

1 Introduced by the Council President and amended by the Land Use and  
2 Zoning Committee:

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5 **ORDINANCE 2019-757-E**

6 AN ORDINANCE CONCERNING THE WAIVER OF CERTAIN  
7 REQUIREMENTS OF CHAPTER 711 (CITY RIGHTS-OF-  
8 WAY), PART 4 (COMMUNICATIONS FACILITIES IN  
9 CITY RIGHTS-OF-WAYS), SUBPART C (GENERAL  
10 PERMIT CONDITIONS FOR COLLOCATION OF SMALL  
11 WIRELESS FACILITIES AND SMALL WIRELESS SOLE  
12 PURPOSE NEW UTILITY POLES), LOCATED AT VARIOUS  
13 LOCATIONS IN DOWNTOWN JACKSONVILLE AS  
14 DESCRIBED HEREIN, (1) TO INCREASE THE VOLUME  
15 OF POLE-MOUNTED SMALL CELL WIRELESS EQUIPMENT  
16 FROM 10 CUBIC FEET TO 21 CUBIC FEET, (2) TO  
17 INCREASE THE DEPTH OF THE POLE-MOUNTED SMALL  
18 CELL WIRELESS EQUIPMENT FROM 20 INCHES IN  
19 PROFILE TO 22 INCHES IN PROFILE, (3) TO  
20 INCREASE THE WIDTH OF THE POLE-MOUNTED SMALL  
21 CELL WIRELESS EQUIPMENT FROM 2 TIMES THE  
22 DIAMETER OF THE PROPOSED POLE TO A MAXIMUM OF  
23 29 INCHES IN WIDTH, (4) TO INCREASE THE NEW  
24 POLE DIAMETER LIMITATION FROM 1.5 TIMES THE  
25 WIDTH AT THE BASE OF THE LARGEST EXISTING POLE  
26 WITHIN 500-FEET OF THE PROPOSED POLE TO THE  
27 LARGER OF EITHER (A) 1.5 TIMES THE WIDTH AT  
28 THE BASE OF THE LARGEST EXISTING POLE WITHIN  
29 500-FEET OF THE PROPOSED POLE OR (B) 10 INCHES  
30 IN DIAMETER, (5) TO ELIMINATE THE REQUIREMENT

1 THAT A NEW POLE MUST BE PLACED GREATER THAN 2  
2 FEET FROM AN ADJACENT SIDEWALK SO LONG AS THE  
3 NEW POLE IS LOCATED IN LINE WITH ADJACENT,  
4 EXISTING POLES, (6) TO ELIMINATE THE  
5 REQUIREMENT THAT NEW POLES MUST BE PLACED  
6 EQUIDISTANT BETWEEN EXISTING POLES SO LONG AS  
7 THE NEW POLE IS LOCATED WITHIN 10 FEET OF THE  
8 EQUIDISTANT POINT, AND (7) TO ELIMINATE THE  
9 PROHIBITION AGAINST LOCATING NEW POLES IN LINE  
10 WITH THE FRONT/PRINCIPAL FAÇADE OF A BUSINESS  
11 UNLESS THERE ARE ALREADY PARKING OR LOADING  
12 SPACES PRESENT SO LONG AS THE NEW POLE IS NOT  
13 LOCATED WITHIN 10 FEET OF AN EXISTING DRIVEWAY  
14 OR WITHIN 3 FEET TO EITHER SIDE OF AN EXISTING  
15 BUILDING DOORWAY; PROVIDING A DISCLAIMER THAT  
16 THE WAIVER GRANTED HEREIN SHALL NOT BE  
17 CONSTRUED AS AN EXEMPTION FROM ANY OTHER  
18 APPLICABLE LAWS; PROVIDING AN EFFECTIVE DATE.

