CITY OF LAUDERHILL, FLORIDA

ORDINANCE NO. 20O-06-117

AN ORDINANCE OF THE CITY OF LAUDERHILL, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF LAUDERHILL BY AMENDING PART I, CHAPTER 12, ARTICLE IX, DIVISION 4 ("WIRELESS SYSTEMS") TO CREATE THE "COMMUNICATIONS RIGHTS-OF-WAY ORDINANCE," AS PROVIDED HEREIN; PROVIDING INTENT AND PURPOSE, APPLICABILITY AND AUTHORITY TO IMPLEMENT; PROVIDING DEFINITIONS; PROVIDING FOR REGISTRATION FOR PLACING OR MAINTAINING COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; PROVIDING REQUIREMENT OF A PERMIT; PROVIDING APPLICATION REQUIREMENTS AND REVIEW PROCEDURES; PROVIDING FOR BONDS; PROVIDING FOR CONSTRUCTION METHODS; PROVIDING DEVELOPMENT AND OBJECTIVE DESIGN STANDARDS; PROVIDING FOR FEES AND TAXES; PROVIDING ENFORCEMENT REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, DESORAE GILES-SMITH).

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

WHEREAS, the City Commission of the City of Lauderhill has determined that the following amendments promote and protect the general health, safety and welfare of the residents of the City of Lauderhill by regulating the siting of communications facilities and utility poles within the public rights-of-way; and,

WHEREAS, this Ordinance accommodates the growing needs and demand for communications services; and

WHEREAS, this Ordinance seeks to address expressly new communications facilities and technologies, while also protecting, preserving, and maintaining the public safety and aesthetic characters of areas where such public rights-of-way exist; and

WHEREAS, F.S. § 337.401 addresses *inter alia*, the authority of local governments to regulate the placement and maintenance of communications facilities in the public rights-of-way; and

WHEREAS, F.S. § 337.401(3)(g) provides that a local government may not use its authority over the placement of facilities in its rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or Federal Communications

Commission, including, but not limited to, the operations, systems, qualifications, services, service quality, service territory, and prices of a provider of communications services; and

WHEREAS, F.S. Chapter 610 addresses the provision of cable and video service in Florida, and provides: "Notwithstanding any other provision of law, a municipality… may require the issuance of a permit in accordance with and subject to s. 337.401 to a certificateholder that is placing and maintaining facilities in or on a public right-of-way in the municipality or county. In accordance with s. 337.402, the permit may require the permit holder to be responsible, at the permit holder's expense, for any damage resulting from the issuance of such permit and for restoring the public right-of-way to its original condition before installation of such facilities. The terms of the permit shall be consistent with construction permits issued to other providers of communications services placing or maintaining communications facilities in a public right-of-way." and

WHEREAS, in 2017, Florida enacted the Advanced Wireless Infrastructure Deployment Act, F.S. § 337.401(7) ("Small Cell Statute"); and

WHEREAS, the Small Cell Statute addresses local governments' regulation of the installation of utility poles in the public rights-of-way to collocate small wireless facilities, and the placement and maintenance of small wireless facilities and micro wireless facilities in the public rights-of-way; and

WHEREAS, the Small Cell Statute provides that a local government may adopt by ordinance objective design standards requiring a small wireless facility to meet reasonable location context, color, camouflage, and concealment requirements, objective design standards requiring a new utility pole intended to support the collocation of small wireless facilities that replace an existing facility to be of substantially similar design, material, and color, and reasonable spacing requirements concerning the location of ground-mounted equipment; and

WHEREAS, the Small Cell Statute also provides that a local government may adopt by ordinance provisions for insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, municipal liability, and municipal warranties provided such provisions are reasonable and nondiscriminatory; and

WHEREAS, in 2019, the Florida Legislature enacted and the Governor approved CS/CS/CS/SB 1000 ("SB 1000"), amending F.S. § 337.401, including portions of the Small Cell Statute; and

WHEREAS, it is the City Commission's intent to exercise its authority over the placement and maintenance of communications facilities in its rights-of-way to the full extent consistent with applicable state and federal law; and

WHEREAS, it is the City Commission's further intent to treat each such communications services provider in a reasonable, nondiscriminatory, and competitively neutral manner in exercising such authority to the extent consistent with applicable law; and,

WHEREAS, the City's rights-of-way are essential for the travel of persons and the transport of goods throughout the City and are a unique and physically limited resource requiring proper management by the City to ensure public safety, maximize efficiency, minimize costs to City taxpayers for the foregoing uses, reasonably balance the potential inconvenience to and negative effects upon the public from the placement and maintenance of communications facilities in the rights-of-way against the substantial benefits that accrue from such placement and maintenance, and promote the public health, safety and general welfare; and

WHEREAS, a duly noticed public hearing as required by law was held by the City Commission of the City of Lauderhill, at which public hearing all residents and interested persons were given an opportunity to be heard; and,

WHEREAS, the City Clerk submitted the proposed ordinance to the Secretary of State pursuant to F.S. § 337.401(3)(d); and

WHEREAS, the City Commission of the City of Lauderhill, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Lauderhill, Florida and that it advances a significant and important governmental interest,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL as follows:

SECTION 1. **Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed.

SECTION 2. **City Code Amended.** The City Commission hereby amends Part I, Chapter 12, Article IX, Telecommunications, Division 4, Wireless Systems, Sections 12-171 – 12-181 of the Code of Ordinances, City of Lauderhill, Florida, as follows[1]:

Part I, Chapter 12, Article IX, Division 4 – ~~WIRELESS SYSTEMS~~ COMMUNICATIONS RIGHTS-OF-WAY

Sec. 12-171.- ~~License Requirement.~~ Title.

This chapter shall be known and may be cited as the "City of Lauderhill Communications Rights-of-Way Ordinance."

~~(a) No person, or firm, whether public, private, nonprofit or not-for-profit, shall construct, operate or continue to operate a wireless communications system which occupies any part of the streets, public ways and public places within the city without having been issued a wireless telecommunication permit by the city.~~

[1] Words ~~stricken through~~ are intended to be deleted; words underlined are intended to be added.

~~(b) The city has chosen not to levy permit fees for telecommunication permits, in accordance with F.S. § 202.19, as existing or as may be amended.~~

~~(c) Privately owned lines or cables placed by the wireless communications system operator to support the backhaul portion of the network are subject to division 3 of this article, unless the operator is a franchised telephone company or franchised cable television.~~

~~(d) Nothing in this division shall be construed to limit the liability of the permittee for all applicable federal, state and local taxes.~~

~~(e) Any holder of a wireless telecommunication permit must be a member of "Call Candy" Utility Notification Center (1-800-282-8881) or any subsequent alert and warning system to protect and locate their underground and pole mount structures.~~

Sec. 12-172. ~~Definitions.~~ Purpose.

~~For the purposes of this division and any permit in accordance herewith, the following terms, phrases, words and their derivations shall have the meanings given herein unless otherwise specifically provided in this division, or unless the context clearly indicates otherwise, or unless such meanings would be inconsistent with the manifest intent of the city council.~~

~~*Backhaul network* means the physical network that connects micro cells and pico cells to a central switching point or the public switched telephone network (PSTN).~~

~~*Cell site* means the location of a transmitter/receiver and backhaul network interface which provides telephonic or telecommunications type service to subscribers. The locations include single pole mounted receiver/transmitter units, receiver/transmitter units located on new or existing antennas structures, receiver/transmitter units located in buildings and on roof tops.~~

~~*FCC* means the Federal Communications Commission or its legally appointed successor.~~

~~*Local access transport area (LATA)* means that geographic area and communication system in which the city is located and in which Southern Bell or subsequent telephone company is authorized by the public service commission of the state to provide local exchange access telecommunications services.~~
~~*Local telephone service* means:~~

~~(1) The access to a local franchised telephone system, and the privilege of telephonic-quality communication, with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or~~

~~(2) Any facility or service provided in connection with a service described in subsection (1).~~

~~The term "local telephone service" does not include any service which is a toll telephone service; personal communications service; private communication service; cellular mobile telephone or telecommunication service; regularized mobile telephone or telecommunication service; regularized mobile radio, or pagers and paging service, including but not limited to, "beepers" and~~

~~any other form of mobile and portable one-way or two-way communication; or telephone typewriter or computer exchange service.~~

~~*Micro cell* means a transmitter/receiver system used to communicate to the subscriber's handset; typically with a range of six hundred (600) to one thousand (1,000) meters.~~

~~*Pico cell* means a transmitter/receiver system used to communicate to the subscriber's handset; typically with a range of two hundred (200) to six hundred (600) meters.~~

~~*Permittee* means the person, organization, firm, profit or not-for-profit corporation, or its legal successor in interest who is issued a wireless communication permit or permits in accordance with the provisions of this division for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repairing, rebuilding or replacing of a wireless communications system in the city.~~

~~*Private communications system* means any system of communications lines, cables, equipment or facilities which are used to provide a telephone, video, data, telemetry, intercom or telecommunications service that in any manner occupies easements, streets, public ways or public places within the corporate limits of the city, as now or in the future may exist. "Private communications system" does not include any part of a state-franchised or municipally franchised local exchange telephone company or part of a cable television system or telephone system franchised by the city, or any part of a federal-, state-, county-or local government-owned telecommunications system.~~

~~*Toll telephone service* means:~~

~~(1) A telephonic-quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication; or~~

~~(2) A service which entitles the subscriber or user, upon the payment of a periodic charge which is determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area (LATA) in which the station provided with this service is located.~~

~~*Total gross revenues* means all cash, credits, or property of any kind or nature reported as revenue items to the permittee's audited income statements arising from or attributable to the sale, lease, rental or exchange of wireless communications services or equipment by the permittee within the city, or in any way derived from the operation of its wireless communications system, including, but not limited to, any interconnection between its system in the city and any system whatsoever. This sum shall be the basis for computing the fee imposed pursuant to subsection 12-171(b)(2). Such sum shall not include any bad debts, deposits, promotional or vendor discounts or credits, no sales, service, occupation or other excise tax to the extent that such taxes are charged separately from normal service charges and are remitted by the permittee directly to the taxing authority.~~

~~*Wireless communication permit* means the privilege granted by the city by which it authorizes a~~

~~person, firm or corporation to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, rebuild or replace a wireless communications system that occupies any portion of the streets, public ways or public places within the city. Any permit issued in accordance herewith shall be a nonexclusive permit.~~

~~*Wireless communications system* means any system which uses a form of cellular telephony which allows business and residential subscribers to access and/or make telephone calls to each other through the wireless telecommunications system or over the public switched telephone network (PSTN) using small cordless telephone devices which communicate with limited range cells (transmitter/receiver sites) connected to a backhaul network.~~

The purpose of this chapter is:

(1) To establish a competitively neutral policy for the use of public rights-of-way for communications facilities;

(2) To protect the City's investment in the public right-of-way by providing for the payment of nondiscriminatory fees for the use of the rights-of-way by communications companies,

(3) To regulate the placement and maintenance of structures and facilities in the public rights-of-way pursuant to F.S. § 337.401; and

(4) To adopt and to administer reasonable rules and regulations not inconsistent with state and federal law, including the United States and Florida Constitutions, F.S. § 337.401, as it may be amended, the City's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996, the Spectrum Act, FCC regulations, and other federal and state law; to establish reasonable rules and regulations necessary to manage the placement and maintenance of communications facilities in the public rights-of-way by all communications services providers after the effective date of this Ordinance; and to minimize disruption to the public rights-of-way.

(5) Applicability.

a. This Ordinance shall apply to all facilities for communications services placed or maintained in the City public rights-of-way pursuant to F.S. § 337.401, including but not limited to any person holding a certificate of franchise authority pursuant to F.S. § 610.103, communications services providers, pass-through providers, and wireless providers. Persons seeking to place or maintain communications facilities on private property or other property to which the City, any municipality, Broward County, or any governmental entity has a fee simple or leasehold interest in real property, not within and exclusive of the public rights-of-way, located within the jurisdictional boundaries of the City shall comply with the applicable provisions of the City Land Development Code, Article III, Section 5.41, Telecommunication Facility Uses, to the extent it applies, unless such property is addressed expressly in this Ordinance. This Ordinance is not applicable to communication facilities outside the public rights-of-way, unless expressly addressed herein. Pursuant to this Ordinance, a person may be authorized to place or to maintain small wireless facilities, micro wireless facilities, fiber, cable, backhaul facilities or utility poles for collocation of small wireless facilities in the City public rights-of-way.

Wireless support structures, telecommunications towers and other wireless facilities, including but not limited to an antenna that is not part of a small wireless facility or micro wireless facility, shall not be allowed to be placed or maintained in the public rights-of-way, to the extent not inconsistent with applicable law. This Ordinance applies to the placement of conduit, fiber or cable for the purpose of providing backhaul or communications service. Consistent with F.S. § 337.401, this Ordinance applies to a cable or video service provider that has been issued and holds a certificate of franchise authority from the Florida Department of State pursuant to F.S. Chapter 610, that places or maintains a cable system or wireline facilities in the City's public rights-of-way. This Ordinance shall not apply to wireless or communications facilities owned by the City, and shall not apply to communications or wireless facilities owned by a person, including an electric cooperative, to the extent such facilities are utilized on an internal, non-commercial basis by said person. This Ordinance does not apply to the placement of electric utility poles for an electric distribution system located within the City public rights-of-way pursuant to a valid franchise agreement with the City. However, collocation of small wireless facilities on such utility poles and any other utility poles placed or maintained by a City franchised utility in the public rights-of-way will be governed by the applicable provisions of this Ordinance. Ordinances approving a franchise agreement with an electric utility shall remain in full force and effect, notwithstanding any provision of this Ordinance.

b. This Ordinance implements *inter alia*, the Advanced Wireless Infrastructure Deployment Act, F.S. § 337.401(7)("Small Cell Statute"). By adopting this Ordinance, the City does not waive any rights with respect to the Small Cell Statute including any rights that may exist under federal law, the Florida Constitution and the U.S. Constitution. In the event F.S. § 337.401, is repealed, amended, or overturned by a court of competent jurisdiction, or preempted by applicable federal law or regulation, in whole or in part, provisions of this Ordinance may no longer apply, in which case pending and future applications for communications facilities, including but not limited to, small wireless facilities, and utility poles intended to support the collocation of small wireless facilities in the public rights-of-way, will be governed by applicable law. In addition, permits issued pursuant to this Ordinance may be suspended or revoked, and facilities installed pursuant to this Ordinance or the Small Cell Statute may be required to be removed at the facility owner's expense, to the extent consistent with applicable law. It is the City's intent not to create any vested rights in placing and maintaining facilities addressed in F.S. § 337.401 in the public rights-of-way as a result of this Ordinance or any permit issued pursuant to this Ordinance, to the extent not inconsistent with applicable law.

c. To the extent any provision of this Ordinance conflicts with the Code of Ordinances, this Ordinance shall control.

d. This Ordinance shall be applicable to all communications facilities placed in the public rights-of-way on or after the effective date of this Ordinance, all pending applications for permits subject to 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. A person with existing communications facilities in the public rights-of-way shall comply with the registration and permitting requirements set forth in this Ordinance by the earlier of the following: ninety (90) days from the effective date of this Ordinance or prior to the issuance of a permit pursuant to this Ordinance. By way of clarification, this provision shall not require removal or modification of communications facilities placed or maintained in the public rights-of-way pursuant to a previously issued permit or otherwise lawfully placed in the public rights-of-way prior to the effective date of this Ordinance, unless such facilities are abandoned or otherwise required to be altered or removed consistent with this Ordinance or applicable law. Notwithstanding this provision, to the extent not inconsistent with applicable law, the City reserves its authority to require compliance with objective or camouflage design standards that may require concealment such as a wrap or landscaping of existing communications facilities in the public rights-of-way.

e. Reservation of rights. The City reserves the right to amend this Ordinance as it shall find necessary in the lawful exercise of its police powers.

