



CITY OF  
FORT LAUDERDALE

4-5-2016  
OSR-1  
REVISED ORDINANCE

To: Honorable Mayor and Commissioners; Lee Feldman, City Attorney;  
Jeffrey A. Modarelli, City Clerk; John Herbst, City Auditor;  
Cynthia A. Everett, City Attorney

From: Robert B. Dunckel, Assistant City Attorney *RBD*

Date: April 4, 2015

Subject: CAM # 16-0123; Communications Facilities in Public Rights of Way  
Proposed Amendments on Second Reading

Late Friday, some issues came to light requiring us to take another look as some of the definitions and requirements on this Ordinance which is being presented to you on Second Reading. Primarily, it has now been determined that a Comcast's *Aerial WiFi Access Device* is not a Communications Facility delivering Communications Services. The *Aerial WiFi Access Device* facilitates internet access, which is specifically excluded by Fla. Stat. § 202.11 from the definition of Communication Services.

To that end, the following proposed amendments are being presented to you for your consideration.

Exhibit "A" is a copy of the Ordinance presented to you for Second Reading before the proposed amendments. We have yellow-highlighted the portions of the Ordinance impacted by the proposed amendments.

Exhibit "B" is a copy of the Ordinance as if the proposed amendments were adopted by the Commission.

**1. Revise the definition of *Aerial WiFi Access Device* in Sec. 25-302 to read as follows:**

*Aerial WiFi Access Device* is a facility ~~Communications Facility~~ located within a Public Right-Of-Way which such Device measures no greater than 18"L X 10"W X 9"H, weighing no more than 15 lbs., which Device is suspended from the Aerial WiFi Access Device Provider's utility or service distribution strand between two Utility Poles and is appurtenant equipment to internet access service, electronic mail service, electronic bulletin board service, or similar on line computer services and therefore is not a Communications Facility transmitting Communications Services (i) at a height no lower than 15.5 feet above grade and (ii) no higher than 40" below the lowest facility of a power company on a Utility Pole (iii) located within fifteen (15) feet of the Utility Pole, (iv) with a distance separation between Devices of at least five hundred (500) feet. ~~The Aerial WiFi Access Device is capable of the transmission, conveyance or routing of Communications Services.~~

**2. Revise the definition of *Communications Facility* in Sec. 25-302 to read as follows:**

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

**3. Revise the definition of *Communications Facility Provider* in Sec. 25-302 to read as follows:**

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

**4. Revise the definition of *Pass-Through Provider*, in Sec. 25-302 to read as follows:**

*Pass-Through Provider* means any person who places or maintains a Communications Facility in the Public Rights-of-Way of the City and who, as to a particular Communications Facility, does not remit taxes imposed by the City pursuant to Chapter 202, Fla. Stat. as same may be amended from time to time. ~~Depending upon how the Communications Facility is utilized, the person who places or maintains a particular Communications Facility may be either a Pass-Through Provider, or a Communications Service Provider as to that particular Communications Facility.~~ A Utility as defined in 47 U.S.C. § 224 is not a Pass-Through Provider.

**5. Create a new definition, *Pass-Through Provider Facility*, in Sec. 25-302 to read as follows:**

*Pass-Through Provider Facility* means a Communication Facility in the Public Right-of-Way, the Registrant of which does not remit taxes

imposed by the City pursuant to Chapter 202, Fla. Stat., as same may be amended from time to time. Depending upon how the Communications Facility is utilized, the person who places or maintains a particular Communications Facility may be either a Pass-Through Provider, or a Communications Service Provider as to that particular Communications Facility.

6. **Revise the definition of *Pole Attachment* in Sec. 25-302 to read as follows:**

*Pole Attachment* means any attachment by a cable service provider or provider of Communications Services or telecommunications services to a Utility Pole or Communications Facility Tower or Pole, duct, conduit, within a Public Right-of-Way for the purpose of facilitating the transmission of Communications Services.

7. **Revisions for the following sections, all of which will result in deleting the reference to *Aerial WiFi Access Device*:**

25-305 (c) (2)

25-305 (c) (4)

25-305 (c) (5)

25-305 (c) (10)

25-305 (c) (11)

25-305 (t) (1) Prerequisite to seek location on private property or government property outside the Public Right-of-Way

25-305 (t) (5) Mitigation of impacts; application to Development Review Committee / Property and Right Of Way Committee

25-305 (t) (8) (g) Stealth Design of Communications Facilities on Existing Structures in the Public Rights-of-Way

25-305 (t) (9) (a) Requirement to demonstrate that Stealth Design cannot be employed.

25-305 (t) (9) (b) Maximum volume of exterior equipment

25-305 (t) (9) (c) Distance separation between Communications Facilities in Public Rights-of-Way

25-305 (t) (9) (d) Height of new Communications Facility Towers or Poles

25-305 (t) (9) (g) Prohibition against Front Yard location  
with Residential Blocks

25-305 (t) (9) (h) Limitation on locations in Corner Yards  
within Residential Blocks

25-305 (t) (9) (i) Sight triangles

25-305 (t) (9) (k) Distance separation from existing  
sidewalk

25-305 (t) (9) (l) Prohibition against placement on certain  
Collector and Local Roadways where City has plans for  
sidewalks

25-305 (t) (9) (m) Installation at outermost boundary of  
Public Right-of-Way

Attachments:

Exhibit "A"

Exhibit "B"

cc: Keith Davis, Esq., Corbett, White, Davis and Ashton, PA  
Alex Scheffer, Urban Design Engineer, Sustainable Development  
Anthony Fajardo, Zoning Administrator, Sustainable Development

L:\RBD\memos\2016\077 - Lee Feldman - CAM #16-0123.doc

# EXHIBIT “A”

## 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

1 ENFORCEMENT OF REMEDIES; REQUIRING REPORTS  
2 AND RECORDS, AND ALLOWING FOR INSPECTION  
3 THEREOF; PROVIDING A RESERVATION OF RIGHTS  
4 FOR THE CITY TO AMEND THIS ARTICLE; PROVIDING A  
5 LACK OF LIABILITY AND WARRANTY ON BEHALF OF  
6 THE CITY; PROVIDING FOR SEVERABILITY AND AN  
7 EFFECTIVE DATE\_\_\_\_\_.

8  
9  
10 WHEREAS, the provision of telecommunications services to residents of and  
11 visitors to the City of Fort Lauderdale ("City") is both an important amenity and a  
12 necessity of public and private life in the City; and

13  
14 WHEREAS, the demand for telecommunications services has grown in recent  
15 years and continues to grow exponentially, requiring the continual upgrading of  
16 telecommunications facilities and services to satisfy such growing demand; and

17  
18 WHEREAS, the placement and maintenance of telecommunications facilities in  
19 the public rights-of-way to satisfy the growing demand for telecommunications services  
20 raises important issues with respect to the City's responsibility to manage its public  
21 rights-of-way, which directly impacts the public health, safety and general welfare; and

22  
23 WHEREAS, the City has reviewed its ordinances and has concluded that they  
24 must be updated, in conformance with federal and state telecommunications laws and  
25 rules, in order to adequately regulate the placement and maintenance of existing, new  
26 and expanded telecommunications facilities in the City's rights-of-way; and

27  
28 WHEREAS, adoption of the following ordinance is necessary to satisfy the above  
29 objectives.

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

32  
33 SECTION 1. The City Code of Ordinances Chapter 25, Streets and Sidewalks, is  
34 hereby amended to create a new Article XII, "Communications Facilities in the Public  
35 Rights-of Way which shall hereafter read as follows;

36  
37 **Article XII, Communications Facilities in the Public Rights-of-Way.**

38  
39 **Sec. 25-300 Title.**

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

42  
43 **Sec. 25-301 Intent and Purpose.**

1 It is the intent of the City to promote the public health, safety and general welfare  
2 by: providing for the placement or maintenance of Communications Facilities in the  
3 Public Rights-of-Way within the City; adopting and administering reasonable rules and  
4 regulations not inconsistent with state and federal laws, including, but not limited to, Fla.  
5 Stat. § 337.401, 47 USC § 1455(a) and Orders issued by the FCC, as they may be  
6 amended from time to time, the City's home-rule authority, and in accordance with the  
7 provisions of the Communications Act of 1934, as amended, and other federal and state  
8 laws; to regulate the location and placement of antennas, towers and other  
9 Communication Facilities and Wireless Communications Facilities in the Public Rights-  
10 of-Way; to protect residential areas and other land uses from potential adverse  
11 aesthetic and other impacts of Communications Facilities through careful siting and  
12 Stealth Design techniques; to promote and encourage shared use (Co-location) of  
13 Communications Facilities as a primary option generally preferred over the construction  
14 of new single-use Communications Facilities; to promote and encourage utilization of  
15 technology that will either eliminate or reduce the need for the erection of new  
16 Communications Facilities; to avoid potential damage to Public Rights-of-Way caused  
17 by Communications Facilities by ensuring that such Facilities are soundly and carefully  
18 designed, constructed, modified and maintained; to ensure that Communications  
19 Facilities are compatible with Surrounding Neighborhoods; to establish reasonable rules  
20 and regulations necessary to manage the placement or maintenance of  
21 Communications Facilities in the Public Rights-of-Way by Communications Services  
22 Providers, Communications Facility Providers and other Pass-through Providers; and to  
23 minimize disruption to the Public Rights-of-Way. In regulating its Public Rights-of-Way,  
24 the City shall be governed by and shall comply with all applicable federal and state  
25 laws.

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

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

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

39 For purposes of this Article, as used herein, unless otherwise defined or required,  
40 the following terms, phrases, words and their derivations shall have the meanings given.  
41 Where not inconsistent with the context, words used in the present tense include the  
42 future tense, words in the plural number include the singular number, and words in the  
43 singular number include the plural number. The words "shall" and "will" are mandatory,

1 and "may" is permissive. Words not otherwise defined shall be construed to mean the  
2 common and ordinary meaning.

3 *Abandonment* or *Abandon* shall mean the absence of any active user  
4 (Communications Services Provider) on a Communications Facility. If there is a lapse  
5 in time of any or all active users (Communications Facility Provider) operating from the  
6 Communications Facility at issue for a period of ninety (90) consecutive days, then said  
7 Facility shall be deemed to have been Abandoned and shall be removed within thirty  
8 (30) days thereafter. Provided, however that the term "Abandonment" or "Abandoned"  
9 shall not include cessation of all use of a Communications Facility within a physical  
10 structure where the physical structure continues to be used for some purpose or use  
11 accessory to the Communications Facility. By way of example, and not limitation,  
12 cessation of all use of a cable within a conduit, where the conduit continues to be used,  
13 shall not be "Abandonment" of a Communications Facility in a Public Rights-of-Way.

14 *Abut*, when used in conjunction with a Lot or Parcel of land means a Lot or  
15 Parcel of land that shares all or part of a common lot line with another Lot or Parcel of  
16 land or right-of-way or a Lot or Parcel that shares all of part of a common boundary line  
17 with a Public Right-of-Way.

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

22 *Aerial WiFi Access Device* is a Communications Facility located within a Public  
23 Right-Of-Way which such Device measures no greater than 18"L X 10"W X 9"H,  
24 weighing no more than 15 lbs., which Device is suspended from the Aerial WiFi Access  
25 Device Provider's utility or service distribution strand between two Utility Poles (i) at a  
26 height no lower than 15.5 feet above grade and (ii) no higher than 40" below the lowest  
27 facility of a power company on a Utility Pole (iii) located within fifteen (15) feet of the  
28 Utility Pole, (iv) with a distance separation between Devices of at least five hundred  
29 (500) feet. The Aerial WiFi Access Device is capable of the transmission, conveyance  
30 or routing of Communications Services.  
31

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

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

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



1           *City Engineer* means a Professional Engineer, licensed to practice in the State of  
2 Florida, employed or retained by the City and designated in writing by the City Manager,  
3 as the chief engineer for the City and who is responsible for administration of Chapter  
4 25 of the City's Code of Ordinances and is hereby vested with the authority to initiate  
5 enforcement action by issuance of a citation violation notice pursuant to City Code Sec.  
6 11-17. For the purposes of this Article, the term City Engineer shall also include his or  
7 her designee.

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

11           *Code* means the Code of Municipal Ordinances of the City of Fort Lauderdale.

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

18           *Co-location* shall mean the situation in which a second or subsequent  
19 Communications Services Provider or a Pass-Through Provider uses an existing  
20 Communications Facility to locate a second or subsequent Communications Facility.  
21 The term includes the ground, platform, or roof installation of equipment enclosures,  
22 cabinets, or buildings, and cables, brackets, and any other equipment associated with  
23 the location and operation of the Communications Facility.

24  
25           *Communications Facility* shall mean a facility that may be used to provide  
26 Communications Services, as per Fla. Stat. § 337.401, as same may be amended from  
27 time to time. Multiple cables, conduits, strands, or fibers located within the same conduit  
28 shall be considered one Communications Facility. The term Communications Facility  
29 shall also include a Wireless Communication Facility, ~~Pass-Through Provider,~~  
30 Communications Facility Tower or Pole. The term Communications Facility shall not  
31 include below-grade communications service facilities nor shall it include at-grade  
32 communications service facilities as regulated under City Code Section 25-100.1, ~~nor~~  
33 shall it include Utility Poles.  
34

35           *Communications Facility Provider* shall mean a person (other than a  
36 Communications Services Provider operating one or more Communications Facilities  
37 located within the City) who is engaged, directly or indirectly, in the business of leasing,  
38 licensing, subleasing, subletting or hiring to one or more Communications Service  
39 Providers all or a portion of the tangible personal property used in a Communications  
40 Facility, including but not limited to, Communications Facility Towers or Poles or space,  
41 antennas, transmitters and transmission lines attached to or a part of such  
42 Communications Facility Towers or Poles towers, poles, tower space, antennas,  
43 transmitters, and transmission line. ~~A Pass-Through Provider is a Communications~~

1 ~~Facility Provider.~~ Provisions of this Article that apply only to Communications Facility  
2 Providers shall not apply to Communication Services Providers, even if the  
3 Communications Services Provider also operates, licenses, leases, subleases, or  
4 sublets Communications Facilities or Wireless Communications Facilities.

5 Communications Facility Tower or Pole shall mean a pole-like or tower-like  
6 structure either designed primarily as a Communications Facility or used as a  
7 Communications Facility.

8 *Communications Services* shall mean the transmission, conveyance, or routing  
9 of voice, data, audio, video, or any other information or signals, including video services,  
10 to a point, or between or among points, by or through any electronic, radio, satellite,  
11 cable, optical, microwave, or other medium or method now in existence or hereafter  
12 devised, regardless of the protocol used for such transmission or conveyance, as per  
13 Fla. Stat. § 202.11, as same may be amended from time to time. The term includes  
14 such transmission, conveyance, or routing in which computer processing applications  
15 are used to act on the form, code, or protocol of the content for purposes of  
16 transmission, conveyance, or routing without regard to whether such service is referred  
17 to as voice-over-Internet-protocol services or is classified by the Federal  
18 Communications Commission as enhanced or value-added. The term does not include:

- 19 (a) Information services.
- 20 (b) Installation or maintenance of wiring or equipment on a customer's  
21 premises.
- 22 (c) The sale or rental of tangible personal property.
- 23 (d) The sale of advertising, including, but not limited to, directory advertising.
- 24 (e) Bad check charges.
- 25 (f) Late payment charges.
- 26 (g) Billing and collection services.
- 27 (h) Internet access service, electronic mail service, electronic bulletin board  
28 service, or similar online computer services.
- 29 (i) Communication Services transmitted by way of below-grade & above-grade  
30 communications service facilities regulated under City Code Section 25-  
31 100.1.
- 32 (j) Services used to remotely facilitate, monitor or control the distribution or  
33 transmission of electricity on electric utility infrastructure.

34  
35 *Communications Services Provider* means a person who provides  
36 Communications Services, but does not include a provider of below-grade  
37 communications service facilities nor does it include at-grade communications service  
38 facilities as regulated under City Code Section 25-100.1.

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

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

4  
5           *Corner Yard* means that portion of a Corner Lot, which Abuts the Public Right-of-  
6 Way and is not the Front yard.

7  
8           *County* means Broward County, Florida.

9  
10           *Day(s)*. In computing any period of time expressed in day(s) in this Article, the  
11 day of the act, event or default from which the designated period of time begins to run  
12 shall not be included. The last day of the period so computed shall be included unless it  
13 is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end  
14 of the next day which is neither a Saturday, Sunday, or legal holiday. When the period  
15 of time prescribed or allowed is less than seven (7) days, intermediate Saturdays,  
16 Sundays and legal holidays shall be excluded in the computation.

17  
18           *Distributed Antenna System* or *DAS*, is a network of spatially separated antenna  
19 nodes connected to a common source via a transport medium that provides Wireless  
20 Communications Service within a geographic area or structure. A DAS is a  
21 Communications Facility.

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

28           *Facility* means a Communications Facility.

29           *FCC* shall mean the Federal Communications Commission.

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

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

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

38           *Graffiti* means any inscriptions, word, figure, painting or other defacement that is  
39 written, marked, etched, scratched, sprayed, drawn, painted or engraved on or

1 otherwise affixed to any Communications Facility whether or not authorized by the  
2 Registrant of the Communications Facility.

3 *In Public Rights-of-Way or in the Public Rights-of-Way* shall mean in, on, over,  
4 under or across the Public Rights-of-Way within the City over which the City has  
5 jurisdiction, control and authority to regulate. The term shall also include those rights-  
6 of-way over which the County or State has jurisdiction and authority under the Florida  
7 Transportation Code, Chapter 334, Florida Statutes, as same may be amended from  
8 time to time, but where the County or State or both have delegated to the City the  
9 authority to regulate the registration, permitting, placement, installation and  
10 maintenance of Communications Facilities in accordance with Article XII, Chapter 25 of  
11 the City Code of Ordinances.

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

20  
21 *Local Road* means a route providing service that is of relatively low average  
22 traffic volume, short average trip length or minimal through-traffic movements, and high  
23 land access for abutting property and is not included in the Broward County Trafficway  
24 Plan.

25  
26 *Lot* means the same as the term is defined in U.L.D.R. Section 47-35.1.

27  
28 *Neighborhood Organization* means an organization, typically a neighborhood  
29 association, occupying and representing a geographically distinct specific area that  
30 does not overlap with any other Neighborhood Organization that has undergone a  
31 neighborhood recognition process and is designated by the Mayor's Office as the official  
32 representative for the distinct geographic area at issue.

33  
34 *Order*, as used in the definition of "Wireless Service Provider", shall mean:

35 (a) The following orders and rules of the FCC issued in FCC Docket No. 94-  
36 102:

37  
38 (i) Order adopted on June 12, 1996, with an effective date of October  
39 1, 1996, the amendments to s.20.03 and the creation of s.20.18 of Title 47  
40 Code of Federal Regulations adopted by the FCC pursuant to such order.

41 (ii) Memorandum and Order No. 97-402, adopted on December 23,  
42 1998.

43  
44 (iii) Order No. FCC DA 98-2323, adopted on November 13, 1998.

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

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

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

*Pass-Through Provider* means any person who places or maintains a Communications Facility in the Public Rights-of-Way of the City and who, as to a particular Communications Facility, does not remit taxes imposed by the City pursuant to Chapter 202, Fla. Stat. as same may be amended from time to time. Depending upon how the Communications Facility is utilized, the person who places or maintains a particular Communications Facility may be either a Pass-Through Provider, or a Communications Service Provider as to that particular Communications Facility. A Utility as defined in 47 U.S.C. § 224 is not a Pass-Through Provider.

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

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

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

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

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

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

4        *Public Rights-of-Way* shall mean a Public Right-of-Way, Arterial Roadway,  
5        Collector Roadway, Local Road, highway, street, or bridge for which the City is the  
6        authority that has jurisdiction and control and may lawfully grant access to pursuant to  
7        applicable law, and includes the surface, the air space over the surface and the area  
8        below the surface; . The term shall also include those rights-of-way within the corporate  
9        boundaries of the City over which the County or State has jurisdiction and authority  
10       under the Florida Transportations Code, Chapter 334, Florida Statutes, as same may be  
11       amended from time to time, but where the County or State or both have delegated to  
12       the City the authority to regulate the registration, permitting, placement, installation and  
13       maintenance of Communication Facilities in accordance with Article XII, Chapter 25 of  
14       the City Code of Ordinances. "Public Rights-of-Way" shall not include private property,  
15       nor shall the term include alleys. "Public Rights-of-Way" shall not include any real or  
16       personal City property except as described above and shall not include City buildings,  
17       fixtures, poles, conduits, facilities or other structures or improvements, regardless of  
18       whether they are situated in the Public Rights-of-Way.