19  
20 **WHEREAS**, an application for waivers of chapter 711 (City  
21 Rights-of-Way), Part 4 (Communications Facilities in City Rights-  
22 of-Ways), Subpart C (General Permit Conditions for Collocation of  
23 Small Wireless Facilities and Small Wireless Sole Purpose New  
24 Utility Poles), **Application On File** with the City Council  
25 Legislative Services Division, was filed by Verizon Wireless for  
26 proposed small cell wireless facilities at seven locations in  
27 downtown Jacksonville as described in **Exhibit A** which is **On File**  
28 with the City Council Legislative Services Division.

29 **WHEREAS**, the application requests the Council grant the  
30 following waivers for each of these seven locations:

31 (1) to increase the volume of pole-mounted small cell wireless

1 equipment from 10 cubic feet to 21 cubic feet,

2 (2) to increase the depth of the pole-mounted small cell  
3 wireless equipment from 20 inches in profile to 22 inches in  
4 profile,

5 (3) to increase the width of the pole-mounted small cell  
6 wireless equipment from 2 times the diameter of the proposed pole  
7 to a maximum of 29 inches in width,

8 (4) to increase the new pole diameter limitation from 1.5  
9 times the width at the base of the largest existing pole within  
10 500-feet of the proposed pole to the larger of either (a) 1.5 times  
11 the width at the base of the largest existing pole within 500-feet  
12 of the proposed pole or (b) 10 inches in diameter,

13 (5) to eliminate the requirement that a new pole must be  
14 placed greater than 2 feet from an adjacent sidewalk so long as the  
15 new pole is located in-line with adjacent, existing poles,

16 (6) to eliminate the requirement that new poles must be placed  
17 equidistant between existing poles so long as the new pole is  
18 located within 10 feet of the equidistant point, and

19 (7) to eliminate the prohibition against locating new poles in  
20 line with the front/principal façade of a business unless there are  
21 already parking or loading spaces present so long as the new pole  
22 is not located within 10 feet of an existing driveway or within 3  
23 feet to either side of an existing building doorway; and

24 **WHEREAS,** the Downtown Investment Authority staff has  
25 considered the application and all attachments thereto and has  
26 rendered an advisory recommendation; and

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

31 **WHEREAS,** taking into consideration the above recommendations

1 and all other evidence entered into the record and testimony taken  
2 at the public hearings, the Council makes its determination based  
3 on whether: (i) the effect of the waiver is compatible with the  
4 existing contiguous uses and consistent with the general character  
5 of the area considering population, density, scale, and orientation  
6 of the structures in the area; (ii) the result will detract from  
7 the specific intent of the objective design standards by promoting  
8 the continued existence of nonconforming Small Wireless Facilities  
9 that exist in the vicinity; (iii) the effect of the proposed waiver  
10 will diminish property values in, or negatively alter the aesthetic  
11 character of the area surrounding the site, and whether the request  
12 will substantially interfere with or injure the rights of others  
13 whose property would be affected by the same; (iv) the waiver will  
14 have a detrimental effect on vehicular or pedestrian traffic or  
15 parking conditions, or result in the creation of objectionable or  
16 excessive light, glare, shadows, or other effects, taking into  
17 account existing uses in the vicinity; (v) the proposed waiver will  
18 be detrimental to the public health, safety or welfare, and will  
19 result in additional public expense, creation of nuisances, or  
20 cause conflict with any other applicable law; (vi) the City's  
21 Right-of-Way where the Small Wireless Facility or Small Wireless  
22 Sole Purpose New Utility Pole is proposed exhibits specific  
23 physical limitations or characteristics which are unique to the  
24 site and which would make imposition of the strict letter of the  
25 standard unduly burdensome; (vii) the request is based exclusively  
26 upon a desire to reduce the costs associated with compliance and is  
27 the minimum necessary to Collocate the Small Wireless Facility or  
28 place the Small Wireless Sole Purpose New Utility Pole; (viii) the  
29 request is the result of a violation that has existed for a  
30 considerable length of time without receiving a citation, or the  
31 violation that exists is a result of construction that occurred