(6) Authority to implement Ordinance. The City Manager is authorized to adopt, to modify, and to repeal rules and regulations to carry out the intent and purposes of this Ordinance**.**

Sec. 12-173. – ~~Length of Permit.~~Definitions.

~~(a) Any wireless communications permit issued by the city in accordance herewith shall be a nonexclusive permit for the use of the easements, streets, public ways or public places within the city, as specified in the wireless communications permit, for the erection, construction, reconstruction, operation, maintenance, dismantling, testing and use of a wireless communications system.~~

~~(b) Any wireless communications permit issued by the city shall continue in full force and effect so long as the permittee is in compliance with this division, all applicable federal, state and local ordinances and regulations, and the space occupied is not needed for a public purpose.~~

~~(c) In the event any wireless communications permit shall be revoked, the applicable wireless communications system shall, at the option of the city, be removed from the streets, public ways and public places at the sole expense of the permittee.~~

As used in this chapter: the following terms, phrases, words and derivations shall have the meanings given. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not otherwise defined in this Ordinance or in any permit that may be granted pursuant to this Ordinance shall be given the meaning set forth in the Communications Act of

1934, 47 U.S.C. §151 *et seq.*, as amended ~~or the Spectrum Act, 47 U.S.C. §1455(a)~~ (collectively the "Communications Act"), and if not defined in the Communications Act, as defined by Florida Statutes; and, if not defined by Florida Statutes, as defined in the City Code, and if not defined in the City Code, shall be construed to mean the common and ordinary meaning.

Abandonment or *Abandoned* shall mean the cessation of all uses of a communications facility for a period of one hundred eighty (180) or more consecutive days provided this term shall not include the cessation of all use of a communications facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the communications facility. By way of example, cessation of all use of a cable within a conduit, where the conduit continues to be used for some purpose or use accessory to the communications facility, shall not be *Abandonment* of a communications facility. In accordance with F.S. § 337.401(7)(j), a utility pole installed by a wireless infrastructure provider shall be deemed abandoned if a wireless service provider is not providing service through a small wireless facility collocated on such pole within nine (9) months after the application for the pole was approved or was deemed approved. The terms "Abandonment" or "Abandoned" are not intended to include a dropped line from a potential or existing customer in the event the communications services provider reasonably anticipates future use of the dropped line. In addition, underground communications facilities that have been placed out of service or deactivated, and that may not be left in place pursuant to the 2017 FDOT UAM, shall be considered abandoned.

Abut shall mean, when used in conjunction with a lot or parcel of land or public right-of-way, means a lot or parcel of land or public right-of-way that shares all or a part of a common lot line or boundary line with another lot or parcel of land or public right-of-way.

Adjacent Properties or *Properties Adjacent* shall mean (i) those lots or parcels of land that abut another lot or parcel of land or public right-of-way that is contiguous to a communications facility site or proposed site and (ii) the lots or parcels of land or public right-of-way that would be contiguous to lots or parcels or public rights-of-way but for an intervening local or collector roadway.

Antenna shall mean communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

Applicable Codes shall mean uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, including, but not limited expressly to the Florida Building Code, National Electrical Code, National Electrical Safety Code, 2017 Edition of the Florida Department of Transportation Utility Accommodation Manual ("2017 FDOT UAM"), the Florida Department of Transportation Manual on Traffic Control and Safe Practices, the State of Florida Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways, the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States, as may be amended, and City codes or ordinances, and standards and regulations, to the extent not inconsistent with the 2017 FDOT UAM and Florida law. ~~adopted to implement Section 337.401, *Florida Statutes*, including but not~~

~~limited to this Ordinance. The term includes objective design standards adopted by this Ordinance that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards adopted by this Ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived by the City upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense.~~

Applicant shall mean a registrant who submits an application.~~ for a permit to locate a communications facility or utility pole within the public rights-of-way~~.

Application shall mean a request submitted by an applicant to the City for a permit to collocate small wireless facilities or to place a new utility pole used to support a small wireless facility in the public rights-of-way~~ for any relief pursuant to this Ordinance~~.

As-Built Plans shall mean a set of final and complete drawings in a format as specified by the City submitted upon completion of a project, signed and sealed by professional surveyor or mapper as defined in F.S. § 472.005, or licensed engineer, that reflect all changes made during the construction process, and show the exact dimensions, geometry and location of all elements of the work completed under the permit.

Authority shall mean the City to the extent it has jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation rights-of-way under the jurisdiction and control of the department, which are excluded from this Ordinance.

Authority or City Utility Pole shall mean utility pole owned by the City in the public rights-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the rights-of-way within:

(a) A retirement community that:
  (i) Is deed restricted as housing for older persons as defined in F.S. § 760.29(4)(b), Florida Statutes.
  (ii) Has more than 5,000 residents; and
  (iii) Has underground utilities for electric transmission or distribution.

Backhaul Facilities means a physical transmission path, all or part of which is within the public rights-of-way controlled by the City or any government entity, used for the transport of communications data by wire or fiber from a wireless facility to a network. A backhaul facility may also consist of an antenna, including a microwave antenna, installed in the public rights-of-way pursuant to a permit, used for the transport of communications data wirelessly from a wireless facility to a network.

City shall mean the City of Lauderhill, Florida, a municipal corporation of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

City Manager shall mean the City of Lauderhill, Florida, City Manager or his/her designee.

Clear Zone shall mean the roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, recoverable slope, non-recoverable slope, clear runout area, or combination thereof. The width of the clear zone is dependent upon the traffic volumes and speeds, and on the roadside geometry.

Collocation or *Collocate* shall mean to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.

Communications facilities or *facility* or *system* shall mean the permanent or temporary plant, equipment, and property, including but not limited to cables, wires, conduits, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances, wireless facilities, wireless support structure, wireline backhaul facilities, small wireless facilities, micro wireless facility, utility poles for communications facilities other than utility poles installed pursuant to a valid franchise with an electric utility, and other equipment or pathway used to transmit, receive, distribute, provide or offer communications services. A utility pole intended for collocation of a small wireless facility shall be considered a facility for purposes of this Ordinance.

Communications Services shall mean~~s~~ the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable service and video service as defined in F.S. §§ 610.103(1) and (11), to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence of hereafter devised, including wireless services, regardless of the protocol used for such transmission or conveyance.

Communications Services Provider shall mean any person making available or providing communications services through the placement or maintenance of a communications facility in public rights-of-way, or a wireless infrastructure provider. A certificateholder as defined in F.S. § 610.103(4), is a communications services provider pursuant to this Ordinance.

Communications Services Tax shall mean local communications services tax authorized to be levied and collected by counties and municipalities upon communication service providers for communications services, pursuant to F.S. § 202.19, as amended.

Consolidated Permit Application shall mean a single permit application that would otherwise require individual permit applications for the collocation of between two (2) and thirty (30) small wireless facilities to existing utility poles within the public rights-of-way.

Excavate or excavation shall mean consistent with the definition contained in F.S. § 556.102(6), as it may be amended, any manmade cut, cavity, trench, or depression in the earth's surface, formed by removal of earth, intended to change the grade or level of land, or intended to penetrate or disturb the surface of the earth, including land beneath the waters of the state, as

defined in F.S. § 373.019(22), and the term includes pipe bursting and directional drilling or boring from one point to another point beneath the surface of the earth, or other trenchless technologies.

Extension of existing facilities or extension. Those extensions from the public rights-of-way into a customer's private property for purposes of placing a service drop or those extensions from the public rights-of-way into a utility easement to provide service to a discreet identifiable customer or group of customers.

FCC shall mean the Federal Communications Commission.

Florida Building Code shall mean the Florida Building Code promulgated under F.S. Chapter 553, and includes the applicable amendments thereto as both may be amended from time to time.

Florida Greenbook shall mean the latest edition of the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance of Streets and Highways.

Force Majeure Event shall mean a cause or event not within a person's control that shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a person's control, and thus not constituting a force majeure event for purposes of this Ordinance, shall include, without limitation, the financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of person's directors, officers, employees, contractors or agents.

Graffiti shall mean any inscriptions, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any communications facility whether or not authorized by the registrant of the communications facility. A wrap shall not be considered graffiti.

Historic Property shall mean any prehistoric or historic district, site, building, object or other real or personal property, of historical, architectural or archaeological value. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, engineering works, treasure troves, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, or culture of the City.

Homeowners' Association shall mean an incorporated association whose members consist of owners of single family homes or condominium units that manage or control property owned by the association.

In Public Rights-Of-Way or *In The Public Rights-Of-Way* shall mean in, on, over, under or across the public rights-of-way.

Licensed Engineer means a Florida Registered Professional Engineer, or a person who is exempt from such registration requirements as provided in F.S. §471.003.

Lot shall mean a designated parcel of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

Micro Wireless Facility shall mean a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Ordinance or *Chapter* shall mean this Ordinance or Chapter of the City Code.

Parcel shall mean any piece of real property that has a single parcel identification number assigned to it by the Broward County Property Appraiser.

Pass-through Provider shall mean any person, as defined in F.S. §337.401(6)(a)1., who places or maintains a communications facility in the public rights-of-way and who does not remit taxes imposed by the City pursuant to F.S. Chapter 202, as amended. A person who does not remit taxes imposed by the City pursuant to chapter 202, but pursuant to F.S. §202.16(2) sells communications services for resale to a person who sells such services at retail or who integrates such services into communications services sold at retail in that municipality or county and who remits taxes imposed by that municipality or county pursuant to F.S. chapter 202, is not a pass-through provider. A pass-through provider can also be a wireless infrastructure provider as defined herein, and/or an owner of a communications facility pursuant to this ordinance.

Permit shall mean the public right-of-way permit that must be obtained before a person may construct in the public right-of-way and shall include, but not be limited to, right-of-way engineering and construction permits issued by the City.

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.

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 communications services provider 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. To the extent required by applicable law, a party providing service only through resale or only through use of a third party's unbundled network elements 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 is not *placing or maintaining* facilities in the public rights-of-way.

PSC shall mean the Florida Public Service Commission.

Public right-of-way or *right-of-way* shall mean a public right-of-way, public utility easement, highway, street, bridge, tunnel, waterway, dock, wharf, court, lane, path, or alley owned by the City or for which the City is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law~~,~~ and includes the surface, the air space over the surface and the area below the surface of all public roads, streets, highways, alleys, boulevards, bridges, tunnels, public utility easements, and all public grounds. *Public rights-of-way* shall not include private property. *Public rights-of-way* shall not include any real or personal City property except as described above, and shall not include City parks, buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the *public rights-of-way*.

Registrant or *Facility Owner* shall mean a communications services provider or other person that has registered with the City in accordance with the terms of this chapter.

Registration and *Register* shall mean the process described in this ordinance whereby a communications services provider provides certain information to the City.

Requester shall mean a person who submits a request pursuant to this Ordinance.

Request shall mean any request other than an application submitted by a person, associated with the placement or maintenance of a communications facility other than the collocation of a small wireless facility or utility pole for the collocation of a small wireless facility in the public rights-of-way. A "request" includes, but shall not be limited to, a request for approval of a registration, a request to place or maintain a communications facility other than the collocation of a small wireless facility or utility pole for the collocation of a small wireless facility in the public rights-of-way and includes for example, but is not limited to, a permit to construct cable, fiber, conduit, backhaul facilities, pedestals, or a support structure that does not constitute a utility pole for the collocation of a small wireless facility in the public rights-of-way.

Shroud shall mean a covering or enclosure of equipment associated with a small wireless facility, other than the antenna, collocated on an existing utility pole or wireless support structure.

Signage shall mean any display of characters, ornamentation, letters or other display such as, but not limited to, a symbol, logo, picture, or other device used to attract attention, or to identify, or as an advertisement, announcement, or to indicate directions, including the structure or frame used in the display. The term Signage shall not include identification of the owner and contact information of the communications services provider or utility pole, or identification of wires, cables, etc. necessary to aid in safety or hazard work or maintenance or repair work of the communications facility.

Small Wireless Facility shall mean a wireless facility that meets the following qualifications:

(a) Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6

cubic feet in volume; and

(b) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

Smart technology shall mean the City's present and future technology to support the City's smart technology initiatives, including but not limited to, sensors and smart lights, fiber, CCTV cameras, digital signage, data sharing with traffic applications, smart solar-powered charging stations, emergency alert applications and other initiatives over time.

Stealth or *Camouflage* shall mean a method of camouflaging any wireless support structure, antenna or other communications facility, including, but not limited to, supporting electrical or mechanical equipment, small wireless facility, or utility pole, which is designed to fulfill objective design standards and to enhance compatibility with the surrounding neighborhood.

Surrounding Neighborhood shall mean the area within a five hundred (500) foot radius of a communications facility site or proposed communications facility site.

Trenchless Technology. The use of directional boring, horizontal drilling, microtunneling and other techniques used to construct underground facilities that result in the least disruption and damage to the rights-of-way as possible.

Utility shall mean any person or entity that 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 is situated within the public rights-of-way for transmission of such utility's goods, commodities or services.

Utility Pole shall mean a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less, not including a lighting fixture that may be mounted on top of a pole, unless an authority grants a waiver for such pole.

Wireless Facility shall mean *e*quipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

(a) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;

(b) Wireline backhaul facilities; or

(c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider shall mean a person who has been certificated under F.S. Ch. 364, to provide telecommunications service or under F.S. Ch. 610, to provide cable or video services in the state, and such person's affiliate, and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

Wireless Provider shall mean a wireless infrastructure provider or a wireless services provider.

Wireless Services shall mean any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

Wireless Services Provider shall mean a person who provides wireless services.

Wireless Support Structure shall mean a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole, pedestal, or other support structure for ground-based equipment not mounted on a utility pole and less than five (5) feet in height.

Wrap shall mean an aesthetic covering depicting artistic or scenic imagery. Imagery in a wrap may not contain any advertising.

Sec. 12-174. - Registration For Placing Or Maintaining Communications Facilities in Public Rights-Of-Way.

~~(a) Any wireless communications permit issued for a wireless communications system in accordance herewith shall apply only to the location or locations stated on the wireless communication permit. Each permit shall clearly state the location of each cell site system and specify the height and cell configuration.~~

~~(b) Nothing in this division shall be construed as a representation, promise or guarantee by the city that any other permit or other authorization required under any city ordinance for the construction or installation of a wireless communications system shall be issued. The requirements for any and all other permits as may be required by any city ordinance, including the right-of-way utilization permit, shall still apply, and all other applicable permit fees shall still be due.~~

(a) All persons seeking to place or maintain a communications facility, including but not limited to a cable system, fiber, backhaul facility, or utility pole for collocation of a small wireless facility in the public rights-of-way in the City pursuant to this Ordinance shall first register with the City in accordance with this Ordinance before

being eligible to receive a permit. Subject to the terms and conditions prescribed in this Ordinance and approval of a permit if necessary, a registrant may place or maintain a communications facility in public rights-of-way. A communications services provider, pass-through provider, or wireless infrastructure provider with an existing communications facility in the public rights-of-way of the City as of the effective date of this Ordinance shall comply with the terms of this Ordinance, including, but not limited to obtaining an effective registration, or be in violation thereof, by the earlier of the following: ninety (90) days from the effective date of this Ordinance or prior to the issuance of a permit by the City pursuant to this Ordinance. This provision shall not require removal or modification of communications facilities placed or maintained in the public rights-of-way pursuant to a previously issued permit prior to the effective date of this Ordinance unless such facilities are abandoned or otherwise required to be altered or removed.

