An appeal must be filed with the County within thirty (30) days of the date of the final, written decision to be appealed. Any appeal not timely filed as set forth herein shall be waived. The notice of appeal shall state the decision that is being appealed, the grounds for appeal, a brief summary of the relief sought, and shall be accompanied by a non-refundable fee to be established by administrative order of the County Administrator. The Board of County Commissioners may affirm, modify or reverse the decision of the County Administrator. The County Administrator or his/her designee shall notify any party who has filed a written request for such notification of the date when the matter will be presented to the Board of County Commissioners. Nothing contained herein shall preclude the Board of County Commissioners from seeking additional information prior to rendering a final decision. The decision of the Board of County Commissioners shall be by resolution and a copy of the decision shall be forwarded to the County~~

~~Administrator and the appealing party. Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the Board of County Commissioners may appeal an adverse decision to the Circuit Court in and for St. Lucie County, Florida, or applicable federal or district court. The party making the appeal shall be required to pay to the County Clerk a fee as established by the Clerk.~~

~~Q. In the event registrant desires to use its existing facilities or to construct new facilities for the purpose of providing other utility or non-utility services to existing or potential consumers or resellers by providing services other than the provision of Communications service, or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from County for such activities as may be required by applicable law.~~

~~R. To the extent that any person or registrant leases or otherwise uses the facilities of an entity that is duly registered or otherwise authorized to place and maintain facilities in the public rights-of-way of the County, the person or registrant shall make no claim, nor assert any right which will impede the lawful exercise of the County's rights, including requiring the removal of such facilities from the public rights-of-way of the County, regardless of the effect on the person's ability to provide service, or on the registrant's ability to maintain its own Communications facilities in the public rights-of-way of the County.~~

~~8. *Involuntary Termination of Registration.*~~

~~A. The involuntary termination of a registration may only be accomplished by an action of the Board of County Commissioners. The County may declare the registration terminated and revoke and cancel all privileges granted under that registration if:~~

- ~~(1) A federal or state authority suspends, denies, or revokes a registrant's certification to provide Communications service;~~
- ~~(2) The registrant is adjudicated bankrupt by a United States District Court or through any legal proceeding of any kind, or that a receiver is appointed to take possession of the assets of the registrant, or~~
- ~~(3) Fails to provide proof of required insurance.~~
- ~~(4) The registrant abandons all of its facilities.~~

~~B. Prior to such termination of the County resulting from a violation of any of the provisions of this subsection, the registrant shall be notified by the County Administrator or his/her designee with a written notice setting forth all matters pertinent to such violation and describing the action of the County with respect thereto. The registrant shall have sixty (60) days after receipt of such notice within which to cure the violation, or within which to present a plan, satisfactory to the Board of County Commissioners to accomplish the same. In the event of an emergency, the County may take appropriate action in accordance with Section 6 of this ordinance. In the event of a vote by the Board of County Commissioners to terminate, the registrant shall, within a reasonable time following such termination, remove or abandon the facilities and take such steps as are necessary to render safe every portion of the facilities remaining with the public rights-of-way of the County. If the registrant has either abandoned its facilities or chooses to abandon its facilities, the County may either:~~

- ~~(1) Require the registrant's bonding company to remove some or all of the facilities from the public rights-of-way and restore the public rights-of-way to its proper condition,~~
~~or~~

- ~~(2) The County may require that some or all of the facilities be removed and the public rights-of-way restored to its proper condition at the registrant's expense, utilizing County employees, agents or contractors, and charge any and all costs, and require reimbursement.~~
- ~~C. The obligations of the registrant and the bonding company hereunder shall survive for a period of twenty four (24) months from the termination of the registration. In the event of a termination of registration, this provision does not permit the County to cause the removal of any facilities that are used to provide another service for which the registrant holds a valid certification with the governing federal and state Communications agencies and is properly registered with the County for such certificated service, under this ordinance.~~
- ~~9. *Compliance with Other Laws; Police Power.* A facility owner shall at all times be subject to and shall comply with all applicable federal, state and local laws. A facility owner shall at all times be subject to all lawful exercises of the police power of the County, to the extent not inconsistent with applicable laws.~~
- ~~10. *Transfer of Control; Sale or Assignment.*~~
- ~~A. If the registrant transfers or assigns its registration incident to a sale or other transfer of the registrant's assets, the transferee or assignee shall be obligated to comply with the terms of this ordinance. Written notice of any transfer, sale or assignment shall be provided to the County within twenty (20) days following the effective date of the transfer, sale or assignment. In order for the transfer of registration to be effective, the transferee or assignee must comply with the registration requirements under subsection 3. of this Ordinance.~~
- ~~B. Notwithstanding anything in this ordinance, pledges in trust or mortgages or other hypothecations of the assets of the registrant to secure the construction, operation or repair of its Communications facilities may be made to any person with notice to the County. Any mortgage, pledge, lease or other encumbrance of the Communications facilities shall be subject and subordinate to the rights of the County by virtue of this ordinance or other applicable law.~~
- ~~11. *Insurance; Surety; Indemnification.*~~
- ~~A. A facility owner shall at all times maintain the following liability insurance coverage insuring the registrant and naming the County, its officers, boards, Commission, Commission members, agents and employees as additional insureds; worker's compensation and employer liability insurance to meet all requirements of Florida law and commercial general liability insurance with respect to the construction, operation and maintenance of the Communications facilities, and the conduct of registrant's business in the County, in the minimum amounts of:~~
- ~~(1) \$1,000,000 for property damage in any one (1) accident;~~
- ~~(2) \$1,000,000 for personal bodily injury to any one (1) person; and~~
- ~~(3) \$2,000,000 for personal bodily injury in any one (1) accident.~~
- ~~The policy shall also provide that the County will be given a thirty day written notice of cancellation or non-renewal.~~
- ~~B. All insurance policies shall be with sureties qualified to do business in the State of Florida; shall be with sureties with a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition, except as provided in subsection (D) below. The County may require coverage and amounts in excess of the above minimums where necessary to~~

~~reflect changing liability exposure and limits or where required by law. A registrant may provide a portion of the insurance coverage required by subsection 11. through excess or umbrella policies of insurance and where such policies are in a form acceptable to the County's Risk Manager.~~

- ~~C. A registrant shall keep on file with the County certificates of insurance which certificates shall indicate that the County, its officers, boards, Commission, Commission members, agents and employees are listed as additional insureds. In the event of a potential claim such that the County claims insurance coverage, the facility owner shall immediately respond to all reasonable requests by the County for information with respect to the scope of the insurance coverage.~~
- ~~D. The certificates of insurance shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days prior written notice thereof has been given to the County. A registrant shall not cancel any required insurance policy without submission of proof that the registrant has obtained alternative insurance satisfaction to the County that complies with this ordinance. A registrant that elects to self insure all or a portion of the insurance coverage and limit requirements required by this Section is not required, to the extent of such self insurance, to comply with the requirement for the naming of additional insureds under this Section. A registrant that elects to self insure shall provide to the County evidence sufficient to demonstrate its financial ability to self insure the insurance coverage and limit requirements required under this Section, such as evidence that the registrant is a "private self insurer" under the Workers Compensation Act. For purposes of this Section, "self insure" shall also include a registrant that insures through a "captive insurer," as defined in F.S. § 628.901.~~
- ~~E. Registrant shall, at its sole cost and expense, release, indemnify, hold harmless, and defend the County, its officials, boards, members, agents, and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses sustained by the County in connection with each such claim, suit, cause of action or proceeding including, but not limited to, attorneys' fees, arising out of the construction, maintenance or operation of its Communications system or facilities in the public rights of way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this ordinance; provided, however, that a facility owner's obligation hereunder shall not extend to any claims caused by the sole negligence of the County. This indemnity shall survive and continue in full force and effect as to the registrant's responsibility to indemnify. County agrees to notify the registrant, in writing, within a reasonable time of the County receiving notice, of any issue it determines may require indemnification. Nothing in this Section shall prohibit the County from participating in the defense of any litigation by its own counsel and at its own cost if in the County's reasonable belief there exists or may exist a conflict, potential conflict, or appearance of a conflict. Nothing contained in this provision shall be construed or interpreted (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida, and (2) as a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28.~~
- ~~F. The County Risk Manager may accept self insurance provided by a Registrant in satisfaction of the requirements of this Section provided such Registrant is a public corporation and complies with such other reasonable standards as may be required by the Risk Manager.~~

~~12. Construction Bond.~~

- ~~A. Except in the case of an emergency, as described in subsection 7(B) of this ordinance, prior to performing substantial work in the public rights of way, as determined by the County Engineer, a registrant may be required to establish in the County's favor a construction bond in an amount specified in an engineering permit or other authorization as necessary to ensure the registrant's faithful performance of the construction in the public rights of way, in accordance with applicable sections of this ordinance or the County code. The amount of the construction bond shall be as set forth in the engineering permit, and may be modified in the County Administrator or his/her designee's reasonable discretion, based upon the cost of the restoration to take place in the public rights of way, and any previous history of the registrant concerning restoration within the public rights of way of the County. The County Administrator, in his or her discretion, or designee, may request a certified estimate of the cost of restoration by a Florida registered professional civil engineer, or certified by a person who is exempt from such requirements as provided in F.S. § 471.003.~~
- ~~B. In the event a registrant subject to such a construction bond fails to complete the work in a safe, timely and competent manner in accordance with the provisions of the permit, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the County as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of completing the work, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond.~~
- ~~C. Twelve (12) months after completion of the construction and satisfaction of all obligations in accordance with the bond, the County shall eliminate the bond. Notwithstanding, the County may require a new bond for any subsequent work performed in the public rights of way.~~
- ~~D. The construction 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 County Attorney, and shall provide that:
This bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the County, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew.~~
- ~~E. The rights reserved by the County with respect to any construction bond established pursuant to this Section are in addition to all other rights and remedies the County may have under this ordinance, or at law or equity.~~
- ~~F. The rights reserved to the County under this Section are in addition to all other rights of the County, whether reserved in this ordinance, or authorized by other law, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the County may have.~~

~~13. Security Fund.~~

- ~~A. At the time of registration, the registrant shall file with the County Administrator or his/her designee, for his or her approval, a cash security, a bond, or irrevocable letter of credit in the sum of fifty thousand dollars (\$50,000.00), in a form acceptable to the County Administrator or a designee, which shall serve, and be referred to, as the "security fund." For purposes of the bond and irrevocable letter of credit, the registrant must have as a surety a company qualified to do business in the State of Florida. The cash security, bond,~~

