

ORDINANCE NO. 16-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE AMENDING THE CITY'S CODE OF ORDINANCES, CHAPTER 25, STREETS AND SIDEWALKS, BY CREATING A NEW ARTICLE XII THEREOF ENTITLED "THE CITY OF FORT LAUDERDALE COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE"; PROVIDING DEFINITIONS; PROVIDING FOR REGISTRATION OF COMMUNICATIONS FACILITY AND SERVICE PROVIDERS AND PASS THROUGH PROVIDERS; PROVIDING A PROCESS FOR ISSUANCE OF PERMITS; CREATING DESIGN STANDARDS FOR COMMUNICATIONS FACILITIES AND SITE IMPROVEMENTS, CREATING STANDARDS FOR CO-LOCATION OF FACILITIES; CREATING STANDARDS FOR USE AND RESTORATION OF PUBLIC RIGHTS-OF-WAY; PROVIDING FOR DISTANCE SEPARATION FROM RESIDENTIAL USES AND BETWEEN FACILITIES; PROVIDING FOR COMPENSATION TO THE CITY FOR THE USE OF PUBLIC RIGHTS-OF-WAY FOR THESE PURPOSES; PROVIDING FOR REVIEW BY THE CITY ENGINEER AND FOR RECOMMENDATIONS BY THE DEVELOPMENT REVIEW AND PROPERTY AND RIGHT-OF-WAY COMMITTEE FOR CERTAIN PERMIT APPLICATIONS; PROVIDING FOR SUSPENSION OF PERMITS; PROVIDING FOR AN APPEAL PROCESS; CREATING A PROCESS FOR THE INVOLUNTARY TERMINATION OF REGISTRATIONS; ESTABLISHING A DEADLINE FOR BRINGING EXISTING COMMUNICATIONS FACILITIES LOCATED IN PUBLIC RIGHTS-OF-WAY INTO COMPLIANCE WITH THIS ORDINANCE; PROVIDING INSURANCE, SECURITY FUND AND PERFORMANCE BOND REQUIREMENTS; PROVIDING INDEMNIFICATION OBLIGATIONS; PROVIDING REGULATIONS FOR ABANDONED COMMUNICATIONS FACILITIES; PROVIDING FOR ENFORCEMENT OF REMEDIES; REQUIRING REPORTS AND RECORDS, AND ALLOWING FOR INSPECTION THEREOF; PROVIDING A RESERVATION OF RIGHTS FOR THE CITY TO AMEND THIS ARTICLE; PROVIDING A LACK OF LIABILITY AND WARRANTY ON BEHALF OF THE CITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

1 WHEREAS, the provision of telecommunications services to residents of and  
2 visitors to the City of Fort Lauderdale ("City") is both an important amenity and a  
3 necessity of public and private life in the City; and  
4

5 WHEREAS, the demand for telecommunications services has grown in recent  
6 years and continues to grow exponentially, requiring the continual upgrading of  
7 telecommunications facilities and services to satisfy such growing demand; and  
8

9 WHEREAS, the placement and maintenance of telecommunications facilities in  
10 the public rights-of-way to satisfy the growing demand for telecommunications services  
11 raises important issues with respect to the City's responsibility to manage its public  
12 rights-of-way, which directly impacts the public health, safety and general welfare; and  
13

14 WHEREAS, the City has reviewed its ordinances and has concluded that they  
15 must be updated, in conformance with federal and state telecommunications laws and  
16 rules, in order to adequately regulate the placement and maintenance of existing, new  
17 and expanded telecommunications facilities in the City's rights-of-way; and  
18

19 WHEREAS, adoption of the following ordinance is necessary to satisfy the above  
20 objectives.

21 NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY  
22 COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

23  
24 SECTION 1. The City Code of Ordinances Chapter 25, Streets and Sidewalks, is  
25 hereby amended to create a new Article XII, "Communications Facilities in the Public  
26 Rights-of Way which shall hereafter read as follows;  
27

28 **Article XII, Communications Facilities in the Public Rights-of-Way.**  
29

30 **Sec. 25-300 Title.**

31 This Article shall be known as "The City of Fort Lauderdale Communications  
32 Facilities in the Public Rights-of-Way Ordinance."  
33

34 **Sec. 25-301 Intent and Purpose.**

35 It is the intent of the City to promote the public health, safety and general welfare  
36 by: providing for the placement or maintenance of Communications Facilities in the  
37 Public Rights-of-Way within the City; adopting and administering reasonable rules and  
38 regulations not inconsistent with state and federal laws, including, but not limited to, Fla.  
39 Stat. § 337.401, 47 USC § 1455(a) and Orders issued by the FCC, as they may be  
40 amended from time to time, the City's home-rule authority, and in accordance with the  
41 provisions of the Communications Act of 1934, as amended, and other federal and state  
42 laws; to regulate the location and placement of antennas, towers and other  
43 Communication Facilities and Wireless Communications Facilities in the Public Rights-  
44 of-Way; to protect residential areas and other land uses from potential adverse

1 aesthetic and other impacts of Communications Facilities through careful siting and  
2 Stealth Design techniques; to promote and encourage shared use (Co-location) of  
3 Communications Facilities as a primary option generally preferred over the construction  
4 of new single-use Communications Facilities; to promote and encourage utilization of  
5 technology that will either eliminate or reduce the need for the erection of new  
6 Communications Facilities; to avoid potential damage to Public Rights-of-Way caused  
7 by Communications Facilities by ensuring that such Facilities are soundly and carefully  
8 designed, constructed, modified and maintained; to ensure that Communications  
9 Facilities are compatible with Surrounding Neighborhoods; to establish reasonable rules  
10 and regulations necessary to manage the placement or maintenance of  
11 Communications Facilities in the Public Rights-of-Way by Communications Services  
12 Providers, Communications Facility Providers and other Pass-through Providers; and to  
13 minimize disruption to the Public Rights-of-Way. In regulating its Public Rights-of-Way,  
14 the City shall be governed by and shall comply with all applicable federal and state  
15 laws.

16 Persons seeking to place or maintain Communications Facilities in the City's Public  
17 Rights-of-Way shall comply with the provisions of this Article. Persons seeking to place  
18 or maintain Communications Facilities on private property or other property to which the  
19 City, Broward County, State of Florida or federal government has a fee simple or  
20 leasehold interest in real property, exclusive of Public Rights-of-Way, located within the  
21 municipal boundaries of the City shall comply with the provisions of the City's Unified  
22 Land Development Regulations ("ULDR") to the extent it applies.

23 It is the further intent of the City Commission that this ordinance is designed to regulate  
24 the location and placement of Communications Facilities in the Public Rights-Of-Way,  
25 but not the installation of (i) below-grade communications service facilities, or (ii) at-  
26 grade communications service facilities as regulated under city Code Section 25-100.1,  
27 or (iii) Utility Poles.

## 28 **Sec. 25-302. Definitions.**

29 For purposes of this Article, as used herein, unless otherwise defined or required,  
30 the following terms, phrases, words and their derivations shall have the meanings given.  
31 Where not inconsistent with the context, words used in the present tense include the  
32 future tense, words in the plural number include the singular number, and words in the  
33 singular number include the plural number. The words "shall" and "will" are mandatory,  
34 and "may" is permissive. Words not otherwise defined shall be construed to mean the  
35 common and ordinary meaning.

36 *Abandonment* or *Abandon* shall mean the absence of any active user  
37 (Communications Services Provider) on a Communications Facility. If there is a lapse  
38 in time of any or all active users (Communications Facility Provider) operating from the  
39 Communications Facility at issue for a period of ninety (90) consecutive days, then said  
40 Facility shall be deemed to have been Abandoned and shall be removed within thirty  
41 (30) days thereafter. Provided, however that the term "Abandonment" or "Abandoned"  
42 shall not include cessation of all use of a Communications Facility within a physical

1 structure where the physical structure continues to be used for some purpose or use  
2 accessory to the Communications Facility. By way of example, and not limitation,  
3 cessation of all use of a cable within a conduit, where the conduit continues to be used,  
4 shall not be "Abandonment" of a Communications Facility in a Public Rights-of-Way.

5 *Abut*, when used in conjunction with a Lot or Parcel of land means a Lot or  
6 Parcel of land that shares all or part of a common lot line with another Lot or Parcel of  
7 land or right-of-way or a Lot or Parcel that shares all of part of a common boundary line  
8 with a Public Right-of-Way.

9 *Adjacent or adjoining properties* means (i) those lots or parcels of land that Abut  
10 another Lot or Parcel of land that is contiguous to a Communications Facility site or  
11 proposed site and (ii) the Lots or Parcels of land that would be contiguous to Lots or  
12 Parcels in (i), but for an intervening Local or Collector street or alley.

13 *Aerial WiFi Access Device* is a Communications Facility located within a Public  
14 Right-Of-Way which such Device measures no greater than 18"L X 10"W X 9"H,  
15 weighing no more than 15 lbs., which Device is suspended from the Aerial WiFi Access  
16 Device Provider's utility or service distribution strand between two Utility Poles (i) at a  
17 height no lower than 15.5 feet above grade and (ii) no higher than 40" below the lowest  
18 facility of a power company on a Utility Pole (iii) located within fifteen (15) feet of the  
19 Utility Pole, (iv) with a distance separation between Devices of at least five hundred  
20 (500) feet. The Aerial WiFi Access Device is capable of the transmission, conveyance  
21 or routing of Communications Services.  
22

23 *Arterial Roadway* means a roadway route providing service which is relatively  
24 continuous and of relatively high traffic volume, long average trip length, high operating  
25 speed, and high mobility importance and constitutes the largest proportion of total travel  
26 as per the Broward County Trafficways Plan maintained by Broward County, as such  
27 Plan may be amended from time to time. In addition, every United States numbered  
28 highway is an arterial roadway.

29 *City* shall mean the City of Fort Lauderdale, Florida.

30 *City Commission* means the governing body of the City.

31 *City Engineer* means a Professional Engineer, licensed to practice in the State of  
32 Florida, employed or retained by the City and designated in writing by the City Manager,  
33 as the chief engineer for the City and who is responsible for administration of Chapter  
34 25 of the City's Code of Ordinances and is hereby vested with the authority to initiate  
35 enforcement action by issuance of a citation violation notice pursuant to City Code Sec.  
36 11-17. For the purposes of this Article, the term City Engineer shall also include his or  
37 her designee.

38 *City Manager* means the chief executive officer of the City and the administrative  
39 head of the City, as provided under Section 4.05 of the City Charter. The term City  
40 Manager also includes his or her designee.

1           Code means the Code of Municipal Ordinances of the City of Fort Lauderdale.

2           *Collector Roadway* means a route providing service that is of relatively moderate  
3 average traffic volume, moderately average trip length, and moderately average  
4 operating speed. Such a route also collects and distributes traffic between local roads  
5 or arterial roads and serves as a linkage between land access and mobility needs as  
6 per the Broward County Trafficways Plan maintained by Broward County, as such Plan  
7 may be amended from time to time.

8           *Co-location* shall mean the situation in which a second or subsequent  
9 Communications Services Provider or a Pass-Through Provider uses an existing  
10 Communications Facility to locate a second or subsequent Communications Facility.  
11 The term includes the ground, platform, or roof installation of equipment enclosures,  
12 cabinets, or buildings, and cables, brackets, and any other equipment associated with  
13 the location and operation of the Communications Facility.

14  
15           *Communications Facility* shall mean a facility that may be used to provide  
16 Communications Services, as per Fla. Stat. § 337.401, as same may be amended from  
17 time to time. Multiple cables, conduits, strands, or fibers located within the same conduit  
18 shall be considered one Communications Facility. The term Communications Facility  
19 shall also include a Wireless Communication Facility, ~~Pass-Through Provider,~~  
20 Communications Facility Tower or Pole. The term Communications Facility shall not  
21 include below-grade communications service facilities nor shall it include at-grade  
22 communications service facilities as regulated under City Code Section 25-100.1, nor  
23 shall it include Utility Poles.

24  
25           *Communications Facility Provider* shall mean a person (other than a  
26 Communications Services Provider operating one or more Communications Facilities  
27 located within the City) who is engaged, directly or indirectly, in the business of leasing,  
28 licensing, subleasing, subletting or hiring to one or more Communications Service  
29 Providers all or a portion of the tangible personal property used in a Communications  
30 Facility, including but not limited to, Communications Facility Towers or Poles or space,  
31 antennas, transmitters and transmission lines attached to or a part of such  
32 Communications Facility Towers or Poles ~~towers, poles, tower space, antennas,~~  
33 ~~transmitters, and transmission line.~~ ~~A Pass-Through Provider is a Communications~~  
34 ~~Facility Provider.~~ Provisions of this Article that apply only to Communications Facility  
35 Providers shall not apply to Communication Services Providers, even if the  
36 Communications Services Provider also operates, licenses, leases, subleases, or  
37 sublets Communications Facilities or Wireless Communications Facilities.

38           *Communications Facility Tower or Pole* shall mean a pole-like or tower-like  
39 structure either designed primarily as a Communications Facility or used as a  
40 Communications Facility.

