

Gary I. Resnick
Shareholder
954-761-8111

GARY.RESNICK@GRAY-ROBINSON.COM

MEMORANDUM

TO: W. Earl Hall, Esq., City Attorney, City of Lauderhill
FROM: Gary Resnick
DATE: October 8, 2020
SUBJECT: Revisions to Lauderhill Ordinance No. 200-06-117 For Second Reading and Industry Issues

Pursuant to the City's direction, we engaged in several conference calls with attorneys representing communications stakeholders to address their comments and concerns with respect to the Ordinance No. 200-06-117 that was adopted on First Reading. We made several revisions to the Ordinance based on comments from the City staff as well as industry comments, to the extent such revisions were consistent with requirements of the applicable Statute, F.S. Section 337.401. We did not agree with many of the industry's requested revisions, since the Statute does not preempt the City in such areas. Accordingly, the industry will likely still raise issues and will submit its concerns prior to a hearing on Second Reading.

This Memo summarizes the revisions from first to second reading by Section, and the industry's apparent continuing concerns. The Ordinance can go forward on Second Reading as the revisions do not alter the title and do not contain significant substantive changes from First Reading.

12-172, Applicability: Minor revisions to Applicability to clarify intent with respect to existing facilities and pending applications.

12-173, Definitions: Modified the following definitions: "abandoned," "consolidated permit application," "extension," "pass through provider," "shroud," and "stealth." Industry apparently still objects to definitions of "consolidated permit applications," "abandoned," and "adjacent property," in context of property owners and homeowner associations that own property adjacent to the public rights-of-way. With respect to "Consolidated Permit Application," the Statute provides for the possible issuance of one permit for collocation of up to 30 small wireless facilities. The industry argues this should also include up to 30 utility poles. This is a policy matter for the City to decide if it will issue one permit for up to 30 utility poles.

12-174(c), Insurance: Modified requirements.

12-174(e)(5), Indemnification: Minor modification per industry request and FL law.

12-174(e)(10) Termination of Registration: Minor modifications per industry request.

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12-175(b), Limited Exceptions to Permit Requirement: Modified per industry request to the extent consistent with FL law, which broadened the exceptions to permits. Industry objects to certain requirements for work, including excavation, done without a permit.

12-176(a), Pre-application meeting. Modified to reflect that City cannot mandate a pre-application meeting for applications for small wireless facilities or utility poles. Industry objects to any required meetings prior to submitting requests for permits for other communications facilities.

12-176(b), Information required for applications: Several modifications per industry request and consistent with FL law. Industry still objects to requirements for ALTA surveys, requirement of providing documentation to demonstrate a pole owner's consent to collocation, photo simulation of proposed facilities, and limiting a consolidated permit application to the collocation of up to 30 small wireless facilities whereby applications for multiple poles cannot be consolidated under one permit unless authorized by the City.

12-176(c), Review procedures. Modified to set forth review procedures and time frames, per industry request, and procedures for appeal of decisions, consistent with FL law. Industry objects to a "force majeure extension" of the time frames in the event of a hurricane or event that impacts City permitting. Industry objects to different bases to deny applications for small wireless facilities and utility poles, as opposed to other facilities, as set forth in FL statute.

12-177, Bonds: Industry objects to the requirement of a permanent performance bond and to minimum amounts for construction bonds for certain facilities.

12-178, Construction methods: Minor revisions to address construction issues raised by industry, to the extent consistent with FL law.

12-179, Development and Objective Design Standards: Modified provisions addressing areas where utilities must be underground, per industry request to the extent consistent with FL law. Modified historic preservation language to reflect historic property may be designated by Broward County in addition to national, state or City designations. Modified objective design standards for utility poles and small wireless facilities, per industry comment, to the extent consistent with FL law. Industry apparently objects to various provisions addressing undergrounding, historic preservation and objective design requirements.