~~or irrevocable letter of credit, shall be to secure the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon registrant by the provisions of this ordinance, and to pay any taxes, fees or liens. The bond or irrevocable letter of credit shall be furnished annually, or as frequently as necessary, and shall provide a continuing guarantee of the registrant's full and faithful performance at all times. Should the County draw upon the cash security, bond, or irrevocable letter of credit, the County shall promptly notify the registrant, and the registrant shall within thirty (30) calendar days restore the cash security, annual bond or irrevocable letter of credit, to the full required amount. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this ordinance, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the County as a result, including the full amount of any compensation or indemnification, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The cash security, bond or letter of credit may be waived by the County Administrator where the County Administrator determines that the security fund is not necessary to secure the required performance under this ordinance. The County may from time to time increase the amount of the security fund to reflect the increased risks to the County and to the public.~~

~~B. Additionally, the County, upon thirty (30) days advance written notice clearly stating the amount and the reason for, and its intention to exercise withdrawal rights under this subsection, may withdraw an amount from the security fund, provided that the registrant has not reimbursed the County for such amount within the thirty (30) days notice period. Withdrawals may be made if the registrant:~~

- ~~(1) Fails to make any payment required to be made under any part of this ordinance. Nothing in this Section, however, shall create a limitation or prevent the County from immediately making a withdrawal for non payment, from the security fund on the thirty-first (31st) calendar day after the submission of a bill to the Registrant.~~
- ~~(2) Fails to pay any liens relating to the facilities that are due and unpaid.~~
- ~~(3) Fails to reimburse the County for any damages, claims, costs or expenses that the County has been compelled to pay or incur by reason of any action or non-performance by the registrant arising out of the construction, maintenance or operation of its Communications system or facilities; or~~
- ~~(4) Fails to comply with any provision of this ordinance, which failure the County determines can be remedied by an expenditure of an amount from the security fund.~~

~~C. Within thirty (30) days after receipt of written notice from the County that any amount has been withdrawn from the security fund, the registrant shall restore the security fund to the amount specified in this ordinance.~~

~~D. The rights reserved to the County with respect to the security fund are in addition to all other rights of the County, whether reserved by this ordinance or authorized by other law, and no action, proceeding or exercise of a right with respect to such security fund will affect any other right the County may have.~~

~~14. Enforcement Remedies:~~

~~A. In addition to any other remedies available at law or equity, or provided in this ordinance, the County may apply any one (1) or a combination of the following remedies in the event a registrant violates this ordinance, or applicable local law, or order related to use of the public rights-of-way:~~

- (1) ~~Registrant's failure to comply with the provisions of this ordinance, or law applicable to users and/or occupants of the public rights of way, may result in imposition of penalties to be paid by the registrant to the County in an amount of not less than one hundred dollars (\$100.00) per day, or part thereof that the violation continues.~~
- (2) ~~A registrant's failure to obtain a permit before commencing work, except in cases of an emergency, may result in imposition of penalties to be paid to the County in an amount of not less than one thousand dollars (\$1,000.00) per day, or part thereof that the violation continues.~~
- (3) ~~In addition to or instead of any other remedy, the County may seek legal or equitable relief from any court of competent jurisdiction.~~
- B. ~~Before imposing a fine pursuant to this Section, the County Administrator or a designee shall give written notice of the violation and its intention to assess such penalties, which notice shall contain a description of the alleged violation. Following receipt of such notice, the registrant shall have thirty (30) days to either:~~
 - (1) ~~Cure the violation and the County Administrator or a designee shall make good faith reasonable efforts to assist in resolving the violation, or~~
 - (2) ~~File an appeal in accordance with Section 7(P).~~~~If the violation is not cured within that thirty-day period, and no appeal is filed, the County may collect all fines owed, beginning with the first day of the violation, either by removing such amount from the security fund or through any other means allowed by law.~~
- C. ~~In determining which remedy or remedies are appropriate, the County shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations and such other matters as the County determines are appropriate to the public interest.~~
- D. ~~Failure of the County to enforce any requirements of this ordinance shall not constitute a waiver of the County's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.~~
- E. ~~In any proceeding before the County Commission wherein there exists an issue with respect to a registrant's performance of its obligations pursuant to this ordinance, the registrant shall be given the opportunity to provide such information as it may have concerning its compliance with the terms of the ordinance. The County Commission may find a registrant that does not demonstrate compliance with the terms and conditions of this ordinance in default and apply any one (1) or combination of the remedies otherwise authorized by this ordinance.~~
- F. ~~The County Administrator or his/her designee shall be responsible for administration and enforcement of this ordinance, and is authorized to give any notice required by law.~~
- G. ~~Nothing in this ordinance shall affect the remedies the registrant has available under applicable law.~~
15. ~~*Force Majeure.* In the event a registrant's performance of or compliance with any of the provisions of this ordinance is prevented by a cause or event not within the facility owner's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For purposes of this ordinance, causes or events not within a facility owners control shall include, without limitations, acts of God, floods, earthquakes, landslides, hurricanes, fires and~~

~~other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within registrant's control, and thus not falling within this Section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of registrant's directors, officers, employees, contractors or agents.~~

~~16. *Reservation of Rights.*~~

~~A. The County reserves the right to amend this ordinance as it shall find necessary in the lawful exercise of its police powers.~~

~~B. This ordinance shall be applicable to all Communications facilities permitted to be placed in the public rights of way, on or after the effective date of this ordinance, and shall apply to all existing Communications facilities in the public rights of way prior to the effective date of this ordinance, to the full extent permitted by state and federal law. Providers with existing lines and cables have one hundred twenty days (120) from the effective date of this ordinance to comply with the terms of this ordinance, or be in violation thereof.~~

~~C. The County reserves to itself the right to intervene in any suit, action or proceeding involving any provision of this ordinance. Registrant agrees to advise County of any such suits.~~

~~17. *Repealing of Conflicting Ordinances.* All ordinances or part of ordinances, and all resolutions or part of resolutions in conflict herewith are hereby repealed to the extent of such conflict.~~

~~18. *Applicability.* This Ordinance is not applicable to providers or facilities in the Rights of way related to the provision or operation cable service, cable systems, open video systems or to towers and pole mounted antennas related to the provision of wireless service.~~

~~19. *Savings.* All fees, charges and financial obligations previously accrued pursuant to any ordinances and resolutions repealed pursuant to subsection 18. above, shall continue to be due and owing until paid.~~

CHAPTER VII

SECTION 7.10.23 TELECOMMUNICATIONS TOWER SITING

A. *Purpose.* The purpose of this section is to establish regulations and requirements for the siting of wireless telecommunications facilities. All new towers or antennas in the County shall be subject to these regulations, except where specifically excluded. The section is intended to accomplish the following:

1. Protect and promote the public health, safety and general welfare of the residents of the unincorporated areas of the County;
2. Accommodate the growing need and demand for reliable wireless communications services by permitting the siting of wireless telecommunications towers and antennas within the County's boundaries and provide reasonable accommodation to promote and to encourage fair and reasonable competition among telecommunications service providers or providers of functionally equivalent services on a neutral and nondiscriminatory basis;
3. Minimize potential impacts of towers upon residential areas and land uses;
4. Encourage and promote the location of towers in nonresidential areas, where the adverse impact on the community is minimal;

5. Minimize the total number of towers throughout the community by strongly encouraging the collocation of antennas on new and pre-existing tower sites as a primary option rather than construction of additional single-use towers;
6. Encourage and promote users of telecommunications towers and antennas to configure them in a way that minimizes the adverse visual impact of the telecommunications towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; ~~and~~
7. Minimize potential damage to property from wireless telecommunications towers and telecommunications facilities by requiring such structures be soundly designed, constructed, modified and maintained and in compliance with all requirements of the Florida Building Code applicable to similar structures; ~~and~~
8. Enhance the ability of the providers of wireless telecommunications services to provide such services to the community through an efficient and timely application process;
9. Encourage the location and collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for additional antenna support structures;
10. Further the balance between predictability for the communications industry in the placement of wireless telecommunications facilities and appropriate land use regulations to protect the aesthetic integrity and public safety of the County's residents, visitors and businesses;
11. Establish appropriate zoning requirements, including but not limited to setback and distance separation requirements, aesthetics, landscaping, land use based location priorities, and structural design for wireless telecommunications towers and antennas within the County's boundaries, with due consideration to the County's comprehensive plan, zoning map, existing land uses and environmentally sensitive areas, including hurricane preparedness areas;
12. Establish setback and distance separation requirements for towers that do not exceed the minimum distance necessary to satisfy structural safety or aesthetic concerns;
13. Adopt regulations that are consistent with applicable federal and state laws, including but not limited to the Telecommunications Act of 1996, which as set forth in 47 U.S.C. § 332(c)(7)(B)(iv), expressly preempts, state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions, and Section 365.172(13), Florida Statutes;
14. Establish procedural requirements and substantive criteria applicable for the review and approval or denial of applications for eligible facilities modification;
15. Ensure that application submittal requirements for eligible facilities modifications are related to information reasonably necessary to the determination of whether or not the proposed modification will result in a substantial change in the physical dimensions of the eligible structure;
16. Exempt facilities modifications approved under this section as eligible facilities requests from zoning and development regulations that are inconsistent with

Section 6409 of the Spectrum Act, Middle Class Tax Relief and Job Creation Act ("Spectrum Act") (PL-122-96; codified at 47 U.S.C. § 1455(a)) and FCC orders promulgated thereto, codified at 47 C.F.R. §1.40001;

17. Establish specific regulations, which are limited to Section 7.10.23(U) in this section, for Federal Communications Commission (FCC) licensed amateur radio; and
18. Preserve the County's right to continue to enforce and condition approvals pursuant to this Section on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health, safety and welfare.

In furtherance of these goals, the County will at all times give due consideration to the County's Comprehensive Plan, zoning maps, existing land uses, and environmentally sensitive areas, including hurricane preparedness areas, in approving sites for the location of towers and antennas.

B. *Definitions.* The terms used in this Section, the following terms will have the meanings set forth below, and will have control over any other definitions contained in the County's Code: in the Land Development Code, Chapter II – Definitions, Section 2.00.00. – Definitions.