41           *Communications Services* shall mean the transmission, conveyance, or routing  
42 of voice, data, audio, video, or any other information or signals, including video services,  
43 to a point, or between or among points, by or through any electronic, radio, satellite,

1 cable, optical, microwave, or other medium or method now in existence or hereafter  
2 devised, regardless of the protocol used for such transmission or conveyance, as per  
3 Fla. Stat. § 202.11, as same may be amended from time to time. The term includes  
4 such transmission, conveyance, or routing in which computer processing applications  
5 are used to act on the form, code, or protocol of the content for purposes of  
6 transmission, conveyance, or routing without regard to whether such service is referred  
7 to as voice-over-Internet-protocol services or is classified by the Federal  
8 Communications Commission as enhanced or value-added. The term does not include:

- 9 (a) Information services.
- 10 (b) Installation or maintenance of wiring or equipment on a customer's
- 11 premises.
- 12 (c) The sale or rental of tangible personal property.
- 13 (d) The sale of advertising, including, but not limited to, directory advertising.
- 14 (e) Bad check charges.
- 15 (f) Late payment charges.
- 16 (g) Billing and collection services.
- 17 (h) Internet access service, electronic mail service, electronic bulletin board
- 18 service, or similar online computer services.
- 19 (i) Communication Services transmitted by way of below-grade & above-grade
- 20 communications service facilities regulated under City Code Section 25-
- 21 100.1.
- 22 (j) Services used to remotely facilitate, monitor or control the distribution or
- 23 transmission of electricity on electric utility infrastructure.
- 24

25 *Communications Services Provider* means a person who provides  
26 Communications Services, but does not include a provider of below-grade  
27 communications service facilities nor does it include at-grade communications service  
28 facilities as regulated under City Code Section 25-100.1.

29 *Communications Services Tax* shall mean the local communications services tax  
30 authorized to be levied and collected by counties and municipalities upon charges for  
31 Communications Services, pursuant to Fla. Stat. § 202.20, as same shall be amended  
32 from time to time.

33  
34 *Corner Lot* means a lot located at the intersection of two (2) or more Public  
35 Rights-of-Way, with a property line bordering on at least two (2) of the Public Rights-of-  
36 Way.

37  
38 *Corner Yard* means that portion of a Corner Lot, which Abuts the Public Right-of-  
39 Way and is not the Front yard.

40  
41 *County* means Broward County, Florida.

42  
43 *Day(s)*. In computing any period of time expressed in day(s) in this Article, the  
44 day of the act, event or default from which the designated period of time begins to run  
45 shall not be included. The last day of the period so computed shall be included unless it

1 is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end  
2 of the next day which is neither a Saturday, Sunday, or legal holiday. When the period  
3 of time prescribed or allowed is less than seven (7) days, intermediate Saturdays,  
4 Sundays and legal holidays shall be excluded in the computation.  
5

6 *Distributed Antenna System* or *DAS*, is a network of spatially separated antenna  
7 nodes connected to a common source via a transport medium that provides Wireless  
8 Communications Service within a geographic area or structure. A DAS is a  
9 Communications Facility.

10 *Existing Structure* shall mean a structure that exists at the time an application for  
11 permission to place antennas or other facilities on the preexisting structure is filed with  
12 the City. The term includes any structure that can structurally support the attachment of  
13 antennas or other facilities in compliance with applicable codes and laws. The term  
14 Existing Structure shall not include below-grade communications facilities and at-grade  
15 communications facilities as regulated by City Code Section 25-100.1.

16 *Facility* means a Communications Facility.

17 *FCC* shall mean the Federal Communications Commission.

18 *Florida Building Code* means the Florida Building Code promulgated under  
19 Chapter 553, Florida Statutes and includes the Broward County Amendments thereto as  
20 both may be amended from time to time.

21 *Front Yard* means that portion of a Lot or Parcel of land, which is oriented in such  
22 a manner that its main entrance abuts the Public Right-of-Way, and includes the Front  
23 Yard setback as proscribed by the U.L.D.R.

24 *Grade* means the highest point in the Public Right-of-Way adjacent to a  
25 Communications Facility site or proposed site.

26 *Graffiti* means any inscriptions, word, figure, painting or other defacement that is  
27 written, marked, etched, scratched, sprayed, drawn, painted or engraved on or  
28 otherwise affixed to any Communications Facility whether or not authorized by the  
29 Registrant of the Communications Facility.

30 *In Public Rights-of-Way or in the Public Rights-of-Way* shall mean in, on, over,  
31 under or across the Public Rights-of-Way within the City over which the City has  
32 jurisdiction, control and authority to regulate. The term shall also include those rights-  
33 of-way over which the County or State has jurisdiction and authority under the Florida  
34 Transportation Code, Chapter 334, Florida Statutes, as same may be amended from  
35 time to time, but where the County or State or both have delegated to the City the  
36 authority to regulate the registration, permitting, placement, installation and  
37 maintenance of Communications Facilities in accordance with Article XII, Chapter 25 of  
38 the City Code of Ordinances.  
39

1 Interested Parties shall mean, for the purposes of the Public Information Meeting  
2 in Sec. 25-305 (c) (12), (i) the property owners within the Surrounding Neighborhood  
3 within which a proposed site is located together with (ii) the President or Chairman of  
4 the City's recognized Neighborhood Organization within which the proposed site is  
5 located. The property owners within the Surrounding Neighborhood are those property  
6 owners who are listed on the most recent ad valorem tax records of the Broward County  
7 Property Appraiser's Office.

8  
9 *Local Road* means a route providing service that is of relatively low average  
10 traffic volume, short average trip length or minimal through-traffic movements, and high  
11 land access for abutting property and is not included in the Broward County Trafficway  
12 Plan.

13  
14 *Lot* means the same as the term is defined in U.L.D.R. Section 47-35.1.

15  
16 *Neighborhood Organization* means an organization, typically a neighborhood  
17 association, occupying and representing a geographically distinct specific area that  
18 does not overlap with any other Neighborhood Organization that has undergone a  
19 neighborhood recognition process and is designated by the Mayor's Office as the official  
20 representative for the distinct geographic area at issue.

21  
22 *Order*, as used in the definition of "Wireless Service Provider", shall mean:

23 (a) The following orders and rules of the FCC issued in FCC Docket No. 94-  
24 102:

25  
26 (i) Order adopted on June 12, 1996, with an effective date of October  
27 1, 1996, the amendments to s.20.03 and the creation of s.20.18 of Title 47  
28 Code of Federal Regulations adopted by the FCC pursuant to such order.

29 (ii) Memorandum and Order No. 97-402, adopted on December 23,  
30 1998.

31  
32 (iii) Order No. FCC DA 98-2323, adopted on November 13, 1998.

33  
34 (iv) Order No. FCC 98-345, adopted December 31, 1998.

35  
36 (b) Orders and rules subsequently adopted by the FCC relating to the provision of  
37 911 services, including Order Number FCC-05-116, adopted May 19, 2005.

38 *Parcel* means the same as the term is defined in U.L.D.R. Section 47-35.1

39 *Pass-Through Provider* means any person who places or maintains a  
40 Communications Facility in the Public Rights-of-Way of the City and who, as to a  
41 particular Communications Facility, does not remit taxes imposed by the City pursuant  
42 to Chapter 202, Fla. Stat. as same may be amended from time to time. Depending



1 upon how the Communications Facility is utilized, the person who places or maintains a  
2 particular Communications Facility may be either a Pass-Through Provider, or a  
3 Communications Service Provider as to that particular Communications Facility. A  
4 Utility as defined in 47 U.S.C. § 224 is not a Pass Through Provider.

5 *Permit* shall include, but not be limited to City of Fort Lauderdale Right-of-Way  
6 engineering and construction permits issued by the City Engineer or his or her  
7 designee.

8  
9 *Person* shall include any individual, firm, association, joint venture, partnership,  
10 estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity  
11 of any kind, successor, assignee, transferee, personal representative, and all other  
12 groups or combinations, but shall not include the City to the extent permitted by  
13 applicable law.

14 *Place or maintain or placement or maintenance or placing or maintaining* shall  
15 mean to erect, construct, install, maintain, place, repair, extend, expand, remove,  
16 occupy, locate or relocate. A person that owns or exercises physical control over  
17 Communications Facilities in Public Rights-of-Way, such as the physical control to  
18 maintain and repair, is "placing or maintaining" the facilities. A person providing service  
19 only through resale or only through use of a third party's facilities is not "placing or  
20 maintaining" the Communications Facilities through which such service is provided. The  
21 transmission and receipt of radio frequency signals through the airspace of the Public  
22 Rights-of-Way does not constitute "placing or maintaining" facilities in the Public Rights-  
23 of-Way.

24 ~~*Pole* shall mean any structure designed primarily to support a Communications~~  
25 ~~Services Provider's antennas. A pole is a Communications Facility.~~

26 *Pole Attachment* means any attachment by a cable service provider or provider  
27 of Communications Services or telecommunications services to a Utility Pole or  
28 Communications Facility Tower or Pole, duct, conduit, within a Public Right-of-Way.

29 *Public Information Meeting* shall mean the meeting pursuant to Sec. 25-205 (c)  
30 (12) between the Registrant and Interested Parties as a condition precedent to filing an  
31 application of a Permit for a Communications Facility.

32 *Public Rights-of-Way* shall mean a Public Right-of-Way, Arterial Roadway,  
33 Collector Roadway, Local Road, highway, street, or bridge for which the City is the  
34 authority that has jurisdiction and control and may lawfully grant access to pursuant to  
35 applicable law, and includes the surface, the air space over the surface and the area  
36 below the surface; . The term shall also include those rights-of-way within the corporate  
37 boundaries of the City over which the County or State has jurisdiction and authority  
38 under the Florida Transportations Code, Chapter 334, Florida Statutes, as same may be  
39 amended from time to time, but where the County or State or both have delegated to  
40 the City the authority to regulate the registration, permitting, placement, installation and  
41 maintenance of Communication Facilities in accordance with Article XII, Chapter 25 of

1 the City Code of Ordinances. "Public Rights-of-Way" shall not include private property,  
2 nor shall the term include alleys. "Public Rights-of-Way" shall not include any real or  
3 personal City property except as described above and shall not include City buildings,  
4 fixtures, poles, conduits, facilities or other structures or improvements, regardless of  
5 whether they are situated in the Public Rights-of-Way.

6 *Registrant* shall mean a Communications Services Provider, Communications  
7 Facility Provider or Pass-Through Provider that has registered with the City in  
8 accordance with the provisions of Section 25-303 this Article and holds an effective  
9 Registration.

10 *Registration* or *register* shall mean the process described in this Article whereby  
11 a Communications Services Provider, Communications Facility Provider or Pass-  
12 Through Provider provides certain information to the City by which it is determined  
13 whether the Person will be authorized to become a Communications Service Provider,  
14 Communications Facility Provider or Pass-Through Provider pursuant to this Article.

15 *Repurposed Structure* shall mean an Existing Structure that has been renovated,  
16 reconfigured, or replaced with a similar structure so as to continue serving its existing  
17 purpose while also supporting the attachment of Communication Facilities through  
18 Stealth Design that is approximately in the same location as the Existing Structure and  
19 in such a manner that does not result in a net increase in the number of structures  
20 located within the Public Rights-of-Way and does not interfere with pedestrian or  
21 vehicular access, is Americans with Disabilities Act and Florida Building Code  
22 compliant. By way of illustration only, where a Utility Pole ~~light pole~~ existing within the  
23 Public Rights-of-Way is removed and is replaced with a new Utility Pole ~~light pole~~ that is  
24 substantially similar to the old Utility Pole ~~light pole~~ but now supports the attachment or  
25 integration of Communication Facilities, the new Utility Pole ~~light pole~~ shall no longer be  
26 considered a Utility Pole but shall be considered a Communications Facility and be  
27 ~~considered~~ a "Repurposed Structure." Unless stated otherwise, all references to  
28 "Communications Facilities" shall also apply to Repurposed Structures. To "repurpose  
29 an Existing Structure" shall mean the act of renovating, reconfiguring, or replacing an  
30 Existing Structure as described above. The Communications Service Provider that later  
31 removes a Repurposed Structure shall reinstall a new Utility Pole ~~light pole~~, or  
32 Communications Facility Tower or Pole ~~other applicable pole~~ in the Public Right-of-Way  
33 ~~public right-of-way~~, at the direction of the City. During the life of the use of Repurposed  
34 Structure the Communications Service Provider shall pay all costs associated with the  
35 electricity, light bulbs, maintenance, and replacement of the Repurposed Structure.

36 *Residential Block* means the Lots or Parcels that abut or are contiguous to a  
37 Public Right-of-Way within (i) the City's residential districts as set forth in the City's  
38 U.L.D.R., (ii) RO, ROA and ROC zoning districts as set forth in the City's U.L.D.R. or (iii)  
39 Broward County residential zoning districts and includes rights-of-way that are  
40 contiguous to the aforementioned zoning districts.

41 *Signage* means any display of characters, ornamentation, letters or other display  
42 such as, but not limited to, a symbol, logo, picture, or other device used to attract

1 attention, or to identify, or as an advertisement, announcement, or to indicate directions,  
2 including the structure or frame used in the display.

