

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

3
4
5 **ORDINANCE 2019-770-E**

6 AN ORDINANCE AMENDING CHAPTER 711 (CITY
7 RIGHTS-OF-WAY) PART 4 (COMMUNICATIONS
8 FACILITIES IN CITY RIGHTS-OF-WAY), SECTION
9 711.403 (DEFINITIONS), SECTION 711.404
10 (REGISTRATION FOR PLACING, MAINTAINING OR
11 COLLOCATING COMMUNICATION FACILITIES IN CITY
12 RIGHTS-OF-WAY), SECTION 711.406 (APPEALS),
13 SECTION 711.412 (PERFORMANCE BOND FOR
14 CONSTRUCTION AND MAINTENANCE), SECTION 711.413
15 (SURETY FUND), SECTION 711.417 (ENFORCEMENT OF
16 PERMIT OBLIGATIONS; SUSPENSION AND REVOCATION
17 OF PERMIT), SECTION 711.418 (ADDITIONAL
18 REGISTRATION TERMS AND PERMIT CONDITIONS),
19 SECTION 711.427 (REGISTRATION AND PERMIT FOR
20 PLACING, MAINTAINING OR COLLOCATING
21 COMMUNICATION FACILITIES IN CITY RIGHTS-OF-WAY
22 ASSOCIATED WITH COLLOCATION OF SMALL WIRELESS
23 FACILITIES OR SMALL WIRELESS SOLE PURPOSE NEW
24 UTILITY POLES), SECTION 711.429 (PERMIT
25 APPLICATION), SECTION 711.432 (OBJECTIVE
26 DESIGN STANDARDS), SECTION 711.437 (PERMIT
27 REQUIRED; EXCEPTIONS), SECTION 711.438
28 (OBJECTIVE DESIGN STANDARDS), IN ORDER TO
29 COMPLY WITH THE PROVISIONS AND REQUIREMENTS
30 CONTAINED IN SECTION 337.401, FLORIDA

1 STATUTES; PROVIDING FOR CODIFICATION
2 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.

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

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

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

16 * * *

17 (d) *Applicable Codes* means the uniform building, fire,
18 electrical, plumbing, or mechanical codes adopted by a
19 recognized national code organization or local amendments to
20 those codes, ~~or local codes or ordinances adopted to~~
21 ~~implement Section 337.401(7), F.S. The term includes the~~
22 ~~objective design standards adopted pursuant to Subparts D and~~
23 ~~E of this Part that require a Collocated Small Wireless~~
24 ~~Facility or Small Wireless Sole Purpose New Utility Poles to~~
25 ~~meet reasonable location context, color, stealth, and~~
26 ~~concealment requirements~~ enacted solely to address threats of
27 destruction of property or injury to persons, and includes
28 the National Electric Safety Code and the 2017 edition of the
29 Florida Department of Transportation Utility Accommodation
30 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
3 a Transportation Facility and may lawfully grant access
4 pursuant to applicable law, or under the control and
5 jurisdiction of the Florida Department of Transportation
6 provided that the City is authorized to apply this Ordinance
7 under a permit-delegation agreement in accordance with
8 section 337.401(1)(a), Florida Statutes, and includes the
9 surface, the air space over the surface and the area below
10 the surface of such rights-of-way. For purposes of this
11 definition, Transportation Facility means any public way
12 predominately associated with the vehicular transportation of
13 people, goods or property from place to place which is
14 constructed, operated, or maintained in whole or in part from
15 public funds. The term City Rights-of-Way shall not include:
16 (1) City, State, or federal rights-of-way unless the City has
17 been properly delegated authority to issue Permits for
18 structures within those rights-of-way, unless prohibited by
19 State or federal law; (2) platted utility easements that are
20 not part of a dedicated Transportation Facility right-of-way;
21 (3) platted but unopened Transportation Facility rights-of-
22 way; (4) property owned by a Person other than the City; (5)
23 service entrances or driveways leading from the road or
24 street onto Adjacent Property; or (6) any real or personal
25 City property except as described above and shall not include
26 City buildings, fixtures, poles, conduits, facilities or
27 other structures or improvements, regardless of whether they
28 are situated in the City's Rights-of-Way except as allowed by
29 this Part or applicable State or federal law.

