

1 The Land Use and Zoning Committee offers the following substitute to
2 File No. 2019-770:

3
4 Introduced by Council President Wilson:

5
6
7 **ORDINANCE 2019-770**

8 AN ORDINANCE AMENDING CHAPTER 711 (CITY RIGHTS-
9 OF-WAY) PART 4 (COMMUNICATIONS FACILITIES IN
10 CITY RIGHTS-OF-WAY), SECTION 711.403
11 (DEFINITIONS), SECTION 711.404 (REGISTRATION
12 FOR PLACING, MAINTAINING OR COLLOCATING
13 COMMUNICATION FACILITIES IN CITY RIGHTS-OF-
14 WAY), SECTION 711.406 (APPEALS), SECTION 711.412
15 (PERFORMANCE BOND FOR CONSTRUCTION AND
16 MAINTENANCE), SECTION 711.413 (SURETY FUND),
17 SECTION 711.417 (ENFORCEMENT OF PERMIT
18 OBLIGATIONS; SUSPENSION AND REVOCATION OF
19 PERMIT), SECTION 711.418 (ADDITIONAL
20 REGISTRATION TERMS AND PERMIT CONDITIONS),
21 SECTION 711.427 (REGISTRATION AND PERMIT FOR
22 PLACING, MAINTAINING OR COLLOCATING
23 COMMUNICATION FACILITIES IN CITY RIGHTS-OF-WAY
24 ASSOCIATED WITH COLLOCATION OF SMALL WIRELESS
25 FACILITIES OR SMALL WIRELESS SOLE PURPOSE NEW
26 UTILITY POLES), SECTION 711.429 (PERMIT
27 APPLICATION), SECTION 711.432 (OBJECTIVE DESIGN
28 STANDARDS), SECTION 711.437 (PERMIT REQUIRED;
29 EXCEPTIONS), SECTION 711.438 (OBJECTIVE DESIGN
30 STANDARDS), IN ORDER TO COMPLY WITH THE
31 PROVISIONS AND REQUIREMENTS CONTAINED IN SECTION

1 337.401, FLORIDA STATUTES; PROVIDING FOR
2 CODIFICATION INSTRUCTIONS; PROVIDING AN
3 EFFECTIVE DATE.

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

5 **Section 1. Amending Sec. 711.403 (Definitions), Ordinance**
6 **Code.** Sec. 711.403 (Definitions), Ordinance Code, is hereby
7 amended to read as follows:

8 **Sec. 711.403 Definitions.** For purposes of this Part, the
9 following terms, phrases, words and their derivations (whether
10 capitalized in this Part or not) shall have the meanings given.
11 Where not inconsistent with the context, words used in the present
12 tense include the future tense, words in the plural number include
13 the singular number, and words in the singular number include the
14 plural number. The words "shall" and "will" are mandatory, and
15 "may" is permissive. Words not otherwise defined shall be
16 construed to mean the common and ordinary meaning.

17 * * *

18 (d) *Applicable Codes* means the uniform building, fire,
19 electrical, plumbing, or mechanical codes adopted by a
20 recognized national code organization or local amendments to
21 those codes, ~~or local codes or ordinances adopted to implement~~
22 ~~Section 337.401(7), F.S. The term includes the objective design~~
23 ~~standards adopted pursuant to Subparts D and E of this Part~~
24 ~~that require a Collocated Small Wireless Facility or Small~~
25 ~~Wireless Sole Purpose New Utility Poles to meet reasonable~~
26 ~~location context, color, stealth, and concealment requirements~~
27 enacted solely to address threats of destruction of property
28 or injury to persons, and includes the National Electric Safety
29 Code and the 2017 edition of the Florida Department of
30 Transportation Utility Accommodation Manual.

31 * * *

1 (m) *City Rights-of-Way* means land in which the City owns the
2 fee or has an easement devoted to or required for the use as a
3 Transportation Facility and may lawfully grant access pursuant
4 to applicable law, or under the control and jurisdiction of
5 the Florida Department of Transportation provided that the City
6 is authorized to apply this Ordinance under a permit-delegation
7 agreement in accordance with section 337.401(1)(a), Florida
8 Statutes, and includes the surface, the air space over the
9 surface and the area below the surface of such rights-of-way.
10 For purposes of this definition, Transportation Facility means
11 any public way predominately associated with the vehicular
12 transportation of people, goods or property from place to place
13 which is constructed, operated, or maintained in whole or in
14 part from public funds. The term City Rights-of-Way shall not
15 include: (1) City, State, or federal rights-of-way unless the
16 City has been properly delegated authority to issue Permits
17 for structures within those rights-of-way, unless prohibited
18 by State or federal law; (2) platted utility easements that
19 are not part of a dedicated Transportation Facility right-of-
20 way; (3) platted but unopened Transportation Facility rights-
21 of-way; (4) property owned by a Person other than the City;
22 (5) service entrances or driveways leading from the road or
23 street onto Adjacent Property; or (6) any real or personal City
24 property except as described above and shall not include City
25 buildings, fixtures, poles, conduits, facilities or other
26 structures or improvements, regardless of whether they are
27 situated in the City's Rights-of-Way except as allowed by this
28 Part or applicable State or federal law.

29 * * *

30 (z) *Limited Work* shall mean (i) routine maintenance, which shall
31 mean the performance of service restoration work on existing

1 facilities, or repair work, including, but not limited to,
2 emergency repairs of existing facilities or extensions of such
3 facilities for providing Communication Services to customers;
4 (ii) replacement of an existing Wireless Facility with a
5 Wireless Facility that is substantially similar or of the same
6 or smaller size; or (iii) installation, placement, maintenance
7 or replacement of a Micro Wireless Facility that is suspended
8 on cable strung between Existing Structures in compliance with
9 applicable codes by or for a properly registered Communications
10 Services Provider.