~~"Accessory Use" means a secondary use including a use that is related to, incidental to, subordinate to and subservient to the main use of the property on which an antenna and or telecommunications tower is sited.~~

~~"Alternative, Camouflage or Stealth Tower or Antenna Structure" means a design mounting structure that encloses, obscures or conceals the presence of an antenna or telecommunications tower (for example, man-made trees, clock towers, bell steeples, light poles, utility poles, and similar alternative designs).~~

~~"Antenna" means a transmitting and/or receiving device mounted on a telecommunications tower, building or structure and used in wireless telecommunications services that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communications signals and other communications signals including directional antennas such as panel and microwave dish antennas, and omni-directional antennas such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations.~~

~~"Applicant" [owner, licensed contractor, and/or lessee] means a person or entity with owner authorization, with an application before the County for a permit for a wireless service facility.~~

~~"Broadcasting Facility" means any telecommunications tower built primarily for the purpose of broadcasting AM, FM or television signals.~~

~~"Building permit Review" means a review for compliance with building constructions standards adopted by the County under Chapter 553 and Chapter XIII of the County Land Development Code and does not include a review for compliance with land development regulations.~~

~~"Carrier" means a company licensed by the Federal Communications Commission (FCC) that provides wireless services. A tower builder or owner is not a carrier unless licensed to provide wireless services.~~

~~"County" means the County of St. Lucie, a political subdivision of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.~~

~~"Collocation" means the situation when a second or subsequent wireless carrier use an existing structure to locate a second or subsequent antennas. 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 antenna.~~

~~"Equipment Building" means the cabinets, shelter, building or other such structure which contains the electronic equipment used in the operation of the antenna. Unless, the context indicates otherwise, the term includes generators, generator fuel supplies, cable connections and supports electrical panels and similar accessory components.~~

~~"Essential Services" means those services provided by the County and other governmental entities that directly relate to the health and safety of its residents, including fire, police and rescue.~~

~~"Existing Structure" means a structure that exists at the time an application for permission to place antennas on a structure is filed with the County. The term includes any structure that can structurally support the attachment of antennas in compliance with applicable codes.~~

~~"Fair Market Value" "FAA" means the Federal Aviation Administration.~~

~~means the price at which a willing seller, or telecommunications tower owner, and willing buyer, or service provider seeking to rent space on owners' telecommunications tower, will trade.~~

~~"Fall Radius" means the distance measured from the center of the base of a tower which defines the maximum circular area into which the tower any part of a tower may fall in case of structural failure or collapse.~~

~~"FCC" means the Federal Communications Commission.~~

~~"Guyed Tower" means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.~~

~~"Height" when referring to a telecommunications tower or other related structure, means the vertical distance measured from the finished grade of the parcel to the highest point on the telecommunications tower or other related structure, including the base pad and any antenna.~~

~~"Historic Building, Resource, Structure, Site, Object, or District" means any building, resource, structure, site, object, or district that has been officially designated as a historic building, historic resource, historic structure, historic site, historic object, or historic district through a federal, state or local designation program.~~

~~"Land Development Regulations" means any ordinance enacted by the County for the regulation of any aspect of development, including zoning, subdivisions, landscaping, tree protection, or signs, the County's comprehensive plan, or any other ordinance concerning any aspect of the development of land. The term does not include any building construction standard adopted under and in compliance with Chapter 553.~~

~~"Lattice Tower" means a telecommunications tower that is constructed to be self-supporting by lattice type supports and without the use of guy wires or other supports.~~

~~"Microwave Dish Antenna" means a dish-like antenna used to link telecommunications sites together by wireless transmission and/or receipt of voice or data.~~

~~"Monopole Tower" means a telecommunications tower consisting of a single pole or spire self-supported on a permanent foundation, constructed without guy wires, ground anchors, or other supports.~~

~~"Pre-Existing Towers and Pre-Existing Antennas" means any telecommunications tower or antenna for which a building permit or special use permit has been properly issued and finalized prior to the effective date of this Ordinance, including permitted telecommunications towers or antennas that have not yet been constructed so long as such approval is current and not expired.~~

~~"Search Area" means the geographic area, in which a telecommunications facility must be located in order to provide coverage of the applicant/tenant's designed service areas certified by an affidavit of a Radio Frequency Engineer.~~

~~"Whip Antenna" means a cylindrical antenna that transmits signals in three hundred sixty (360) degrees.~~

~~"Wireless or Telecommunications Tower" means any structure, and support thereto, designed and constructed primarily for the purpose of supporting one (1) or more antennas intended for transmitting or receiving wireless telecommunications services, telephone, radio and similar communication purposes, including lattice, monopole and guyed telecommunications towers. Unless otherwise expressly excluded, the term includes transmission telecommunications towers, microwave telecommunications towers, common carrier telecommunications towers, cellular telephone telecommunications towers, alternative telecommunications tower structures, among others.~~

~~"Wireless Communications or Telecommunications Facility" means any equipment or facility used to provide wireless telecommunications service and may include, but is not limited to, antennas, towers, equipment enclosures, cabling, antenna brackets, and other such equipment. Placing a wireless communications facility on an existing structure does not cause the existing structure to become a wireless communications facility. Such definition shall not include facilities of a governmental entity where such facilities are utilized to provide intra-governmental communications, not generally available to the public, to protect the health, safety and welfare of the public, including but not limited to the South Florida Water Management District.~~

C. *General.*

1. Telecommunications towers may be located as a permitted use in the "AG-5" Agricultural-5, "IL" Industrial Light, "IH" Industrial Heavy, and "U" Utility Zoning Districts subject to the requirements of Section 7.10.23. Telecommunications towers may be located as a conditional use, subject to the requirements of Section 7.10.23 and Section 11.07.00, in all remaining zoning districts. A proposed telecommunications tower in a residential zoned district must be stealth and may be approved as a conditional use. A proposed Telecommunications Tower must include the attachment of a Wireless Communications Facility such as Antennas to be used for the provision of Wireless Telecommunications Services. A proposed Telecommunications Tower that does not include Wireless Communications Facilities to be used for the provision of Wireless Telecommunications Service shall not be approved in any zoning district.
2. Priority siting locations.
 - a. Any new Wireless Telecommunications Facility including but not limited to a Tower shall be subject to a determination of the appropriate siting location priorities range from 1 to 7, with the preferred siting location found in Priority 1 and the least desirable siting location found in Priority 7. In the event that a proposed Wireless Communications Facility or Tower cannot be sited to comply with a location in Priority 1, the development application shall demonstrate why a lower priority site is necessary. The information to demonstrate why a higher siting priority is not possible shall include the information set forth in subsection 7.23.10(C)(6)(a). In addition, the collocation preference set forth in subsection 7.23.10(C)(5) shall take precedence over the siting of a new Tower in any siting priority.
 - b. Priority 1. Collocation of a wireless communications facility on existing towers or antenna support structures is preferred. Notwithstanding this provision, a tower or wireless communications facility on County-owned property, not including property within the public rights-of-way, with an appropriate agreement with the County, shall be considered a Priority 1 siting location. Nothing herein shall require that the County provide access to County owned or controlled property. Only when it can be demonstrated that there are no feasible existing towers, structures or site on County-owned property for the proposed tower, can an applicant propose a lower priority site for a proposed tower.
 - c. Priority 2. If a proposed wireless tower or communications facility cannot comply with a site specified in Priority 1, the applicant may propose a new monopole or stealth tower on property designated "AG-5" Agricultural-5, "IL" Industrial Light, "IH" Industrial Heavy, and "U" Utility on the zoning map.

- d. Priority 3. If a proposed wireless communications facility cannot comply with Priorities 1 or 2, the applicant may propose a new monopole or stealth tower on property designated "CG" Commercial General, "CO," Commercial Office, or "CN" Commercial Neighborhood on the zoning map.
 - e. Priority 4. If a proposed new telecommunications tower cannot comply with Priority 1, 2, or 3, the applicant may propose a new monopole or stealth tower on property within any other zoning district, other than residential zoning district on the zoning map, unless specifically excluded.
 - f. Priority 5. If a proposed new telecommunications tower cannot comply with Priority 1, 2, 3, or 4 the applicant may propose a new tower (that does not have to be a monopole or stealth tower) on property owned by the County or on property designated "AG-5" Agricultural-5, "IL" Industrial Light, "IH" Industrial Heavy, and "U" Utility, "CG" Commercial General, "CO," Commercial Office, or "CN" Commercial Neighborhood on the zoning map.
 - g. Priority 6. If a proposed new telecommunications tower cannot comply with Priority 1, 2, 3, 4 or 5, the applicant may propose a new tower (that does not have to be a monopole or stealth tower) on property within any other zoning district, other than residential zoning on the zoning map.
 - h. Priority 7. If a proposed new telecommunications tower cannot comply with Priority 1, 2, 3, 4, 5, or 6, the applicant may propose a new stealth tower on property within a residential zoning district on the zoning map in a location that would minimize adverse impacts on adjacent residential properties.
3. Telecommunications towers may be located as a permitted use on the same property as another use. A different existing use on the same lot or parcel that is proposed to have a telecommunications tower located on it shall not preclude the installation of that telecommunication tower if the other requirements of this section can be met.
 4. Broadcasting Facilities/~~Amateur Radio Station Operators~~/Receive Only Antennas. This Ordinance will not govern any telecommunications tower, or the installation of any antenna, that is for the use of a broadcasting facility ~~or is owned and operated by a federally licensed amateur radio station operator~~ or is used exclusively for receiving only antennas. Telecommunications facilities owned by the County shall not be subject to this Section 7.10.23, except as specifically referred to herein to the extent not inconsistent with applicable law.
 5. Except to the extent not consistent with applicable law, the County hereby establishes a preference for the use of approved pre-existing towers, structures and technologies when feasible for the applicant's proposed wireless

telecommunications service, as opposed to the construction of new towers, with respect to all siting priorities. Collocation of ~~telecommunications~~ antennas by more than one (1) provider on pre-existing telecommunications towers, structures, or technologies shall take precedence over the construction of new telecommunications towers. Accordingly, each application shall include a written report certified by a professional licensed engineer licensed to practice in the State of Florida, stating that the applicant has reviewed the County's inventory of existing towers, antennas and approved sites within the search area for collocation opportunities on an existing site, and that no existing tower or structure within ~~one-half-mile~~ the search area of the proposed site can accommodate, or be modified to accommodate the applicant's proposed facility.

6. Inventory of Existing Sites.

- a. Each applicant shall review the County's inventory of pre-existing towers, antennas, and approved sites. All requests for sites other than the inventory shall include specific information concerning the location, height, and design of the proposed telecommunications tower. No new telecommunications tower shall be approved unless the applicant demonstrates to the reasonable satisfaction of the County that no pre-existing tower, structure or economically or technically feasible alternative technology that does not require the use of new telecommunications tower or new structures can accommodate, or be modified to accommodate, the applicant's proposed antenna. Evidence submitted to demonstrate that no pre-existing telecommunications tower, structure or alternative technology is suitable shall consist of any of the following:
 - i. An affidavit demonstrating that the applicant made diligent efforts but was unable to obtain ~~for~~ permission to install or collocate the applicant's telecommunications facilities on County owned telecommunications towers or usable antenna support located within as applicable, the search area or a one-half-mile radiuses of the proposed telecommunications tower site.
 - ii. An affidavit demonstrating that the applicant made diligent efforts to install or collocate the applicant's telecommunications facilities on pre-existing towers or useable antenna support structures owned by other persons located within as applicable, the search area or a one-half-mile radius of the proposed telecommunications tower site, but was unable to obtain permission.
 - iii. Pre-existing towers or structures do not have sufficient structural strength and cannot reasonably be modified to support applicant's proposed antenna and related equipment as demonstrated by supporting plans and calculations by a licensed engineer experienced in the design of wireless telecommunications facilities.
 - iv. The applicant's proposed antenna would cause ~~electromagnetic~~ interference with the antenna on the pre-existing towers or structures, or the antenna on the pre-existing towers or structures

would cause interference with the applicant's proposed antenna and such interference cannot reasonably be eliminated as demonstrated by a licensed engineer.