(b) Requirements for an effective registration. A person that places or maintain a communications facility including but not limited to a utility pole for collocation of a small wireless facility in the public rights-of-way in the City shall file four complete originals in a format designated by the City that shall include the following information:

(1) Name of the registrant;

(2) Name, address and telephone number of the registrant's primary contact person in connection with the registration and name, address, telephone number and email addresses of the registrant's primary contact person in the event of an emergency or issue involving its facilities, which shall be monitored 24 hours per day, 7 days per week.

(3) A statement as to whether the registrant is a pass-through provider in the City as defined herein;

(4) Evidence of the insurance coverage required under this Ordinance;

(5) Acknowledgment that registrant has received and reviewed a copy of this Ordinance;

(6) A copy showing the number of the registrant's certificate of authorization issued by the Florida Public Service Commission, the Florida Department of State, or the FCC; and

(7) The registrant's federal employer identification number.

(c) Insurance.

(1) Registrant shall provide, pay for and maintain satisfactory to the City, the types of insurance described herein. All insurance shall be from responsible companies duly

authorized to do business in the state of Florida and having a rating in Best's Insurance Guide of A or better, or having a rating acceptable to the City. All liability policies shall provide that the City is an additional insured in the endorsement. Thirty-days advance written notice by registered or certified mail must be given to the City of any cancellation, intent not to renew, or reduction in the policy coverages. As evidence of compliance with the insurance required herein, the registrant shall furnish the City with a fully completed satisfactory Certificate of Insurance evidencing all coverage required. Also, the registrant shall provide a copy of the actual additional insured endorsement as issued on the Commercial General Liability policy, signed by an authorized representative of the insurer(s) verifying inclusion of the City of Lauderhill and its members, officials, officers and employees as additional insureds in the Commercial General Liability coverage. Such documents shall be filed and maintained with the City annually. In addition to the certificate of insurance, the registrant shall provide a copy or summary of the insurance policy, if requested by the City. A provider of communications services may add the City to any existing insurance policy and the City shall accept such proof of coverage without any conditions other than consent to venue for purposes of any litigation to which the City is a party.

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

i. Worker's compensation and employer's liability. Insurance employer's liability: Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Commission on Compensation Insurance, without restrictive endorsements.
The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One:	"Statutory" Coverage A when required by Florida Statute 440 as amended
Part Two:	$1,000,000 (Each Accident)
	$1,000,000 (Disease-Policy Limit)
	$1,000,000 (Disease-Each Employee)

The Workers' Compensation Policy must be endorsed to waive the insurer's right to subrogate against the City and the City Commission members, officials, officers, agents and employees in the manner which would result from the attachment of the NCCI Waiver Of Our Right to Recover From Others Endorsement (Advisory Form WC 00 03 13) with City and the City Commission members, officials, officers, agents and employees scheduled thereon.

ii. Comprehensive general liability. Said coverage shall not exclude

contractual liability, products/completed operations, explosion, collapse, and underground property damage, subcontractors or independent contractors. Coverage shall include cyber liability. The City of Lauderhill, and its members, officials, officers and employees shall be included as "Additional Insureds" on a form no more restrictive than the latest edition of ISO Form CG 20 10 (Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization Endorsement). The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

General Aggregate	$3,000,000
Products/Completed Operations Aggregate	$3,000,000
Personal and Advertising Injury	$3,000,000
Each Occurrence	$3,000,000

The insurance provided by Registrant shall apply on a primary basis. Any insurance, or self-insurance, maintained by the City of Lauderhill shall be excess of, and shall not contribute with, the insurance provided by Registrant. Insurance shall also include pollution coverage of $1,000,000 with non-owned disposal site coverage and a two-year tail.

iii. Automobile liability. Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed. The policy shall cover all owned, non-owned, and hired autos used in connection with the performance of the work. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

Each Occurrence Bodily Injury and Property Damage Liability Combined	$3,000,000

iv. Umbrella or excess liability. Registrant may satisfy the minimum limits required above for either commercial general liability, business auto liability and employer's liability coverage under umbrella or excess liability. The umbrella or excess liability shall have an aggregate limit not less than the highest "each occurrence" limit for commercial general liability, business auto liability or employer's liability. The City shall be specifically endorsed as an "additional insured" on the umbrella or excess liability, unless the certificate of insurance states the umbrella or excess liability provides coverage on a "follow-form" basis.

v. Self-insurance. Registrant may satisfy the insurance requirements and conditions of this division under a self-insurance plan and/or retention if acceptable to the City in its sole discretion based on the City's evaluation of the registrant's ability to comply with the City Code. Registrant agrees to notify the City, and/or indicate on the certificate(s) of insurance when self-insurance is relied upon or when a self-insured retention meets or exceeds $100,000. The City reserves the right, but not the obligation, to request and review a copy of the registrant's most recent annual report or audited financial statement, which the registrant agrees to furnish for the purpose of determining the registrant's financial capacity to self-insure.

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

(4) This Ordinance shall not be construed to affect in any way the City's rights, privileges and immunities as set forth in F.S. § 768.28. Insurance under this division shall run continuously with the presence of the registrant's facilities in the public rights-of-way, and any termination or lapse of such insurance shall be a violation of this Ordinance. Notwithstanding the foregoing, the City may, in its sole discretion, require increased or decreased levels of insurance.

(d) Review of Registration. The City shall review the information submitted for the registration. If the information is in accordance with this subsection, the City shall notify the proposed registrant of the effectiveness of registration in writing. If the City determines that the information has not been submitted in accordance with this subsection, the City shall notify the person in writing of the non-effectiveness of registration, and reasons for the non-effectiveness. The City shall undertake efforts to provide such notification within 30 days after receipt of registration information. A notice of non-effectiveness of a registration shall not preclude a person from reapplying.

(e) Regulations Applicable to Registrations.

(1) A registration shall not convey any title, equitable or legal, in the public rights-of-way. Within 30 days of any change in the information required to be submitted by a registrant, a registrant shall provide updated information to the City.

(2) Registration shall be nonexclusive. Registration shall not establish any right or priority to place or maintain a communications facility in any particular

area in public rights-of-way within the City. Registrations are expressly subject to any future amendment to or replacement of this Ordinance, and further subject to any additional City ordinances, as well as any applicable state or federal laws.

(3) Unregistered use of public rights of way. To the extent that a person with communications facilities in the public rights-of-way, is not registered as required herein, said person shall register with the City pursuant to this Ordinance within ninety (90) days from the effective date of this Ordinance. No new permits shall be issued to unregistered persons with communications facilities within the public rights-of-way.

(4) Registration renewal. A registrant shall renew its registration with the City by April 1, five years after the effectiveness of the registration in accordance with the registration requirements in this Section, as may be amended, and thereafter every five years. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Upon request of the City in conjunction with the renewal of a registration, a registrant shall provide at its costs as built plans that have not previously been provided, updated maps or other information showing the location of its facilities within the City public rights-of-way. Failure to renew a registration may result in the City restricting the issuance of additional permits.

(5) Indemnification. A registrant shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the City arising out of the placement or maintenance of its communications system or facilities in public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this Ordinance, or permit issued by the City, provided however, a registrant shall not be required to indemnify the City for the negligence, gross negligence, wanton or willful acts of the City. This provision includes, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. The City agrees to notify the registrant, in writing, within a reasonable time of City receiving notice of any issue it determines may require indemnification. Nothing in this Ordinance shall prohibit the City from participating in the defense of any litigation by its own counsel and at its own cost, if in the City's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this Ordinance shall be construed or interpreted:

i. as denying to either party any remedy or defense available to such party under the laws of the state of Florida;

ii. as consent by the City to be sued; or

iii. as a waiver of sovereign immunity beyond the waiver provided in F.S. §768.28, as it may be amended.

(6) A registrant may cancel a registration upon written notice to the City that the registrant will no longer place or maintain any communications facilities in public rights-of-way.

(7) No liens shall apply to public rights-of-way or City property as a result of the placement or maintenance of a registrant's facilities in the public rights-of-way or on a City utility pole. In the event any liens are filed on the City property or public rights-of-way, the registrant shall discharge such lien at its expense within ten (10) days of receiving notice, or the City may discharge such lien, and charge such costs plus reasonable attorney's fees to registrant.

(8) A registrant shall pay or reimburse the City, as applicable, for any personal property or other taxes or assessments that may be imposed on the registrant's facilities placed or maintained in the public rights-of-way or on a City utility pole as a result of a registrant's collocation.

(9) Reports and records.

(a) Upon reasonable request, a registrant shall provide the following documents to the City as received or filed:

i. Any pleadings, petitions, notices, and documents, which may directly impact the obligations under this Ordinance and which are reasonably necessary for the City to protect its interests under this Ordinance.

ii. Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.

(b) The City shall keep any documentation, books and records of the registrant confidential to the extent required under Florida Statutes.

(10) Termination of Registration. The City may terminate a registration if:

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

(b) The registrant's placement or maintenance of a communications facility in the public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way and the registrant fails to remedy the danger promptly after receipt of written notice;

(c) The registrant abandons all of its facilities in the public rights-of-

way; or

(d) The registrant commits repeated, substantial and material violations of any of the provisions of applicable codes or of this Ordinance.

(11) Notice of intent to terminate. Prior to termination, the City shall notify the registrant with a written notice setting forth all matters pertinent to the proposed termination action, including the reason therefore. The registrant shall have thirty (30) days after receipt of such notice within which to address or to eliminate the reasons or within which to present a plan, satisfactory to the City, to accomplish the same and to take such steps as are necessary to render every portion of the facilities remaining in the public rights-of-way safe. If the plan is rejected by the City, the City shall provide written notice of such rejection within fifteen (15) days of receipt of the plan to the registrant and shall make a final determination as to termination of the registration and the terms and conditions relative thereto.

(12) Post termination action. In the event of termination, following any appeal period, the former registrant shall: (a) in accordance with the provisions of this Ordinance and as may otherwise be provided under state law, notify the City of the assumption or anticipated assumption by another registrant of ownership of the registrant's communications facilities in the public rights-of-way; (b) provide the City with an acceptable plan for removal or disposition of its communications facilities in the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal, or (c) remedy the condition leading to the termination to the satisfaction of the City and submit a request a new registration. If a registrant fails to comply with this subsection, the communications facilities are deemed to be abandoned and the City may exercise any remedies or rights it has at law or in equity as well as the City's remedies pursuant to this Ordinance. The obligations of the registrant hereunder shall survive the termination of a registration. A registrant that has its registration terminated by the City under this Ordinance may request a registration one (1) year after the termination date of the prior registration, unless otherwise permitted to request a new registration as provided herein or at the sole discretion of the City.

(13) In the event of termination of a registration, this Ordinance does not authorize the City to cause the removal of communications facilities used to provide another service for which the registrant or another person who owns or exercises physical control over the communications facilities holds a valid certification or license with the governing federal or state agency, if required, for the provision of such service, and is registered with the City, if required.

(14) If a registrant transfers, sells or assigns its registration or its facilities in the

public rights-of-way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this Ordinance. Written notice of any such transfer, sale or assignment shall be provided to the City within 20 days of the effective closing date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, and is in compliance with the provisions of this Ordinance, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, or has an effective registration that is not in compliance with this Ordinance as it may have been amended, then the transferee, buyer or assignee shall register as provided in this Ordinance within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the appropriate City officials that the transferee, buyer or assignee is the new applicant.

(15) City makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the registrant's communications facilities. Any performance of work or costs incurred by registrant or provision of services shall be at registrant's sole risk. Nothing in this Ordinance shall affect the City's authority to add, vacate or abandon public rights-of-way, and the City makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.

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

Sec. 12-175. - ~~Use of streets and pole attachments~~Requirement of a Permit.

~~(a) Before commencing construction of its wireless communications system in, above, over, under, across, through, or in any way connected with the streets, public ways or public places of the city, the permittee shall first obtain the written approval of, and any other necessary permits from, all appropriate city agencies. Applications for such approval shall be made in the form prescribed by the city engineer.~~

~~(b) Upon obtaining such written approval, the permittee shall give the city engineer written notice within a reasonable time of proposed construction, but in no event shall such notice be given less than ten (10) days before such commencement, except for emergency repairs of existing lines or cables.~~

~~(c) Any person who submits a request for a permit in accordance herewith shall include therein proposed agreements for the use of existing utility poles and conduits, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed wireless communications system, which agreements shall become effective on the date of execution of the permit issued in accordance herewith, in the event that such person is issued a permit. In the event that permission to use existing poles or conduits cannot be obtained, the permittee shall submit documentation to support the unavailability of existing poles and a detailed plan for construction insuring protection for existing facilities. Such plans shall include detailed drawings of the location and manufacturer's specifications for the cell site equipment.~~

~~(d) It shall be unlawful for the permittee or any other person to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place, for any purpose whatsoever, without obtaining approval to do so after proceeding in the manner prescribed in subsections (a) and (b). Violation of this section shall subject the permittee to all penalties and remedies prescribed herein and to all other remedies, legal or equitable, which are available to the city.~~

~~(e) The permittee shall restore any street or sidewalk it has disturbed in accordance with the provisions of the city's standard specifications for streets and sidewalks, and shall, at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured by, or on account of, its activities to as good as the condition such property was in immediately prior to the disturbance, damage or injury, or pay the fair market value to such property to its owner, or shall make such other repairs or restorations as outlined in the approved permit.~~

~~f) The permittee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from such street or other public place, any of its property when required to do so by the city because of street or other public excavation, construction, repair, regrading, or grading; traffic conditions; installation of sewers, drains, water pipes, city-owned power or signal lines, tracts; vacation or relocation of streets, or any other type of structure or improvement of a public agency; or any type of improvement necessary for the public health, safety or welfare; or upon termination or expiration of the permit.~~

~~(g) Nothing in this division or any permit issued in accordance herewith shall be construed as authorizing the permittee to erect and maintain new poles in areas serviced by existing poles, if the poles are available for the permittee's cable. The permittee shall obtain written approval from the engineering department and other appropriate city agencies before erecting any new poles or cell site support structures.~~

~~(h) The permittee shall maintain all wires, conduits, cables, and other real and personal property and facilities in good condition, order and repair. The permittee shall provide indemnity insurance and performance bonds or demonstrate financial responsibility as shall comply with all rules and regulations issued by the city engineer governing the construction and installation of wireless communications systems.~~

~~(i) The permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the city, and shall furnish, as soon as they are available, two (2) complete copies of such maps and records, including as-built drawings, to the city engineer.~~

(a) In accordance with applicable law, City ordinances, codes and regulations, including this Ordinance, a rights-of-way permit issued by the City shall be required for any person to place or to maintain a communications facility in the public rights-of-way unless otherwise exempt pursuant to this Ordinance. An effective registration shall be a condition of obtaining a permit. A permit may be obtained by or on behalf of a registrant if all permitting requirements are met. The City may grant to any person who is a resident of Florida, or to any corporation which is organized under the laws of Florida or licensed to do business within Florida, the use of a right-of-way for the communications facility in accordance with such rules or regulations as the City may adopt. No communications facility shall be installed, located, or relocated unless authorized by a written permit issued by the City, unless otherwise authorized herein. Permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The City may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements. Requests for ancillary permits required to operate a communications facility, including but not limited to electrical permits, shall be processed pursuant to the City's rules and regulations. The City may deny or withhold the ancillary permit if the registrant is otherwise in violation of the City Code, to the extent not inconsistent with applicable law.