11 * * *

12 **Section 2. Amending Section 711.404 (Registration for placing,**
13 **maintain or collocating communications facilities in city rights-of-**
14 **way), Ordinance Code.** Section 711.404 (Registration for placing,
15 maintain or collocating communications facilities in city rights-of-
16 way), Ordinance Code, is hereby amended to read as follows:

17 **Sec. 711.404 Registration for placing, maintaining or**
18 **collocating Communications Facilities in City Rights-of-Way.**

19 * * *

20 (e) *Registration updates, renewals and cancellation.* Within 30 days
21 of any change in the information and documentation required to be
22 submitted pursuant to subsection (b) above, the Registrant shall
23 provide updated information to the City. Each Registrant shall
24 renew its Registration ~~by January 31 of even-numbered~~ every five
25 (5) years ~~(beginning in the year 2020)~~ in accordance with the
26 Registration requirements of this Subpart. Failure to renew a
27 Registration may result in the City restricting the issuance of
28 additional Permits until the Provider has complied with the
29 Registration requirements of this Subpart A. A Registrant may
30 cancel a Registration upon written notice to the City stating that
31 it will no longer place, maintain or Collocate any Communications

1 Facilities in City Rights-of-Way and will no longer need to obtain
2 Permits to perform work in City Rights-of-Way. A Registrant shall
3 not cancel a Registration if the Registrant continues to place,
4 maintain or Collocate any Communications Facilities in City
5 Rights-of-Way.

6 * * *

7 **Section 3. Amending Section 711.406 (Appeals), Ordinance Code.**

8 Section 711.406 (Appeals), Ordinance Code, is hereby amended to read
9 as follows:

10 **Sec. 711.406 Appeals.** The following final determinations by
11 the Director or City Council, as applicable, are subject to appeal
12 as provided in this Part:

13 The following final determinations by the Director or City
14 Council, as applicable, are subject to appeal as provided in this
15 Part:

16 (a) Denial of an initial Registration or Registration renewal;

17 (b) Involuntary termination of a Registration;

18 (c) Suspension or revocation of a Permit; and

19 ~~(d) The issuance of a notice of withdraw from the Surety Fund;~~
20 and

21 (ed) Denial of a Permit to place, maintain or Collocate a
22 Communications Facility in the City's Rights-of-Way.

23 Appeals are subject to the procedures set forth in this Section,
24 the rules adopted pursuant to Part 5 of this Chapter, and any such
25 suspension or denial is subject to all applicable law. An appeal of
26 an action on a registration application must be filed with the
27 Director within 30 days of the date of the final, written decision
28 to be appealed and shall afford the Registrant an opportunity to
29 appear before the Rights-of-Way Committee in the manner described
30 Section 711.105(b) (2) of this Chapter. Any appeal not timely filed
31 as set forth above shall be waived. Upon correction of any grounds

1 that gave rise to a suspension or denial, the suspension or denial
2 shall be lifted. Any administrative review by the Director or City
3 Council of a final determination must be completed and a written
4 decision issued within 45 days after a written request for review is
5 made. Any Such ~~Decisions~~ of the Council shall constitute a final
6 decision of the City of Jacksonville.

7 **Section 4. Amending Section 711.412 (Performance Bond for**
8 **Construction and Maintenance), Ordinance Code.** Section 711.412
9 (Performance Bond for Construction and Maintenance), Ordinance Code,
10 is hereby amended to read as follows:

11 **Sec. 711.412 ~~Performance Bond for Construction~~ Bond for**
12 **Right-of-Way Restoration and Maintenance.**

13 (a) Prior to issuing a Permit where the work under the permit
14 will require restoration of City Rights-of-Way, the City may
15 require a ~~performance~~ construction bond to secure the restoration
16 of the City's postconstruction Rights-of-Way. ~~Notwithstanding the~~
17 ~~foregoing, a performance bond hereunder shall only be required to~~
18 ~~the extent that the cost of the restoration exceeds the amount~~
19 ~~recoverable against the Surety Fund as provided in Section~~
20 ~~711.413.~~ to the preconstruction condition. Six months after the
21 completion of the construction of the Communications Facility and
22 satisfaction of all obligations in accordance with the bond, the
23 bond may be eliminated, and the City shall consent to the
24 elimination where necessary (however, the City may subsequently
25 require a new bond for any subsequent work in the City's Rights-
26 of-Way). The ~~performance~~ construction bond shall be issued by a
27 surety having a minimum rating of an A.M. Best A-VII rating or
28 better and duly authorized to do business in Florida; shall be in
29 a form acceptable and subject to the approval of the Director; and
30 shall provide that: "This bond may not be canceled, or allowed to
31 lapse, until 60 days after receipt by the City, by certified mail,

1 return receipt requested, of a written notice from the issuer of
2 the bond of intent to cancel or not to renew or upon the sooner
3 receipt of direction to release from the City." The City shall
4 accept a letter of credit or similar financial instrument issued
5 by any financial institution that is authorized to do business
6 within the United States, provided that a claim against the
7 financial instrument may be made by electronic means, including
8 by facsimile.

9 (b) The rights reserved to the City under this Section are in
10 addition to all other rights of the City, whether reserved in this
11 Chapter, or authorized by other law, and no action, proceeding or
12 exercise of a right with respect to the ~~performance~~ construction
13 bond will affect any other right the City may have. Any proceeds
14 recovered under the ~~performance~~ construction bond may be used to
15 reimburse the City for such additional expenses as may be incurred
16 by the City as a result of the failure of Registrant to comply
17 with the responsibilities imposed by this Section, including, but
18 not limited to, attorney's fees and costs of any action or
19 proceeding.