- v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- vi. The applicant demonstrates with support from a licensed engineer that no pre-existing tower or structure located within the search area has the capacity to provide reasonable technical service, is of sufficient height to meet applicable requirements, or there are other limiting factors that render pre-existing towers or structures unsuitable.
- vii. The applicant demonstrates that alternative technology used in the wireless telecommunications business and within the scope of applicant's FCC license, is economically or technically not feasible.

~~b. The County may share such information as provided in Section 7.10.23(1)(2)(a) with other applicants applying for a permitted use on private property and conditional use under this section or other organizations seeking to locate antennas within the jurisdiction of the County provided, however, that the County is not, by sharing such information, in any way representing or warranting that such information is accurate or that such sites are available or suitable.~~

- 7. No signals, artificial lights, or illuminations shall be permitted on any tower or antenna 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.
- 8. Other than warning signs, no signs, including commercial advertising, logos, political signs, flyers, or banners shall be allowed on any part of a telecommunications tower. Any signs placed in violation of this section shall be removed at the expense of the owner.

All warning signage shall conform with the requirements of Chapter 9.00.00 of this Code. Notwithstanding those requirements, the following provisions shall apply:

- a. The warning signs may be attached to free standing poles if the content of the signs may be obstructed by landscaping.
- b. The County reserves the right to modify or waive the above requirements to avoid visual clutter and to better apply the goals of this section.
- c. Warning signs shall include the name of the owner(s) and operators and a twenty-four-hour emergency telephone number posted adjacent to the gate.

- d. If high voltage is necessary for the operation of the telecommunications tower or any accessory structures, "HIGH VOLTAGE—DANGER" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart.
 - e. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and spaced no more than forty (40) feet apart.
 - f. The height of the lettering of the warning signs shall be at least twelve (12) inches in height. The warning signs shall be installed at least five (5) feet above the finished grade.
- 9. Parking shall be in compliance with Section 7.05.00 and 7.06.00 of this Code.
 - 10. All telecommunications towers, and the accessory building(s) and/or equipment associated with the towers, shall be enclosed by opaque security fencing eight (8) feet in height and the tower shall be equipped with an appropriate anti climbing device, regardless of the zoning district in which the tower is located, provided, however, the County may waive such requirements.
 - 11. Telecommunication tower setbacks and separation standards, as provided in Sections 7.10.23(~~NM~~) and 7.10.23(~~NO~~)(1) of this Code shall be calculated and applied to telecommunications tower facilities located in the County irrespective of municipal and county jurisdictional boundaries.
 - 12. Telecommunications towers shall be regulated and permitted pursuant to this Section and shall not be regulated as essential services, public utilities, or private utilities.
 - 13. Owners and/or operators of towers shall certify that all licenses required by law for the construction and/or operation of a wireless communications system in the County have been obtained and shall file a copy of all required licenses with the County.

D. *Applications for New Wireless Telecommunications Towers and Antennas.*

- 1. Prior to submitting an application for a new Tower or antenna, the applicant shall engage in a pre-submission meeting with the County Administrator. At the discretion of the County Administrator, such meeting may be waived, or may be conducted via telephone or electronic communications. The County shall grant or deny each properly completed application for any wireless communications facility, not otherwise subject to Sec. K , based on the applicant's compliance with the County's applicable regulations, including but not limited to land development regulations, consistent with this subsection and within the normal time frame for a similar type of review but in no case later than ninety (90) business days after the date the application is determined to be properly completed in accordance with this paragraph.

a. Completeness of Applications.

An application is deemed submitted or resubmitted on the date the application is received by the County. If the County does not notify the applicant in writing that the application is not completed in compliance with the County's regulations within twenty (20) business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the application. If the application is not completed in compliance with the County's regulations, the County shall so notify the applicant in writing and the notification must indicate with specificity any deficiencies in the required documents or deficiencies in the content of the required documents or deficiencies in the content of the required documents which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the County shall notify the applicant, in writing, within the normal time frame of review, but in no case longer than twenty (20) business days after the additional information is submitted, of any remaining deficiencies that must be cured. Deficiencies in document type or content not specified by the County do not make the application incomplete. Notwithstanding this subparagraph, if a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the County may continue to request the information until such time as the specified deficiency is cured. The County may establish reasonable time frames within which the required information to cure the application deficiency is to be provided or the application will be considered withdrawn or closed.

b. Supplements to Applications.

If an application is subject to a state or federal timeframe for review and determination (i.e. "shot clock"), to allow sufficient time for review, an applicant may not submit corrected, new or supplemental materials without the consent of the County Administrator, unless an applicant was notified that the application was incomplete. The County Administrator may determine not to review or to provide comment on corrected, new or supplemental materials after the application is scheduled for a public hearing without good cause.

3. ~~If the County fails to grant or deny a properly completed application for a wireless communications facility within the time frames set forth in this subsection D., the application shall be deemed automatically approved and the applicant may proceed with placement of such facilities without interference or penalty. The time frames specified in this subsection D. may be extended only to the extent that the application has not been granted or denied because the County's procedure generally applicable to all other similar types of applications permits, require action by the Board of County Commissioners and such action has not taken place within the time frames specified in this subsection 5. Under such circumstances, the County will act to either grant or deny the application at its next regularly scheduled meeting or otherwise, the application is deemed to be automatically approved. The County may request, but not require, a waiver of the timeframes by the applicant,~~

except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the County. Applicants regulated by this Ordinance may request a subsequent or additional pre-application conference with the County. Such request shall be submitted with a non refundable fee of five hundred dollars (\$500.00) to reimburse the County for the cost and fees incurred by the such conference.

4. It is the County's intention that the requirements of this Section 7.10.23 shall not prohibit or have the effect of prohibiting the ability of a service provider to provide wireless services in violation of Federal law. If an applicant maintains that compliance with one or more of the provisions of this Section will prohibit or have the effect of prohibiting the provision of wireless services in violation of Federal law, the applicant may apply for a variance to be exempted from the requirements of one or more provisions of this Section for its proposed wireless telecommunications facility or tower. In such circumstances, the applicant shall include an affidavit from a licensed engineer specifying in detail why such provisions would prohibit or have the effect of prohibiting the provision of wireless service and what modifications or exemptions, if any, to the provisions of this Section may be necessary. The County shall review such application for a variance pursuant to the County's procedures for processing variances. The timeframes for review and approval of an application contained herein, shall not apply to an application for a variance.

- E. *Building Codes/Safety Standards.* The construction, maintenance, operation and repair of telecommunications facilities are subject to the supervision of the County to the extent not otherwise prohibited by F.S. § 365.172, the Telecommunications Act of 1996 or the Spectrum Act, and shall be performed in compliance with all applicable laws, ordinances, departmental rules and regulations and practices affecting such structures including, but not limited to, zoning codes, building codes, and safety codes, and as provided below.

1. All telecommunication towers must meet or exceed current standards and regulations of the FAA, the FCC, including radio frequency emission standards and regulations of the state or federal government with the authority to regulate towers prior to issuance of a building permit by the County. If such applicable standards and regulations are changed, then the owners of the telecommunications towers governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Unless otherwise prohibited by applicable federal or state law, failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute a violation of this Ordinance and grounds for the removal of the tower at the expense of the owner.

To ensure the structural integrity of telecommunications towers, the owner shall construct and maintain the telecommunications tower in compliance with all applicable building codes, other applicable codes and standards as amended from time to time. A statement shall be submitted to the County by a professional

licensed engineer certifying compliance with this subsection. Where a preexisting structure, including light and power poles, is requested as a camouflage facility by the owner, the facility, and all modifications thereof, shall comply with all requirements as provided in this section.

3. Although the County will not require wireless providers to provide evidence of a wireless communications facility's compliance with federal regulations except evidence of compliance with applicable Federal Aviation Administration requirements, and evidence of proper FCC license or other evidence of FCC authorized spectrum use, the County may request the FCC to provide information as to a wireless provider's compliance with federal regulations, as authorized by federal law.

F. *Requirement of Site Plan and Engineering Report.* All applicants for new towers and towers which are modified or reconstructed to accommodate additional antennas shall submit a written report certified by a professional licensed engineer ~~licensed to practice in the State of Florida~~. The report shall include: all information required by Section 11.02.09.A(1), (2), (3) and (5) of the Land Development Code of St. Lucie County except to the extent such information is determined to be not applicable by the Building Department or otherwise prohibited by applicable state or federal law. In addition, the report shall include the following:

1. A site plan of the property within three hundred percent (300%) of the tower height of the tower drawn to scale prepared in accordance with the requirements of Section 11.02.00 of this Code, including, but not limited to:
 - a. Site plan development consistent with Section 11.02.00 including:
 - i. A tax parcel number, legal description of the parent tract and leased parcel, total acres, and Section/Township/Range of the subject property;
 - ii. The lease parcel fully dimensioned, including property lines, setbacks, roads on or adjacent to the subject property, easements;
 - iii. Outline of all existing buildings, including a purpose (i.e., residential buildings, garages, accessory structures, etc.) on subject property located within three hundred percent (300%) of the tower height from the tower;
 - iv. All existing vegetation, by mass or individually by diameter, measured four (4) feet from the ground of each stand-alone tree on the subject property located within three hundred percent (300%) of the tower height of the tower
 - v. Proposed/existing security barrier, indicating type and extent as well as point of controlled entry;
 - vi. Proposed/existing access easements, utility easements, and parking for the telecommunications tower;
 - vii. All proposed changes to the subject property, including grading, vegetation removal, temporary or permanent roads and driveways,

storm water management facilities and any other construction or development attendant to the telecommunications tower;

- viii. If applicable, on-site and adjacent land uses, and Comprehensive Plan classification of the site.

Type of tower and specifics of design.

- a. Scaled renderings of elevations depicting the design of the tower and associated equipment including but not limited to the antennas, mounts, equipment shelters, cable as well as cable runs, fencing, landscaping and security barrier, if any.
 - b. A statement that the proposed tower, within a reasonable period following the completion of construction, will be used for the provision of wireless communications services. If the applicant or tower owner is not a carrier or provider of wireless communications services, the application shall include appropriate documentation confirming that the tower will be used for the attachment of wireless communications facilities for the provision of wireless communications services. Such documentation may include a lease or license, with confidential information redacted, between the tower owner and a provider of wireless communications services.
 - ~~b.c.~~ Materials of the proposed tower specified by generic type and specific treatment (i.e., anodized aluminum, stained wood, painted fiberglass, etc. These shall be provided for the antennas, mounts, equipment shelters, cable as well as cable runs, and security barrier, if any;
 - ~~e.d.~~ Colors of the proposed tower represented by a color board or equivalent showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment buildings, cable as well as cable runs, and security barrier, if any;
 - ~~d.e.~~ Dimensions of the tower specified for all three (3) directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any; and
 - ~~e.f.~~ A visual impact analysis, with a minimum of two (2) photo digitalization or photographic superimpositions of the tower within the subject property. The photo digitalization or photographic superimpositions shall be provided for all attachments, including: the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any for the total height, width and breadth, as well as at a distance of two hundred fifty (250) feet and five hundred (500) feet from the subject property line from all properties within that range, or at other points agreed upon in a pre-application conference.
- ~~3. If applicable, a narrative of why the proposed tower cannot comply with the requirements as stated in this section.~~
34. Prior to issuance of a permit, current wind-loading capacity and a projection of wind-loading capacity using different types of antennas as contemplated by the

applicant. No telecommunications tower shall be permitted or be permitted to be modified so as to exceed its wind-loading capacity.