3  
4 *Surrounding Neighborhood* means the area within a one thousand (1,000) foot  
5 radius ~~five hundred (500) feet, as measured along ordinary vehicular travelways,~~ of the  
6 Communications Facility site or proposed Communications Facility site.

7 *State* means the State of Florida.

8 *Stealth Design* shall mean a method of camouflaging any tower, antenna or other  
9 Communications Facility, including, but not limited to, supporting electrical or  
10 mechanical equipment, which is designed to enhance compatibility with adjacent land  
11 uses and be as visually unobtrusive as possible. Stealth Design may include a  
12 Repurposed Structure.

13 ~~*Tower* shall mean any structure designed primarily to support the antennae of a~~  
14 ~~Communications Facility. A Tower is a Communications Facility.~~

15 *U.L.D.R.* means the City's Unified Land Development Regulations, Chapter 47 of  
16 the City of Fort Lauderdale Code of Ordinances.

17 *Utility* means any person or entity who is a local exchange carrier or an electric,  
18 gas, water, steam or other public utility, and who owns or operates appurtenant facilities  
19 or equipment that is situated with the Public Rights-of-Way for transmission of such  
20 Utility's goods, commodities or services.

21 *Utility Pole* is a pole-like structure designed primarily to support utilities such as  
22 electricity or cable service. The term *Utility Pole* is not a Communications Facility,  
23 provided it only supports such utilities as electricity or cable service. However, to the  
24 extent that equipment to facilitate transmission of Communications Services is affixed or  
25 about to be affixed to an existing Utility Pole, then in that event, the existing Utility Pole  
26 and equipment that facilitates transmission of Communications Services become a  
27 Communications Facility subject to the regulation of City Code, Chapter 25, Article XII,  
28 Communications Facilities in Public Rights-of-Way, City Code Section 25-300, et. seq.

29 *Video service* is a Communications Service under Fla. Stat. § 202.11 (1) (2015)  
30 and means video programming services, including cable services, provided through  
31 wireline facilities located at in part in the Public Rights-of-Way without regard to delivery  
32 technology, including Internet protocol technology. This definition does not include any  
33 video programming provided by a commercial mobile service provider as defined in 47  
34 U.S.C. Sec. 332(d), video programming provided as part of a service that enables end  
35 users to access content, information, electronic mail, or other services offered over the  
36 public internet.

37 *Video Service Provider* means any entity providing video service.

1        *Wireless Communications Facility* means equipment or Facilities located within  
2 Public Rights-of-Way, used to provide Wireless Service and may include, but is not  
3 limited to, antennae, Towers, equipment enclosures, cabling, antenna brackets and  
4 other such appurtenant equipment. Wireless Communications Facilities within Public  
5 Rights-of-Way may be comprised of Distributed Antenna Systems and shall mean  
6 equipment used to provide Wireless Service, as the phrase, Wireless Communications  
7 Facility, is further defined and limited in Fla. Stat. § 365.172, as same may be amended  
8 from time to time. Placing a Wireless Communications Facility on an existing building  
9 does not cause the existing building to become a Wireless Communications Facility. A  
10 Wireless Communications Facility is a type of Communications Facility. The term  
11 *Wireless Communications Facility* shall not include below-grade communications  
12 service facilities nor shall it include at-grade communications service facilities as  
13 regulated under City Code Section 25-100.1.  
14

15        *Wireless Service Provider* shall mean a person who provides Wireless Service  
16 and is either (a) subject to the provisions of the Order or (b) elects to provide wireless  
17 911 services or E911 service in Florida. A Wireless Service Provider is a type of  
18 Communications Services Provider.

19        *Wireless Service* shall mean “commercial mobile radio service” as provided  
20 under §§ 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C.  
21 §§ 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-  
22 66, August 10, 1993, 107 Stat. 312, as per Fla. Stat. §365.172, as same may be  
23 amended from time to time. The term includes service provided by any wireless real-  
24 time two-way wire communication device, including radio-telephone communications  
25 used in cellular telephone service; personal communications service; or the functional or  
26 competitive equivalent of a radio-telephone communications line used in cellular  
27 telephone service, a personal communications service, or a network radio access line.  
28 A Wireless Service is a Communications Service. The term does not include  
29 Communications Services Providers that offer mainly dispatch service in a more  
30 localized, non-cellular configuration; providers offering only data, one-way, or stored-  
31 voice services on an interconnected basis; providers of air-to-ground services; or public  
32 coast stations.  
33

34        **Section 25-303. Registration for placing or maintaining Communications**  
35 **Facilities in Public Rights-of-Way.**  
36

37        (a) *Registration.* A Communications Facility Provider, Communications  
38 Services Provider or Pass-through Provider that desires to place or maintain a  
39 Communications Facility or Pass-Through Facility in the Public Rights-of-Way in the  
40 City shall first register with the City in accordance with this Article. Subject to the terms  
41 and conditions prescribed in this Article, a Registrant may place or maintain a  
42 Communications Facility or Pass-Through Facility in the Public Rights-of-Way.  
43

(1) A Communications Facility Provider, Communications Services Provider or Pass-Through Provider with an existing Communications Facility in the Public Rights-of-Way as of the effective date of this Article has one-hundred eighty (180) ~~sixty (60)~~ days from the effective date of this Article to comply with the terms of this Article, including, but not limited to, registration.

(2) A Communications Facility Provider, Communications Services Provider or Pass-through Provider with an existing Communications Facility, or Pass-Through Facility in the Public Rights-of-Way who fails to so comply shall be in violation of City Code as provided by City Code Section 1-6 and City Code Chapter 11.

(b) *No property right arises from registration.* A Registration shall not convey any title, equitable or legal, in a Public Right-of-Way. Registration under this Article governs only the placement or maintenance of Communications Facilities or Pass-Through Facilities in a Public Right-of-Way. Registration does not excuse a Communications Facility Provider, Communications Services Provider or Pass-Through Provider from obtaining appropriate access or Pole Attachment ~~pole attachment~~ agreements before locating its Facilities on the City's or another person's Facilities. Registration does not excuse a Communications Facility Provider, Communications Services Provider or Pass-Through Provider from complying with all applicable laws, including this Article, or other City ordinances, codes or regulations.

(c) *Content of registration.* Each Communications Facility Provider, Communications Services Provider or Pass-Through Provider that desires to place or maintain a Communications Facility within the Public Rights-of-Way shall file a single Registration with the City that shall include the following information:

(1) Name of the Registrant; and

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

(3) Evidence of the insurance coverage required under this Article and acknowledgment that Registrant has received and reviewed a copy of this Article; and

(4) A copy of federal or state certification authorizing the Registrant to provide Communications Services; and

(5) If the Registrant is a corporation or limited liability company proof of authority to do business in the State of Florida, which may be satisfied by the number of its corporate certification or by other means; and

1 (6) Evidence that a security fund has been established in accordance  
2 with this Article; and  
3

4 (7) A statement by the Registrant in the Registration that by execution  
5 of the Registration application and acceptance of the Registration, the Registrant  
6 agrees to the terms of indemnification as provided by City Code Section 25-311.  
7

8 (d) *City Engineer review and approval.* The City Engineer shall review the  
9 information submitted by the Registrant in the Registration. If the Registrant submits  
10 information in accordance with subsection (c) above, the Registration shall be effective  
11 and the City Engineer shall notify the Registrant of the effectiveness of Registration in  
12 writing. If the City Engineer determines that the information has not been submitted in  
13 accordance with subsection (c) above, the City Engineer shall notify the Registrant in  
14 writing of the non-effectiveness of Registration and reasons for the non-effectiveness.  
15 The City Engineer shall so notify a Registrant within thirty (30) days after receipt of  
16 Registration information from the Registrant.  
17

18 (e) *Cancellation.* A Registrant may cancel a Registration upon written notice  
19 to the City that the Registrant will no longer place or maintain any Communications  
20 Facilities in the Public Rights-of-Way. A Registrant cannot cancel a Registration if the  
21 Registrant continues to place or maintain any Communications Facilities in the Public  
22 Rights-of-Ways.  
23

24 (f) *Registration shall be nonexclusive.* Registration shall not establish any  
25 right or priority to place or maintain a Communications Facility in any particular area in  
26 the Public Rights-of-Way. Registrations are expressly subject to any future amendment  
27 to or replacement of this Article and may further be subject to any additional City  
28 ordinances, as well as any state or federal laws that may be enacted.  
29

30 (g) *Renewal of Registration.* A Registrant who secured its Registration by  
31 April 1 of an even-numbered year in accordance with the Registration requirements of  
32 this Article shall renew its Registration by April 1 of the next ensuing even-numbered  
33 year and successive even-numbered years thereafter. A Registrant who secured its  
34 Registration by April 1 of an odd-numbered year in accordance with the Registration  
35 requirements of this Article shall renew its Registration by April 1 of the next ensuing  
36 odd-numbered year and successive odd-numbered years thereafter. Within thirty (30)  
37 days of any change in the information required to be submitted pursuant to subsection  
38 (c) above a Registrant shall provide updated information to the City. Registration  
39 renewals shall include an inventory of the Registrant's newly installed Communications  
40 Facilities or the presence of any Abandoned Communication Facilities within the  
41 boundaries and jurisdiction, or acquired jurisdiction of the City since the prior  
42 Registration or Registration renewal. If no information in the then-existing Registration  
43 has changed, the renewal may state that no information has changed. Failure to renew  
44 a Registration may result in the City restricting the issuance of additional Permits until  
45 the Communications Facility Provider, Communications Services Provider or Pass-  
46 through Provider as complied with the Registration requirements of this Article.

1  
2 (h) *Permits required of Registrants.* In accordance with City ordinances, code  
3 or regulations and this Article, a Permit shall be required of a Communications Facility  
4 Provider, Communications Services Provider or Pass-through Provider that desires to  
5 place or maintain a Communications Facility in the Public Rights-of-Way. A Permit may  
6 be obtained by or on behalf of a Registrant having an effective Registration if all Permit  
7 requirements are met.

8  
9 (i) *Compensation to City.* A Registrant that places or maintains  
10 Communications Facilities in the Public Rights-of-Way shall be required to pay  
11 compensation to the City as required by applicable law and ordinances.  
12

13 **Section 25-304. Notice of transfer, sale or assignment of assets in public**  
14 **rights-of-way.**  
15

16 (a) A Registrant shall not transfer, sell or assign all or any portion of its assets  
17 located in the Public Rights-of-Way except to a person holding a valid Registration  
18 issued pursuant to Section 25-303, hereof.  
19

20 (b) Written notice of any such proposed transfer, sale or assignment, along  
21 with assignee/transferee's signed and sworn certification of its compliance with the  
22 requirements of this Article, shall be provided by such Registrant to the City at least five  
23 (5) days prior to the effective date of the transfer, sale or assignment.  
24

25 (c) If Permit applications are pending in the name of the transferor/assignor,  
26 the transferee/assignee shall notify the City Engineer that the transferee/assignee is the  
27 new applicant.

28 (d) A violation of the requirements of this Section 25-304 shall be a violation  
29 of this Code and the Registrant who is alleged to have violated any of the provisions of  
30 this Section 25-304 may be subject to the enforcement remedies set forth in Code  
31 Sections 1-6 and 25-314.  
32

33 (e) The City reserves the right, as allowed by law, to exclude persons other  
34 than Communications Facility Providers; Communications Services Providers or Pass-  
35 through Providers from its Public Rights-of-Way for the purpose of establishing  
36 Communication Facilities.

37  
38 (f) Transfers or assignments of a Communications Facility to persons other  
39 than Communications Facility Providers, Communications Services Providers or Pass-  
40 through Providers who will operate at least one Communications Facility within the City  
41 require compliance with this section to insure continued use of the Public Rights-of-  
42 Way.  
43

1 **Section 25-305. Permit application process; standards for placement or**  
2 **maintenance of a Communications Facility in Public Rights-of-Way.**

3 (a) *Other applicable regulations.* A Registrant shall at all times comply with  
4 and abide by all applicable provisions of the state and federal law and City ordinances,  
5 codes and regulations in placing or maintaining a Communications Facility in the Public  
6 Rights-of-Way.  
7

8 (1) Each Permit application for a Communications Facility must  
9 demonstrate that it meets the requirements of the Florida Building Code, as it  
10 may be amended from time to time, including all associated hardware and  
11 attachments, pole or strand mounted, and shall be designed and constructed in  
12 accordance with the High Velocity Zone Criteria specified in the Florida Building  
13 Code, Chapter 16, as same may be amended from time to time, and the  
14 Communications Facility shall be considered as structures under Building Risk  
15 Category IV Structures under Chapter 16, Section 1620/1621, High Velocity  
16 Hurricane Zone Area. Signed and sealed design and wind load calculations shall  
17 be provided by a Registered Professional Engineer and a Permit under the  
18 Florida Building Code shall be required.  
19

20 (b) *Compliance with all applicable Permits.*  
21

22 A Registrant shall not commence to place or maintain a Communications  
23 Facility, including without limitation a Co-location thereof, in the Public Rights-of-  
24 Way until all applicable Permits, if any, have been issued by the City; provided,  
25 however, in the case of an emergency, a Registrant may restore its damaged  
26 Facilities in the Public Rights-of-Way to their pre-emergency condition or replace  
27 its destroyed Facilities in the Public Rights-of-Way with Facilities of the same  
28 size, character and quality, all without first applying for or receiving a Permit.  
29

30 (i) The term "emergency" shall mean a condition that affects  
31 the public's health, safety or welfare, which includes an unplanned out-of-  
32 service condition of a pre-existing service.  
33

34 (ii) A Registrant shall provide prompt notice to the City of the  
35 repair or replacement of a Communications Facility in the Public Rights-of-  
36 Way in the event of an emergency, and shall be required to obtain an  
37 after-the-fact Permit if a Permit would have originally been required to  
38 perform the work undertaken in the Public Rights-of-Way in connection  
39 with the emergency.  
40

41 (1) In granting Permits, the City may impose reasonable conditions  
42 governing the placement or maintenance of a Communications Facility in the  
43 Public Rights-of-Way. Permits shall apply only to the areas of Public Rights-of-  
44 Way specifically identified in the Permit.