20 **Section 5. Amending Section 711.413 (Surety Fund), Ordinance**
21 **Code.** Section 711.413 (Surety Fund), Ordinance Code, is hereby
22 amended to read as follows:

23 **Sec. 711.413 Surety Fund.**

24 (a) At or prior to the time a Registrant receives its first Permit
25 to place, maintain or Collocate a Communications Facility in City
26 Rights-of-Way after the effective date of this Chapter, the
27 Registrant shall be required to file with the City, for City
28 approval, an annual bond or irrevocable evergreen letter of credit
29 (in a form approved by the City and issued by a financial
30 institution with a location in the City), having as a surety a
31 company qualified to do business in the State of Florida, and

1 acceptable to the Director (consulting with the City's Risk
2 Management Division), which shall be referred to as the "Surety
3 Fund." The Surety Fund shall be required as follows: in the sum
4 of \$3,000 per pole for up to 10 poles; for 11-50 poles, the sum
5 of \$45,000; for 51-100 poles, the sum of \$75,000 and 101+ poles,
6 the sum of \$100,000. The Surety Fund shall be maintained from such
7 time through the earlier of: (i) transfer, sale, assignment or
8 removal of all Communications Facilities in City Rights-of-Way or;
9 (ii) 12 months after the termination or cancellation of any
10 Registration. The Surety Fund shall be conditioned on the full and
11 faithful performance ~~by the Registrant~~ of all duties and
12 obligations relating to indemnification and abandonment of all
13 requirements, duties and obligations imposed upon Registrant by
14 the provisions of this Chapter. The Surety Fund shall be furnished
15 annually or as frequently as necessary to provide a continuing
16 guarantee of the Registrant's full and faithful performance of all
17 duties and obligations relating to indemnification and abandonment
18 imposed upon Registrant by the provisions of this Chapter at all
19 times. In the event a Registrant fails to perform its duties and
20 obligations relating to indemnification and abandonment imposed
21 upon the Registrant by the provisions of this Chapter, subject to
22 Section 711.414 of this Part, there shall be recoverable, jointly
23 and severally from the principal and surety of the Surety Fund,
24 any damages or loss suffered by the City as a result, including
25 the full amount of any compensation, indemnification or cost of
26 removal, relocation or abandonment of any property of the
27 Registrant, plus a reasonable allowance for attorneys' fees, up
28 to the full amount of the Surety Fund. The City may in its
29 reasonable discretion accept a Surety Fund from the Registrant or
30 its parent company, or other entity acceptable to the Director.

31 * * *

1 **Section 6. Amending Section 711.417 (Enforcement of Permit**
2 **Obligations; Suspension and Revocation of Permit), Ordinance Code.**

3 Section 711.417 (Enforcement of Permit Obligations; Suspension and
4 Revocation of Permit), Ordinance Code, is hereby amended to read as
5 follows:

6 The Director may order the suspension of placement, maintenance,
7 or collocation work under a Permit and ultimately may revoke any
8 Permit, in the event of a substantial breach of the terms and
9 conditions of any Applicable Codes, State or federal laws or
10 regulations, or any condition of the Permit. A substantial breach by
11 the permittee may include, but is not limited to:

- 12 (1) The violation of any material provision of the Permit or
13 Applicable Codes and applicable objective design standards;
- 14 (2) An evasion or attempt to evade any material provision of the
15 Permit or the perpetration or attempt to perpetrate any fraud
16 or deceit upon the City;
- 17 (3) Any material misrepresentation of act in the process of
18 permittee's request for a Permit or Registration;
- 19 (4) The failure to maintain the required ~~performance~~ construction
20 bond, Surety Fund or insurance;
- 21 (5) The failure to properly restore the City's Rights-of-Way;
- 22 (6) The failure to adhere to the indemnification provisions;
- 23 (7) The failure to comply within the specified time with an order
24 issued by the Director to correct a harmful condition or remedy
25 a hazardous situation;
- 26 (8) The failure to Register, renew Registration, or provide notice
27 of transfer;
- 28 (9) The failure to relocate or remove Communications Facilities
29 pursuant to this Part and F.S. Ch. 337, as amended;
- 30 (10) The failure to comply with a stop work order issued by the
31 Director; or

1 (11) Conducting work in the City's Rights-of-Way without a Permit,
2 if required.

3 If the Director determines that the permittee has committed a
4 substantial breach of a term or condition of the Permit or this Part,
5 the Director shall make a written demand upon the permittee to remedy
6 such violation. The demand shall state that the continued violation(s)
7 may be cause for suspension or revocation of the Permit. Further, the
8 Director, at his or her discretion, may impose additional or revised
9 Permit conditions on the Permit following a substantial breach. Within
10 30 days of receiving the notification of the breach, the permittee
11 shall contact the Director with a plan, acceptable to the Director,
12 for its correction or shall submit a statement as to why a substantial
13 breach has not occurred. The Director shall provide additional time
14 as reasonably necessary for a permittee to establish a plan acceptable
15 to the Director taking into account the nature and scope of the
16 breach. The permittee's failure to contact the Director, failure to
17 submit an acceptable plan, or failure to reasonably implement an
18 approved plan, shall be cause for suspension or revocation of the
19 Permit. A final determination to suspend or revoke a Permit may be
20 appealed in accordance with the procedures set forth in Subpart A.
21 If a Permit is revoked, the permittee shall reimburse the City for
22 the City's reasonable costs, including restoration costs,
23 administrative costs, attorney's fees, and the cost of collection.
24 The City may charge the costs and/or fees incurred by the City
25 relating to indemnity or abandonment to the Surety Fund set forth in
26 Subpart A if the Provider fails to remit payment within 30 days of
27 notification. The Director may cause an immediate stop work order
28 where the permittee's construction, placement, maintenance or
29 collocation poses a serious threat to the health, safety or welfare
30 of the public until such time as such serious threat has been abated.

