

ITEM

1

ORDINANCE []

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATING TO TEMPORARY USES AND STRUCTURES; ESTABLISHING CRITERIA FOR THE PLACEMENT OF INFLATABLE AMUSEMENTS ON THE SANDY GULF BEACH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 5.03.07 of the Land Development Code of the City of Panama City Beach related to temporary uses and structures, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

5.03.00 TEMPORARY USES AND STRUCTURES

5.03.01 Generally

- A. Certain temporary *Uses* and structures meeting the conditions of this Chapter may be permitted to accommodate outdoor sales, festivals and entertainment, *Portable Storage Units* and temporary structures during construction activities – but only to the extent authorized in this section. All other temporary *Uses* and structures are prohibited.
- B. A temporary *Use* permit issued pursuant to section 10.14.02 is required prior to the establishment of a temporary *Use* or structure. Unless otherwise specified in this Code, a temporary *Use* permit shall be valid for a maximum of thirty (30) days and, unless otherwise specified in this *LDC*, may be renewed for one (1) consecutive thirty (30) day period.

(Ord. # 1250, 12-13-12; Ord. # 1268, 2-28-13)

5.03.07 Inflatable amusements on sandy Gulf Beach.

- A. Inflatable amusements may be permitted on the sandy gulf beach seaward of the seaward most Building, structure, toe of the dune, dune line or Building/structure line, subject to the provisions of this section.
- B. Inflatable amusements require a temporary use permit as provided in section 10.14.02. The City may require the applicant's submission of additional information as necessary to confirm the issuance of the permit will not be contrary to the health, safety and welfare of the public.
- C. The fee for such permit is \$500 per day. No single parcel shall be issued more than one Inflatable amusement permit within any thirty day period. Permits issued shall be valid for no longer than four consecutive days.
- D. Inflatable amusements shall not be erected or maintained within 100 feet of a turtle nest.
- E. The applicant shall provide the City with proof of insurance no later than 72 hours prior to set up of the inflatable amusement. Unless approved in writing by the City Manager or his/her designee, coverages shall include general commercial liability in the minimum amount of \$5,000,000.
- F. The applicant shall inspect or cause to be inspected the inflatable amusement upon its installation, and thereafter maintain or cause to be maintained, and safely preserve for at least one year a daily log upon which are recorded daily inspections of the inflatable, by whom inspected and when. The forms for each such log shall be approved by the Chief of Police.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect [immediately] upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the
the
City Council of the City of Panama City Beach, Florida, this ____ day of
_____, 2019.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____,
2019.

MAYOR

Published in the _____ on the _____ day of _____, 2019.

Posted on pcbgov.com on the _____ day of _____, 2019.

ITEM

2

ORDINANCE []

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATING TO SUBDIVISIONS; PROVIDING THAT SUBDIVISIONS OF LAND INVOLVING 3 OR MORE ACRES OF LAND UPON WHICH A MAJORITY OF THE PROPOSED LOTS ARE INTENDED FOR RESIDENTIAL USE SHALL INCLUDE A NEIGHBORHOOD PARK SPACE; SETTING STANDARDS FOR NEIGHBORHOOD PARKS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City finds that the community would benefit from the creation of passive, walk to neighborhood parks; and

WHEREAS, neighborhoods with parks have been shown to have an increase in property values as prospective buyers value such amenities; and

WHEREAS, neighborhood parks facilitate physical activity which provides health benefits to the entire community; and

WHEREAS, the City finds and determines that increasing the number of neighborhood parks in the City implements a legitimate public purpose.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 4.03.00 of the Land Development Code of the City of Panama City Beach related to Subdivision Design and Layout, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

4.03.00 SUBDIVISION DESIGN AND LAYOUT

4.03.01 Generally

- A. Any division of land shall be subject to the design requirements of this section. Procedures for approval of preliminary *Plats*, final *Plats*, *Lot Splits* and improvement plans are set forth in Chapter 10.
 - B. All *New Development* shall be located on a recorded, *Platted Lot* or on a *Lot* resulting from a lawful *Lot Split*.
 - C. An existing *Lot* located within a *Subdivision* that has been approved prior to July 26, 2012 by the City Council in the form of a *Plat*, shall be allowed to be developed with a *Single Family Dwelling Unit* subject to satisfaction of *Setback* and *Building* requirements as well as all other applicable regulations.
 - D. In Bid-A-Wee 1st Addition, *Lots* less than the required minimum *Lot* size and not meeting the dimensions as approved on the adopted *Plat*, may still receive approval for a *Building Permit* provided the Planning Board finds the following conditions are satisfied:
 - 1. The *Lot* must be of a similar size and width as other *Lots* in the *Subdivision*; and
 - 2. All other applicable regulations must be satisfied.
- (Ord. # 1253, 12-13-12)

4.03.02 Design Requirements

A. Blocks and *Lots*

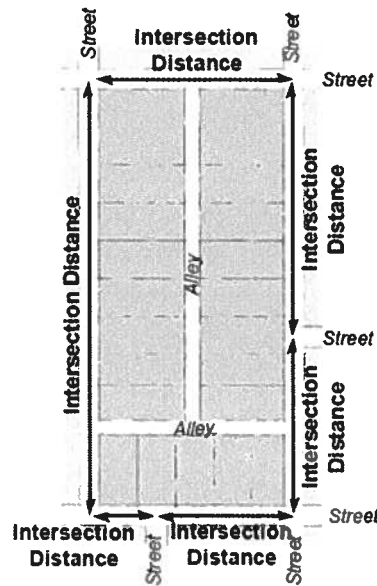
- 1. **Block Dimensions.** Excepting locations where the City Manager determines that natural or built features preclude compliance, block length shall be regulated by intersection distance according to the requirements of Table 4.03.02.A and the following provisions:
 - (a) Intersection distance shall be the distance between two consecutive *Street* intersections as illustrated in Figure 4.03.02.A. Intersection distance shall be measured between the center lines of *Streets*. Alleys and *Driveways* shall not be considered *Streets* for the purposes of this standard. Maximum intersection distances shall not apply along *Arterial Streets*.
 - (b) For any block exceeding 500 feet in length, the Board may require one or more cross block connections for pedestrians to reduce the effective block length to 330 feet or less. Connections shall be located in public access easements

measuring at least fifteen (15) feet in width and shall have paved walkways measuring at least five (5) feet in width.

Table 4.03.02.A: Block Size Standards

Zoning District	Maximum Intersection Distance
R-1a	1,200 feet
R-1b	1,200 feet
R-1c-T	1,200 feet
RO	1,200 feet
RTH	1,200 feet
R-2	1,200 feet
R-3	1,200 feet
CL	1,200 feet
CM	1,200 feet
CH	1,200 feet
<i>TNOD</i>	400 feet
FBO-1	660 feet
FBO-2	660 feet
FBO-3	660 feet
FBO-4	No maximum

Figure 4.03.02.A: Intersection Distance



2. **Lots** shall meet the **Lot** design requirements for the zoning district in which the **Subdivision** is proposed.
 3. **Corner Lots** for **Subdivisions** in **Residential** zoning districts shall be large enough to provide for **Front Setbacks** and side **Street Setbacks**.
 4. Each **Lot** shall have **Frontage** on and **Access** to an existing or proposed public or private **Street** or **Alley**.
 5. Double-Frontage Lots and Flag Lots shall not be allowed.
 6. **Lot Lines** shall be at right angles to **Street** lines to the maximum extent possible.
 7. No **Lot** shall be divided by a **City** boundary line.
 8. The finished grade of all **habitable space** at the **Building** location shall be a minimum of one (1) foot above the crown of the adjacent **Street** or back of curb, whichever is higher.
 9. Dead-end **Streets** (cul-de-sacs) shall be limited to forty-five (45) **Residential Lots**.
- B. Improvements**
1. The proposed **Subdivision** shall include a **Street** system consistent with the **Traffic Circulation Map** of the Comprehensive Plan, the transportation system standards set forth in section **Error! Reference source not found.** and the **Street** pattern in the surrounding area.