30 * * *

31 (z) *Limited Work* shall mean (i) routine maintenance, which

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

13 * * *

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

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

22 * * *

23 (e) *Registration updates, renewals and cancellation.* Within 30
 24 days of any change in the information and documentation required
 25 to be submitted pursuant to subsection (b) above, the Registrant
 26 shall provide updated information to the City. Each Registrant
 27 shall renew its Registration ~~by January 31 of even-numbered~~ every
 28 five (5) years ~~(beginning in the year 2020)~~ in accordance with
 29 the Registration requirements of this Subpart. Failure to renew
 30 a Registration may result in the City restricting the issuance
 31 of additional Permits until the Provider has complied with the

1 Registration requirements of this Subpart A. A Registrant may
 2 cancel a Registration upon written notice to the City stating
 3 that it will no longer place, maintain or Collocate any
 4 Communications Facilities in City Rights-of-Way and will no
 5 longer need to obtain Permits to perform work in City Rights-of-
 6 Way. A Registrant shall not cancel a Registration if the
 7 Registrant continues to place, maintain or Collocate any
 8 Communications Facilities in City Rights-of-Way.

9 * * *

10 **Section 3. Amending Section 711.406 (Appeals), Ordinance**
 11 **Code.** Section 711.406 (Appeals), Ordinance Code, is hereby amended
 12 to read as follows:

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

16 The following final determinations by the Director or City
 17 Council, as applicable, are subject to appeal as provided in this
 18 Part:

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

20 (b) Involuntary termination of a Registration;

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

22 ~~(d) The issuance of a notice of withdraw from the Surety Fund;~~

23 and

24 (ed) Denial of a Permit to place, maintain or Collocate a

25 Communications Facility in the City's Rights-of-Way.

26 Appeals are subject to the procedures set forth in this Section,
 27 the rules adopted pursuant to Part 5 of this Chapter, and any such
 28 suspension or denial is subject to all applicable law. An appeal of
 29 an action on a registration application must be filed with the
 30 Director within 30 days of the date of the final, written decision
 31 to be appealed and shall afford the Registrant an opportunity to

1 appear before the Rights-of-Way Committee in the manner described
 2 Section 711.105(b)(2) of this Chapter. Any appeal not timely filed
 3 as set forth above shall be waived. Upon correction of any grounds
 4 that gave rise to a suspension or denial, the suspension or denial
 5 shall be lifted. Any administrative review by the Director or City
 6 Council of a final determination must be completed and a written
 7 decision issued within 45 days after a written request for review
 8 is made. ~~Any Such~~ Decisions of the Council shall constitute a
 9 final decision of the City of Jacksonville.

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

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

16 (a) Prior to issuing a Permit where the work under the permit
 17 will require restoration of City Rights-of-Way, the City may
 18 require a ~~performance~~ construction bond to secure the restoration
 19 of the City's postconstruction Rights-of-Way. ~~Notwithstanding~~
 20 ~~the foregoing, a performance bond hereunder shall only be~~
 21 ~~required to the extent that the cost of the restoration exceeds~~
 22 ~~the amount recoverable against the Surety Fund as provided in~~
 23 ~~Section 711.413.~~ to the preconstruction condition. Six months
 24 after the completion of the construction of the Communications
 25 Facility and satisfaction of all obligations in accordance with
 26 the bond, the bond may be eliminated, and the City shall consent
 27 to the elimination where necessary (however, the City may
 28 subsequently require a new bond for any subsequent work in the
 29 City's Rights-of-Way). The ~~performance~~ construction bond shall be
 30 issued by a surety having a minimum rating of an A.M. Best A-VII
 31 rating or better and duly authorized to do business in Florida;

1 shall be in a form acceptable and subject to the approval of the
 2 Director; and shall provide that: "This bond may not be
 3 canceled, or allowed to lapse, until 60 days after receipt by
 4 the City, by certified mail, return receipt requested, of a
 5 written notice from the issuer of the bond of intent to cancel
 6 or not to renew or upon the sooner receipt of direction to
 7 release from the City." The City shall accept a letter of
 8 credit or similar financial instrument issued by any financial
 9 institution that is authorized to do business within the United
 10 States, provided that a claim against the financial instrument
 11 may be made by electronic means, including by facsimile.

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

24 **Section 5. Amending Section 711.413 (Surety Fund), Ordinance**
 25 **Code.** Section 711.413 (Surety Fund), Ordinance Code, is hereby
 26 amended to read as follows:

27 **Sec. 711.413 Surety Fund.**

28 (a) At or prior to the time a Registrant receives its first
 29 Permit to place, maintain or Collocate a Communications Facility
 30 in City Rights-of-Way after the effective date of this Chapter,
 31 the Registrant shall be required to file with the City, for City

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

1 plus a reasonable allowance for attorneys' fees, up to the full
2 amount of the Surety Fund. The City may in its reasonable
3 discretion accept a Surety Fund from the Registrant or its
4 parent company, or other entity acceptable to the Director.

