

Code change

ORDINANCE NO. 2017- 150

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AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, MAKING REVISIONS TO CITY OF TAMPA CODE OF ORDINANCES, CHAPTER 22 (STREETS AND SIDEWALKS); AMENDING ARTICLE I., ADMINISTRATIVE PROVISIONS; AMENDING DIVISION 1. GENERAL PROVISIONS; ADMINISTRATIVE AUTHORITY; DEFINITIONS; AMENDING SECTION 22-5, DEFINITIONS; AMENDING SECTION 22-6, ADMINISTRATIVE AUTHORITY; AMENDING SECTION 22-7, ALTERNATE MATERIALS AND METHODS OF CONSTRUCTION; AMENDING SECTION 22-8, OBSTRUCTING STREETS, SIDEWALKS, ALLEYS, ETC.; EXCEPTIONS; AMENDING SECTION 22-10, DEFACING, ETC., POLES; AMENDING DIVISION 2. CERTIFICATES; DOCUMENTS; REQUIREMENTS; ETC.; AMENDING SECTION 22-31, APPLICATIONS, DOCUMENTATION; AMENDING DIVISION 3. FEE AUTHORITY AND TYPES; PERMITS; INSPECTIONS; SUBDIVISION I. GENERALLY; AMENDING SECTION 22-60, INSTALLATIONS IN RIGHT-OF-WAY; AMENDING SECTION 22-64, DISPLAY OF PERMITS; PENALTY; AMENDING SECTION 22-65, REFILLING; CLEANING UP; REPAVING; AMENDING SECTION 22-66, REPLACEMENT OF PAVING; REMOVING OF IMPROPER REPAVING; AMENDING SECTION 22-67, PERMIT REVOCATION; AMENDING SECTION 22-69, INSPECTIONS, OTHER APPROVALS; AMENDING ARTICLE III., TECHNICAL PROVISIONS; AMENDING DIVISION 3. SPECIFIC TECHNICAL REQUIREMENTS; AMENDING SECTION 22-310, SIGHT OBSTRUCTION; AMENDING ARTICLE IV., COMMUNICATIONS RIGHTS-OF-WAY USAGE; AMENDING DIVISION 1. GENERAL PROVISIONS; DELETING SECTION 22-320, IN ITS ENTIRETY AND RENUMBERING SECTION 22-321 TO 22-320, PURPOSE; AMENDING DIVISION 2. REGISTRATION; AMENDING AND RENUMBERING SECTION 22-322 TO 22-321, AUTHORIZATION TO PLACE OR USE COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; AMENDING AND RENUMBERING SECTION 22-323 TO 22-322, REGISTRATION; AMENDING AND RENUMBERING SECTION 22-324 TO 22-322.1, APPROVAL OF REGISTRATION; AMENDING AND RENUMBERING SECTION 22-325 TO 22-322.2, DENIAL OF REGISTRATION; AMENDING AND RENUMBERING SECTION 22-326 TO 22-322.3, CANCELLATION OF REGISTRATION; AMENDING AND RENUMBERING SECTION 22-327 TO 22-322.4, TRANSFER OF REGISTRATION; AMENDING AND RENUMBERING SECTION 22-328 TO 22-322.5, REGISTRATION AMENDMENTS; RENEWAL; AMENDING AND RENUMBERING SECTION 22-329 TO 22-322.6, EFFECT OF REGISTRATION;

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1 CREATING SECTION 22-322.7, INVOLUNTARY TERMINATION OF
2 REGISTRATION; AMENDING AND RENUMBERING SECTION 22-
3 330 TO 22-322.8, EXISTING COMMUNICATIONS FACILITIES IN
4 PUBLIC RIGHTS-OF-WAY; AMENDING DIVISION 3,
5 REQUIREMENTS FOR THE OCCUPATION OF PUBLIC RIGHTS-OF-
6 WAY; CREATING SUBDIVISION 1. GENERAL PERMIT
7 STANDARDS; AMENDING AND RENUMBERING SECTION 22-331
8 TO 22-323, PERMITS; CREATING SECTIONS 22-323.1 AND 22-
9 323.2; AMENDING AND RENUMBERING SECTION 22-334 TO 22-
10 323.3, RELOCATION OF COMMUNICATIONS FACILITIES;
11 CREATING SECTION 22-323.4, COORDINATION WITHIN PUBLIC
12 RIGHTS-OF-WAY; AMENDING AND RENUMBERING SECTION 22-
13 333 TO 22-323.5, RESTORATION STANDARDS; CREATING
14 SECTION 22-323.6, TREES WITHIN OR PROXIMATE TO PUBLIC
15 RIGHTS-OF-WAY; AMENDING AND RENUMBERING SECTION 22-
16 335 TO 22-323.7, REPAIR OF COMMUNICATIONS FACILITIES BY
17 CITY; AMENDING AND RENUMBERING SECTION 22-336 TO 22-
18 323.8, ACCESS TO COMMUNICATIONS FACILITIES BY CITY;
19 DELETING SECTION 22-337 IN ITS ENTIRETY; AMENDING AND
20 RENUMBERING SECTION 22-338 TO 22-323.9, ABANDONMENT
21 OF COMMUNICATIONS FACILITIES; CREATING SECTIONS 22-
22 323.10, THROUGH 22-323.12; CREATING SUBDIVISION 2.
23 SPECIFIC PERMIT APPLICATION REQUIREMENTS AND REVIEW
24 PROCEDURES; CREATING SECTIONS 22-324 THROUGH 22-329;
25 RESERVING SECTIONS 22-330 THROUGH 22-338; AMENDING
26 DIVISION 4. INSURANCE AND INDEMNIFICATION; AMENDING
27 SECTION 22-339, INSURANCE; AMENDING SECTION 22-340,
28 INDEMNIFICATION; CREATING SECTION 22-341: REPEALING
29 ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT
30 THEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN
31 EFFECTIVE DATE.

32
33
34 **WHEREAS**, the City Council of the City of Tampa directed the Legal and
35 Planning and Development Department to complete the following amendments to
36 Chapter 22, Code of Ordinances; and,
37

38 **WHEREAS**, the City Council of the City of Tampa has determined that the
39 following amendments promote and protect the general health, safety and welfare of the
40 residents of the City of Tampa by regulating the siting of communications facilities and
41 utility poles within the public rights-of-way; and,
42

43 **WHEREAS**, this Ordinance accommodates the growing needs and demand for
44 communications services; and,
45

1 **WHEREAS**, this Ordinance seeks to expressly address new communications
2 facilities technologies, while also protecting, preserving, and maintaining the aesthetic
3 character of areas where such rights-of-way exist; and,
4

5 **WHEREAS**, Section 337.401, Florida Statutes, addresses *inter alia*, the authority
6 of local governments to regulate the placement and maintenance of communications
7 facilities in the public rights-of-way; and,
8

9 **WHEREAS**, rules and regulations imposed by a local government that relate to
10 communications service providers desiring to place or maintain communications facilities
11 in its rights-of-way must be generally nondiscriminatory and competitively neutral; and,
12

13 **WHEREAS**, Section 337.401(3)(g), Florida Statutes, provides that a local
14 government may not use its authority over the placement of facilities in its rights-of-way
15 as a basis for asserting or exercising regulatory control over a provider of
16 communications services regarding matters within the exclusive jurisdiction of the
17 Florida Public Service Commission or Federal Communications Commission, including,
18 but not limited to, the operations, systems, qualifications, services, service quality,
19 service territory, and prices of a provider of communications services; and,
20

21 **WHEREAS**, Section 337.401(7), Florida Statutes, addresses *inter alia*, the
22 authority of local governments to adopt by ordinance objective design standards requiring
23 a small wireless facility to meet reasonable location context, color, stealth, and
24 concealment requirements, objective design standards requiring a new utility pole
25 intended to support the collocation of small wireless facilities that replaces an existing
26 facility to be of substantially similar design, material, and color, and reasonable spacing
27 requirements concerning the location of ground-mounted equipment; and,
28

29 **WHEREAS**, Section 337.401(7)(d)(12), Florida Statutes, provides that a local
30 government may adopt by ordinance provisions for insurance coverage, indemnification,
31 performance bonds, security funds, abandonment, provided such provisions are
32 reasonable and nondiscriminatory; and,
33

34 **WHEREAS**, it is the City's intent to exercise its authority over communications
35 services providers, wireless infrastructure providers and pass-through providers'
36 placement and maintenance of communications facilities in its rights-of-way; and,
37

38 **WHEREAS**, it is the City's further intent to treat each such communications
39 services provider in a reasonable, nondiscriminatory, and competitively neutral manner in
40 exercising such authority; and,
41