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

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

28       *Repurposed Structure* shall mean an Existing Structure that has been renovated,  
29       reconfigured, or replaced with a similar structure so as to continue serving its existing  
30       purpose while also supporting the attachment of Communication Facilities through  
31       Stealth Design that is approximately in the same location as the Existing Structure and  
32       in such a manner that does not result in a net increase in the number of structures  
33       located within the Public Rights-of-Way and does not interfere with pedestrian or  
34       vehicular access, is Americans with Disabilities Act and Florida Building Code  
35       compliant. By way of illustration only, where a Utility Pole ~~light pole~~ existing within the  
36       Public Rights-of-Way is removed and is replaced with a new Utility Pole ~~light pole~~ that is  
37       substantially similar to the old Utility Pole ~~light pole~~ but now supports the attachment or  
38       integration of Communication Facilities, the new Utility Pole ~~light pole~~ shall no longer be  
39       considered a Utility Pole but shall be considered a Communications Facility and be  
40       ~~considered~~ a "Repurposed Structure." Unless stated otherwise, all references to  
41       "Communications Facilities" shall also apply to Repurposed Structures. To "repurpose  
42       an Existing Structure" shall mean the act of renovating, reconfiguring, or replacing an  
43       Existing Structure as described above. The Communications Service Provider that later

removes a Repurposed Structure shall reinstall a new Utility Pole ~~light pole~~, or Communications Facility Tower or Pole ~~other applicable pole~~ in the Public Right-of-Way ~~public right-of-way~~, at the direction of the City. During the life of the use of Repurposed Structure the Communications Service Provider shall pay all costs associated with the electricity, light bulbs, maintenance, and replacement of the Repurposed Structure.

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

*Signage* means any display of characters, ornamentation, letters or other display such as, but not limited to, a symbol, logo, picture, or other device used to attract attention, or to identify, or as an advertisement, announcement, or to indicate directions, including the structure or frame used in the display.

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

*State* means the State of Florida.

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

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

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

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

Utility Pole is a pole-like structure designed primarily to support utilities such as electricity or cable service. The term *Utility Pole* is not a Communications Facility, provided it only supports such utilities as electricity or cable service. However, to the extent that equipment to facilitate transmission of Communications Services is affixed or about to be affixed to an existing Utility Pole, then in that event, the existing Utility Pole and equipment that facilitates transmission of Communications Services become a

1 Communications Facility subject to the regulation of City Code, Chapter 25, Article XII,  
2 Communications Facilities in Public Rights-of-Way, City Code Section 25-300, et. seq.

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

11 Video Service Provider means any entity providing video service.

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

26 *Wireless Service Provider* shall mean a person who provides Wireless Service  
27 and is either (a) subject to the provisions of the Order or (b) elects to provide wireless  
28 911 services or E911 service in Florida. A Wireless Service Provider is a type of  
29 Communications Services Provider.

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



voice services on an interconnected basis; providers of air-to-ground services; or public coast stations.

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

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

(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

1           (2)     Name, address and telephone number of the Registrant's primary  
2     contact person in connection with the Registration and of the person to contact in  
3     case of emergency; and  
4

5           (3)     Evidence of the insurance coverage required under this Article and  
6     acknowledgment that Registrant has received and reviewed a copy of this Article;  
7     and  
8

9           (4)     A copy of federal or state certification authorizing the Registrant to  
10    provide Communications Services; and  
11

12          (5)     If the Registrant is a corporation or limited liability company proof of  
13    authority to do business in the State of Florida, which may be satisfied by the  
14    number of its corporate certification or by other means; and  
15

16          (6)     Evidence that a security fund has been established in accordance  
17    with this Article; and  
18

19          (7)     A statement by the Registrant in the Registration that by execution  
20    of the Registration application and acceptance of the Registration, the Registrant  
21    agrees to the terms of indemnification as provided by City Code Section 25-311.  
22

23          (d)     *City Engineer review and approval.* The City Engineer shall review the  
24    information submitted by the Registrant in the Registration. If the Registrant submits  
25    information in accordance with subsection (c) above, the Registration shall be effective  
26    and the City Engineer shall notify the Registrant of the effectiveness of Registration in  
27    writing. If the City Engineer determines that the information has not been submitted in  
28    accordance with subsection (c) above, the City Engineer shall notify the Registrant in  
29    writing of the non-effectiveness of Registration and reasons for the non-effectiveness.  
30    The City Engineer shall so notify a Registrant within thirty (30) days after receipt of  
31    Registration information from the Registrant.  
32

33          (e)     *Cancellation.* A Registrant may cancel a Registration upon written notice  
34    to the City that the Registrant will no longer place or maintain any Communications  
35    Facilities in the Public Rights-of-Way. A Registrant cannot cancel a Registration if the  
36    Registrant continues to place or maintain any Communications Facilities in the Public  
37    Rights-of-Ways.  
38

39          (f)     *Registration shall be nonexclusive.* Registration shall not establish any  
40    right or priority to place or maintain a Communications Facility in any particular area in  
41    the Public Rights-of-Way. Registrations are expressly subject to any future amendment  
42    to or replacement of this Article and may further be subject to any additional City  
43    ordinances, as well as any state or federal laws that may be enacted.  
44

45          (g)     *Renewal of Registration.* A Registrant who secured its Registration by  
46    April 1 of an even-numbered year in accordance with the Registration requirements of

1 this Article shall renew its Registration by April 1 of the next ensuing even-numbered  
2 year and successive even-numbered years thereafter. A Registrant who secured its  
3 Registration by April 1 of an odd-numbered year in accordance with the Registration  
4 requirements of this Article shall renew its Registration by April 1 of the next ensuing  
5 odd-numbered year and successive odd-numbered years thereafter. Within thirty (30)  
6 days of any change in the information required to be submitted pursuant to subsection  
7 (c) above a Registrant shall provide updated information to the City. Registration  
8 renewals shall include an inventory of the Registrant's newly installed Communications  
9 Facilities or the presence of any Abandoned Communication Facilities within the  
10 boundaries and jurisdiction, or acquired jurisdiction of the City since the prior  
11 Registration or Registration renewal. If no information in the then-existing Registration  
12 has changed, the renewal may state that no information has changed. Failure to renew  
13 a Registration may result in the City restricting the issuance of additional Permits until  
14 the Communications Facility Provider, Communications Services Provider or Pass-  
15 through Provider as complied with the Registration requirements of this Article.

16  
17 (h) *Permits required of Registrants.* In accordance with City ordinances, code  
18 or regulations and this Article, a Permit shall be required of a Communications Facility  
19 Provider, Communications Services Provider or Pass-through Provider that desires to  
20 place or maintain a Communications Facility in the Public Rights-of-Way. A Permit may  
21 be obtained by or on behalf of a Registrant having an effective Registration if all Permit  
22 requirements are met.

23  
24 (i) *Compensation to City.* A Registrant that places or maintains  
25 Communications Facilities in the Public Rights-of-Way shall be required to pay  
26 compensation to the City as required by applicable law and ordinances.

27  
28 **Section 25-304. Notice of transfer, sale or assignment of assets in public**  
29 **rights-of-way.**

30  
31 (a) A Registrant shall not transfer, sell or assign all or any portion of its assets  
32 located in the Public Rights-of-Way except to a person holding a valid Registration  
33 issued pursuant to Section 25-303, hereof.

34  
35 (b) Written notice of any such proposed transfer, sale or assignment, along  
36 with assignee/transferee's signed and sworn certification of its compliance with the  
37 requirements of this Article, shall be provided by such Registrant to the City at least five  
38 (5) days prior to the effective date of the transfer, sale or assignment.

39  
40 (c) If Permit applications are pending in the name of the transferor/assignor,  
41 the transferee/assignee shall notify the City Engineer that the transferee/assignee is the  
42 new applicant.

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

1  
2 (e) The City reserves the right, as allowed by law, to exclude persons other  
3 than Communications Facility Providers; Communications Services Providers or Pass-  
4 through Providers from its Public Rights-of-Way for the purpose of establishing  
5 Communication Facilities.

6  
7 (f) Transfers or assignments of a Communications Facility to persons other  
8 than Communications Facility Providers, Communications Services Providers or Pass-  
9 through Providers who will operate at least one Communications Facility within the City  
10 require compliance with this section to insure continued use of the Public Rights-of-  
11 Way.

12  
13 **Section 25-305. Permit application process; standards for placement or**  
14 **maintenance of a Communications Facility in Public Rights-of-Way.**

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

19  
20 (1) Each Permit application for a Communications Facility must  
21 demonstrate that it meets the requirements of the Florida Building Code, as it  
22 may be amended from time to time, including all associated hardware and  
23 attachments, pole or strand mounted, and shall be designed and constructed in  
24 accordance with the High Velocity Zone Criteria specified in the Florida Building  
25 Code, Chapter 16, as same may be amended from time to time, and the  
26 Communications Facility shall be considered as structures under Building Risk  
27 Category IV Structures under Chapter 16, Section 1620/1621, High Velocity  
28 Hurricane Zone Area. Signed and sealed design and wind load calculations shall  
29 be provided by a Registered Professional Engineer and a Permit under the  
30 Florida Building Code shall be required.

31  
32 (b) *Compliance with all applicable Permits.*

33  
34 A Registrant shall not commence to place or maintain a Communications  
35 Facility, including without limitation a Co-location thereof, in the Public Rights-of-  
36 Way until all applicable Permits, if any, have been issued by the City; provided,  
37 however, in the case of an emergency, a Registrant may restore its damaged  
38 Facilities in the Public Rights-of-Way to their pre-emergency condition or replace  
39 its destroyed Facilities in the Public Rights-of-Way with Facilities of the same  
40 size, character and quality, all without first applying for or receiving a Permit.

41  
42 (i) The term "emergency" shall mean a condition that affects  
43 the public's health, safety or welfare, which includes an unplanned out-of-  
44 service condition of a pre-existing service.

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

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

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

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

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

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

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

(i) how the proposed Facility can accommodate 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 the proposed Facility than by a Facility that could accommodate multiple Co-locations; or

(iii) why a Repurposed Structure is not better suited to or feasible for the site.

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

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

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

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

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

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

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

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

1 (6) Given the Facility proposed, an assessment of an estimate of the  
2 cost of restoration to the Public Rights-of-Way; and  
3

4 (7) The timetable for construction of the project or each phase thereof,  
5 and the areas of the City which will be affected; and  
6

7 (8) Whether all or any portion of the proposed Facilities will be rented,  
8 hired, leased, sublet or licensed from or to any third party and, if so, the identity,  
9 and contact information of that third party; and  
10

11 (9) Prior to installation of any new or additional Facilities in the Public  
12 Rights-of-Way, including but not limited to Co-location at a specific site, the  
13 Communications Facility Provider shall be required to remove any and all of the  
14 Registrant's ~~obsolete, unutilized or~~ Abandoned equipment within the City. Any  
15 application to install new or additional equipment shall identify the Abandoned,  
16 ~~obsolete or unutilized~~ equipment that shall be removed prior to the installation of  
17 any new or additional technology or Facilities in the Public Rights-of-Way; and  
18

19 (10) If there exists a Communications Facility by the same  
20 Communications Facility Provider within the Public Right-of-Way that is adjacent  
21 to or within a 1,000 foot radius of the proposed new Communications Facility  
22 location, then the Communications Facility Provider shall be required to remove  
23 and consolidate the equipment into one Facility, so as to not create a second  
24 location within such a minimal distance; provided, however, that an Aerial WiFi  
25 Access Device is exempt from the provisions of this Sec. 25-305 (c) (10); and  
26

27 (11) Such additional information with respect to the placement or  
28 maintenance of the Communications Facility that is the subject of the Permit  
29 application that the City finds reasonably necessary for the review of such Permit  
30 application; provided, however, that an Aerial WiFi Access Device is exempt from  
31 the provisions of this Sec. 25-305 (c) (11); and  
32

33 (12) *Public Information Meeting.* An application for a Permit is not  
34 complete until the Registrant provides the City Engineer with an Affidavit  
35 certifying compliance with the following: ~~An application for a Permit is not~~  
36 ~~complete until the Registrant has provided evidence that it has provided notice of~~  
37 ~~the Registrant's intent to file an application for a Permit to install a Facility within~~  
38 ~~the proposed site, such notice being provided to~~  
39

40 (i) That the Registrant has provided Notice of the Public  
41 Information Meeting described herein to the Interested Parties; and  
42 property owners within the Surrounding Neighborhood, together with  
43

44 (ii) That the Notice of the Public Information Meeting clearly  
45 states the date, time and location of the meeting, describes the scope of  
46 the proposed project, identifies by name and address the Interested

1 Parties to whom the Notice was sent, and clearly explains that the  
2 purpose of the meeting is to (a) explain the proposed project and the  
3 potential impact to the Interested Parties and (b) entertain questions and  
4 take comments from the Interested Parties; and the President or  
5 Chairman of City's recognized Neighborhood Organization within which  
6 the proposed site is located. and provide the groups within (i) and (ii)  
7 above with a minimum of thirty (30) days for comments to be provided to  
8 the City Engineer.

9  
10 (iii) That a copy of the Notice of the Public Information Meeting  
11 is attached to the Affidavit; and The notice shall describe the scope of the  
12 proposed work, identify the name and address of the property owners  
13 within the Surrounding Neighborhood and together with the President and  
14 Chairman of the relevant recognized Neighborhood Organization, and  
15 describe the potential impact to such property owners.

16  
17 (iv) That copies of all comments, questions and reviews from the  
18 Public Information Meeting, as well as the Registrant's written proposal for  
19 addressing all negative comments or issues raised at the Public  
20 Information Meeting is attached to the Affidavit; and The notice shall also  
21 require the Registrant to hold a public information meeting, which shall  
22 include the property owners within the Surrounding Neighborhood and the  
23 City's recognized Neighborhood Organization within which the proposed  
24 site is located, for the purpose of answering questions and taking  
25 comments from the affected property owners and members of the City's  
26 recognized Neighborhood Organization identified above.

27  
28 (v) That the list of names, addresses and e-mail addresses of  
29 those Interested Parties who provided comment at the Public Information  
30 Meeting is attached to the Affidavit; and After the public information  
31 meeting, the Registrant shall meet with City staff as soon as practicable to  
32 review comments received at the public information meeting and attempt to  
33 resolve all negative comments or issues raised, prior to filing an application  
34 for a Permit for the proposed Facility.

35  
36 (vi) That the Registrant's responses to the comments, which  
37 may include an amended or revised Permit Application is attached to the  
38 Affidavit; and The property owners within the Surrounding Neighborhood



1 are those property owners who are listed in the most recent ad valorem  
2 tax records of the Broward County Property Appraiser's Office.  
3

4 (vii) That the Registrant acknowledges and agrees that the City  
5 Engineer shall have at least fifteen (15) days within which to review the  
6 comments and responses from the Public Information Meeting prior to the  
7 Application for a Permit being deemed complete. The application for a  
8 Permit is not complete until conditions (i) through (vi) above have been  
9 met.

10  
11 ~~(viii) The notice to the property owners and the City's recognized~~  
12 ~~Neighborhood Organization as identified above, shall contain the address~~  
13 ~~and e-mail address for the City Engineer for the purpose of providing~~  
14 ~~comments to the City Engineer. The Registrant will have thirty (30) days~~  
15 ~~to provide a response to the City Engineer to each comment. Such~~  
16 ~~response may include an amendment of the application. Thereafter, the~~  
17 ~~City Engineer shall have thirty (30) days to grant, grant with conditions, or~~  
18 ~~deny the Permit application.~~

19  
20 (d) *Power to regulate Public Rights-of-Way; Reasonable Conditions attached*  
21 *to Permit.* To the extent not otherwise prohibited by state or federal law, the City shall  
22 have the power to prohibit or limit the placement of new or additional Communications  
23 Facilities within a particular area of Public Rights-of-Way and may consider, among  
24 other things and without limitation, the sufficiency of space to accommodate all of the  
25 present Communications Facilities and pending applications to place and maintain utility  
26 facilities in that area of the Public Rights-of-Way, the sufficiency of space to  
27 accommodate City announced plans for public improvements or projects that the City  
28 determines are in the best public interest, the impact on traffic and traffic safety, and the  
29 impact upon existing facilities in the Public Rights-of-Way. The City Engineer is hereby  
30 delegated the authority to impose additional reasonable conditions in accordance with  
31 the foregoing to ensure the public health, safety and welfare, and peaceful enjoyment of  
32 City residents and businesses.

33  
34 (e) *Avoidance of unreasonable interference with Public Rights-of-Way.*  
35

36 (1) All Communications Facilities shall be placed or maintained so as  
37 not to unreasonably interfere with the use of the Public Rights-of-Way by the  
38 public and public Utility ~~utility~~ providers and with the rights and convenience of  
39 property owners who adjoin any of the Public Rights-of-Way.  
40

41 (2) The use of trenchless technology (i.e., directional bore method) for  
42 the installation of Facilities ~~facilities~~ in the Public Rights-of-Way as well as joint  
43 trenching or the Co-location of Facilities ~~facilities~~ in existing conduit is strongly  
44 encouraged, and should be employed wherever feasible.  
45

1                   (3) To the extent not prohibited by federal and state law, the City shall  
2 require any Registrant that does not have Communications Facilities in the City  
3 as of the date of adoption of this Article to place any new cables, wires, fiber  
4 optics, splice boxes and similar communications facilities underground, unless  
5 such Communications Facilities can be Co-located.  
6

7                   (f) *Safety practices.* All safety practices required by applicable law or  
8 accepted industry practices and standards shall be used during the placement or  
9 maintenance of Communications Facilities or Wireless Communications Facilities.  
10

11                   (g) *Restoration of Public Rights-of-Way.* After the completion of any  
12 placement, maintenance or removal of a Communications Facilities in Public Rights-of-  
13 Way or each phase thereof, a Registrant shall, at its own expense, restore the Public  
14 Rights-of-Way to its existing condition prior to such work. If the Registrant fails to make  
15 such restoration within thirty (30) days following the completion of such placement or  
16 maintenance, the City may perform restoration and charge the costs of the restoration  
17 against the Registrant in accordance with Florida Statutes § 337.402, as same may be  
18 amended from time to time. For twelve (12) months following the original completion of  
19 the work, the Registrant shall guarantee its restoration work and shall correct any  
20 restoration work that does not satisfy the requirements of this Article at its own expense.  
21

22                   (h) *Removal or relocations governed by Florida law.* Removal or relocation at  
23 the direction of the City Engineer of a Registrant's Communications Facilities in the  
24 Public Rights-of-Way shall be governed by the provisions of Florida Statutes §§ 337.403  
25 and 337.404, as they may be amended from time to time. Subject to the aforementioned  
26 Florida Statutes §§ 337.403 and 337.404 and other provisions of law, whenever existing  
27 overhead Utility ~~utility~~ distribution facilities are converted to underground distribution  
28 facilities, any Registrant having Communications Facilities located on a  
29 Communications Facility Tower or Pole ~~on Poles or other Facilities~~ that are to be  
30 removed shall arrange for the conversion to underground facilities or relocation on the  
31 same terms and conditions as the other Utility distribution facilities ~~utilities~~ that are being  
32 converted to underground facilities.  
33

34                   (i) *Permit does not create property right.* A Permit from the City constitutes  
35 authorization to undertake only certain activities in the Public Rights-of-Way in  
36 accordance with this Article, and does not create a property right or grant authority to  
37 impinge upon the rights of others who may have an interest in the Public Rights-of-Way.  
38

39                   (j) *Maintenance in accordance with industry standards and applicable law.* A  
40 Registrant shall maintain its Communications Facilities in the Public Rights-of-Way in a  
41 manner consistent with accepted industry standards and best practices and applicable  
42 law.  
43

44                   (1) Owners of Communications Facilities located in Public Rights-of-  
45 Way shall, at all times, employ ordinary and reasonable care and shall install and  
46 maintain in use nothing less than commonly accepted industry standards and

1 best practices for preventing failures and accidents which are likely to cause  
2 damage, injuries, or nuisances to the public, adjacent property owners and other  
3 Facilities or Utility Facilities within the Public Rights-of-Way.