5 * * *

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

8 Section 711.417 (Enforcement of Permit Obligations; Suspension and
9 Revocation of Permit), Ordinance Code, is hereby amended to read as
10 follows:

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

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

1 notice of transfer;

2 (9) The failure to relocate or remove Communications Facilities
3 pursuant to this Part and F.S. Ch. 337, as amended;

4 (10) The failure to comply with a stop work order issued by the
5 Director; or

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

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

1 if the Provider fails to remit payment within 30 days of
 2 notification. The Director may cause an immediate stop work order
 3 where the permittee's construction, placement, maintenance or
 4 collocation poses a serious threat to the health, safety or welfare
 5 of the public until such time as such serious threat has been
 6 abated.

7 **Section 7. Amending Section 711.418 (Additional Registration**
 8 **terms and Permit conditions), Ordinance Code.** Section 711.418
 9 (Additional Registration terms and Permit conditions), Ordinance
 10 Code, is hereby amended to read as follows:

11 **Sec. 711.418 Additional Registration terms and Permit**
 12 **conditions.**

13 * * *

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

28 * * *

29 (s) *Correction of harmful conditions.* If, at any time, the City
 30 reasonably determines that a Communications Facility is, or has
 31 caused a condition that is harmful to the health, safety or

1 general welfare of any Person, then the Provider shall, at its
2 own expense, correct or eliminate all such conditions after
3 being provided reasonable notice. In an emergency, as determined
4 by the Director, when the Provider is not immediately available
5 or is unable to provide the necessary immediate repairs to any
6 Communications Facility that is a threat to public safety, then
7 the City shall have the right to remove, make repairs to or
8 eliminate same with the total cost being charged to and paid for
9 by the Provider upon demand. The City may charge the cost
10 incurred by the City relating to indemnity or abandonment to the
11 Surety Fund set forth in Subpart A if the Provider fails to
12 remit payment within 30 days of notification.

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

1 by the City relating to indemnity or abandonment to the Surety
 2 Fund set forth in this Subpart A if the Provider fails to remit
 3 payment within 30 days of notification.

4 * * *

5 **Section 8. Amending Section 711.427 (Registration and Permit**
 6 **for placing, maintaining or collocating Communications Facilities**
 7 **in City Rights-of-Way associated with Collation of Small Wireless**
 8 **Facilities or Small Wireless Sole Purpose New Utility Poles),**
 9 **Ordinance Code.** Section 711.427 (Registration and Permit for
 10 placing, maintaining or collocating Communications Facilities in
 11 City Rights-of-Way associated with Collation of Small Wireless
 12 Facilities or Small Wireless Sole Purpose New Utility Poles),
 13 Ordinance Code, is hereby amended to read as follows:

14 **Sec. 711.427 Registration and Permit for placing,**
 15 **maintaining or collocating Communications Facilities in City**
 16 **Rights-of-Way associated with Collation of Small Wireless**
 17 **Facilities or Small Wireless Sole Purpose New Utility Poles.**

18 * * *

19 ~~(c) Intent. In order to implement the City's intent to minimize~~
 20 ~~the negative aesthetic impact and potential conflicts with other~~
 21 ~~mobility and utility uses occurring within the City's Rights-of-~~
 22 ~~Way presented by a proliferation of new multiple poles and to~~
 23 ~~maximize location context, color, stealth and concealment~~
 24 ~~requirements contained herein, any application for placement of~~
 25 ~~a Small Wireless Facility within the City's Rights-of-Way shall~~
 26 ~~first attempt to collocate such facility on an Existing~~
 27 ~~Structure. Only when an Applicant can demonstrate to the~~
 28 ~~satisfaction of the Director, as described in Section~~
 29 ~~711.437(d), will a Small Wireless Sole Purpose New Utility Pole~~
 30 ~~be allowed.~~

31 (c) Undergrounding.

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

7 (i) City, at least 90 days prior to the submission of an
8 Application, has required all public utility lines to be
9 placed underground;

10 (ii) Structures that City allows to remain above ground
11 are reasonably available to Communications Service
12 Providers for the Collocation of Small Wireless Facilities
13 and may be replaced by a Communications Service Providers
14 to accommodate the Collocation of Small Wireless
15 Facilities; and

16 (iii) A Communications Service Providers may install a new
17 Utility Pole in the designated area in the City Right-of-
18 Way that otherwise complies with this subsection and it is
19 not reasonably able to provide Wireless Services by
20 Collocating on a remaining Utility Pole or other structure
21 in the City Right-of-Way.