42 **WHEREAS**, the City's rights-of-way are essential for the travel of persons and
43 the transport of goods throughout the City and are a unique and physically limited
44 resource requiring proper management by the City in order to ensure public safety,
45 maximize efficiency, minimize costs to City taxpayers for the foregoing uses, reasonably
46 balance the potential inconvenience to and negative effects upon the public from the

1 placement and maintenance of communications facilities in the rights-of-way against the
2 substantial benefits that accrue from such placement and maintenance, and promote the
3 public health, safety and general welfare; and,
4

5 **WHEREAS**, it is the City's intent to implement the Advanced Wireless
6 Infrastructure Deployment Act as provided in Section 337.401(7), Florida Statutes; and,
7

8 **WHEREAS**, it is the further intent of the City to exercise its authority to adopt
9 reasonable and nondiscriminatory rules and regulations to the fullest extent allowed by
10 Federal and State law; and,
11

12 **WHEREAS**, the City elected to increase the Communications Services
13 Simplified Tax rate in lieu of collecting permit fees from providers of communications
14 services; and,
15

16 **WHEREAS**, the City has reviewed its Code of Ordinances, and has received
17 input from representatives of the communications service industry and other interested
18 stakeholders, and as a result of the foregoing has concluded that Chapter 22 of the City's
19 Code of Ordinances must be updated, in conformance with Federal and State laws and
20 rules, in order to adequately regulate the placement and maintenance of existing, new,
21 and expanded communications facilities in the City's rights-of-way; and,
22

23 **WHEREAS**, a duly noticed public hearing as required by law was held by the
24 City Council of the City of Tampa, at which public hearing all residents and interested
25 persons were given an opportunity to be heard.
26

27
28
29 **NOW, THEREFORE,**

30
31 **BE IT ORDAINED BY THE CITY COUNCIL**
32 **OF THE CITY OF TAMPA, FLORIDA:**
33

34
35
36 **Section 1.** That "**Sec. 22-5. Definitions.**" is hereby amended by adding the
37 underlined language and deleting the stricken language as follows:
38

39 "**Sec. 22-5. Definitions.**

40
41 For the purpose of this chapter, certain abbreviations, terms, phrases, words and
42 their derivatives shall have the following meanings:
43

44 Abandonment or abandoned means the cessation of all uses of a communications
45 facility for a period of one hundred eighty (180) or more consecutive days provided this
46 term shall not include the cessation of all use of a communications facility within a

1 physical structure where the physical structure continues to be used for some purpose or
2 use accessory to the communications facility. By way of example, cessation of all use of
3 a cable within a conduit, where the conduit continues to be used for some purpose or use
4 accessory to the communications facility, shall not be abandonment of a communications
5 facility. a wireless infrastructure provider's failure to have a wireless service provider
6 provide service through a small wireless facility collocated on a utility pole within nine
7 (9) months after the application is approved in accordance with section 337.401(7)(j),
8 Florida Statutes, shall constitute abandonment. The terms abandonment or abandoned are
9 not intended to include a dropped line from a potential or existing customer in the event
10 the communications services provider, communications facility provider, or pass-through
11 provider reasonably anticipates future use of the dropped line.

12
13 Antenna means communications equipment that transmits or receives
14 electromagnetic radio frequency signals used in providing wireless services.

15
16 Applicable codes means uniform building, fire, electrical, plumbing, or
17 mechanical codes adopted by a recognized national code organization or local
18 amendments to those codes enacted solely to address threats of destruction of property or
19 injury to persons, or local codes or ordinances adopted to implement this chapter. The
20 term includes objective design standards adopted by ordinance that may require a new
21 utility pole that replaces an existing utility pole to be of substantially similar design,
22 material, and color or that may require reasonable spacing requirements concerning the
23 location of ground-mounted equipment. The term includes objective design standards
24 adopted by ordinance that may require a small wireless facility to meet reasonable
25 location context, color, stealth, and concealment requirements; however, such design
26 standards may be waived by the authority upon a showing that the design standards are
27 not reasonably compatible for the particular location of a small wireless facility or that
28 the design standards impose an excessive expense.

29
30 Applicant means a person who submits an application for a right-of-way permit,
31 excluding applications to collocate small wireless facilities (see "wireless provider
32 applicant," "consolidated small wireless facilities collocation application," "small
33 wireless facilities collocation application").

34
35 Application means a request submitted by an applicant, to the city, for a right-of-
36 way permit, excluding applications to collocate small wireless facilities (see "wireless
37 provider applicant," "consolidated small wireless facilities collocation application,"
38 "small wireless facilities collocation application").

39
40 As-Built Survey(s) means the final and complete drawing(s) in hard copy signed
41 and sealed by a professional surveyor and mapper, as defined in section 472.005, Florida
42 Statutes. An As-Built Survey is a survey performed to obtain horizontal and/or vertical
43 dimensional data, so that constructed improvements can be located and delineated. As-
44 Built Surveys depict the present/existing state of facilities/improvements
45 in/on/over/through right(s)-of-way and/or land(s).

1 Authority means, pursuant to section 337.401(7), Florida Statutes, the city of
2 Tampa ("city"), having jurisdiction and control over its public rights-of-way. The term
3 does not include the Department of Transportation. Rights-of-way under the jurisdiction
4 and control of the Department of Transportation are excluded from this definition and the
5 provisions set forth in Article IV.

6
7 Authority utility pole means a utility pole owned by the city in the public rights-
8 of-way. The term does not include a utility pole owned by a municipal electric utility, a
9 utility pole used to support municipally owned or operated electric distribution facilities,
10 or a utility pole located in the rights-of-way within: a. A retirement community that: (I) Is
11 deed restricted as housing for older persons as defined in section 760.29(4)(b); (II) Has
12 more than 5,000 residents; and (III) Has underground utilities for electric transmission or
13 distribution. b. A municipality that: (I) Is located on a coastal barrier island as defined in
14 section 161.053(1)(b)3.; (II) Has a land area of less than 5 square miles; (III) Has less
15 than 10,000 residents; and (IV) Has, before July 1, 2017, received referendum approval
16 to issue debt to finance municipal-wide undergrounding of its utilities for electric
17 transmission or distribution.

18
19 *Cable service* means the transmission of video, audio, or other programming
20 service to purchasers, and the purchaser interaction, if any, required for the selection or
21 use of any such programming service, regardless of whether the programming is
22 transmitted over facilities owned or operated by the cable service provider or over
23 facilities owned or operated by one (1) or more other providers of communications
24 services. The term includes point-to-point or point-to-multipoint distribution services by
25 which programming is transmitted or broadcast by microwave or other equipment
26 directly to the purchaser's premises, but does not include direct-to-home satellite service.
27 The term includes basic, extended, premium, pay-per-view, digital, and music services.

28
29 City transportation engineer means that entity authorized to render official
30 determinations and decisions on behalf of the city, regarding transportation-related
31 matters, as described in this chapter.

32
33 Collocate or collocation means to install, mount, maintain, modify, operate, or
34 replace one or more wireless facilities on, under, within, or adjacent to a wireless support
35 structure or utility pole. The term does not include the installation of a new utility pole or
36 wireless support structure in the public rights-of-way.

37
38 *Communications facility* means the plant, equipment and property, including but
39 not limited to, any and all such conduits, cables, poles, wires, supports, ducts, fiber
40 optics, antenna and other structures, equipment, appurtenances and pathways, including
41 wireless facilities, small wireless facilities, and micro-wireless facilities, as may be
42 reasonably necessary to be used to provide communications services.

43
44 *Communications services* means the transmission, conveyance, or routing of
45 voice, data, audio, video, or any other information or signals, including video services, to
46 a point, or between or among points, by or through any electronic, radio, satellite, cable,

1 optical, microwave, or other medium or method now in existence or hereafter devised,
2 regardless of the protocol used for such transmission or conveyance. The term includes
3 such transmission, conveyance, or routing in which computer processing applications are
4 used to act on the form, code, or protocol of the content for purposes of transmission,
5 conveyance, or routing without regard to whether such service is referred to as voice-
6 over-Internet-protocol services or is classified by the Federal Communications
7 Commission as enhanced or value-added. This definition, as defined in Section 202.11,
8 Florida Statutes, as may be amended, also includes but is not limited to wireless services,
9 as defined in this chapter. The term does not include:

- 10 (1) Information services.
- 11 (2) Installation or maintenance of wiring or equipment on a customer's
12 premises.
- 13 (3) The sale or rental of tangible personal property.
- 14 (4) The sale of advertising, including, but not limited to, directory advertising.
- 15 (5) Bad check charges.
- 16 (6) Late payment charges.
- 17 (7) Billing and collection services.
- 18 (8) Internet access service, electronic mail service, electronic bulletin board
19 service, or similar on-line computer services.