1 **Section 7. Amending Section 711.418 (Additional Registration**
2 **terms and Permit conditions), Ordinance Code.** Section 711.418
3 (Additional Registration terms and Permit conditions), Ordinance
4 Code, is hereby amended to read as follows:

5 **Sec. 711.418 Additional Registration terms and Permit**
6 **conditions.**

7 * * *

8 (g) *No interference with use of City Rights-of-Way.* All
9 Communications Facilities shall be placed, maintained or
10 Collocated so as not to ~~unreasonably~~ interfere with the use of the
11 City's Rights-of-Way by the public to the extent allowed by
12 applicable state law including, without limitation, section
13 337.401(7), Florida Statutes and with the rights ~~and convenience~~
14 of property owners who adjoin any of the City's Rights-of-Way to
15 the extent allowed by applicable state law including, without
16 limitation, section 337.401(7), Florida Statutes. The use of
17 trenchless technology (i.e., directional bore method) for the
18 installation of Underground Communications Facilities in the
19 City's Rights-of-Way as well as joint trenching or the collocation
20 of facilities in existing conduit is strongly encouraged, and
21 should be employed wherever feasible.

22 * * *

23 (s) *Correction of harmful conditions.* If, at any time, the City
24 reasonably determines that a Communications Facility is, or has
25 caused a condition that is harmful to the health, safety or general
26 welfare of any Person, then the Provider shall, at its own expense,
27 correct or eliminate all such conditions after being provided
28 reasonable notice. In an emergency, as determined by the Director,
29 when the Provider is not immediately available or is unable to
30 provide the necessary immediate repairs to any Communications
31 Facility that is a threat to public safety, then the City shall

1 have the right to remove, make repairs to or eliminate same with
2 the total cost being charged to and paid for by the Provider upon
3 demand. The City may charge the cost incurred by the City relating
4 to indemnity or abandonment to the Surety Fund set forth in Subpart
5 A if the Provider fails to remit payment within 30 days of
6 notification.

7 (t) *Remedy of hazardous conditions.* If, at any time, a condition
8 exists that the Director reasonably determines is an emergency
9 that is potentially hazardous or life threatening to any Person
10 or is a threat to health or safety of the general public, and to
11 remedy such condition the City reasonably determines that a
12 Provider must temporarily relocate or temporarily shut off service
13 or transmissions through a specific Communications Facility, then
14 the City, as an appropriate exercise of its police powers, may
15 order the Provider to immediately perform such temporary
16 relocation or shut off until the condition has been remedied, and
17 to do so at its own expense and without liability to or recourse
18 against the City. In such an emergency, when the Provider is not
19 immediately available or is unable to provide the necessary
20 immediate relocation or shut off of the specific Communications
21 Facility, then the City shall have the right to perform, or cause
22 to be performed, such temporary relocation or shut off until the
23 condition has been remedied with the total cost being charged to
24 and paid for by the Provider upon demand. The City may charge the
25 cost incurred by the City relating to indemnity or abandonment to
26 the Surety Fund set forth in this Subpart A if the Provider fails
27 to remit payment within 30 days of notification.

28 * * *

29 **Section 8. Amending Section 711.427 (Registration and Permit**
30 **for placing, maintaining or collocating Communications Facilities in**
31 **City Rights-of-Way associated with Collation of Small Wireless**

1 **Facilities or Small Wireless Sole Purpose New Utility Poles),**
2 **Ordinance Code.** Section 711.427 (Registration and Permit for placing,
3 maintaining or collocating Communications Facilities in City Rights-
4 of-Way associated with Collation of Small Wireless Facilities or
5 Small Wireless Sole Purpose New Utility Poles), Ordinance Code, is
6 hereby amended to read as follows:

7 **Sec. 711.427 Registration and Permit for placing,**
8 **maintaining or collocating Communications Facilities in City Rights-**
9 **of-Way associated with Collation of Small Wireless Facilities or**
10 **Small Wireless Sole Purpose New Utility Poles.**

11 * * *

12 ~~(c) Intent. In order to implement the City's intent to minimize the~~
13 ~~negative aesthetic impact and potential conflicts with other~~
14 ~~mobility and utility uses occurring within the City's Rights-of-~~
15 ~~Way presented by a proliferation of new multiple poles and to~~
16 ~~maximize location context, color, stealth and concealment~~
17 ~~requirements contained herein, any application for placement of a~~
18 ~~Small Wireless Facility within the City's Rights-of-Way shall~~
19 ~~first attempt to collocate such facility on an Existing Structure.~~
20 ~~Only when an Applicant can demonstrate to the satisfaction of the~~
21 ~~Director, as described in Section 711.437(d), will a Small~~
22 ~~Wireless Sole Purpose New Utility Pole be allowed.~~

23 (c) Undergrounding.

24 (1) New Small Wireless Facilities. In an area where City has
25 required all public utility lines in the City Right-of-Way to
26 be placed underground, a Communications Service Provider must
27 comply with written, objective, reasonable, and
28 nondiscriminatory requirements that prohibit new Utility Poles
29 used to support Small Wireless Facilities if:

30 (i) City, at least 90 days prior to the submission of an
31 Application, has required all public utility lines to be

1 placed underground;

2 (ii) Structures that City allows to remain above ground are
3 reasonably available to Communications Service Providers for
4 the Collocation of Small Wireless Facilities and may be
5 replaced by a Communications Service Providers to
6 accommodate the Collocation of Small Wireless Facilities;
7 and

8 (iii) A Communications Service Providers may install a new
9 Utility Pole in the designated area in the City Right-of-
10 Way that otherwise complies with this subsection and it is
11 not reasonably able to provide Wireless Services by
12 Collocating on a remaining Utility Pole or other structure
13 in the City Right-of-Way.