- (a) **Streets**, sidewalks meeting the applicable requirements of section **Error! Reference source not found.**, curbs and gutters, streetlights and **Street** signs shall meet the minimum design and construction specifications of the Engineering Technical Manual and the provisions of this section.
- (b) The maximum pavement width shall be twenty-four (24) feet, between the valleys of the curbs unless the City Manager approves and increase to a width of up to thirty-six (36) feet.
- (c) Rights-of-way and **Street** design shall meet the requirements of section **Error! Reference source not found.** and be dedicated to the **City** unless the City approves the use of private **Streets**.
- (d) Curbs and gutters shall be required for all **Streets**.
- (e) Streetlights shall be required in locations established by the **Engineering Technical Manual**.
- (f) **Street** name signs shall be required in locations established by the **Engineering Technical Manual**.
- (g) Grass or sod shall be required between the curb and sidewalk or property line. Landscaping may be used in conjunction with or as an alternative to, grass or sod provided that such landscaping complies with applicable site distance standards.
- (h) Minimum centerline radius for midblock curves shall be as follows:

Posted Speed (MPH)	Design Speed (MPH)	Centerline Radius (Feet)
25	30	250
20	25	150
15	20	80

- (i) The minimum cul-de-sac radius shall be 40 feet.
2. The proposed **Subdivision** shall provide for infrastructure improvements as set forth in Chapter 6. Each **Lot** in the **Subdivision** shall have the following services:
- (a) A source of electric power;
 - (b) A telephone service cable;
 - (c) Central potable water;
 - (d) Central sanitary sewer;

- (e) Central reclaimed water, where such service is available within one thousand (1,000) feet and with sufficient capacity to serve the subdivision; and
 - (f) Fire hydrants or fire protection, as required by the national Fire Prevention Code.
3. Equipment shall meet the following requirements for location and screening:
- (a) Utility equipment, such as pumps, valve boxes, switching boxes, back-flow devices, but not including light poles, shall be fully screened by a wall or fence of **Solid Face** construction or by **Native Vegetation** creating a continuous screen; and
 - (b) All electric, telephone, cable television or other communication lines shall be placed underground within the right-of-way or within a recorded easement.
4. The **Subdivision** design shall include provisions for resource protection as set forth in Chapter 3.
5. The design of the **Subdivision** shall include provisions for utility lines within easements or the right-of-way. Such easements shall be a minimum of fifteen (15) feet for potable and reclaimed water force mains and twenty (20) feet for gravity sewer and storm drainage mains.
6. In areas zoned for **Residential Uses**, a **Subdivision** may contain a structure that is temporarily used as a model home and for conducting business directly related to the sale and promotion of **Lots** and houses within such **Subdivision**. Such operations must cease when sales in said **Subdivision** have been completed, but not longer than two (2) years. Additional time may be granted through the conditional use process after considering the history of nuisances, structure condition and compatibility with the neighborhood.
7. The design and layout of a subdivision may, on occasion, be adversely impacted by the presence of protected natural features such as wetlands or plant and animal species habitat. Such impact shall be considered a hardship that is eligible for a variance request when such request is the minimum necessary to overcome the identified impact of the protected natural feature.
8. **A proposed Subdivision involving 3 or more acres of land, in which a majority of the lots are intended for the development of residential dwelling units, shall include land dedicated for a neighborhood park. Land dedicated for use as a neighborhood park shall comprise at least 5% of the acreage to be subdivided. Neighborhood parks may include, but are not limited to, sports fields, tennis courts, basketball courts, hiking and biking trails, playgrounds and other areas where members of the Subdivision may congregate for recreational uses.**

(a) The land dedicated for use as a neighborhood park shall be developable uplands exclusive of required setbacks from wetland or environmental areas and shall not contain any restrictions or encumbrances that prevent its use as a neighborhood park. The following uses shall be excluded from the calculation of land required for the neighborhood park acreage:

- i. Clubhouses;**
- ii. Floodplain mitigation areas;**
- iii. Drainage/stormwater detention areas (except for drainage/stormwater detention areas used solely for required neighborhood park amenities); and**
- iv. Parking areas (except for parking areas required to satisfy minimum parking requirements for neighborhood park amenities);**
- v. Landscape easements;**
- vi. Sidewalks; and**
- vii. Pools.**

(b) Land dedicated as a neighborhood park may be retained in private ownership for public use, and shall be subject to such conditions as the City may establish concerning access, use and maintenance of such lands, as deemed necessary to assure the preservation of such lands in perpetuity for their intended purposes. The owner shall execute any and all documents necessary to effect the intended purposes. Neighborhood parks may be offered to the City as a gift, and at the discretion of the City Council may be accepted upon recommendation by the Planning Board.

(c) Neighborhood parks must be continuously maintained in a safe manner. If the park is to be maintained by an association, trust or community development district, the owner shall provide documentation acceptable to the City demonstrating that such organization is governed according to the following:

- 1. The organization is organized by the owner and operating with the financial subsidization of the owner, if necessary, before the sale of any lots within the development.**
- 2. Membership in the organization is mandatory for all purchasers of dwelling units therein and their successors.**
- 3. The organization shall be responsible for maintenance of and insurance and taxes on the neighborhood parks.**
- 4. The members of the organization shall share equitably the costs of maintaining and developing the neighborhood park in accordance with the procedures established by them.**

(d) The city shall not issue any certificate of occupancy in a Subdivision to which this section applies until the Owner complies fully with this section.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2019.

MAYOR

Published in the _____ on the _____ day of _____, 2019.

Posted on pcbgov.com on the _____ day of _____, 2019.

DRAFT

ITEM

3

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATED TO APPLICATIONS FOR MASTER PLANS; REQUIRING APPLICANTS TO SUBMIT EVIDENCE OF A COMMUNITY MEETING REGARDING THE PROPOSED APPLICATION; ESTABLISHING CRITERIA FOR THE TIME, PLACE, AND CONTENT OF THE MEETING; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 10.02.05 of the Land Development Code of the City of Panama City Beach related to Additional Submittal Requirements for Large Site Development Plans, TNOD and PUD Master Plans, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

10.02.00 APPLICATION REQUIREMENTS

...

10.05.02 Additional Submittal Requirements for Large Site Development, TNOD and PUD Master Plans

Each application for a large site development, *TNOD* or *PUD* master plan shall contain the following information:

- A. All information required pursuant to section **Error! Reference source not found.**

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- B. A statement of objectives describing the general purpose and character of the proposed **Development**, including type of structures, **Uses**, **Lot** sizes and **Setbacks**.
- C. A boundary survey.
- D. Perimeter buffering and landscaping.
- E. General location and size of **Land Uses**.
- F. Type of zoning districts and existing **Uses** abutting the proposed **Development** boundaries.
- G. A detailed, written list and complete explanation of how the proposed **Development** differs from any provision of the **LDC**, including a comparison with the **Lot** and **Building** standards of the underlying zoning district. If the master plan is approved, any such difference not listed or explained shall not be recognized or permitted and no such difference shall be implied or inferred.
- H. A detailed explanation of the public benefit which justifies allowing the property owner to deviate from otherwise applicable minimum requirements of the **LDC**.
- I. A timeline for the **Development**, which addresses the following items:
 - 1. **Development** phases, if applicable and benchmarks for monitoring the progress of construction of each phase. Wherever applicable, the benchmarks shall include:
 - (a) Land clearing;
 - (b) Soil stabilization;
 - (c) Construction of each landscaping element of horizontal infrastructure, including, but not limited to, roads, utilities and drainage; and
 - (d) Vertical infrastructure and improvements.
 - 2. The Final Development Plan shall be submitted within one (1) year of master plan approval. The timeline shall show that construction of the horizontal improvements will be commenced and substantially completed within one (1) year and two (2) years, respectively, after approval of the final development plan; provided that in the event the **Development** is divided into phases, the timeline shall show that construction of Phase I horizontal improvements will be commenced and substantially completed within one (1) year and two (2) years, respectively, after approval of the first final development plan and that the horizontal infrastructure for all remaining phases will be substantially completed within four (4) years after approval of the final development plan.

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3. The timeline shall provide that ninety (90) percent of the land area of the **Development**, excluding horizontal infrastructure, will be built-out to its intended, final **Use** within ten (10) years of approval of the master plan.
 4. Proposed dates for the submittal of progress reports.
- J. Other applicable information as required on the application for **Development** master plan or which the applicant may desire to submit to demonstrate satisfaction of the conditions set forth in this **LDC**.
- K. This section shall not be construed so as to require detailed engineering or **Site Plan** drawings as a prerequisite to approval by the Planning Board. An applicant may provide a concept plan showing the general types and locations of proposed **Development, Open Space**, conservation areas, etc. (bubble plan); however, detailed drawings and information consistent with the approved master plan will be required prior to approval of a final development plan for any phase(s) of **Development**. In the event that the master plan contains no provision for a particular matter that is regulated in the underlying zoning district or the prior zoning district in the case of a PUD generally, then the final development plan approval shall be consistent with both the approved Master Plan and all regulations applicable within the underlying or prior zoning district.
- (Ord. #1254, 11/14/13)
- L. **The applicant must provide evidence of its hosting of a community meeting regarding the proposed application, in the form of notice and meeting summary, which meeting and documentation shall conform to the requirements of this section. Evidence of a meeting held more than five months prior to the applicant's submission of an application shall be deemed insufficient to meet this requirement.**
1. **Reasonable Time and Place. The meeting shall commence between the hours of 9am and 6pm, within the corporate City limits, in a facility that will accommodate the attendance and participation of all noticed parties.**
 2. **Notice. Notice of the meeting shall be provided by the applicant as required by Section [10.10.01.B;
[OR
10.03.02 to all owners of surrounding property lying in whole or in part within 300 feet of the boundary of the subject property.]**
 3. **Agenda. Topics covered in the community meeting shall include, but are not limited to: scale, density, intensity, building heights, setbacks, potential traffic**

impacts, environmental impacts, stormwater management, lighting, hours of operation and noise.

4. **Summary. The applicant shall prepare or cause to be prepared a written summary of the meeting, which summary shall memorialize the names and interests of persons participating in/speaking at the meeting; the length of the meeting; the concerns raised by the noticed persons; and any assurances made by the applicant or his agents in that meeting regarding the proposed application or development.**
5. **Physical attendance by the applicant mandatory. The applicant or applicant's agent of record must be physically present at the meeting to facilitate the presentation of the proposed application and discussion of its impacts. This shall not be construed to prohibit the telephonic or electronic attendance by any person or entity retained by the applicant.**

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the

20191010

City Council of the City of Panama City Beach, Florida, this ____ day of _____, 2020.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2020.

MAYOR

Published in the _____ on the ____ day of _____, 2020.