(b) Limited Exceptions to Permit Requirement.

(1) A registrant that is in compliance with this Ordinance shall be allowed to perform routine maintenance, service restoration work on existing facilities, repair work including but not limited to emergency repairs of existing facilities, or extensions of such facilities for providing communications services to customers without a rights-of-way permit as provided herein. Notwithstanding the exceptions to a rights-of-way permit provided herein, other permits may be required depending on the nature of the work being performed. The term "emergency" shall mean a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a pre-existing service. Prior to performing any work in the public rights-of-way without a permit, the registrant shall provide reasonable advance notice, generally at least 48 hours, to the City, explaining the location, date and duration of such anticipated work. For emergency maintenance situations where such advance notice may not be possible, the Registrant shall notify the City through appropriate means, including through notification to the City's Police Department if the City is otherwise closed. The registrant shall provide prompt notice to the City of the placement or maintenance of a communications facility in public rights-of-way in the event of an emergency and, within ten (10) days of completing the emergency maintenance, apply for an after-the-fact permit if such activity required a permit. A registrant shall be allowed to perform

maintenance, repair, replacement, extension, or upgrade of existing aerial lines or underground communications facilities located on private property outside of the public rights-of-way without first obtaining a rights-of-way permit, notwithstanding that other permits, such as building permits, may be required. A registrant that performs work without a permit that involves excavation or closure of a public rights-of-way shall ensure that its work is photographed and videotaped, showing the condition of the public rights-of-way before and after such work, and such documentation shall be provided to the City upon the earlier of the City's request or ten days following the completion of such work. In addition, as built plans shall be provided to the City within ten (10) days following completion of any construction in the public rights-of-way.

(2) A registrant that is in compliance with this Ordinance shall be allowed to perform routine maintenance within the public rights-of-way without a rights-of-way permit if such proposed routine maintenance does not involve excavation, construction, or disruption of transportation in the public rights-of-way. In the case of routine maintenance, a registrant shall provide reasonable advance written notice to the City identifying the areas where such maintenance will occur, scope of maintenance, date(s) and duration of work to be performed. If routine maintenance requires excavation or the closure of the public rights-of-way, regardless of the duration of a road or sidewalk closure, a rights-of-way permit shall be required.

(3) A registrant that is a communications services provide and is in compliance with this Ordinance may perform without a rights-of-way permit, maintenance, repair, replacement, extension, or upgrade of existing aerial wireline communications facilities on utility poles or for aerial wireline facilities between existing wireline communications facility attachments on utility poles. However, a right-of-way use permit shall be required for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane or parking lane, regardless of the duration.

(4) A rights-of-way permit shall not be required for replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size. If such replacement will require excavation or the closure of a public rights-of-way, regardless of the duration, the registrant shall obtain a rights-of-way permit consistent with the City's rules and regulations.

(5) A registrant shall be allowed to place or to maintain a service drop within the public rights-of-way without first obtaining a rights-of-way permit if such proposed work does not involve excavation, construction, or the closure of the public rights-of-way, regardless of the duration.

(6) A registrant shall not be required to obtain a rights-of-way permit for the

installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cable strung between existing utility poles in the public rights-of-way, in compliance with applicable codes by or for a communications services provider authorized to occupy the public rights-of-way and who is remitting Communications Services Tax under F.S. Chapter 202. Prior to placing a micro wireless facility in the public rights-of-way pursuant to this subsection, the registrant shall submit a letter to the City from or on behalf of the communications services provider, which shall be effective upon filing, attesting to the certification or manufacturer's specifications with the micro wireless facility's dimensions to the City for review. A registrant's submission to demonstrate a micro wireless facility's dimensions may apply to all of the same, substantially similar, or smaller size micro wireless facilities sought to be placed in the public rights-of-way by such registrant. If the micro wireless facility's dimensions exceed the dimensions to constitute a micro wireless facility, the registrant shall not place such facility in the public rights-of-way without a City rights-of-way permit.

(7) Notwithstanding the exceptions to permit requirements contained in this subsection, a registrant shall obtain from the City a right-of-way permit for work that involves excavation, or closure of a sidewalk, vehicular lane, or parking lane, regardless how temporary, unless the registrant is a communications services provider that is performing service restoration on an existing facility and the work is done in compliance with the 2017 FDOT UAM, including but not limited to, the requirement to notify Sunshine 811 prior to any excavation or demolition activities in accordance with F.S. Ch. 556, and to comply with all City Codes. In such instance, consistent with the 2017 FDOT UAM, the communications services provider shall provide reasonable advance notice to the City as to the service restoration work to be performed so that the City may have an observer present. The City may require a specific method of excavation and a maintenance of traffic or sidewalk closure plan, as applicable. In addition, the registrant shall file for an after the fact permit within thirty (30) days after completing restoration of the public rights-of-way. A registrant performing work without a permit shall ensure that the work is photographed and videotaped, including of the area of the public rights-of-way impacted, and such photograph and videotape documentation shall be provided to the City upon request or, if not requested, with the after the fact permit application.

(c) The City Manager may cause an immediate stop work order where any permitted or unpermitted construction or other work in the public rights-of-way or on private property poses a serious threat to the health, safety or welfare of the public until such serious threat has been abated. Failure to comply with such order may subject a registrant, and its agents, employees, and contractors as applicable, to appropriate enforcement remedies as set forth in applicable law.

Sec. 12-176. – ~~Violation; penalty.~~ Permit Information Requirements and Review Procedures.

~~Any person who shall carry on or conduct any business or occupation or profession for which a permit is required by this division without first obtaining a permit shall be considered to be in violation of this division and, upon conviction, be punished as provided in section 1-8 of this Code.~~

(a) Pre-submittal meeting. Florida law currently prohibits mandatory pre-application meetings for applications for permits for small wireless facilities and utility poles to support small wireless facilities. Even if a pre-submittal meeting cannot be required under applicable law, for example for a registrant that applies to install small wireless facilities or utility poles in the public rights-of-way, registrants are strongly encouraged to engage in a pre-submittal meeting, particularly for a consolidated permit application for collocation of multiple small wireless facilities. To minimize issues related to permit requests for other communications facilities, including but not limited to backhaul facilities, prior to applying for a permit, a registrant shall conduct a pre-submittal meeting either in person or via communications media technology with the City to discuss the registrant's plans and network goals for placing or maintaining facilities in the public rights-of-way. The registrant is encouraged to be prepared to discuss its network needs and planned locations, design of facilities and other issues that may arise under this Ordinance. The City shall undertake efforts to accommodate a registrant's request for a pre-submittal meeting within ten (10) business days of a request. At a registrant's request, the City, in its sole discretion, may waive the requirement of a pre-submittal meeting for good cause based on the scope of the proposed permit and registrant's compliance with this Ordinance.

(b) Requirements for all communications facilities in the public rights-of-way. As part of any permit application or request to place or maintain any facility pursuant to this Ordinance in the public rights-of-way, a registrant or a registrant's agent or contractor shall provide four originals of a permit application or request in the designated format with the City that sets forth information required on the City's form, including, at a minimum, the following:

(1) If the applicant or requester for the permit is not the registrant, a statement of authority by the registrant for the agent to act on the registrant's behalf. In addition, if the agent is a contractor, the agent shall include its contractor's license or registration and insurance information confirming authority to perform construction in the City and whether the contractor has any open permits with the City, and if so, the permit identification number or information.

(2) Confirmation that the registrant has an effective registration with the City and is otherwise in compliance with the City Code.

(3) Engineering plan. An engineering plan signed and sealed by a licensed engineer, that includes the following:

(a) Except for applications to collocate small wireless facilities on existing utility poles in the public rights-of-way, an American Land Title Association (ALTA) survey or other survey that may be specified in the City's form demonstrating that the proposed location of the facility or utility pole is within the public rights-of-way, unless waived by the City in its sole discretion, pursuant to information confirming the proposed facility is located with the public rights-of-way, as applicable;

(b) The type and location of the proposed facility, and its dimensions, height, footprint, camouflage design, and concealment features of the proposed facility;

(c) The Global Positioning System (GPS) coordinates of the proposed facility. The GPS coordinates shall be based on the reading from a handheld mobile GPS unit set to Datum NAD 83 or WGS84. GPS coordinates based on Google Earth or similar application may be used where areas of shading occur due to overhead canopy. GPS Coordinates shall be provided in decimal degrees at a six (6) decimal point precision;

(d) Distances between the proposed facility and the edge of nearby pavement, sidewalks, driveways, ramps, the nearest residential properties, nearby drainage systems, trees, ground-mounted equipment, nearby structures in the public rights-of-way, and other above-grade structures and utilities within a 500 feet radius and below-grade structures and utilities located within a 50 foot radius;

(e) For proposed new communications facilities, a sketch showing pavement, sidewalks, driveways, ramps, trees, below-grade utilities, and other above-grade and below-grade structures and facilities within the public rights-of-way located within a fifty (50) foot radius;

(f) Sufficient specificity demonstrating compliance with applicable codes, the Florida Greenbook, the Florida Building Code, most current edition, specifically including but not limited to compliance with the wind velocity standards for risk category III and IV buildings and structures specified in Section 1620 of the 2017 Florida Building Code, as amended, or as otherwise established in the Florida Building Code, as applicable; National Electrical Code, the National Electrical Safety Code and the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States, as may be amended;

(g) The routes of all proposed new transmission and distribution lines to be placed or maintained in the public rights-of-way in connection with the proposed facility (such lines may be subject to separate permit requirements);

(h) Certification that the proposed facility will not materially interfere with the safe operation of traffic control equipment;

(i) Certification that the proposed facility will not interfere with sight lines or clear zones for transportation, pedestrians, or public safety purposes or result in the public rights-of-way being inconsistent with the Florida Greenbook;

(j) Certification that the proposed facility will not materially interfere with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement; and

(k) Other engineering information that may be requested by the City to demonstrate compliance with this Ordinance.

(4) Trees or landscaping proposed to be removed or impacted upon the placement or maintenance of the proposed facility.

(5) Whether the proposed facility is proposed within a location subject to restrictions pursuant to this Ordinance, such as where the City has determined that all such communications facilities should be placed underground or subject to a homeowner's association's covenants. If so, whether the applicant has obtained approvals that may be required or is seeking a waiver or such restrictions.

(6) Photographic or video documentation of the pre-construction condition of the public rights-of-way in the area to be affected by the installation of the proposed facility.

(7) Description of installation or construction and timetable. A description of the method by which the facility will be installed and/or modified (i.e. anticipated construction methods or techniques) and timetable for construction.

(8) Temporary sidewalk closure plan. The registrant shall provide a temporary sidewalk closure plan, if appropriate, to accommodate placement or maintenance of the facility.

(9) Temporary maintenance of traffic (MOT) plan. The registrant shall provide a temporary traffic lane closure and maintenance of traffic (MOT) plan, if appropriate, to accommodate placement or maintenance of the facility.

(10) Restoration plan and estimated cost of restoration of the public rights-of-way. A restoration plan and a good faith estimate of the cost of restoration of the public rights-of-way. Such good faith estimate shall be accepted by the City unless the City determines such estimated costs are not representative of the actual costs of the restoration of the public rights-of-way as compared to the Broward County Highway Engineering Cost

Estimating Template or other template used by the City. Estimates of the cost to restore the public rights-of-way shall include all costs necessary to restore the public rights-of-way to its original condition. Such good faith estimate may include, but shall not be limited to, costs to restore the paving, curbs/gutters, sidewalks, paths including paths indicated by painted lines in streets, markings, signage, and landscaping. All planted or naturally occurring shrubbery or vegetation, including sod, damaged or destroyed during work in the public rights-of-way shall be replaced. Tree or landscaping removal shown on the permit shall not be considered damage or impairment to be restored to the original condition provided the applicant complies with the approved mitigation plan, if any.

(11) Indemnification. A statement shall be included with the permit application or request that by execution of the application or request and by submitting for the permit, the registrant shall be bound to the City with respect to the indemnification provision set forth in this Ordinance, as it may be amended.

(12) Airport airspace protection. If applicable, the registrant shall confirm compliance with F.S. Chapter 333, and all City codes, State and federal laws and regulations pertaining to airport airspace protections.

(13) Attestation. For applications by a wireless infrastructure provider or its contractor for the placement or maintenance of a utility pole in the public rights-of-way for collocation of a small wireless facility, the applicant shall provide an attestation by an officer of the registrant that a small wireless facility will be collocated on the utility pole and will be used by a wireless services provider to provide communication service within nine (9) months after the date the application is approved.

(14) Pole attachment agreement. Except for pole attachments regulated pursuant to 47 U.S.C. § 224, if applicable for the proposed facility, the registrant shall provide a copy of a fully executed valid pole attachment agreement between the owner of the utility pole and registrant. In lieu of providing the complete pole attachment agreement between the owner of the utility pole and registrant, the registrant may provide the first page of such agreement and the signature page or a notarized letter of authorization from the owner of the utility pole, providing adequate identifying information, acceptable to the City, and indicating the registrant is authorized to install its facility on the identified utility pole. By submitting a request or application to collocate a communications facility on an existing structure or utility pole in the public rights-of-way, the registrant is representing to the City that it has authority from the owner of the structure or utility pole.

(15) Information regarding height limitations. For an application for a new utility pole to support the collocation of a small wireless facility, the applicant shall provide information regarding the location and height of the tallest utility

pole located in the same public rights-of-way as of July 1, 2017, measured from grade in place within five hundred (500) feet of the proposed location of the utility pole. If there is no utility pole within five hundred (500) feet of the proposed utility pole as of July 1, 2017, the applicant shall so certify.

(16) If the permit request includes a backup power supply, information to demonstrate that the backup power supply and proposed fuel storage comply with applicable law.

(17) In addition to the requirements herein, as part of any permit application to place a small wireless facility or utility pole to support a small wireless facility in the public rights-of-way, the applicant shall provide the following:

(a) Documentation to the satisfaction of the City from a licensed engineer, that the structure and foundation of the utility pole intended to support the collocation of the small wireless facility can support the additional load of the proposed small wireless facility consistent with the requirements of the Florida Building Code;

(b) A description by the applicant to the satisfaction of the City how the proposed small wireless facility complies with the objective design standards set forth in this Ordinance, including an accurate photo simulation of the proposed small wireless facility or utility pole. For a proposed ground-mounted small wireless facility, such information shall include whether the proposed small wireless facility includes a wrap that has been approved by the City or is of an architectural design that is substantially similar to other infrastructure in the area of the public rights-of-way or has been approved by the City; and

(c) Accurate photo simulations of the proposed small wireless facility as collocated on the utility pole if applicable, and of the proposed utility pole to support a small wireless facility.