4  
5 (2) Owners of Communications Facilities located in Public Rights-of-  
6 Way shall install and maintain such Communications Facilities, wires, cables,  
7 fixtures and other appurtenant equipment in compliance with the requirements of  
8 the Florida Building Code, National Electric Safety Code, Florida Administrative  
9 Code and all FCC, state and local regulations, and in such a manner that will not  
10 interfere with the use of other property or other facilities within or adjacent to the  
11 Public Rights-of-Way.

12  
13 (3) All Communications Facilities, wires, cables, fixtures and other  
14 appurtenant ~~appurtenance~~ equipment shall, at all times, be kept and maintained  
15 in good condition, order and repair so that the same shall not endanger the life or  
16 property of any person or other Utility facilities in the Public Rights-of-Way.

17  
18 (4) All Communications Facilities shall maintain compliance with radio  
19 frequency emission standards of the FCC or any superseding City, state or  
20 county regulations.

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

26  
27 (l) *Use of due caution.* Registrants shall use and exercise due caution, care  
28 and skill in performing work in the Public Rights-of-Way and shall take all reasonable  
29 steps to safeguard work site areas, including, but not limited to those safeguard set forth  
30 in Chapter 33, Florida Building Code.

31  
32 (m) *Coordination with other work in Public Rights-of-Way.* Upon request of the  
33 City, and as notified by the City of the other work, construction, installation or repairs  
34 referenced below, a Registrant may be required to coordinate placement or  
35 maintenance activities under a Permit with any other work, construction, installation or  
36 repairs that may be occurring or scheduled to occur within a reasonable timeframe in  
37 the subject Public Rights-of-Way, and a Registrant may be required to reasonably alter  
38 its placement or maintenance schedule as necessary so as to minimize disruptions and  
39 disturbance in the Public Rights-of-Way.

40  
41 (n) *Avoidance of interference, displacement, damage or destruction of other*  
42 *facilities within the Public Rights-of-Way.* A Registrant shall not place or maintain its  
43 Communications Facilities in such a manner as to interfere with, displace, damage or  
44 destroy any other Utility ~~utility~~ facilities or Communications Facilities, including but not  
45 limited to, sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables

1 or conduits of the City or any other person's facilities lawfully occupying the Public  
2 Rights-of-Way of the City.

3  
4 (o) *No warranties regarding fitness, suitability or availability of City's Public*  
5 *Rights-of-Way.* The City makes no warranties or representations regarding the fitness,  
6 suitability, or availability of the City's Public Rights-of-Way for the Registrant's  
7 Communications Facilities or Wireless Communications Facilities and any performance  
8 of work, costs incurred or services provided by the Registrant shall be at the  
9 Registrant's sole risk. Nothing in this Article shall affect the City's authority to add,  
10 vacate, modify, abandon or otherwise dispose of Public Rights-of-Way, and the City  
11 makes no warranties or representations regarding the availability of any added,  
12 vacated, modified or abandoned Public Rights-of-Way for Communications Facilities or  
13 Wireless Communications Facilities.

14  
15 (p) *Right of inspection.* The City shall have the right to make such inspections  
16 of Communications Facilities placed or maintained in its Public Rights-of-Way as it finds  
17 necessary to ensure compliance with this Article.

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

43  
44 (1) An affidavit attesting to the fact that the Registrant made diligent  
45 efforts for permission to install or Co-locate the Registrant's Communications

1 Facility on City-owned structures located within a 1,000 foot radius of the  
2 proposed Communications Facility site.

3  
4 (2) An affidavit attesting to the fact that the Registrant made diligent  
5 efforts to install or Co-locate the Registrant's Communications Facility or  
6 Wireless Communications Facility on private property or government owned  
7 (other than Public Rights-of-Way) within a 1,000 foot radius of the proposed site.  
8

9 (3) A description of the technological design plan proposed by the  
10 Registrant. The Registrant must demonstrate why design alternatives that utilize  
11 an existing Facility cannot be utilized.

12  
13 (4) Written, technical evidence from a qualified radio frequency  
14 engineer that the proposed Communications Facility cannot be Co-located on  
15 another Facility within a 1,000 foot radius of the proposed site due to coverage or  
16 other technical requirements or limitations.

17  
18 (5) A written statement from a qualified radio frequency engineer that  
19 the construction and placement of the Communications Facility or Wireless  
20 Communications Facility will not interfere with public safety communications and  
21 the usual and customary transmission or reception of radio, television, or other  
22 communications services enjoyed by adjacent residential and non-residential  
23 properties.

24  
25 ~~(6) Written technical evidence from a professional engineer licensed in~~  
26 ~~the State of Florida acceptable to the City's Fire Marshall and the Building Official~~  
27 ~~that the proposed site of the Communications Facility does not pose a risk of~~  
28 ~~explosion, fire or other danger to life or property due to its proximity to volatile,~~  
29 ~~flammable, explosive or hazardous materials such as LP gas, propane, gasoline,~~  
30 ~~natural gas, corrosive or other dangerous chemicals.~~

31  
32 ~~(6)(7)~~ Full color photo-simulations showing the proposed site of the  
33 Communications Facility with photo-realistic representations of the proposed  
34 Communications Facility as it would appear from adjacent properties and the  
35 Public Rights-of-Way.  
36

37 ~~(7)(8)~~ A written certification, under seal, from the engineer of record that  
38 the Communications Facility was designed to be structurally sound, and, at a  
39 minimum, in conformance with the Florida Building Code, and any other  
40 standards outlined in this section.  
41

42 ~~(8)(9)~~ A statement within the application for a Permit that by execution of  
43 the application and by applying for the Permit, the Registrant agrees to the  
44 indemnification provisions set forth in Code Section 25-311 hereof.

1 (r) *City placement of other facilities within Public Rights-of-Way.* The City  
2 reserves the right to place and maintain, and permit to be placed or maintained, sewer,  
3 gas, water, electric, storm drainage, communications, and other types of utility facilities,  
4 cables or conduit, and to do, and to permit to be done, any underground and overhead  
5 installation or improvement that may be deemed necessary or proper by the City in  
6 Public Rights-of-Way occupied by the Registrant, and the City also reserves the right to  
7 reserve any portion of the Public Rights-of-Way for its own present or future use. The  
8 City further reserves without limitation the right to alter, change, or cause to be  
9 changed, the grading, installation, relocation, or width of the Public Rights-of-Way within  
10 the limits of the City and within said limits as same may from time to time be altered.  
11

12 (s) *Temporary raising or lowering of Communications Facilities to*  
13 *accommodate other authorized work.* A Registrant shall promptly, at the request of any  
14 Person holding a Permit issued by the City, temporarily raise or lower its  
15 Communications Facility to permit the work authorized by a permit. The expense of  
16 such temporary raising or lowering of such Facilities shall be paid by the Person, other  
17 than the City, requesting the same, and the Registrant shall have the authority to  
18 require such payment in advance. The Registrant shall be given not less than thirty (30)  
19 days advance written notice to arrange for such temporary relocation.  
20

21 (t) *Additional requirements.* The following additional requirements apply  
22 when a Registrant seeks authority to locate a Communications Facility in the Public  
23 Rights-of-Way:  
24

25 (1) *Prerequisite to seek location on private property or government*  
26 *property outside the Public Rights-of-Way.* Registrants seeking to place a  
27 Communications Facility within the Public Rights-of-Way are required to first  
28 attempt to locate their proposed Facility on private property or government-  
29 owned property outside of the Public Rights-of-Way before applying for a Permit  
30 to place their proposed Facilities within a Public Right-of-Way. An application for  
31 a Permit to place a Communications Facility or Wireless Communications  
32 Facility within the Public Rights-of-Way shall include an explanation as to why  
33 the applicant is unable to locate the proposed Facilities on private property or  
34 government owned property outside of the Public Rights-of-Way within a 1,000  
35 foot radius of the proposed location for which application is being made. An  
36 Aerial WiFi Access Device is exempt from the provisions of Sec. 25-305 (t) (1).  
37

38 (2) *Other alternatives.* Registrants seeking to place, construct or  
39 modify a Communications Facility in the Public Rights-of-Way shall either:  
40

41 a. Co-locate the Communications Facility as set out in Florida  
42 Statutes § 365.172, as amended, or  
43

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

1  
2 c. Repurpose an Existing Structure.

3  
4 d. The Permit application for Co-location must contain  
5 ~~attachment agreements~~, a certification that the Registrant has a right to  
6 attach to the Facility being Co-located upon, if the Registrant does not  
7 own the facility being Co-located upon.  
8

9 For applications to place a new Communications Facility or replace an Existing  
10 Structure or Facility in the Public Rights-of-Way, the Permit application must  
11 contain engineering documentation demonstrating either:  
12

13 (i) That proposed Communications Facility can accommodate  
14 multiple Co-locations; or  
15

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

19 (iii) Why a Repurposed Structure would be better suited to or  
20 feasible for to the site.  
21

22 (3) *Emphasis on Arterial or Collector roadways.* Registrants seeking to  
23 construct Communications Facilities within the Public Rights-of-Way shall locate  
24 their Communications Facilities in the Rights-of-Way of Arterial or Collector  
25 Roadways, whenever possible. An application for a Permit to place  
26 Communications Facilities in Public Rights-of-Way other than Arterial or Collector  
27 Roadways shall explain why the applicant is unable to locate the  
28 Communications Facilities in the Public Rights-of-Way of an Arterial or Collector  
29 Roadway and shall include an engineering analysis from the applicant  
30 demonstrating to the satisfaction of the City Engineer the need to locate the  
31 Communications Facilities in the areas proposed in the application. Upon  
32 delegation to the City of the regulatory authorities in this Article by the County,  
33 State and/or the U.S. Department of Transportation as to the right-of-way  
34 jurisdiction under Chapter 337, Florida Statutes, the City may enforce such  
35 regulation in this Article within the corporate boundaries of the City to the extent  
36 such authority has been delegated to the City as stated above .  
37

38 (4) *Not significantly impair view from residential structures.* All  
39 Communications Facilities shall be located such that views from residential  
40 structures are not significantly impaired. Where possible, newly installed  
41 Communications Facilities should be located in areas with existing foliage or  
42 other aesthetic features in order to obscure the view of the Communication  
43 Facility. The requirements of this subparagraph shall not apply to Repurposed  
44 Structures, when there is a one-to-one repurposing of an existing structure (i.e.  
45 existing Utility Pole ~~light pole~~).  
46

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

10  
11                   Sec. 25-305 (t) (5) - Mitigation of Impacts

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

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

15                   Sec. 25-305 (t) (8) – Stealth Design of Communications Facilities on  
16                   Existing Structures in the Public Rights-of-Way  
17

18 The City Engineer shall consider the recommendations of the Development  
19 Review Committee / Property and Right-of-Way Committee in granting or  
20 denying or granting, with conditions the application for a Permit for a  
21 Communications Facility as it pertains to above referenced subsections under  
22 Code Sec. 25-305 (t). The City reserves the right to condition the grant of any  
23 Permit to locate a Communications Facility within the Public Rights-of-Way upon  
24 the Registrant taking such reasonable measures, consistent with the City's  
25 jurisdiction, as the City may determine are necessary to mitigate the impacts of  
26 the Communications Facility on the Surrounding Neighborhood. Installation of a  
27 Communications Facility under this Chapter shall not interfere with a clear  
28 pedestrian path, at a minimum the width required by the Americans with  
29 Disabilities ("ADA") and Florida Building Code. An Aerial WiFi Access Device is  
30 exempt from the provisions of Sec. 25-305 (t) (5).  
31

32                   (6) *Mitigation of visual impact; Stealth Design.* Stealth Design for a  
33 Communications Facility shall be utilized wherever possible in order to minimize  
34 the visual impact of Communications Facilities on Surrounding Neighborhoods.  
35 Each application for a Permit to place a Communications Facility in the Public  
36 Rights-of-Way shall include:  
37

38                   a.     photographs and renderings accurately representative of  
39                   distances, location and nature of the site where each Communications  
40                   Facility is proposed to be located,  
41

42                   b.     photographs showing the location and condition of properties  
43                   within a 1,000 ~~500~~ foot radius of the site of each proposed  
44                   Communications Facility, and  
45



1 c. a description of the Stealth Design techniques proposed to  
2 minimize the visual impact of the Communications Facility and graphic  
3 depictions accurately representing the visual impact of the  
4 Communications Facility when viewed from the street and from Adjacent  
5 properties.  
6

7 (7) *Stealth Design of Communications Facilities in the Public Rights-of-*  
8 *Way.* Communications Facilities to be placed in the Public Rights-of-Way shall  
9 utilize Stealth Design in order to eliminate the need to locate any ground or  
10 elevated equipment (other than antennas) on the exterior of a Communications  
11 Facility. Communications Facilities to be placed on existing structures shall  
12 utilize Stealth Design in order to minimize the need to locate any ground or  
13 elevated equipment (other than antennas) on the exterior of the structure. The  
14 use of foliage and vegetation around any approved ground equipment may be  
15 required by the City based on conditions of the specific area where the ground  
16 equipment is to be located. Landscape material appropriate to the location shall  
17 be determined and approved by the City's Landscape Plans Examiner under  
18 separate Permit. An Aerial WiFi Access Device is exempt from the provisions of  
19 Sec. 25-305 (t) (7).  
20

21 (8) *Stealth Design of Communications Facilities on Existing Structures*  
22 *in the Public Rights-of-Way.* Communications Facilities to be placed on Existing  
23 Structures in the Public Rights-of-Way shall utilize Stealth Design and shall  
24 include  
25

26 (a) top mounted antennas within enclosures that do not extend  
27 the diameter of the supporting Existing Structure at the level of antenna  
28 attachment; and  
29

30 (b) side mounted antennas within enclosures that extend no  
31 more than two (2) feet beyond the exterior dimensions of the supporting  
32 structure at the level of antenna attachment; and  
33

34 (c) not have antennas mounted less than eight feet above  
35 ground level; and  
36

37 (d) for purposes of calculating (a), (b), and (c) above, the  
38 dimensions of the supporting structure do not include any platform, rack,  
39 mount or other hardware used to attach an antenna or antenna enclosure  
40 to the supporting structure.  
41

42 (e) Communications Facility Tower or Poles that replicate trees  
43 or other natural objects are prohibited.  
44

45 (f) All Stealth Designed Communications Facilities components,  
46 including associated hardware shall be designed and constructed in

1 accordance with the High Velocity Zone Criteria specified in the Florida  
2 Building Code, Chapter 16, as same may be amended from time to time,  
3 and considered as structures under Building Risk Category II. Design and  
4 wind load calculations shall be provided per ASCE 7 – 10 (170 MPH).  
5 Calculations should be accompanied by Miami-Dade County Notice of  
6 Acceptance (NOA) / Product Approvals.  
7

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

10  
11 (9) *Additional requirements.* The following additional requirements  
12 shall apply to Communications Facilities located in the Public Rights-of-Way:  
13

14 a. *Requirement to demonstrate that Stealth Design cannot be*  
15 *employed.* Each application to locate equipment at ground level on or  
16 adjacent to the exterior of a Communications Facility and each proposal to  
17 locate elevated equipment (other than antennas) on or adjacent to the  
18 exterior of a Communications Facility shall include engineering  
19 documentation demonstrating to the satisfaction of the City Engineer that  
20 the proposed Communications Facility cannot employ Stealth Design and  
21 that the proposed exterior location and configuration of equipment  
22 proposes the minimum equipment necessary to achieve the needed  
23 function. In order to avoid the clustering of multiple items of approved  
24 ground Communications Facility equipment or Communications Facility  
25 elevated equipment in a single area, only one Communications Facility  
26 equipment box may be located within 1,000 foot radius linear feet of any  
27 other Communications Facility equipment box, ~~such distance being~~  
28 ~~measured along the ordinary course of travel of the Public Right-of-Way~~  
29 ~~upon which the equipment box is located.~~ An Aerial WiFi Access Device  
30 is exempt from the provisions of Sec. 25-305 (t) (9) (a)  
31

32 b. *Maximum volume of exterior equipment where Stealth*  
33 *Design cannot be employed.* Where a Registrant demonstrates that  
34 Stealth Design cannot be employed, the individual approved exterior  
35 equipment boxes shall not exceed twelve (12) cubic feet in volume;  
36 provided, however, an Aerial WiFi Access Device shall not exceed  
37 measurements of 18"L x 10"W x 9"H.  
38

39 c. *Distance separation between Communications Facilities in*  
40 *Public Rights-of-Way.* Communications Facilities in the Public Rights-of-  
41 Way must be spaced a minimum of 1,000 linear feet apart from each  
42 other, along the line of general vehicular travel, except that no distance  
43 requirement shall apply to Repurposed Structures. This subsection may  
44 be waived upon a factual showing, supported by sworn testimony or  
45 matters subject to official notice, demonstrating to the satisfaction of the  
46 City Engineer after consideration of the recommendations of the

1 Development Review Committee / Property and Right-Of-Way Committee  
2 that locating a specific Communications Facility less than 1,000 linear feet  
3 from other Communications Facilities either:

4  
5 (i) better serves the City's interests in safe, aesthetic,  
6 efficient and effective management of the Public Rights-of-Way  
7 than application of the 1,000 feet limitation as set forth above;

8  
9 (ii) is necessary to address a documented lack of  
10 coverage or capacity; or

11  
12 (iii) will help minimize the total number of Wireless  
13 Communications Facilities necessary to serve a particular area.

14  
15 The distance separation requirement between Aerial WiFi Access Devices  
16 shall be no less than five hundred (500) feet.

17  
18 d. *Height of new Communications Facility Towers or Poles*  
19 *~~Poles or Towers~~ in Public Rights-of-Way.* The height of new  
20 Communications Facility Tower or Pole ~~Poles and Towers~~ in the Public  
21 Rights-of-Way shall be no greater than thirty-six (36) feet, with an antenna  
22 not to exceed an additional four (4) feet; provided however that  
23 Registrants proposing Communications Facilities with antennas to be  
24 located on existing Utility Poles ~~Poles, Towers~~ or Repurposed Structures  
25 may increase the height of the ~~existing~~ appurtenant antenna, facilities  
26 ~~Pole, Tower~~ or Repurposed Structure up to six (6) feet, if necessary, to  
27 avoid adversely affecting existing attachments; and provided further that  
28 the overall height above Grade ~~ground~~ of any Communications Facility  
29 together with antenna shall not exceed forty (40) feet. Height ~~height~~ shall  
30 be measured from Grade and shall include the base pad; provided,  
31 however, that the height of an Aerial WiFi Access Device mounted on a  
32 strand shall be no lower than 15.5 feet above Grade and no higher than  
33 40" below the lowest facility of a power company on a Utility Pole.

34  
35 e. *Lighting of Communications Facility Towers or Poles*  
36 *~~or Towers~~ in Public Rights-of-Way.* Communications Facilities Towers or  
37 Poles ~~installed on Poles or Towers~~ that are not Utility Poles ~~light poles,~~  
38 and Repurposed Structures that were not originally Utility Poles ~~light~~  
39 ~~poles,~~ shall not be lit unless lighting is required to comply with FAA  
40 requirements; provided, however, at the City's option such Communication  
41 Facility Tower or Pole ~~or Tower~~ may be required to be equipped with an  
42 LED street light. The cost of installation and operation and maintenance  
43 costs thereof shall be borne by the Registrant by way of a maintenance  
44 agreement.

1 f. *No signage.* Registrants shall not place signage on  
2 Communications Facilities installed in Public Rights-of-Way, unless  
3 otherwise required by Federal or State statute, provided, however, that  
4 Repurposed Structures that lawfully supported signage before being  
5 repurposed may continue to support signage as otherwise permitted by  
6 law.