1  
2 (2) *Blanket Permits.* The City may issue a blanket Permit to cover  
3 certain activities, such as routine maintenance and repair activities, that may  
4 otherwise require individual Permits.

5 (3) The City's policies strongly favor strengthening utility infrastructure  
6 and in particular as it relates to flooding and hurricane related events. Subject to  
7 any applicable regulatory approval, the Communications Facility Providers will  
8 implement an infrastructure hardening plan for any Communications Facilities  
9 within the City's boundaries.

10  
11 (c) *Permit Application.* As part of any Permit application to place a new or  
12 replace an existing Communications Facility in the Public Rights-of-Way, including,  
13 without limitation, a Co-location, the Registrant shall provide the following:

14  
15 (1) The location of the proposed Facilities, including a description of  
16 the Facilities to be installed, where the Facilities are to be located, and the  
17 dimensions of the Facilities that will be located in Public Rights-of-Way; and

18  
19 (2) With respect to proposals to locate a new Communications Facility  
20 or replace an existing Communications Facility in the Public Rights-of-Way,  
21 engineering documentation demonstrating either:

22  
23 (i) how the proposed Facility can accommodate multiple Co-  
24 locations; or

25  
26 (ii) why the City's interest in safe, aesthetic, efficient and effective  
27 management of the Public Rights-of-Way is better served by  
28 the proposed Facility than by a Facility that could  
29 accommodate multiple Co-locations; or

30  
31 (iii) why a Repurposed Structure is not better suited to or feasible  
32 for the site-

33 An Aerial WiFi Access Device is exempt from the requirements of this Sec. 25-  
34 305 (c) (2).

35  
36 (3) A description of the manner in which the Facility will be installed  
37 (i.e. anticipated construction methods or techniques); and

38  
39 (4) A maintenance of traffic plan for any disruption of the Public Rights-  
40 of-Way, provided, however, that an Aerial WiFi Access Device is exempt from the  
41 requirements of this Sec. 25-305 (c) (4); and  
42

1 (5) For purposes of assessing impacts on Public Rights-of-Way  
2 resources, effects on Surrounding Neighborhoods and other properties within the  
3 potentially impacted area and potential for Co-locations or Repurposed  
4 Structures, information on the ability of the Public Rights-of-Way to  
5 accommodate the proposed Facility, including information that identifies all  
6 above-ground and below ground structures (including Utility Poles ~~light poles,~~  
7 ~~power poles,~~ equipment boxes, below-grade and above-grade communications  
8 service facilities as regulated under City Code Section 25-100.1, and antenna),  
9 currently existing in the Public Rights-of-Way within a 1,000 foot radius of the  
10 proposed Facility (such information may be provided without certification as to  
11 correctness, to the extent obtained from other Registrants with Facilities in the  
12 Public Rights-of-Way ~~public rights-of-way~~); however, if the City Engineer  
13 determines that it either:

14  
15 (i) better serves the City's interests in safe, aesthetic, efficient  
16 and effective management of the Public Rights-of-Way; or

17  
18 (ii) is necessary to address a documented lack of capacity for  
19 one or more carriers; or

20  
21 (iii) will help minimize the total number of Communications Facilities  
22 necessary to serve a particular area;

23  
24 then the 1,000-foot distance requirement may be modified to achieve a  
25 harmonious balance among the above three factors; and the Registrant applying  
26 for the Permit shall provide competent substantial evidence to reflect that the  
27 above conditions are met, in order to waive strict compliance with the 1,000 foot  
28 distance requirements set forth in this subsection 5 (i), (ii) and (iii), and ensure  
29 compliance with all the other requirements of this Article; provided, however, that  
30 an Aerial WiFi Access Device is exempt from the provisions of this Sec. 25-305  
31 (c) (5); and

32  
33 (6) Given the Facility proposed, an assessment of an estimate of the  
34 cost of restoration to the Public Rights-of-Way; and

35  
36 (7) The timetable for construction of the project or each phase thereof,  
37 and the areas of the City which will be affected; and

38  
39 (8) Whether all or any portion of the proposed Facilities will be rented,  
40 hired, leased, sublet or licensed from or to any third party and, if so, the identity,  
41 and contact information of that third party; and

42  
43 (9) Prior to installation of any new or additional Facilities in the Public  
44 Rights-of-Way, including but not limited to Co-location at a specific site, the  
45 Communications Facility Provider shall be required to remove any and all of the  
46 Registrant's ~~obsolete, unutilized or Abandoned~~ equipment within the City. Any

1 application to install new or additional equipment shall identify the Abandoned,  
2 ~~obsolete or unutilized~~ equipment that shall be removed prior to the installation of  
3 any new or additional technology or Facilities in the Public Rights-of-Way; and  
4

5 (10) If there exists a Communications Facility by the same  
6 Communications Facility Provider within the Public Right-of-Way that is adjacent  
7 to or within a 1,000 foot radius of the proposed new Communications Facility  
8 location, then the Communications Facility Provider shall be required to remove  
9 and consolidate the equipment into one Facility, so as to not create a second  
10 location within such a minimal distance; provided, however, that an Aerial WiFi  
11 Access Device is exempt from the provisions of this Sec. 25-305 (c) (10); and  
12

13 (11) Such additional information with respect to the placement or  
14 maintenance of the Communications Facility that is the subject of the Permit  
15 application that the City finds reasonably necessary for the review of such Permit  
16 application; provided, however, that an Aerial WiFi Access Device is exempt from  
17 the provisions of this Sec. 25-305 (c) (11); and  
18

19 (12) *Public Information Meeting.* An application for a Permit is not  
20 complete until the Registrant provides the City Engineer with an Affidavit  
21 certifying compliance with the following: ~~An application for a Permit is not~~  
22 ~~complete until the Registrant has provided evidence that it has provided notice of~~  
23 ~~the Registrant's intent to file an application for a Permit to install a Facility within~~  
24 ~~the proposed site, such notice being provided to~~  
25

26 (i) That the Registrant has provided Notice of the Public  
27 Information Meeting described herein to the Interested Parties; and  
28 property owners within the Surrounding Neighborhood, together with  
29

30 (ii) That the Notice of the Public Information Meeting clearly  
31 states the date, time and location of the meeting, describes the scope of  
32 the proposed project, identifies by name and address the Interested  
33 Parties to whom the Notice was sent, and clearly explains that the  
34 purpose of the meeting is to (a) explain the proposed project and the  
35 potential impact to the Interested Parties and (b) entertain questions and  
36 take comments from the Interested Parties; and the President or  
37 Chairman of City's recognized Neighborhood Organization within which  
38 the proposed site is located. and provide the groups within (i) and (ii)  
39 above with a minimum of thirty (30) days for comments to be provided to  
40 the City Engineer.

41 (iii) That a copy of the Notice of the Public Information Meeting  
42 is attached to the Affidavit; and The notice shall describe the scope of the  
43

1 ~~proposed work, identify the name and address of the property owners~~  
2 ~~within the Surrounding Neighborhood and together with the President and~~  
3 ~~Chairman of the relevant recognized Neighborhood Organization, and~~  
4 ~~describe the potential impact to such property owners.~~

5  
6 (iv) That copies of all comments, questions and reviews from the  
7 Public Information Meeting, as well as the Registrant's written proposal for  
8 addressing all negative comments or issues raised at the Public  
9 Information Meeting is attached to the Affidavit; and ~~The notice shall also~~  
10 ~~require the Registrant to hold a public information meeting, which shall~~  
11 ~~include the property owners within the Surrounding Neighborhood and the~~  
12 ~~City's recognized Neighborhood Organization within which the proposed~~  
13 ~~site is located, for the purpose of answering questions and taking~~  
14 ~~comments from the affected property owners and members of the City's~~  
15 ~~recognized Neighborhood Organization identified above.~~

16  
17 (v) That the list of names, addresses and e-mail addresses of  
18 those Interested Parties who provided comment at the Public Information  
19 Meeting is attached to the Affidavit; and ~~After the public information~~  
20 ~~meeting, the Registrant shall meet with City staff as soon as practicable to~~  
21 ~~review comments received at the public information meeting and attempt to~~  
22 ~~resolve all negative comments or issues raised, prior to filing an application~~  
23 ~~for a Permit for the proposed Facility.~~

24  
25 (vi) That the Registrant's responses to the comments, which  
26 may include an amended or revised Permit Application is attached to the  
27 Affidavit; and ~~The property owners within the Surrounding Neighborhood~~  
28 ~~are those property owners who are listed in the most recent ad valorem~~  
29 ~~tax records of the Broward County Property Appraiser's Office.~~

30  
31 (vii) That the Registrant acknowledges and agrees that the City  
32 Engineer shall have at least fifteen (15) days within which to review the  
33 comments and responses from the Public Information Meeting prior to the  
34 Application for a Permit being deemed complete. ~~The application for a~~  
35 ~~Permit is not complete until conditions (i) through (vi) above have been~~  
36 ~~met.~~

37  
38 (viii) ~~The notice to the property owners and the City's recognized~~  
39 ~~Neighborhood Organization as identified above, shall contain the address~~  
40 ~~and e-mail address for the City Engineer for the purpose of providing~~  
41 ~~comments to the City Engineer. The Registrant will have thirty (30) days~~

1 to provide a response to the City Engineer to each comment. Such  
2 response may include an amendment of the application. Thereafter, the  
3 City Engineer shall have thirty (30) days to grant, grant with conditions, or  
4 deny the Permit application.  
5

6 (d) *Power to regulate Public Rights-of-Way; Reasonable Conditions attached*  
7 *to Permit.* To the extent not otherwise prohibited by state or federal law, the City shall  
8 have the power to prohibit or limit the placement of new or additional Communications  
9 Facilities within a particular area of Public Rights-of-Way and may consider, among  
10 other things and without limitation, the sufficiency of space to accommodate all of the  
11 present Communications Facilities and pending applications to place and maintain utility  
12 facilities in that area of the Public Rights-of-Way, the sufficiency of space to  
13 accommodate City announced plans for public improvements or projects that the City  
14 determines are in the best public interest, the impact on traffic and traffic safety, and the  
15 impact upon existing facilities in the Public Rights-of-Way. The City Engineer is hereby  
16 delegated the authority to impose additional reasonable conditions in accordance with  
17 the foregoing to ensure the public health, safety and welfare, and peaceful enjoyment of  
18 City residents and businesses.  
19

20 (e) *Avoidance of unreasonable interference with Public Rights-of-Way.*  
21

22 (1) All Communications Facilities shall be placed or maintained so as  
23 not to unreasonably interfere with the use of the Public Rights-of-Way by the  
24 public and public Utility ~~utility~~ providers and with the rights and convenience of  
25 property owners who adjoin any of the Public Rights-of-Way.  
26

27 (2) The use of trenchless technology (i.e., directional bore method) for  
28 the installation of Facilities ~~facilities~~ in the Public Rights-of-Way as well as joint  
29 trenching or the Co-location of Facilities ~~facilities~~ in existing conduit is strongly  
30 encouraged, and should be employed wherever feasible.  
31

32 (3) To the extent not prohibited by federal and state law, the City shall  
33 require any Registrant that does not have Communications Facilities in the City  
34 as of the date of adoption of this Article to place any new cables, wires, fiber  
35 optics, splice boxes and similar communications facilities underground, unless  
36 such Communications Facilities can be Co-located.  
37

38 (f) *Safety practices.* All safety practices required by applicable law or  
39 accepted industry practices and standards shall be used during the placement or  
40 maintenance of Communications Facilities or Wireless Communications Facilities.  
41

42 (g) *Restoration of Public Rights-of-Way.* After the completion of any  
43 placement, maintenance or removal of a Communications Facilities in Public Rights-of-  
44 Way or each phase thereof, a Registrant shall, at its own expense, restore the Public  
45 Rights-of-Way to its existing condition prior to such work. If the Registrant fails to make  
46 such restoration within thirty (30) days following the completion of such placement or