20
21 Consolidated small wireless facilities collocation application ("consolidated
22 SWFC application") means a single permit application that would otherwise require
23 individual permit applications for the collocation of between two (2) and thirty (30) small
24 wireless facilities to existing structures within the public rights-of-way.

25
26 Department means the ~~city's~~ department of ~~of public works (DPW)~~ of
27 transportation and stormwater services ("TSS") or planning and development ("PDD"),
28 as applicable.

29
30 Director means the director of the ~~department of public works~~ who shall be
31 responsible for the management of the affairs of such ~~department~~ transportation and
32 stormwater services ("TSS Director") or planning and development ("PDD Director"), as
33 applicable.

34
35 Emergency means a condition that poses clear and immediate danger to the life,
36 safety, or health of one or more persons, or poses clear and immediate danger of
37 significant damage to property.

38
39 Emergency action means any action in the public rights-of-way, including repair,
40 replacement, or maintenance of any existing equipment or facility, which is necessary to
41 alleviate an emergency.

42
43 FCC means the Federal Communications Commission.

44 ...
45 Information service means the offering of a capability for generating, acquiring,
46 storing, transforming, processing, retrieving, using, or making available information via

1 ~~communications services, including, but not limited to, electronic publishing, web-~~
2 ~~hosting service, and end-user 900 number service. The term does not include any video,~~
3 ~~audio, or other programming service that uses point to point or point to multipoint~~
4 ~~distribution by which programming is delivered, transmitted, or broadcast by any means,~~
5 ~~including any interaction that may be necessary for selecting and using the service,~~
6 ~~regardless of whether the programming is delivered, transmitted, or broadcast over~~
7 ~~facilities owned or operated by the seller or another, or whether denominated as cable~~
8 ~~service or as basic, extended, premium, pay per view, digital, music, or two way cable~~
9 ~~service.~~

10 ...

11 Micro wireless facility means a small wireless facility having dimensions no
12 larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12)
13 inches in height and an exterior antenna, if any, no longer than eleven (11) inches.

14 ...

15 Pass-through provider means any person who places or maintains a
16 communications facility in the public rights-of-way and who does not remit tax pursuant
17 to section 202.19, Florida Statutes.

18
19 Permit means an official document authorizing performance of a specific activity
20 regulated by this chapter.

21
22 Place and/or maintain (also "placement and/or maintenance" or "placing and/or
23 maintaining") means to erect, construct, install, maintain, place, repair, extend, expand,
24 remove, occupy, locate or relocate. A provider that owns or exercises physical control
25 over communications facilities in public rights-of-way, such as the physical control to
26 maintain and repair, is placing and/or maintaining such facilities. To the extent required
27 by applicable law, a party providing service only through resale or only through use of a
28 third party's unbundled network elements is not placing and/or maintaining the
29 communications facilities through which such service is provided. The transmission and
30 receipt of radio frequency signals through the airspace of the public rights-of-way is not
31 placing and/or maintaining facilities in the public rights-of-way.

32
33 Provider means any person that places and/or maintains, or seeks to place and/or
34 maintain, communications facilities in the public rights-of-way.

35
36 PSC means the Florida Public Service Commission.

37
38 Public rights-of-way means the roads, streets, alleys, highways, waterways,
39 bridges, sidewalks, and other ways or places of whatever nature, including the space
40 above, on, at or below such rights-of-way, that are owned by the city, publicly held by the
41 city, dedicated to the city, or otherwise controlled by the city, for public use and presently
42 opened or to be opened for public use, including for vehicular, and bicycle, and/or
43 pedestrian movement. This term shall not include any other property owned or controlled
44 by the city, including any building, fixture, structure, or other improvement, regardless of
45 whether it is situated in the city's rights of way.

1
2 Registrant means any provider who has a valid registration with the city.

3
4 ...

5 Shroud means a covering or enclosure of a utility pole, small wireless facility,
6 and/or equipment associated with a small wireless facility, other than the antenna,
7 collocated on a utility pole.

8 Small wireless facility means a wireless facility that meets the following
9 qualifications: a. Each antenna associated with the facility is located inside an enclosure
10 of no more than six (6) cubic feet in volume or, in the case of antenna that have exposed
11 elements, each antenna and all of its exposed elements could fit within an enclosure of no
12 more than six (6) cubic feet in volume; and b. All other wireless equipment associated
13 with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The
14 following types of associated ancillary equipment are not included in the calculation of
15 equipment volume: electric meters, concealment elements, telecommunications
16 demarcation boxes, ground-based enclosures, grounding equipment, power transfer
17 switches, cutoff switches, vertical cable runs for the connection of power and other
18 services, and utility poles or other support structures.

19
20 Small wireless facility collocation application (also "SWFC application") means
21 a request submitted by a wireless provider applicant, to the city, for a permit to collocate
22 small wireless facilities.

23
24 ...

25 Utility pole means a pole or similar structure that is used in whole or in part to
26 provide communications services or for electric distribution, lighting, traffic control,
27 signage, or a similar function. The term includes the vertical support structure for traffic
28 lights (signals) but does not include a horizontal structure to which traffic signal
29 indications, signs, or other traffic control equipment are attached and does not include a
30 pole or similar structure fifteen (15) feet in height or less unless an authority grants a
31 waiver for such pole.

32 Wireless facility means equipment at a fixed location which enables wireless
33 communications between user equipment and a communications network, including radio
34 transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and
35 backup power supplies, and comparable equipment, regardless of technological
36 configuration, and equipment associated with wireless communications. The term
37 includes small wireless facilities. The term does not include: a. The structure or
38 improvements on, under, within, or adjacent to the structure on which the equipment is
39 collocated; b. Wireline backhaul facilities; or c. Coaxial or fiber-optic cable that is
40 between wireless structures or utility poles or that is otherwise not immediately adjacent
41 to or directly associated with a particular antenna.

42
43 Wireless infrastructure provider or WIP means a person who has been certificated
44 to provide telecommunications service in the state and who builds or installs wireless
45 communication transmission equipment, wireless facilities, or wireless support structures

1 but is not a wireless services provider. Pursuant to section 337.401, Florida Statutes, a
2 wireless infrastructure provider is a pass-through provider.

3
4 Wireless provider or WP means a wireless infrastructure provider or a wireless
5 services provider.

6
7 Wireless provider applicant means a person who submits an application and is a
8 wireless provider.

9
10 Wireless services means any services provided using licensed or unlicensed
11 spectrum, whether at a fixed location or mobile, using wireless facilities.

12
13 Wireless services provider or WSP means a person who provides wireless
14 services.

15
16 Wireless support structure means a freestanding structure, such as a monopole, a
17 guyed or self-supporting tower, or another existing or proposed structure designed to
18 support or capable of supporting wireless facilities. The term does not include a utility
19 pole.

20 ...

21 ~~Ybor City means the area bounded on the north by the northern public right-of-~~
22 ~~way boundary of Ninth Avenue; and bounded on the south by the southern public right-~~
23 ~~of-way boundary of Seventh Avenue; and bounded on the east by the centerline of the~~
24 ~~Twenty-Second Street right of way; and bounded on the west by the centerline of the~~
25 ~~Nick Nuccio Parkway right of way described in chapter 27."~~

26 ...

27
28 **Section 2.** That **"Sec. 22-6. Administrative Authority."** is hereby
29 amended by adding the underlined language and deleting the stricken language as
30 follows:

31
32 **"Sec. 22-6. Administrative on of this chapter authority.**

33
34 The provisions of this chapter shall be administered and enforced by the official
35 or as otherwise designated herein. ~~The official may designate his authorized~~
36 ~~representative to hold the title of transportation manager. For the purpose of this chapter,~~
37 ~~the official's designee shall be the transportation manager."~~

38
39 **Section 3.** That **"Sec. 22-7. Alternate materials and methods of**
40 **construction."** is hereby amended by adding the underlined language and deleting the
41 stricken language as follows:

42
43 **"Sec. 22-7. Alternative materials and methods of construction.**

44
45 The provisions of this chapter, excluding the provisions set forth in Article IV, are
46 not intended to prevent the use of any material or method of construction not specifically

1 prescribed by this chapter, provided that any such alternative has been approved by the
2 official city transportation engineer. The ~~official city transportation engineer shall~~ may
3 approve any such alternative, provided ~~he finds~~ that the alternative, for the purpose
4 intended, is at least the equivalent of that prescribed in this chapter in quality, strength,
5 effectiveness, fire resistance, durability, and safety. The ~~official city transportation~~
6 engineer shall require that sufficient evidence or proof be submitted to substantiate any
7 claim made regarding the alternative. If these criteria are not met, the ~~official city~~
8 transportation engineer shall deny the request. Decisions regarding alternative materials
9 for capital improvement projects shall be rendered by the city transportation engineer
10 within the TSS department. Decisions regarding alternative materials within the public
11 rights-of-way related to private development or non-city utility projects shall be rendered
12 by the city transportation engineer within the PDD department.”
13