7  
8 g. *Prohibition against Front Yard location within Residential*  
9 *Blocks.* No Communications Facility shall be placed within a Public Right-  
10 of-Way that Abuts any Front Yard in Residential Blocks. Co-location of  
11 Communications Facilities within Public Rights-of-Way that abut Front  
12 Yard locations within Residential Blocks shall be prohibited. An Aerial  
13 WiFi Access Device shall be exempt from the provisions of this Sec. 25-  
14 305 (t) (9) (g).

15  
16 h. *Limitations on locations in Corner Yards within Residential*  
17 *Blocks.* A Communications Facility within the Public Rights-of-Way  
18 abutting a Corner Yard of a Corner Lot within a Residential Block shall not  
19 be placed any farther than ten (10) feet from the neighboring property line  
20 of the Lot abutting and adjacent to the Corner Lot. An Aerial WiFi Access  
21 Device shall be exempt from the provisions of this Sec. 25-305 (t) (9) (h).

22  
23 i. *Sight triangles.* No Communications Facility shall be  
24 constructed or installed within a triangular shaped area of land, known as  
25 a sight triangle, as defined in U.L.D.R. Section 47-35, Definition, and  
26 measured as follows:

27  
28 (i) Ten (10) feet from the intersection point of the edge of  
29 a driveway and curb, or in the event that there is no curb, the edge  
30 of the alley or street pavement; or

31  
32 (ii) Fifteen (15) feet from the intersection point of the  
33 extended property lines at an alley and a street; or

34  
35 (iii) Twenty-five (25) feet from the intersection point of the  
36 extended property lines at a street and a street; or

37  
38 (iv) The sight triangle requirements may be reduced to no  
39 less than ten (10) feet, when the City Engineer on a case-by-case  
40 basis finds that the proposed reduction complies with all City  
41 Engineering standards and the City Engineer shall take into  
42 consideration neighborhood characteristics such as the location of  
43 schools, parks and other community facilities, pedestrian facilities  
44 such as adequate sidewalks, street characteristics such as a  
45 pavement with, width of swale (right-of-way line to curb or edge of

1 pavement for vehicular travelways) the curvature of the street,  
2 speed limits and other similar elements.

3 Sight triangles located at the intersection of a local street or  
4 driveway within a right-of-way under county, state or federal jurisdictions,  
5 may be subject to the sight triangle requirements of those jurisdictions. An  
6 Aerial WiFi Access Device shall be exempt from the provisions of this Sec.  
7 25-305 (t) (9) (i).  
8

9 j. *Distance separation from edge of pavement.* No  
10 Communications Facility shall be constructed, operated or maintained in  
11 the Public Rights-of-Way in violation of the State of Florida Department of  
12 Transportation Manual of Uniform Minimum Standards for Design,  
13 Construction and Maintenance for Streets and Highways, Table 3-12,  
14 Minimum Width of Clear Zones. In accordance with Table 3-12, the City  
15 Engineer shall have the authority to reduce the four (4) foot minimum  
16 offset identified in Table 3-12 where that offset cannot be reasonably  
17 obtained and other alternatives are deemed impractical, the City Engineer  
18 shall have the authority to decide reductions in the clear zone in  
19 accordance with the above referenced Table 3-12.  
20

21 k. *Distance separation from existing sidewalk.* No newly  
22 installed Communications Facility shall be constructed, operated or  
23 maintained in the Public Right-of-Way within one (1) foot of an existing  
24 sidewalk. Co-location on existing Communication Facility Towers or Poles  
25 ~~or Towers~~, and use of Repurposed Structures are exempt from this  
26 requirement. An Aerial WiFi Access Device shall be exempt from the  
27 provisions of this Sec. 25-305 (t) (9) (k).  
28

29 l. *Prohibition against placement on certain Collector and Local*  
30 *Roadways where City has plans for sidewalks.* No Communications  
31 Facility shall be constructed, installed, operated or maintained in the swale  
32 area on the side of a Collector Roadway or Local Roadway where the City  
33 has plans to install a sidewalk of five (5) feet in width or more, nor shall  
34 such Communications Facility be located in such a manner that would  
35 preclude a five (5) foot clear pathway for the planned sidewalk. An Aerial  
36 WiFi Access Device shall be exempt from the provisions of this Sec. 25-  
37 305 (t) (9) (l).  
38

39 m. *Installation at outermost boundary of Public Rights-of-Way.*  
40 Where a superior site design results from placement of a Communications  
41 Facility at or near the outermost boundary of the Public Rights-of-Way, the  
42 farthest distance practicable from the centerline of the Public Right-of-Way  
43 and edge of pavement is encouraged. To the extent that the location of  
44 the sidewalk within the Public Right-of-Way precludes achievement of a  
45 superior site design or otherwise precludes compliance with all other  
46 requirements of this Article, then the City Engineer or Registrant may

propose and the Registrant may include in the Permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirement of this Article. An Aerial WiFi Access Device shall be exempt from the provisions of this Sec. 25-305 (t) (9) (m).

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

(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

1 maintain any other type of communications facility in Public Rights-of-Ways, if that other  
2 type of communications facility involves placement of over-the-air radio transmission or  
3 reception equipment in the Public Rights-of-Way.

4  
5 (v) *No Permit fees for work under this Article.* Pursuant to Florida Statutes §  
6 337.401(3)(c)(1)(b) and other applicable provisions of law, and notwithstanding any  
7 other provisions of this Code, the City hereby elects not to charge Permit fees to any  
8 Registrant for Permits to do work under this Article in the Public Rights-of-Way.

9  
10 (w) *Issuance of Permit in violation of Code or construction in violation of Code.*

11  
12 (1) The issuance of a Permit for a Communications Facility shall not be  
13 construed as a right to installation, construction or maintenance of the  
14 Communications Facility that fails to meet the requirements of this Article.

15  
16 (2) The issuance of a Permit for a Communications Facility shall not be  
17 deemed or construed to be a Permit for or approval of any violation of any of the  
18 provisions of this Article. No Permit presuming to give authority to violate or  
19 cancel the provisions of Chapter 25 of this Code shall be void and invalid except  
20 insofar as the work or use which it authorizes is lawful.

21  
22 (3) The issuance of a Permit upon the application for Permit shall not  
23 prevent the City Engineer from thereafter requiring the correction of errors when  
24 in violation of Chapter 25 of this Code.

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

27  
28 The City may suspend a Permit for work in the Public Rights-of-Way for one or  
29 more of the following reasons:

- 30  
31 (1) Violation of Permit conditions, including conditions set forth in the Permit,  
32 this Article or other applicable City ordinances, codes or regulations  
33 governing placement or maintenance of Communications Facilities or in the  
34 Public Rights-of-Way;  
35  
36 (2) Misrepresentation or fraud by Registrant in a Registration or Permit  
37 application to the City;  
38  
39 (3) Failure to properly renew, or ineffectiveness of Registration; or  
40  
41 (4) Failure to relocate or remove facilities as may be lawfully required by the  
42 City.

43  
44 Upon the recommendation of a suspension of the Permit by the City Engineer, the City  
45 Engineer shall provide notice and an opportunity to cure any violation of subsections (1)



1 through (4) above, each of which shall be reasonable under the circumstances. The  
2 suspension shall terminate upon curing of the underlying violation(s).

3  
4 **Sec. 25-307. Appeals.**

5  
6 (a) Any person aggrieved by any action or decision of the City Engineer with  
7 regard to any aspect of Registration or issuance of or suspension of a Permit under this  
8 Article may appeal to the City Manager by filing with the City Manager, within 30 days  
9 after receipt of a written decision of the City Engineer, a notice of appeal, which shall set  
10 forth concisely the action or decision appealed from and the reasons or grounds for the  
11 appeal. No requests for extension of time for filing an appeal will be permitted; provided  
12 however, the right of appeal of any action or decision of the City Engineer with regard to  
13 an aspect of Registration or issuance of or suspension of a Permit under this Article  
14 shall not be available in the event a citation violation notice has been given pursuant to  
15 the terms of Code Sec. 11-17, et seq., the right of appeal under a citation violation  
16 notice procedure being provided for under Code Section 11-14.

17  
18 (b) The only appeal that shall be considered with respect to an action or  
19 decision of the City Engineer with regard to any aspect of Registration or issuance or  
20 suspension of a Permit under this Article are those appeals that allege that there is error  
21 in any order, requirement, decision, or determination made by the City Engineer in the  
22 enforcement of this Article.

23  
24 (c) The City Manager shall set such appeal for a hearing held by the City  
25 Manager on the very next available date following such notice of appeal and cause  
26 notice thereof to be given to the appellant and the City Engineer and the City Engineer  
27 shall present the case on behalf of the City.

28  
29 (d) The City Manager shall hear and consider all facts material to the appeal  
30 and render a decision within 20 calendar days of the date of the hearing. The City  
31 Manager may affirm, reverse or modify the action or decision appealed from; provided,  
32 that the City Manager shall not take any action which conflicts with or nullifies any of the  
33 provisions of this Article.

34  
35 (e) Any person aggrieved by any decision of the City Manager on an appeal  
36 shall be entitled to apply to the Circuit Court for a review thereof by Petition for Writ of  
37 Certiorari in accordance with the applicable court rules.

38  
39 **Sec. 25-308. Involuntary termination of Registration.**

40  
41 (a) The City Manager may terminate a Registration if:

- 42 (1) A federal or state authority suspends, denies, revokes a Registrant's  
43 certification or license required to provide Communications Services;  
44  
45 (2) The Registrant's placement or maintenance of a Communications  
46 Facility in the Public Rights-of-Way presents an extraordinary danger



1 to the general public or other users of the Public Rights-of-Way and  
2 the Registrant fails to remedy the danger promptly after receipt of  
3 written notice;

4  
5 (3) The Registrant violates Florida Statutes § 843.025, as same may be  
6 amended from time to time;

7  
8 (4) The Registrant violates Florida Statutes § 843.165, as same may be  
9 amended from time to time;

10  
11 (5) The Abandonment by the Registrant of all of its Communications  
12 Facilities in the Public Rights-of-Way and noncompliance with City  
13 Code Section 25-315 hereof; or

14  
15 (6) Repetitive violations of any of the provisions of this Article.

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

35  
36 (c) In the event of termination, the former Registrant shall: (1) notify the City  
37 of the assumption or anticipated assumption by another Registrant of ownership of the  
38 Registrant's Communications Facilities in the Public Rights-of-Way; or (2) provide the  
39 City with an acceptable plan for disposition of its Communications Facilities in the Public  
40 Rights-of-Way. If a Registrant fails to comply with this subsection (c), which  
41 determination of noncompliance is subject to appeal as provided in City Code Section  
42 25-307 hereof, the City may exercise any remedies or rights it has at law or in equity,  
43 including, but not limited to requiring the Registrant within ninety (90) days of the  
44 termination, or such longer period as may be agreed to by the Registrant and City  
45 Manager, to remove some or all of the Communications Facilities from the Public

1 Rights-of-Way and restore the Public Rights-of-Way to its original condition before the  
2 initial installation of the facilities.

3  
4 (d) In any event, a terminated Registrant shall take such steps as are  
5 necessary to render safe every portion of the Communications Facilities remaining in  
6 the Public Rights-of-Way of the City.

7  
8 (e) In the event of termination of a Registration, this section does not  
9 authorize the City to cause the removal of Communications Facilities used to provide  
10 another service for which the Registrant or another person who owns or exercises  
11 physical control over the facilities holds a valid certification or license with the governing  
12 federal or state agency, if required for provision of such service, and is registered with  
13 the City, if required.

14  
15  
16 **Sec. 25-309. Existing communications facilities in public rights-of-way.**

17  
18 A Communications Services Provider, Communications Facility Provider or Pass-  
19 through Provider with an existing Communications Facility in the Public Rights-of-Way  
20 of the City has 60 days from the effective date of this Article to comply with the terms of  
21 this Article, including, but not limited to, Registration, or be in violation thereof

22  
23 **Sec. 25-310. Insurance.**

24  
25 (a) A Registrant shall provide, pay for and maintain satisfactory to the City the  
26 types of insurance described herein. All insurance shall be from responsible companies  
27 duly authorized to do business in the State of Florida and having an A. M. Best A-VII or  
28 better rating. All liability policies shall provide that the City is an additional insured as to  
29 the activities under this Article. The required coverages must be evidenced by properly  
30 executed certificates of insurance forms. The certificates must be signed by the  
31 authorized representative of the insurance company and shall be filed and maintained  
32 with the City annually. Thirty (30) days advance written notice by registered, certified or  
33 regular mail or facsimile as determined by the City must be given to the City's Risk  
34 Manager of any cancellation, intent not to renew or reduction in the policy coverages.  
35 The insurance requirements may be satisfied by evidence of self-insurance or other  
36 types of insurance acceptable to the City.

37  
38 (b) The limits of coverage of insurance required shall be not less than the  
39 following:

- 40  
41 (1) Worker's compensation and employer's liability insurance.  
42 Worker's compensation—Florida statutory requirements.  
43  
44 (2) Comprehensive general liability.  
45 Bodily injury and property damage: \$1,000,000.00 combined single  
46 limit each occurrence.

1  
2 (3) Automobile liability.  
3 Bodily injury and property damage: \$1,000,000.00 combined single  
4 limit each accident.  
5

6 (c) The coverage provided herein shall be for a period not less than the  
7 period for which the indemnification obligations under City Code Section 25-311 hereof  
8 are imposed.  
9

10 **Sec. 25-311. Indemnification.**  
11

12 (a) A Registrant shall, at its sole cost and expense, indemnify, hold harmless,  
13 and defend the City, its officials, boards, members, agents, and employees, against any  
14 and all claims, suits, causes of action, proceedings, judgments for damages or equitable  
15 relief, and costs and expenses incurred by the City arising out of the placement or  
16 maintenance of its Communications Facilities in the Public Rights-of-Way, regardless of  
17 whether the act or omission complained of is authorized, allowed or prohibited by this  
18 Article (hereinafter, "claims"); provided, however, that a Registrant's obligation  
19 hereunder shall not extend to any claims caused by the gross negligence or wanton or  
20 willful acts of the City or any of its officers, servants, agents, or employees. This  
21 indemnification includes, but is not limited to, the City's reasonable attorneys' fees  
22 incurred in defending against any such claim, suit or proceedings. The City agrees to  
23 notify the Registrant, in writing, within a reasonable time of the City receiving notice, of  
24 any issue it determines may require indemnification. Nothing contained in this section  
25 shall be construed or interpreted: (1) as denying to either party any remedy or defense  
26 available to such party under the laws of the State of Florida; or (2) as a waiver of  
27 sovereign immunity beyond the waiver provided in Florida Statutes § 768.28 and within  
28 the limits provided therein, as it may be amended from time to time.  
29

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

37 (c) The indemnification requirements under this Section shall survive and be  
38 in full force and effect for a period of five (5) years after the termination or cancellation  
39 of a Registration.  
40

41 **Sec. 25-312. Performance bond.**  
42

43 (a) Prior to issuing a Permit where the work under the Permit will require  
44 restoration of Public Rights-of-Way, the City Engineer shall require a performance bond  
45 by a surety duly authorized to do business in the State of Florida and having an A.M.

1 Best A-VII rating or better. The bond shall be in the amount of 125 % of the  
2 ~~construction and~~ restoration cost estimate of the Public Rights-of-Way, as certified by a  
3 professional engineer licensed in the State of Florida, to secure proper performance  
4 under the requirements of any Permits and the restoration of the Public Rights-of-Way.  
5 Twelve (12) months after the completion of the restoration of the Public Rights-of-Way  
6 in accordance with the bond, the Registrant may eliminate the bond. However, the City  
7 Engineer may subsequently require a new bond for any subsequent work by the same  
8 Registrant in the Public Rights-of-Way. The performance bond shall provide that: "For  
9 twelve (12) months after issuance of this bond, this bond may not be canceled, or  
10 allowed to lapse, until sixty (60) days after receipt by the City, by certified mail, return  
11 receipt requested, of a written notice from the issuer of the bond of intent to cancel or  
12 not to renew." Notwithstanding the foregoing, a performance bond will not be required if  
13 the cumulative costs of restoration for projects for which Permits have been issued and  
14 for which performance bonds are still outstanding is less than the amount of the security  
15 fund filed by the Registrant under City Code Section 25-313.

16  
17 (b) The rights reserved by the City with respect to any performance bond  
18 established pursuant to this section are in addition to all other rights and remedies the  
19 City may have under this Article, or at law or equity.

20  
21 (c) The rights reserved to the City under this section are in addition to all  
22 other rights of the City, whether reserved in this Article, or authorized by other law, and  
23 no action, proceeding or exercise of a right with respect to the construction bond will  
24 affect any other right the City may have.

25  
26 **Sec. 25-313. Security fund.**

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

1 Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of  
2 the security fund.

3  
4 **Sec. 25-314. Enforcement remedies.**

5  
6 (a) A Registrant's failure to comply with provisions of this Article shall  
7 constitute a violation of this Code and shall subject the Registrant to the penalties  
8 provided by City Code § 1-6, termination of Registration in accordance with the  
9 provisions of City Code § 25-308, suspension of permit under the provisions of City  
10 Code § 25-306 and a Registrant who is alleged to have violated any provisions of this  
11 Article may be further subject to a civil penalty in accordance with the provisions of  
12 Code Section 11-25 and the procedures promulgated under Code Section 11-17, et  
13 seq. or injunctive relief as otherwise provided by law.

14  
15 (b) Failure of the City to enforce any requirements of this Article shall not  
16 constitute a waiver of the City's right to enforce that violation or subsequent violations of  
17 the same type or to seek appropriate enforcement remedies.

18  
19 **Sec. 25-315. Abandonment of a Communications Facility.**

20  
21 (a) Registrants shall comply with the provisions of City Code Sections 25-303  
22 (g) and 25-305 (c) (9), relating to Abandoned equipment and the addition of equipment.  
23 Further, upon Abandonment of a Communications Facility or Wireless Communications  
24 Facility owned by a Registrant in the City's Public Rights-of-Way, the Registrant shall  
25 notify the City, in writing, within thirty (30) days. Additionally, Registrants shall comply  
26 with the provisions of City Code Section 25-303(g) relating to bi-annual Registration and  
27 updating of facilities.

28  
29 (b) The City shall direct the Registrant by written notice to remove all or any  
30 portion of such Abandoned Communications Facility at the Registrant's sole expense if  
31 the City determines that the Abandoned Communications Facility's presence interferes  
32 with the public health, safety or welfare, which shall include, but shall not be limited to, a  
33 determination that such facility:

- 34  
35 (1) compromises safety at any time for any Public Rights-of-Way user or  
36 during construction or maintenance in any Public Rights-of-Way;  
37  
38 (2) prevents another person from locating facilities in the area of the  
39 Public Rights-of-Way where the abandoned facility is located when  
40 other alternative locations are not reasonably available; or  
41  
42 (3) creates a maintenance condition that is disruptive to the Public  
43 Rights-of-Way 's use.  
44

1 (4) In the event of (2) above, the City may require the third person to  
2 coordinate with the Registrant that owns the existing facility for joint  
3 removal and placement, where agreed to by the Registrant.  
4

5 (c) In the event that the City does not direct the removal of the Abandoned  
6 Communications Facility, the Registrant, by its notice of Abandonment to the City, shall  
7 be deemed to consent to the alteration or removal of all or any portion of the facility by  
8 the City or another person at such third party's cost.  
9

10 (d) If the Registrant fails to remove all or any portion of an Abandoned facility  
11 as directed by the City within a reasonable time period, not to exceed sixty (60) days, as  
12 may be required by the City under the circumstances, the City may perform such  
13 removal and charge the cost of the removal against the Registrant and utilize the bond  
14 required pursuant to City Code Section 25-313, for this purpose.  
15

#### 16 **Sec. 25-316. Reports and records; inspections.**

17

18 (a) A Registrant shall provide the following documents to the City as received  
19 or filed.  
20

21 (1) Upon reasonable request, any pleadings, petitions, notices and  
22 documents, which may directly impact the obligations under this Article and  
23 which are reasonable necessary for the City to protect its interests under this  
24 Article.  
25

26 (2) Any request for protection under bankruptcy laws, or any judgment  
27 related to a declaration of bankruptcy.  
28

29 (b) Nothing in this section shall affect the remedies a Registrant has available  
30 under applicable law.