45. A statement that the proposed tower, including reception and transmission functions, will not interfere with the customary transmission or reception of radio, television or similar services as well as other wireless services enjoyed by adjacent residential and nonresidential properties.
5. Non-interference with Public Safety Telecommunications Facilities. A wireless communications facility shall not create interference with any public safety telecommunication facility. Any application for a wireless communications facility or tower pursuant to this Article shall include a certification from a Licensed Engineer that the proposed facility is not expected to interfere with or obstruct transmissions to and from existing public safety telecommunications facilities. In the event that an authorized County official determines that a proposed wireless communications facility or tower interferes with a public safety telecommunications facility or public safety communications, the official may recommend denial of the application and set forth in writing the reasons for the recommendation of denial. In the event that a constructed wireless communications facility or tower does interfere with public safety telecommunication facilities, it shall be the responsibility of the owner and/or permittee of the wireless communications facility or tower which creates the interference or obstruction to make all necessary repairs, and/or accommodations to alleviate the problem at the owner/permittee's expense. The County shall be held harmless in this occurrence. To the extent not inconsistent with applicable law, if the service provider refuses to rectify interference within twenty-four (24) hours of receiving notice, said violation shall be considered a zoning violation and all applicable remedies thereto may be imposed for such violation. In addition, the County 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 Article shall be subject to sanctions as provided by applicable law.
6. A statement of compliance with Section 7.10.23(E), all applicable Building Codes, associated regulations and safety standards. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed from the telecommunications tower. Except where provided herein ~~Section 7.10.23(C)(3)(a)~~, all towers shall have the capacity to permit multiple users; at a minimum, monopole towers shall be able to accommodate two (2) users and, at a minimum, self support/lattice or guyed towers shall be able to accommodate three (3) users.
7. Any additional information reasonably deemed necessary by the County to assess compliance with this Code and applicable law.

8. Special fee. The County shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for individual towers. The special fee shall be based upon the hourly rate of the independent technical consultant or expert the County deems necessary to properly evaluate applications for a tower or towers. The special fee shall be applied to those applications requiring special review or evaluation. The special fee shall be paid by the applicant to the County.
- G. *Aesthetics*. All telecommunications towers and antennas shall meet the following requirements:
1. At a telecommunications tower site, the design of the buildings and related structures shall use materials, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings to minimize the visual impact. Towers and any accessory buildings shall retain their silver/grey factory finish, or subject to any applicable standards of the FAA, be finished or painted in stealth or neutral tone colors, so as to reduce visual obtrusiveness.
 2. Except as noted in paragraphs 3 and 4 below; all telecommunications tower sites must comply with the landscaping and screening requirements of the Land Development Code. The Environmental Resources Director shall require landscaping in excess of any written requirements as is deemed reasonably necessary in order to enhance compatibility with adjacent residential and nonresidential land uses. All landscaping shall be properly maintained to ensure good health and viability at the expense of the owner. Telecommunications tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the telecommunications tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside of the perimeter of the compound, except that, if the tower compound perimeter abuts a public or private street or ~~road~~ public right-of-way, the minimum buffer width shall be fifteen (15) feet. Existing mature growth, not including exotics, and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer. The Environmental Resources Director shall be responsible for determining if the existing native perimeter vegetation meets the intent of this Code. All areas disturbed during project construction shall be replanted with vegetation according to Section 7.09.00, of this Code.
 3. If an antenna is installed on a structure other than a telecommunications tower, the antenna and supporting electrical and mechanical equipment must 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.

4. The Board of County Commissioners may consider total or partial relief from the required perimeter landscaping requirements of Paragraph 2 above, if the proposed Telecommunications Tower meets all of the following standards and criteria:
 - a. The Telecommunications Tower is located in an AG-5, AG-2.5, AG-1, IL, IH or U Zoning district.
 - b. The proposed Telecommunications Tower is located a minimum of one thousand (1,000) feet, or the tower height, whichever is greater, from the nearest public street or road right-of-way, public park or playground, public or private school (primary or secondary educational facility), habitable residential structure or any area zoned for residential or commercial uses. For the purpose of this paragraph this restriction shall apply to all properties regardless of political boundary.
 - c. The proposed Telecommunications Tower base must be screened from view by either existing vegetation, intervening buildings, structures or other physical or made features meeting the intent of this code.
 - d. It is demonstrated to the satisfaction of the Board of County Commissioners that the planting of any vegetation would result in the high probability of general plant mortality due to unacceptable soil conditions that cannot otherwise be resolved through replacement of the soil or other form of soil treatment.

In considering any request for relief under the provisions of this section, the Board of County Commissioners may impose reasonable limiting conditions associated with that relief.

5. The provisions of this paragraph shall not apply to wireless facilities erected or attached to any existing telecommunications tower or existing building or structure except that any support buildings or structures for the additional antenna or antenna arrays must be screened compliant with the intent of this code.
6. The County reserves the right to require that any new towers be designed as stealth or camouflaged ~~an alternative tower structure~~. All new telecommunications towers, equipment buildings, and antennas in a residential zoning district must be stealth or camouflaged.
7. Cell on Wheels (“COW”). Notwithstanding any other provisions of this Section 7.10.23, the County Administrator may allow the installation of a cell-on-wheels in accordance with the following:
 - a. During documented states of emergency as declared by the County Administrator,
 - b. To continue the provision of personal wireless service during construction or maintenance of a wireless communications facility,

- c. For testing purposes.
- d. For special events, or
- e. As otherwise authorized by the FCC.

The County Administrator is limited to allowing the installation of each cell-on-wheels for up to ninety (90) total days. Approval by the County Administrator of a COW on County property shall not convey any title, equitable or legal, in County property. The Board of County Commissioners may extend the period of time in which a cell-on-wheels is allowed for good cause by resolution. The owner of the cell-on-wheels shall agree to indemnify the County and shall provide appropriate evidence of insurance and the fund in compliance with subsection H of this Section.

- H. *Security Fund.* Every Telecommunications service provider shall establish a cash security fund, or provide the County with an irrevocable letter of credit in the same amount, to secure the cost of removing an antenna, antenna array, or tower that has been determined to be abandoned under Section 7.10.23(~~QR~~), in the event the owner fails to comply with the provisions of Section 7.10.23(~~QR~~). The amount of the cash security fund, or letter of credit, or bond is to be provided as follows:

1.	For each commercial telecommunication tower, <u>cell-on-wheels</u> , and the initial set of antenna or antenna array	\$25,000
2.	For each co-located telecommunication providers <u>provider's</u> antenna or antenna array	\$5,000

- I. *General Requirements for the Location of New Wireless Telecommunications Towers on County Property.* In addition to the other standards of this section, every new telecommunications tower proposed for location on any property owned, leased, and/or controlled by St. Lucie County shall be subject to the following minimum standards:

1. Lease Required. Any new construction, installation or placement of a telecommunications facility on any property owned, leased, and/or controlled by the County shall require a Lease Agreement executed by the County and the owner of the facility. Notwithstanding any provision in the County Code to the contrary, subject to applicable state and federal law, telecommunications towers shall not be allowed in the public rights-of-way controlled by the County. The County may require, as a condition of entering into a Lease Agreement with a telecommunications services provider, the dedication of space on the facility for public health and safety purposes, as well as property improvements on the leased space. Any dedications and improvements shall be negotiated prior to execution of the lease.

2. Incentive to collocate facilities on County property. Pursuant to the intent of this Ordinance, the County shall provide the following incentives to tenants in order to encourage the collocation of telecommunications facilities on County-owned property:
- a. The County shall not require that proposed tTenants seeking to co-locate on wireless towers on County-owned property~~shall not~~ pay rent to the facility owner in excess of the fair market value for the space, as determined at the time of execution of the lease.
 - b. The County ~~shall~~ may receive a percentage of the rental fees ~~and permit fees~~ received by the telecommunications facility operators from each subsequent tenant at a single telecommunications facility located on County public property consistent with such lease or sublease of County-owned property. Fees for placement, installation and use of telecommunications towers and antennas shall be determined by resolution of the Board.
 - c. No lease or sublease granted under this section shall convey any exclusive right, privilege, permit or franchise to occupy or use the public lands of the County for delivery of telecommunications services or any other purpose. The County cannot and hereby expressly does not waive or relinquish any of its land use, regulatory, permitting and police power authority, approval or enforcement rights and obligations, as they may relate to government regulations of general applicability which may govern property subject to a lease or sublease with the County, any improvements thereon, or any operations on the property. Nothing in any lease or sublease with the County shall be deemed to create an affirmative duty of the County to abrogate its right to exercise its police power and governmental powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes, administrative codes, ordinances, rules and regulations, federal laws and regulations, state laws and regulations and grant agreements, as they may be amended.
 - d. No lease granted under this section shall convey any right, title, or interest in the public lands other than a leasehold interest, but shall be deemed only to allow the use of the public lands for the limited purpose and term stated in the lease agreement. No lease granted under this section shall be construed as a conveyance of a fee title interest in the property.
 - e. The Board of County Commissioners ~~shall~~ may adopt by resolution a standard fee schedule to be used in the calculation of lease rates for the use of County property for establishing a telecommunications tower site.
3. Indemnification and insurance requirements.

Indemnification

- a. The County shall not enter into any lease agreement or otherwise allowing tower siting by a telecommunications service provider until and unless the County obtains an adequate indemnification from such provider. This indemnification must at least:
- (1) Release the County from and against any and all liability and responsibility in or arising out of the construction, operation, or repair of the telecommunications facility. Each telecommunications facility operator must further agree not to use or seek any money or damages from the County in connection with the above mentioned matter;
 - (2) Indemnify and hold harmless the County, its elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgments or decrees, sustained by the County or any third party arising out of, or by reason of, or resulting from, or out of each telecommunications facility operator's, or its agent's, employee's, or servant's negligent acts, errors, or omissions; and,
 - (3) Provide that the covenants and representations relating to the indemnification provision shall survive the term of any agreement and continue in full force and effect as to the responsibility of the party to indemnify.