Posted on pcbgov.com on the ____ day of _____, 2020.

ITEM

4

ORDINANCE NO. []

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, RELOCATING THE RULES FOR SMALL WIRELESS FACILITIES AND COLLOCATIONS WITHIN RIGHTS OF WAY FROM THE LAND DEVELOPMENT CODE TO THE CITY CODE; ADOPTING A REVIEW SCHEDULE FOR THESE FACILITIES AS REQUIRED BY FLORIDA STATUTE; REDUCING SPACING REQUIREMENTS FROM DWELLING UNITS FOR NEW UTILITY POLES AND GROUND MOUNTED EQUIPMENT; ELIMINATING REQUIREMENTS THAT ARE NO LONGER ALLOWED BY FLORIDA STATUTE AND PROVIDING MISCELLANEOUS REVISION TO ENSURE CONSISTENCY WITH 2019 STATUTORY AMENDMENTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach historically has governed right-of-way permitting with Chapter 19 of the City Code; and

WHEREAS, the City of Panama City Beach historically has governed Telecommunications Towers with the City's Land Development Code; and

WHEREAS, until the advent of "small cells" and the associated Florida statutes, these smaller cellular facilities were considered Telecommunications Towers under the Land Development Code and were unable to meet the requirements of the Land Development Code if they were proposed within a right-of-way; and

WHEREAS, when Florida Statute 337.401 began to require that small cells be allowed in rights-of-way, the City adopted coinciding rules in the Land Development Code and processed applications under the Land Development Code, such as Type I review for Small Wireless Poles; and

WHEREAS, the Florida Legislature's further streamlining in 2019 of the allowable processes to review applications for small cells in ROW makes the Land Development Code processes less appropriate and the right-of-way permitting processes in the City Code more suitable; and

WHEREAS, relocating the rules for small cells from the Land Development Code to Chapter 19 of the City Code will reduce confusion by putting all rules for applications for construction in the right-of-way in one place and avoid the need to consider both the Land Development Code and the City Code; and

WHEREAS, this ordinance also updates certain required times and clarifies others to

ensure consistency with the revisions to Florida Statute 337.401.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance Chapter 19 of the Code of Ordinances of the City of Panama City Beach, related to Right-of-Way permitting is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

ARTICLE VIII. - RIGHT-OF-WAY PERMITTING

Sec. 19-150. - Title.

This Ordinance shall be known as the "Right-of-Way Permitting Ordinance."

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-151. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Collocate or Collocation shall mean to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support 669 structure or utility pole. The term does not include the installation of a new utility pole or Wireless Support Structure in the public rights-of-way (Florida Statute 337.401(7)(b)).

Communications services shall mean the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among point, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.

Dwelling shall have the same definition as provided in the Land Development Code.

Emergency shall mean an event or condition that threatens the public's health, safety or welfare, and includes an unplanned out-of-service condition of a pre-existing service.

Facility shall mean any permanent or temporary plant, equipment or property, including but not limited to sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables or conduit, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances, tanks, pipes, pumps, fittings, meters and other equipment, construction, or pathway.

Place or maintain shall mean to erect, construct, install, maintain, place, modify, repair, extend, expand, remove, occupy, locate or relocate Facilities in Rights-of-way.

Right-of-way shall mean a public Right-of-way, public utility easement, highway, street, bridge, tunnel, alley or public ground for which the City is the authority that has jurisdiction and control and may lawfully grant access to pursuant to applicable law, and includes the surface, the air space over the surface, and the area below the surface. Right-of-way shall not include private property. The term also includes but is not limited to associated sidewalks, the roadbed, all culverts, drains, ditches, water storage areas, embankments and slopes. Right-of-way shall not include City buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in Rights-of-way.

Small Wireless Facility means equipment generally used for wireless communications that (1) is located in a public right-of-way and (2) meets the definition of "small wireless facility" under Florida Statute 337.401. The term Small Wireless Facility does not include the term Wireless Support Structure, as defined by Florida Statute 337.401, or the pole, structure, or improvement on which an Antennae and associated wireless equipment are mounted, supported, or Collocated.

Small Wireless Pole means (1) a Wireless Support Structure as defined by Florida Statute 373.401 that is located in a public right-of-way or (2) a utility pole in the public rights-of-way that was designed and constructed to support the Collocation of Small Wireless Facilities within nine months following the approval of an application to construct. A structure not originally intended to support a Small Wireless Facility or Antennae, but on which a Small Wireless Facility or Antennae is later collocated is not a Small Wireless Pole.

Wireless Support Structure shall have the same meaning as provided by Florida Statute 337.401.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-152. - Right-of-way permit required.

- A. No person, except the City or one of its Departments, shall place or maintain, or commence to place or maintain, a Facility in any Right-of-way without a valid permit in force and effect, issued by the City, except in the case of an emergency, as that term is defined herein. In the event of an emergency, Permittee shall provide prompt notice to the City of the

placement or maintenance of a Facility in the Right-of-way, and shall obtain an after-the-fact permit if a permit would have originally been required to perform the work.

- B. A permit shall apply only to the area and portion of the Right-of-way identified in the Permit, and shall be valid only for the dates set forth therein.
- C. Permits shall be conspicuously displayed at all times or immediately available at the indicated work site for inspection by the City.
- D. To the extent not otherwise prohibited by law, the City may prohibit or limit the placement of new or additional Facilities within a particular area of Right-of-way.
- E. Upon reasonable notice and request, the City may require a Permittee to coordinate placement or maintenance activities with any other work, construction, installation or repairs that may be occurring or scheduled to occur in the subject Right-of-way, and may reasonably alter Permittee's construction schedule as necessary so as to minimize disruptions and disturbance in the Right-of-way.
- F. As condition of granting the permit, the City may impose reasonable rules and regulations governing the placement and maintenance of a Facility in a Right-of-way consistent with this Article and other applicable law.
- G. A City permit constitutes authorization to undertake only certain activities in the designated Rights of way in accordance with this ordinance, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the Right-of-way.
- H. Any person who uses the Facilities of a Permittee, other than the Permittee who owns the Facilities, shall not be entitled to any rights to place or maintain such Facilities in excess of the rights of the Permittee that places or maintains the Facilities.
- I. If permitted by applicable law or required by a City ordinance, as a condition of granting a Permit the City may require a franchise agreement and impose a franchise fee.
- J. For applications for Small Wireless Facilities and Small Wireless Poles, the City may avail itself of any process or requirement provided by Florida Statute 337.401 as if set forth fully herein. To the extent of any conflict between this Article and Florida Statute 337.401, the statute will control.**

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-153. - Permit application.

- A. Each applicant for a Permit shall include with the Permit application:
1. a non-refundable application fee at the time of Permit application. The amounts shall be established by Resolution of the City Council, but in no event shall exceed the City's costs incurred in reviewing the application and processing the permit, and in monitoring construction work authorized by the Permit. Such fees shall not be required when
 - a. the construction performed is for the benefit of a governmental agency and that agency is a direct party to the contract for the construction; or
 - b. The applicant is a provider of communications services.
 2. three complete copies of Permittee's final detailed construction plans and specifications for the installation of that portion of the Facilities to be located along and within the Right-of-way and for the repair and restoration of such Right-of-way, together with three copies of a narrative generally but completely describing the size and type of Facility and the components thereof, and their proposed location in the Right-of-way;
 3. a traffic plan addressing any disruption of Rights of way used for public vehicular travel;
 4. information on the ability of the Right-of-way to accommodate applicant's Facilities, if available (such information shall be provided without certification as to the correctness of the information to the extent obtained from other persons);
 5. an engineer's cost estimate including maintenance of traffic plan, survey costs, mobilization, unit prices for each Facility installed, linear footage, and cost of Right-of-way restoration;
 6. a timetable for construction of the project or each phase thereof, and the areas of the City which will be affected;
 7. evidence of Permittee's residency, if an individual, or certificate of good standing issued by the Secretary of State, if an entity;
 8. for providers of communications services, a copy of the entity's certificate of franchising authority issued by the State of Florida; and
 9. such additional information as the City finds reasonably necessary with respect to the placement or maintenance of the Facility that is the subject of the Permit application to review such Permit application.
- B. The City will review each application for sufficiency, and notify the applicant of any deficiency within 20 days. The City will approve or deny a complete application within 45 days. If the City does not notify the applicant of the application's denial within 45 days, the permit shall be deemed approved.

Notwithstanding anything above, applications for Small Wireless facilities, Small Wireless Poles, and any other Facility or Collocation regulated by the Florida Advanced Wireless Infrastructure Deployment Act pursuant to Florida Statute 337.401(7) are subject to the following review schedule. For these applications, the City must determine and notify the applicant by electronic mail as to whether the application is complete. If the application is deemed incomplete, the City must

specifically identify the missing information. The application is deemed complete if the City fails to provide notification to the applicant within 14 days. A complete application is deemed approved if the City fails to approve or deny the application within 60 days after receipt of the application. The City must notify the applicant of approval or denial by electronic mail.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-154. - Permittee obligations.