1 prior to the applicant's acquisition of the property, and not as a  
2 direct result of the actions of the current owner; (ix) the request  
3 accomplishes a compelling public interest, such as, for example,  
4 furthering the preservation of natural resources by saving a tree  
5 or trees; (x) strict compliance with the regulation will create a  
6 substantial financial burden when considering cost of compliance;  
7 and (xi) the request will ensure that all citizens of Jacksonville  
8 and Duval County have abundant access to broadband capability; now,  
9 therefore

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

11 **Section 1. Adoption of Findings and Conclusions.** The  
12 Council has reviewed the record of proceedings and the Staff Report  
13 of the Downtown Investment Authority staff and held a public  
14 hearing concerning application for waivers of small cell wireless  
15 facility requirements in applications 9748, 9748.001, 9748.002,  
16 9748.003, 9748.004, 9748.005, and 9748.006. Based upon the  
17 competent, substantial evidence contained in the record, including  
18 the testimonial and documentary evidence presented at the public  
19 hearing before the Land Use and Zoning Committee, the Council  
20 hereby determines that the requested waiver of small cell wireless  
21 facility meets the criteria for granting a waiver contained in  
22 Chapter 656, *Ordinance Code*, as described and conditioned herein.  
23 Therefore, Applications 9748, 9748.001, 9748.002, 9748.003,  
24 9748.004, 9748.005, and 9748.006 are hereby approved, approved with  
25 condition(s), or withdrawn, as described below and as depicted on

26 **Exhibit 1, attached hereto.**

27 (1) JAX DT NODE 1 (CDN 9748) at 195 North Laura Street:

28 (a) Waiver #1 is approved.

29 (b) Waiver #2 is approved.

30 (c) Waiver #3 is approved.

31 (d) Waiver #4 is approved.

1 (e) Waiver #5 is approved, subject to the following  
2 conditions:

3 (i) The location shall comply with ADA  
4 minimum standards.

5 (ii) The location shall comply with Downtown  
6 Pedestrian Zone minimum standards.

7 (f) Waiver #6 is approved up to 2 feet.

8 (g) Waiver #7 is withdrawn as the location does not  
9 require a waiver of this requirement.

10 (2) JAX DT NODE 2 (CDN 9748.001) at 179 West Duval Street is  
11 approved for relocation within close proximity to the requested  
12 site and:

13 (a) Waiver #1 is approved.

14 (b) Waiver #2 is approved.

15 (c) Waiver #3 is approved.

16 (d) Waiver #4 is approved.

17 (e) Waiver #5 is withdrawn. The applicant shall reapply  
18 for a waiver if required at the relocated site.

19 (f) Waiver #6 is withdrawn. The applicant shall reapply  
20 for a waiver if required at the relocated site.

21 (g) Waiver #7 is withdrawn. The applicant shall reapply  
22 for a waiver if required at the relocated site.

23 (3) JAX DT NODE 3 (CDN 9748.002) at 493 West Duval Street:

24 (a) Waiver #1 is approved.

25 (b) Waiver #2 is approved.

26 (c) Waiver #3 is approved.

27 (d) Waiver #4 is approved.

28 (e) Waiver #5 is approved, subject to the following  
29 condition:

30 (i) The location shall comply with ADA  
31 minimum standards.

1 (f) Waiver #6 is withdrawn as the location does not  
2 require a waiver of this requirement.

3 (g) Waiver #7 is withdrawn as the location does not  
4 require a waiver of this requirement.

5 (4) JAX DT NODE 4 (CDN 9748.003) at 594 Adams Street:

6 (a) Waiver #1 is approved.

7 (b) Waiver #2 is approved.

8 (c) Waiver #3 is approved.

9 (d) Waiver #4 is approved.

10 (e) Waiver #5 is approved, subject to the following  
11 condition:

12 (i) The location shall comply with ADA  
13 minimum standards.

14 (f) Waiver #6 is approved.

15 (g) Waiver #7 is withdrawn as the location does not  
16 require a waiver of this requirement.

17 (5) JAX DT NODE 5 (CDN 9748.004) at 95 North Julia Street:

18 (a) Waiver #1 is approved.