Insurance

- a. The County may not enter into any lease agreement, or otherwise authorize a tower site by any telecommunications service provider until and unless the County obtains assurance that such operator (and those acting on its behalf) have adequate insurance as determined by the County Personnel/Risk Manager. At a minimum, the following insurance requirements shall be satisfied:
- (1) A telecommunications facility operator shall not commence construction or operation of the facility without obtaining all insurance required under this section and approval of such insurance by the County Personnel/Risk Manager, nor shall a telecommunications facility operator allow any contractor or subcontractor to commence work on its contract or subcontract until all similar such insurance required of the same has been obtained and approved by the County Personnel/Risk Manager. The required insurance must be obtained and maintained for the entire period the telecommunications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the County may order such entities to cease operation of the facility until such insurance is obtained and approved.

- (2) Certificate(s) of such insurance, reflecting evidence of the required insurance shall be filed with the County personnel/Risk Manager. 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.
- (3) The certificate(s) of insurance shall contain a provision that coverages afforded under such policies shall not be cancelled until at least thirty (30) days prior written notice has been given to the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida.
- (4) Where applicable, in the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the term of the lease agreement with the County, then in that event the telecommunications 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 remains in effect for the balance of the lease term.

- b. A telecommunications facility operator and its contractors or subcontracts engaged in work on the operator's behalf, shall maintain minimum insurance, in the amounts determined by the County Personnel/Risk Manager, to cover liability, bodily injury and property damage. The insurance shall cover the following exposures: premises, operations, and certain contracts. Such coverage shall be written on an occurrence basis and shall also be required under any lease agreement between the County and the telecommunications facility operator.

J. *Initial Wireless Telecommunications Antennas on Existing Structures.* Any telecommunications antenna which is not attached to a tower ~~shall~~ may be approved by the Building Official ~~Director~~ following a building permit review as an accessory use to any commercial, industrial, institutional, or multi-family structure of three (3) or more stories provided:

1. The antenna does not extend more than twenty (20) feet above the highest point of the structure; and
2. The antenna complies with all applicable FCC and FAA regulations and all applicable building codes; and
3. Wall-mounted antennas shall be located as close as possible but no more than four (4) feet from the face of the wall of the building to which it is attached; and
4. To minimize adverse visual impacts, antenna types shall be selected based upon the following priority: (1) camouflage; (2) whip; (3) panel; and, (4) dish. An applicant for the construction of a telecommunications tower shall state in writing why each choice cannot be used for a particular application if that choice is not the top priority; and

5. Microwave dish antennas located less than sixty-five (65) feet above the ground may not exceed six (6) feet in diameter. Microwave dish antennas located sixty-five (65) feet and higher above the ground may not exceed eight (8) feet in diameter. Ground-mounted dish antennas must be located or screened so as not to be visible from abutting public streets; and
6. No signals, lights, or illumination shall be permitted on an antenna or equipment building unless required by the Federal Communications Commission or the Federal Aviation Administration. Security lighting around the base of the antenna and equipment building may be provided if such light conforms to the overspill requirement in the County Code.

K. *Colocation of Wireless Antennas on Existing Towers and Structures.* An antenna which is attached to an existing tower and that is not subject to subsection M, Proposed Facilities Modifications, shall be approved provided such collocation is accomplished in a manner consistent with the following:

1. a. The County shall grant or deny each properly completed application that is not subject to subsection M, Proposed Facilities Modifications, as provided in this Section, for the collocation of a wireless communications facility within the County's jurisdiction within the normal time frame for a similar building permit review but in no case later than forty-five (45) business days after the date the application is determined to be properly completed in accordance with the County's application procedures provided the following.
 - b. Collocations on towers, including non-conforming towers that meet the requirements in subparagraphs b(i) through b(iii) below, are subject to only building permit review, which may include a review for compliance with this subparagraph, such collocations are not subject to any design or placement requirements of the County'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 antennas placement approval, to any other portion of the land development regulations, or to public hearing review. This subparagraph shall not preclude a public hearing for any appeal of the decision on the collocation application, provided the following:
 - i. The collocation does not increase the height of the tower to which the antennas are to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower; and
 - ii. The collocation does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities; and
 - iii. The collocation consists of antennas, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any,

applied to the initial antennas placed on the tower and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the tower supporting the antenna. Such regulations may include the design and aesthetic requirements, but not procedural requirements, other than those authorized by this section, of the County's land development regulations in effect at the time the initial antennas placement was approved.

c. Except for a historic building, structure, site, object, or district, a collocation on all other existing structures that meet the requirements in subparagraphs C(i) through (iv) below shall be subject to no more than building permit review, and an administrative review for compliance with this subparagraph. Such collocations are not subject to any portion of the County's land development regulations not addressed herein, or to public hearing review. Nothing herein shall preclude a public hearing for any appeal of the decision on the collocation application:

- i. The collocation does not increase the height of the existing structure to which the antennas are to be attached, measured to the highest point of any part of the structure or any existing antenna attached to the structure;
- ii. The collocation does not increase the ground space area, otherwise known as the compound, if any, approved in the site plan for equipment enclosures and ancillary facilities;
- iii. The collocation consists of antenna, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure, but not prohibitions or restrictions on the placement of additional collocations on the existing structure or procedural requirements, other than those authorized by this section, of the County's land development regulations in effect at the time of the collocation application; and
- iv. The collocation consists of antenna, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with subparagraph (c) and were applied to the initial antenna placed on the structure and its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the structure supporting the antennas.

d. Regulations, restrictions, conditions, or permits of the County, acting in its regulatory capacity, that limit the number of collocations or require review processes inconsistent with this subsection, shall not apply to collocations addressed in this paragraph.

e. If only a portion of the collocation does not meet the requirements of this subparagraph, such as an increase in the height of the proposed antenna over the existing structure height or a proposal to expand the ground space approved in the

site plan for the equipment enclosure, where all other portions of the collocation meet the requirements of this subparagraph, the portion of the collocation only may be reviewed under the County's regulations applicable to an initial placement of that portion of the facility, including, but not limited to, its land development regulations, and within the review time frame specified in subsection D. for the placement of new towers. The rest of the collocation shall be reviewed in accordance with this subparagraph. A collocation proposed 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 four hundred (400) square feet or fifty percent (50%) of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the County's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing. This subparagraph shall not preclude a public hearing for any appeal of the decision on the collocation application.

f. If a collocation does not meet the requirements of subparagraph K.1.b. and c., the County may review the application under the County's regulations, including, but not limited to, land development regulations, applicable to the placement of an initial antennas and its accompanying equipment enclosure and ancillary facilities.

g. If a collocation meets the requirements of subparagraph K.1.b. and c, the collocation shall not be considered a modification to an existing structure or an impermissible modification of a nonconforming structure.

h. The owner of the existing tower on which the proposed antennas are to be collocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the land development regulations to which the existing tower had to comply at the time the tower was permitted, including any aesthetic requirements, provided the condition or requirement is not inconsistent with this paragraph.

i. An existing tower, including a nonconforming tower, may be structurally modified in order to permit collocation or may be replaced through no more than site plan and building permit review process for approval, and is not subject to public hearing 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 camouflaged tower, the replacement tower is a like-camouflaged tower. The subparagraph shall not preclude a public hearing for any appeal of the decision on the application.

2. An existing tower may be structurally modified or rebuilt up to the same height or to a taller height, to accommodate the collocation of an additional antenna(s), only if the modification or reconstruction is in full compliance with Building Code and requirements consistent with the original site approval process including but not limited to submission of a site plan and compliance with any stealth requirements.

The County shall require a modified setback based on the modification or increased height of the tower to accommodate structural safety or aesthetic concerns. The County shall review an application to increase the height of an existing tower or substantially modify an existing tower under the County's regulations, including, but not limited to, land development regulations applicable to the placement of a new tower, to the extent not inconsistent with applicable law. This provision shall include utility and power poles. This additional height shall not require an additional separation setback as set forth in Section 7.10.23(N). The pre-modification tower height shall be used to calculate such distance separations.

3. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within fifty (50) feet of its existing location, subject to applicable setback and separation requirements. ~~A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section 7.10.23(N) and shall in no way be deemed to cause a violation of Section 7.10.23(N).~~ A tower which previously received a conditional use approval may be rebuilt according to the conditions under which the conditional use was approved.
4. After the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site. The initial tower shall be removed within thirty (30) days of the final inspection for the new tower.
5. Microwave dish antennas located less than sixty-five (65) feet above the ground may not exceed six (6) feet in diameter. Microwave dish antennas located sixty-five (65) feet and higher above the ground may not exceed eight (8) feet in diameter. Ground-mounted dish antennas must be located or screened so as not to be visible from abutting public streets to the extent not inconsistent with applicable law.

L. *Rooftop Mounted Telecommunications Towers and Antennas.* All rooftop towers and antennas shall comply with the following requirements:

1. The height of any tower or antenna, including support structures, shall not extend more than fifteen (15) feet above the average height of the roof line; and
2. Rooftop communication facilities shall not adversely affect adjacent properties; and
3. Screening shall be required to minimize the visual impact upon adjacent properties; and
4. Rooftop mounted towers and antennas shall only be allowed on buildings that are at least three stories in height.

M. Proposed Facilities Modification Applications

1. The County shall approve Proposed Facilities Modification Applications that do not result in a substantial change of a tower or base station and comply with the requirements as set forth in this subsection M.

2. This subsection M shall not apply to proposed facility modifications to an eligible support structure that is not a legal conforming, or legal non-conforming structure at the time a completed eligible facilities modification application is filed with the County.
3. This subsection M shall not apply to a proposed facility modification to a structure, other than a tower, that does not, at the time of submittal of the application, already house or support transmission equipment lawfully installed within, or upon, or attached to, the structure.
4. Eligible Facilities Modification Application Requirements. Applications for eligible facilities modification must meet the following standards:
 - a. All applications for eligible facilities modification shall be in writing and accompanied by the applicable application and fee established by resolution of the County Commission and attested to by the authorized person submitting the application on behalf of the applicant, certifying the truth and accuracy of the information provided in the application.
 - b. No application for eligible facilities modification shall be approved unless it includes the following information:
 1. The legal and dba names, mailing address, tax Identification number, and contact phone number(s) of applicant.
 2. If a corporation, the name and address of the registered agent of applicant in the State of Florida and the State of incorporation of the applicant.
 3. If applicant is an entity, other than a corporation, such a partnership or limited liability company, the names and business addresses of the principles.
 4. An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act and that the modification does not constitute a substantial change to the tower or base station.
 5. If the applicant is not the owner or person in control of the eligible support structure and/or site, the following shall be required:
 - (i) An attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facilities modification.
 - (ii) If the eligible support structure is located in a public right of way, the Applicant must also attest that Applicant has

authorization to install, maintain and operate transmission equipment in, under and above the public right of way.