31 (c) In addition, the City may, at its option, and upon reasonable notice to the  
32 Registrant, inspect the Communications Facilities in the City's Public Rights-of-Way to  
33 ensure the safety of its residents.  
34

35 (d) The City shall keep any documentation, books and records of the  
36 Registrant confidential to the extent required or permitted under Florida law.  
37

#### 38 **Sec. 25-317. Force majeure.**

39

40 In the event a Registrant's performance of or compliance with any of the  
41 provisions of this Article is prevented by a cause or event not within the Registrant's  
42 control, such inability to perform or comply shall be deemed excused and no penalties  
43 or sanctions shall be imposed as a result, provided, however, that such Registrant uses  
44 all practicable means to expeditiously cure or correct any such inability to perform or

1 comply. For the purposes of this section, cause or events not within a Registrant's  
2 control shall include, but not be limited to, acts of God, floods, earthquakes, landslides,  
3 hurricanes, fires and other natural disasters, acts of public enemies, riots or civil  
4 disturbances, sabotage, strikes and restraints imposed by order of a governmental  
5 agency or court. Causes or events within Registrant's control, and thus not falling within  
6 this section, shall include, without limitation Registrant's financial inability to perform or  
7 comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of  
8 Registrant's directors, officers, employees, contractors or agents.

9  
10 **Sect. 25-318. Reservation of rights.**

11  
12 (a) The City reserves the right to amend this Article as it shall find necessary  
13 in the lawful exercise of its police powers.

14  
15 (b) The provisions of this Article shall be applicable to all Communications  
16 Facilities placed in the City's Public Rights-of-Way within the City on or after the  
17 effective date of this ordinance and shall apply to all existing Communications Facilities  
18 placed in the Public Rights-of-Way prior to the effective date of this ordinance, to the full  
19 extent permitted by state and federal law, except that any provision of this Article  
20 regarding the size, composition, or location of Communications Facilities shall not apply  
21 to Communications Facilities lawfully placed within any Public Right-of-Way within the  
22 City prior to the effective date of this ordinance.

23  
24 **Sec. 25-319. No liability or warranty.**

25  
26 Nothing contained in this Article shall be construed to make or hold the City  
27 responsible or liable for any damage to persons or any property whatsoever, from any  
28 cause whatsoever, arising from the use, operation or condition of the Registrant's  
29 Communications Facilities by reason of any inspection or re-inspection authorized  
30 herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the  
31 approval or disapproval of any placement or maintenance of the Registrant's  
32 Communications Facilities as authorized herein constitute any representation,  
33 guarantee or warranty of any kind by, or create any liability upon the City or any official,  
34 agent or employee thereof. Additionally, the City shall not be responsible for any  
35 relocation costs incurred by any Registrant due to the City's or any other party's work in  
36 the Public Rights of Way.

37  
38  
39 **SECTION 2.** That if any clause, section or other part of this Ordinance shall be held  
40 invalid or unconstitutional by any court of competent jurisdiction, the remainder of this  
41 Ordinance shall not be affected thereby, but shall remain in full force and effect.

42  
43  
44 **SECTION 3.** That all ordinances or parts of ordinances in conflict herewith, be and  
45 the same are hereby repealed.  
46

1 **SECTION 4.** That this Ordinance shall be in full force and effect upon final passage.  
2  
3 PASSED FIRST READING this the \_\_ day of \_\_\_\_\_, 2015.  
4 PASSED SECOND READING this the \_\_ day of \_\_\_\_\_, 2016.  
5  
6  
7  
8  
9

10  
11 ATTEST:

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

12  
13 \_\_\_\_\_  
14 City Clerk  
15 JEFF MODARELLI

16 L:\RBD\Telecommunications\2nd Reading\401.03.29.16.docx  
17 E:\Recovered\rbd\_office\2016\Telecommunications\New Ordinance\2nd Reading\401 03 29 16 (RBD.3rev).docx  
18  
19



## EXHIBIT “B”

### 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

1 ENFORCEMENT OF REMEDIES; REQUIRING REPORTS  
2 AND RECORDS, AND ALLOWING FOR INSPECTION  
3 THEREOF; PROVIDING A RESERVATION OF RIGHTS  
4 FOR THE CITY TO AMEND THIS ARTICLE; PROVIDING A  
5 LACK OF LIABILITY AND WARRANTY ON BEHALF OF  
6 THE CITY; PROVIDING FOR SEVERABILITY AND AN  
7 EFFECTIVE DATE.  
8  
9

10 WHEREAS, the provision of telecommunications services to residents of and  
11 visitors to the City of Fort Lauderdale ("City") is both an important amenity and a  
12 necessity of public and private life in the City; and  
13

14 WHEREAS, the demand for telecommunications services has grown in recent  
15 years and continues to grow exponentially, requiring the continual upgrading of  
16 telecommunications facilities and services to satisfy such growing demand; and  
17

18 WHEREAS, the placement and maintenance of telecommunications facilities in  
19 the public rights-of-way to satisfy the growing demand for telecommunications services  
20 raises important issues with respect to the City's responsibility to manage its public  
21 rights-of-way, which directly impacts the public health, safety and general welfare; and  
22

23 WHEREAS, the City has reviewed its ordinances and has concluded that they  
24 must be updated, in conformance with federal and state telecommunications laws and  
25 rules, in order to adequately regulate the placement and maintenance of existing, new  
26 and expanded telecommunications facilities in the City's rights-of-way; and  
27

28 WHEREAS, adoption of the following ordinance is necessary to satisfy the above  
29 objectives.

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

32  
33 SECTION 1. The City Code of Ordinances Chapter 25, Streets and Sidewalks, is  
34 hereby amended to create a new Article XII, "Communications Facilities in the Public  
35 Rights-of Way which shall hereafter read as follows;  
36

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

1  
2 **Sec. 25-300 Title.**

3 This Article shall be known as "The City of Fort Lauderdale Communications  
4 Facilities in the Public Rights-of-Way Ordinance."  
5

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

7 It is the intent of the City to promote the public health, safety and general welfare  
8 by: providing for the placement or maintenance of Communications Facilities in the  
9 Public Rights-of-Way within the City; adopting and administering reasonable rules and  
10 regulations not inconsistent with state and federal laws, including, but not limited to, Fla.  
11 Stat. § 337.401, 47 USC § 1455(a) and Orders issued by the FCC, as they may be  
12 amended from time to time, the City's home-rule authority, and in accordance with the  
13 provisions of the Communications Act of 1934, as amended, and other federal and state  
14 laws; to regulate the location and placement of antennas, towers and other  
15 Communication Facilities and Wireless Communications Facilities in the Public Rights-  
16 of-Way; to protect residential areas and other land uses from potential adverse  
17 aesthetic and other impacts of Communications Facilities through careful siting and  
18 Stealth Design techniques; to promote and encourage shared use (Co-location) of  
19 Communications Facilities as a primary option generally preferred over the construction  
20 of new single-use Communications Facilities; to promote and encourage utilization of  
21 technology that will either eliminate or reduce the need for the erection of new  
22 Communications Facilities; to avoid potential damage to Public Rights-of-Way caused  
23 by Communications Facilities by ensuring that such Facilities are soundly and carefully  
24 designed, constructed, modified and maintained; to ensure that Communications  
25 Facilities are compatible with Surrounding Neighborhoods; to establish reasonable rules  
26 and regulations necessary to manage the placement or maintenance of  
27 Communications Facilities in the Public Rights-of-Way by Communications Services  
28 Providers, Communications Facility Providers and other Pass-through Providers; and to  
29 minimize disruption to the Public Rights-of-Way. In regulating its Public Rights-of-Way,  
30 the City shall be governed by and shall comply with all applicable federal and state  
31 laws.

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

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

6 **Sec. 25-302. Definitions.**

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

14 *Abandonment* or *Abandon* shall mean the absence of any active user  
15 (Communications Services Provider) on a Communications Facility. If there is a lapse  
16 in time of any or all active users (Communications Facility Provider) operating from the  
17 Communications Facility at issue for a period of ninety (90) consecutive days, then said  
18 Facility shall be deemed to have been Abandoned and shall be removed within thirty  
19 (30) days thereafter. Provided, however that the term "Abandonment" or "Abandoned"  
20 shall not include cessation of all use of a Communications Facility within a physical  
21 structure where the physical structure continues to be used for some purpose or use  
22 accessory to the Communications Facility. By way of example, and not limitation,  
23 cessation of all use of a cable within a conduit, where the conduit continues to be used,  
24 shall not be "Abandonment" of a Communications Facility in a Public Rights-of-Way.

25 *Abut*, when used in conjunction with a Lot or Parcel of land means a Lot or  
26 Parcel of land that shares all or part of a common lot line with another Lot or Parcel of  
27 land or right-of-way or a Lot or Parcel that shares all of part of a common boundary line  
28 with a Public Right-of-Way.

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

33 | *Aerial WiFi Access Device* is a facility ~~Communications Facility~~ located within a  
34 Public Right-Of-Way which such Device measures no greater than 18"L X 10"W X

1 9"H, weighing no more than 15 lbs., which Device is suspended from the Aerial WiFi  
2 Access Device Provider's utility or service distribution strand between two Utility Poles  
3 and is appurtenant equipment to internet access service, electronic mail service,  
4 electronic bulletin board service, or similar on line computer services and therefore is  
5 not a Communications Facility transmitting Communications Services (i) ~~at a height no~~  
6 ~~lower than 15.5 feet above grade and (ii) no higher than 40" below the lowest facility of~~  
7 ~~a power company on a Utility Pole (iii) located within fifteen (15) feet of the Utility Pole,~~  
8 ~~(iv) with a distance separation between Devices of at least five hundred (500) feet. The~~  
9 ~~Aerial WiFi Access Device is capable of the transmission, conveyance or routing of~~  
10 ~~Communications Services.~~  
11

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

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

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

20 *City Engineer* means a Professional Engineer, licensed to practice in the State of  
21 Florida, employed or retained by the City and designated in writing by the City Manager,  
22 as the chief engineer for the City and who is responsible for administration of Chapter  
23 25 of the City's Code of Ordinances and is hereby vested with the authority to initiate  
24 enforcement action by issuance of a citation violation notice pursuant to City Code Sec.  
25 11-17. For the purposes of this Article, the term City Engineer shall also include his or  
26 her designee.

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

30 *Code* means the Code of Municipal Ordinances of the City of Fort Lauderdale.

31 *Collector Roadway* means a route providing service that is of relatively moderate  
32 average traffic volume, moderately average trip length, and moderately average  
33 operating speed. Such a route also collects and distributes traffic between local roads  
34 or arterial roads and serves as a linkage between land access and mobility needs as

per the Broward County Trafficways Plan maintained by Broward County, as such Plan may be amended from time to time.

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

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

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

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

*Communications Services* shall mean the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services,

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

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

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

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

34  
35 *Corner Lot* means a lot located at the intersection of two (2) or more Public  
36 Rights-of-Way, with a property line bordering on at least two (2) of the Public Rights-of-  
37 Way.  
38

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

3  
4           *County* means Broward County, Florida.

5  
6           *Day(s)*. In computing any period of time expressed in day(s) in this Article, the  
7 day of the act, event or default from which the designated period of time begins to run  
8 shall not be included. The last day of the period so computed shall be included unless it  
9 is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end  
10 of the next day which is neither a Saturday, Sunday, or legal holiday. When the period  
11 of time prescribed or allowed is less than seven (7) days, intermediate Saturdays,  
12 Sundays and legal holidays shall be excluded in the computation.

13  
14           *Distributed Antenna System* or *DAS*, is a network of spatially separated antenna  
15 nodes connected to a common source via a transport medium that provides Wireless  
16 Communications Service within a geographic area or structure. A DAS is a  
17 Communications Facility.

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

24           *Facility* means a Communications Facility.

25           *FCC* shall mean the Federal Communications Commission.

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

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

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



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

5           *In Public Rights-of-Way or in the Public Rights-of-Way* shall mean in, on, over,  
6 under or across the Public Rights-of-Way within the City over which the City has  
7 jurisdiction, control and authority to regulate. The term shall also include those rights-  
8 of-way over which the County or State has jurisdiction and authority under the Florida  
9 Transportation Code, Chapter 334, Florida Statutes, as same may be amended from  
10 time to time, but where the County or State or both have delegated to the City the  
11 authority to regulate the registration, permitting, placement, installation and  
12 maintenance of Communications Facilities in accordance with Article XII, Chapter 25 of  
13 the City Code of Ordinances.

14  
15           *Interested Parties* shall mean, for the purposes of the Public Information Meeting  
16 in Sec. 25-305 (c) (12), (i) the property owners within the Surrounding Neighborhood  
17 within which a proposed site is located together with (ii) the President or Chairman of  
18 the City's recognized Neighborhood Organization within which the proposed site is  
19 located. The property owners within the Surrounding Neighborhood are those property  
20 owners who are listed on the most recent ad valorem tax records of the Broward County  
21 Property Appraiser's Office.

22  
23           *Local Road* means a route providing service that is of relatively low average  
24 traffic volume, short average trip length or minimal through-traffic movements, and high  
25 land access for abutting property and is not included in the Broward County Trafficway  
26 Plan.

27  
28           *Lot* means the same as the term is defined in U.L.D.R. Section 47-35.1.

29  
30           *Neighborhood Organization* means an organization, typically a neighborhood  
31 association, occupying and representing a geographically distinct specific area that  
32 does not overlap with any other Neighborhood Organization that has undergone a  
33 neighborhood recognition process and is designated by the Mayor's Office as the official  
34 representative for the distinct geographic area at issue.

35  
36           *Order*, as used in the definition of "Wireless Service Provider", shall mean:

37           (a)   The following orders and rules of the FCC issued in FCC Docket No. 94-  
38 102:

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

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

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

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

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

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

*Pass-Through Provider* means any person who places or maintains a Communications Facility in the Public Rights-of-Way of the City and who, as to a particular Communications Facility, does not remit taxes imposed by the City pursuant to Chapter 202, Fla. Stat. as same may be amended from time to time. ~~Depending upon how the Communications Facility is utilized, the person who places or maintains a particular Communications Facility may be either a Pass-Through Provider, or a Communications Service Provider as to that particular Communications Facility. A~~ Utility as defined in 47 U.S.C. § 224 is not a Pass-Through Provider.

*Pass-Through Provider Facility* means a Communication Facility in the Public Right-of-Way, the Registrant of which does not remit taxes imposed by the City pursuant to Chapter 202, Fla. Stat., as same may be amended from time to time. Depending upon how the Communications Facility is utilized, the person who places or maintains a particular Communications Facility may be either a Pass-Through Provider, or a Communications Service Provider as to that particular Communications Facility.

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

*Person* shall include any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity

1 of any kind, successor, assignee, transferee, personal representative, and all other  
2 groups or combinations, but shall not include the City to the extent permitted by  
3 applicable law.

4 *Place or maintain or placement or maintenance or placing or maintaining* shall  
5 mean to erect, construct, install, maintain, place, repair, extend, expand, remove,  
6 occupy, locate or relocate. A person that owns or exercises physical control over  
7 Communications Facilities in Public Rights-of-Way, such as the physical control to  
8 maintain and repair, is "placing or maintaining" the facilities. A person providing service  
9 only through resale or only through use of a third party's facilities is not "placing or  
10 maintaining" the Communications Facilities through which such service is provided. The  
11 transmission and receipt of radio frequency signals through the airspace of the Public  
12 Rights-of-Way does not constitute "placing or maintaining" facilities in the Public Rights-  
13 of-Way.

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

16 *Pole Attachment* means any attachment by a cable service provider or provider  
17 of Communications Services or telecommunications services to a Utility Pole or  
18 Communications Facility Tower or Pole, duct, conduit, within a Public Right-of-Way for  
19 the purpose of facilitating the transmission of Communications Services.

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

23 *Public Rights-of-Way* shall mean a Public Right-of-Way, Arterial Roadway,  
24 Collector Roadway, Local Road, highway, street, or bridge for which the City is the  
25 authority that has jurisdiction and control and may lawfully grant access to pursuant to  
26 applicable law, and includes the surface, the air space over the surface and the area  
27 below the surface; . The term shall also include those rights-of-way within the corporate  
28 boundaries of the City over which the County or State has jurisdiction and authority  
29 under the Florida Transportations Code, Chapter 334, Florida Statutes, as same may be  
30 amended from time to time, but where the County or State or both have delegated to  
31 the City the authority to regulate the registration, permitting, placement, installation and  
32 maintenance of Communication Facilities in accordance with Article XII, Chapter 25 of  
33 the City Code of Ordinances. "Public Rights-of-Way" shall not include private property,  
34 nor shall the term include alleys. "Public Rights-of-Way" shall not include any real or  
35 personal City property except as described above and shall not include City buildings,

1 fixtures, poles, conduits, facilities or other structures or improvements, regardless of  
2 whether they are situated in the Public Rights-of-Way.

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

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

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

33 *Residential Block* means the Lots or Parcels that abut or are contiguous to a  
34 Public Right-of-Way within (i) the City's residential districts as set forth in the City's  
35 U.L.D.R., (ii) RO, ROA and ROC zoning districts as set forth in the City's U.L.D.R. or (iii)

1 Broward County residential zoning districts and includes rights-of-way that are  
2 contiguous to the aforementioned zoning districts.

3 *Signage* means any display of characters, ornamentation, letters or other display  
4 such as, but not limited to, a symbol, logo, picture, or other device used to attract  
5 attention, or to identify, or as an advertisement, announcement, or to indicate directions,  
6 including the structure or frame used in the display.

7  
8 *Surrounding Neighborhood* means the area within a one thousand (1,000) foot  
9 radius ~~five hundred (500) feet, as measured along ordinary vehicular travelways,~~ of the  
10 Communications Facility site or proposed Communications Facility site.

11 *State* means the State of Florida.

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

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

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

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

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

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

9       Video Service Provider means any entity providing video service.

10       Wireless Communications Facility means equipment or Facilities located within  
11 Public Rights-of-Way, used to provide Wireless Service and may include, but is not  
12 limited to, antennae, Towers, equipment enclosures, cabling, antenna brackets and  
13 other such appurtenant equipment. Wireless Communications Facilities within Public  
14 Rights-of-Way may be comprised of Distributed Antenna Systems and shall mean  
15 equipment used to provide Wireless Service, as the phrase, Wireless Communications  
16 Facility, is further defined and limited in Fla. Stat. § 365.172, as same may be amended  
17 from time to time. Placing a Wireless Communications Facility on an existing building  
18 does not cause the existing building to become a Wireless Communications Facility. A  
19 Wireless Communications Facility is a type of Communications Facility. The term  
20 *Wireless Communications Facility* shall not include below-grade communications  
21 service facilities nor shall it include at-grade communications service facilities as  
22 regulated under City Code Section 25-100.1.  
23

24       Wireless Service Provider shall mean a person who provides Wireless Service  
25 and is either (a) subject to the provisions of the Order or (b) elects to provide wireless  
26 911 services or E911 service in Florida. A Wireless Service Provider is a type of  
27 Communications Services Provider.

28       Wireless Service shall mean “commercial mobile radio service” as provided  
29 under §§ 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C.  
30 §§ 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-  
31 66, August 10, 1993, 107 Stat. 312, as per Fla. Stat. §365.172, as same may be  
32 amended from time to time. The term includes service provided by any wireless real-  
33 time two-way wire communication device, including radio-telephone communications  
34 used in cellular telephone service; personal communications service; or the functional or  
35 competitive equivalent of a radio-telephone communications line used in cellular  
36 telephone service, a personal communications service, or a network radio access line.

1 A Wireless Service is a Communications Service. The term does not include  
2 Communications Services Providers that offer mainly dispatch service in a more  
3 localized, non-cellular configuration; providers offering only data, one-way, or stored-  
4 voice services on an interconnected basis; providers of air-to-ground services; or public  
5 coast stations.

6  
7 **Section 25-303. Registration for placing or maintaining Communications**  
8 **Facilities in Public Rights-of-Way.**  
9

10 (a) *Registration.* A Communications Facility Provider, Communications  
11 Services Provider or Pass-through Provider that desires to place or maintain a  
12 Communications Facility or Pass-Through Facility in the Public Rights-of-Way in the  
13 City shall first register with the City in accordance with this Article. Subject to the terms  
14 and conditions prescribed in this Article, a Registrant may place or maintain a  
15 Communications Facility or Pass-Through Facility in the Public Rights-of-Way.

