

1 Introduced by the Council President:
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4 **ORDINANCE 2019-**

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

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

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

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

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

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(m) *City Rights-of-Way* means land in which the City owns the fee or has an easement devoted to or required for use as a Transportation Facility and may lawfully grant access pursuant to applicable law, or under the control and jurisdiction of the Florida Department of Transportation provided that the City is authorized to apply this Ordinance under a permit-delegation agreement in accordance with F.S. § 337.401(1)(a) or otherwise, and includes the surface, the air space over the surface and the area below the surface of such rights-of-way. For purposes of this definition, Transportation Facility means any public way predominately associated with the vehicular transportation of people, goods or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term City Rights-of-Way shall not include:

(1) City, State, or federal rights-of-way unless the City has been properly delegated authority to issue Permits for structures within those rights-of-way, unless prohibited by State or federal law; (2) platted utility easements that are not part of a dedicated Transportation Facility right-of-way; (3) platted but unopened Transportation Facility rights-of-way; (4) property owned by a Person other than the City; (5) service entrances or driveways leading from the road or street onto Adjacent Property; or (6) any real or personal City property except as described above and shall not include City buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the City's Rights-of-Way except as allowed by this Part or applicable State or federal law.

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

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

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

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

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

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

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

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

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

- (a) Denial of an initial Registration or Registration renewal;
- (b) Involuntary termination of a Registration;
- (c) Suspension or revocation of a Permit; and

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

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

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

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

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

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

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

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

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

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

Sec. 711.413 Surety Fund.

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

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

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

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

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

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

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

notice of transfer;

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

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

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

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

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

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

Sec. 711.418 Additional Registration terms and Permit conditions.

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(g) *No interference with use of City Rights-of-Way.* All Communications Facilities shall be placed, maintained or Collocated so as not to ~~unreasonably~~ interfere with the use of the City's Rights-of-Way by the public ~~and with the rights and convenience of property owners who adjoin any of the City's Rights-of-Way~~ and with the rights and convenience of property owners who adjoin any of the City's Rights-of-Way. The use of trenchless technology (i.e., directional bore method) for the installation of Underground Communications Facilities in the City's Rights-of-Way as well as joint trenching or the collocation of facilities in existing conduit is strongly encouraged, and should be employed wherever feasible.

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(s) *Correction of harmful conditions.* If, at any time, the City reasonably determines that a Communications Facility is, or has caused a condition that is harmful to the health, safety or general welfare of any Person, then the Provider shall, at its own expense, correct or eliminate all such conditions after

being provided reasonable notice. In an emergency, as determined by the Director, when the Provider is not immediately available or is unable to provide the necessary immediate repairs to any Communications Facility that is a threat to public safety, then the City shall have the right to remove, make repairs to or eliminate same with the total cost being charged to and paid for by the Provider upon demand. The City may charge the cost incurred by the City relating to indemnity or abandonment to the Surety Fund set forth in Subpart A if the Provider fails to remit payment within 30 days of notification.

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

payment within 30 days of notification.

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

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

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

(c) Undergrounding.

(1) New Small Wireless Facilities. In an area where City has required all public utility lines in the City Right-of-Way to

be placed underground, a Communications Service Provider must comply with written, objective, reasonable, and nondiscriminatory requirements that prohibit new Utility Poles used to support Small Wireless Facilities if:

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

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

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

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

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

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

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

Sec. 711.429 Permit Application.

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

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

* * *

(iii) The distance of the proposed Small Wireless Facility or Small Wireless Sole Purpose New Utility Pole, including ground-mounted equipment, from pavement, sidewalks, driveways, hydrants, residential interior side lot lines, primary residential structures, commercial business signs, the front/principal façades of businesses, ramps, trees, underground Utilities and other above-grade and below-grade structures and utilities located within the City's Rights-of-Way and within 50 feet of the proposed Small Wireless Facility or Small Wireless Sole Purpose New Utility Pole;

* * *

(v) Sufficient specificity demonstrating compliance with the Florida Building Code and other applicable codes, including but not limited to sight lines or clear zone standards and specifications for transportation, pedestrians, and public safety as provided in the Florida

Department of Transportation Plans Preparation Manual
(sufficient specificity for sight lines and clear zones
shall include the submission of site photographs that show
the location of each proposed Small Wireless Facility and
Wireless Equipment from at least three vantage points within
the public streets or other publicly accessible places,
together with a vicinity map that shows the proposed site
location and the photo location for each vantage point),
noise control code in Section 368, Part 2, Florida
Department of Transportation Manual of Uniform Minimum
Standards for Design, Construction and Maintenance for
Streets and Highways (the Florida Greenbook), and the
Florida Department of Transportation Design Standards, as
amended, the Trench Safety Act (F.S. Ch. 553), the
Underground Facility Damage Prevention & Safety Act (F.S.
Ch. 556), the "Safety Rules for the Installation &
Maintenance of Electrical Supply & Communication Lines"
established by the U.S. Department of Commerce, Bureau of
Standards and the National Electric Safety Code and the
objective design standards adopted in the table incorporated
into the applicable Subpart, below;

* * *

(vii) a certification including actual frequency and power
levels that each proposed Small Wireless Facilities will
comply with applicable FCC radio frequency exposure
standards and exposure limits.