1 maintenance, the City may perform restoration and charge the costs of the restoration  
2 against the Registrant in accordance with Florida Statutes § 337.402, as same may be  
3 amended from time to time. For twelve (12) months following the original completion of  
4 the work, the Registrant shall guarantee its restoration work and shall correct any  
5 restoration work that does not satisfy the requirements of this Article at its own expense.  
6

7 (h) *Removal or relocations governed by Florida law.* Removal or relocation at  
8 the direction of the City Engineer of a Registrant's Communications Facilities in the  
9 Public Rights-of-Way shall be governed by the provisions of Florida Statutes §§ 337.403  
10 and 337.404, as they may be amended from time to time. Subject to the aforementioned  
11 Florida Statutes §§ 337.403 and 337.404 and other provisions of law, whenever existing  
12 overhead Utility ~~utility~~ distribution facilities are converted to underground distribution  
13 facilities, any Registrant having Communications Facilities located on a  
14 Communications Facility Tower or Pole ~~on Poles or other Facilities~~ that are to be  
15 removed shall arrange for the conversion to underground facilities or relocation on the  
16 same terms and conditions as the other Utility distribution facilities ~~utilities~~ that are being  
17 converted to underground facilities.  
18

19 (i) *Permit does not create property right.* A Permit from the City constitutes  
20 authorization to undertake only certain activities in the Public Rights-of-Way in  
21 accordance with this Article, and does not create a property right or grant authority to  
22 impinge upon the rights of others who may have an interest in the Public Rights-of-Way.  
23

24 (j) *Maintenance in accordance with industry standards and applicable law.* A  
25 Registrant shall maintain its Communications Facilities in the Public Rights-of-Way in a  
26 manner consistent with accepted industry standards and best practices and applicable  
27 law.  
28

29 (1) Owners of Communications Facilities located in Public Rights-of-  
30 Way shall, at all times, employ ordinary and reasonable care and shall install and  
31 maintain in use nothing less than commonly accepted industry standards and  
32 best practices for preventing failures and accidents which are likely to cause  
33 damage, injuries, or nuisances to the public, adjacent property owners and other  
34 Facilities or Utility Facilities within the Public Rights-of-Way.  
35

36 (2) Owners of Communications Facilities located in Public Rights-of-  
37 Way shall install and maintain such Communications Facilities, wires, cables,  
38 fixtures and other appurtenant equipment in compliance with the requirements of  
39 the Florida Building Code, National Electric Safety Code, Florida Administrative  
40 Code and all FCC, state and local regulations, and in such a manner that will not  
41 interfere with the use of other property or other facilities within or adjacent to the  
42 Public Rights-of-Way.

43 (3) All Communications Facilities, wires, cables, fixtures and other  
44 appurtenant ~~appurtenance~~ equipment shall, at all times, be kept and maintained  
45

1 in good condition, order and repair so that the same shall not endanger the life or  
2 property of any person or other Utility facilities in the Public Rights-of-Way.  
3

4 (4) All Communications Facilities shall maintain compliance with radio  
5 frequency emission standards of the FCC or any superseding City, state or  
6 county regulations.

7 (k) *Underground Facility Damage Prevention and Safety Act.* In connection  
8 with excavation in the Public Rights-of-Way, a Registrant shall, where applicable,  
9 comply with the Underground Facility Damage Prevention and Safety Act set forth in  
10 Florida Statutes, Chapter 556, the Underground Facility Damage Prevention and Safety  
11 Act, as it may be amended from time to time.

12  
13 (l) *Use of due caution.* Registrants shall use and exercise due caution, care  
14 and skill in performing work in the Public Rights-of-Way and shall take all reasonable  
15 steps to safeguard work site areas, including, but not limited to those safeguard set forth  
16 in Chapter 33, Florida Building Code.

17  
18 (m) *Coordination with other work in Public Rights-of-Way.* Upon request of the  
19 City, and as notified by the City of the other work, construction, installation or repairs  
20 referenced below, a Registrant may be required to coordinate placement or  
21 maintenance activities under a Permit with any other work, construction, installation or  
22 repairs that may be occurring or scheduled to occur within a reasonable timeframe in  
23 the subject Public Rights-of-Way, and a Registrant may be required to reasonably alter  
24 its placement or maintenance schedule as necessary so as to minimize disruptions and  
25 disturbance in the Public Rights-of-Way.

26  
27 (n) *Avoidance of interference, displacement, damage or destruction of other*  
28 *facilities within the Public Rights-of-Way.* A Registrant shall not place or maintain its  
29 Communications Facilities in such a manner as to interfere with, displace, damage or  
30 destroy any other Utility ~~utility~~ facilities or Communications Facilities, including but not  
31 limited to, sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables  
32 or conduits of the City or any other person's facilities lawfully occupying the Public  
33 Rights-of-Way of the City.

34  
35 (o) *No warranties regarding fitness, suitability or availability of City's Public*  
36 *Rights-of-Way.* The City makes no warranties or representations regarding the fitness,  
37 suitability, or availability of the City's Public Rights-of-Way for the Registrant's  
38 Communications Facilities or Wireless Communications Facilities and any performance  
39 of work, costs incurred or services provided by the Registrant shall be at the  
40 Registrant's sole risk. Nothing in this Article shall affect the City's authority to add,  
41 vacate, modify, abandon or otherwise dispose of Public Rights-of-Way, and the City  
42 makes no warranties or representations regarding the availability of any added,  
43 vacated, modified or abandoned Public Rights-of-Way for Communications Facilities or  
44 Wireless Communications Facilities.

1 (p) *Right of inspection.* The City shall have the right to make such inspections  
2 of Communications Facilities placed or maintained in its Public Rights-of-Way as it finds  
3 necessary to ensure compliance with this Article.

4  
5 (q) *Content and format of Permit Application; requirement of "as built" plans.*  
6 A Permit Application to place new or replace existing Communications Facilities in the  
7 Public Rights-of-Way shall include plans showing the location of the proposed  
8 installation of Facilities in the Public Rights-of-Way. If the plans so provided require  
9 revision based upon actual installation, the Registrant shall promptly provide revised  
10 plans. The plans shall be in a hard copy format or an electronic format specified by the  
11 City Engineer, provided such electronic format is maintained by the Registrant. Such  
12 plans in a format maintained by the Registrant shall be provided at no cost to the City.  
13 Upon completion of any Communications Facilities, the provider shall furnish to the City,  
14 at no cost to the City, one complete set of sealed "as built" plans, or in the case of any  
15 underground Utility facilities, a sealed survey showing the exact location of such  
16 facilities, including their depth; or in either case, such other documentation describing  
17 the location (including height or depth, as the case may be) of facilities as the City  
18 Engineer may approve. This requirement shall be in addition to, and not in lieu of, any  
19 filings the Registrant is required to make under the Underground Facility Damage  
20 Prevention and Safety Act set forth in Florida Statutes Chapter 556, as it may be  
21 amended from time to time. The fact that such plans or survey is on file with the City  
22 shall in no way abrogate the duty of any person to comply with the aforesaid  
23 Underground Facility Damage Prevention and Safety Act when performing work in the  
24 Public Rights-of-Way. Any proprietary confidential business information obtained from a  
25 Registrant in connection with a Permit Application or a Permit shall be held confidential  
26 by the City to the extent provided in Florida Statutes § 202.195, as same may be  
27 amended from time to time. In addition to the foregoing the Permit Application shall  
28 include:

29  
30 (1) An affidavit attesting to the fact that the Registrant made diligent  
31 efforts for permission to install or Co-locate the Registrant's Communications  
32 Facility on City-owned structures located within a 1,000 foot radius of the  
33 proposed Communications Facility site.

34  
35 (2) An affidavit attesting to the fact that the Registrant made diligent  
36 efforts to install or Co-locate the Registrant's Communications Facility or  
37 Wireless Communications Facility on private property or government owned  
38 (other than Public Rights-of-Way) within a 1,000 foot radius of the proposed site.

39  
40 (3) A description of the technological design plan proposed by the  
41 Registrant. The Registrant must demonstrate why design alternatives that utilize  
42 an existing Facility cannot be utilized.

43  
44 (4) Written, technical evidence from a qualified radio frequency  
45 engineer that the proposed Communications Facility cannot be Co-located on



another Facility within a 1,000 foot radius of the proposed site due to coverage or other technical requirements or limitations.

(5) A written statement from a qualified radio frequency engineer that the construction and placement of the Communications Facility or Wireless Communications Facility will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.

~~(6) Written technical evidence from a professional engineer licensed in the State of Florida acceptable to the City's Fire Marshall and the Building Official that the proposed site of the Communications Facility does not pose a risk of explosion, fire or other danger to life or property due to its proximity to volatile, flammable, explosive or hazardous materials such as LP gas, propane, gasoline, natural gas, corrosive or other dangerous chemicals.~~

~~(6)(7)~~ Full color photo-simulations showing the proposed site of the Communications Facility with photo-realistic representations of the proposed Communications Facility as it would appear from adjacent properties and the Public Rights-of-Way.

~~(7)(8)~~ A written certification, under seal, from the engineer of record that the Communications Facility was designed to be structurally sound, and, at a minimum, in conformance with the Florida Building Code, and any other standards outlined in this section.

~~(8)(9)~~ A statement within the application for a Permit that by execution of the application and by applying for the Permit, the Registrant agrees to the indemnification provisions set forth in Code Section 25-311 hereof.

(r) *City placement of other facilities within Public Rights-of-Way.* The City reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of utility facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in Public Rights-of-Way occupied by the Registrant, and the City also reserves the right to reserve any portion of the Public Rights-of-Way for its own present or future use. The City further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the Public Rights-of-Way within the limits of the City and within said limits as same may from time to time be altered.

(s) *Temporary raising or lowering of Communications Facilities to accommodate other authorized work.* A Registrant shall promptly, at the request of any Person holding a Permit issued by the City, temporarily raise or lower its

1 Communications Facility to permit the work authorized by a permit. The expense of  
2 such temporary raising or lowering of such Facilities shall be paid by the Person, other  
3 than the City, requesting the same, and the Registrant shall have the authority to  
4 require such payment in advance. The Registrant shall be given not less than thirty (30)  
5 days advance written notice to arrange for such temporary relocation.  
6

7 (t) *Additional requirements.* The following additional requirements apply  
8 when a Registrant seeks authority to locate a Communications Facility in the Public  
9 Rights-of-Way:  
10

11 (1) *Prerequisite to seek location on private property or government*  
12 *property outside the Public Rights-of-Way.* Registrants seeking to place a  
13 Communications Facility within the Public Rights-of-Way are required to first  
14 attempt to locate their proposed Facility on private property or government-  
15 owned property outside of the Public Rights-of-Way before applying for a Permit  
16 to place their proposed Facilities within a Public Right-of-Way. An application for  
17 a Permit to place a Communications Facility or Wireless Communications  
18 Facility within the Public Rights-of-Way shall include an explanation as to why  
19 the applicant is unable to locate the proposed Facilities on private property or  
20 government owned property outside of the Public Rights-of-Way within a 1,000  
21 foot radius of the proposed location for which application is being made. An  
22 Aerial WiFi Access Device is exempt from the provisions of Sec. 25-305 (t) (1).  
23

24 (2) *Other alternatives.* Registrants seeking to place, construct or  
25 modify a Communications Facility in the Public Rights-of-Way shall either:  
26

27 a. Co-locate the Communications Facility as set out in Florida  
28 Statutes § 365.172, as amended, or  
29

30 b. install the Communications Facility on an Existing Structure  
31 within the Public Rights-of-Way, including without limitation existing Utility  
32 Poles ~~power poles, light poles and telephone poles~~ or  
33

34 c. Repurpose an Existing Structure.  
35

36 d. The Permit application for Co-location must contain  
37 ~~attachment agreements,~~ a certification that the Registrant has a right to  
38 attach to the Facility being Co-located upon, if the Registrant does not  
39 own the facility being Co-located upon.  
40

41 For applications to place a new Communications Facility or replace an Existing  
42 Structure or Facility in the Public Rights-of-Way, the Permit application must  
43 contain engineering documentation demonstrating either:  
44

45 (i) That proposed Communications Facility can accommodate  
46 multiple Co-locations; or

(ii) Why the City's interest in safe, aesthetic, efficient and effective management of the Public Rights-of-Way is better served by a Facility incapable of accommodating multiple Co-locations; or

(iii) Why a Repurposed Structure would be better suited to or feasible for the site.

(3) *Emphasis on Arterial or Collector roadways.* Registrants seeking to construct Communications Facilities within the Public Rights-of-Way shall locate their Communications Facilities in the Rights-of-Way of Arterial or Collector Roadways, whenever possible. An application for a Permit to place Communications Facilities in Public Rights-of-Way other than Arterial or Collector Roadways shall explain why the applicant is unable to locate the Communications Facilities in the Public Rights-of-Way of an Arterial or Collector Roadway and shall include an engineering analysis from the applicant demonstrating to the satisfaction of the City Engineer the need to locate the Communications Facilities in the areas proposed in the application. Upon delegation to the City of the regulatory authorities in this Article by the County, State and/or the U.S. Department of Transportation as to the right-of-way jurisdiction under Chapter 337, Florida Statutes, the City may enforce such regulation in this Article within the corporate boundaries of the City to the extent such authority has been delegated to the City as stated above .