14 **Section 4.** That “**Sec. 22-8. Obstructing streets, sidewalks, alleys, etc.;**
15 **exceptions.**” is hereby amended by adding the underlined language and deleting the
16 stricken language as follows:
17

18 **“Sec. 22-8. Obstructing streets, sidewalks, alleys, etc.; exceptions.**

- 19
- 20 (a) It is unlawful for any person to place in or upon any place, street, sidewalk, alley,
21 landing, wharf or pier owned or controlled by the city and located within the city
22 limits any article or thing without a permit therefor, unless such article or thing is
23 otherwise authorized by law.
24
- 25 (b) If any such article or thing shall be placed in or upon any such place, street,
26 sidewalk, alley, landing, wharf or pier without lawful authority, the ~~official city,~~
27 without notice, is authorized to cause such article or thing to be removed to some
28 convenient place designated by ~~him~~ the city. The cost of such removal shall be
29 charged to the owner of the article or thing or to the person responsible for
30 placing, establishing or fixing the article or thing in violation of this section.”
31

32 **Section 5.** That “**Sec. 22-10. Defacing, etc., poles.**” is hereby amended by
33 adding the underlined language as follows:
34

35 **“Sec. 22-10. Defacing, etc., poles.**

36
37 It is unlawful for any person to willfully or maliciously deface any signal poles,
38 utility poles or any poles used by the city for any municipal purpose or to post or tack any
39 bills, notices or other matter on any such poles or in any manner to mutilate or injure the
40 same (refer also to chapter 19, sec. 19-57).”
41

42 **Section 6.** That “**Sec. 22-31. Applications, documentation.**” is hereby
43 amended by adding the underlined language and deleting the stricken language as
44 follows:
45

46 **“Sec. 22-31. Applications, documentation.**

1
2 (a) Any person legally entitled to apply for and receive a permit under the provisions
3 of this chapter shall make such application in writing (electronic) to the city ~~on~~
4 forms in a form/format provided for that purpose. Every applicant for a permit
5 shall give a description of the character of the work proposed to be done and the
6 location, ownership, occupancy and use of the premises in connection therewith.
7 The city may require plans, specifications or drawings and such other information
8 as it may deem necessary and pertinent prior to the granting of a permit. If the city
9 determines that the plans, specifications, drawings, descriptions or other
10 information furnished by the applicant are in compliance with this chapter, the
11 rules and regulations of any other department having jurisdiction and any other
12 laws, rules and regulations pertaining to work proposed to be done, it shall issue
13 the permit applied for upon payment of the required fee.

14
15 (b) The order, sequence and prerequisites for making applications shall be as
16 designated by the ~~official~~ city.”

17
18 **Section 7.** That “**Sec. 22-60. Installations in right-of-way.**” is hereby
19 amended by adding the underlined language and deleting the stricken language as
20 follows:

21
22 **“Sec. 22-60. Installations in rights-of-way.**

23
24 (a) It is unlawful for any person, public or private utility or any other governmental
25 agency or contractor to excavate, dig, blast or tunnel or to place, construct or
26 install any facilities, structures and objects such as utility lines,
27 telecommunication cables, culverts, etc., within any public street, alley or other
28 rights-of-way in the city unless application shall first be made to and a written
29 permit obtained from the ~~official~~ city, except under the following conditions:

30
31 (1) Installation of trees or shrubbery which will not grow to a diameter in
32 excess of twenty-four (24) inches when installed by public or private
33 utility work crews, provided that said installations meet minimum state
34 and federal design standards, related to roadside recovery areas, minimum
35 site triangles and the Americans with Disability Act requirements,
36 including amendments thereto, as said standards and requirements are
37 adopted herein;

38
39 (2) Installation of gas, water, sewer, electric or telephone service connection
40 lines, not including underground main feeder lines parallel to the street,
41 when installed by public or private utility work crews which are subject to
42 all conditions specified in this Code.

43
44 (b) It is unlawful for any person, public or private utility or any other governmental
45 agency or contractor working for the same to excavate, dig, blast or tunnel or to
46 place, construct, repair or install any driveway, curb sidewalk or culvert within

1 any public street, alley or other rights-of-way in the city, unless application shall
2 first be made and a written permit obtained in advance of beginning work.

3
4 (c) It is unlawful for any person, public or private utility or any other governmental
5 agency or any contractor working for the same to excavate, dig, blast or tunnel for
6 the purpose of repairs or maintenance of any existing facilities within any public
7 street, alley or other rights-of-way in the city, unless application shall first be
8 made and a permit for the repairs or maintenance obtained in advance of
9 beginning work; provided, however, there is hereby excepted from this
10 requirement public or private utility work crews which are subject to all
11 conditions specified in this chapter when accomplishing the following work:

12
13 (1) Removal, replacement or relocation of trees;

14
15 (2) Repair, cleaning or replacement of gas, water, sewer, electric or telephone
16 service connection lines, not including underground main feeder lines
17 parallel to the street;

18
19 (3) Raising manhole covers in conjunction with street resurfacing;

20
21 (4) Trouble-shooting for leaks, gas, water, sewer, storm sewer, pressurized
22 telephone and electric lines in the unimproved (no traffic or sidewalk)
23 rights-of-way.

24
25 (d) The applicant for a permit shall determine all potential utility conflicts during the
26 design stage and shall show same on the plan and profile drawings submitted with
27 the application. The plan and profile drawings shall be in accordance with utility
28 plan guidelines or as specified by the ~~official~~ city.

29
30 (e) If ~~the official shall~~ it is determined that such work or activity within any street,
31 alley or other rights-of-way will not unreasonably interfere with the rights of the
32 public or city, ~~he is authorized~~ the city may to issue a permit for such construction
33 work or activity, upon such reasonable conditions as ~~he~~ the city shall deems
34 necessary for the protection of the rights of the public and the city.

35
36 (f) Under all conditions prescribed in this section, the construction shall not proceed
37 unless the statewide one-call toll-free telephone notification system or such other
38 method established under the Underground Facility Damage Prevention and
39 Safety Act, as now or hereafter amended, is notified not less than forty-eight (48)
40 hours nor more than five (5) days in advance of beginning construction. Advance
41 notification is waived when it is documented to the ~~director~~ city transportation
42 engineer of the PDD department that the excavation work is of an emergency
43 nature involving the public health, safety or welfare.

44
45 (g) All applicants shall give the full name and address of the person or organization
46 making such application, shall designate the place, extent, nature and purpose of

1 such work or activity and, if any paving, curbing, sidewalk, sewer or water main
2 will be disturbed by such work, the ~~director~~ city transportation engineer of the
3 PDD department may require that the application be accompanied by a deposit of
4 money in such amount as shall in the opinion of the ~~director~~ city transportation
5 engineer of the PDD department be sufficient to pay for the expense of repairing
6 or restoring the same. Pavement replacement shall be in accordance with the
7 conditions set forth in the permit and other standards of the ~~department~~ city.
8 Failure or neglect on the part of the applicant to carry out all work in compliance
9 with the conditions set forth in the permit and other standards of the city shall be
10 reason for revocation of the permit.

- 11
- 12 (h) All applicants shall ~~be notified, at the time of permit application submission, that~~
13 ~~it is their responsibility to restore the rights-of-way to its previous condition.~~
- 14
- 15 (i) All applicants shall verify the location and elevation of all underground facilities
16 and shall protect said facilities from damage; in the event that any facilities are
17 damaged, the applicant or applicants shall, at their sole expense, repair or cause to
18 be repaired the damaged facilities to the satisfaction of the owner or operator of
19 said facilities.”
- 20

21 **Section 8.** That “**Sec. 22-64. Display of permits; penalty.**” is hereby
22 amended by adding the underlined language and deleting the stricken language as
23 follows:

24

25 **“Sec. 22-64. Display of permits; penalty.**

26

27 Any person disturbing, digging up, or excavating any pavement or sidewalk
28 authorized herein shall exhibit, upon demand to any ~~officer or policeman of the city~~
29 official, the permit for such work issued by the ~~official~~ city, and any person failing to do
30 so or to comply with the provisions of this ~~article~~ chapter shall, upon conviction, be
31 punished as provided in section 1-6 of this Code.”