22 (2) Pre-existing Small Wireless Facilities. For Small
23 Wireless Facilities installed before City adopts requirements
24 that public utility lines be placed underground, City must:

25 (i) Allow a Communications Service Provider to maintain
26 the Small Wireless Facilities in place subject to any
27 applicable pole attachment agreement with the pole owner;
28 or

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

1 **Section 9. Amending Section 711.429 (Permit Application),**
2 **Ordinance Code.** Section 711.429 (Permit Application), Ordinance
3 Code, is hereby amended to read as follows:

4 **Sec. 711.429 Permit Application.**

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

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

12 * * *

13 (iii) The distance of the proposed Small Wireless Facility or
14 Small Wireless Sole Purpose New Utility Pole, including ground-
15 mounted equipment, from pavement, sidewalks, driveways, hydrants,
16 commercial business signs, the front/principal facades of
17 businesses, ramps, trees, underground Utilities and other above-
18 grade and below-grade structures and utilities located within the
19 City's Rights-of-Way and within 50 feet of the proposed Small
20 Wireless Facility or Small Wireless Sole Purpose New Utility Pole;

21 * * *

22 (v) Sufficient specificity demonstrating compliance with the
23 Florida Building Code, ~~and~~ other applicable codes, and other
24 information, including but not limited to: sight lines or clear
25 zone standards and specifications for transportation, pedestrians,
26 and public safety as provided in the Florida Department of
27 Transportation Plans Preparation Manual, Florida Department of
28 Transportation Manual of Uniform Minimum Standards for Design,
29 Construction and Maintenance for Streets and Highways (the Florida
30 Greenbook), and the Florida Department of Transportation Design
31 Standards, as amended, the Trench Safety Act (F.S. Ch. 553), the

1 Underground Facility Damage Prevention & Safety Act (F.S. Ch. 556),
2 the "Safety Rules for the Installation & Maintenance of Electrical
3 Supply & Communication Lines" established by the U.S. Department of
4 Commerce, Bureau of Standards and the National Electric Safety Code
5 and the objective design standards adopted in the table
6 incorporated into the applicable Subpart, below. Each application
7 must include site photographs showing the location of each proposed
8 Small Wireless Facility and Wireless Equipment from at least three
9 vantage points within the public streets or other publicly
10 accessible places (the locations of the vantage points for the
11 photographs shall be depicted on the site plan);

12 * * *

13 (vii) A certification that each proposed Small Wireless
14 Facility will comply with applicable FCC radio frequency exposure
15 standards and exposure limits;

16 * * *

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

20 * * *

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

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

29 * * *

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

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

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

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

10 (d) Applications for Waiver and Administrative Deviation. The
11 applicant may seek a waiver from any requirement, including the
12 objective design standards, by filing a request for waiver with
13 the Department, to be ~~heard~~granted or denied within 45 days of
14 the date of the request by the ~~appropriate committee of the~~
15 ~~Council~~Tower Review Committee pursuant to section 656.1509. A
16 request for a waiver shall be filed contemporaneously with the
17 Permit application. The request for waiver shall state each
18 Section, subsection, requirement, standard or criteria for which
19 a waiver is being sought. A request for a waiver shall include a
20 detailed explanation, with supporting engineering or other data,
21 as to why a waiver from the requirements of this Section is
22 required. An applicant may request an administrative deviation
23 from: (1) the requirement in section 711.438 for new poles to
24 not be located within two feet of a sidewalk for any pole
25 proposed to be located within the Downtown Area as defined in
26 section 656.361.2 or in areas with a Land Use designation of
27 CGC, IL or IH; and (2) any requirement regarding size
28 limitations on width and depth of pole-mounted equipment and
29 size of new and replacement pole diameter if the requested
30 deviation is necessary due to the distinct engineering,
31 configurational or technological requirements associated with

1 the applicant's Small Wireless Facility or equipment. An
 2 applicant requesting an administrative deviation from these
 3 requirements must present to the Director or his or her designee
 4 a letter from a certified engineer or other person with
 5 sufficient licensing or technical expertise that details why the
 6 administrative deviation is required. If the Director is
 7 satisfied that the administrative deviation request is
 8 necessary, it shall be granted. Denials of administrative
 9 deviation requests may be pursued through the waiver process
 10 detailed in this section, and the Director shall have the right
 11 to require any request to be pursued through the waiver process
 12 in his or her sole discretion. Once an administrative deviation
 13 request has been granted, it may be applied to each application
 14 and location where such distinct engineering or technical
 15 requirements exist.