14 (2) *Pre-existing Small Wireless Facilities.* For Small Wireless
15 Facilities installed before City adopts requirements that
16 public utility lines be placed underground, City must:

17 (i) Allow a Communications Service Provider to maintain the
18 Small Wireless Facilities in place subject to any applicable
19 pole attachment agreement with the pole owner; or

20 (ii) Allow the Communications Service Provider to replace
21 the associated pole within 50 feet of the prior location in
22 accordance with Subpart E.

23 **Section 9. Amending Section 711.429 (Permit Application),**
24 **Ordinance Code.** Section 711.429 (Permit Application), Ordinance
25 Code, is hereby amended to read as follows:

26 **Sec. 711.429 Permit Application.**

27 (a) *Contents.* As part of any permit application to Collocate a
28 Small Wireless Facility or Small Wireless Sole Purpose New Utility
29 Pole in the City's Rights-of-Way, the Registrant shall provide a
30 permit application or consolidated permit application that sets
31 forth, at a minimum, the following:

1 (1) *Engineering plan.* An engineering plan signed and sealed by
2 a Florida licensed professional engineer, which includes:

3 * * *

4 (iii) The distance of the proposed Small Wireless Facility or
5 Small Wireless Sole Purpose New Utility Pole, including ground-
6 mounted equipment, from pavement, sidewalks, driveways, hydrants,
7 commercial business signs, the front/principal facades of businesses,
8 ramps, trees, underground Utilities and other above-grade and below-
9 grade structures and utilities located within the City's Rights-of-
10 Way and within 50 feet of the proposed Small Wireless Facility or
11 Small Wireless Sole Purpose New Utility Pole;

12 * * *

13 (v) Sufficient specificity demonstrating compliance with the
14 Florida Building Code, ~~and~~ other applicable codes, and other
15 information, including but not limited to: sight lines or clear zone
16 standards and specifications for transportation, pedestrians, and
17 public safety as provided in the Florida Department of Transportation
18 Plans Preparation Manual, Florida Department of Transportation Manual
19 of Uniform Minimum Standards for Design, Construction and Maintenance
20 for Streets and Highways (the Florida Greenbook), and the Florida
21 Department of Transportation Design Standards, as amended, the Trench
22 Safety Act (F.S. Ch. 553), the Underground Facility Damage Prevention
23 & Safety Act (F.S. Ch. 556), the "Safety Rules for the Installation
24 & Maintenance of Electrical Supply & Communication Lines" established
25 by the U.S. Department of Commerce, Bureau of Standards and the
26 National Electric Safety Code and the objective design standards
27 adopted in the table incorporated into the applicable Subpart, below.
28 Each application must include site photographs showing the location
29 of each proposed Small Wireless Facility and Wireless Equipment from
30 at least three vantage points within the public streets or other

1 publicly accessible places (the locations of the vantage points for
2 the photographs shall be depicted on the site plan);

3 * * *

4 (vii) A certification that each proposed Small Wireless Facility
5 will comply with applicable FCC radio frequency exposure standards
6 and exposure limits;

7 * * *

8 (b) *Application review.* An Application to Collocate a Small
9 Wireless Facility or place a Small Wireless Sole Purpose New
10 Utility Pole shall be reviewed by the Director as follows:

11 * * *

12 (6) *Deemed approved.* Prior to commencing construction, a
13 person with a deemed approved Permit must be registered
14 pursuant to this Part and ~~must~~, if required, must file a
15 performance construction bond and Surety Fund with the City.

16 (c) *Criteria for denial of Permit.* The Director may deny an
17 application for a Small Wireless Facility or Small Wireless Sole
18 Purpose New Utility Pole in the City Rights-of-Way if the proposed
19 location:

20 * * *

21 (5) Materially fails to comply with any Applicable Codes, ~~7~~
22 ~~except applicable objective design standards; and~~

23 (6) Fails to meet and/or comply with any applicable design
24 standards set forth in Subparts D and E; and

25 ~~(7) Fails to be collocated on an Existing Structure when such~~
26 ~~structure (or Replacement Structure) has not been demonstrated~~
27 ~~by the Applicant as being available and sufficient for the~~
28 ~~placement of a Small Wireless Facility; and~~

29 (~~8~~7) For Collocations on JEA Utility Poles, does not include
30 a JEA Notice of Approval.

31 (d) *Applications for Waiver and Administrative Deviation.* The

1 applicant may seek a waiver from any requirement, including the
2 objective design standards, by filing a request for waiver with
3 the Department, to be ~~heard~~granted or denied within 45 days of the
4 date of the request by the ~~appropriate committee of the~~
5 Council Tower Review Committee pursuant to section 656.1509. A
6 request for a waiver shall be filed contemporaneously with the
7 Permit application. The request for waiver shall state each
8 Section, subsection, requirement, standard or criteria for which
9 a waiver is being sought. A request for a waiver shall include a
10 detailed explanation, with supporting engineering or other data,
11 as to why a waiver from the requirements of this Section is
12 required. An applicant may request an administrative deviation
13 from: (1) the requirement in section 711.438 for new poles to not
14 be located within two feet of a sidewalk for any pole proposed to
15 be located within the Downtown Area as defined in section 656.361.2
16 or in areas with a Land Use designation of CGC, IL or IH; and (2)
17 any requirement regarding size limitations on width and depth of
18 pole-mounted equipment and size of new and replacement pole
19 diameter if the requested deviation is necessary due to the
20 distinct engineering, configurational or technological
21 requirements associated with the applicant's Small Wireless
22 Facility or equipment. An applicant requesting an administrative
23 deviation from these requirements must present to the Director or
24 his or her designee a letter from a certified engineer or other
25 person with sufficient licensing or technical expertise that
26 details why the administrative deviation is required. If the
27 Director is satisfied that the administrative deviation request
28 is necessary, it shall be granted. Denials of administrative
29 deviation requests may be pursued through the waiver process
30 detailed in this section, and the Director shall have the right
31 to require any request to be pursued through the waiver process

1 in his or her sole discretion. Once an administrative deviation
2 request has been granted, it may be applied to each application
3 and location where such distinct engineering or technical
4 requirements exist.