- 1
- 2 (b) *Application review.* An Application to Collocate a Small
- 3 Wireless Facility or place a Small Wireless Sole Purpose New
- 4 Utility Pole shall be reviewed by the Director as follows:

* * *

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

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

* * *

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

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

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

(87) For Collocations on JEA Utility Poles, does not include a JEA Notice of Approval.

(d) *Application for Waiver.* The applicant may seek a waiver from any requirement, including the objective design standards, by filing a request for waiver with the Department, to be ~~heard~~granted or denied within 45 days of the date of the request by the ~~appropriate committee of the Council~~Tower Review Committee pursuant to section 656.1509. A request for a waiver shall be filed contemporaneously with the Permit application. The request for waiver shall state each Section, subsection, requirement, standard or criteria for which a waiver is being sought. A request for a waiver shall include a detailed

1 explanation, with supporting engineering or other data, as to
2 why a waiver from the requirements of this Section is required.
3 The Council, in considering a proposed waiver shall determine
4 whether the proposed waiver is in harmony with the spirit and
5 intent of this Part, considering the following criteria as
6 applicable:

7 * * *

8 (iii) The effect of the proposed waiver has been shown by the
9 applicant to not diminish property values in, or negatively alter
10 the aesthetic character of the area surrounding the site, and will
11 not substantially interfere with or injure the rights of others
12 whose property would be affected by the same;

13 **Section 10. Amending Section 711.432 (Objective design**
14 **standards), Ordinance Code.** Section 711.432 (Objective design
15 standards), Ordinance Code, is hereby amended to read as follows:

16 **Sec. 711.432 Objective design standards.**

17 * * *

18 (b) *Objective design standards.* All proposed Collocated Small
19 Wireless Facilities shall meet the following objective design
20 standards:

21 *Collocation on Existing Poles in City Rights-of-Way*
22 *Generally applicable standards:*

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

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

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

(3) No lights unless required by FAA.

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

Eligible poles; <u>concealment</u>	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; <u>in residential areas, any pole not in line with common interior side lot lines, any pole further than 10 feet from the side property line on corner lots, any pole in front of a lot not exceeding 60 feet, or any pole located within 150 feet of a single-family residential structure.</u>
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	Flush mounted to top of pole only, in line with the pole.
Max volume of antenna	6 Cu. feet.
Enclosure required <u>Camouflage required</u>	Antenna and its connection to pole must be completely shrouded, in line with the pole and must smoothly transition around pole top.

	<u>Antenna and its connection to pole must be completely shrouded, in line with the pole and must smoothly transition around pole top.</u>
Size of antenna shroud	Diameter no more than 2× greater than the diameter of the pole top (cylinder).
Shroud Color/Material	Must match color and style of pole, all wiring and 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.
Diameter of replacement pole <u>Diameter of replacement pole</u>	Diameter cannot be greater than 1.5× diameter of existing pole. <u>Diameter cannot be greater than 1.5× diameter of existing pole.</u>
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 antenna and any related equipment. For transmission/distribution poles, replacement pole may be up to five feet above the original pole height.
Wood replacement poles	Prohibited unless wood poles are the predominant pole in the corridor and if there are no plans to upgrade poles to a different material.
Hollow replacement poles	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.
Wireless Equipment	
Max cumulative volume	Cumulative maximum volume of all Wireless Equipment shall not exceed 30 Cu. Ft.
Location <u>context</u> and <u>concealment</u> of Wireless Equipment	Up to 1028 cu. feet by volume may be 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-</u>

	<p><u>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>width shall not exceed 2.5x the diameter of pole.</u> mounted, flush with the pole, provided the depth of any such equipment shall not exceed 20 inches and width shall not exceed 2.5x the diameter of pole. All Wireless Equipment in excess of 10 cu. feet shall 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. <u>In addition, Wireless Equipment shall not interfere with the view of commercial business signs, of front/principal facades of businesses, or from primary residential structures.</u></p>
<p>Pole mounted Wireless Equipment location</p>	<p>Free mounted disconnect may be pole located, no less than 96" above grade, 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.</p>

	For distribution/transmission poles, must comply with applicable JEA standards.
Pole Mounted Wireless Equipment color/material	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.
Ground mounted Wireless Equipment location (if available through waiver)	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.
Ground mounted Color/Material (if available through waiver)	All equipment, cables, etc. must be enclosed; must use camouflage; may use wraps to conceal equipment.