16  
17 (1) A Communications Facility Provider, Communications Services  
18 Provider or Pass-Through Provider with an existing Communications Facility in  
19 the Public Rights-of-Way as of the effective date of this Article has one-hundred  
20 eighty (180) ~~sixty (60)~~ days from the effective date of this Article to comply with  
21 the terms of this Article, including, but not limited to, registration.  
22

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

28 (b) *No property right arises from registration.* A Registration shall not convey  
29 any title, equitable or legal, in a Public Right-of-Way. Registration under this Article  
30 governs only the placement or maintenance of Communications Facilities or Pass-  
31 Through Facilities in a Public Right-of-Way. Registration does not excuse a  
32 Communications Facility Provider, Communications Services Provider or Pass-Through  
33 Provider from obtaining appropriate access or Pole Attachment ~~pole attachment~~  
34 agreements before locating its Facilities on the City's or another person's Facilities.  
35 Registration does not excuse a Communications Facility Provider, Communications

1 Services Provider or Pass-Through Provider from complying with all applicable laws,  
2 including this Article, or other City ordinances, codes or regulations.

3  
4 (c) *Content of registration.* Each Communications Facility Provider,  
5 Communications Services Provider or Pass-Through Provider that desires to place or  
6 maintain a Communications Facility within the Public Rights-of-Way shall file a single  
7 Registration with the City that shall include the following information:

8  
9 (1) Name of the Registrant; and

10  
11 (2) Name, address and telephone number of the Registrant's primary  
12 contact person in connection with the Registration and of the person to contact in  
13 case of emergency; and

14  
15 (3) Evidence of the insurance coverage required under this Article and  
16 acknowledgment that Registrant has received and reviewed a copy of this Article;  
17 and

18  
19 (4) A copy of federal or state certification authorizing the Registrant to  
20 provide Communications Services; and

21  
22 (5) If the Registrant is a corporation or limited liability company proof of  
23 authority to do business in the State of Florida, which may be satisfied by the  
24 number of its corporate certification or by other means; and

25  
26 (6) Evidence that a security fund has been established in accordance  
27 with this Article; and

28  
29 (7) A statement by the Registrant in the Registration that by execution  
30 of the Registration application and acceptance of the Registration, the Registrant  
31 agrees to the terms of indemnification as provided by City Code Section 25-311.

32  
33 (d) *City Engineer review and approval.* The City Engineer shall review the  
34 information submitted by the Registrant in the Registration. If the Registrant submits  
35 information in accordance with subsection (c) above, the Registration shall be effective  
36 and the City Engineer shall notify the Registrant of the effectiveness of Registration in  
37 writing. If the City Engineer determines that the information has not been submitted in  
38 accordance with subsection (c) above, the City Engineer shall notify the Registrant in  
39 writing of the non-effectiveness of Registration and reasons for the non-effectiveness.



1 The City Engineer shall so notify a Registrant within thirty (30) days after receipt of  
2 Registration information from the Registrant.

3  
4 (e) *Cancellation.* A Registrant may cancel a Registration upon written notice  
5 to the City that the Registrant will no longer place or maintain any Communications  
6 Facilities in the Public Rights-of-Way. A Registrant cannot cancel a Registration if the  
7 Registrant continues to place or maintain any Communications Facilities in the Public  
8 Rights-of-Ways.

9  
10 (f) *Registration shall be nonexclusive.* Registration shall not establish any  
11 right or priority to place or maintain a Communications Facility in any particular area in  
12 the Public Rights-of-Way. Registrations are expressly subject to any future amendment  
13 to or replacement of this Article and may further be subject to any additional City  
14 ordinances, as well as any state or federal laws that may be enacted.

15  
16 (g) *Renewal of Registration.* A Registrant who secured its Registration by  
17 April 1 of an even-numbered year in accordance with the Registration requirements of  
18 this Article shall renew its Registration by April 1 of the next ensuing even-numbered  
19 year and successive even-numbered years thereafter. A Registrant who secured its  
20 Registration by April 1 of an odd-numbered year in accordance with the Registration  
21 requirements of this Article shall renew its Registration by April 1 of the next ensuing  
22 odd-numbered year and successive odd-numbered years thereafter. Within thirty (30)  
23 days of any change in the information required to be submitted pursuant to subsection  
24 (c) above a Registrant shall provide updated information to the City. Registration  
25 renewals shall include an inventory of the Registrant's newly installed Communications  
26 Facilities or the presence of any Abandoned Communication Facilities within the  
27 boundaries and jurisdiction, or acquired jurisdiction of the City since the prior  
28 Registration or Registration renewal. If no information in the then-existing Registration  
29 has changed, the renewal may state that no information has changed. Failure to renew  
30 a Registration may result in the City restricting the issuance of additional Permits until  
31 the Communications Facility Provider, Communications Services Provider or Pass-  
32 through Provider as complied with the Registration requirements of this Article.

33  
34 (h) *Permits required of Registrants.* In accordance with City ordinances, code  
35 or regulations and this Article, a Permit shall be required of a Communications Facility  
36 Provider, Communications Services Provider or Pass-through Provider that desires to  
37 place or maintain a Communications Facility in the Public Rights-of-Way. A Permit may  
38 be obtained by or on behalf of a Registrant having an effective Registration if all Permit  
39 requirements are met.

1  
2 (i) *Compensation to City.* A Registrant that places or maintains  
3 Communications Facilities in the Public Rights-of-Way shall be required to pay  
4 compensation to the City as required by applicable law and ordinances.  
5

6 **Section 25-304. Notice of transfer, sale or assignment of assets in public**  
7 **rights-of-way.**  
8

9 (a) A Registrant shall not transfer, sell or assign all or any portion of its assets  
10 located in the Public Rights-of-Way except to a person holding a valid Registration  
11 issued pursuant to Section 25-303, hereof.  
12

13 (b) Written notice of any such proposed transfer, sale or assignment, along  
14 with assignee/transferee's signed and sworn certification of its compliance with the  
15 requirements of this Article, shall be provided by such Registrant to the City at least five  
16 (5) days prior to the effective date of the transfer, sale or assignment.  
17

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

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

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

30  
31 (f) Transfers or assignments of a Communications Facility to persons other  
32 than Communications Facility Providers, Communications Services Providers or Pass-  
33 through Providers who will operate at least one Communications Facility within the City  
34 require compliance with this section to insure continued use of the Public Rights-of-  
35 Way.  
36

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

1 perform the work undertaken in the Public Rights-of-Way in connection  
2 with the emergency.  
3

4 (1) In granting Permits, the City may impose reasonable conditions  
5 governing the placement or maintenance of a Communications Facility in the  
6 Public Rights-of-Way. Permits shall apply only to the areas of Public Rights-of-  
7 Way specifically identified in the Permit.  
8

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

12 (3) The City's policies strongly favor strengthening utility infrastructure  
13 and in particular as it relates to flooding and hurricane related events. Subject to  
14 any applicable regulatory approval, the Communications Facility Providers will  
15 implement an infrastructure hardening plan for any Communications Facilities  
16 within the City's boundaries.  
17

18 (c) *Permit Application.* As part of any Permit application to place a new or  
19 replace an existing Communications Facility in the Public Rights-of-Way, including,  
20 without limitation, a Co-location, the Registrant shall provide the following:  
21

22 (1) The location of the proposed Facilities, including a description of  
23 the Facilities to be installed, where the Facilities are to be located, and the  
24 dimensions of the Facilities that will be located in Public Rights-of-Way; and  
25

26 (2) With respect to proposals to locate a new Communications Facility  
27 or replace an existing Communications Facility in the Public Rights-of-Way,  
28 engineering documentation demonstrating either:  
29

30 (i) how the proposed Facility can accommodate multiple Co-  
31 locations; or  
32

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

(iii) why a Repurposed Structure is not better suited to or feasible for the site.

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

(4) A maintenance of traffic plan for any disruption of the Public Rights-of-Way; and

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

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

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

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

then the 1,000-foot distance requirement may be modified to achieve a harmonious balance among the above three factors; and the Registrant applying for the Permit shall provide competent substantial evidence to reflect that the above conditions are met, in order to waive strict compliance with the 1,000 foot

1 distance requirements set forth in this subsection 5 (i), (ii) and (iii), and ensure  
2 compliance with all the other requirements of this Article; and  
3

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

7 (7) The timetable for construction of the project or each phase thereof,  
8 and the areas of the City which will be affected; and  
9

10 (8) Whether all or any portion of the proposed Facilities will be rented,  
11 hired, leased, sublet or licensed from or to any third party and, if so, the identity,  
12 and contact information of that third party; and  
13

14 (9) Prior to installation of any new or additional Facilities in the Public  
15 Rights-of-Way, including but not limited to Co-location at a specific site, the  
16 Communications Facility Provider shall be required to remove any and all of the  
17 Registrant's ~~obsolete, unutilized or~~ Abandoned equipment within the City. Any  
18 application to install new or additional equipment shall identify the Abandoned,  
19 ~~obsolete or unutilized~~ equipment that shall be removed prior to the installation of  
20 any new or additional technology or Facilities in the Public Rights-of-Way; and  
21

22 (10) If there exists a Communications Facility by the same  
23 Communications Facility Provider within the Public Right-of-Way that is adjacent  
24 to or within a 1,000 foot radius of the proposed new Communications Facility  
25 location, then the Communications Facility Provider shall be required to remove  
26 and consolidate the equipment into one Facility, so as to not create a second  
27 location within such a minimal distance; and  
28

29 (11) Such additional information with respect to the placement or  
30 maintenance of the Communications Facility that is the subject of the Permit  
31 application that the City finds reasonably necessary for the review of such Permit  
32 application; and  
33

34 (12) *Public Information Meeting.* An application for a Permit is not  
35 complete until the Registrant provides the City Engineer with an Affidavit  
36 certifying compliance with the following: ~~An application for a Permit is not~~  
37 ~~complete until the Registrant has provided evidence that it has provided notice of~~  
38 ~~the Registrant's intent to file an application for a Permit to install a Facility within~~  
39 ~~the proposed site, such notice being provided to~~

1  
2 (i) That the Registrant has provided Notice of the Public  
3 Information Meeting described herein to the Interested Parties; and  
4 property owners within the Surrounding Neighborhood, together with  
5

6 (ii) That the Notice of the Public Information Meeting clearly  
7 states the date, time and location of the meeting, describes the scope of  
8 the proposed project, identifies by name and address the Interested  
9 Parties to whom the Notice was sent, and clearly explains that the  
10 purpose of the meeting is to (a) explain the proposed project and the  
11 potential impact to the Interested Parties and (b) entertain questions and  
12 take comments from the Interested Parties; and the President or  
13 Chairman of City's recognized Neighborhood Organization within which  
14 the proposed site is located. and provide the groups within (i) and (ii)  
15 above with a minimum of thirty (30) days for comments to be provided to  
16 the City Engineer.

17  
18 (iii) That a copy of the Notice of the Public Information Meeting  
19 is attached to the Affidavit; and The notice shall describe the scope of the  
20 proposed work, identify the name and address of the property owners  
21 within the Surrounding Neighborhood and together with the President and  
22 Chairman of the relevant recognized Neighborhood Organization, and  
23 describe the potential impact to such property owners.

24  
25 (iv) That copies of all comments, questions and reviews from the  
26 Public Information Meeting, as well as the Registrant's written proposal for  
27 addressing all negative comments or issues raised at the Public  
28 Information Meeting is attached to the Affidavit; and The notice shall also  
29 require the Registrant to hold a public information meeting, which shall  
30 include the property owners within the Surrounding Neighborhood and the  
31 City's recognized Neighborhood Organization within which the proposed  
32 site is located, for the purpose of answering questions and taking  
33 comments from the affected property owners and members of the City's  
34 recognized Neighborhood Organization identified above.

1  
2                   ~~(v)~~     That the list of names, addresses and e-mail addresses of  
3 those Interested Parties who provided comment at the Public Information  
4 Meeting is attached to the Affidavit; and ~~After the public information~~  
5 ~~meeting, the Registrant shall meet with City staff as soon as practicable to~~  
6 ~~review comments received at the public information meeting and attempt to~~  
7 ~~resolve all negative comments or issues raised, prior to filing an application~~  
8 ~~for a Permit for the proposed Facility.~~

9  
10                   (vi)   That the Registrant's responses to the comments, which  
11 may include an amended or revised Permit Application is attached to the  
12 Affidavit; and ~~The property owners within the Surrounding Neighborhood~~  
13 ~~are those property owners who are listed in the most recent ad valorem~~  
14 ~~tax records of the Broward County Property Appraiser's Office.~~

15  
16                   (vii)   That the Registrant acknowledges and agrees that the City  
17 Engineer shall have at least fifteen (15) days within which to review the  
18 comments and responses from the Public Information Meeting prior to the  
19 Application for a Permit being deemed complete. ~~The application for a~~  
20 ~~Permit is not complete until conditions (i) through (vi) above have been~~  
21 ~~met.~~

22  
23                   ~~(viii)   The notice to the property owners and the City's recognized~~  
24 ~~Neighborhood Organization as identified above, shall contain the address~~  
25 ~~and e-mail address for the City Engineer for the purpose of providing~~  
26 ~~comments to the City Engineer. The Registrant will have thirty (30) days~~  
27 ~~to provide a response to the City Engineer to each comment. Such~~  
28 ~~response may include an amendment of the application. Thereafter, the~~  
29 ~~City Engineer shall have thirty (30) days to grant, grant with conditions, or~~  
30 ~~deny the Permit application.~~

31  
32                   (d)    *Power to regulate Public Rights-of-Way; Reasonable Conditions attached*  
33 *to Permit.* ~~To the extent not otherwise prohibited by state or federal law, the City shall~~  
34 ~~have the power to prohibit or limit the placement of new or additional Communications~~  
35 ~~Facilities within a particular area of Public Rights-of-Way and may consider, among~~  
36 ~~other things and without limitation, the sufficiency of space to accommodate all of the~~  
37 ~~present Communications Facilities and pending applications to place and maintain utility~~  
38 ~~facilities in that area of the Public Rights-of-Way, the sufficiency of space to~~



1 accommodate City announced plans for public improvements or projects that the City  
2 determines are in the best public interest, the impact on traffic and traffic safety, and the  
3 impact upon existing facilities in the Public Rights-of-Way. The City Engineer is hereby  
4 delegated the authority to impose additional reasonable conditions in accordance with  
5 the foregoing to ensure the public health, safety and welfare, and peaceful enjoyment of  
6 City residents and businesses.

7  
8 (e) *Avoidance of unreasonable interference with Public Rights-of-Way.*  
9

10 (1) All Communications Facilities shall be placed or maintained so as  
11 not to unreasonably interfere with the use of the Public Rights-of-Way by the  
12 public and public Utility ~~utility~~ providers and with the rights and convenience of  
13 property owners who adjoin any of the Public Rights-of-Way.  
14

15 (2) The use of trenchless technology (i.e., directional bore method) for  
16 the installation of Facilities ~~facilities~~ in the Public Rights-of-Way as well as joint  
17 trenching or the Co-location of Facilities ~~facilities~~ in existing conduit is strongly  
18 encouraged, and should be employed wherever feasible.  
19

20 (3) To the extent not prohibited by federal and state law, the City shall  
21 require any Registrant that does not have Communications Facilities in the City  
22 as of the date of adoption of this Article to place any new cables, wires, fiber  
23 optics, splice boxes and similar communications facilities underground, unless  
24 such Communications Facilities can be Co-located.  
25

26 (f) *Safety practices.* All safety practices required by applicable law or  
27 accepted industry practices and standards shall be used during the placement or  
28 maintenance of Communications Facilities or Wireless Communications Facilities.  
29

30 (g) *Restoration of Public Rights-of-Way.* After the completion of any  
31 placement, maintenance or removal of a Communications Facilities in Public Rights-of-  
32 Way or each phase thereof, a Registrant shall, at its own expense, restore the Public  
33 Rights-of-Way to its existing condition prior to such work. If the Registrant fails to make  
34 such restoration within thirty ~~(30)~~ days following the completion of such placement or  
35 maintenance, the City may perform restoration and charge the costs of the restoration  
36 against the Registrant in accordance with Florida Statutes § 337.402, as same may be  
37 amended from time to time. For twelve (12) months following the original completion of  
38 the work, the Registrant shall guarantee its restoration work and shall correct any  
39 restoration work that does not satisfy the requirements of this Article at its own expense.

1  
2 (h) *Removal or relocations governed by Florida law.* Removal or relocation at  
3 the direction of the City Engineer of a Registrant's Communications Facilities in the  
4 Public Rights-of-Way shall be governed by the provisions of Florida Statutes §§ 337.403  
5 and 337.404, as they may be amended from time to time. Subject to the aforementioned  
6 Florida Statutes §§ 337.403 and 337.404 and other provisions of law, whenever existing  
7 overhead Utility ~~utility~~ distribution facilities are converted to underground distribution  
8 facilities, any Registrant having Communications Facilities located on a  
9 Communications Facility Tower or Pole ~~on Poles or other Facilities~~ that are to be  
10 removed shall arrange for the conversion to underground facilities or relocation on the  
11 same terms and conditions as the other Utility distribution facilities ~~utilities~~ that are being  
12 converted to underground facilities.

13  
14 (i) *Permit does not create property right.* A Permit from the City constitutes  
15 authorization to undertake only certain activities in the Public Rights-of-Way in  
16 accordance with this Article, and does not create a property right or grant authority to  
17 impinge upon the rights of others who may have an interest in the Public Rights-of-Way.

18  
19 (j) *Maintenance in accordance with industry standards and applicable law.* A  
20 Registrant shall maintain its Communications Facilities in the Public Rights-of-Way in a  
21 manner consistent with accepted industry standards and best practices and applicable  
22 law.

23  
24 (1) Owners of Communications Facilities located in Public Rights-of-  
25 Way shall, at all times, employ ordinary and reasonable care and shall install and  
26 maintain in use nothing less than commonly accepted industry standards and  
27 best practices for preventing failures and accidents which are likely to cause  
28 damage, injuries, or nuisances to the public, adjacent property owners and other  
29 Facilities or Utility Facilities within the Public Rights-of-Way.

30  
31 (2) Owners of Communications Facilities located in Public Rights-of-  
32 Way shall install and maintain such Communications Facilities, wires, cables,  
33 fixtures and other appurtenant equipment in compliance with the requirements of  
34 the Florida Building Code, National Electric Safety Code, Florida Administrative  
35 Code and all FCC, state and local regulations, and in such a manner that will not  
36 interfere with the use of other property or other facilities within or adjacent to the  
37 Public Rights-of-Way.

1           (3) All Communications Facilities, wires, cables, fixtures and other  
2 ~~appurtenant~~ appurtenance equipment shall, at all times, be kept and maintained  
3 in good condition, order and repair so that the same shall not endanger the life or  
4 property of any person or other Utility facilities in the Public Rights-of-Way.  
5

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

9           (k) *Underground Facility Damage Prevention and Safety Act.* In connection  
10 with excavation in the Public Rights-of-Way, a Registrant shall, where applicable,  
11 comply with the Underground Facility Damage Prevention and Safety Act set forth in  
12 Florida Statutes, Chapter 556, the Underground Facility Damage Prevention and Safety  
13 Act, as it may be amended from time to time.  
14

15           (l) *Use of due caution.* Registrants shall use and exercise due caution, care  
16 and skill in performing work in the Public Rights-of-Way and shall take all reasonable  
17 steps to safeguard work site areas, including, but not limited to those safeguard set forth  
18 in Chapter 33, Florida Building Code.  
19

20           (m) *Coordination with other work in Public Rights-of-Way.* Upon request of the  
21 City, and as notified by the City of the other work, construction, installation or repairs  
22 referenced below, a Registrant may be required to coordinate placement or  
23 maintenance activities under a Permit with any other work, construction, installation or  
24 repairs that may be occurring or scheduled to occur within a reasonable timeframe in  
25 the subject Public Rights-of-Way, and a Registrant may be required to reasonably alter  
26 its placement or maintenance schedule as necessary so as to minimize disruptions and  
27 disturbance in the Public Rights-of-Way.  
28

29           (n) *Avoidance of interference, displacement, damage or destruction of other*  
30 *facilities within the Public Rights-of-Way.* A Registrant shall not place or maintain its  
31 Communications Facilities in such a manner as to interfere with, displace, damage or  
32 destroy any other Utility ~~utility~~ facilities or Communications Facilities, including but not  
33 limited to, sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables  
34 or conduits of the City or any other person's facilities lawfully occupying the Public  
35 Rights-of-Way of the City.  
36

37           (o) *No warranties regarding fitness, suitability or availability of City's Public*  
38 *Rights-of-Way.* The City makes no warranties or representations regarding the fitness,  
39 suitability, or availability of the City's Public Rights-of-Way for the Registrant's

1 Communications Facilities or Wireless Communications Facilities and any performance  
2 of work, costs incurred or services provided by the Registrant shall be at the  
3 Registrant's sole risk. Nothing in this Article shall affect the City's authority to add,  
4 vacate, modify, abandon or otherwise dispose of Public Rights-of-Way, and the City  
5 makes no warranties or representations regarding the availability of any added,  
6 vacated, modified or abandoned Public Rights-of-Way for Communications Facilities or  
7 Wireless Communications Facilities.