6. If the applicant proposes a modification that will result in an increase in height of the eligible support structure, the application shall include record drawings, as built plans, or the equivalent, showing the height of the eligible support structure, (1) as originally constructed and granted approval by the County or other applicable local zoning or similar regulatory authority, or (2) as of the most recent modification that received County, or other local zoning or regulatory approval, prior to the passage of the Spectrum Act, whichever height is greater.
7. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing restrictions or requirements imposed by a reviewing official or decision-making body pursuant to authority granted under the County Code, or an ordinance or a municipal code of another local government authority, the application shall include a copy of the document (e.g., permit or conditional approval) setting forth such pre-existing restrictions or requirements together with a certification that the proposed facilities modification conforms to such restrictions or requirements; provided that, such certification shall have no application to the extent the proposed facilities modification relates solely to an increase in height, increase in width, addition of cabinets, or new excavation, that does not result in a substantial change in the physical dimensions of the eligible support structure.
8. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing concealment restrictions or requirements, or was constructed with concealment elements, the following shall be required:

 - (i) Applicant shall set forth the facts and circumstances demonstrating that the proposed modification would not defeat the existing concealment elements of the eligible support structure.
 - (ii) If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, Applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures

adjacent to, or in the immediate vicinity of, the eligible support structure.

9. If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, the application shall include record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.
10. If the applicant proposes a modification to an eligible support structure that will include any excavation or would result in a protrusion from the edge of a tower that exceeds an existing protrusion of any transmission equipment attached to a tower, or would protrude from the edge of a non-tower eligible support structure, the following shall be required:

 - (i) A description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions, depicting the boundaries of the site in relation to the tower or base station proposed to be modified and depicting the proposed location, elevation and dimensions of the new or replacement transmission equipment.
 - (ii) The County may require a survey by a land surveyor licensed in the state of Florida when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site to determine if the proposed facilities modification would result in a substantial change in the physical dimensions of the eligible support structure.
11. If the applicant proposes a modification to the eligible support structure that includes hardening through structural enhancement, the following shall be required:

 - (i) A technical report by a qualified licensed engineer, demonstrating that the structural enhancement is performed in connection with and is necessary to support the proposed collocation, removal, or replacement of transmission equipment and conforms to applicable code requirements.
 - (ii) The County may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the Applicant's demonstration of necessity.
12. If the applicant proposes a modification to a tower, the following shall be required:

 - (i) A stamped report by a licensed engineer demonstrating that the tower with the proposed modifications will comply with

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

- a. The number and type of antennas that can be accommodated;
- b. The basis of calculation of capacity; and
- c. A written statement that the proposed complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standard.

(ii) The County may retain, at the expense of the applicant, the services of an independent technical expert to review, evaluate and provide an opinion regarding the applicant's demonstration of compliance.

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

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

- (i) A detailed site plan and drawings, showing the true north point, a graphic scale and, drawn to an appropriate decimal scale, indicating and depicting:
 - d. The location, elevation and dimensions of the existing eligible support structure;
 - e. The location, elevation and dimensions of the existing transmission equipment,
 - f. The location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment.

- g. The location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each;
- h. Any proposed modification to the eligible support structure,
- i. The location of existing structures on the site, including fencing, screening, trees, and other significant site features, and
- j. The location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.

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

5. Review of Application.

- a. The County shall review applications for Eligible Facilities Modification pursuant to this section, to determine whether the application qualifies.
- b. The County shall notify the applicant within thirty (30) days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the County's requirements. If the application is not completed in compliance with the County's requirements, the County shall so notify the applicant in writing delineating all missing documents and information required in the application that if are cured would deem the application properly completed.
- c. Upon resubmission of information to cure the stated deficiencies, the County shall notify the applicant, in writing, no later than 10 days after the additional information is submitted, of any remaining deficiencies that must be cured, delineating missing information. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the County may continue to request the information until such time as the specified deficiency is cured, or may establish a reasonable time frame within which the required information to cure the application deficiency is to be provided. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified herein. If the curative information is not provided within such

time frame, the application will be considered withdrawn or closed and the application will be denied.

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

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

~~MN.~~ Setbacks. The following setback requirements shall apply to all telecommunications towers ~~for which a permit is required:~~

1. All telecommunications towers shall be setback from all property lines of the parcel on which it is to be constructed a minimum distance of 110% of the fall radius of the tower or the minimum setback for the zoning district whichever is greater, except as required by Table 7-40.
2. The setback for the base of any guys for guyed towers and accessory any equipment buildings must satisfy the minimum zoning district setback requirements.
3. In establishing these setback requirements, the Board of County Commissioners finds that such setbacks are the minimum distance necessary to satisfy structural safety and aesthetic concerns for owners of adjacent properties, residents, and users of nearby public rights-of-way.
- 4.

~~NO.~~ Separation/Height.

1. In addition to the setback from the property line, ~~t~~The following separation requirements shall apply to all telecommunications towers ~~for which a building permit is required:~~
 - a. Separation from off-site/designated areas:
 1. Telecommunication tower separation shall be measured from the base of the proposed telecommunication tower to the lot line of the off-site and/or designated areas as specified in Table 7-40, ~~except as otherwise provided in Table 7-40.~~

- ~~_____ The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing telecommunications tower(s) and the owner/operator of the existing telecommunications tower(s), if known.~~
32. Separation requirements for towers shall comply with the minimum standards established in Table 7-40. The Board of County Commissioners hereby finds that the separation requirements for towers in Table 7-40 are the minimum distance necessary to satisfy structural safety and aesthetic concerns of nearby existing or potential residents.

Table 7-40

<u>Separation measured from the base of the proposed tower</u> From the property line of a lot with any habitable residential structure, except for accessory security residences in IL, IH and U zoning districts	750 feet or 200% of telecommunications tower height, whichever is greater
Separation From the property line of vacant land in residentially zoned <u>districts</u> land	750 feet or 200% of telecommunications tower height, whichever is greater [†]
From any non-residentially zoned land and accessory security residences in IL, IH and U zoning districts	Fall radius or zoning setback, whichever is greater

~~Separation measured from base of telecommunications tower to closest building setback line.~~

4. ~~Separation distances between telecommunications towers shall be applicable for and measured between the proposed telecommunications tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the pre-existing telecommunications tower and the proposed base, pursuant to a site plan, of the proposed telecommunications tower. The separation distance from shall be a minimum of one (1) mile, regardless of type of towers.~~
54. The Board of County Commissioners may approve variances from the separation requirements to habitable residential structures, and to vacant residentially zoned land, provided that no variance shall permit a separation distance that is less than the setback requirement~~of less than that required from non-residential land.~~

65. The Board of County Commissioners shall not approve a variance except upon specific written findings of fact based directly upon the particular facts submitted to them showing that:

- a. A literal interpretation of the provisions of Table 7-40 would render the applicant in violation of State or Federal law or would preclude provision of service in the desired area.
- b. The granting of the variance will not be detrimental or injurious to surrounding properties, and will not endanger public safety.
- c. The variance is the minimum variance that will make possible reasonable use of the land, building, and structures; and
- d. The variance requested arises from a condition that is unique and peculiar to the land involved and that it is created by the conditions of this Code and not by the actions of the property owner or applicant.

The above standards of review are in addition to those general standards set out in Section 10.01.02 of this Code.

b. Separation distances between telecommunications towers.

1. The separation distance from pre-existing towers including other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the pre-existing tower(s) and the owner/operator of the pre-existing tower(s), if known.
2. Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the center of the base of the pre-existing tower and the center of the base of the proposed tower, pursuant to a site plan.
3. Each applicant shall review the County's inventory of pre-existing towers, antennas, and approved sites within the search area. All requests for sites other than the inventory shall include specific information concerning the location, height, and design of the proposed tower. To support the County's preference for collocation over new towers, nNo new tower including but not limited to a stealth tower, shall be permitted within one (1) mile of an a pre-existing tower unless the applicant demonstrates to the reasonable satisfaction of the County that no pre-existing tower, structure or alternative technology that does not require the use of new towers or new structures can accommodate, or be modified to accommodate the applicant's proposed antenna. The applicant shall also identify the type of construction of the existing telecommunications tower(s)

and the owner/operator of the existing telecommunications tower(s), if known. Evidence submitted to demonstrate that no existing tower, structure or alternative technology is suitable may consist of any of the criteria set forth in subsection 7.10.23(C)(6)(a) the following:

- a. ~~No existing tower or structure located within the search area has the capacity to provide reasonable technical service.~~
 - b. ~~Existing towers or structures are not of sufficient height to meet applicable requirements.~~
 - c. ~~Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.~~
 - d. ~~The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antennas.~~
 - e. ~~The fees, costs, or contractual provisions required by the owner in order to share an existing tower or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.~~
 - f. ~~The applicant demonstrates that there are other limiting factors that render existing towers or structures unsuitable.~~
4. The Board of Adjustment may approve variances from the separation requirement provided that the applicant meets all other provisions of Section 7.10.23(NO).
 5. The separation distance of one (1) mile between towers shall not apply to properties that are proposed to be developed as a "telecommunications tower farm", in order to encourage clustering of telecommunications towers on a single property, provided that all other setback and separation standards as specified in this section are met.
 6. Unless otherwise granted a variance, telecommunications towers shall be constructed no greater than the in-heights as provided below:
 - a. For a single user, up to one hundred (100) feet in height;
 - b. For two (2) users, up to one hundred fifty (150) feet in height;
 - c. For three (3) or more users, ~~towers in excess of one hundred fifty(150) feet, but not taller than up to two hundred fifty (250) feet, provided such towers are constructed as a monopole as defined herein.~~
 - d. For the purpose of determining compliance with all requirements of this Section, measurement of telecommunications tower height shall include the telecommunications tower structure itself, the base pad,

and any other telecommunications facilities attached thereto. Telecommunications tower height shall be measured from grade.

ØP. *Buildings and Equipment Storage Areas.* It is recognized that each telecommunications ~~tower antenna~~ will have some type of associated electronic support and equipment buildings at or near the ~~telecommunications facility tower~~. Depending on the type of ~~facility tower~~ being erected, the following general standards shall apply, in addition to the other general provisions of the code.

1. Rooftop mounted wireless equipment facilities shall comply with the following requirements:
 - a. Rooftop equipment/storage cabinets shall be set back a minimum of fifteen (15) feet from the edge of the roof or one-quarter of the distance along the perpendicular axis of the roof, whichever is less. The height of the roof must be at least three (3) stories.
 - b. All rooftop equipment buildings shall be stealth, and finished, screened or designed so that they blend into the architecture of the building on which they are located.
 - c. All equipment buildings shall meet all County design standards and comply with the building codes.
 - d. No commercial advertising, including company name, shall be allowed on an antenna, screen or equipment building.
 - e. No signals, lights, or illumination shall be permitted on an antenna or equipment building unless required by the Federal Communications Commission or the Federal Aviation Administration. Security lighting ground the base of the antenna and equipment building may be provided if such light conforms to the overspill requirement in the County Code.
 - f. 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, and telephone number for safety and security and shall comply with this Code.
 - g. 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.