(18) Consolidated permit application and single application for multiple locations. An applicant seeking to collocate multiple small wireless facilities may file a consolidated permit application and receive a single permit for the collocation of up to 30 small wireless facilities. The application must include the information required for an application for each of the proposed small wireless facilities. Such consolidated permit application is not available for multiple utility poles, unless authorized by the City in its discretion. If the application includes multiple small wireless facilities, the City may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

(19) To the extent not inconsistent with applicable law, such additional information requested by the City reasonably necessary to determine compliance with applicable codes.

(20) The City may require that the applicant for a permit perform the inspection of the work authorized by the permit to close out the permit at its costs and provide certification to the City at its costs by a licensed engineer, that such work was performed consistent with the requirements of the permit.

(c) Application Review for Small Wireless Facilities, Utility Poles for Collocation of Small Wireless Facilities and Other Communications Facilities.

(1) Time periods within this subsection may be extended for the period of time impacted by a force majeure event or by a declared State of Emergency by the City or Governor of the State that impacts the City's permitting ("force majeure extension"). If a registrant opposes a force majeure extension pursuant to this subsection, it shall notify the City within 24 hours of such extension becoming effective or the registrant shall be deemed to have consented to the extension.

(a) Unless extended by mutual consent of the registrant and City, within 14 days after receiving an application or request for a rights-of-way permit, the City Manager will notify the registrant by electronic mail as to whether the application or request is complete. If an application or request is deemed incomplete, the City will specifically identify the missing information. An application or request is deemed complete if the City fails to provide notification to the registrant within 14 days. Notwithstanding an application or request being complete, the City may grant or deny the application or request consistent with applicable codes and this Ordinance.

(b) Negotiation Process.

(1) Unless extended by mutual consent of the registrant and the City, within 14 days after the date of filing the application or request, the City may request that the proposed location of a small wireless facility or communications facility be moved to another location in the right-of-way and placed on an alternative City utility pole or support structure or may place a new utility pole. The City and the registrant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request.

(2) At the conclusion of the negotiation period, if the alternative location is accepted by the registrant, the registrant must

notify the City of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application.

(3) If an agreement is not reached, the registrant must notify the City of such nonagreement and the City must grant or deny the original application or request within 90 days after the date the application was filed unless extended by mutual consent of the registrant and City. Failure of the registrant to so notify the City as required herein shall be deemed to constitute the registrant's rejection of the City's alternative location. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

(4) The City processes all applications and requests on a nondiscriminatory basis. The City will process applications and requests in the order in which they are filed. If an earlier filed application or request that is extended would require the denial of a later filed application or request, such later filed application or request will be denied unless extended. Unless the City and the registrant engage in negotiations as provided above, a force majeure extension applies, or the City and the registrant mutually agree to an extension, the City will approve or deny the application or request and will notify the registrant or its agent by electronic mail whether the application or request is approved or denied within 60 days after the receipt of an application or request. An application or request that is not complete shall not be deemed approved if the City fails to grant or to deny the application or request within 60 days.

(c) Extension of time. If the City and the registrant do not engage in negotiations, the registrant and City may mutually agree to extend the 60-day review period. The City shall grant or deny the application or request at the end of the extended period.

(d) The City may deny an application to collocate a small wireless facility or to place a utility pole for collocation of a small wireless facility in the public rights-of-way if the proposed collocation or utility pole:

(1) Materially interferes with the safe operation of traffic control equipment;

(2) Materially interferes with sight lines or clear zones for

transportation, pedestrians, or public safety purposes;

(3) Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

(4) Materially fails to comply with the 2017 FDOT UAM;

(5) Fails to comply with applicable codes, or

(6) Fails to comply with objective design standards contained herein.

(e) The City shall review and process requests for permits associated with communications facilities other than small wireless facilities and utility poles for collocation of small wireless facilities consistent with applicable law and City procedures. The City may deny a request for a permit for a communications facility in the public rights-of-way if such facility does not comply with applicable codes or for any basis consistent with applicable law.

(f) Cure Procedure.

(1) If the application or request is denied, the City will specify the basis for the denial, including the specific code provisions if applicable, on which the denial was based, and send the documentation to the registrant by electronic mail on the day the City denies the application or request.

(2) The registrant may cure the deficiencies identified by the City and resubmit the application or request within 30 days after the notice of denial is sent.

(3) If an attempt to cure is submitted within such thirty (30) days, the City will approve or deny the revised application or request within 30 days after receipt. If the registrant revises any information other than to address expressly the deficiencies identified by the City, the registrant must submit a new application or request.

(4) The City's second and subsequent reviews of revised applications or requests will be limited to the deficiencies cited in the denial notice.

(g) A rights-of-way permit issued by the City shall remain in effect for one (1) year unless otherwise extended, suspended, or revoked by the City pursuant to this Ordinance. If a communications facility

including but not limited to, a small wireless facility or utility pole for the collocation of a small wireless facility, is installed without a permit pursuant to applicable state or federal law, the registrant shall nevertheless be required to have an effective registration, comply with development standards, comply with applicable codes, and provide the permanent performance bond and construction bond required in this Ordinance prior to commencing construction. The City Manager may stop such construction if the registrant is not in compliance with these requirements.

(h) A rights-of-way permit from the City constitutes authorization to undertake only certain activities in the public rights-of-way in accordance with this Ordinance, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

(2) Suspension and revocation of rights-of-way permits.

(a) The City may order the suspension of work under a permit and ultimately may suspend or revoke any permit, in the event of a material breach of the terms and conditions of any applicable codes including but not limited to this Ordinance, State and federal laws and regulations, or any condition of the permit. A material breach by the permittee may include, but is not limited to:

(1) The violation of any material provision of the permit or applicable codes;
(2) An evasion or attempt to evade any material provision of the permit or the perpetration or attempt to perpetrate any fraud or deceit upon the City;
(3) Any material misrepresentation of fact in the process of permittee's request or application for a permit or registration;
(4) The failure to maintain the required permanent performance bond or insurance;
(5) The failure to properly restore the public rights-of-way;
(6) The failure to comply within the specified time period with an order issued by the City;
(7) The failure to register, renew a registration, or provide notice of transfer in accordance with this Ordinance;
(8) The failure to relocate or remove facilities pursuant to this Ordinance and F.S. §§ 337.402, 337.403 and 337.404, as amended; or
(9) Conducting work in the public rights-of-way without a permit, if required.

(b) If the City determines that a registrant has committed a substantial breach of a term or condition of the permit or violation of applicable

codes or this Ordinance, the City shall make a written demand upon the registrant to remedy such violation. The demand shall state that the continued violation(s) may be cause for suspension or revocation of the permit. Further, the City may place additional or revised permit conditions following a substantial breach. In addition, as part of its authority to manage the public rights-of-way and to enforce applicable codes, including this Ordinance, the City may refuse to issue new permits to a registrant or registrant's contractor that has materially violated any provisions of a permit or applicable codes, including but not limited to this Ordinance, until such time as the registrant cures the violation to the satisfaction of the City, including paying any damages, costs or penalties that may have been assessed.

(c) Within thirty (30) days of receiving notification of the breach, the permittee shall contact the City and provide a plan, acceptable to the City to remedy the breach. The City shall provide additional time as reasonably necessary for a permittee to establish an acceptable plan taking into account the nature and scope of the alleged breach. The permittee's failure to so contact the City, the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for revocation or suspension of the permit. A final determination to suspend or to revoke a permit may be appealed in accordance with the procedures set forth in this Ordinance. Nothing herein shall affect the City's ability to take immediate action or to cause a registrant to take immediate action pursuant to this Ordinance or applicable law to address any condition that threatens the health, safety or welfare of persons or property.

(d) If a permit is revoked, the permittee shall reimburse the City for the City's reasonable costs, including restoration costs, administrative costs, and the cost of collection. These cost may also be deducted from the registrant's permanent performance bond in the City's discretion.

(e) The City may cause an immediate stop work order where the construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

(f) In the event of an emergency, if a registrant fails to do so in a timely manner, the City may perform any work involving a communications facility in the public rights-of-way to prevent a threat to the health, safety or welfare of the public and charge all costs including collection costs to the registrant. Nothing herein shall operate as a waiver of the City's police powers.

(g) A registrant or registrant's agent that has had a rights-of-way permit revoked or suspended may apply for or request another rights-of-way permit upon providing evidence to the City's satisfaction that the basis for the revocation or suspension has been remediated.

(3) Requests for waivers.

(a) Nothing in this Ordinance shall be construed to prohibit or have the effect of prohibiting the nondiscriminatory and competitively neutral use of public rights-of-way by communications service providers, communications facility providers or pass-through providers, in violation of federal or state law.

(b) The City may grant a waiver in those circumstances where a competitively neutral use of the public rights-of-way that may be required by applicable law is impaired by strict application of the requirements of this Ordinance.

(c) A request for a waiver shall be filed either prior to or contemporaneously with the permit application. The request for waiver shall contain each provision for which a waiver is sought. A request for a waiver shall include, as applicable, the following information:

(1) A detailed explanation, with supporting engineering information by a licensed engineer or other data, as to why a waiver from the requirements of this Ordinance is required to allow the applicant to have nondiscriminatory and competitively neutral use of the public rights-of-way, including a detailed explanation addressing the relevant engineering criteria;

(2) Nature and characteristics of the surrounding neighborhood;

(3) Any special conditions and circumstances affecting the proposed site which prevent compliance with the design standards within this Ordinance;

(4) If applicable, topography, tree coverage and foliage in the immediate surrounding area of the proposed facility or within the surrounding neighborhood;

(5) Design of the proposed facility with particular reference to achieving compatibility with the surrounding neighborhood and other structures in the public rights-of-way and

eliminating adverse visual impacts;

(6) If the proposed waiver is compliant with the Americans With Disabilities Act, 42 U.S.C. § 12101, *et seq*., and applicable codes;

(7) If the applicant maintains that the design standard imposes an excessive expense, the costs of complying with the design standard, the costs of a small wireless facility or utility pole that does not comply with the design standard, and information to demonstrate that such difference in cost is excessive based on the applicant's anticipated revenue or assets;

(8) If the applicant maintains that the design standard is not technically feasible, information from a licensed engineer to explain the specific aspect of the design standard that prevents the operation of the proposed small wireless facility or utility pole; and

(9) Any other information the City may reasonably require to process the request for waiver.

(d) The City shall grant or deny a request for a waiver of objective design standards contained herein within forty-five (45) days after receiving the request for waiver or time frame under applicable law unless the registrant and City consent to an extension. Any request for a waiver of other provisions of the City Code including this Ordinance, shall be processed by the City pursuant to its applicable procedures. In granting any waiver, the City may impose conditions to the extent the City determines such conditions are necessary to minimize any adverse effects of the proposed facility on the surrounding neighborhood or to protect the health, safety and welfare of the public.

(e) Should a request for waiver, and ultimately a permit, be denied by the City, the denial of the waiver may be appealed with an appeal of the permit denial in accordance with this Ordinance.

(4) Appeals.

(a) Final, written decisions of a designee of the City Manager, including but not limited to, a decision suspending, revoking, or denying a request for a permit, denying a registration, denying a renewal of a registration, suspending or terminating a registration, denying a waiver, or imposing costs or a fine, are subject to appeal to the City Manager. An appeal may be filed with the City Manager within ten

(10) business days of the date of the final, written decision to be appealed. A registrant waives any appeal that is not timely filed as set forth herein. The City Manager shall hear or may appoint a hearing officer to consider the appeal. The decision on appeal shall be based on the information submitted previously to the City and no new information shall be considered. Subject to a force majeure event, the hearing shall occur within 10 business days of the receipt of the appeal, unless the City Manager and registrant consent to a longer time frame, and a written decision shall be rendered within 10 business days of the hearing.

(b) An appeal from a decision of the City Manager or a hearing officer may be appealed to the City Commission within 10 days, by filing a written notice of appeal with the City Clerk and providing copies to the City Manager and the City Attorney. Any appeal not timely filed shall be waived. The notice of appeal shall state the decision which is being appealed, the grounds for appeal, a brief summary of the relief which is sought, and shall be accompanied by a nonrefundable fee to be established by administrative order of the City Manager. The City Commission may affirm, modify or reverse the decision of the City Manager or hearing officer. The City Manager shall notify any party who has filed a written request for such notification of the date when the matter will be presented to the City Commission. Nothing contained herein shall preclude the City Commission from seeking additional information prior to rendering a final decision. The decision of the City Commission shall be by resolution and a copy of the decision shall be forwarded to the City Manager and the appealing party. Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the City Commission may appeal an adverse decision to the Circuit Court In And For Broward County or applicable federal district court. The party making the appeal shall be required to pay to the City Clerk a fee to be established by administrative order of the City Manager, to defray the costs of preparing the record on appeal.

(c) Notwithstanding the time frames and administrative reviews provided in this subsection, a registrant may appeal the denial of an application for a small wireless facility or a utility pole to support the collocation of a small wireless facility by filing a notice of appeal with the City Clerk and providing copies to the City Manager and City Attorney within 10 calendar days of the denial of the application. An appeal shall be waived if the notice is not timely filed. The notice of appeal shall include the basis for the registrant's appeal of the denial of the application. The City Manager or City Attorney, or a hearing officer appointed by the City will complete

the review of the appeal and issue a written decision within 45 days after a written notice of appeal is filed. A denial of the appeal must identify the specific code provisions on which the denial is based. If the decision of the City Manager, City Attorney or hearing officer is not complete within 45 days, the City waives any claim regarding failure to exhaust administrative remedies in any judicial review of the denial of the application for such permit.

Sec. 12-177. – ~~Restrictions on assignment, transfer, sale, and subleasing.~~ Construction Bond and Permanent Performance Bond.

~~(a) The rights and privileges hereby granted are considered personal, and if the permittee sells, assigns, transfers, leases or pledges such rights or privileges, or both, in whole or in part, either directly or by operation of the law, then the city shall have the right to terminate any and all permits issued hereunder for no other cause. The city shall terminate such permits in writing, certified mail, return receipt requested, to the permittee, and such termination shall be effective sixty (60) days from such date of mailing. The rights and privileges hereby granted shall not be mortgaged or encumbered without the prior consent and approval of the city given by written resolution.~~

~~(b) In addition to the provisions for termination provided for in subsection (a), the city shall have the right to terminate any and all permits issued hereunder upon any actual or pending change in, or transfer of, or acquisition by, any other party or control of permittee. The word "control," as used in this context, is not limited to major stockholders, but includes actual working control in whatever manner exercised. The permittee shall annually submit to the city a list of all shareholders and a list of all officers and directors. By acceptance of the permit, the permittee specifically agrees that any violation of this section shall, at the city's option, cause any and all permits granted the permittee under this division to be revoked.~~

(a) Construction Bond.