8  
9 (p) *Right of inspection.* The City shall have the right to make such inspections  
10 of Communications Facilities placed or maintained in its Public Rights-of-Way as it finds  
11 necessary to ensure compliance with this Article.

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

37  
38 (1) An affidavit attesting to the fact that the Registrant made diligent  
39 efforts for permission to install or Co-locate the Registrant's Communications

1 Facility on City-owned structures located within a 1,000 foot radius of the  
2 proposed Communications Facility site.

3  
4 (2) An affidavit attesting to the fact that the Registrant made diligent  
5 efforts to install or Co-locate the Registrant's Communications Facility or  
6 Wireless Communications Facility on private property or government owned  
7 (other than Public Rights-of-Way) within a 1,000 foot radius of the proposed site.

8  
9 (3) A description of the technological design plan proposed by the  
10 Registrant. The Registrant must demonstrate why design alternatives that utilize  
11 an existing Facility cannot be utilized.

12  
13 (4) Written, technical evidence from a qualified radio frequency  
14 engineer that the proposed Communications Facility cannot be Co-located on  
15 another Facility within a 1,000 foot radius of the proposed site due to coverage or  
16 other technical requirements or limitations.

17  
18 (5) A written statement from a qualified radio frequency engineer that  
19 the construction and placement of the Communications Facility or Wireless  
20 Communications Facility will not interfere with public safety communications and  
21 the usual and customary transmission or reception of radio, television, or other  
22 communications services enjoyed by adjacent residential and non-residential  
23 properties.

24  
25 ~~(6) Written technical evidence from a professional engineer licensed in~~  
26 ~~the State of Florida acceptable to the City's Fire Marshall and the Building Official~~  
27 ~~that the proposed site of the Communications Facility does not pose a risk of~~  
28 ~~explosion, fire or other danger to life or property due to its proximity to volatile,~~  
29 ~~flammable, explosive or hazardous materials such as LP gas, propane, gasoline,~~  
30 ~~natural gas, corrosive or other dangerous chemicals.~~

31  
32 ~~(6)(7)~~ Full color photo-simulations showing the proposed site of the  
33 Communications Facility with photo-realistic representations of the proposed  
34 Communications Facility as it would appear from adjacent properties and the  
35 Public Rights-of-Way.  
36

1           ~~(7)~~(8) A written certification, under seal, from the engineer of record that  
2 the Communications Facility was designed to be structurally sound, and, at a  
3 minimum, in conformance with the Florida Building Code, and any other  
4 standards outlined in this section.  
5

6           ~~(8)~~(9)A statement within the application for a Permit that by execution of  
7 the application and by applying for the Permit, the Registrant agrees to the  
8 indemnification provisions set forth in Code Section 25-311 hereof.

9           (r) *City placement of other facilities within Public Rights-of-Way.* The City  
10 reserves the right to place and maintain, and permit to be placed or maintained, sewer,  
11 gas, water, electric, storm drainage, communications, and other types of utility facilities,  
12 cables or conduit, and to do, and to permit to be done, any underground and overhead  
13 installation or improvement that may be deemed necessary or proper by the City in  
14 Public Rights-of-Way occupied by the Registrant, and the City also reserves the right to  
15 reserve any portion of the Public Rights-of-Way for its own present or future use. The  
16 City further reserves without limitation the right to alter, change, or cause to be  
17 changed, the grading, installation, relocation, or width of the Public Rights-of-Way within  
18 the limits of the City and within said limits as same may from time to time be altered.  
19

20           (s) *Temporary raising or lowering of Communications Facilities to*  
21 *accommodate other authorized work.* A Registrant shall promptly, at the request of any  
22 Person holding a Permit issued by the City, temporarily raise or lower its  
23 Communications Facility to permit the work authorized by a permit. The expense of  
24 such temporary raising or lowering of such Facilities shall be paid by the Person, other  
25 than the City, requesting the same, and the Registrant shall have the authority to  
26 require such payment in advance. The Registrant shall be given not less than thirty (30)  
27 days advance written notice to arrange for such temporary relocation.  
28

29           (t) *Additional requirements.* The following additional requirements apply  
30 when a Registrant seeks authority to locate a Communications Facility in the Public  
31 Rights-of-Way:  
32

33           (1) *Prerequisite to seek location on private property or government*  
34 *property outside the Public Rights-of-Way.* Registrants seeking to place a  
35 Communications Facility within the Public Rights-of-Way are required to first  
36 attempt to locate their proposed Facility on private property or government-  
37 owned property outside of the Public Rights-of-Way before applying for a Permit  
38 to place their proposed Facilities within a Public Right-of-Way. An application for  
39 a Permit to place a Communications Facility or Wireless Communications

1 Facility within the Public Rights-of-Way shall include an explanation as to why  
2 the applicant is unable to locate the proposed Facilities on private property or  
3 government owned property outside of the Public Rights-of-Way within a 1,000  
4 foot radius of the proposed location for which application is being made.  
5

6 (2) *Other alternatives.* Registrants seeking to place, construct or  
7 modify a Communications Facility in the Public Rights-of-Way shall either:  
8

9 a. Co-locate the Communications Facility as set out in Florida  
10 Statutes § 365.172, as amended, or  
11

12 b. install the Communications Facility on an Existing Structure  
13 within the Public Rights-of-Way, including without limitation existing Utility  
14 Poles ~~power poles, light poles and telephone poles~~ or  
15

16 c. Repurpose an Existing Structure.  
17

18 d. The Permit application for Co-location must contain  
19 ~~attachment agreements,~~ a certification that the Registrant has a right to  
20 attach to the Facility being Co-located upon, if the Registrant does not  
21 own the facility being Co-located upon.  
22

23 For applications to place a new Communications Facility or replace an Existing  
24 Structure or Facility in the Public Rights-of-Way, the Permit application must  
25 contain engineering documentation demonstrating either:  
26

27 (i) That proposed Communications Facility can accommodate  
28 multiple Co-locations; or  
29

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

33 (iii) Why a Repurposed Structure would be better suited to or  
34 feasible for to the site.  
35

36 (3) *Emphasis on Arterial or Collector roadways.* Registrants seeking to  
37 construct Communications Facilities within the Public Rights-of-Way shall locate  
38 their Communications Facilities in the Rights-of-Way of Arterial or Collector  
39 Roadways, whenever possible. An application for a Permit to place

1 Communications Facilities in Public Rights-of-Way other than Arterial or Collector  
2 Roadways shall explain why the applicant is unable to locate the  
3 Communications Facilities in the Public Rights-of-Way of an Arterial or Collector  
4 Roadway and shall include an engineering analysis from the applicant  
5 demonstrating to the satisfaction of the City Engineer the need to locate the  
6 Communications Facilities in the areas proposed in the application. Upon  
7 delegation to the City of the regulatory authorities in this Article by the County,  
8 State and/or the U.S. Department of Transportation as to the right-of-way  
9 jurisdiction under Chapter 337, Florida Statutes, the City may enforce such  
10 regulation in this Article within the corporate boundaries of the City to the extent  
11 such authority has been delegated to the City as stated above .  
12

13 (4) *Not significantly impair view from residential structures.* All  
14 Communications Facilities shall be located such that views from residential  
15 structures are not significantly impaired. Where possible, newly installed  
16 Communications Facilities should be located in areas with existing foliage or  
17 other aesthetic features in order to obscure the view of the Communication  
18 Facility. The requirements of this subparagraph shall not apply to Repurposed  
19 Structures, when there is a one-to-one repurposing of an existing structure (i.e.  
20 existing Utility Pole ~~light pole~~).  
21

22 (5) *Mitigation of impacts; application to Development Review*  
23 *Committee / Property and Right Of Way Committee for recommendations.*  
24 Registrants are required to locate Communications Facilities within Public Rights-  
25 of-Way in a manner that minimizes their impact to the Surrounding  
26 Neighborhood. All applications for Permits to locate a Communications Facility in  
27 the Public Rights-of-Way shall be simultaneously served on the Development  
28 Review Committee / Property and Right-of-Way Committee for recommendations  
29 to the City Engineer on the following issue under Code Section 25-305, Permit  
30 application process:  
31

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

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

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

36 Sec. 25-305 (t) (8) – Stealth Design of Communications Facilities on  
37 Existing Structures in the Public Rights-of-Way  
38



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

13  
14 (6) *Mitigation of visual impact; Stealth Design.* Stealth Design for a  
15 Communications Facility shall be utilized wherever possible in order to minimize  
16 the visual impact of Communications Facilities on Surrounding Neighborhoods.  
17 Each application for a Permit to place a Communications Facility in the Public  
18 Rights-of-Way shall include:

19  
20 a. photographs and renderings accurately representative of  
21 distances, location and nature of the site where each Communications  
22 Facility is proposed to be located,

23  
24 b. photographs showing the location and condition of properties  
25 within a 1,000 ~~500~~ foot radius of the site of each proposed  
26 Communications Facility, and

27  
28 c. a description of the Stealth Design techniques proposed to  
29 minimize the visual impact of the Communications Facility and graphic  
30 depictions accurately representing the visual impact of the  
31 Communications Facility when viewed from the street and from Adjacent  
32 properties.

33  
34 (7) *Stealth Design of Communications Facilities in the Public Rights-of-*  
35 *Way.* Communications Facilities to be placed in the Public Rights-of-Way shall  
36 utilize Stealth Design in order to eliminate the need to locate any ground or  
37 elevated equipment (other than antennas) on the exterior of a Communications  
38 Facility. Communications Facilities to be placed on existing structures shall  
39 utilize Stealth Design in order to minimize the need to locate any ground or

1 elevated equipment (other than antennas) on the exterior of the structure. The  
2 use of foliage and vegetation around any approved ground equipment may be  
3 required by the City based on conditions of the specific area where the ground  
4 equipment is to be located. Landscape material appropriate to the location shall  
5 be determined and approved by the City's Landscape Plans Examiner under  
6 separate Permit. An Aerial WiFi Access Device is exempt from the provisions of  
7 Sec. 25-305 (t) (7).  
8

9 (8) *Stealth Design of Communications Facilities on Existing Structures*  
10 *in the Public Rights-of-Way.* Communications Facilities to be placed on Existing  
11 Structures in the Public Rights-of-Way shall utilize Stealth Design and shall  
12 include  
13

14 (a) top mounted antennas within enclosures that do not extend  
15 the diameter of the supporting Existing Structure at the level of antenna  
16 attachment; and  
17

18 (b) side mounted antennas within enclosures that extend no  
19 more than two (2) feet beyond the exterior dimensions of the supporting  
20 structure at the level of antenna attachment; and  
21

22 (c) not have antennas mounted less than eight feet above  
23 ground level; and  
24

25 (d) for purposes of calculating (a), (b), and (c) above, the  
26 dimensions of the supporting structure do not include any platform, rack,  
27 mount or other hardware used to attach an antenna or antenna enclosure  
28 to the supporting structure.  
29

30 (e) Communications Facility Tower or Poles that replicate trees  
31 or other natural objects are prohibited.  
32

33 (f) All Stealth Designed Communications Facilities components,  
34 including associated hardware shall be designed and constructed in  
35 accordance with the High Velocity Zone Criteria specified in the Florida  
36 Building Code, Chapter 16, as same may be amended from time to time,  
37 and considered as structures under Building Risk Category II. Design and  
38 wind load calculations shall be provided per ASCE 7 – 10 (170 MPH).

1 Calculations should be accompanied by Miami-Dade County Notice of  
2 Acceptance (NOA) / Product Approvals.  
3

4 (9) *Additional requirements.* The following additional requirements  
5 shall apply to Communications Facilities located in the Public Rights-of-Way:  
6

7 a. *Requirement to demonstrate that Stealth Design cannot be*  
8 *employed.* Each application to locate equipment at ground level on or  
9 adjacent to the exterior of a Communications Facility and each proposal to  
10 locate elevated equipment (other than antennas) on or adjacent to the  
11 exterior of a Communications Facility shall include engineering  
12 documentation demonstrating to the satisfaction of the City Engineer that  
13 the proposed Communications Facility cannot employ Stealth Design and  
14 that the proposed exterior location and configuration of equipment  
15 proposes the minimum equipment necessary to achieve the needed  
16 function. In order to avoid the clustering of multiple items of approved  
17 ground Communications Facility equipment or Communications Facility  
18 elevated equipment in a single area, only one Communications Facility  
19 equipment box may be located within 1,000 foot radius ~~linear feet~~ of any  
20 other Communications Facility equipment box, ~~such distance being~~  
21 ~~measured along the ordinary course of travel of the Public Right-of-Way~~  
22 ~~upon which the equipment box is located.~~  
23

24 b. *Maximum volume of exterior equipment where Stealth*  
25 *Design cannot be employed.* Where a Registrant demonstrates that  
26 Stealth Design cannot be employed, the individual approved exterior  
27 equipment boxes shall not exceed twelve (12) cubic feet in volume.  
28

29 c. *Distance separation between Communications Facilities in*  
30 *Public Rights-of-Way.* Communications Facilities in the Public Rights-of-  
31 Way must be spaced a minimum of 1,000 linear feet apart from each  
32 other, along the line of general vehicular travel, except that no distance  
33 requirement shall apply to Repurposed Structures. This subsection may  
34 be waived upon a factual showing, supported by sworn testimony or  
35 matters subject to official notice, demonstrating to the satisfaction of the  
36 City Engineer after consideration of the recommendations of the  
37 Development Review Committee / Property and Right-Of-Way Committee  
38 that locating a specific Communications Facility less than 1,000 linear feet  
39 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.

d. *Height of new Communications Facility Towers or Poles ~~Poles or Towers~~ in Public Rights-of-Way.* The height of new Communications Facility Tower or Pole ~~Poles and Towers~~ in the Public Rights-of-Way shall be no greater than thirty-six (36) feet, with an antenna not to exceed an additional four (4) feet; provided however that Registrants proposing Communications Facilities with antennas to be located on existing Utility Poles ~~Poles, Towers~~ or Repurposed Structures may increase the height of the existing appurtenant antenna, facilities Pole, Tower or Repurposed Structure up to six (6) feet, if necessary, to avoid adversely affecting existing attachments; and provided further that the overall height above Grade ~~ground~~ of any Communications Facility together with antenna shall not exceed forty (40) feet. Height ~~height~~ shall be measured from Grade and shall include the base pad.

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

f. *No signage.* Registrants shall not place signage on Communications Facilities installed in Public Rights-of-Way, unless otherwise required by Federal or State statute, provided, however, that

1 Repurposed Structures that lawfully supported signage before being  
2 repurposed may continue to support signage as otherwise permitted by  
3 law.  
4

5 g. *Prohibition against Front Yard location within Residential*  
6 *Blocks.* No Communications Facility shall be placed within a Public Right-  
7 of-Way that Abuts any Front Yard in Residential Blocks. Co-location of  
8 Communications Facilities within Public Rights-of-Way that abut Front  
9 Yard locations within Residential Blocks shall be prohibited.  
10

11 h. *Limitations on locations in Corner Yards within Residential*  
12 *Blocks.* A Communications Facility within the Public Rights-of-Way  
13 abutting a Corner Yard of a Corner Lot within a Residential Block shall not  
14 be placed any farther than ten (10) feet from the neighboring property line  
15 of the Lot abutting and adjacent to the Corner Lot.  
16

17 i. *Sight triangles.* No Communications Facility shall be  
18 constructed or installed within a triangular shaped area of land, known as  
19 a sight triangle, as defined in U.L.D.R. Section 47-35, Definition, and  
20 measured as follows:  
21

22 (i) Ten (10) feet from the intersection point of the edge of  
23 a driveway and curb, or in the event that there is no curb, the edge  
24 of the alley or street pavement; or  
25

26 (ii) Fifteen (15) feet from the intersection point of the  
27 extended property lines at an alley and a street; or  
28

29 (iii) Twenty-five (25) feet from the intersection point of the  
30 extended property lines at a street and a street; or  
31

32 (iv) The sight triangle requirements may be reduced to no  
33 less than ten (10) feet, when the City Engineer on a case-by-case  
34 basis finds that the proposed reduction complies with all City  
35 Engineering standards and the City Engineer shall take into  
36 consideration neighborhood characteristics such as the location of  
37 schools, parks and other community facilities, pedestrian facilities  
38 such as adequate sidewalks, street characteristics such as

1 pavement with, width of swale (right-of-way line to curb or edge of  
2 pavement for vehicular travelways) the curvature of the street,  
3 speed limits and other similar elements.

4 Sight triangles located at the intersection of a local street or  
5 driveway within a right-of-way under county, state or federal jurisdictions,  
6 may be subject to the sight triangle requirements of those jurisdictions.  
7

8 j. *Distance separation from edge of pavement.* No  
9 Communications Facility shall be constructed, operated or maintained in  
10 the Public Rights-of-Way in violation of the State of Florida Department of  
11 Transportation Manual of Uniform Minimum Standards for Design,  
12 Construction and Maintenance for Streets and Highways, Table 3-12,  
13 Minimum Width of Clear Zones. In accordance with Table 3-12, the City  
14 Engineer shall have the authority to reduce the four (4) foot minimum  
15 offset identified in Table 3-12 where that offset cannot be reasonably  
16 obtained and other alternatives are deemed impractical, the City Engineer  
17 shall have the authority to decide reductions in the clear zone in  
18 accordance with the above referenced Table 3-12.  
19

20 k. *Distance separation from existing sidewalk.* No newly  
21 installed Communications Facility shall be constructed, operated or  
22 maintained in the Public Right-of-Way within one (1) foot of an existing  
23 sidewalk. Co-location on existing Communication Facility Towers or Poles  
24 ~~or Towers~~, and use of Repurposed Structures are exempt from this  
25 requirement.  
26

27 l. *Prohibition against placement on certain Collector and Local*  
28 *Roadways where City has plans for sidewalks.* No Communications  
29 Facility shall be constructed, installed, operated or maintained in the swale  
30 area on the side of a Collector Roadway or Local Roadway where the City  
31 has plans to install a sidewalk of five (5) feet in width or more, nor shall  
32 such Communications Facility be located in such a manner that would  
33 preclude a five (5) foot clear pathway for the planned sidewalk.  
34

35 m. *Installation at outermost boundary of Public Rights-of-Way.*  
36 Where a superior site design results from placement of a Communications  
37 Facility at or near the outermost boundary of the Public Rights-of-Way, the  
38 farthest distance practicable from the centerline of the Public Right-of-Way  
39 and edge of pavement is encouraged. To the extent that the location of

1 the sidewalk within the Public Right-of-Way precludes achievement of a  
2 superior site design or otherwise precludes compliance with all other  
3 requirements of this Article, then the City Engineer or Registrant may  
4 propose and the Registrant may include in the Permit application a  
5 proposed re-routing of the sidewalk at its own expense, in order to achieve  
6 such superior site design or otherwise meet other requirement of this  
7 Article.  
8

9 n. *Maintenance and Graffiti plan.* Each Communications  
10 Facility within the Public Rights-of-Way, including any appurtenant  
11 features incorporated therewith under this Article shall be maintained in a  
12 neat and clean condition at all times. Specifically, but not without limiting  
13 the generality of the foregoing, each Communications Facility in the Public  
14 Rights-of-Way and appurtenant features shall be regularly maintained so  
15 that:  
16

17 (i) They are free of Graffiti visible from the Public Rights-  
18 of-Way or from the Surrounding Neighborhood. All Graffiti shall be  
19 removed within two (2) days from receipt of notice thereof by the  
20 City that Graffiti exists on the Communications Facility Towers or Poles  
21 ~~or Tower~~ or appurtenant equipment thereof. A fine of \$50.00 per  
22 day shall be imposed for each and every day of non-compliance  
23 after receipt of notice.  
24

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

30  
31 (iii) The exterior of any Communications Facility shall not be  
32 used for Signage purposes.