~~A. Telecommunications Towers, Small Wireless Poles, Collocations, and other wireless communications Facilities are governed by the more specific requirements of the Panama City Beach Land Development Code.~~

~~A.~~ **B** No person shall be granted a permit or otherwise be allowed to install any utility pole or any other Facility if such Facility would be three (3) or more feet above grade within a Right-of-way south of the centerline of Front Beach Road, South Thomas Drive, or the portion of Thomas Drive east of South Thomas Drive. This prohibition shall not apply to light poles owned by the City. This prohibition does not apply to a utility pole or other Facility, regardless of ownership, if it complies with the Community Redevelopment Area-style light pole design and specifications and it either replaces an existing Community Redevelopment Area-style light pole or is installed in the location of a planned future Community Redevelopment Area-style light pole according to the best available Community Redevelopment Agency plans and ~~Planning Department~~ **Community Redevelopment Agency Director written concurrence** staff approval. Unless the Front Beach Road Community Redevelopment Agency adopts new light pole design and specifications for a portion of the City, complying with Community Redevelopment Area-style light pole design and specifications means following standards provided by the Front Beach Road Segment 2 Ornamental Aluminum Roadway Lighting and Banner Standard and the construction documents for Front Beach Road Segment 2 for the pole and light fixture, which are on file City Hall. Compliance with these requirements also means all wiring and equipment must be contained underground or inside the pole so that it is not visible or distinguishes the pole and equipment from the Community Redevelopment Area-style light poles. Each such pole may have one box on the ground in the immediate vicinity of the pole for electrical or other equipment so long as it is not taller than three-feet from grade and matches the color and style of other utility boxes located in the Community Redevelopment Area right of way. **With the written concurrence of the Community Redevelopment Agency Director or the City Manager,** ~~Planning~~ staff may approve minor deviations in design, brands, and materials that do not result in easily noticeable differences between the pole, fixture, and any visible equipment relative to the actual Community Redevelopment Area-style light poles. **When a Community Redevelopment Agency-style light pole is replaced under this paragraph, the applicant must bear the full cost of the replacement and installation and shall perform the work. The new pole shall be owned and maintained by the applicant, unless otherwise agreed by City and applicant in writing.** ~~Applicants for the waiver under this paragraph must apply to the Planning Department using the procedures applicable to Small Wireless Poles provided by the Panama City Beach Land Development Code. Applicable underground utility requirements of the City Code and Land~~

Development Code are waived for utility poles and other Facilities that strictly comply with this section ~~and which are approved by the City Planning Department~~, in recognition that such poles do not provide greater negative impacts to the community than the City's own light poles. Any existing utility poles or Facilities that would not be permissible under this rule shall not be permitted to be replaced, but may be maintained used and repaired, provided repairs do not exceed 50% of the value of the utility pole or Facility.

- B.-G** A Permittee shall place or maintain all Facilities in the Right-of-way so as not to unreasonably interfere with the drainage of all lands lying within the City, the travel and use of the Right-of-way by the public and with the rights and convenience of property owners who adjoin any portion of the right-of-way, and in a manner consistent with accepted industry practice and applicable law.
- C.D** A Permittee shall not place or maintain its Facilities in the Right-of-way so as to interfere with, displace, damage or destroy any Facilities lawfully occupying the Right-of-way, including but not limited to sewers, gas or water mains, storm drains, pipes, cables or conduits of the City or any other Person.
- D.E** All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of Facilities in a Right-of-way.
- E.F** When requested by City, the Permittee shall, at Permittee's expense, make changes to the components or location of Facilities to conform to the reasonably necessary requirements of localized areas.
- F.G** Permittee shall coordinate its placement and maintenance activities with other utilities and the City when such activities require disturbance of the Right-of-way, and shall notify the City not less than twenty-four nor more than seventy two hours in advance of any pavement cut. Unless otherwise authorized or directed by the City, Permittee shall use directional bores for any work to Facilities which require the crossing of a Right-of-way, or for the installation of Facilities parallel to a fully developed and landscaped urban curb and gutter Right-of-way.
- GH.** Where excavation of a Right-of-way is required, a Permittee shall comply with the Underground Facility Damage Prevention and Safety Act set forth in Chapter 556, Florida Statutes (2006), as it may be amended.
- H.I** Permittee shall use and exercise due caution, care and skill in performing permitted work in a Right-of-way and shall take all reasonable steps to safeguard work site areas.
- I.J** A Permittee shall, upon thirty days written notice by any person holding a City Right-of-way Permit, temporarily raise or lower its Facilities to allow the work authorized by the Permit, at the requesting Permittee's expense.
- J.K** After the completion of any placement or maintenance of a Facility in a Right-of-

way or each phase thereof, a Permittee shall, at its expense, restore to its original condition the Right-of-way and any other public or private property damaged or destroyed in whole or in part by Permittee, its agents, servants or employees in exercising the privileges granted by the Permit. If the Permittee fails to make such restoration within thirty days, or such longer period of time as may be reasonably required under the circumstances, following the completion of such placement and maintenance, the City may perform the restoration and charge the costs of restoration against the Permittee in accordance with Section 337.401, Florida Statutes, (2006), as it may be amended. A Permittee shall guarantee its restoration work and shall correct any restoration work that does not satisfy the City's requirements at its own expense for twelve months following written acceptance of the permitted work by the City Engineer.

K.L Permittee shall warrant that all work performed in connection with the placement or maintenance of a Facility in a Right-of-way will be of good quality and in conformance with the Plans and Specifications submitted with the application and approved by the City.

L.M Upon completion of the placement or maintenance of a Facility in a Right-of-way, Permittee shall promptly file three copies of complete and accurate "as-built" plans identifying and locating those portions of the Facilities placed in the Right-of-way.

M.N Permittee shall at all times comply with and abide by all applicable provisions of state and federal law, and City ordinances, codes and regulations in placing or maintaining a Facility in a Right-of-way, for so long as Permittee places or maintains a Facility in a Right-of-way.

(Ord. No. 1081, § 1, 6-28-07; Ord. No. 1234, § 1, 8-9-2012; Ord. No. 1430, § 3, 10-12-2017, Ord. 1478 12-19-18, Ord 1490 6-13-19)

Sec. 19-1541. - Allowable Locations for Small Wireless Poles and associated Ground-Mounted Equipment Located in Public Right-of-Way

A. Applications to place Small Wireless Facilities and Small Wireless Poles in a Right-of-way may not be denied solely based on the Comprehensive Plan future land use categories and zoning categories of adjacent parcels.

B. Small Wireless Poles in Right-of-way (as opposed to a Collocation on a preexisting structure) are not permissible within 150 feet of the footprint of any Dwelling, including attached garages, porches, and balconies, except Dwellings that front on the Front Beach Road or South Thomas Drive Rights-of-way, in which case the minimum distance shall be 100 feet. In addition, Small Wireless Poles in Right-of-way (as opposed to a collocation on a preexisting structure) shall not be permissible within 50 feet of the primary public pedestrian entrance to any business.

- C. It is preferable for all equipment to be integrated into or mounted on the Wireless Support Structure or utility pole. Ground-mounted equipment that is in addition to a Wireless Support Structure or utility pole or associated with a Collocation shall not be permissible within 250 feet of the footprint of any Dwelling, including attached garages, porches, and balconies, except Dwellings that front on the Front Beach Road or South Thomas Drive Rights-of-way, in which case the minimum distance shall be 150 feet. This restriction does not apply to equipment installed entirely underground consistent with existing grade. In addition, ground mounted equipment associated with or installed because of a Small Wireless Pole or a Small Wireless Facility, including the Collocation of a Small Wireless Facility, may not be placed on a sidewalk, bike path, or multi-use trail. Ground-mounted equipment includes, but is not limited to, any of the following associated with a Small Wireless Facility or installed due to a Small Wireless Facility: electric generators or meters, 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 guy wires or other secondary supports.**
- D. Small Wireless Facilities, Small Wireless Poles, and associated equipment are not exempt from the City's applicable undergrounding requirements that prohibit above-ground structures in certain Right-of-way, except that Collocations on existing above-ground structures are not subject to undergrounding requirements that are applicable to a location. At such time an existing above-ground structure is transitioned to underground, any right to Collocate above ground on it is lost. Whenever a new underground utility requirement goes into effect for a location where a Small Wireless Pole has been placed, the permittee agrees to remove or relocated the Small Wireless Pole, as directed by the City and consistent with Florida Statute 337.401.**
- E. Applications for Small Wireless Poles or Collocations of Small Wireless Facilities in locations subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association are governed by the more stringent rules provided for Telecommunications Towers and Antennas in the Land Development Code unless the homeowner association is a co-applicant, in which case the more lenient rules for Small Wireless Facilities and Small Wireless Poles will apply. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities as provided by Florida law.**
- F. The requirements of B. through E. of this Section are waived for Small Wireless Poles located within the boundaries of the Front Beach Road Community Redevelopment Area and that meet the standards for the exception available under Section 19-154 A for complying with Community Redevelopment Agency-style light pole placement, design, and specifications. This waiver is available for Small Wireless Poles proposed on either side of any street within the Front Beach Road Community Redevelopment**

Area. Applicants agree that in return for the waiver of these requirements and any applicable undergrounding requirement, they will comply with City conditions on shielding, stealthing, and limiting the visibility of antennas on the pole to minimize visual differences between the Small Wireless Pole and an actual Community Redevelopment Agency light pole. When a Community Redevelopment Agency-style light pole is replaced under this paragraph, the applicant must bear the full cost of the replacement and installation and shall perform the work. Pole replacement under this Section may qualify as a collocation pursuant to Section 19-1542 D. except that the design requirements of this section must be followed, including that the height of the new Small Wireless Pole must comply with the Community Redevelopment Agency-style light pole design and specifications. The new pole shall be owned and maintained by the applicant, unless otherwise agreed by City and applicant in writing.