(1) Prior to the issuance of any permit in accordance with this Ordinance, or performing any work in the public rights-of-way, either pursuant to a permit or without a permit if authorized by applicable law except in the case of an emergency pursuant to this Ordinance, a registrant shall establish in the City's favor a construction bond to secure the restoration of the public rights-of-way, and to ensure the registrant's faithful performance of the construction or other work in the public rights-of-way, in accordance with applicable sections of the City Code and the permit. The construction bond must name the City as obligee and be conditioned upon the full and faithful compliance by the registrant with all requirements, duties, and obligations imposed by the permit and provisions of this Ordinance during and through completion of the placement or maintenance project. The construction bond shall be in an amount as determined by the City based on one-hundred and ten percent (110%) of the estimated costs of the restoration of the public

rights-of-way. No construction bond shall be required if the estimated costs of the restoration of the public rights-of-way is less than one thousand dollars ($1,000) provided the registrant has a fully replenished permanent performance bond on file with the City. For a consolidated permit, the registrant shall provide a construction bond based on the amount of the total costs of the restoration of the public rights-of-way for all small wireless facilities to be collocated on utility poles within the public rights-of-way, but in no event shall be less than ten thousand dollars ($10,000). The minimum amount of the construction bond for a new or replaced utility pole or ground-mounted small wireless facility up to twenty eight (28) cubic feet shall be twenty-five thousand ($25,000) dollars. The construction bond shall be issued by a surety licensed to operate in Florida having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the City Attorney and may be administratively accepted by the City Manager. Notwithstanding this provision, the City shall accept a letter of credit or similar financial instrument as a construction bond issued by any financial institution that is authorized to do business within the United States, provided that a claim against the financial instrument may be made by electronic means, including by facsimile. A provider of communications services may add the City to any existing bond, or other relevant financial instrument, and the City shall accept such proof of coverage without any conditions other than consent to venue in City for purposes of any litigation to which the City is a party.

(2) In the event a registrant subject to a construction bond fails to complete the work in a safe, timely and competent manner in accordance with the provisions of the permit or City code, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of completing the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.

(3) The construction bond must be issued as non-cancelable and shall provide the following: "This bond may not be canceled, or allowed to lapse, until 60 days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew." The construction bond shall be for a term of not less than one-year after the anticipated date of the later of completion of construction, restoration and City inspection. In the event the term of any construction bond expires, or is reasonably expected to expire, prior to one-year after the completion of construction, restoration and City inspection, the registrant shall immediately obtain, pay for, and file with the City a replacement bond. No less than one-year after completion of the construction and satisfaction of all obligations in accordance with the bond, the registrant may request that the City remove the requirement to continue the construction bond.

Notwithstanding, the City may require a new bond for any subsequent work performed in the public rights-of-way.

(4) The rights reserved by the City with respect to any construction bond established pursuant to this division are in addition to all other rights and remedies the City may have under this Ordinance, or at law or equity, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the City may have.

(b) Permanent Performance Bond.

(1) Pursuant to the City's authority and obligation to manage the public rights-of-way and to provide for the public safety in the exercise of its police power, a registrant or facility owner that places or maintains communications facilities in the public rights-of-way, shall file with the City, for City approval, a permanent performance bond in the amount of twenty five thousand dollars ($25,000), in the form of a cash deposit or irrevocable letter of credit. A cash deposit shall be held by the City in a separate account or an existing City account. The letter of credit shall be issued by a United States financial institution that allows drawing on the letter of credit via electronic means including facsimile, agrees to the jurisdiction of the appropriate court within Broward County, and shall be in a form and issued by a financial institution acceptable to the City Attorney. The permanent performance bond shall be conditioned on the full and faithful performance by the registrant or facility owner of all requirements, duties, and obligations imposed by the provisions of this Ordinance and applicable law, including but not limited to requirements to restore the public rights-of-way and to guarantee such restoration, to remove any abandoned communications facilities, to indemnify the City as required herein, and to pay for any damage to City or other facilities in the public rights-of-way. The permanent performance bond shall not constitute a fee, tax or other imposition on a dealer of communications services in its capacity as a dealer of communications services or compensation for use of the public rights-of-way and shall not be used by the City as such. Should the City draw upon the permanent performance bond, the City shall promptly notify the registrant, and the registrant shall promptly restore the cash deposit and/or letter of credit, as may be necessary, to the full amount. In the event a registrant fails to perform its duties and obligations imposed by the provisions of this Ordinance, subject to providing prior notice and a reasonable opportunity to cure the failure, there shall be recoverable, jointly and severally from the principal and surety of the permanent performance bond, including a letter of credit, any damages or loss suffered by the City as a result, including the full amount of any damages, indemnification or cost of removal or abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees. The cash deposit or letter of credit shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the person's full and faithful performance at all

times. A registrant may change the form of the permanent performance bond on file with the City on an annual basis. A registrant may request that the City return the permanent performance bond or approve the cancellation of the performance bond upon the expiration of a registrant's obligations pursuant to the City Code and in no event while a registrant maintains any obligations with respect to facilities in the public rights-of-way. If the City determines it is appropriate to return the permanent performance bond, a cash deposit retained by the City shall be returned without interest.

(2) For new registrants seeking to place or to maintain communications facilities in the public rights-of-way, the permanent performance bond required herein must be filed with the City prior to any construction associated with the placement or maintenance of a communications facility in the public rights-of-way. For existing registrants, permanent performance bonds currently on file with the City, either in the form of a cash deposit or letter of credit, shall satisfy the requirement of this subsection and shall continue to be maintained by the City. To the extent that a communications services provider, wireless provider, or pass-through provider with facilities in the public rights-of-way, does not have a permanent performance bond filed with the City as required herein, said person shall submit the permanent performance bond as provided herein, within ninety (90) calendar days from the effective date of this Ordinance. No permits shall be issued to a person for placement or maintenance of facilities within the public rights-of-way without a permanent performance bond filed with the City. For activity that does not require a permit, no placement or maintenance of a communications facility in the public rights-of-way shall be performed by or on behalf of a registrant that does not have a permanent performance bond on file with the City. In addition to other remedies provided herein, including but not limited to, revoking a registration, denying or withholding permits, or issuing a stop work order, the City may pursue code enforcement actions against any person who violates this subsection.

(3) Any person who seeks a waiver of the requirement of a permanent performance bond or seeks to pursue a challenge to such requirement may submit an appeal to the City Manager setting forth the basis for such person's position, pursuant to the procedures set forth in this Ordinance. The City Manager shall render a decision which the person may appeal to the City Commission, pursuant to the procedures set forth in this Ordinance.

(4) The rights reserved by the City with respect to any performance construction bond or permanent performance bond established pursuant to this chapter are in addition to all other rights and remedies the City may have under this Ordinance, or at law or equity, and no action, proceeding or exercise of a right with respect to the performance construction bond or permanent performance bond will affect any other right the City may have.

Sec. 12-178. – ~~Sites on commercial and residential property.~~Construction Methods.

~~(a) Commercial property. Micro cell and pico cell sites, and any other similar wireless system cell which attaches to an existing tower, building, or structure, are allowed on commercial property. Each cell site will require a permit as indicated in section 12-171. This permit for a cell site on commercial property must include a detailed design drawing of the proposed cell site, a statement of permission by the owner, and must be signed by the property owner and notarized. All fees and requirements of this division shall apply.~~

~~(b) Residential property. No micro cell, pico cell, repeater, or translator sites are allowed on residential property. Placement of cells on residential property is a violation of this division and subject to a fine in accordance with section 1-8.~~

(a) A registrant shall place and maintain its communications facility in public rights-of-way in a manner that is consistent with accepted industry practice and applicable codes and must comply with the 2017 FDOT UAM. For purpose of complying with the notice and approval requirements contained within the 2017 FDOT UAM, the registrant shall provide notice and seek approval from the City Engineer. All safety practices required by applicable codes or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities, including but not limited to, Chapter 33 of the Florida Building Code. Registrant shall use and exercise due caution, care and skill in performing work in the public rights-of-way, and shall take all reasonable steps to safeguard work site areas.

(b) In connection with excavation in the public rights-of-way, a registrant shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in F.S. Ch. 556, as it may be amended. In the event of any conflicts with existing utilities or utility service laterals, the proposed location of the communications facility will be adjusted, not the utility.

(c) To the extent not inconsistent with applicable codes, underground cables shall have consistent alignment parallel with the edge of pavement, a thirty-six inch (36") depth of cover for the unpaved portion of roadways, and a thirty inch (30") to thirty-six inch (36") depth of cover in the paved portion of roadways, and shall have a three (3) foot horizontal clearance from other underground utilities and their appurtenances so as to not impede the maintenance or replacement of said utilities. The lowest wire on any poles or micro wireless facility placed in any right-of-way used by vehicle traffic shall be at a height from the ground in accordance with the National Electrical Safety Code and whenever telephone and electric power wires cross each other, wires shall cross and be maintained in accordance with the National Electrical Code, the National Electrical Safety Code and the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the

United States, as all may be amended.

(d) Grounding rods and pull boxes. The grounding rod may not extend above the top of the public right-of-way or sidewalk and must be placed in a pull box, and the ground wire between the pole and ground rod must be inside an underground conduit. All pull boxes shall be vehicle load bearing, comply with applicable codes and the applicable FDOT Standard specification and be listed on the FDOT Approved Products List, as applicable. A concrete pad shall be installed around all pull boxes not located in the sidewalk. No new or replacement pull boxes shall be located in pedestrian ramps.

(e) In no event shall the registrant's work require the obstruction of City-owned, metered parking spaces while use of such spaces requires the payment of parking fees, without approval of the City.

(f) In the event that work to be conducted by the registrant requires streets or traffic lanes to be closed or obstructed, the registrant shall, pursuant to the requirements of the City, obtain all permits from this City pursuant to a maintenance-of-traffic plan to be approved by the City. In no event shall such obstruction be greater than twenty-four (24) hours unless approved by the City.

(g) The City may require the use of trenchless technology (i.e., directional bore, hand digging or jack and bore method) for the installation of facilities underground in the public rights-of-way. Underground missile boring shall be prohibited unless waived by the City. The registrant shall be solely liable for the displacement, damage or destruction of any property, public rights-of-way, irrigation system, utility, or landscaping as a result of the placement or maintenance of its facility within the public rights-of-way. The City may issue such rules and regulations concerning the method for placement or maintenance of a communications facility in public rights-of-way as may be consistent with this Ordinance and other applicable codes and standards. The provisions of this subsection are not intended to prevent the use of any method of construction not specifically prescribed by this subsection, provided that any such method has been approved by the City.

(h) In an effort to minimize adverse impacts and disruption in the public rights-of-way and to other municipal improvements, the City may require a communications services provider to coordinate the placement or maintenance of its facilities with any work, construction, installation in or repairs of the subject public rights-of-way or other facilities therein, that is occurring or is scheduled to occur within a reasonable time from the date(s) requested in the communications services provider's permit application. The City may require a registrant to alter reasonably its placement or maintenance schedule as necessary to minimize disruptions and disturbance in the public rights-of-way. The City may provide a more definite time frame based on specific City construction or maintenance schedules. Within the public rights-of-way, every communications services provider may make space available in its trench and/or conduit to other communications services providers

consistent with the federal requirements of 47 U.S.C. § 224. Every communications services provider shall utilize existing conduits, pathways and other facilities whenever possible, and shall not place or maintain any new, different, or additional poles, conduits, pathways or other facilities, whether in the public rights-of-way or on privately-owned property, until written approval is obtained from the City or other appropriate governmental authority, and, where applicable, from the private property owner.

(i) Limits on excavation in restored rights-of-way. In the interest of public safety and to avoid continual disruption and degradation to the public rights-of-way, an area of the public rights-of-way that has been subject to excavation that has been restored shall not be subject to re-excavation until at least two years following the completion of such restoration, to the extent not inconsistent with applicable law, unless waived by the City. Consistent with the 2017 FDOT UAM, the City may deny a permit for re-excavation in the same area of the public rights-of-way for a longer period of time than two years. Registrants seeking to place communications facilities in the public rights-of-way through excavation are strongly encouraged to contact other registrants and communications services providers to coordinate the placement of communications facilities in the public rights-of-way.

(j) Trees. A registrant shall not prune, remove or materially damage trees during placement or maintenance of communications facilities including but not limited to, small wireless facilities, micro wireless facility, or utility poles in the public rights-of-way unless approved by the City. Tree removal or pruning is not permitted within the public rights-of-way to increase signal strength or to provide a line-of-sight for wireless facilities. Landscaping may only be damaged or removed during placement or maintenance of communications facilities pursuant to a permit issued by the City. The City may require that any landscaping or trees so removed shall be replaced or mitigated in accordance with the approved restoration plan. Any such trimming or removal shall be at registrant's sole expense, and registrant shall remove all trimmings from City's right-of-way and shall not leave trimmings or debris on any public or private property.

(k) Restoration of public rights-of-way. A registrant shall, at its own expense, restore the public rights-of-way to its original condition before such work in public rights-of-way was initiated, subject to the City's satisfaction upon inspection. Registrant shall warrant its restoration for a period of 12 months after completion of such restoration. If the registrant fails to make such restoration within 30 calendar days after completion of construction, or such other time as may be required by the City, the City may, after written notice to the registrant, perform such restoration using City employees, agents or contractors, and charge all costs of the restoration to the registrant in accordance with F.S. § 337.402, as it may be amended, and require reimbursement within 30 days after the submission of the invoice by the City to the registrant.

(l) The City reserves the right to place and maintain, and permit to be placed or

maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, fiber, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in public rights-of-way occupied by the registrant. The registrant shall not in any way displace, damage or destroy any sewer, water main, pipe or any other facilities belonging to the City, or to any third party who placed such facilities therein by express authority of the City, without the consent of the City, and the registrant shall be liable to the City or to the third party owner, as the case may be, for the cost of any repairs made necessary by any such displacement, damage or destruction and shall pay such costs upon demand. A registrant shall immediately notify the City of any damage to City utilities, City fiber or other City facilities as a result of a registrant's construction in the public rights-of-way. The registrant shall repair such damage at its expense within the time frame required by the City given the nature of the damage and impact on City services. In its discretion, the City may repair or arrange for the repair of such damage and charge such expense to the registrant. A registrant's liability for damage to other persons' underground facilities shall be consistent with applicable law, including F.S. Ch. 556.

(m) Any communications facilities heretofore or hereafter placed upon, under, over, or along any public rights-of-way that is found by the City to be unreasonably interfering in any way with the convenient, safe or continuous use or the maintenance, improvement, extension or expansion of such public rights-of-way shall, upon thirty (30) days' written notice to the registrant or its agent, be removed or relocated by such registrant at its own expense except as explicitly provided under F.S. § 337.403. The City may waive or extend the time within which a registrant shall remove or relocate a communications facility for good cause shown.

(n) Removal or relocation at the direction of the City of a registrant's communications facility in public rights-of-way shall be governed by the provisions of F.S. §§ 337.403 and 337.404, as they may be amended. Subject to F.S. § 337.403, whenever an order of the City requires such removal or change in the location of any communications facility from the public rights-of-way, and the facility owner fails to remove or charge the same at its own expense to conform to the order within the time stated in the notice, the City may proceed to cause the communications facility to be removed. The expense thereby incurred except as provided in F.S. § 337.403(1)(a)—(c), shall be paid out of any funds available therefor, and such expense shall be charged against the registrant of the communications facility and levied, collected and paid to the City.

(o) Subject to F.S. § 337.403, whenever it shall be necessary for the City to remove or relocate any communications facility, the registrant of the communications facility shall be given notice of such removal or relocation and an order requiring the payment of the costs thereof, and shall be given reasonable time, which shall not be less than twenty (20) nor more than thirty (30) days in which to appear before the City Commission to contest the reasonableness of the order. Should the

registrant not appear, the determination of the cost to the registrant shall be final, in accordance with F.S. § 337.404.

(p) A final order of the City shall constitute a lien on any property of the registrant and may be enforced by filing an authenticated copy of the order in the office of the clerk of the circuit court of the county wherein the registrant's property is located and/or by drawing upon the registrant's permanent performance bond.

