

1 Introduced by the Land Use and Zoning Committee:  
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4 **ORDINANCE 2026-21-E**

5 AN ORDINANCE APPROVING WAIVER OF MINIMUM  
6 REQUIRED SETBACKS/SEPARATION APPLICATION WMS-  
7 25-01 FOR A CAMOUFLAGED CELL TOWER LOCATED IN  
8 COUNCIL DISTRICT 12 AT 9238 GARDEN STREET,  
9 BETWEEN JONES ROAD AND GOLDEN BAMBOO DRIVE (R.E.  
10 NO(S). 002893-0000), AS DESCRIBED HEREIN, OWNED  
11 BY DINSMORE BAPTIST CHURCH, INC., APPLIED FOR BY  
12 NEXTOWER DEVELOPMENT GROUP II, LLC, REQUESTING  
13 TO REDUCE THE MINIMUM REQUIRED SETBACKS FROM 150  
14 FEET TO 137 FEET ON THE WESTERN BOUNDARY AND 143  
15 FEET ON THE SOUTHERN BOUNDARY, PER SECTION  
16 656.1509, *ORDINANCE CODE*; PROVIDING FOR NOTICE;  
17 PROVIDING A DISCLAIMER THAT THE WAIVER GRANTED  
18 HEREIN SHALL NOT BE CONSTRUED AS AN EXEMPTION  
19 FROM ANY OTHER APPLICABLE LAWS; PROVIDING AN  
20 EFFECTIVE DATE.  
21

22 **WHEREAS**, an application for waiver of minimum required  
23 setbacks, **On File** with the City Council Legislative Services Division,  
24 was filed by Steve Diebenow, Esq. on behalf of the owner of property  
25 located in Council District 12 at 9238 Garden Street, between Jones  
26 Road and Golden Bamboo Drive (R.E. No(s). 002893-0000) (the "Subject  
27 Property"), requesting to reduce the minimum required setbacks from  
28 150 feet to 137 feet on the western boundary and 150 feet to 143 feet  
29 on the southern boundary in Zoning District Agriculture (AGR); and

30 **WHEREAS**, the Planning and Development Department has  
31 considered the application and all attachments thereto and has

1 rendered an advisory recommendation (the "Staff Report"); and

2 **WHEREAS**, the Land Use and Zoning Committee, after due notice  
3 held a public hearing and having duly considered both the testimonial  
4 and documentary evidence presented at the public hearing, has made  
5 its recommendation to the Council; and

6 **WHEREAS**, taking into consideration the above recommendations  
7 and all other evidence entered into the record and testimony taken  
8 at the public hearings, the Council has considered the criteria for  
9 waiver of minimum required setbacks pursuant to Section 656.1509(b),  
10 *Ordinance Code*, and finds that the request is in harmony with the  
11 spirit and intent of the Zoning Code and should be approved; now  
12 therefore

13 **BE IT ORDAINED** by the Council of the City of Jacksonville:

14 **Section 1. Waiver of Minimum Required Setbacks Approved.**

15 The Council has considered the waiver of minimum required setbacks  
16 criteria pursuant to Section 656.1509(b), *Ordinance Code*, the  
17 recommendation of the Land Use and Zoning Committee, and has reviewed  
18 the Staff Report of the Planning and Development Department concerning  
19 waiver of minimum required setbacks Application WMS-25-01 and finds  
20 that the waiver is in harmony with the spirit and intent of the Zoning  
21 Code, considering the following criteria, as applicable:

22 (1) The location of existing uses, structures or other features  
23 on or adjacent to the property create a need for the waiver or  
24 variance;

25 (2) The request is not based exclusively upon the desire to  
26 reduce the cost of developing the site or to circumvent the  
27 requirements or Chapter 656, Part 15, Subpart A (Wireless  
28 Communication Facilities);

29 (3) The proposed waiver or variance is the minimum necessary  
30 to address the need for the request;

31 (4) The proposed waiver or variance will reflect, to the

1 greatest extent reasonably practicable, the physical character,  
2 massing, scale and architecture of the surrounding land uses;

3 (5) The proposed waiver or variance will not have a significant  
4 detrimental impact on adjacent property values;

5 (6) The proposed waiver or variance will be compatible with  
6 the existing contiguous uses or zoning, as well as the general  
7 character and aesthetics of the neighborhood or area, considering the  
8 design and height of the tower or antenna, the mitigating effect of  
9 any existing or proposed landscaping, fencing or other structures in  
10 the area, and for towers, the proximity of the tower to existing or  
11 proposed buildings or other structures, and similar factors; and

12 (7) The strict application of the requirements of this Section  
13 would constitute a substantial hardship to the applicant, which  
14 hardship is not self-created or self-imposed.

15 Therefore, Waiver of Minimum Required Setbacks Application WMS-  
16 25-01, is hereby approved.

17 **Section 2. Owner, Property and Description.** The Subject  
18 Property is owned by Dismore Baptist Church, Inc. and is legally  
19 described in **Exhibit 1**, attached hereto, dated October 21, 2025, and  
20 graphically depicted in **Exhibit 2**, attached hereto. The applicant is  
21 Steve Diebenow, Esq., 1 Independent Drive, Suite 1200, Jacksonville,  
22 Florida, 32202; (904) 807-8214.

23 **Section 3. Notice.** Legislative Services is hereby directed  
24 to mail a copy of this legislation, as enacted, to the applicant and  
25 any other parties to this matter who testified before the Land Use  
26 and Zoning Committee or otherwise filed a qualifying written statement  
27 as defined in Section 656.140(c), *Ordinance Code*.

28 **Section 4. Disclaimer.** The waiver of minimum required  
29 setbacks granted herein shall **not** be construed as an exemption from  
30 any other applicable local, state, or federal laws, regulations,  
31 requirements, permits or approvals. All other applicable local, state

1 or federal permits or approvals shall be obtained before commencement  
2 of the development or use, and issuance of this waiver of minimum  
3 required setbacks is based upon acknowledgement, representation and  
4 confirmation made by the applicant(s), owner(s), developer(s) and/or  
5 any authorized agent(s) or designee(s) that the subject business,  
6 development and/or use will be operated in strict compliance with all  
7 laws. Issuance of this waiver of minimum required setbacks does **not**  
8 approve, promote or condone any practice or act that is prohibited  
9 or restricted by any federal, state or local laws.

10 **Section 5. Effective Date.** The enactment of this Ordinance  
11 shall be deemed to constitute a quasi-judicial action of the City  
12 Council and shall become effective upon signature by the Council  
13 President and Council Secretary. Failure to exercise the waiver, if  
14 herein granted, by the commencement of the use or action herein  
15 approved within one (1) year of the effective date of this Ordinance  
16 shall render this waiver invalid and all rights arising therefrom  
17 shall terminate.

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19 Form Approved:

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21           /s/ Terrence Harvey          

22 Office of General Counsel

23 Legislation Prepared By: Connor Corrigan

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