(Ord. # 1430, 10/12/17)

Sec. 19-1542. - Permittee Requirements for Small Wireless Poles and Collocations Located in a Right-of-Way

A. All wireless facilities, as defined by Florida Statute 337.401, located within a Right-of-way must meet the definition of a Small Wireless Facility.

B. The City may deny a proposed Small Wireless Pole or Collocation of a Small Wireless Facility in the Rights-of-way if it:

1. Materially interferes with the safe operation of traffic control equipment.

2. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

3. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

4. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.

5. Fails to comply with Chapter 19 of this City Code, or any uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, and includes the National 618 Electric Safety Code and the 2017 edition of the Florida 619 Department of Transportation Utility Accommodation Manual.

C. All Small Wireless Facilities and Small Wireless Poles shall be maintained in good condition and in accordance with all standards in this section. No Additions, changes or modifications shall be made except in conformity with the standards of this Chapter.

D. Consistent with Florida Statute 337.401, a Collocation may include the replacement of an existing utility pole. If no portion of the replacement utility pole or the Small Wireless Facility would extend more than ten feet above the height of the existing utility pole, then the rules and procedures herein governing Collocations apply. If any portion of the replacement utility pole or the Small Wireless Facility would extend more than ten feet above the existing utility pole, then the project will be considered a new Small Wireless Pole and will not be approved unless it meets all requirements for Small Wireless Poles, including light pole stealth design, location requirements, and any applicable undergrounding requirements.

E. Ground mounted-equipment and other equipment not detailed and drawn on an approved application may not be installed. In the event that a permittee wishes to install additional or different equipment not shown on the original approved application, the permittee must file a new application.

(Ord. # 1430, 10/12/17; Ord. #1490, 6/13/19;)

Sec. 19-1543. - Permittee Additional Requirements for Collocations Located in a Right-of-Way

A. Collocations are allowed on a City owned pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function, but not on a horizontal structure to which signal lights or other traffic control devices are attached or any pole or structure 15 feet in height or less.

B. Collocations on utility poles or other structures that are owned by private parties or the State of Florida shall require written proof of the owner's consent to the Collocation.

C. The height of a Small Wireless Facility may only extend 10 feet above the utility pole or structure upon which the Small Wireless Facility is to be Collocated.

(Ord. # 1430, 10/12/17)

Sec. 19-1544. - Permittee Additional Requirements for Small Wireless Poles Located in a Right-of-Way

A. The height for a new Small Wireless Pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a height waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the Small Wireless Facility. If there is no utility pole within 500 feet, the Small Wireless Pole shall be no taller than 50 feet.

B. New Small Wireless Poles must have stealth design to look and function like light poles. If there are multiple existing light poles within 500 feet of the proposed location in the same right-of-way that have a consistent design, then the new Small Wireless Pole must look substantially like the existing light poles and be the same color as the existing light poles, except for its height, which is controlled by 1. above. Minor design deviations that maintain the same or better aesthetic quality may be approved by City staff.

(Ord. # 1430, 10/12/17)

Sec. 19-155. - Insurance.

A. Except where the State of Florida or one of its Departments or political subdivisions is a Permittee, Permittee shall procure and maintain insurance of the following types, for so long as Permittee places or maintains a Facility in a Right-of-way:

1) *Worker's Compensation*: For all of its employees engaged in permitted work on the Right-of-way. In case any employee engaged in hazardous work on the Right-of-way is not protected under the Worker's Compensation Statute, Permittee shall provide Employer's Liability Insurance for the protection of such of its employees not otherwise protected under such provisions.

Coverage	A—Worker's	Compensation—Statutory
Coverage	B—Employer's	Liability—\$1,000,000.00

2) *Personal Injury/Property Damage Liability*: The minimum primary limits shall be no less than \$1,000,000/\$3,000,000 Personal Injury Liability, and no less than \$1,000,000 Property Damage Liability, or \$3,000,000 Combined Single Limit Liability, or higher limits if required by any Excess Liability Insurer. The City shall be named as an additional insured pursuant to an additional insured endorsement on ISO Form 20 10 10 01 (or superseding form) providing comprehensive general liability coverage for completed operations in addition to on-going operations.

3) *Automobile Liability*: *Automobile Liability insurance including all owned, hired, and non-owned automobiles.* The minimum primary limits shall be no less than \$1,000,000 Bodily Injury Liability, and no less than \$1,000,000 Property Damage Liability, or no less than \$1,000,000 Combined Single Limit Liability, or higher limits if required by the Excess Liability Insurer. The City shall be named as an additional insured.

4) *Umbrella Liability Insurance or Excess Liability Insurance*: To the extent Permittee carries umbrella or excess liability insurance, the City shall be named as an additional insured on any such policy. Coverage shall be in

excess of the employer's liability, commercial general liability and automobile liability coverages required herein and shall include all coverages on a "following form" basis. Coverage shall drop down as primary on the exhaustion of any aggregate limit.

- B. Certificates of Insurance: Prior to commencement of work under any Permit, Permittee shall furnish to City original, current certificates of all insurance required by this Article, providing thirty (30) days prior written notice of any change in limits or scope of coverage, cancellation, or non-renewal. Such certificates shall contain the following wording: "SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE AMENDED IN LIMITS OR SCOPE OF COVERAGE OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL DELIVER THIRTY (30) DAYS PRIOR NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN." All insurance required by this agreement shall be taken out with insurers licensed to do business in Florida having an A.M. Best's rating of A-, or otherwise approved in advance in writing by City. The Certificates must be signed by the authorized representative of the insurance company, and shall be filed and maintained with the City annually.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-156. - Indemnification.

- A. A Permittee shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the City arising out of the placement or maintenance of its Facilities in a Right-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this Article, provided however, that a Permittee's obligation hereunder shall not extend to any claims caused by the negligence, gross negligence or wanton or willful acts of the City. This provision includes, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. City agrees to notify the Permittee in writing, within a reasonable time of City receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the City from participating in the defense of any litigation by its own counsel and at its own cost if in the City's reasonable belief there exists or may exist a conflict, potential conflict or appearance of conflict. Nothing contained in this section shall be construed or interpreted: (a) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or (b) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes (2006), as it may be amended.
- B. The indemnification requirements shall survive and be in effect after the expiration or revocation of Permit.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-157. - Performance bond.

- A. Prior to issuing a Permit which will require restoration of a Right-of-way, the Permittee shall file with the City, and maintain in full force and effect for twelve months, an acceptable corporate surety bond in an amount equal to 110% of the engineer's cost estimate to secure the restoration of the Right-of-way, issued by a surety licensed therefore in the state of Florida, or other security satisfactory to the City (such as a certificate of deposit or a letter of credit from a bank satisfactory to the City, and conditioned upon Permittee's compliance with all the provisions of its Permit, regardless of whether the Permit is terminated, and payment of all damages, liquidated damages, compensation, and costs of repairing the Facilities, and at the alternative option of the City, the cost of removal of the Facilities and restoration of the Right-of-way and other public or private improvements; said condition begin a continuing obligation of the surety. After the expiration of any performance bond, the City may require a new bond for any subsequent work in the Right-of-way.
- B. The rights reserved by the City with respect to any performance bond established pursuant to this Section are in addition to all other rights and remedies the City may have under this Article, at law or equity.
- C. The rights reserved to the City under this Section are in addition to all other rights of the City, whether reserved in this Article, or authorized by other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect any other right the City may have.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-158. - City reservation of rights.

- A. The City makes no warranties or representations regarding the fitness, suitability or availability of any Right-of-way for the Permittee's Facilities and any performance of permitted work, costs incurred or services provided by Permittee shall be at Permittee's sole risk. Nothing in this Article shall affect the City's authority to add, vacate, or abandon a Right-of-way, and City makes no warranties or representations regarding the availability of any added, vacated or abandoned Right-of-way for Facilities.
- B. The City reserves the right to place and maintain, and to permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of Facilities in the Right-of-way, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in the Right-of-way occupied by a Permittee. The City further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation or width of

City controlled Rights-of-way.

- C. The City reserves the right to refuse to allow Permittee to cut or break the pavement of new Rights of way, which, as a practical matter, cannot be restored to their original condition if cut, and to require that especially congested Rights of way be cut or broken, and immediately repaired, during an uncongested period.
- D. The City shall have the right to make such inspection of Facilities placed or maintained in a Right-of-way as it finds necessary to ensure compliance with this Article.
- E. The City reserves the right to require removal or relocation of a Permittee's Facilities in a Right-of-way, subject to the provision of Sections 337.403 and 337.404, Florida Statutes, as they may be amended.
- F. The City reserves the right to amend this Article as it shall find necessary in the lawful exercise of its police powers.
- G. Nothing in this ordinance shall affect the remedies the City or Permittee has available under applicable law.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-159. - Abandoned facilities.