16 * * *

17 **Section 10. Amending Section 711.432 (Objective design**
 18 **standards), Ordinance Code.** Section 711.432 (Objective design
 19 standards), Ordinance Code, is hereby amended to read as follows:

20 **Sec. 711.432 Objective design standards.**

21 * * *

22 (b) *Objective design standards.* All proposed Collocated Small
 23 Wireless Facilities shall meet the following objective design
 24 standards:

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

26 *Generally applicable standards:*

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

29 (1) Shall at all times comply with and abide by all
 30 applicable provisions of the State and Federal law and City
 31 ordinances, codes and regulations when placing, maintaining

1 or collocating a Communications Facility or Small Wireless
 2 Utility Pole in City Rights-of-Way; no guy wires are allowed.

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

5 (3) No lights unless required by FAA.

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

<p>Eligible poles</p>	<p>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. Prohibited on historic street lights and any pole less than 15 feet in height.</p>
<p>Antenna</p>	
<p>Maximum Height of antenna</p>	<p>10 feet above top of existing pole. No extensions of pole height below the antenna is permitted.</p>
<p>Max Height above replacement pole</p>	<p>10 feet above replacement pole height.</p>
<p>Antenna location</p>	<p><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></p>
<p>Max volume of antenna</p>	<p>6 Cu. feet.</p>
<p>Enclosure required</p>	<p><u>For antennae providing 4G service, antenna</u> Antenna and its connection to pole must</p>

	<p>be completely shrouded, in line with the pole and must smoothly transition around pole top.</p> <p><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></p>
Size of antenna shroud	Diameter no more than 2× greater than the diameter of the pole top (cylinder).
Shroud Color/Material	Must For 4G antennae, shroud must match color and style of pole. <u>However, in all instances, all wiring and other equipment must be enclosed in shroud or internal to pole.</u>
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	Diameter cannot be greater than 1.5× diameter

replacement pole	of existing pole.
Height of replacement pole	<p>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 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	Cumulative maximum volume of all Wireless

<p>volume</p>	<p>Equipment shall not exceed 30 Cu. Ft.</p>
<p>Location of Wireless Equipment</p>	<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 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</p>	<p>Free mounted disconnect may be pole located,</p>

<p>Wireless Equipment location</p>	<p>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. 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.</u></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</p>	<p>All equipment, cables, etc. must be enclosed; must use camouflage; may use wraps to conceal</p>

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

~~proposed collocation existing Utility Pole, or such other information the applicant believes is relevant to the determination.~~

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

* * *

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

Small Wireless Sole Purpose New Utility Poles

Generally applicable standards:

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

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

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

(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

	<p>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.</p>
<p>Diameter of new pole</p>	<p>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 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~~planned 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:

- In all locations, minimum 10 feet from driveways and 30 feet from hydrants

- In residential areas, poles placed in line with common interior side lot lines, 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~~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;

- 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;

	<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; • 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 utilities have been undergrounded; lowest wire in areas of bicycle or pedestrian use must be at least 18 feet above grade.</p>
<p>Antenna</p>	
<p>Maximum height of antenna</p>	<p>Ten feet above top of pole.</p>
<p>Antenna location</p>	<p><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></p>
<p>Max volume of antenna</p>	<p>6 Cu. feet.</p>
<p>Enclosure required</p>	<p><u>For antennae providing 4G service,</u>antennaAntenna and its connection to pole must be completely shrouded, in line with pole and must smoothly transition to top of pole. <u>No</u></p>

	<p><u>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></p>
Size of antenna shroud	<p>Diameter no more than 2× greater than new pole top (cylinder).</p>
Shroud color/material	<p>Must<u>For all 4G antennae, shroud must match color and style of pole.</u> 7 <u>However, in all instances, all wiring and other equipment must be enclosed in shroud.</u></p>
Number of antenna shrouds allowed	<p>One 6 cu. foot antenna shroud only per pole but no limit on antennae within shroud.</p>
<p>Wireless Equipment</p>	
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</p>

	<p>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.</u> All 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 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</u> minimum separation of 12" to pole mounted surge protector or meter, if any; 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</p>

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

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

12
 13

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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