32

33 **Section 9.** That “**Sec. 22-65. Refilling; cleaning up; repaving.**” is hereby
34 amended by adding the underlined language and deleting the stricken language as
35 follows:

36

37 **“Sec. 22-65. Refilling; cleaning up; repaving.**

38

39 Upon the completion of the work for which any disturbance, digging up or
40 excavation is made, the applicant shall refill all trenches and excavations. All openings in
41 streets must be promptly filled with suitable material, free from rubbish and perishable
42 matter, and thoroughly and evenly compacted throughout, ramming in thin layers while
43 being put in or by flooding with water. Upon completion of the backfill, the person to
44 whom the permit is issued shall immediately place the pavement in a safe condition for
45 traffic by laying a temporary pavement, properly supported, having the top of the
46 pavement flush with the pavement surface. Immediately after completion of this work or

1 any consecutive portion of it, the applicant shall remove from such street or sidewalk all
2 unused material, refuse and dirt placed in the vicinity of the work resulting from its
3 prosecution and restore the street to a condition satisfactory to the ~~official~~ city, notifying
4 the ~~official~~ city of such action. In case the work is not completed within the time limited
5 in the permit, the city may, if it deems necessary, take steps to backfill the trench and
6 replace the pavement over the opening for which the permit has been issued. If an
7 extension of time beyond such date is necessary for completion of the work, a new
8 application must be obtained. All persons in charge of any work on the streets must retain
9 and have in possession at all times while so engaged a permit as described in this
10 division. After the person to whom the permit has been issued has complied with the
11 foregoing sections in all respects, the holder thereof shall be relieved from all further
12 expense for repaving the street and shall not be held responsible for the upkeep and
13 maintenance of the pavement from and after that date, except when a defect develops by
14 reason of improper workmanship below the pavement itself.”

15
16 **Section 10.** That “**Sec. 22-66. Replacement of paving; removing of**
17 **improper repaving.**” is hereby amended by adding the underlined language and deleting
18 the stricken language as follows:

19
20 **“Sec. 22-66. Replacement of paving; removing of improper repaving.**

21
22 The city shall cause each person who has cut the pavement or sidewalks or
23 disturbed, dug or excavated the same, to replace and repair such pavements and
24 sidewalks under ~~his~~ its supervision and inspection. Such work shall be done by or ~~under~~
25 ~~the direction of some~~ inspected by a person who has passed an examination given by the
26 ~~official~~ city and demonstrated capabilities for doing such work and/or is
27 licensed/authorized by the ~~official~~ city to do such work; provided, however, ~~that~~ if the
28 ~~official city shall~~ at any time within thirty (30) days after the sidewalks and/or pavement
29 have been replaced or repaired determine that the persons mending or replacing such
30 pavement or sidewalks so disturbed, dug up or excavated have failed and neglected to
31 repair and replace such pavement and sidewalks ~~in a workmanlike manner to meet city~~
32 standards, then, and in that event, the ~~official~~ city shall cause the sidewalks or pavement
33 so defectively replaced and repaired to be properly replaced and repaired. All costs and
34 expenses of so replacing and repairing such pavement or sidewalk shall be charged
35 against the fund deposited by the person to whom the permit was granted to cut, disturb
36 and excavate the pavement or sidewalks, for a period of one (1) year against defect.”

37
38 **Section 11.** That “**Sec. 22-67. Permit revocation.**” is hereby amended by
39 adding the underlined language and deleting the stricken language as follows:

40
41 **“Sec. 22-67. Permit revocation.**

42
43 The ~~official~~ city may revoke permits issued ~~by him~~ upon finding that:

- 44
45 (1) The permit was issued by mistake of law or fact;
46 (2) The permit is for work which violates the provisions of this chapter;

- 1 (3) The permit was issued upon a false statement or misrepresentation by the
- 2 applicant;
- 3 (4) The permit violates any ordinance of the city or any state or federal law, rule or
- 4 regulation;
- 5 (5) The work is not being performed in accordance with the provisions of this
- 6 chapter;
- 7 (6) The certificate of competency or license of the permittee has become invalid by
- 8 reason of expiration, suspension, revocation or otherwise;
- 9 (7) The work is not being performed under the supervision of the holder of the
- 10 certificate or license upon which the same was issued;
- 11 (8) The work is not being done in accordance with the terms of the permit, the plans
- 12 or the application upon which the same was issued;
- 13 (9) Payment of the permit fees was not effected due to insufficient funds or any other
- 14 reason; ~~or~~
- 15 (10) The work performed under that permit is threatening or interfering with public
- 16 welfare and safety;:
- 17 (11) The work performed under the permit is not in compliance with this chapter
- 18 and/or code; or
- 19 (12) The permittee is not in compliance with this chapter and/or code.”
- 20

21 **Section 12.** That “**Sec. 22-69. Inspections, other approvals.**” is hereby

22 amended by adding the underlined language and deleting the stricken language as

23 follows:

24

25 **“Sec. 22-69. - Inspections, other approvals.**

26

27 Activities regulated by this chapter shall be subject at all times ~~by~~ to inspection by

28 the city. The ~~official~~ city may require documents, drawings or certificates necessary to

29 effect approval of such work.”

30

31 **Section 13.** That “**Sec. 22-310. Sight obstruction.**” is hereby amended by

32 adding the underlined language and deleting the stricken language as follows:

33

34 **“Sec. 22-310. Sight obstruction.**

- 35
- 36 (a) Whenever the ~~official~~ city, after investigation, shall determine that any tree,
- 37 shrubbery or other object planted or fixed upon any ~~rights-of-way~~ or private
- 38 property in the city adjacent to a street intersection obstructs the driving vision of
- 39 the operators of vehicles passing over or through such street intersection or is in
- 40 violation of this chapter, the ~~official~~ city shall cause to be served upon the owner
- 41 or occupant of the property abutting such ~~rights-of-way~~ or the owner of the
- 42 property upon which such violation exists a written notice requiring such owner
- 43 or occupant to remove such tree or shrubbery or reduce the height and width of
- 44 other objects so as to comply with the provisions of this section. Such written
- 45 notice shall be served upon the owner or occupant of the property herein referred
- 46 to and shall require the owner or occupant to comply with the directions contained

1 therein within fifteen (15) days after the date of the notice. During this fifteen-day
2 notice period and until such time as the existing sight obstruction is removed, the
3 property owner of record shall be solely liable for any damage or injury, suit or
4 legal action resulting from any accident in which the sight obstruction is a cause.
5

- 6 (b) Such notice to correct a sight obstruction shall be served in accordance with this
7 chapter. Upon failure of the owner or occupant to correct or terminate the
8 violations delineated in the notice within the time specified in the notice and if no
9 appeal has been taken or if an appeal has been taken and denied, the matter shall
10 be referred to the rehabilitation officer of the city, and he shall cause the
11 violations to be corrected or terminated through the use of city forces or by an
12 independent contractor at the direction of the city. All costs of correction or
13 termination, including the notice, title information, recording, advertising, if
14 necessary, and processing and any other related costs shall be assessed against the
15 property abutting the rights-of-way or the property on which the violations
16 existed, and this assessment shall constitute a lien on the property for the work
17 accomplished. The procedure for declaring the assessment, reducing it to a lien
18 and providing for payment or foreclosure thereof shall conform to the procedure
19 delineated in this chapter. Additionally, any liability associated with the traffic
20 hazard will be borne entirely by the property owner of record.”
21

22 **Section 14.** That “**ARTICLE IV. - COMMUNICATIONS RIGHTS-OF-**
23 **WAY USAGE.**” and “**DIVISION 1. - GENERAL PROVISIONS**” are hereby
24 amended by adding the underlined language and deleting the stricken language as
25 follows:
26

27 “**ARTICLE IV. - COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-**
28 **OF-WAY USAGE**”

29
30 **DIVISION 1. - GENERAL PROVISIONS PURPOSE”**

31
32 **Section 15.** That “**Sec. 22-320. Title.**” is hereby deleted in its entirety as
33 follows:
34

35 “~~Sec. 22-320. Title.~~”

36
37 ~~This article shall be known and may be cited as the “City of Tampa~~
38 ~~Communications Rights of Way Usage Ordinance.”~~
39

40 **Section 16.** That “**Sec. 22-321. Purpose.**” is hereby amended by adding the
41 underlined language and deleting the stricken language and is renumbered as follows:
42

43 “**Sec. 22-~~321~~320. Purpose.**”

44
45 The purpose of this article is to:

- 1 (1) ~~Establish a reasonable, nondiscriminatory, and competitively neutral policy for~~
2 ~~the use of public rights-of-way for the provision of communications services; and~~
3 (2) ~~Manage the public rights-of-way to protect the public health, safety and welfare~~
4 ~~and minimize disruption of services in the public rights-of-way by establishing~~
5 ~~reasonable, nondiscriminatory, and competitively neutral regulations governing~~
6 ~~the placement or maintenance of communications facilities in the public rights-of-~~
7 ~~way by providers of communications services, which rules are generally~~
8 ~~applicable to all persons using the public rights-of-way for the provision of~~
9 ~~communications services.~~

10
11 The purpose of this article is to manage the public rights-of-way to protect the
12 public health, safety, and welfare and to minimize disruption of services therein, by
13 establishing a reasonable, non-discriminatory, and competitively neutral regulatory
14 framework, which governs the placement and/or maintenance of communications
15 facilities for the use thereof, for the provision of communications services; and, in the
16 public rights-of-way by providers of communications services, which rules are generally
17 applicable to all persons using the public rights-of-way for the provision of
18 communications services or infrastructure. This article does not apply to utility poles
19 governed by a valid franchise agreement; however, collocation of small wireless facilities
20 on such poles will be governed by the applicable provisions of this article.”