(q) The City retains the right and privilege to cut or move any communications facilities located within the public rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall attempt to notify the registrant of the communications facility, if known, prior to cutting or removing a communications facility and shall notify the registrant of the communications facility, if known, after cutting or removing a facility.

(r) The City shall have the right to make such inspections of facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this Ordinance. The City shall have access without charge to any manholes or handholes at any time, of a communications services provider in which the City has facilities, provided the City has given such provider reasonable prior notice so that such provider can have trained personnel present when the City accesses such manholes. Notwithstanding the foregoing, the City, in the proper exercise of its municipal police powers and duties with respect to the public rights-of-way, shall have access to all manholes and handholes without charge of such provider. In the event the City determines that a violation exists with respect to registrant's placement or maintenance of facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the City will provide registrant no less than ten days' to cure the violation.

(s) Following the completion of construction to place a new or replace an existing communications facility in the public rights-of-way, the registrant shall promptly provide revised plans and as built plans, including, but not limited to, horizontal and vertical profiles, within thirty (30) days after completion of any installation or construction. The plans shall be in a digitized format, showing the two-dimensional location of the facilities, based on the City's geographical database or other format acceptable to the City. The registrant shall provide such plans at no cost to the City. The City shall maintain the confidentiality of such plans and any other information provided in accordance with F.S. § 202.195, as it may be amended.

(t) To the extent not inconsistent with applicable law, a registrant shall allow City facilities to be collocated within City's public rights-of-way through the use of a joint trench during registrant's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between registrant and City and may be subjected to other City rights-of-way requirements. The City further reserves without limitation the right to alter, change, or cause to be changed, the

grading, installation, relocation or width of the public rights-of-way within the limits of the City and within said limits as same may from time to time be altered.

(u) A registrant shall, on the request of any person holding a permit issued by the City, temporarily raise or lower its communications facilities to permit the work authorized by the permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than 30-days advance written notice to arrange for such temporary relocation. If the City requests a temporary raising or lowering of a facility for a public purpose, the City shall not be charged for the temporary raising or lowering of the facility, subject to applicable law.

(v) Neither this Ordinance nor a permit issued by the City authorizes a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.

(w) Abandonment. Upon determination by a registrant or communications services provider that one or more of its communications facilities in the public rights-of-way is to be abandoned, the provider shall notify the City no later than ninety (90) days from such determination, or no later than thirty (30) days following such abandonment, whichever is sooner. The City may independently establish that a communications facility has been abandoned. In reaching such determination, the City may request documentation and/or affidavits from the communications services provider or registrant regarding the active use of the facility. If the provider or registrant fails to provide the requested documentation within thirty (30) days, a rebuttable presumption shall exist that the provider or registrant has abandoned the communications facility. Any small wireless facility, micro wireless facility, utility pole for collocation of a small wireless facility, or other communications facility installed within the public rights-of-way that is abandoned shall be removed by the registrant or communications services provider at its expense within thirty (30) days of receipt of notice from the City. Failure to remove an abandoned facility within the thirty (30) days' period shall be deemed to be the registrant's or communications provider's consent for the City to remove the facility at the registrant's or provider's expense or for the City to allow another person to remove the facility at the registrant's or provider's expense. The communications services provider or registrant shall be responsible for all damage to the public rights-of-way and any facilities or utilities damaged as a result of such removal, and shall restore the public rights-of-way as required in this subjection.

(x) If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility. Notwithstanding the foregoing, if the facility is attached to an existing structure that has an independent

function such as a light pole, intersection signal, pedestrian signal, utility pole or the like, said abandonment of the facility requires removal of the facility only and does not require the removal of the existing structure.

Sec. 12-179. – ~~Reports.~~ Development And Objective Design Standards.

~~(a) Firms or individuals requesting permits for new cell sites or cell site systems may be required by the city to submit evidence of financial capability to construct and operate such cell sites or systems as may be included in the permit request. Such evidence may include, but not be limited to, previous years' audited financial statements for the requesting firm, individual financial statements for principals or investors, or other such financial information as the city may desire.~~

~~(b) The permittee shall provide the city with a written statement from an independent certified public accountant, within one hundred twenty (120) days after the close of the calendar year, that such certified public accountant has reviewed the books and records of the permittee as they relate to any permits issued under this division and, based upon such review, the certified public accountant believes the payment received by the city properly reflects the fees due to the city with respect to this division. The city shall have the right to reasonable inspection of the permittee's books and records during normal business hours.~~

~~(c) Local office. The permittee must maintain a local business office open to the public during normal business hours for the purpose of handling customer service. All books and records must be maintained in this local office.~~

(a) Terms and conditions for collocation on City utility poles.

(1) The City shall not enter into an exclusive arrangement with any person for the right to attach equipment to City utility poles. The City reserves the right to enter into agreements for collocation on City utility poles in its discretion. A person shall not use City-owned fiber, conduit, or other City property without an agreement approved by the City.

(2) Reservation of space on City utility poles. The City hereby reserves the top one-third of the useable space of the vertical pole component of all City utility poles in the public rights-of-way for future public safety uses. The City may waive the reservation of space on City utility poles. The City may reserve additional space on City utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the City utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use. The replaced pole shall continue to be owned by the City.

(3) The rate to collocate a small wireless facility on a City utility pole shall be

one-hundred fifty dollars ($150) per pole annually, or the highest rate authorized by applicable law. This amount shall not be deducted from any fees or taxes that may be due to the City. The fee shall be paid upon the City's issuance of a permit to collocate a small wireless facility on a City utility pole and annually thereafter. By establishing the maximum amount currently allowed pursuant to F.S. § 337.401(7), the City is not indicating that such amount provides full compensation for the taking of City property and does not waive any rights under the Florida Constitution.

(4) Agreements between the City and wireless providers that were in effect on July 1, 2017, and that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on City utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms established under this Ordinance for small wireless facilities and utility poles that are the subject of an application submitted after the rates, fees, and terms become effective. The City may authorize the use of a City-owned pole or structure with height of 15 feet or less pursuant to an agreement entered between the City and the registrant.

(5) For a City utility pole that supports an aerial facility used to provide communications services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. § 224 and implementing regulations. The good faith estimate of the City for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

(6) For a City utility pole that does not support an aerial facility used to provide communications services or electric service, the City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, the City may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. The City may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall accommodate the City's equipment and intended function and shall remain the property of the City, subject to the City's acceptance of the

replaced or altered pole that complies with these requirements.

(7) The City may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to communications services providers other than wireless services providers for similar work and may not include any consultant fee or expense.

(8) A collocation of a small wireless facility on a City utility pole shall comply with all applicable codes, and shall not compromise the City utility pole's finish, functionality, or structural integrity particularly with respect to vulnerability to high velocity wind conditions.

(9) A collocation of a small wireless facility on a City utility pole shall not affect the City's ability to remove or to replace the pole in its sole discretion. Within thirty (30) days after receiving notification that the City intends to remove or to replace the utility pole, the registrant shall remove its collocated small wireless facility at its cost. If the registrant fails to do so, the City may remove the facility and charge all costs, including collection costs to the registrant.

(b) Location context and public safety regulations. A proposed communications facility shall comply with the following location context requirements unless waived by the City. In conjunction with granting such waiver, the City may require conditions on the permit approving such facility.

(1) A registrant shall comply with all applicable provisions of state law and City ordinances, applicable codes and regulations, quasi-judicially approved conditions for approvals, settlement agreements, applicable contracts, applicable court orders, and applicable provisions of federal statutes, including but not limited to, the Americans with Disabilities Act, FCC regulations and PSC regulations with respect to locations for placing or maintaining a communications facility in the public rights-of-way. Wireless Support Structures, small wireless facilities, micro wireless facilities, and utility poles for the collocation of small wireless facilities shall comply with the Florida Building Code, including wind velocity standards for risk categories III and IV for buildings and structures, specified in Chapter 16 Section 1620 of the 2017 Florida Building Code, as amended.

(2) All communications facilities shall be placed and maintained so as not to interfere with, create any safety hazard, or create a visual or physical obstruction or otherwise violate applicable codes with respect to the traveling public's use of the public rights-of-way, or the use of bicycle lanes

or designated walking paths within streets. To avoid such obstructions, no utility poles for collocation of small wireless facilities or ground-mounted small wireless facilities shall be located within traffic circles.

(3) For public safety purposes, aboveground communications facilities, including but not limited to, small wireless facilities, micro wireless facilities and utility poles for collocation of small wireless facilities, shall not be placed or maintained on designated walking paths including such paths otherwise located within streets.

(4) Communications facilities shall be placed between the property line and the curb line of a street and shall not be located within a clear zone, swale, and/or rain gutter, unless waived by the City.

(5) All communications facilities shall be placed and maintained so as not to cause unreasonable interference with the rights, access, and safety, including but not limited to, blocking permitted signs or address information, of property owners who abut any of the public rights-of-way.

(6) A registrant shall not place or maintain its communications facilities to interfere, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the City or any other person's facilities lawfully occupying the public rights-of-way of the City.

(7) The City may prohibit or limit the placement of new or additional communications facilities within the public rights-of-way if there is insufficient space to accommodate all of the requests to place and maintain facilities and utilities in the proposed location of the public rights-of-way, or to accommodate City approved plans for public improvements, capital improvements projects or projects the City determines are in the public interest.

(8) Requirements to Place Facilities Underground and to Prohibit Above Ground Facilities. All facilities shall be subject to the City's non-discriminatory undergrounding requirements that prohibit above-ground utilities and structures in certain areas of the public rights-of-way.

a) All new communications facilities shall be placed underground, to the extent that new utilities other than fire hydrants are required to be located underground, including new electric and communications utilities. In addition, to the extent required by applicable PSC rules and regulations, applicable codes, restrictive covenants, quasi-judicially approved conditions of a development, planned unit development, community development district, or court order, a registrant shall install its facilities underground unless waived by the

City. Additionally, a registrant shall endeavor to place all new facilities underground unless prevented from doing so by existing technology or by the physical characteristics of the installation location.

b) A registrant shall not place or maintain new utility poles for the collocation of small wireless facilities or small wireless facilities in a location in the public rights-of-way where electric and communications utilities have been or are required to be installed underground, unless waived by the City.

c) Proposed new wireline fiber or coaxial facilities shall be installed underground consistent with applicable codes, unless waived by the City.

d) Conversion of overhead utilities to underground. Unless waived by the City, no utility poles for the collocation of small wireless facilities, micro wireless facilities, ground-mounted small wireless facilities, or small wireless facilities collocated on utility poles shall be placed in a location in the public rights-of-way where the City has determined that existing above-ground electric and communications utilities should be removed and relocated underground. The presence of small wireless facilities or micro wireless facilities shall not be a basis not to comply with the City's requirements to convert above-ground utilities to underground. To comply with the City's undergrounding requirements, subject to applicable law, a registrant shall remove its small wireless facilities, micro wireless facilities, and utility poles for collocation of small wireless facilities at its expense within 60 days of being notified by the City that such facilities must be removed. The City shall have the right to remove such facilities at the registrant's expense if the registrant fails to do so. For small wireless facilities installed before the City adopts requirements that public utility lines must be placed underground, the City, in its discretion, shall: (a) allow a wireless provider to maintain the small wireless facility in place subject to any applicable pole attachment agreement with the pole owner; or (b) allow the wireless provider to replace the associated pole within 50 feet of the prior location in accordance with the objective design standards contained within this Ordinance.

e) Notwithstanding the provisions of this subsection, consistent with F.S. 337.401(7)(j), the City may approve a permit for a new utility pole for collocation of a small wireless facility in an area where all public utility lines must be placed underground, if a wireless provider satisfies the following:

1. The wireless provider submits information from a licensed engineer demonstrating to the City's satisfaction that the City has not allowed structures to remain above ground that are reasonably available to the wireless provider for the collocation of small wireless facility and that may be replaced by a wireless provider to accommodate the collocation of small wireless facilities;
2. The proposed utility pole otherwise complies with this Ordinance including the objective design standards; and
3. The wireless provider provides information from a licensed engineer that demonstrates to the satisfaction of the City that it is not reasonably able to provide wireless service by collocation on a remaining utility pole or other structure in the rights-of-way.

(9) Communications facilities, including but not limited to small wireless facilities and utility poles for the collocation of small wireless facilities shall not be placed in a location which violates rules and regulations set by Occupational Safety and Health Administration or the National Electrical Safety Code or the North American Electric Reliability Corporation standards.

(10) No communications facilities, including but not limited to small wireless facilities or utility poles for the collocation of small wireless facilities shall be placed or maintained in any location that is subject to or that would interfere with the City's drainage plan or that would interfere with the City's storm water management facilities, or flood plain management areas.

(11) Prohibition against placement within a location subject to homeowners' association restrictions. Small wireless facilities shall not be placed in a location subject to covenants, restrictions, articles of incorporation, or bylaws of a homeowners' association unless specifically authorized by the homeowners' association. For purposes of this subsection, a location in a public right-of-way that abuts parcels within a homeowners' association on both sides of its width shall be considered a location subject to covenants, restrictions, articles of incorporation, or bylaws of such homeowners' association. This subsection shall not apply to limit the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facility.

(12) Placement in relation to adjacent uses of property and building facades thereon. Where parking and/or loading spaces are not permitted between a building façade and the corresponding property line (i.e. front façade and front property line, side street façade and side street property line) by design standard, or such spaces do not exist in those locations on existing

properties, new above-ground communication facilities and new utility poles for collocation of small wireless facilities shall be placed in the rear of the property within the public rights-of-way, or if the public rights-of-way is not located in the rear of the property, in-line with the common, interior side lot lines and shall not be placed in-line with the front/principal façade of a residence, place of business, or any other principal use building located on property that abuts the public-rights-of-way.

(13) A structure granted a permit and installed pursuant to this Ordinance shall comply with F.S Chapter 333, and any City code, state and federal regulations pertaining to airport airspace protections.

(14) Historic preservation. This Ordinance does not limit the City's authority to enforce historic preservation zoning regulations adopted by City or Broward County ordinance in effect as of April 1, 2017, as it may be amended, consistent with the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. §1455(a), or the National Historic Preservation Act of 1966, as amended. Communications facilities shall not be permitted to be collocated on or to interfere with historic properties or landmarks that may be within or adjacent to the public rights-of-way unless waived by the City. The City shall not allow small wireless facilities, utility poles for the collocation of small wireless facilities or micro wireless facilities to be located in a manner that would impact negatively historic properties or landmarks unless waived by the City. Historic properties and landmarks may be so designated as being listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended, a property within a National Register-listed district, designated by the State of Florida, or individually listed in a City Register of Historic Places, pursuant to City or Broward County designation.

(c) Objective design standards.

(1) Intent and purpose. Small wireless facilities in the public rights-of-way and utility poles installed or repurposed in the public rights-of-way for collocation of small wireless facilities shall be designed consistent with the objective design standards set forth herein, which are intended to maximize compatibility and to minimize negative visual impact on the surrounding neighborhood. The objective design standards contained in this Ordinance regulating the location context, color, camouflage design, and concealment of the proposed small wireless facility shall apply, unless waived by the City.

(2) Applicants shall not place or maintain signage on communications facilities, in public rights-of-way, unless otherwise required by federal or State law, provided; however, existing structures that lawfully supported signage before being repurposed may continue to support signage as otherwise

permitted by law.