(4) *Not significantly impair view from residential structures.* All Communications Facilities shall be located such that views from residential structures are not significantly impaired. Where possible, newly installed Communications Facilities should be located in areas with existing foliage or other aesthetic features in order to obscure the view of the Communication Facility. The requirements of this subparagraph shall not apply to Repurposed Structures, when there is a one-to-one repurposing of an existing structure (i.e. existing Utility Pole ~~light pole~~).

(5) *Mitigation of impacts; application to Development Review Committee / Property and Right Of Way Committee for recommendations.* Registrants are required to locate Communications Facilities within Public Rights-of-Way in a manner that minimizes their impact to the Surrounding Neighborhood. All applications for Permits to locate a Communications Facility in the Public Rights-of-Way shall be simultaneously served on the Development Review Committee / Property and Right-of-Way Committee for recommendations to the City Engineer on the following issue under Code Section 25-305, Permit application process:

Sec. 25-305 (t) (5) - Mitigation of Impacts

Sec. 25-305 (t) (6) – Mitigation of visual impact; Stealth Design

Sec. 25-305 (t) (7) - Stealth Design of Communications Facilities in the Public Rights of Way

1                   Sec. 25-305 (t) (8) – Stealth Design of Communications Facilities on  
2                   Existing Structures in the Public Rights-of-Way  
3

4                   The City Engineer shall consider the recommendations of the Development  
5                   Review Committee / Property and Right-of-Way Committee in granting or  
6                   denying or granting, with conditions the application for a Permit for a  
7                   Communications Facility as it pertains to above referenced subsections under  
8                   Code Sec. 25-305 (t). The City reserves the right to condition the grant of any  
9                   Permit to locate a Communications Facility within the Public Rights-of-Way upon  
10                  the Registrant taking such reasonable measures, consistent with the City's  
11                  jurisdiction, as the City may determine are necessary to mitigate the impacts of  
12                  the Communications Facility on the Surrounding Neighborhood. Installation of a  
13                  Communications Facility under this Chapter shall not interfere with a clear  
14                  pedestrian path, at a minimum the width required by the Americans with  
15                  Disabilities ("ADA") and Florida Building Code. An Aerial WiFi Access Device is  
16                  exempt from the provisions of Sec. 25-305 (t) (5).  
17

18                  (6)   *Mitigation of visual impact; Stealth Design.* Stealth Design for a  
19                  Communications Facility shall be utilized wherever possible in order to minimize  
20                  the visual impact of Communications Facilities on Surrounding Neighborhoods.  
21                  Each application for a Permit to place a Communications Facility in the Public  
22                  Rights-of-Way shall include:  
23

24                       a.    photographs and renderings accurately representative of  
25                       distances, location and nature of the site where each Communications  
26                       Facility is proposed to be located,  
27

28                       b.    photographs showing the location and condition of properties  
29                       within a 1,000 ~~500~~ foot radius of the site of each proposed  
30                       Communications Facility, and  
31

32                       c.    a description of the Stealth Design techniques proposed to  
33                       minimize the visual impact of the Communications Facility and graphic  
34                       depictions accurately representing the visual impact of the  
35                       Communications Facility when viewed from the street and from Adjacent  
36                       properties.  
37

38                  (7)   *Stealth Design of Communications Facilities in the Public Rights-of-*  
39                  *Way.* Communications Facilities to be placed in the Public Rights-of-Way shall  
40                  utilize Stealth Design in order to eliminate the need to locate any ground or  
41                  elevated equipment (other than antennas) on the exterior of a Communications  
42                  Facility. Communications Facilities to be placed on existing structures shall  
43                  utilize Stealth Design in order to minimize the need to locate any ground or  
44                  elevated equipment (other than antennas) on the exterior of the structure. The  
45                  use of foliage and vegetation around any approved ground equipment may be  
46                  required by the City based on conditions of the specific area where the ground

1 equipment is to be located. Landscape material appropriate to the location shall  
2 be determined and approved by the City's Landscape Plans Examiner under  
3 separate Permit. An Aerial WiFi Access Device is exempt from the provisions of  
4 Sec. 25-305 (t) (7).

5  
6 (8) *Stealth Design of Communications Facilities on Existing Structures*  
7 *in the Public Rights-of-Way.* Communications Facilities to be placed on Existing  
8 Structures in the Public Rights-of-Way shall utilize Stealth Design and shall  
9 include

10  
11 (a) top mounted antennas within enclosures that do not extend  
12 the diameter of the supporting Existing Structure at the level of antenna  
13 attachment; and

14  
15 (b) side mounted antennas within enclosures that extend no  
16 more than two (2) feet beyond the exterior dimensions of the supporting  
17 structure at the level of antenna attachment; and

18  
19 (c) not have antennas mounted less than eight feet above  
20 ground level; and

21  
22 (d) for purposes of calculating (a), (b), and (c) above, the  
23 dimensions of the supporting structure do not include any platform, rack,  
24 mount or other hardware used to attach an antenna or antenna enclosure  
25 to the supporting structure.

26  
27 (e) Communications Facility Tower or Poles that replicate trees  
28 or other natural objects are prohibited.

29  
30 (f) All Stealth Designed Communications Facilities components,  
31 including associated hardware shall be designed and constructed in  
32 accordance with the High Velocity Zone Criteria specified in the Florida  
33 Building Code, Chapter 16, as same may be amended from time to time,  
34 and considered as structures under Building Risk Category II. Design and  
35 wind load calculations shall be provided per ASCE 7 – 10 (170 MPH).  
36 Calculations should be accompanied by Miami-Dade County Notice of  
37 Acceptance (NOA) / Product Approvals.

38  
39 (g) An Aerial WiFi Access Device is exempt from the provisions  
40 of this Sect. 25-305 (ta) (8).

41  
42 (9) *Additional requirements.* The following additional requirements  
43 shall apply to Communications Facilities located in the Public Rights-of-Way:

44  
45 a. *Requirement to demonstrate that Stealth Design cannot be*  
46 *employed.* Each application to locate equipment at ground level on or

adjacent to the exterior of a Communications Facility and each proposal to locate elevated equipment (other than antennas) on or adjacent to the exterior of a Communications Facility shall include engineering documentation demonstrating to the satisfaction of the City Engineer that the proposed Communications Facility cannot employ Stealth Design and that the proposed exterior location and configuration of equipment proposes the minimum equipment necessary to achieve the needed function. In order to avoid the clustering of multiple items of approved ground Communications Facility equipment or Communications Facility elevated equipment in a single area, only one Communications Facility equipment box may be located within 1,000 foot radius ~~linear feet~~ of any other Communications Facility equipment box, ~~such distance being measured along the ordinary course of travel of the Public Right-of-Way upon which the equipment box is located.~~ An Aerial WiFi Access Device is exempt from the provisions of Sec. 25-305 (t) (9) (a)

b. *Maximum volume of exterior equipment where Stealth Design cannot be employed.* Where a Registrant demonstrates that Stealth Design cannot be employed, the individual approved exterior equipment boxes shall not exceed twelve (12) cubic feet in volume; provided, however, an Aerial WiFi Access Device shall not exceed measurements of 18"L x 10"W x 9"H.

c. *Distance separation between Communications Facilities in Public Rights-of-Way.* Communications Facilities in the Public Rights-of-Way must be spaced a minimum of 1,000 linear feet apart from each other, along the line of general vehicular travel, except that no distance requirement shall apply to Repurposed Structures. This subsection may be waived upon a factual showing, supported by sworn testimony or matters subject to official notice, demonstrating to the satisfaction of the City Engineer after consideration of the recommendations of the Development Review Committee / Property and Right-Of-Way Committee that locating a specific Communications Facility less than 1,000 linear feet from other Communications Facilities either:

(i) better serves the City's interests in safe, aesthetic, efficient and effective management of the Public Rights-of-Way than application of the 1,000 feet limitation as set forth above;

(ii) is necessary to address a documented lack of coverage or capacity; or

(iii) will help minimize the total number of Wireless Communications Facilities necessary to serve a particular area.

1 The distance separation requirement between Aerial WiFi Access Devices  
2 shall be no less than five hundred (500) feet.

3  
4 d. *Height of new Communications Facility Towers or Poles*  
5 *~~Poles or Towers~~ in Public Rights-of-Way.* The height of new  
6 Communications Facility Tower or Pole ~~Poles and Towers~~ in the Public  
7 Rights-of-Way shall be no greater than thirty-six (36) feet, with an antenna  
8 not to exceed an additional four (4) feet; provided however that  
9 Registrants proposing Communications Facilities with antennas to be  
10 located on existing Utility Poles ~~Poles, Towers~~ or Repurposed Structures  
11 may increase the height of the ~~existing~~ appurtenant antenna, facilities  
12 Pole, Tower or Repurposed Structure up to six (6) feet, if necessary, to  
13 avoid adversely affecting existing attachments; and provided further that  
14 the overall height above Grade ~~ground~~ of any Communications Facility  
15 together with antenna shall not exceed forty (40) feet. Height ~~height~~ shall  
16 be measured from Grade and shall include the base pad; provided,  
17 however, that the height of an Aerial WiFi Access Device mounted on a  
18 strand shall be no lower than 15.5 feet above Grade and no higher than  
19 40" below the lowest facility of a power company on a Utility Pole.

20  
21 e. *Lighting of Communications Facility Towers or Poles*  
22 *~~or Towers~~ in Public Rights-of-Way.* Communications Facilities Towers or  
23 Poles ~~installed on Poles or Towers~~ that are not Utility Poles ~~light poles,~~  
24 and Repurposed Structures that were not originally Utility Poles ~~light~~  
25 ~~poles,~~ shall not be lit unless lighting is required to comply with FAA  
26 requirements; provided, however, at the City's option such Communication  
27 Facility Tower or Pole ~~or Tower~~ may be required to be equipped with an  
28 LED street light. The cost of installation and operation and maintenance  
29 costs thereof shall be borne by the Registrant by way of a maintenance  
30 agreement.

31  
32 f. *No signage.* Registrants shall not place signage on  
33 Communications Facilities installed in Public Rights-of-Way, unless  
34 otherwise required by Federal or State statute, provided, however, that  
35 Repurposed Structures that lawfully supported signage before being  
36 repurposed may continue to support signage as otherwise permitted by  
37 law.

38  
39 g. *Prohibition against Front Yard location within Residential*  
40 *Blocks.* No Communications Facility shall be placed within a Public Right-  
41 of-Way that Abuts any Front Yard in Residential Blocks. Co-location of  
42 Communications Facilities within Public Rights-of-Way that abut Front  
43 Yard locations within Residential Blocks shall be prohibited. An Aerial  
44 WiFi Access Device shall be exempt from the provisions of this Sec. 25-  
45 305 (t) (9) (g).

1 h. *Limitations on locations in Corner Yards within Residential*  
2 *Blocks.* A Communications Facility within the Public Rights-of-Way  
3 abutting a Corner Yard of a Corner Lot within a Residential Block shall not  
4 be placed any farther than ten (10) feet from the neighboring property line  
5 of the Lot abutting and adjacent to the Corner Lot. An Aerial WiFi Access  
6 Device shall be exempt from the provisions of this Sec. 25-305 (t) (9) (h).  
7

8 i. *Sight triangles.* No Communications Facility shall be  
9 constructed or installed within a triangular shaped area of land, known as  
10 a sight triangle, as defined in U.L.D.R. Section 47-35, Definition, and  
11 measured as follows:  
12

13 (i) Ten (10) feet from the intersection point of the edge of  
14 a driveway and curb, or in the event that there is no curb, the edge  
15 of the alley or street pavement; or  
16

17 (ii) Fifteen (15) feet from the intersection point of the  
18 extended property lines at an alley and a street; or  
19

20 (iii) Twenty-five (25) feet from the intersection point of the  
21 extended property lines at a street and a street; or  
22

23 (iv) The sight triangle requirements may be reduced to no  
24 less than ten (10) feet, when the City Engineer on a case-by-case  
25 basis finds that the proposed reduction complies with all City  
26 Engineering standards and the City Engineer shall take into  
27 consideration neighborhood characteristics such as the location of  
28 schools, parks and other community facilities, pedestrian facilities  
29 such as adequate sidewalks, street characteristics such as a  
30 pavement with, width of swale (right-of-way line to curb or edge of  
31 pavement for vehicular travelways) the curvature of the street,  
32 speed limits and other similar elements.