- A. Upon abandonment of a Facility owned by a Permittee in a Right-of-way, the Permittee shall notify the City within 90 days.
- B. The City may direct the Permittee by written notice to remove all or any portion of such abandoned Facility at Permittee's sole expense if the City determines that the Facility compromises safety for a Right-of-way user; prevents another from locating Facilities in that portion of Right-of-way when alternative locations not available; or creates a disruptive maintenance condition. If Permittee fails to remove all or any portion of an abandoned Facility as directed by the City within the reasonable time period required by the City under the circumstances, the City may perform such removal and charge the cost of the removal against the Permittee.
- C. In the event that the City does not direct the removal of the abandoned Facility, the Permittee, by its notice of abandonment to the City, shall be deemed to consent to the alteration or removal of all or any portion of the Facility by the City or another person at such third person's cost.
- D. Notwithstanding the forgoing, the following more specific rules apply to all above-ground cables, conduits, ducts, fiber optics or poles located in whole or in part within a Right-of-way:

- a. Any communication cable, conduit, duct or fiber optic which is attached to a pole or tower and which has been cut shall be removed and disposed of immediately.
- b. Any communication cable, conduit, duct or fiber optic shall be removed from a pole or tower and disposed of at the time a new or alternate cable has been attached for a similar purpose and the old cable is no longer in use.
- c. In all other cases, a communication cable, conduit, duct, fiber optic or pole shall be removed and disposed of within 14 days following the date that it is no longer in use or has been disconnected from service.
- d. The duty to remove unused facilities falls first to the owner of the unused or abandoned facilities, their successors or assigns, and if no such person or entity exists, to the entity owning or controlling the use of the pole or tower on which the unused or abandoned cable, conduit, duct or fiber optic is located.

(Ord. No. 1081, § 1, 6-28-07; Ord. No. 1394, § 1, 2-9-17)

Sec. 19-160. - Force majeure.

In the event a Permittee's performance or compliance with any of the provisions of this Article is prevented by a cause or event not within the Permittee's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such Permittee uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For purposes of this Article, causes or events not within a Permittee's control shall include, without limitation, acts of God, floods, earth quakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within the Permittee's control, and thus not falling within this Section, shall include, without limitation, Permittee's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of Permittee's directors, officers, employees, contractors or agents.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-161. - Suspension of permits.

- A. The City may suspend a permit for work in a Right-of-way for one or more of the following reasons:
 1. failure to comply with any of Permittee obligations set forth in **Sections 19-154 through 19-157** of this Ordinance;
 2. violation of permit conditions or other City codes or regulations governing placement or maintenance of Facilities in the Right-of-way;
 3. misrepresentation or fraud by Permittee in a City permit application;
 4. failure to relocate or remove Facilities as lawfully required by the City.
- B. Process. The City Manager shall provide notice and a reasonable opportunity to cure any violation listed above. Failure to cure the violation in a manner and within the time set

forth in the City Manager's notice shall result in suspension of all Permits issued to Permittee.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-162. - Revocation of permits.

A. The City may revoke a permit if:

1. a Federal, state or county agency suspends, revokes, or denies any applicable certification or license required by Permittee to provide services related to placement or maintenance of Facilities in a Right-of-way.
2. the Permittee ceases to use all of its Facilities in a Right-of-way or has not complied with Section 19-159 of this Article;
3. the Permittee's placement or maintenance of a Facility in a Right-of-way presents an extraordinary danger to the public or other users of the Right-of-way and the Permittee fails to remedy the danger promptly after receipt of written notice.

B. Process. Upon the occurrence of any event listed in (a) of this Section, the City Manager shall provide the Permittee written notice of the proposed revocation and reason therefore. Permittee shall within sixty days of receipt of the City Manager's notice of proposed revocation eliminate the reason for the revocation or present a plan, satisfactory to the City Manager, to address and timely eliminate the grounds for revocation. If the plan is rejected, the City Manager shall provide written notice of rejection to the Permittee and shall provide written notice of revocation of the Permit. Where the revocation is based on (a)(3), the City Manager may demand action or response from the Permittee in less than sixty days in his discretion, based on the nature of the danger to the public.

C. Within ninety days following the City Manager's issuance of a written notice of revocation, Permittee shall take all necessary actions to render safe Facilities remaining in a Right-of-way, and notify the City of the assumption of ownership of Facilities in the Right-of-way by another Permittee or provide plan for disposition of Facilities in the Right-of-way. If a Permittee fails to comply with this section, the City may exercise any rights or remedies available at law or equity, including but not limited to possession of the Facilities by the City (if Facilities not also used by another) or removal of Facilities and restoration of Right-of-way at the former Permittee's expense.

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-163. - Appeals.

Final, written decisions of the City Manager denying, suspending or revoking a Permit are subject to appeal before the Planning Board. A written notice of appeal must be filed with the City Clerk within thirty days of the written decision to be appealed, and any appeal not timely filed within this period shall be deemed waived. A hearing on the appeal shall be scheduled to

occur within thirty days of the written request, for which a written decision shall be rendered within twenty days of the hearing.

(Ord. No. 1081, § 1, 6-28-07; Ord. No. 1241, 9-13-2012)

Sec. 19-164. - Enforcement.

Upon receipt of information, and upon verification by the building official or code enforcement officer that any of the provisions of this ordinance are being violated, the City Manager or his designee shall notify in writing the person responsible for the violation, indicating the provisions of regulations being violated, and shall order the necessary steps to abate the violation pursuant to the following remedies:

- (a) When the City has determined that a person has violated this Article or that the placement or maintenance of Facilities by a person poses a hazardous situation or constitutes a public nuisance, public emergency, or other threat to the public health, safety or welfare, or when the City Manager determines that there is a paramount public purpose, the City Manager is authorized to issue a stop work order to order the discontinuance of any work being done or any other act in violation of this Article, to impose new conditions upon a permit, or to suspend or revoke a permit by notifying the Permittee of such action;
- (b) The owner of the Facilities, or agent of the Facilities which are placed or maintained in violation of this Article shall be subject to penalties and fines pursuant to Chapter 25, City of Panama City Beach Code of Ordinances; or
- (c) The person responsible for the violation may be cited with a municipal offense as provided in Section 1-12, City of Panama City Beach Code of Ordinances; or
- (d) Subject to any combination of (a), (b) and (c).

(Ord. No. 1081, § 1, 6-28-07)

Sec. 19-165. - Existing facilities—~~Grace period to comply.~~

- A. This ordinance shall be applicable to all Facilities placed or maintained in the Right-of-way on or after ~~June 28, 2007, the effective date of this ordinance~~ and shall apply to all existing Facilities in the Rights-of-way prior to the effective date of this ordinance, to the full extent permitted by state and federal law.
- ~~B. The adoption of this ordinance is not intended to affect any rights or defenses of the City or any Permittee under any existing franchise, license or other agreement.~~
- ~~C. Any person or entity with existing Facilities in a Right-of-way who does not have a current franchise or other agreement with the City relating to the placement or maintenance of~~

~~Facilities in the Right of way shall have sixty days from the effective date of this ordinance, or termination of any such agreement, to comply with the terms of this ordinance, including permitting, or be in violation thereof.~~

(Ord. No. 1081, § 1, 6-28-07)

SECTION 2. From and after the effective date of this ordinance Section 1.07.00 of the Panama City Beach Land Development Code, related to Acronyms and Definitions is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Telecommunications Tower - Means any structure designed and constructed for the purpose of supporting one or more communication ***Antennas***, including camouflaged towers, conventional wireless towers and low impact or stealth towers. The term includes towers to support ***Antennas*** for transmitting or receiving personal wireless services and cellular telephone communications towers. The term includes equipment fundamental to the operations of the tower. The term does not include commercial radio and television broadcast towers, amateur short-wave radio towers or those towers used solely for private use dispatch services. The term does not include Small Wireless Facility or Small Wireless Pole **that qualifies for a Right-of-way permit under the City Code.**

SECTION 3. From and after the effective date of this ordinance Section 5.05.00 of the Panama City Beach Land Development Code, related to Telecommunications Towers and Antennas is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

5.05.00 TELECOMMUNICATIONS TOWERS AND ANTENNAS

5.05.01 Generally

- A.** It is the intent of the **City** to allow ***Telecommunications Towers*** and/or ***Antennas*** in compliance with State and federal regulations. It is further the intent of the **City** to protect the public health, safety and welfare through regulating the placement and design of allowable ***Telecommunications Towers***. The regulations in this section are designed to meet the following purposes:

1. To protect **Residentially** zoned areas and **Residential Development** from potential adverse impacts of **Telecommunications Towers** that are placed in inappropriate locations;
 2. To minimize visual impacts of **Telecommunications Towers** through site design requirements, location requirements and innovative camouflage techniques, in accordance with acceptable engineering and planning principles; and
 3. To allow **Telecommunications Towers** that meet State, federal and local requirements for location, site design and appearance.
- B. Telecommunications Towers** proposed within the **City** shall provide for **Collocation** consistent with State and federal regulations.
- ~~**C. Small Wireless Facilities** and **Small Wireless Poles** located in public rights-of-way shall not be subject to the rules for **Telecommunications Towers** and **Antennas** if they meet the requirements of Chapter 10 of the City Code, which governs Right-of-way permitting.~~

(Ord. # 1430, 10/12/17)

5.05.02 Applicability

All **Telecommunications Towers** and **Antennas** proposed to locate in the **City** shall be subject to the regulations in this section. ~~**Small Wireless Facilities** and **Small Wireless Poles** located in public rights of way are not subject to sections 5.05.03 through 5.05.06.~~ (Ord. # 1430, 10/12/17)

5.05.03 Allowable Locations for Telecommunications Towers

Telecommunications Towers and/or **Antennas** shall be reviewed according to the procedures of Chapter 10 and are permissible on lands designated in the Comprehensive Plan for the following **Uses**: Tourist, Industrial, **Recreation** or Public **Buildings** and Grounds.