(3) A communications facility shall not have any type of lighted signal, lights, or illuminations unless required by applicable codes, local codes or regulations, a permit issued by the City, or state and federal laws and regulations.

(4) Design Standards for Utility Poles. All proposed new or replaced utility poles for collocation of small wireless facilities shall meet the design standards contained in this subsection unless waived by the City. To limit the number of new utility poles installed for collocation of small wireless facilities, registrants are encouraged to share utility poles and to accommodate more than one small wireless facility on each utility pole.

(a) A replaced or restructured utility pole to accommodate the collocation of a small wireless facility shall be in substantially the same hole or location as the original utility pole.

(b) The replaced or restructured utility pole shall be substantially similar in finish, base and pole design, diameter, material and height as the original pole being replaced, unless the City requires a different design, color or composition to be consistent with applicable City standards for new utility poles.

(c) Unless waived by the City, the height for a new utility pole or replaced utility pole installed pursuant to this Ordinance shall not exceed the height of the tallest existing utility pole as of July 1, 2017, in the same right-of-way, measured from grade, in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet in the same public right-of-way as of July 1, 2017, the height shall be limited to 50 feet measured from grade. Height shall include only the height of the utility pole and shall not include any light, antennas, masts or other attachments to the utility pole.

(d) Unless waived by the City, a new utility pole shall be designed to be substantially similar in design to the predominant type of other utility poles at the proposed location in the same block or vicinity of the public rights-of-way. Such design aspects to follow include the material, base, pole diameter and style, location and style of attachments, finish, and cap, as applicable. By way of example, if existing utility poles in the same area of the public rights-of-way are light poles, the new utility pole should be designed substantially similar to such light poles and to the extent consistent with location context regulations, equidistant between existing poles. Unless waived by the City, or prohibited by applicable law, any such

camouflage utility pole for collocation of a small wireless facility shall function in the same manner as the facility it is intended to resemble in compliance with the City Code, at the expense of the registrant. By way of example, if a registrant installs a utility pole for collocation small wireless facility to resemble a nearby light pole, the registrant is encouraged to include a light operated in the same manner as other light poles, at the registrant's expense. Notwithstanding this subsection, if the proposed location of a new utility pole for collocation of a small wireless facility is within a public right-of-way that is within a particular zoning district, planned unit development, community development district, or community redevelopment agency, that has design standards applicable to utility poles, such proposed utility pole shall substantially comply with such design standards.

(e) If there are no existing utility poles in close proximity to a new utility pole, the new utility pole shall be designed to resemble other black metal utility poles found in the public rights-of-way.

(5) Camouflage or concealed design for collocation of small wireless facilities.

(a) Small wireless facilities of 6 cu. feet or less may be collocated on or within a utility pole and shall not be installed directly on the ground. Wires, cables and equipment to be collocated on a utility pole shall be within the utility pole or if not possible to being installed within the utility pole, covered with a shroud provided it a shroud shall not extend over a substantial portion of the pole. No exposed wires or cables are permitted. Conduit shall not be installed on the exterior of a utility pole unless covered by a shroud.

(b) If the utility pole for the proposed collocation of a small wireless facility is a light pole, a street light fixture substantially similar in design to the existing street light fixture may be used to camouflage the small wireless facility such as through replacement of the cobra head with a new cobra head containing the small wireless facility, or a side-mounted light may be replaced with a substantially similarly designed side mounted light containing the small wireless facility. Unless consistent with the design of the utility pole that has attachments on a mast, a small wireless facility shall not be collocated on a mast of a utility pole. In no event shall a small wireless facility be collocated on the mast of a utility pole that serves as a traffic signal pole. Any street light fixture installed by the registrant shall be maintained in good working order by the registrant at its cost.

(c) Unless waived by the City, slim design shall be used wherein the

top mounted antenna does not exceed the diameter of the supporting utility pole at the level of the antenna by more than 12 inches, and side mounted enclosures, if any, do not extend more than twenty- four (24) inches beyond the exterior dimensions of the existing structure, repurposed structure or utility pole at the level of antenna attachment measured from the edge of the pole to the outermost surface of the antenna.

(d) Maximum height restrictions. A small wireless facility, including any attached antennas, shall not exceed ten (10) feet above the existing structure, repurposed structure or utility pole upon which the small wireless facility is to be collocated. A small wireless facility in the public rights-of-way shall not be used for the attachment of any communications facilities or fiber other than the equipment included within the small wireless facility.

(6) Small wireless facilities not collocated on utility poles or existing structures.

(a) With respect to location, ground-mounted small wireless facilities up to 28 cu. ft. in dimension shall be located within a ten (10) foot radius of the existing structure or utility pole for the collocated small wireless facility. Registrants are encouraged to locate ground-mounted small wireless facilities with reasonable spacing of at least three hundred (300) feet from other ground-mounted small wireless facilities in the public rights-of-way. Such ground-mounted small wireless facilities shall be installed in a location that is substantially similar to the location used for the installation of other ground-mounted equipment in the public rights-of-way. By way of example, if a ground-mounted equipment cabinet associated with a utility pole is installed in the bulb-out within the public rights-of-way, a ground-mounted small wireless facility shall be installed in a bulb-out and shall be concealed with substantially similar landscaping in accordance with the City Code and maintained by the registrant at its cost and expense for as long at the facility remains in the public rights-of-way.

(b) Ground-mounted equipment including small wireless facilities up to 28 cu. feet, may be installed below grade, or ground-mounted small wireless facility shall be architecturally designed with the same finish to be substantially similar to other at-grade infrastructure within 500 feet of the proposed location in the public rights-of-way such as waste receptacles or utility facilities. If the proposed ground-mounted small wireless facility is not substantially similar to other at-grade infrastructure as set forth herein, the City may approve a permit for the proposed small wireless facility if it is concealed with landscaping or a wrap as otherwise provided in this

Ordinance. Registrants are encouraged to submit the design of ground-mounted small wireless facilities to the City for review prior to submitting an application.

(c) To the extent not inconsistent with applicable codes, at the City's direction, ground-mounted small wireless facilities shall be enclosed in a wrap the design for which has been approved by the City and/or concealed with appropriate landscaping. The registrant shall maintain the wrap and landscaping in good condition at its expense.

(d) To the extent not inconsistent with applicable codes, at the City's direction based on the proposed location, the registrant owner of a ground-mounted small wireless facility in the public rights-of-way shall conceal the facility with landscaping and plantings, subject to the City's approval and be maintained by the registrant at its sole cost and expense consistent with the City Code for so long as the small wireless facility remains in the public rights-of-way.

(e) The City Manager is authorized to create a manual showing figures of acceptable and unacceptable designs for facilities to be placed or maintained in the public rights-of-way.

(7) Development standards for communications facilities other than small wireless facilities and utility poles.

(a) Dimensional limits. No communications facility other than small wireless facilities located above ground, excluding utility poles, having exterior dimensions greater than four feet high, by four and one-half feet long, by two and one-half feet wide, or having a total volume exceeding 45 cubic feet, shall be granted a permit for construction or installation nor shall be constructed on City public rights-of-way unless:

(1) The communication service provider can properly demonstrate in its permit application for placement of communication facilities in the public rights-of-way that strict compliance with the dimensional limits in this subsection will prevent the communications service provider from installing, constructing, maintaining, or providing its communications network; and

(2) The communication service provider demonstrates in its permit application that the proposed communications facilities it desires to construct which exceeds the dimensional limits set forth above in this subsection are necessary to provide adequate capacity to meet the

requirements of the applicant at a specific location, or that said limits are otherwise technologically infeasible at the location, and that the proposed equipment the service provider desires to utilize is of the minimum size available to meet the requirements of the applicant's communications network; and

(3) The communications service provider demonstrates in its permit application that the proposed communications facilities are located and composed in a manner to minimize adverse impacts to abutting properties and the surrounding neighborhood and does not create a hazard by impairment of visibility to motorists or pedestrians: and

(4) The proposed communications facility does not otherwise create a hazard to the public health, safety and welfare

(b) Notice to residential areas. Whenever a communications service provider subject to this subsection submits a permit application to locate communications equipment which exceeds the dimensional limits in this subsection within residentially-zoned districts in the City, the applicant shall provide notice by posting for at least 14 days, an 18" x 24" sign, satisfactory to the City, at the proposed location advising residents that they may review the permit application at the City and provide their comments to the City.

Sec. 12-180. - ~~Cell site removal.~~Fees and Taxes for Access to Public Rights-of-Way.

~~Upon cancellation, revocation or denial of the permit required by this division, the requestor or permittee shall remove such designated cell site and any support structure as requested by the city. Such removal [is] to be completed within thirty (30) days from the date of cancellation, revocation or denial. At the end of thirty (30) days, the city may, at its option, have the cell site removed, with such costs being the responsibility of the permittee.~~

(a) A registrant that places or maintains communications facilities in the public rights-of-way shall be required to pay fees and taxes as required by applicable law and ordinances of the City, including this Ordinance. Nothing herein shall impact fees and taxes that may be owed to the City under applicable codes and existing ordinances of the City.

(b) Pass-through providers shall pay to the City on an annual basis an amount equal to five hundred dollars ($500.00) per linear mile or portion thereof of communications facilities placed and/or maintained in the public rights-of-way. The amounts charged pursuant to this Ordinance shall be based on the linear miles of public rights-of-way or portion thereof, where communications facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers. Notwithstanding anything herein to the contrary, the City shall at all times

hereby require the maximum compensation allowed under applicable law.

(c) The City shall discontinue charging pass-through provider fees to a person that has ceased being a pass-through provider. Any annual amounts charged shall be reduced for a prorated portion of any 12-month period during which the pass-through provider remits communications services taxes imposed by the City pursuant to F.S Chapter 202, as amended.

(d) The initial amount of pass-through provider fees shall be paid prior to issuance of a permit based on the facilities proposed to be installed in the public rights-of-way pursuant to the permit. The amount due may be modified based upon the as-builts submitted by the pass-through provider. Subsequent annual payments of pass-through provider fees shall be due and payable on October 1 of each year. For registrants with existing facilities in the rights-of-way that owe rights-of-way fees, the City reserves the right to collect amounts due from the date of the initial placement of facilities in the rights-of-way. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the City shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the City may have for additional sums due and payable. All fee payments shall be subject to audit by the City, and assessment or refund if any payment is found to be in error. If such audit results in an assessment by and an additional payment to the City, such additional payment shall be subject to interest at the rate of one (1) percent per month until the date payment is made. The City shall require a pass-through provider to provide an annual notarized statement identifying the total number of linear miles of pass-through facilities in the City's rights-of-way. Upon request from the City, limited to no more than once annually, a pass-through provider must provide reasonable access to maps of pass-through facilities located in the rights-of-way of the City. The scope of the request shall be limited to only those maps of pass-through facilities from which the calculation of the linear miles of pass-through facilities in the public rights-of-way can be determined. The request shall be accompanied by an affidavit that the person making the request is authorized by the City to review tax information related to the revenue and mileage calculations for pass-through providers.

(e) If the payments required by this Section are not made within ninety (90) days after the due date, the City may withhold the issuance of permits to the registrant until the amount past due is paid in full, in addition to any other remedies available pursuant to this Ordinance and applicable law, including but not limited to drawing upon a registrant's permanent performance bond.

(f) To the extent consistent with applicable law, the City reserves the right to charge fees for registrations and permits pursuant to this Ordinance.

(g) Except to the extent prohibited by applicable law:

(1) The fee payments to be made pursuant to this section shall not be deemed to be in the nature of a tax;

(2) Such fee payments shall be in addition to any and all taxes of a general applicability;

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

(4) The fee specified herein is the consideration for use of the public rights-of-way, including all public easements, for the purpose of installing and maintaining a communications facility.

Sec. ~~12-181~~. 12.180.1- Enforcement Remedies.

(a) Nothing in this Ordinance shall affect or limit the remedies the City has available under applicable law. In addition to any other remedies available at law, including but not limited to the City Code, F.S. § 166.0415 (municipalities) and Ch. 162, (municipalities and counties), or equity or provided in this subsection, or the City's Code of Ordinances, the City may apply any one or combination of the following remedies in the event a person violates this Ordinance, or applicable law or order related to the public rights-of-way.

(b) In addition to the City's ability to terminate a registration pursuant to this Ordinance or to deny, suspend or revoke permits, the failure to comply with the provisions of this Ordinance or other law applicable to occupants of the public rights-of-way may result in imposition of penalties to be paid by the responsible person to the City in an amount of not less than $250.00 per day or part thereof that the violation continues for the first violation, or an amount of not less than $500.00 per day or part thereof for a repeat violation. A registrant's or person's failure to obtain a permit before commencing work, except where a permit is not required pursuant to this Ordinance, may result in imposition of penalties to be paid to the City in an amount of not less than $250.00 per day or part thereof that the violation continues for the first violation, or an amount of not less than $500.00 per day or part thereof for a repeat violation.

(c) In addition to or instead of any other remedy, the City may seek legal or equitable relief from any court of competent jurisdiction.

(d) Before imposing a fine, the City shall give written notice of the violation and its intention to assess such penalties, which notice shall contain a description of the alleged violation. Following receipt of such notice, the person shall have ten (10) business days, unless extended by the City, either to:

i. Cure the violation to the City's satisfaction, and the City shall make good faith reasonable efforts to assist in resolving the violation; or

ii. File an appeal with the City to contest the alleged violation pursuant to this

Section, which shall govern such appeal. If no appeal is filed and if the violation is not cured within the 10-day period, the City may collect all fines owed, beginning with the first day of the violation, through any means allowed by law.

(e) In determining which remedy or remedies are appropriate, the City or Special Master shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required to prevent further violations, and such other matters as the City or Special Master determines are appropriate to the public interest.

(f) Failure of the City to enforce any requirements of this Ordinance shall not constitute a waiver of the City's rights. Nothing herein shall waive the City's code enforcement authority, including but not limited to, establishing liens on a violator's property.

(g) In any proceeding before the City where there exists an issue with respect to a registrant's performance of its obligations, the registrant shall be given the opportunity to provide such information concerning its compliance with the terms and conditions of this Ordinance. The City may find a registrant that does not demonstrate compliance with the terms and conditions of this Ordinance in default and apply any one or combination of the remedies otherwise authorized by this Ordinance.

(h) *Force majeure.* In the event a registrant's performance of or compliance with any of the provisions of this Ordinance is prevented by a *force majeure* cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such registrant uses all practicable means to cure or correct any such inability to comply expeditiously.

SECTION 3. **Inclusion in Code.** It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the City Code, which provisions may be renumbered or re-lettered and the ordinance be changed to "section," "article," or other appropriate word to accomplish such intention.

SECTION 4. **Repeal of Laws in Conflict.** All local laws, resolutions, and/or ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of any conflict.

SECTION 5. **Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or

applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 6. **Effective Date.** This ordinance shall become effective upon adoption upon its second and final reading.

PASSED on first reading on this ___ day of _____ 2020.

PASSED AND ADOPTED on second reading on this ___ day of _____ 2020.

_____
PRESIDING OFFICER

ATTEST:

_____
CITY CLERK

	FIRST READING	SECOND READING
MOTION	_____	_____
SECOND	_____	_____
M. BATES	_____	_____
H. BERGER	_____	_____
R. CAMPBELL	_____	_____
D. GRANT	_____	_____
K. THURSTON	_____	_____