21
22 **Section 17.** That “**Sec. 22-322. Authorization to place or use**
23 **communications facilities in public rights-of-way.**” is hereby amended by adding the
24 underlined language and deleting the stricken language and is renumbered as follows:

25
26 **“Sec. 22-~~322~~321. Authorization to place~~or~~ and/or maintain communications**
27 **facilities in public rights-of-way.**

28
29 Subject to the terms and conditions of this article, any person who complies with
30 the provisions of this division is authorized to place~~or~~ and/or maintain communications
31 facilities, including wireless facilities, or utility poles (placed for the support of small
32 wireless facilities) in the public rights-of-way, for the provision of communications
33 services.”

34
35 **Section 18.** That “**Sec. 22-323. Registration.**” is hereby amended by adding
36 the underlined language and deleting the stricken language and is renumbered as follows:

37
38 **“Sec. 22-~~323~~322. - Registration.**

39
40 Before placing and/or maintaining communications facilities in the public rights-
41 of-way, or applying for any permits required by this chapter, a prospective provider shall
42 register with the official city. Such registration shall include the following information:

- 43
44 (+a) The name of the prospective provider;
45

1 (2b) The name, address, and telephone number(s), and electronic mail address, of the
2 prospective provider's primary contact person and the person to contact in the
3 event of an emergency, which telephone number(s) and/or electronic mail address
4 shall be monitored twenty-four (24) hours per day, seven (7) days per week;
5

6 (3c) The type of communications services that the prospective provider intends to
7 provide within the city, 'wireless services' or 'other communication services', and
8 whether the prospective provider remits tax pursuant to section 202.19, Florida
9 Statutes.

10
11 (1) If 'other communications services' is declared, the prospective provider
12 shall list all services to be provided, pursuant to the definition set forth in
13 sec. 22-5;
14

15 (2) If no communication services are to be provided, the prospective provider
16 shall state if it is a wireless infrastructure provider and/or a pass-through
17 provider (refer to sec. 22-323.1 for pass-through provider fees and
18 charges);
19

20 (4d) ~~The number~~ A copy of the prospective provider's current certificate of
21 authorization to provide communications services issued by the Florida
22 Department of State, PSC-Florida Public Service Commission, or the Federal
23 Communications Commission, as applicable;
24

25 (5e) A copy of the state corporate registration proving the ability to lawfully conduct
26 business within the State of Florida;
27

28 (f) Evidence of the insurance coverage required under this article; and
29

30 (g) Acknowledgment of the indemnity and other provisions of this article."
31

32 **Section 19.** That "**Sec. 22-324. Approval of registration.**" is hereby amended
33 by adding the underlined language and deleting the stricken language and is renumbered
34 as follows:
35

36 "**Sec. 22-~~324~~322.1. Approval of registration.**

37
38 Upon a finding by the ~~official~~ city that the provider is in compliance with the
39 registration requirements of this ~~division~~ article, the ~~official~~ city shall approve the
40 provider's registration, and advise the provider, in writing, of such approval within ~~twenty~~
41 ~~(20)~~ thirty (30) working days of the ~~official~~ city's receipt of the provider's registration."
42

43 **Section 20.** That "**Sec. 22-325. Denial of registration.**" is hereby amended by
44 adding the underlined language and deleting the stricken language and is renumbered as
45 follows:
46

1 **“Sec. 22-~~325~~322.2. Denial of registration.**

2
3 Upon a finding by the ~~official~~ city that the provider is not in compliance with the
4 registration requirements of this ~~division~~ article, the ~~official~~ city shall deny the provider's
5 registration. The ~~official~~ city shall advise the provider, in writing (electronic mail), of
6 such denial, including the reasons therefor, within ~~twenty (20)~~ thirty (30) working days of
7 the ~~official~~ city's receipt of the provider's registration.”

8
9 **Section 21.** That “**Sec. 22-326. Cancellation of registration.**” is hereby
10 amended by adding the underlined language and deleting the stricken language and is
11 renumbered as follows:

12
13 **“Sec. 22-~~326~~322.3. Cancellation of registration.**

14
15 A provider may cancel a registration upon written notice to the ~~official~~ city that
16 the provider will cease placing and/or maintaining communications facilities in the public
17 rights-of-way. Following the cancellation of a provider's registration, such provider shall
18 submit a new registration to the ~~official~~ city in accordance with the provisions of this
19 ~~division~~ article before placing communications facilities in ~~the~~ any public rights-of-way.”

20
21 **Section 22.** That “**Sec. 22-327. Transfer of registration.**” is hereby amended
22 by adding the underlined language and deleting the stricken language and is renumbered
23 as follows:

24
25 **“Sec. 22-~~327~~322.4. Transfer of registration.**

26
27 If a provider transfers or assigns its registration incident to a sale or other transfer
28 of the provider's communications facilities located in the public rights-of-way, the
29 transferee or assignee shall comply with the provisions of this article. Written notice of
30 any such transfer or assignment shall be provided to the ~~official~~ city within twenty (20)
31 days of the effective date thereof. In order for such transfer or assignment to be effective,
32 such written notice must include a new registration form which includes the information
33 required ~~pursuant to section 22-323 of~~ by this Code article.”

34
35 **Section 23.** That “**Sec. 22-328. Registration amendments; renewal.**” is
36 hereby amended by adding the underlined language and deleting the stricken language
37 and is renumbered as follows:

38
39 **“Sec. 22-~~328~~322.5. Registration amendments; renewal.**

40
41 (a) In the event of any change to the information required pursuant to ~~section~~ 22-323
42 of this Code as contained in an approved registration, a provider shall advise the
43 ~~official~~ city, in writing, of such changes within ~~twenty (20)~~ thirty (30) days of the
44 effective date thereof.

1 (b) ~~In January~~ No later than October 1 of each year, each provider that has previously
2 complied with the registration requirements of this ~~division~~ article shall submit an
3 annual registration renewal to the ~~official~~ city on a form/format provided by the
4 ~~official~~ city.”
5

6 **Section 24.** That “**Sec. 22-329. Effect of registration.**” is hereby amended by
7 adding the underlined language and deleting the stricken language and is renumbered as
8 follows:
9

10 **“Sec. 22-~~329~~322.6. Effect of registration.**

- 11
12 (a) The approval of a registration pursuant to this ~~division~~ article shall neither convey
13 any interest in public rights-of-way to a provider, nor grant a provider any right of
14 priority over any other person with respect to the placement of any facilities in the
15 public rights-of-way.
16
17 (b) Providers shall comply with any and all of the provisions of this Code, including,
18 but not limited to, any and all applicable permitting, and design requirements.
19
20 (c) Providers must have a valid registration in order to apply for and/or obtain
21 permits.”
22

23 **Section 25.** That “**Sec. 22-322.7. Involuntary Termination of Registration.**”
24 is hereby created as follows:
25

26 **“Sec. 22.322.7. Involuntary Termination of Registration.**

- 27
28 (a) Involuntary termination. The city may terminate a registration if:
29
30 (1) A federal or state authority suspends, denies, or revokes a registrant’s
31 certification or license required to provide communication services ;
32
33 (2) The registrant's placement or maintenance of a communications facility in
34 the rights-of-way presents an extraordinary danger to the general public or
35 other users of the rights-of-way and the registrant fails to remedy the
36 danger promptly after receipt of written notice; or
37
38 (3) The registrant performs substantive and material repetitive violations of
39 any of the provisions of this article.
40
41 (b) Notice of intent to terminate. Prior to termination, the registrant shall be notified
42 by the city with a written notice setting forth all matters pertinent to the proposed
43 termination action, including the reason therefore. The registrant shall have thirty
44 (30) days after receipt of such notice within which to address or eliminate the
45 reason or within which to present a plan, satisfactory to the city, to accomplish the
46 same. If the plan is rejected by the city, the city shall provide written notice of

1 such rejection within fifteen (15) days of receipt of the plan to the registrant and
2 shall make a final determination as to termination of the registration and the terms
3 and conditions relative thereto.