33 Sight triangles located at the intersection of a local street or  
34 driveway within a right-of-way under county, state or federal jurisdictions,  
35 may be subject to the sight triangle requirements of those jurisdictions. An  
36 Aerial WiFi Access Device shall be exempt from the provisions of this Sec.  
37 25-305 (t) (9) (i).  
38

39 j. *Distance separation from edge of pavement.* No  
40 Communications Facility shall be constructed, operated or maintained in  
41 the Public Rights-of-Way in violation of the State of Florida Department of  
42 Transportation Manual of Uniform Minimum Standards for Design,  
43 Construction and Maintenance for Streets and Highways, Table 3-12,  
44 Minimum Width of Clear Zones. In accordance with Table 3-12, the City



1 Engineer shall have the authority to reduce the four (4) foot minimum  
2 offset identified in Table 3-12 where that offset cannot be reasonably  
3 obtained and other alternatives are deemed impractical, the City Engineer  
4 shall have the authority to decide reductions in the clear zone in  
5 accordance with the above referenced Table 3-12.  
6

7 k. *Distance separation from existing sidewalk.* No newly  
8 installed Communications Facility shall be constructed, operated or  
9 maintained in the Public Right-of-Way within one (1) foot of an existing  
10 sidewalk. Co-location on existing Communication Facility Towers or Poles  
11 ~~or Towers~~, and use of Repurposed Structures are exempt from this  
12 requirement. An Aerial WiFi Access Device shall be exempt from the  
13 provisions of this Sec. 25-305 (t) (9) (k).  
14

15 l. *Prohibition against placement on certain Collector and Local*  
16 *Roadways where City has plans for sidewalks.* No Communications  
17 Facility shall be constructed, installed, operated or maintained in the swale  
18 area on the side of a Collector Roadway or Local Roadway where the City  
19 has plans to install a sidewalk of five (5) feet in width or more, nor shall  
20 such Communications Facility be located in such a manner that would  
21 preclude a five (5) foot clear pathway for the planned sidewalk. An Aerial  
22 WiFi Access Device shall be exempt from the provisions of this Sec. 25-  
23 305 (t) (9) (l).  
24

25 m. *Installation at outermost boundary of Public Rights-of-Way.*  
26 Where a superior site design results from placement of a Communications  
27 Facility at or near the outermost boundary of the Public Rights-of-Way, the  
28 farthest distance practicable from the centerline of the Public Right-of-Way  
29 and edge of pavement is encouraged. To the extent that the location of  
30 the sidewalk within the Public Right-of-Way precludes achievement of a  
31 superior site design or otherwise precludes compliance with all other  
32 requirements of this Article, then the City Engineer or Registrant may  
33 propose and the Registrant may include in the Permit application a  
34 proposed re-routing of the sidewalk at its own expense, in order to achieve  
35 such superior site design or otherwise meet other requirement of this  
36 Article. An Aerial WiFi Access Device shall be exempt from the provisions  
37 of this Sec. 25-305 (t) (9) (m).  
38

39 n. *Maintenance and Graffiti plan.* Each Communications  
40 Facility within the Public Rights-of-Way, including any appurtenant  
41 features incorporated therewith under this Article shall be maintained in a  
42 neat and clean condition at all times. Specifically, but not without limiting  
43 the generality of the foregoing, each Communications Facility in the Public  
44 Rights-of-Way and appurtenant features shall be regularly maintained so  
45 that:  
46

(i) They are free of Graffiti visible from the Public Rights-of-Way or from the Surrounding Neighborhood. All Graffiti shall be removed within two (2) days from receipt of notice thereof by the City that Graffiti exists on the Communications Facility Towers or Poles ~~or Tower~~ or appurtenant equipment thereof. A fine of \$50.00 per day shall be imposed for each and every day of non-compliance after receipt of notice.

(ii) It is reasonably free of dirt and grease, rust and corrosion in visible metal areas, chipped, faded, peeling and cracked paint that is visible from the Public Right-of-Way or from the Surrounding Neighborhood. All such conditions shall be remedied within two (2) days from receipt of notice thereof from the City.

(iii) The exterior of any Communications Facility shall not be used for Signage purposes.

o. *Exterior finish.* Communications Facilities, not requiring FAA painting or marking, shall have an exterior, hard durable finish which enhances compatibility with adjacent uses, as approved by the City Engineer..

(10) *Other state and federal requirements.* The City's action on proposals to place, construct or modify Communications Facilities shall be subject to the standards and time frames set out in Florida Statutes § 365.172, 47 USC § 1455(a), and Orders issued by the FCC, as they may be amended from time to time.

(u) The obligations imposed by the requirements of Sections 25-305 (t) (1) – (10), above, upon Registrants proposing to place or maintain Communications Facilities in the Public Rights-of-Way shall also apply to Registrants proposing to place or maintain any other type of communications facility in Public Rights-of-Ways, if that other type of communications facility involves placement of over-the-air radio transmission or reception equipment in the Public Rights-of-Way.

(v) *No Permit fees for work under this Article.* Pursuant to Florida Statutes § 337.401(3)(c)(1)(b) and other applicable provisions of law, and notwithstanding any other provisions of this Code, the City hereby elects not to charge Permit fees to any Registrant for Permits to do work under this Article in the Public Rights-of-Way.

(w) *Issuance of Permit in violation of Code or construction in violation of Code.*

(1) The issuance of a Permit for a Communications Facility shall not be construed as a right to installation, construction or maintenance of the Communications Facility that fails to meet the requirements of this Article.

(2) The issuance of a Permit for a Communications Facility shall not be deemed or construed to be a Permit for or approval of any violation of any of the provisions of this Article. No Permit presuming to give authority to violate or cancel the provisions of Chapter 25 of this Code shall be void and invalid except insofar as the work or use which it authorizes is lawful.

(3) The issuance of a Permit upon the application for Permit shall not prevent the City Engineer from thereafter requiring the correction of errors when in violation of Chapter 25 of this Code.

#### **Section 25-306. Suspension of Permits.**

The City may suspend a Permit for work in the Public Rights-of-Way for one or more of the following reasons:

- (1) Violation of Permit conditions, including conditions set forth in the Permit, this Article or other applicable City ordinances, codes or regulations governing placement or maintenance of Communications Facilities or in the Public Rights-of-Way;
- (2) Misrepresentation or fraud by Registrant in a Registration or Permit application to the City;
- (3) Failure to properly renew, or ineffectiveness of Registration; or
- (4) Failure to relocate or remove facilities as may be lawfully required by the City.

Upon the recommendation of a suspension of the Permit by the City Engineer, the City Engineer shall provide notice and an opportunity to cure any violation of subsections (1) through (4) above, each of which shall be reasonable under the circumstances. The suspension shall terminate upon curing of the underlying violation(s).

#### **Sec. 25-307. Appeals.**

(a) Any person aggrieved by any action or decision of the City Engineer with regard to any aspect of Registration or issuance of or suspension of a Permit under this Article may appeal to the City Manager by filing with the City Manager, within 30 days after receipt of a written decision of the City Engineer, a notice of appeal, which shall set forth concisely the action or decision appealed from and the reasons or grounds for the appeal. No requests for extension of time for filing an appeal will be permitted; provided however, the right of appeal of any action or decision of the City Engineer with regard to an aspect of Registration or issuance of or suspension of a Permit under this Article shall not be available in the event a citation violation notice has been given pursuant to

1 the terms of Code Sec. 11-17, et seq., the right of appeal under a citation violation  
2 notice procedure being provided for under Code Section 11-14.

3  
4 (b) The only appeal that shall be considered with respect to an action or  
5 decision of the City Engineer with regard to any aspect of Registration or issuance or  
6 suspension of a Permit under this Article are those appeals that allege that there is error  
7 in any order, requirement, decision, or determination made by the City Engineer in the  
8 enforcement of this Article.

9  
10 (c) The City Manager shall set such appeal for a hearing held by the City  
11 Manager on the very next available date following such notice of appeal and cause  
12 notice thereof to be given to the appellant and the City Engineer and the City Engineer  
13 shall present the case on behalf of the City.

14  
15 (d) The City Manager shall hear and consider all facts material to the appeal  
16 and render a decision within 20 calendar days of the date of the hearing. The City  
17 Manager may affirm, reverse or modify the action or decision appealed from; provided,  
18 that the City Manager shall not take any action which conflicts with or nullifies any of the  
19 provisions of this Article.

20  
21 (e) Any person aggrieved by any decision of the City Manager on an appeal  
22 shall be entitled to apply to the Circuit Court for a review thereof by Petition for Writ of  
23 Certiorari in accordance with the applicable court rules.

24  
25 **Sec. 25-308. Involuntary termination of Registration.**

26  
27 (a) The City Manager may terminate a Registration if:

- 28 (1) A federal or state authority suspends, denies, revokes a Registrant's  
29 certification or license required to provide Communications Services;  
30  
31 (2) The Registrant's placement or maintenance of a Communications  
32 Facility in the Public Rights-of-Way presents an extraordinary danger  
33 to the general public or other users of the Public Rights-of-Way and  
34 the Registrant fails to remedy the danger promptly after receipt of  
35 written notice;  
36  
37 (3) The Registrant violates Florida Statutes § 843.025, as same may be  
38 amended from time to time;  
39  
40 (4) The Registrant violates Florida Statutes § 843.165, as same may be  
41 amended from time to time;  
42  
43 (5) The Abandonment by the Registrant of all of its Communications  
44 Facilities in the Public Rights-of-Way and noncompliance with City  
45 Code Section 25-315 hereof; or  
46

1 (6) Repetitive violations of any of the provisions of this Article.  
2

3 (b) Prior to termination, the Registrant shall be notified by the City Manager,  
4 with a written notice setting forth all matters pertinent to the proposed termination  
5 action, including which of subsections (a)(1) through (a)(5) above is applicable and the  
6 reason therefore, and describing the proposed action of the City with respect thereto.  
7 The Registrant shall have fifteen (15) days after receipt of such notice within which to  
8 address or eliminate the reason or within which to present a plan, satisfactory to the City  
9 Manager to accomplish the same. If the plan is rejected by the City Manager, the City  
10 Manager shall provide written notice within seven (7) days of such rejection to the  
11 Registrant and shall make a recommendation to the City Commission regarding a  
12 decision as to termination of Registration. At the next available date for a Regular  
13 Meeting of the City Commission, but no sooner than ten (10) days after the City  
14 Manager makes his recommendation to the City Commission, the City Commission  
15 shall hear appeals from the Registrant and the City Manager. The City Commission  
16 shall make a final determination as to termination of the Registration and the terms and  
17 conditions relative thereto. Any person aggrieved by any decision of the City  
18 Commission on an appeal regarding termination of a Registration shall be entitled to  
19 apply to the Circuit Court for a review thereof by Petition for Writ of Certiorari in  
20 accordance with the applicable court rules.  
21

22 (c) In the event of termination, the former Registrant shall: (1) notify the City  
23 of the assumption or anticipated assumption by another Registrant of ownership of the  
24 Registrant's Communications Facilities in the Public Rights-of-Way; or (2) provide the  
25 City with an acceptable plan for disposition of its Communications Facilities in the Public  
26 Rights-of-Way. If a Registrant fails to comply with this subsection (c), which  
27 determination of noncompliance is subject to appeal as provided in City Code Section  
28 25-307 hereof, the City may exercise any remedies or rights it has at law or in equity,  
29 including, but not limited to requiring the Registrant within ninety (90) days of the  
30 termination, or such longer period as may be agreed to by the Registrant and City  
31 Manager, to remove some or all of the Communications Facilities from the Public  
32 Rights-of-Way and restore the Public Rights-of-Way to its original condition before the  
33 initial installation of the facilities.  
34

35 (d) In any event, a terminated Registrant shall take such steps as are  
36 necessary to render safe every portion of the Communications Facilities remaining in  
37 the Public Rights-of-Way of the City.  
38

39 (e) In the event of termination of a Registration, this section does not  
40 authorize the City to cause the removal of Communications Facilities used to provide  
41 another service for which the Registrant or another person who owns or exercises  
42 physical control over the facilities holds a valid certification or license with the governing  
43 federal or state agency, if required for provision of such service, and is registered with  
44 the City, if required.  
45  
46

1     **Sec. 25-309. Existing communications facilities in public rights-of-way.**

2  
3             A Communications Services Provider, Communications Facility Provider or Pass-  
4 through Provider with an existing Communications Facility in the Public Rights-of-Way  
5 of the City has 60 days from the effective date of this Article to comply with the terms of  
6 this Article, including, but not limited to, Registration, or be in violation thereof  
7

8     **Sec. 25-310. Insurance.**

9  
10            (a)     A Registrant shall provide, pay for and maintain satisfactory to the City the  
11 types of insurance described herein. All insurance shall be from responsible companies  
12 duly authorized to do business in the State of Florida and having an A. M. Best A-VII or  
13 better rating. All liability policies shall provide that the City is an additional insured as to  
14 the activities under this Article. The required coverages must be evidenced by properly  
15 executed certificates of insurance forms. The certificates must be signed by the  
16 authorized representative of the insurance company and shall be filed and maintained  
17 with the City annually. Thirty (30) days advance written notice by registered, certified or  
18 regular mail or facsimile as determined by the City must be given to the City's Risk  
19 Manager of any cancellation, intent not to renew or reduction in the policy coverages.  
20 The insurance requirements may be satisfied by evidence of self-insurance or other  
21 types of insurance acceptable to the City.  
22

23            (b)     The limits of coverage of insurance required shall be not less than the  
24 following:

- 25  
26                    (1)     Worker's compensation and employer's liability insurance.  
27                             Worker's compensation—Florida statutory requirements.  
28  
29                    (2)     Comprehensive general liability.  
30                             Bodily injury and property damage: \$1,000,000.00 combined single  
31                                     limit each occurrence.  
32  
33                    (3)     Automobile liability.  
34                             Bodily injury and property damage: \$1,000,000.00 combined single  
35                                     limit each accident.  
36

37            (c)     The coverage provided herein shall be for a period not less than the  
38 period for which the indemnification obligations under City Code Section 25-311 hereof  
39 are imposed.  
40

41     **Sec. 25-311. Indemnification.**

42  
43            (a)     A Registrant shall, at its sole cost and expense, indemnify, hold harmless,  
44 and defend the City, its officials, boards, members, agents, and employees, against any  
45 and all claims, suits, causes of action, proceedings, judgments for damages or equitable  
46 relief, and costs and expenses incurred by the City arising out of the placement or

1 maintenance of its Communications Facilities in the Public Rights-of-Way, regardless of  
2 whether the act or omission complained of is authorized, allowed or prohibited by this  
3 Article (hereinafter, "claims"); provided, however, that a Registrant's obligation  
4 hereunder shall not extend to any claims caused by the gross negligence or wanton or  
5 willful acts of the City or any of its officers, servants, agents, or employees. This  
6 indemnification includes, but is not limited to, the City's reasonable attorneys' fees  
7 incurred in defending against any such claim, suit or proceedings. The City agrees to  
8 notify the Registrant, in writing, within a reasonable time of the City receiving notice, of  
9 any issue it determines may require indemnification. Nothing contained in this section  
10 shall be construed or interpreted: (1) as denying to either party any remedy or defense  
11 available to such party under the laws of the State of Florida; or (2) as a waiver of  
12 sovereign immunity beyond the waiver provided in Florida Statutes § 768.28 and within  
13 the limits provided therein, as it may be amended from time to time.