5.05.04 Requirements for Telecommunications Towers and Antennas

- A.** All **Telecommunications Towers** and **Antennas** shall be maintained in good condition and in accordance with all standards in this section. No **Additions**, changes or modifications shall be made except in conformity with the standards of this section.
- B.** At all times, each **Telecommunications Tower** shall be insured for liability in an amount of not less than \$5,000,000.00.
- C.** In the event that a **Telecommunications Tower** or **Antenna** is **Abandoned**, the owner of the **Telecommunications Tower** or **Antenna** shall restore the property to its condition prior to the installation of the tower or **Antenna**. Restoration shall be completed not later than six (6) months after **Abandonment**.

5.05.05 Design Requirements for Telecommunications Towers

The following site design and appearance regulations apply to **Telecommunications Towers** that are installed on the ground. Where the provisions of the underlying zoning district differ from the following provisions, the following provisions apply:

- A. All **Telecommunications Towers** shall be located in a manner that minimizes the effect on environmental resources.
- B. A new **Telecommunications Tower** shall be permissible only if the applicant demonstrates that **Collocation** is not available.
- C. **Setbacks** required by this section shall be measured from the closest aspect of the base of the tower to the property line of the **Parcel** on which it is located.
- D. **Telecommunications Towers** shall be **Setback** a minimum of fifty (50) feet from front, side and rear property lines of the **Parcel**.
- E. A new **Telecommunications Tower** shall be located a minimum of 1,500 feet from any existing **Telecommunications Tower**.
- F. The maximum height of **Telecommunications Towers** shall not exceed 150 feet. The measurement of **Telecommunications Tower** height shall include the tower, **Antennas** and base pad and shall be measured from the finished grade at the tower pad location.
- G. **Telecommunications Towers** shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration.
- H. **Structural design**
 - 1. **Telecommunications Towers** shall be monopole structures.
 - 2. **Telecommunications Towers** shall be designed to accommodate collocators. The number of collocators shall be included in the design specifications.
 - 3. **Telecommunications Towers** shall include one (1) emergency generator of sufficient size to accommodate the needs of all collocated **Antennas**. The application for the tower shall include documentation to ensure that future collocators shall be required to **Use** the existing generator.
 - 4. **Telecommunications Towers** shall be constructed in accordance with the standards in the latest edition of the following **Publications**:
 - (a) Construction standards for **Telecommunications Towers**, published by the Electronic Industries Association.

(b) "Minimum Design Load for **Buildings** and Structures," published by the American Society of Civil Engineers.

(c) "Guide to the **Use** of Wind Load Provisions," published by the American Society of Civil Engineers.

(d) **FBC**.

- I. A fence, not less than six (6) feet nor to exceed eight (8) feet in height, shall be installed to enclose the tower. The fence shall be installed to accommodate landscaping located outside the fence. The fence may be wooden, masonry or vinyl. Wooden or masonry fences shall be painted to blend with the surrounding environment. Vinyl fences shall be of a color to blend with the surrounding environment. The decorative side of all fences shall face outward.
- J. Existing vegetation shall be retained to the maximum extent possible, except for exotic invasive vegetation. Exotic invasive vegetation shall be removed and replaced with landscape materials that comply with section 0.

K. Landscaping requirements

1. **Telecommunications Towers** shall be required to provide landscaping outside the fence enclosing the tower and at the property line of the **Parcel**. Perimeter landscaping shall be required only on property lines that are within 150 feet of the base of the **Telecommunications Tower**. Where landscaping is provided at the property line of the **Parcel**, a recorded easement shall be provided to ensure the continued provision and maintenance of the landscaping.
2. Plants shall be selected in consideration of the site soils, moisture and salt conditions. All plant materials shall be evergreen.
3. Trees for perimeter landscaping shall be selected from the following list: Southern Red Cedar, Live Oak, Laurel Oak, Dahoon Holly, East Palatka Holly and American Holly. Six (6) trees per 100 linear feet are required. At least two (2) species of trees shall be used.
4. Perimeter landscaping is intended to provide an opaque screen between adjacent properties and the **Telecommunications Tower**. Trees shall be planted in a double-staggered row and placed in an irregular pattern so as to appear more natural. Tree spacing may vary, but shall not exceed an average of fifteen (15) feet, center to center.
5. The minimum tree size shall be twelve (12) feet high at the time of installation. Tree trunk caliper shall be appropriate to the selected species natural growth habits.

6. **Shrubs** shall be required outside the fence. **Shrubs** shall be selected from the following list: Wax Myrtle, Thorny Elaeagnus or Saw Palmetto.
 7. The minimum **Shrub** size shall be thirty-six (36) inches high at the time of installation. Saw Palmettos shall be at least eighteen (18) inches in height at the time of planting.
 8. **Shrubs** shall be planted in irregular groups. Staggered rows of **Shrubs** are encouraged to produce a more natural appearance. There shall be a minimum of twenty-five (25) **Shrubs** planted per 100 linear feet of fence.
 9. Existing on-site vegetation may be counted toward meeting the minimum requirements for vegetation.
 10. All landscape materials shall meet Florida No. 1 standards, as defined in "Grades and Standards for Nursery Plants," published by the Florida Department of Agriculture and Consumer Services.
 11. There shall be no **Irrigation System** required. However, a watering plan shall be provided to ensure that all installed vegetation will thrive and will be well established one (1) year after installation. Any materials that die shall be replaced within three (3) months.
- L. An **Access Driveway** shall meet the following standards in addition to other applicable standards of Chapter 4:
1. Where the tower enclosure is smaller than the entire **Parcel**, a recorded easement shall be provided to ensure continuing availability of **Access** across the **Parcel** to the tower enclosure.
 2. The **Access Drive** shall be designed to provide adequate turn-around space and may be designed as a hammerhead or T-type turn-around.
- M. One (1) **Parking Space** shall be provided.
1. The space shall be paved.
 2. The space shall be a minimum of ten (10) feet wide and eighteen (18) feet long.
 3. Where the tower enclosure is smaller than the entire **Parcel**, an easement or recorded agreement shall be required to ensure that the **Parking Space** is provided and maintained.
 4. Where parking for other purposes exists on the **Parcel** in excess of the minimum parking requirements, one (1) space may be dedicated to **Use** by the

Telecommunications Tower. The availability of this **Parking Space** shall be ensured through a recorded agreement.

N. The **Telecommunications Tower** shall be designed and painted to resemble natural objects, such as trees that are typical of the surrounding area or shall be completely screened from view by incorporation into a principal **Building**. All portions of the **Telecommunications Tower** shall be screened by architectural features matching that of the principal **Building**.

5.05.06 Design Requirements for **Antennas** Installed on Existing Above-ground Structures

A. The following site design and appearance regulations apply to one (1) or more **Antennas** that are installed on existing **Buildings** or structures. Where the provisions of the underlying zoning district differ from the following provisions, the following provisions apply:

1. The maximum height shall not exceed 150 feet. The measurement of height shall include the existing **Building** or structure, any structure to support the **Antennas** and the **Antennas**. Height shall be measured from the finished grade of the **Building** or structure on which the **Antennas** are located to the uppermost point of the **Building** or structures, support structure or **Antenna**.
2. **Antennas** attached to or supported by, an existing **Building** or structure shall not impose any undue stress on the **Building** or structure. Structures to support **Antennas** on existing **Buildings** shall be constructed in accordance with the standards in the latest edition of the following **Publications**:
 - (a) Construction standards for **Telecommunications Towers**, published by the Electronic Industries Association.
 - (b) "Minimum Design Load for **Buildings** and Structures," published by the American Society of Civil Engineers.
 - (c) "Guide to the **Use** of Wind Load Provisions," published by the American Society of Civil Engineers.
 - (d) FBC.
3. The structure and **Antenna** shall be screened with architectural elements or integrated into architectural elements. Examples of appropriate **stealth** techniques include elements such as chimneys, spires, steeples or cupolas. Screening or other elements may be proposed, so long as the result is an integration

of the **Antenna** and any supporting structure into the existing **Building** design features.