5 * * *

6 **Section 10. Amending Section 711.432 (Objective design**
7 **standards), Ordinance Code.** Section 711.432 (Objective design
8 standards), Ordinance Code, is hereby amended to read as follows:

9 **Sec. 711.432 Objective design standards.**

10 * * *

11 (b) *Objective design standards.* All proposed Collocated Small
12 Wireless Facilities shall meet the following objective design
13 standards:

14 *Collocation on Existing Poles in City Rights-of-Way*

15 *Generally applicable standards:*

16 **Standards applicable to all existing and new pole types**
17 **(streetlight, transmission, signal, other) and materials:**

18 (1) Shall at all times comply with and abide by all applicable
19 provisions of the State and Federal law and City ordinances,
20 codes and regulations when placing, maintaining or collocating
21 a Communications Facility or Small Wireless Utility Pole in
22 City Rights-of-Way; no guy wires are allowed.

23 (2) No signage allowed, unless legally required; no
24 advertising or company information allowed.

25 (3) No lights unless required by FAA.

26 *Collocation on existing poles in City Rights-of-Way:*

Eligible poles	City, JEA and Private Utility poles in use at time of collocation permit application, which either have a dedicated power service to pole or are on the same side of the street as transmission and/or distribution lines.
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	Prohibited on historic street lights and any pole less than 15 feet in height.
Antenna	
Maximum Height of antenna	10 feet above top of existing pole. No extensions of pole height below the antenna is permitted.
Max Height above replacement pole	10 feet above replacement pole height.
Antenna location	<u>For antennae providing 4G service, flush</u> Flush mounted to top of pole only, in line with the pole. <u>For antennae related to 5G, must be placed flush with pole, immediately below 4G antenna, if present; otherwise as close as possible to the pole top.</u>
Max volume of antenna	6 Cu. feet.
Enclosure required	<u>For antennae providing 4G service,</u> antenna Antenna and its connection to pole must be completely shrouded, in line with the pole and must smoothly transition around pole top. <u>No enclosure shall be required for 5G antennae, however such antennae shall match the color of the pole and shall have as reasonably minimal a profile as possible.</u>
Size of antenna shroud	Diameter no more than 2× greater than the diameter of the pole top (cylinder).
Shroud Color/Material	Must <u>For 4G antennae, shroud must match color and style of pole.</u> 7 <u>However, in all instances,</u>

	all wiring and <u>other</u> equipment must be enclosed in shroud or internal to pole.
Number of antennae shrouds allowed	One, 6 cu. foot antenna shroud allowed per pole, but no limit on number of antennae within shroud.
Replacement pole	
Appearance	Must be of same design, material and color as existing pole, unless original pole owner has a planned project to replace poles, in which case the pole must conform to the updated design, color and material.
Location	Must be in substantially same location and continue to serve primary function as original pole <u>and in residential areas, replacement pole must be located a minimum of 10-feet from a driveway and 30-feet from a hydrant, so long as the relocation is approved by the entity who owns the original pole.</u>
Diameter of replacement pole	Diameter cannot be greater than 1.5× diameter of existing pole.
Height of replacement pole	Same height as original pole (not including antenna), unless otherwise allowed. For traffic signal poles and streetlights, replacement pole must be the same height as the original pole; provided, however, for a streetlight with an overhead power feed, the height of the streetlight pole may be increased up to five feet if reasonably necessary to accommodate the top mounted

	<p>antenna and any related equipment. For transmission/distribution poles, replacement pole may be up to five feet above the original pole height.</p>
Wood replacement poles	<p>Prohibited unless wood poles are the predominant pole in the corridor and if there are no plans to upgrade poles to a different material.</p>
Hollow replacement poles	<p>Non-wood replacement poles such as aluminum, fiberglass, concrete, etc. must be capable of accommodating an internal chase, and all wiring shall be interior to pole; provided, however, this requirement for concrete poles applies to concrete streetlight poles and not to concrete transmission and distribution line poles if such requirement is not reasonably practical.</p>
Wireless Equipment	
Max cumulative volume	<p>Cumulative maximum volume of all Wireless Equipment shall not exceed 30 Cu. Ft.</p>
Location of Wireless Equipment	<p>Up to 10<u>28</u> cu. feet by volume may be pole mounted, flush with the pole, provided the depth of any such equipment shall not exceed 20 inches and width shall not exceed 2.5× the diameter of pole, <u>provided that 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</u></p>