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

Section 711.437 Permit required; Exceptions.

* * *

~~(d) Review for Collocation on Existing Structures, City Utility Poles or JEA Utility Poles prior to placing a Small Wireless~~

~~Sole Purpose New Utility Pole. The Director shall review the proposed location of a Small Wireless Sole Purpose New Utility Pole to determine whether another Utility Pole already existing in the vicinity of the proposed location may be used to support the proposed Small Wireless Sole Purpose New Utility Pole. If a Utility Pole already exists, the Director shall propose such existing Utility Pole as an alternative location. Only when the applicant can demonstrate that no existing Utility Pole is reasonably feasible to Collocate the Small Wireless Facilities shall the Director be authorized to approve a Small Wireless Sole Purpose New Utility Pole. To assist in determining whether an existing Utility Pole is reasonably feasible for collocation, the applicant may provide the Director with information concerning whether the closest available existing Utility Pole fails to provide substantially the same coverage that would be provided by the Small Wireless Sole Purpose New Utility Pole, is incapable of supporting the weight of all equipment and no Replacement Pole may be used, collocation will result in some nuisance or unsafe condition, collocation will result in excessive or extraordinary financial expense compared to the cost of the Small Wireless Sole Purpose New Utility Pole, 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 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 of new	Diameter at base cannot be greater than 1.5* greater than diameter of largest existing pole in corridor within 500 feet, unless an

<p><u>pole</u></p>	<p>architectural, ground-mounted pedestal is used 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><u>Diameter at base cannot be greater than 1.5× greater than diameter of largest existing pole in corridor within 500 feet, unless an architectural, ground-mounted pedestal is used 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.</u></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 <u>context</u></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 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 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;

• 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 unless lot widths exceed 100 feet in which case the poles shall not be located within 50 feet of the

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 unless lot widths exceed 100 feet in which case the poles shall not be located within 50 feet of the

<p>Maximum height of</p>	<p>Ten feet above top of pole.</p>
<p>Antenna</p>	
<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 underground; lowest wire in areas of bicycle or pedestrian use must be at least 18 feet above grade.</p>
<p></p>	<p>structure; 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 facade of business unless there are already parking or loading spaces present.</p>
<p></p>	<p>structure; 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 facade of business unless there are already parking or loading spaces present.</p>
<p></p>	<p>family residential structure. • Not located within 150 feet of a single- than 60 feet wide; • Not in front of a residential lot less line on residential corner lots; • No further than 10 feet from side property driveway entrance(s) to the lot;</p>

antenna	Antenna location	Max volume of antenna	Enclosure required Camouflage required	Diameter no more than 2x greater than new pole top (cylinder). Must match color and style of pole, all wiring and equipment must be enclosed in shroud.	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 Cumulative maximum volume of all Wireless Equipment shall not exceed 30 Cu. Ft.	Location context and concealment of Wireless Equipment up to ten cu. ft. by volume 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 2x the diameter of the pole. All wireless equipment in excess of ten cu. feet shall be located underground or internal to the pole. width shall not exceed 2x the diameter of the
				Antenna and its connection to pole must be completely shrouded, in line with pole and must smoothly transition to top of pole.	Antenna and its connection to pole must be completely shrouded, in line with pole and must smoothly transition to top of pole.				

<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</p>
<p>Pole mounted Wireless Equipment location</p>	<p>Free mounted disconnect may be pole located, no less than 96" above grade, 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. All exterior-mounted equipment must be located at least 12" below communication cables, if any. 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><u>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. In addition, wireless equipment shall not interfere with the view of commercial business signs, of front/principal facades of businesses, or from primary residential structures.</u></p>

not possible or impairs pole structure and in the event external straps are used, they must match pole color.	Ground mounted Wireless Equipment (if available through waiver)	Ground mounted color/material (if available through waiver)
Must be located in areas of existing foliage. Must be located within 10 foot radius of pole.		
All equipment, cables, etc. must be enclosed; must use camouflage; may use wraps to conceal equipment.		

Section 13. Codification Instructions. The codifier and

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

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

Form Approved:

Office of General Counsel

Legislation prepared by: Jason R. Teal