33  
34 o. *Exterior finish.* Communications Facilities, not requiring FAA  
35 painting or marking, shall have an exterior, hard durable finish which  
36 enhances compatibility with adjacent uses, as approved by the City  
37 Engineer..  
38

1           (10) *Other state and federal requirements.* The City's action on  
2 proposals to place, construct or modify Communications Facilities shall be  
3 subject to the standards and time frames set out in Florida Statutes § 365.172,  
4 47 USC § 1455(a), and Orders issued by the FCC, as they may be amended  
5 from time to time.  
6

7           (u) The obligations imposed by the requirements of Sections 25-305 (t) (1) –  
8 (10), above, upon Registrants proposing to place or maintain Communications Facilities  
9 in the Public Rights-of-Way shall also apply to Registrants proposing to place or  
10 maintain any other type of communications facility in Public Rights-of-Ways, if that other  
11 type of communications facility involves placement of over-the-air radio transmission or  
12 reception equipment in the Public Rights-of-Way.  
13

14           (v) *No Permit fees for work under this Article.* Pursuant to Florida Statutes §  
15 337.401(3)(c)(1)(b) and other applicable provisions of law, and notwithstanding any  
16 other provisions of this Code, the City hereby elects not to charge Permit fees to any  
17 Registrant for Permits to do work under this Article in the Public Rights-of-Way.  
18

19           (w) *Issuance of Permit in violation of Code or construction in violation of Code.*  
20

21           (1) The issuance of a Permit for a Communications Facility shall not be  
22 construed as a right to installation, construction or maintenance of the  
23 Communications Facility that fails to meet the requirements of this Article.  
24

25           (2) The issuance of a Permit for a Communications Facility shall not be  
26 deemed or construed to be a Permit for or approval of any violation of any of the  
27 provisions of this Article. No Permit presuming to give authority to violate or  
28 cancel the provisions of Chapter 25 of this Code shall be void and invalid except  
29 insofar as the work or use which it authorizes is lawful.  
30

31           (3) The issuance of a Permit upon the application for Permit shall not  
32 prevent the City Engineer from thereafter requiring the correction of errors when  
33 in violation of Chapter 25 of this Code.  
34

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

36

37           The City may suspend a Permit for work in the Public Rights-of-Way for one or  
38 more of the following reasons:  
39



- 1 (1) Violation of Permit conditions, including conditions set forth in the Permit,  
2 this Article or other applicable City ordinances, codes or regulations  
3 governing placement or maintenance of Communications Facilities or in the  
4 Public Rights-of-Way;  
5  
6 (2) Misrepresentation or fraud by Registrant in a Registration or Permit  
7 application to the City;  
8  
9 (3) Failure to properly renew, or ineffectiveness of Registration; or  
10  
11 (4) Failure to relocate or remove facilities as may be lawfully required by the  
12 City.  
13

14 Upon the recommendation of a suspension of the Permit by the City Engineer, the City  
15 Engineer shall provide notice and an opportunity to cure any violation of subsections (1)  
16 through (4) above, each of which shall be reasonable under the circumstances. The  
17 suspension shall terminate upon curing of the underlying violation(s).  
18

19 **Sec. 25-307. Appeals.**  
20

21 (a) Any person aggrieved by any action or decision of the City Engineer with  
22 regard to any aspect of Registration or issuance of or suspension of a Permit under this  
23 Article may appeal to the City Manager by filing with the City Manager, within 30 days  
24 after receipt of a written decision of the City Engineer, a notice of appeal, which shall set  
25 forth concisely the action or decision appealed from and the reasons or grounds for the  
26 appeal. No requests for extension of time for filing an appeal will be permitted; provided  
27 however, the right of appeal of any action or decision of the City Engineer with regard to  
28 an aspect of Registration or issuance of or suspension of a Permit under this Article  
29 shall not be available in the event a citation violation notice has been given pursuant to  
30 the terms of Code Sec. 11-17, et seq., the right of appeal under a citation violation  
31 notice procedure being provided for under Code Section 11-14.  
32

33 (b) The only appeal that shall be considered with respect to an action or  
34 decision of the City Engineer with regard to any aspect of Registration or issuance or  
35 suspension of a Permit under this Article are those appeals that allege that there is error  
36 in any order, requirement, decision, or determination made by the City Engineer in the  
37 enforcement of this Article.  
38

1 (c) The City Manager shall set such appeal for a hearing held by the City  
2 Manager on the very next available date following such notice of appeal and cause  
3 notice thereof to be given to the appellant and the City Engineer and the City Engineer  
4 shall present the case on behalf of the City.  
5

6 (d) The City Manager shall hear and consider all facts material to the appeal  
7 and render a decision within 20 calendar days of the date of the hearing. The City  
8 Manager may affirm, reverse or modify the action or decision appealed from; provided,  
9 that the City Manager shall not take any action which conflicts with or nullifies any of the  
10 provisions of this Article.  
11

12 (e) Any person aggrieved by any decision of the City Manager on an appeal  
13 shall be entitled to apply to the Circuit Court for a review thereof by Petition for Writ of  
14 Certiorari in accordance with the applicable court rules.  
15

16 **Sec. 25-308. Involuntary termination of Registration.**  
17

18 (a) The City Manager may terminate a Registration if:

- 19 (1) A federal or state authority suspends, denies, revokes a Registrant's  
20 certification or license required to provide Communications Services;  
21  
22 (2) The Registrant's placement or maintenance of a Communications  
23 Facility in the Public Rights-of-Way presents an extraordinary danger  
24 to the general public or other users of the Public Rights-of-Way and  
25 the Registrant fails to remedy the danger promptly after receipt of  
26 written notice;  
27  
28 (3) The Registrant violates Florida Statutes § 843.025, as same may be  
29 amended from time to time;  
30  
31 (4) The Registrant violates Florida Statutes § 843.165, as same may be  
32 amended from time to time;  
33  
34 (5) The Abandonment by the Registrant of all of its Communications  
35 Facilities in the Public Rights-of-Way and noncompliance with City  
36 Code Section 25-315 hereof; or  
37  
38 (6) Repetitive violations of any of the provisions of this Article.  
39

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

19  
20 (c) In the event of termination, the former Registrant shall: (1) notify the City  
21 of the assumption or anticipated assumption by another Registrant of ownership of the  
22 Registrant's Communications Facilities in the Public Rights-of-Way; or (2) provide the  
23 City with an acceptable plan for disposition of its Communications Facilities in the Public  
24 Rights-of-Way. If a Registrant fails to comply with this subsection (c), which  
25 determination of noncompliance is subject to appeal as provided in City Code Section  
26 25-307 hereof, the City may exercise any remedies or rights it has at law or in equity,  
27 including, but not limited to requiring the Registrant within ninety (90) days of the  
28 termination, or such longer period as may be agreed to by the Registrant and City  
29 Manager, to remove some or all of the Communications Facilities from the Public  
30 Rights-of-Way and restore the Public Rights-of-Way to its original condition before the  
31 initial installation of the facilities.

32  
33 (d) In any event, a terminated Registrant shall take such steps as are  
34 necessary to render safe every portion of the Communications Facilities remaining in  
35 the Public Rights-of-Way of the City.

36  
37 (e) In the event of termination of a Registration, this section does not  
38 authorize the City to cause the removal of Communications Facilities used to provide  
39 another service for which the Registrant or another person who owns or exercises

1 physical control over the facilities holds a valid certification or license with the governing  
2 federal or state agency, if required for provision of such service, and is registered with  
3 the City, if required.  
4  
5

6 **Sec. 25-309. Existing communications facilities in public rights-of-way.**  
7

8 A Communications Services Provider, Communications Facility Provider or Pass-  
9 through Provider with an existing Communications Facility in the Public Rights-of-Way  
10 of the City has 60 days from the effective date of this Article to comply with the terms of  
11 this Article, including, but not limited to, Registration, or be in violation thereof  
12

13 **Sec. 25-310. Insurance.**  
14

15 (a) A Registrant shall provide, pay for and maintain satisfactory to the City the  
16 types of insurance described herein. All insurance shall be from responsible companies  
17 duly authorized to do business in the State of Florida and having an A. M. Best A-VII or  
18 better rating. All liability policies shall provide that the City is an additional insured as to  
19 the activities under this Article. The required coverages must be evidenced by properly  
20 executed certificates of insurance forms. The certificates must be signed by the  
21 authorized representative of the insurance company and shall be filed and maintained  
22 with the City annually. Thirty (30) days advance written notice by registered, certified or  
23 regular mail or facsimile as determined by the City must be given to the City's Risk  
24 Manager of any cancellation, intent not to renew or reduction in the policy coverages.  
25 The insurance requirements may be satisfied by evidence of self-insurance or other  
26 types of insurance acceptable to the City.  
27

28 (b) The limits of coverage of insurance required shall be not less than the  
29 following:  
30

- 31 (1) Worker's compensation and employer's liability insurance.  
32 Worker's compensation—Florida statutory requirements.  
33  
34 (2) Comprehensive general liability.  
35 Bodily injury and property damage: \$1,000,000.00 combined single  
36 limit each occurrence.  
37  
38 (3) Automobile liability.

1                   Bodily injury and property damage: \$1,000,000.00 combined single  
2                   limit each accident.  
3

4           (c)     The coverage provided herein shall be for a period not less than the  
5 period for which the indemnification obligations under City Code Section 25-311 hereof  
6 are imposed.  
7

8     **Sec. 25-311. Indemnification.**  
9

10           (a)     A Registrant shall, at its sole cost and expense, indemnify, hold harmless,  
11 and defend the City, its officials, boards, members, agents, and employees, against any  
12 and all claims, suits, causes of action, proceedings, judgments for damages or equitable  
13 relief, and costs and expenses incurred by the City arising out of the placement or  
14 maintenance of its Communications Facilities in the Public Rights-of-Way, regardless of  
15 whether the act or omission complained of is authorized, allowed or prohibited by this  
16 Article (hereinafter, "claims"); provided, however, that a Registrant's obligation  
17 hereunder shall not extend to any claims caused by the gross negligence or wanton or  
18 willful acts of the City or any of its officers, servants, agents, or employees. This  
19 indemnification includes, but is not limited to, the City's reasonable attorneys' fees  
20 incurred in defending against any such claim, suit or proceedings. The City agrees to  
21 notify the Registrant, in writing, within a reasonable time of the City receiving notice, of  
22 any issue it determines may require indemnification. Nothing contained in this section  
23 shall be construed or interpreted: (1) as denying to either party any remedy or defense  
24 available to such party under the laws of the State of Florida; or (2) as a waiver of  
25 sovereign immunity beyond the waiver provided in Florida Statutes § 768.28 and within  
26 the limits provided therein, as it may be amended from time to time.  
27

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

35           (c)     The indemnification requirements under this Section shall survive and be  
36 in full force and effect for a period of five (5) years after the termination or cancellation  
37 of a Registration.  
38

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

2  
3 (a) Prior to issuing a Permit where the work under the Permit will require  
4 restoration of Public Rights-of-Way, the City Engineer shall require a performance bond  
5 by a surety duly authorized to do business in the State of Florida and having an A.M.  
6 Best A-VII rating or better. The bond shall be in the amount of 125 % of the  
7 ~~construction and~~ restoration cost estimate of the Public Rights-of-Way, as certified by a  
8 professional engineer licensed in the State of Florida, to secure proper performance  
9 under the requirements of any Permits and the restoration of the Public Rights-of-Way.  
10 Twelve (12) months after the completion of the restoration of the Public Rights-of-Way  
11 in accordance with the bond, the Registrant may eliminate the bond. However, the City  
12 Engineer may subsequently require a new bond for any subsequent work by the same  
13 Registrant in the Public Rights-of-Way. The performance bond shall provide that: "For  
14 twelve (12) months after issuance of this bond, this bond may not be canceled, or  
15 allowed to lapse, until sixty (60) days after receipt by the City, by certified mail, return  
16 receipt requested, of a written notice from the issuer of the bond of intent to cancel or  
17 not to renew." Notwithstanding the foregoing, a performance bond will not be required if  
18 the cumulative costs of restoration for projects for which Permits have been issued and  
19 for which performance bonds are still outstanding is less than the amount of the security  
20 fund filed by the Registrant under City Code Section 25-313.

21  
22 (b) The rights reserved by the City with respect to any performance bond  
23 established pursuant to this section are in addition to all other rights and remedies the  
24 City may have under this Article, or at law or equity.

25  
26 (c) The rights reserved to the City under this section are in addition to all  
27 other rights of the City, whether reserved in this Article, or authorized by other law, and  
28 no action, proceeding or exercise of a right with respect to the construction bond will  
29 affect any other right the City may have.

30  
31 **Sec. 25-313. Security fund.**

32  
33 At the time of Registration, the Registrant shall be required to file with the City,  
34 for City approval, an annual bond, cash deposit or irrevocable letter of credit in the sum  
35 of \$50,000.00, having as a surety a company qualified to do business in the State of  
36 Florida having an A. M. Best A-VII rating or better, which shall be referred to as the  
37 "security fund." The security fund shall be maintained from such time through the earlier  
38 of: (a) transfer, sale, assignment or removal of all of the Registrant's Communications  
39 Facilities or Wireless Communications Facilities in the City's Public Rights-of-Way; or

1 (b) twelve (12) months after the termination or cancellation of any Registration. The  
2 security fund shall be conditioned on the full and faithful performance by the Registrant  
3 of all requirements, duties and obligations imposed upon the Registrant by the  
4 provisions of this Article. The security fund shall be furnished annually or as frequently  
5 as necessary to provide a continuing guarantee of the Registrant's full and faithful  
6 performance at all times. In the event a Registrant fails to perform its duties and  
7 obligations imposed upon the Registrant by the provisions of this Article, subject to City  
8 Code Section 25-314 of this Article, there shall be recoverable, jointly and severally  
9 from the principal and surety of the security fund, any damages or loss suffered by the  
10 City as a result, including the full amount of any compensation, indemnification or cost  
11 of removal, relocation or Abandonment of any facilities of the Registrant in the Public  
12 Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of  
13 the security fund.

14  
15 **Sec. 25-314. Enforcement remedies.**

16  
17 (a) A Registrant's failure to comply with provisions of this Article shall  
18 constitute a violation of this Code and shall subject the Registrant to the penalties  
19 provided by City Code § 1-6, termination of Registration in accordance with the  
20 provisions of City Code § 25-308, suspension of permit under the provisions of City  
21 Code § 25-306 and a Registrant who is alleged to have violated any provisions of this  
22 Article may be further subject to a civil penalty in accordance with the provisions of  
23 Code Section 11-25 and the procedures promulgated under Code Section 11-17, et  
24 seq. or injunctive relief as otherwise provided by law.

25  
26 (b) Failure of the City to enforce any requirements of this Article shall not  
27 constitute a waiver of the City's right to enforce that violation or subsequent violations of  
28 the same type or to seek appropriate enforcement remedies.

29  
30 **Sec. 25-315. Abandonment of a Communications Facility.**

31  
32 (a) Registrants shall comply with the provisions of City Code Sections 25-303  
33 (g) and 25-305 (c) (9), relating to Abandoned equipment and the addition of equipment.  
34 Further, upon Abandonment of a Communications Facility or Wireless Communications  
35 Facility owned by a Registrant in the City's Public Rights-of-Way, the Registrant shall  
36 notify the City, in writing, within thirty (30) days. Additionally, Registrants shall comply  
37 with the provisions of City Code Section 25-303(g) relating to bi-annual Registration and  
38 updating of facilities.

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

6  
7 (1) compromises safety at any time for any Public Rights-of-Way user or  
8 during construction or maintenance in any Public Rights-of-Way;

9  
10 (2) prevents another person from locating facilities in the area of the  
11 Public Rights-of-Way where the abandoned facility is located when  
12 other alternative locations are not reasonably available; or

13  
14 (3) creates a maintenance condition that is disruptive to the Public  
15 Rights-of-Way's use.

16  
17 (4) In the event of (2) above, the City may require the third person to  
18 coordinate with the Registrant that owns the existing facility for joint  
19 removal and placement, where agreed to by the Registrant.  
20

21 (c) In the event that the City does not direct the removal of the Abandoned  
22 Communications Facility, the Registrant, by its notice of Abandonment to the City, shall  
23 be deemed to consent to the alteration or removal of all or any portion of the facility by  
24 the City or another person at such third party's cost.  
25

26 (d) If the Registrant fails to remove all or any portion of an Abandoned facility  
27 as directed by the City within a reasonable time period, not to exceed sixty (60) days, as  
28 may be required by the City under the circumstances, the City may perform such  
29 removal and charge the cost of the removal against the Registrant and utilize the bond  
30 required pursuant to City Code Section 25-313, for this purpose.  
31

### 32 **Sec. 25-316. Reports and records; inspections.**

33

34 (a) A Registrant shall provide the following documents to the City as received  
35 or filed.  
36

37 (1) Upon reasonable request, any pleadings, petitions, notices and  
38 documents, which may directly impact the obligations under this Article and



1 which are reasonable necessary for the City to protect its interests under this  
2 Article.

3  
4 (2) Any request for protection under bankruptcy laws, or any judgment  
5 related to a declaration of bankruptcy.

6  
7 (b) Nothing in this section shall affect the remedies a Registrant has available  
8 under applicable law.

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

12  
13 (d) The City shall keep any documentation, books and records of the  
14 Registrant confidential to the extent required or permitted under Florida law.  
15

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

17  
18 In the event a Registrant's performance of or compliance with any of the  
19 provisions of this Article is prevented by a cause or event not within the Registrant's  
20 control, such inability to perform or comply shall be deemed excused and no penalties  
21 or sanctions shall be imposed as a result, provided, however, that such Registrant uses  
22 all practicable means to expeditiously cure or correct any such inability to perform or  
23 comply. For the purposes of this section, cause or events not within a Registrant's  
24 control shall include, but not be limited to, acts of God, floods, earthquakes, landslides,  
25 hurricanes, fires and other natural disasters, acts of public enemies, riots or civil  
26 disturbances, sabotage, strikes and restraints imposed by order of a governmental  
27 agency or court. Causes or events within Registrant's control, and thus not falling within  
28 this section, shall include, without limitation Registrant's financial inability to perform or  
29 comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of  
30 Registrant's directors, officers, employees, contractors or agents.  
31

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

33  
34 (a) The City reserves the right to amend this Article as it shall find necessary  
35 in the lawful exercise of its police powers.  
36

(b) The provisions of this Article shall be applicable to all Communications Facilities placed in the City's Public Rights-of-Way within the City on or after the effective date of this ordinance and shall apply to all existing Communications Facilities placed in the Public Rights-of-Way prior to the effective date of this ordinance, to the full extent permitted by state and federal law, except that any provision of this Article regarding the size, composition, or location of Communications Facilities shall not apply to Communications Facilities lawfully placed within any Public Right-of-Way within the City prior to the effective date of this ordinance.

**Sec. 25-319. No liability or warranty.**

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

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

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

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

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

PASSED SECOND READING this the \_\_\_\_ day of \_\_\_\_\_, 2016.

1  
2  
3  
4 ATTEST:  
5  
6

7 \_\_\_\_\_  
8 City Clerk  
9 JEFFREY A. MODARELLI  
10

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

11 L:\RBD\Telecommunications\2nd Reading\401.03.29.16.docx  
12 L:\COMM 2016\Ordinances\Apr 5\rbd - Telecommunications.2rev.docx  
13