5.05.07 Allowable Locations for Small Wireless Poles and associated Ground Mounted Equipment Located in Public Right of Way

- ~~A.~~ Applications to place **Small Wireless Facilities** and **Small Wireless Poles** in a public right of way may not be denied solely based on the Comprehensive Plan future land use categories and zoning categories of adjacent parcels.
- ~~B.~~ **Small Wireless Poles** in public right of way (as opposed to a **Collocation** on a preexisting structure) are not permissible within 250 feet of the footprint of any Dwelling, including attached garages, porches, and balconies, except **Dwellings** that front on the Front Beach Road or South Thomas Drive rights of way, in which case the minimum distance shall be 100 feet. In addition, **Small Wireless Poles** in public right of way (as opposed to a collocation on a preexisting structure) shall not be permissible within 50 feet of the primary public pedestrian entrance to any business.
- ~~C.~~ It is preferable for all equipment to be integrated into or mounted on the **Wireless Support Structure** or utility pole. Ground mounted equipment that is in addition to a **Wireless Support Structure** or utility pole or associated with a **Collocation** shall not be permissible within 500 feet of the footprint of any **Dwelling**, including attached garages, porches, and balconies, except **Dwellings** that front on the Front Beach Road or South Thomas Drive rights of way, in which case the minimum distance shall be 150 feet. This restriction does not apply to equipment installed entirely underground consistent with existing grade. In addition, ground mounted equipment associated with or installed because of a **Small Wireless Pole** or a **Small Wireless Facility**, including the **Collocation** of a **Small Wireless Facility**, may not be placed on a sidewalk, bike path, or multi-use trail. Ground Mounted equipment includes, but is not limited to, any of the following associated with a **Small Wireless Facility** or installed due to a **Small Wireless Facility**: electric generators or meters, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connections of power and other services, and guy wires or other secondary supports.
- ~~D.~~ **Small Wireless Facilities**, **Small Wireless Poles**, and associated equipment are not exempt from the City's applicable undergrounding requirements that prohibit above-ground structures in certain public right of way, except that **Collocations** on existing above-ground structures are not subject to undergrounding requirements that are applicable to a location. At such time an existing above-ground structure is transitioned to underground, any right to Collocate above ground on it is lost.
- ~~E.~~ Applications for **Small Wireless Poles** or **Collocations** of **Small Wireless Facilities** in locations subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association are governed by the more stringent rules provided for **Telecommunications Towers** and **Antennas** unless the **Homeowner Association**

~~is a co-applicant, in which case the more lenient rules for **Small Wireless Facilities** and **Small Wireless Poles** will apply. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities as provided by Florida law.~~

~~(Ord. # 1430, 10/12/17)~~

~~5.05.08 Requirements for Small Wireless Poles and Collocations Located in a Right-of-Way~~

- ~~A. All wireless facilities, as defined by Florida Statute 337.401 located within a right-of-way must meet the definition of a **Small Wireless Facility**.~~
- ~~B. All requirements of Chapter 19, Article VIII of the Code of Ordinances, entitled Right-of-Way Permitting, apply unless a more specific requirement is provided hereunder.~~
- ~~C. The **City** may deny a proposed **Small Wireless Pole** or **Collocation** of a **Small Wireless Facility** in the public rights-of-way if it:~~
- ~~1. Materially interferes with the safe operation of traffic control equipment.~~
 - ~~2. Materially interferes with sight lines or clear zones for transportation — pedestrians, or public safety purposes.~~
 - ~~3. Materially interferes with compliance with the Americans with Disabilities Act — or similar federal or state standards regarding pedestrian access or movement.~~
 - ~~4. Materially fails to comply with the 2010 edition of the Florida Department of — Transportation Utility Accommodation Manual.~~
 - ~~5. Fails to comply with this LDC, or any uniform building, fire, electrical, — plumbing, or mechanical codes adopted by a recognized national code — organization or local amendments to those codes enacted solely to address — threats of destruction of property or injury to persons.~~
- ~~D. All **Small Wireless Facilities** and **Small Wireless Poles** shall be maintained in good condition and in accordance with all standards in this section. No Additions, changes or modifications shall be made except in conformity with the standards of this section.~~
- ~~E. In the event that a **Small Wireless Facility** or **Small Wireless Pole** is **Abandoned**, the owner of the **Small Wireless Facility** or **Small Wireless Pole** shall restore the property to its condition prior to the installation of the **Small Wireless Facility** or **Small Wireless Pole**. Restoration shall be completed not later than six (6) months after Abandonment.~~
- ~~F. Applications to **Collocate Small Wireless Facilities** within a right-of-way that do not increase the height of the existing structure shall be reviewed under the expedited~~

procedure provide by Section 10.09.04 of the ~~LDC~~. Application for all other Small Wireless Poles and Collocations located in a Right of Way shall be reviewed and processed according to the Type I Procedures provided by Section 10.06.00 of the ~~LDC~~, except to the extent preempted by Florida Statute 337.401 (2017).

- ~~G.~~ Consistent with Florida Statute 337.401, a **Collocation** may include the replacement of an existing utility pole. If no portion of the replacement utility pole or the **Small Wireless Facility** would extend more than ten feet above the height of the existing utility pole, then the rules and procedures herein governing **Collocations** apply. If any portion of the replacement utility pole or the **Small Wireless Facility** would extend more than ten feet above the existing utility pole, then the project will be considered a new **Small Wireless Pole** and will not be approved unless it meets all requirements for **Small Wireless Poles**, including light pole **Stealth Facility** design, location requirements, and any applicable undergrounding requirements.
- ~~H.~~ Ground mounted equipment and other equipment not detailed and drawn on an approved application may not be installed. In the event that a permittee wishes to install additional or different equipment not shown on the original approved application, the permittee must file a new application.

(Ord. # 1430, 10/12/17)

~~5.05.09 Additional Requirements for Collocations Located in a Right-of-Way~~

- ~~A.~~ **Collocations** are allowed on a City owned pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function, but not on a horizontal structure to which signal lights or other traffic control devices are attached or any pole or structure 15 feet in height or less.
- ~~B.~~ **Collocations** on utility poles or other structures that are owned by private parties or the State of Florida shall require written proof of the owner's consent to the **Collocation**.
- ~~C.~~ The height of a **Small Wireless Facility** may only extend 10 feet above the utility pole or structure upon which the **Small Wireless Facility** is to be **Collocated**.

(Ord. # 1430, 10/12/17)

~~5.05.10 Additional Requirements for Small Wireless Poles Located in a Right-of-Way~~

- ~~A.~~ The height for a new **Small Wireless Pole** is limited to the tallest existing utility pole as of July 1, 2017, located in the same right of way, other than a utility pole for which a height waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the **Small Wireless Facility**. If there is no utility pole within 500 feet, the **Small Wireless Pole** shall be no taller than 50 feet.
- ~~B.~~ New Small Wireless Poles must be Stealth Facilities designed to look and function like

~~light poles. If there are multiple existing light poles within 500 feet of the proposed location in the same right of way that have a consistent design, then the new Small Wireless Pole must look substantially like the existing light poles and be the same color as the existing light poles, except for its height, which is controlled by 1. above. Minor design deviations that maintain the same or better aesthetic quality may be approved by City staff.~~

~~C. New Small Wireless Poles in right-of-way under the jurisdiction of the Florida Department of Transportation requires the consent of the Florida Department of Transportation, but still shall comply with the City's placement and design requirements.~~

~~(Ord. # 1430, 10/12/17)~~

SECTION 4. The adoption of this ordinance is not intended to affect any rights or defenses of the City or any Permittee under any existing franchise, license or other agreement.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code and Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 6. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the
City Council of the City of Panama City Beach, Florida, this ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2019.

MAYOR

Published in the _____ on the ____ day of _____, 2019.

Posted on pcbgov.com on the ____ day of _____, 2019.

Notice provided to the Secretary of State on the ____ day of _____, 2019, which is at least 10 days prior to consideration on first reading.

DRAFT

ITEM

5

ORDINANCE NO. 1432

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE TO REQUIRE THE UNDERGROUNDING OF UTILITIES IN EXISTING SUBDIVISIONS FOR NEW DEVELOPMENT AND REDEVELOPMENT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, Section 4.02.03E of the Land Development Code establishes a requirement that utilities be buried along the Scenic Corridors, and Section 4.03.02.B.3.b requires that utilities be placed underground in new subdivisions; and

WHEREAS, the City desires to establish an undergrounding requirement in existing subdivisions for new construction or substantial improvements to existing buildings.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 4.02.01.E of the Land Development Code of the City of Panama City Beach related to Underground Utilities in existing Subdivisions, is created to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

New 4.02.01.E Underground Utilities in existing Subdivisions

(1) Undergrounding required.

(a) Every electrical, cable television, data, telephone or other telecommunication feed installed from a public right-of-way to exclusively serve any **New Development** on an existing **Lot** located within a **Subdivision** that has been approved prior to July 26, 2012, by the City Council in the form of a plat, shall be placed underground. Pre-existing feeds associated with **Redevelopment** on an existing **Lot** located within a **Subdivision** that has been approved prior to July 26, 2012, by the City Council in the form of a plat shall also be immediately placed underground as part of such improvements; provided however, that in the event the underground placement of such pre-existing feeds is required solely due to renovations or improvements consisting exclusively of emergency repairs or replacement of existing improvements damaged by casualty loss, the property owner may delay the underground

placement of such pre-existing feeds for a period of sixty (60) days. Notwithstanding the forgoing, each new construction site shall per permitted one temporary, overhead electrical and telephone drop for a period not to exceed one year.

(b) Owners of electrical, cable television, data, telephone or other telecommunication feeds installed on a pole maintained by an electrical utility or telecommunications provider shall underground such feeds at the time the owner of the utility pole undertakes to underground its primary lines supported by the pole.

(2) Exemptions.

(a) This section shall not apply to high voltage primary lines serving a transformer station maintained by an electrical utility or to trunk and feeder lines serving a cable television, data, telephone or other telecommunications distribution point maintained by a telecommunication utility.

(b) This undergrounding requirements of this section shall not be interpreted or applied to require a utility provider to cross private property other than that serving the **New Development** where consent to do so has not been obtained by the affected neighbor(s).

SECTION 2. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 3. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ____ day of _____, 20__.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 20__.

MAYOR

Published in the Florida Administrative Register on the 4th day of January, 2018.

Published in the _____ on the ____ day of _____, 201__.

Posted on pcbgov.com on the ____ day of _____, 201__.

DRAFT

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