14  
15 (b) Registrant shall investigate, handle, respond to, provide defense for, and  
16 defend any such claims at its sole expense and shall bear all other costs and expenses  
17 related thereto even if the claim is groundless, false or fraudulent and if called upon by  
18 the City, registrant shall assume and defend not only itself but also the City in  
19 connection with any such claims and any such defenses shall be at no cost or expense  
20 whatsoever to the City (exercisable by the City Attorney), provide that the City shall  
21 retain the right to select counsel of its own choosing

22 (c) The indemnification requirements under this Section shall survive and be  
23 in full force and effect for a period of five (5) years after the termination or cancellation  
24 of a Registration.

25  
26 **Sec. 25-312. Performance bond.**

27  
28 (a) Prior to issuing a Permit where the work under the Permit will require  
29 restoration of Public Rights-of-Way, the City Engineer shall require a performance bond  
30 by a surety duly authorized to do business in the State of Florida and having an A.M.  
31 Best A-VII rating or better. The bond shall be in the amount of 125 % of the  
32 ~~construction and~~ restoration cost estimate of the Public Rights-of-Way, as certified by a  
33 professional engineer licensed in the State of Florida, to secure proper performance  
34 under the requirements of any Permits and the restoration of the Public Rights-of-Way.  
35 Twelve (12) months after the completion of the restoration of the Public Rights-of-Way  
36 in accordance with the bond, the Registrant may eliminate the bond. However, the City  
37 Engineer may subsequently require a new bond for any subsequent work by the same  
38 Registrant in the Public Rights-of-Way. The performance bond shall provide that: "For  
39 twelve (12) months after issuance of this bond, this bond may not be canceled, or  
40 allowed to lapse, until sixty (60) days after receipt by the City, by certified mail, return  
41 receipt requested, of a written notice from the issuer of the bond of intent to cancel or  
42 not to renew." Notwithstanding the foregoing, a performance bond will not be required if  
43 the cumulative costs of restoration for projects for which Permits have been issued and  
44 for which performance bonds are still outstanding is less than the amount of the security  
45 fund filed by the Registrant under City Code Section 25-313.

1 (b) The rights reserved by the City with respect to any performance bond  
2 established pursuant to this section are in addition to all other rights and remedies the  
3 City may have under this Article, or at law or equity.

4  
5 (c) The rights reserved to the City under this section are in addition to all  
6 other rights of the City, whether reserved in this Article, or authorized by other law, and  
7 no action, proceeding or exercise of a right with respect to the construction bond will  
8 affect any other right the City may have.

9  
10 **Sec. 25-313. Security fund.**

11  
12 At the time of Registration, the Registrant shall be required to file with the City,  
13 for City approval, an annual bond, cash deposit or irrevocable letter of credit in the sum  
14 of \$50,000.00, having as a surety a company qualified to do business in the State of  
15 Florida having an A. M. Best A-VII rating or better, which shall be referred to as the  
16 "security fund." The security fund shall be maintained from such time through the earlier  
17 of: (a) transfer, sale, assignment or removal of all of the Registrant's Communications  
18 Facilities or Wireless Communications Facilities in the City's Public Rights-of-Way; or  
19 (b) twelve (12) months after the termination or cancellation of any Registration. The  
20 security fund shall be conditioned on the full and faithful performance by the Registrant  
21 of all requirements, duties and obligations imposed upon the Registrant by the  
22 provisions of this Article. The security fund shall be furnished annually or as frequently  
23 as necessary to provide a continuing guarantee of the Registrant's full and faithful  
24 performance at all times. In the event a Registrant fails to perform its duties and  
25 obligations imposed upon the Registrant by the provisions of this Article, subject to City  
26 Code Section 25-314 of this Article, there shall be recoverable, jointly and severally  
27 from the principal and surety of the security fund, any damages or loss suffered by the  
28 City as a result, including the full amount of any compensation, indemnification or cost  
29 of removal, relocation or Abandonment of any facilities of the Registrant in the Public  
30 Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of  
31 the security fund.

32  
33 **Sec. 25-314. Enforcement remedies.**

34  
35 (a) A Registrant's failure to comply with provisions of this Article shall  
36 constitute a violation of this Code and shall subject the Registrant to the penalties  
37 provided by City Code § 1-6, termination of Registration in accordance with the  
38 provisions of City Code § 25-308, suspension of permit under the provisions of City  
39 Code § 25-306 and a Registrant who is alleged to have violated any provisions of this  
40 Article may be further subject to a civil penalty in accordance with the provisions of  
41 Code Section 11-25 and the procedures promulgated under Code Section 11-17, et  
42 seq. or injunctive relief as otherwise provided by law.

43  
44 (b) Failure of the City to enforce any requirements of this Article shall not  
45 constitute a waiver of the City's right to enforce that violation or subsequent violations of  
46 the same type or to seek appropriate enforcement remedies.



1  
2 **Sec. 25-315. Abandonment of a Communications Facility.**  
3

4 (a) Registrants shall comply with the provisions of City Code Sections 25-303  
5 (g) and 25-305 (c) (9), relating to Abandoned equipment and the addition of equipment.  
6 Further, upon Abandonment of a Communications Facility or Wireless Communications  
7 Facility owned by a Registrant in the City's Public Rights-of-Way, the Registrant shall  
8 notify the City, in writing, within thirty (30) days. Additionally, Registrants shall comply  
9 with the provisions of City Code Section 25-303(g) relating to bi-annual Registration and  
10 updating of facilities.  
11

12 (b) The City shall direct the Registrant by written notice to remove all or any  
13 portion of such Abandoned Communications Facility at the Registrant's sole expense if  
14 the City determines that the Abandoned Communications Facility's presence interferes  
15 with the public health, safety or welfare, which shall include, but shall not be limited to, a  
16 determination that such facility:  
17

- 18 (1) compromises safety at any time for any Public Rights-of-Way user or  
19 during construction or maintenance in any Public Rights-of-Way;  
20
- 21 (2) prevents another person from locating facilities in the area of the  
22 Public Rights-of-Way where the abandoned facility is located when  
23 other alternative locations are not reasonably available; or  
24
- 25 (3) creates a maintenance condition that is disruptive to the Public  
26 Rights-of-Way's use.  
27
- 28 (4) In the event of (2) above, the City may require the third person to  
29 coordinate with the Registrant that owns the existing facility for joint  
30 removal and placement, where agreed to by the Registrant.  
31

32 (c) In the event that the City does not direct the removal of the Abandoned  
33 Communications Facility, the Registrant, by its notice of Abandonment to the City, shall  
34 be deemed to consent to the alteration or removal of all or any portion of the facility by  
35 the City or another person at such third party's cost.  
36

37 (d) If the Registrant fails to remove all or any portion of an Abandoned facility  
38 as directed by the City within a reasonable time period, not to exceed sixty (60) days, as  
39 may be required by the City under the circumstances, the City may perform such  
40 removal and charge the cost of the removal against the Registrant and utilize the bond  
41 required pursuant to City Code Section 25-313, for this purpose.  
42

43 **Sec. 25-316. Reports and records; inspections.**  
44

45 (a) A Registrant shall provide the following documents to the City as received  
46 or filed.

1  
2 (1) Upon reasonable request, any pleadings, petitions, notices and  
3 documents, which may directly impact the obligations under this Article and  
4 which are reasonable necessary for the City to protect its interests under this  
5 Article.

6  
7 (2) Any request for protection under bankruptcy laws, or any judgment  
8 related to a declaration of bankruptcy.

9  
10 (b) Nothing in this section shall affect the remedies a Registrant has available  
11 under applicable law.

12 (c) In addition, the City may, at its option, and upon reasonable notice to the  
13 Registrant, inspect the Communications Facilities in the City's Public Rights-of-Way to  
14 ensure the safety of its residents.

15  
16 (d) The City shall keep any documentation, books and records of the  
17 Registrant confidential to the extent required or permitted under Florida law.  
18

19 **Sec. 25-317. Force majeure.**

20  
21 In the event a Registrant's performance of or compliance with any of the  
22 provisions of this Article is prevented by a cause or event not within the Registrant's  
23 control, such inability to perform or comply shall be deemed excused and no penalties  
24 or sanctions shall be imposed as a result, provided, however, that such Registrant uses  
25 all practicable means to expeditiously cure or correct any such inability to perform or  
26 comply. For the purposes of this section, cause or events not within a Registrant's  
27 control shall include, but not be limited to, acts of God, floods, earthquakes, landslides,  
28 hurricanes, fires and other natural disasters, acts of public enemies, riots or civil  
29 disturbances, sabotage, strikes and restraints imposed by order of a governmental  
30 agency or court. Causes or events within Registrant's control, and thus not falling within  
31 this section, shall include, without limitation Registrant's financial inability to perform or  
32 comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of  
33 Registrant's directors, officers, employees, contractors or agents.  
34

35 **Sect. 25-318. Reservation of rights.**

36  
37 (a) The City reserves the right to amend this Article as it shall find necessary  
38 in the lawful exercise of its police powers.  
39

40 (b) The provisions of this Article shall be applicable to all Communications  
41 Facilities placed in the City's Public Rights-of-Way within the City on or after the  
42 effective date of this ordinance and shall apply to all existing Communications Facilities  
43 placed in the Public Rights-of-Way prior to the effective date of this ordinance, to the full  
44 extent permitted by state and federal law, except that any provision of this Article

1 regarding the size, composition, or location of Communications Facilities shall not apply  
2 to Communications Facilities lawfully placed within any Public Right-of-Way within the  
3 City prior to the effective date of this ordinance.

4  
5 **Sec. 25-319. No liability or warranty.**  
6

7 Nothing contained in this Article shall be construed to make or hold the City  
8 responsible or liable for any damage to persons or any property whatsoever, from any  
9 cause whatsoever, arising from the use, operation or condition of the Registrant's  
10 Communications Facilities by reason of any inspection or re-inspection authorized  
11 herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the  
12 approval or disapproval of any placement or maintenance of the Registrant's  
13 Communications Facilities as authorized herein constitute any representation,  
14 guarantee or warranty of any kind by, or create any liability upon the City or any official,  
15 agent or employee thereof. Additionally, the City shall not be responsible for any  
16 relocation costs incurred by any Registrant due to the City's or any other party's work in  
17 the Public Rights of Way.  
18

19  
20 **SECTION 2.** That if any clause, section or other part of this Ordinance shall be held  
21 invalid or unconstitutional by any court of competent jurisdiction, the remainder of this  
22 Ordinance shall not be affected thereby, but shall remain in full force and effect.  
23

24  
25 **SECTION 3.** That all ordinances or parts of ordinances in conflict herewith, be and  
26 the same are hereby repealed.  
27

28 **SECTION 4.** That this Ordinance shall be in full force and effect upon final passage.  
29

30 PASSED FIRST READING this the \_\_\_ day of \_\_\_\_\_, 2015.

31 PASSED SECOND READING this the \_\_\_ day of \_\_\_\_\_, 2016.  
32  
33  
34  
35  
36

37  
38 ATTEST:

\_\_\_\_\_  
Mayor  
JOHN P. "JACK" SEILER

39  
40  
41 \_\_\_\_\_  
42 City Clerk  
43 JEFF MODARELLI  
44

45 L:\RBD\Telecommunications\2nd Reading\401.03.29.16.docx  
46