Proposed aAntennas located on power poles, street lights or other utility poles and equipment cabinets in the public rights-of-way shall comply with the requirements for collocations set forth in the St. Lucie County Communications Rights-of-Way

Ordinance, Chapter 44, Article I, Sections 44-1 - 44-18, of the County Code, as it may be amended herein and with the following requirements.

- a. ~~Equipment/storage cabinets located on the ground in a public right-of-way shall not exceed a total of twenty five (25) square feet in area without administrative approval.~~
 - b. ~~The height of any equipment/storage cabinet located on the ground in a public right-of-way shall not exceed five (5) feet without administrative approval.~~
3. Antennas located on towers shall comply with the following requirements:
- a. Equipment/storage facilities shall comply with the minimum building setback standards of the zoning district in which they are located. This requirement may be modified by the Board of Adjustment to encourage collocation.
 - b. All equipment/storage facilities shall be screened in accordance with the general requirements of Section 7.09.00.
4. Generators may be used only when other power sources are not available, and as an emergency back-up power source and shall comply with County Code.

PQ. *Supplemental Review Information for Wireless Telecommunications Tower Conditional Use Applications.* In addition to the minimum standards of review set forth in this section, any application for a conditional use permit for the construction of a telecommunications tower shall address the following standards and requirements:

- 1. Compliance with the procedures and requirements of Section 11.07.00.

Availability of suitable existing towers, other structures, or economically and technically feasible alternative technologies not requiring the use of towers or structures.
- 3. Height of the proposed tower.
- 4. Setback and separation distance between the proposed tower and the nearest residential units, residential district boundaries, and platted residentially zoned property, where applicable.
- 5. Typography of the area where the tower is proposed to be located.
- 6. Type, extent and density of existing native vegetation at the proposed site and the surrounding tree coverage and foliage.

7. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness. Camouflage tower designs shall be encouraged as meeting this criterion.
8. Proposed ingress and egress.
9. A non refundable fee of five hundred dollars (\$500.00) to reimburse the County for the costs of reviewing the application.

QR. *Removal of Abandoned Wireless Telecommunications Towers, Facilities and Antennas.* Any telecommunications tower, wireless communications facility or antenna that is not used or operated for a continuous period of ~~twelve (12)~~ six (6) consecutive months shall be considered abandoned, and the owner of such telecommunications tower, facility or antenna shall remove the same at its cost within ninety (90) days of receipt of notice from the County notifying the owner of such abandonment and in accordance with applicable permits. Failure to remove an abandoned telecommunications tower, facility or antenna within the ninety (90) days shall be grounds for the County to remove the tower, facility, or antenna at the expense of the owner or for the County to allow another person to remove the facility at the owner's expense. The owner of the communications facility shall be responsible for all damage to property, facilities or utilities damaged as a result of such removal and shall restore or pay for restoration as required in the County code. If there are two (2) or more users of a single telecommunications tower or facility, the telecommunications tower or facility shall not be considered abandoned until all users cease using the telecommunications tower or facility for a continuous period of ~~twelve (12)~~ six (6) consecutive months. Upon determination by a tower, facility or antenna owner that its tower, facility or antenna is to be abandoned, the owner shall notify the County no later than ninety (90) days from such determination, or no later than thirty (30) days following such abandonment, whichever is sooner. The County may independently establish that a wireless communications facility has been abandoned. In reaching such determination, the County may request documentation and/or affidavits from the owner of the wireless communications facility regarding the active use of the facility. If the owner fails to provide the requested documentation within thirty (30) days, a rebuttable presumption shall exist that the owner has abandoned the wireless communications facility.

RS. *Pre-Existing Telecommunications Towers.* Any telecommunications tower lawfully erected before September 2, 1997 the effective date of this Ordinance shall be allowed to continue usages which existed on this date. Routine maintenance of the tower and its support facilities is allowed to continue. Any existing tower that does not meet the standards of this section shall not be required to meet these standards unless and until the tower is proposed for modification or replacement, to the extent not inconsistent with applicable law. ~~At the time any existing telecommunications tower is proposed to be replaced or substantially improved, then the requirements of this section shall apply to the extent not prohibited by F.S. Ch. 365.172.~~

ST. *Inspections, Reports, Fees, and Monitoring.*

1. Telecommunications tower owners shall submit a report to the Building Department certifying structural and electrical integrity of the tower every five (5) years. The report shall be accompanied by a non refundable fee of two hundred dollars (\$200.00) to reimburse the County for the cost of review. Notwithstanding this provision, an owner of a telecommunications tower shall provide such report following recovery from a declaration of a state of emergency by the County or by an appropriate state official that included the area of the tower.

The County may conduct periodic inspections of telecommunications towers, at the owner's expense, to ensure structural and electrical integrity and compliance with the provision of this Ordinance. The owner of the telecommunications tower may be required by the County to have more frequent inspections should there be extraordinary conditions or other reason to believe that the structural and electrical integrity of the tower is jeopardized. There shall be a maximum of one (1) inspection per year unless extraordinary conditions warrant.

If, upon inspection, the County concludes that a tower fails to comply with applicable laws, codes, regulations or permits or constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such communications towers into compliance within thirty (30) days shall constitute grounds for the removal of the telecommunications tower or antenna at the owner's expense.

U. *Amateur Radio Antennas And Support Apparatus Utilized By FCC Licensed Amateur Radio Operator.*

1. Applicability and Findings: Amateur radio antennas and their support apparatus are subject solely to the regulations contained in this subsection 7.10.23(U) to the extent not inconsistent with applicable federal or state law, and are not subject to other provisions of Section 7.10.23, including but not limited to priority siting, setback, stealth and separation requirements. The Board of County Commissioners recognizes that the amateur radio service is a voluntary, noncommercial communication service that plays an important role in providing emergency communications. Moreover, the amateur radio service provides a reservoir of trained operators, technicians and electronic experts who can be called on in times of national or local emergencies. Accordingly, the regulations adopted herein are designed to protect the ability to operate amateur radio antennas while protecting important public safety and aesthetic interests.
2. Amateur radio antennas and their support apparatus shall be limited to maximum height of 80 feet except where a higher antenna is allowed pursuant to the FCC's preemptive ruling PRB-1 (Federal Preemption of State and Local Regulations Pertaining to Amateur Radio Facilities, Memorandum Opinion and Order, PRB-1, 101 FCC 2d 952 (1985) (PRB-1)) and provided that an administrative determination is made by the County Administrator or designee, based on

evidence submitted by the applicant, that the proposed height is technically necessary to engage in amateur radio communications.

3. A building permit from the County shall be required for the installation or substantial modification to the installation of an amateur radio antenna and its support apparatus. A building permit shall not be required for:
 - a. Adjustment, replacement or repair of the elements of an amateur radio antenna array affixed to the antenna support apparatus;
 - b. Amateur radio antenna facilities erected temporarily for less than 24 hours for test purposes or for emergency communications; or
 - c. Collocation of additional amateur radio antenna on an existing amateur radio antenna support apparatus installed pursuant to a permit or pre-existing amateur radio antenna support apparatus installed prior to the effective date of this Ordinance.
4. The following requirements shall apply provided they do not prohibit the operation of the amateur radio antennas.
 - a. Building site location. Amateur radio antennas and their support apparatus shall be located behind the required primary/principal building within the rear and interior side yard of the property. They are prohibited within the front and side street yard areas. Amateur radio antennas and their support apparatus shall not be installed in County public rights-of-way.
 - b. Setbacks. Amateur radio antennas and their support apparatus shall maintain the same rear and side setbacks as required for the principal building of the building site and shall be installed a minimum of eight (8) feet from any overhead utility line(s) and power line(s). Where such amateur radio antennas and their support apparatus are located on a building site which is fronting upon two or more streets and/or alleys, the amateur radio antennas and support apparatus shall maintain the same primary/principal building setback as required from each such street or alley.
 - c. As with the height limit, the County Administrator or designee may allow an exception to the building site location and setback requirements if technically necessary to engage in amateur radio communications.
5. Installation. The installation or substantial modification of an amateur radio antennas and their support apparatus and foundation shall be in accordance with the manufacturer's prescribed installation and safety procedures and shall meet all applicable County, State and Federal requirements, as amended including but not limited to the Florida Building Code, County Code, National Electric Code and FCC regulations.
6. Notwithstanding the provisions of this subsection, existing amateur radio antennas and their support apparatus, installed prior to the effective date of this Ordinance shall be allowed to continue operations and to undergo routine maintenance without having to comply with the provisions of this Ordinance. Existing amateur radio

antennas and their support structures installed prior to the effective date of this Ordinance shall not require a permit unless they are being replaced or substantially modified.

7. The Board of County Commissioners recognizes that the amateur radio service is a voluntary, noncommercial communication service that plays an important role in providing emergency communications and hereby sets the fee for a building permit at two hundred and forty (\$240) dollars.

~~IV.~~ *Penalties.* Any person, firm or corporation who knowingly breaches any provision of this Section 7.10.23, as it may be amended shall upon receipt of written notice from the County be given a time schedule to cure the violation. Failure to commence to cure within thirty (30) days and to complete a cure, to the County's satisfaction, within sixty (60) days, or such longer time as the County may specify, shall result in revocation of any permit or license and the County shall seek any remedy or damages to the full extent of the law. This shall not preclude other penalties allowed by law.

PART B. SEVERABILITY.

The various parts, Sections and clauses of this Ordinance 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 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 County and shall thereafter be binding under this Ordinance.

PART C. INCLUSION IN THE CODE.

It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the County of St. Lucie, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

PART D. PROVISIONS OF THIS SECTION TO CONTROL.

Notwithstanding any contrary provisions of the County's Code of Ordinances, including the County's zoning regulations, the provisions of this new Ordinance shall control.

PART E. REPEALER.

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

PART F. EFFECTIVE DATE.

This ordinance shall be effective upon filing with the Department of State.

PART G. TERMINATION OF MORATORIUM. Upon this ordinance becoming effective, the temporary postponement on the acceptance and approval of applications for wireless

communications facilities adopted pursuant to Ordinance 17-018, and extended by Resolution RES-2018-1, is hereby terminated. This Part G shall not be codified.

PART H. APPLICABILITY OF ORDINANCE.

This ordinance shall be applicable in the unincorporated area of St. Lucie County.

PART I. FILING WITH THE DEPARTMENT OF STATE.

The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee, Florida 32304.

PART J. ADOPTION

After motion and second, the vote on this ordinance was as follows:

Commissioner Frannie Hutchinson, Chair	AYE
Commissioner Linda Bartz, Vice Chair	AYE
Commissioner Chris Dzadoovsky	AYE
Commissioner Anthony Bonna	AYE
Commissioner Cathy Townsend	AYE

PASSED AND DULY ENACTED this 15TH day of May 2018.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA**

Deputy Clerk

BY: -----
Chair

**APPROVED AS TO LEGAL FORM AND
CORRECTNESS:**

County Attorney