4
5 (c) Post termination action. In the event of termination, following any appeal period,
6 the former registrant shall:

7
8 (1) In accordance with the provisions of this article and as may otherwise be
9 provided under state law, notify the city of the assumption or anticipated
10 assumption by another registrant of ownership of the registrant's
11 communication facilities in the rights-of-way; or

12
13 (2) Provide the city with an acceptable plan for disposition of its
14 communication facilities in the rights-of-way. If a registrant fails to comply
15 with this subsection, the communication facilities are deemed to be
16 abandoned and the city may exercise any remedies or rights it has at law or
17 in equity. In any event, a terminated registrant shall take such steps as are
18 necessary to render safe every portion of the communication facilities
19 remaining in the rights-of-way. A registrant that has its registration
20 terminated by the city under this section may reapply for registration one
21 (1) year after the termination date of the prior registration, unless otherwise
22 permitted to reapply at the sole discretion of the city.

23
24 (d) When removal not authorized or required. In the event of termination of a
25 registration, this section does not authorize the city to cause the removal of
26 communication facilities used to provide another service for which the registrant
27 or another person who owns or exercises physical control over the communication
28 facilities holds a valid certification or license with the governing federal or state
29 agency, if required, for the provision of such service, and is registered with the
30 city, if required."

31
32 **Section 26.** That "**Sec. 22-330. Existing communications facilities in public**
33 **rights-of-way."** is hereby amended by adding the underlined language and deleting the
34 stricken language and is renumbered as follows:

35
36 "**Sec. 22-330**~~322~~**.8. Existing communications facilities in public rights-of-way.**

37
38 Providers with communications facilities in the public rights-of-way on January 1,
39 2001, pursuant to the authority of a franchise ordinance of the city passed and ordained
40 by the city council of the city prior to January 1, 2001, shall comply with the provisions
41 of this article, including but not limited to, the registration requirements, by February 1,
42 2001. Providers with communications facilities in the public rights-of-way shall comply
43 with the provisions of this article."
44

1 Section 27 That “DIVISION 3. REQUIREMENTS FOR THE
2 OCCUPATION OF PUBLIC RIGHTS-OF-WAY” is hereby amended by adding the
3 underlined language and deleting the stricken language as follows:
4

5 **“DIVISION 3. – GENERAL PERMIT REQUIREMENTS AND PROCEDURES**
6 **FOR THE OCCUPATION OF PUBLIC RIGHTS-OF-WAY”**
7

8 Section 28. That “Subdivision 1. – General permit standards.” is hereby
9 created as follows:
10

11 **“Subdivision 1. – General permit standards”**
12

13 Section 29. That “Sec. 22-331. Permits.” is hereby amended by adding the
14 underlined language and deleting the stricken language and is renumbered as follows:
15

16 **“Sec. 22-331323. Permits, generally.**
17

- 18 (a) Prior to the installation, placement, maintenance, and/or removal of any
19 communications facilities, or the start of any other type of construction in the
20 public rights-of-way, a provider shall, pursuant to the requirements of existing or
21 subsequently enacted provisions of this Code, obtain all permits from the official
22 city, unless preempted by state or federal law (refer also to sec. 22-8, 22-60, 22-
23 67, and 22-323.11). Said permits shall set out the place, date and time where the
24 ~~communications facilities, or other form of construction, are to be installed, or~~
25 ~~removed or where the construction is to be conducted. All permit applications~~
26 ~~submitted by a provider shall contain plans showing known utility facilities and~~
27 ~~specifications prepared by a qualified engineer/technician, and letters of no~~
28 ~~conflict from other utilities having facilities located where the provider desires to~~
29 ~~place its communications facilities or begin construction. A provider cannot assert~~
30 ~~the existence of any vested rights if the official issues a permit. Further, issuance~~
31 ~~of a permit by the official shall not be construed by a provider as a warranty that~~
32 ~~the placement by the provider of its communications facilities, or the start of~~
33 ~~construction, is in compliance with any applicable rules, regulations or laws.~~
34
- 35 (b) Any communications facilities installed or placed by a provider without first
36 having obtained the permits hereinbefore provided for shall be removed within
37 thirty (30) days written notice (electronic or standard mail) by the official city to
38 remove the same and in default of compliance with such notice, such
39 communications facilities may be removed by order of the official city and the
40 cost of removal shall be borne and paid by such provider (refer also to sec. 22-60
41 and 22-323.11).
42
- 43 (c) In the event that work to be conducted by a provider requires streets, travel or
44 bicycle lanes, sidewalks, or any multi-modal pathway ~~or traffic lanes~~ to be closed
45 or obstructed, such provider shall, ~~pursuant to the requirements of existing or~~
46 ~~subsequently enacted provisions of this Code, obtain all permits from and obtain~~

1 approval of its maintenance of traffic plan from the official from the city of its
2 maintenance-of-traffic plan, pursuant to applicable city, state, and federal
3 maintenance of traffic design standards.
4

5 (d) In the event a provider deems the ~~trimming~~ pruning or removal of any trees
6 reasonably necessary to place or maintain its communications facilities and to
7 maintain the integrity and safety of same it shall, pursuant to the requirements of
8 existing or subsequently enacted provisions of this Code, obtain all permits from,
9 the ~~official~~ city, and comply with all other such requirements of this Code (refer
10 also to sec. 22-323.6).
11

12 (e) In the event the placement or maintenance by a provider of its communications
13 facilities requires the obstruction of city owned, metered parking spaces, such
14 provider shall pursuant to the requirements of existing or subsequently enacted
15 provisions of this Code, obtain all permits from the ~~official~~ city.
16

17 (f) Wireless support structures are prohibited within the public rights-of-way.
18 Wireless support structures shall comply with chapter 27 of this code."
19

20 **Section 30.** That "**Sec. 22-323.1. Pass-through provider fees and charges.**"
21 is hereby created as follows:
22

23 **"Sec. 22-323.1. Pass-through provider fees and charges.**
24

25 (a) Pass-through providers shall pay to the city, on an annual basis, an amount equal
26 to five hundred dollars (\$500.00) per linear mile, or portion thereof, of
27 communications facilities placed and/or maintained in the public rights-of-way.
28

29 (b) The amounts charged pursuant to this section shall be based on the linear miles of
30 public rights-of-way where communications facilities are placed, not based on a
31 summation of the lengths of individual cables, conduits, strands or fibers.
32

33 (c) The city shall discontinue charging pass-through provider fees at such time the
34 provider begins remitting tax pursuant to section 202.19. Any annual amounts
35 charged shall be reduced for a prorated portion of any twelve (12) month period
36 during which the provider remits said tax.
37

38 (d) Annual fees shall be due on October 1 of each year.
39

40 (e) If the payments required by this section are not made within ninety (90) days after
41 the due date, the city may withhold the issuance of any permits to the registrant
42 until the amount past due is paid in full."
43

44 **Section 31.** That "**Sec. 22-323.2. Disruption or destruction of and/or**
45 **interference with other facilities or property."** is hereby created as follows:
46

1 **“Sec. 22-323.2. Disruption or destruction of and/or interference with other facilities**
2 **or property.**

3
4 A provider shall not design, place, or maintain its communications facilities in a
5 manner that will, in any way, disrupt, displace, damage, destroy, or interfere with any of
6 the following:

7
8 (a) Any sewer line, gas line, water main, pipe, conduit, wires, fiber-optics, or another
9 providers’ facilities (including any cable service provider);

10
11 (b) Any traffic signals or facilities of the Tampa Police Department or Tampa Fire
12 Rescue;

13
14 (c) Any facilities of any public utility; or,

15
16 (d) Any property belonging to the city or any other person lawfully occupying the
17 public rights-of-way, without first obtaining the consent of and being granted
18 permission by the city.

19
20 Any provider, who does not comply with the requirements above, shall bear all
21 responsibility and costs resulting from any such conduct and shall pay such costs upon
22 demand.”