	<p><u>transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.</u> <u>Wireless Equipment shall not obstruct the view of commercial business signs or the front/principal façade of any business or single family residence, as determined by the Planning and Development Department.</u> All Wireless Equipment in excess of 10 cu. feet shall <u>may also</u> be located underground or in an architectural pedestal base not exceeding 36 inches high and a square shape not exceeding 18 inches wide by 18 inches in depth; and having architectural molding on all flat surfaces. All grounding rods must be below grade and inside a pull box which meets FDOT standards and must not be placed on a pedestrian ramp.</p>
<p>Pole mounted Wireless Equipment location</p>	<p>Free mounted disconnect may be pole located, no less than 96" above grade <u>must comply with the National Electric Safety Code requirements, and must have a minimum separation of 12" to pole mounted surge protector or meter, if any.</u> Radio and other equipment cabinet must be no less than 10 ft. and no more than 18 ft. above grade. All exterior-mounted equipment must be located at least 12" below communication cables, if any. For distribution/transmission poles, must comply with applicable JEA standards.</p>

<p>Pole Mounted Wireless Equipment color/material</p>	<p>On all poles, except wood poles where allowed, all wires and cabling shall be placed internal to the pole; all pole mounted equipment, including external wires and cables, if allowed, shall be flush mounted, and shrouded or encased in a covering that matches the pole in color and texture; mounting straps shall only be allowed on poles where direct mount is not possible or impairs pole structure and in the event external straps are used, they must match pole color.</p>
<p>Ground mounted Wireless Equipment location (if available through waiver)</p>	<p>Must be located in areas of existing foliage. Must be located within ten-foot radius of pole. Shall not impede pedestrian access or interfere with planned road widening or utility infrastructure projects.</p>
<p>Ground mounted Color/Material (if available through waiver)</p>	<p>All equipment, cables, etc. must be enclosed; must use camouflage; may use wraps to conceal equipment.</p>

1 **Section 11. Amending Section 711.437 (Permit required;**
2 **Exceptions), Ordinance Code.** Section 711.437 (Permit required;
3 Exceptions), Ordinance Code, is hereby amended to read as follows:

4 **Section 711.437 Permit required; Exceptions.**

5 * * *

6 ~~(d) Review for Collocation on Existing Structures, City Utility~~
7 ~~Poles or JEA Utility Poles prior to placing a Small Wireless Sole~~
8 ~~Purpose New Utility Pole. The Director shall review the proposed~~
9 ~~location of a Small Wireless Sole Purpose New Utility Pole to~~

1 ~~determine whether another Utility Pole already existing in the~~
2 ~~vicinity of the proposed location may be used to support the~~
3 ~~proposed Small Wireless Sole Purpose New Utility Pole. If a Utility~~
4 ~~Pole already exists, the Director shall propose such existing~~
5 ~~Utility Pole as an alternative location. Only when the applicant~~
6 ~~can demonstrate that no existing Utility Pole is reasonably~~
7 ~~feasible to Collocate the Small Wireless Facilities shall the~~
8 ~~Director be authorized to approve a Small Wireless Sole Purpose~~
9 ~~New Utility Pole. To assist in determining whether an existing~~
10 ~~Utility Pole is reasonably feasible for collocation, the applicant~~
11 ~~may provide the Director with information concerning whether the~~
12 ~~closest available existing Utility Pole fails to provide~~
13 ~~substantially the same coverage that would be provided by the~~
14 ~~Small Wireless Sole Purpose New Utility Pole, is incapable of~~
15 ~~supporting the weight of all equipment and no Replacement Pole may~~
16 ~~be used, collocation will result in some nuisance or unsafe~~
17 ~~condition, collocation will result in excessive or extraordinary~~
18 ~~financial expense compared to the cost of the Small Wireless Sole~~
19 ~~Purpose New Utility Pole, whether there are undergrounding plans~~
20 ~~which would eliminate the proposed collocation existing Utility~~
21 ~~Pole, or such other information the applicant believes is relevant~~
22 ~~to the determination.~~

23 **Section 12. Amending Section 711.438 (Objective design**
24 **standards), Ordinance Code.** Section 711.438 (Objective design
25 standards), Ordinance Code, is hereby amended to read as follows:

26 * * *

27 (b) *Objective design standards.* All Small Wireless Sole Purpose
28 New Utility Pole shall meet the following objective design
29 standards:

30 *Small Wireless Sole Purpose New Utility Poles*

31 *Generally applicable standards:*

1 **Standards applicable to all existing and new pole types**
 2 **(streetlight, transmission, signal, other) and materials:**

3 (1) Shall at all times comply with and abide by all applicable
 4 provisions of the State and Federal law and City ordinances,
 5 codes and regulations when placing, maintaining or collocating
 6 a Communications Facility or Small Wireless Utility Pole in
 7 City Rights-of-Way; no guy wires are allowed.

8 (2) No signage allowed, unless legally required; no advertising
 9 or company information allowed.

10 (3) No lights unless required by FAA.

Sole Purpose, New Pole Facilities:	
Maximum height of pole	Height limited to tallest existing pole in ROW within 500 feet; if no pole, height of new pole with antenna limited to 50 feet.
Minimum height	Prohibited on poles 15 feet or less.
Appearance	Substantially similar to design, material and color of existing poles in corridor; however if wood poles are the predominant pole in the corridor, then new pole may be wood unless there are plans to upgrade poles to a different material; fluted poles shall be used in areas where existing historic streetlights are installed along corridor.
Diameter of new pole	Diameter at base cannot be greater than 1.5x greater than diameter of largest existing pole in corridor within 500 feet. unless an <u>An applicant may use an architectural, ground-mounted pedestal is used</u> at the pole base to internally accommodate Wireless Equipment. In