19 (b) Waiver #2 is approved.

20 (c) Waiver #3 is approved.

21 (d) Waiver #4 is approved.

22 (e) Waiver #5 is approved, subject to the  
23 following conditions:

24 (i) The location shall comply with ADA  
25 minimum standards.

26 (ii) The location shall comply with Downtown  
27 Pedestrian Zone minimum standards.

28 (f) Waiver #6 is approved.

29 (g) Waiver #7 is withdrawn as the location does not  
30 require a waiver of this requirement.

31 (6) JAX DT NODE 6 (CDN 9748.006) at 144 West Independent

1 Drive is approved for relocation within close proximity to the  
2 requested site and:

- 3 (a) Waiver #1 is approved.
- 4 (b) Waiver #2 is approved.
- 5 (c) Waiver #3 is approved.
- 6 (d) Waiver #4 is approved.
- 7 (e) Waiver #5 is withdrawn. The applicant shall reapply  
8 for a waiver if required at the relocated site.
- 9 (f) Waiver #6 is withdrawn. The applicant shall reapply  
10 for a waiver if required at the relocated site.
- 11 (g) Waiver #7 is withdrawn. The applicant shall reapply  
12 for a waiver if required at the relocated site.

13 (7) JAX DT NODE 7 (CDN 9748.005) at 69 East Bay Street:

- 14 (a) Waiver #1 is approved.
- 15 (b) Waiver #2 is approved.
- 16 (c) Waiver #3 is approved.
- 17 (d) Waiver #4 is approved.
- 18 (e) Waiver #5 is approved, subject to the following  
19 conditions:
  - 20 (i) The location shall comply with ADA  
21 minimum standards.
  - 22 (ii) The location shall comply with Downtown  
23 Pedestrian Zone minimum standards.
- 24 (f) Waiver #6 is approved.
- 25 (g) Waiver #7 is withdrawn as the location does not  
26 require a waiver of this requirement.

27 **Section 2. Owner and Description.** The locations of the  
28 proposed small cell wireless facilities is within the rights-of-way  
29 owned by the City and is graphically depicted in **Exhibit A,**  
30 **(Subject Property Map and Table),** all **On File** with the City Council  
31 Legislative Services Division. The agent is Jeremy D. Sharit,



1 13051 Telecom Parkway East, Suite 100, Temple Terrace, Florida  
2 33837; (813) 615-1422.

3 **Section 3. Distribution by Legislative Services.**

4 Legislative Services is hereby directed to mail a copy of this  
5 legislation, as enacted, to the applicant and any other parties to  
6 this matter who testified before the Land Use and Zoning Committee  
7 or otherwise filed a qualifying written statement as defined in  
8 Section 656.140(c), *Ordinance Code*.

9 **Section 4. Disclaimer.** The waivers granted herein shall

10 not be construed as an exemption from any other applicable local,  
11 state, or federal laws, regulations, requirements, permits or  
12 approvals. All other applicable local, state or federal permits or  
13 approvals shall be obtained before commencement of the development  
14 or use, and issuance of these waivers is based upon  
15 acknowledgement, representation and confirmation made by the  
16 applicant(s), owner(s), developer(s) and/or any authorized agent(s)  
17 or designee(s) that the subject business, development and/or use  
18 will be operated in strict compliance with all laws. Issuance of  
19 these waivers does not approve, promote or condone any practice or  
20 act that is prohibited or restricted by any federal, state or local  
21 laws.

22 **Section 5. Effective Date.** The enactment of this

23 Ordinance shall be deemed to constitute a quasi-judicial action of  
24 the City Council and shall become effective upon signature by the  
25 Council President and Council Secretary. Failure to exercise the  
26 waivers, if herein granted, by the commencement of the use or  
27 action herein approved within one year of the effective date of  
28 this legislation shall render these waivers invalid and all rights  
29 arising therefrom shall terminate.

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Form Approved:

          /s/ Shannon K. Eller          

Office of General Counsel

Legislation Prepared By: Jason R. Teal

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