	<p>such a case, the architectural base shall be a maximum height of 36 inches, a maximum width of 18 inches and a maximum volume of six cubic feet.</p>
<p>Internal channel</p>	<p>To the extent possible consistent with requirements for compatible material and diameter every new pole shall accommodate internal wires, and cabling and additional equipment.</p>
<p>Location</p>	<ul style="list-style-type: none"> • In areas where there is existing overhead electrical service, new poles must be located on the same side of the street as electrical transmission/distribution line or service to pole must be provided underground; in areas where electrical service has been undergrounded, new poles must be located on same side of street as existing streetlights. • Located with sufficient space to accommodate present and planned <u>planned</u> travel lanes for all users; • May not be located within two feet of existing sidewalk or multi-use trail or where City has plans for new sidewalk or multi-use trail • Located equidistant between existing poles unless doing so results in an impermissible distance limitation, subject to specific location criteria below: <ul style="list-style-type: none"> • In all locations, minimum 10 feet from driveways and 30 feet from hydrants

	<ul style="list-style-type: none"> • In residential areas, poles placed in line with common interior side lot lines, <u>but in the event it is not practicable at that location, poles shall be placed as close as practicable to the common lot line but within the required side yard setback as such is extended into the Right-of-Way or five (5) feet, whichever is greater</u>unless lot widths exceed 100 feet in which case the poles shall not be located within 50 feet of the driveway entrance(s) to the lot; • No further than 10 feet from side property line on residential corner lots; <ul style="list-style-type: none"> • <u>Cannot obstruct the view of commercial business signs or the front/principal façade of any business or single family residence, as determined by the Planning and Development Department;</u>
	<ul style="list-style-type: none"> • Cannot impair view from primary residential structure; • In non-residential areas, cannot interfere with view of commercial business signs; <ul style="list-style-type: none"> • Cannot be placed in line with front/principal façade of business unless there are already parking or loading spaces present.
<p>Aerial connections</p>	<p>Pursuant to the provisions in City Ordinance requiring underground utilities where appropriate, aerial electrical and fiber connections prohibited where majority of</p>

	utilities have been undergrounded; lowest wire in areas of bicycle or pedestrian use must be at least 18 feet above grade.
Antenna	
Maximum height of antenna	Ten feet above top of pole.
Antenna location	<u>For antennae providing 4G service, flush</u> Flush mounted to top of pole only, in line with pole. <u>For antennae related to 5G, must be placed flush with pole, immediately below 4G antenna, if present; otherwise as close as possible to the pole top.</u>
Max volume of antenna	6 Cu. feet.
Enclosure required	<u>For antennae providing 4G service, antenna</u> Antenna and its connection to pole must be completely shrouded, in line with pole and must smoothly transition to top of pole. <u>No enclosure shall be required for 5G antennae, however such antennae shall match the color of the pole and shall have as minimal a profile as possible.</u>
Size of antenna shroud	Diameter no more than 2× greater than new pole top (cylinder).
Shroud color/material	Must <u>For all 4G antennae, shroud must match color and style of pole.</u> <u>7 However, in all instances, all wiring and other equipment must be enclosed in shroud.</u>

Number of antenna shrouds allowed	One 6 cu. foot antenna shroud only per pole but no limit on antennae within shroud.
Wireless Equipment	
Max cumulative volume	<p>Cumulative maximum volume of all Wireless Equipment shall not exceed 30<u>28</u> Cu. Ft., <u>provided that 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.</u></p>
Location of Wireless Equipment	<p>Up to ten cu. ft. by volume<u>Wireless Equipment</u> may be externally pole mounted, flush with the pole, provided the depth of any such equipment shall not exceed 20 inches and equipment width shall not exceed 2× the diameter of the pole. <u>Wireless Equipment shall not obstruct the view of commercial business signs or the front/principal façade of any business or single family residence, as determined by the Planning and Development Department. All</u> Wireless Equipment in excess of ten cu. feet shall<u>may also</u> be located underground or internal to the pole. All grounding rods must be below grade and inside a pull box which</p>

	<p>meets FDOT standards and must not be placed on a pedestrian ramp.</p>
<p>Pole mounted Wireless Equipment location</p>	<p>Free mounted disconnect may be pole located, no less than 96" above grade <u>must comply with National Electric Safety Code requirements, and must have a minimum separation of 12" to pole mounted surge protector or meter, if any;</u> Radio and other equipment cabinet must be no less than ten feet and no more than 18 feet above grade.</p> <p>All exterior-mounted equipment must be located at least 12" below communication cables, if any.</p> <p>For traffic signal poles and streetlights, replacement pole must be the same height as the original pole. For transmission/distribution poles, replacement pole may be up to five feet above the original pole height.</p>
<p>Pole mounted color/material</p>	<p>On all poles, except wood poles where allowed, all wires and cabling shall be placed internal to the pole; all pole mounted equipment, including external wires and cables, if allowed, shall be flush mounted, and shrouded or encased in a covering that matches the pole in color and texture; mounting straps shall only be allowed on poles where direct amount is not possible or impairs pole structure and in the event external straps are used, they must match pole color.</p>

<p>Ground mounted Wireless Equipment (if available through waiver)</p>	<p>Must be located in areas of existing foliage. Must be located within 10 foot radius of pole.</p>
<p>Ground mounted color/material (if available through waiver)</p>	<p>All equipment, cables, etc. must be enclosed; must use camouflage; may use wraps to conceal equipment.</p>

1 **Section 13. Codification Instructions.** The codifier and the
2 Office of General Counsel are authorized to make all chapter and
3 division "tables of contents" consistent with the changes set forth
4 herein. Such editorial changes and any others necessary to make the
5 *Ordinance Code* consistent with the intent of this legislation are
6 approved and directed herein, and changes to the *Ordinance Code* shall
7 be made forthwith and when inconsistencies are discovered.

8 **Section 14. Effective Date.** This ordinance shall become
9 effective upon signature by the Mayor or upon becoming effective
10 without the Mayor's signature.
11

1 Form Approved:

2

3 /s/ Shannon K. Eller

4 Office of General Counsel

5 Legislation prepared by: Jason R. Teal

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