23
24 **Section 32.** That **“Sec. 22-323.3. Relocation of communications facilities.”** is
25 hereby amended by adding the underlined language and deleting the stricken language
26 and is renumbered as follows:

27
28 **“Sec. 22-~~334~~323.3. Temporary raising or lowering, Rrelocation, or removal of**
29 **communications facilities.**

30
31 (a) *Temporary Raising or Lowering of Facilities.* A provider shall temporarily raise
32 or lower its facilities to accommodate temporary encroachments or movements in,
33 on, over, or across the public rights-of-way, subject to the following:

34
35 (1) Upon request of any person holding a valid building or moving permit
36 from the city granting permission for such temporary encroachment or
37 movement. With the exception of below, the person requesting the
38 temporary raising or lowering of facilities shall be responsible for the
39 following:

40
41 a. Any costs associated with the temporary raising or lowering of
42 facilities; and,

43 b. Contacting and coordinating with the provider, in advance of the
44 temporary encroachment/movement, to ensure the temporary
45 relocation of the providers’ facilities is completed in a timely and
46 cooperative manner.

1
2 (2) The city is not subject to, nor shall it be liable for, any such expense
3 performed by the city or its contractors.
4

5 (ab) Except in an emergency, a provider shall commence within thirty (30) days after
6 receipt of written notice from the city and complete within ninety (90) days of
7 such notice, the necessary work to adjust, alter, ~~or~~ relocate, or remove, at its own
8 cost and expense, any portion of its communications facilities in the event the city
9 finds that such adjustment, alteration, relocation, or removal is necessary for the
10 city's use of its property and public rights-of-way, or if that the particular facility(-
11 ies) is (are) unreasonably interfering in some way with the convenient, safe, or
12 continuous use, or the maintenance, improvement, extension or expansion of any
13 public rights-of-way official determines that such adjustment, alteration or
14 relocation is necessary for the city's use of its property and public rights of way,
15 or if same unreasonably interferes with the convenient, safe or continuous use, or
16 the maintenance, improvement, extension or expansion of any public street, alley,
17 highway, waterway, bridge, easement or other public place or public rights of-
18 way in the city. In the event such adjustment, alteration or relocation is incidental
19 to work to be done by the city on a city road, such notice shall be given thirty (30)
20 days prior to the commencement of such work by the city. In the event such a
21 contingency occurs and such provider fails to cause the aforementioned
22 adjustment, alteration, ~~or~~ relocation or removal as required herein, the city may
23 remove such portion of such provider's communications facilities, and the total
24 cost and expense therefor shall be charged to such provider. The ~~official~~ city shall
25 provide such provider with a notice and order as provided for in section 337.404,
26 Florida Statutes, or any subsequently enacted law of the state, in the event it may
27 charge such provider for the cost and expense of removing such portion of such
28 provider's ~~communications~~ facilities pursuant to this section.
29

30 (bc) In the event the city requires a provider to adapt or conform any portion of such
31 provider's communications facilities, or in any way to alter, temporarily or
32 permanently relocate or to change any portion of same to enable any other person
33 to use a public rights-of-way, such provider shall be reimbursed by the person
34 desiring or occasioning such change for any loss, cost or expense caused by or
35 arising out of such change, alteration or relocation.”
36

37 **Section 33.** That “**Sec. 22-323.4. Coordination within public rights-of-way.**”
38 is hereby created as follows:
39

40 **“Sec. 22-323.4. Coordination within public rights-of-way.**
41

42 In an effort to minimize any adverse impact on the public rights-of-way and other
43 municipal improvements, the city shall require a provider to coordinate the placement or
44 maintenance of its facilities with any work, construction, installation in or repairs of the
45 subject public rights-of-way or other facilities therein, that is occurring or is scheduled to
46 occur within a reasonable time from the date(s) requested in the provider's permit

1 application. Within the public rights-of-way, every provider shall make space available in
2 its trench and/or conduit to other providers consistent with the federal requirements of 47
3 U.S.C. 224. Every provider shall utilize existing conduits, pathways and other facilities
4 whenever possible, and shall not place or maintain any new, different, or additional poles,
5 conduits, pathways or other facilities, whether in the public rights-of-way or on privately-
6 owned property, until written approval is obtained from the city or other appropriate
7 governmental authority, and, where applicable, from the private property owner.”
8

9 **Section 34.** That “**Sec. 22-333. Restoration standards.**” is hereby amended
10 by adding the underlined language and deleting the stricken language and is renumbered
11 as follows:
12

13 **“Sec. 22-33323.5. Restoration standards of the public rights-of-way.**

- 14
- 15 (a) ~~A provider shall not in any way displace, damage or destroy any sewer, water~~
16 ~~main, pipe or any other facilities belonging to the city, or to any third party who~~
17 ~~placed such facilities therein by express authority of the official, without the~~
18 ~~consent of the official, and a provider shall be liable to the city or to the third~~
19 ~~party owner, as the case may be, for the cost of any repairs made necessary by any~~
20 ~~such displacement, damage or destruction and shall pay such costs upon demand.~~
- 21 (b) A provider shall, at its own cost and without delay, restore (replace/repair) the
22 public rights-of-way to its original condition, in compliance with minimum city
23 technical standards, replace and repair without delay of any sidewalk, street, alley,
24 highway, waterway, bridge, or other public place after completion of placement or
25 maintenance of its facility(-ies) therein, by phase (if applicable), that has been
26 excavated, broken, removed, displaced or disarranged by such provider in the
27 conduct of its placement, maintenance and operation of its communications
28 facilities, or as a result of the deterioration of any portion of its communications
29 facilities, and restore the same to as good a condition as the same existed prior to
30 such provider commencing its work, and upon failure of such provider to do so
31 after twenty (20) days written notice by the official, the official may make such
32 repairs and replacements as it deems reasonably necessary, and such provider
33 shall pay the city all costs of such repairs and replacements. Such provider shall,
34 to the satisfaction of the official, maintain any repairs it makes pursuant to this
35 section for a period of one (1) year following the date of such repair. If the
36 provider fails to commence such restoration within thirty (30) days following the
37 completion of such placement and/or maintenance and complete such work within
38 one hundred (120) days, the city may perform such restoration and charge the
39 costs of the restoration to the provider in accordance with section 337.402, Florida
40 Statutes, as it may be amended. The provider shall, to the satisfaction of the city
41 transportation engineer, maintain and correct any restorations made pursuant
42 hereto, for a period of twelve (12) months following the date of its completion.
43 Upon written notice from the city regarding any failure to comply with this
44 subsection, failure to remedy within thirty (30) days of such notice shall be
45 deemed sufficient grounds for denial of any future rights-of-way permits for the
46 placement and/or maintenance of communications facilities.

1 ~~(e) A provider shall not trim, remove or damage any protected or grand tree, as~~
2 ~~defined in Chapter 13 of this Code, unless such activity is authorized by a permit~~
3 ~~issued by the city.”~~
4

5 **Section 35.** That “**Sec. 22-323.6. Trees within or proximate to public rights-**
6 **of-way.**” is hereby created as follows:
7

8 **“Sec. 22-323.6. Trees within or proximate to public rights-of-way.**
9

10 A provider shall not prune, remove, or irreversibly damage any protected or grand
11 tree, as defined in chapter 13 of this Code, unless such activity is authorized by a permit
12 issued by the city.”
13

14 **Section 36.** That “**Sec. 22-335. Repair of communications facilities by city.**”
15 is hereby amended by adding the underlined language and is renumbered as follows:
16

17 **“Sec. 22-335323.7. Repair of communications facilities by city.**
18

19 In an emergency, as determined by the city, when a provider or its representative
20 is immediately unavailable or unable to provide the necessary immediate removal or
21 make repairs to any portion of its communications facilities that is damaged or
22 malfunctioning or to any faults or settled or sunken areas that may develop in any area
23 over, around or adjacent to same, the city, when apprised of such an emergency, shall
24 have the right to remove or make repairs with the total cost of same being charged to
25 such provider.”
26

27 **Section 37.** That “**Sec. 22-336. Access to communications facilities by city.**”
28 is hereby amended by adding the underlined language and is renumbered as follows:
29

30 **“Sec. 22-336323.8. Access to communications facilities by city.**
31

32 The city shall have access, without charge, at any time, to the manholes of a
33 provider in which the city has facilities, provided the city has given such provider
34 reasonable prior notice so that such provider can have trained personnel present when the
35 city makes its access to any such manholes. Subject to the foregoing, the city, in the
36 proper exercise of its municipal powers and duties with respect to the public rights-of-
37 way, shall have access to all manholes of such provider in the public rights-of-way.”
38

39 **Section 38.** That “**Sec. 22-337. Joint use arrangements; coordination.**” is
40 deleted in its entirety as follows:
41

42 **“Sec. 22-337. – Joint use arrangements; coordination.**
43

44 ~~In an effort to minimize the number of facilities within the public rights of way,~~
45 ~~the disruption of traffic and roadway destruction, a provider shall attempt to coordinate~~
~~placement and maintenance activities and enter into joint use agreements with the city~~

1 and other parties who are expressly authorized by the city to use the public rights-of-
2 way.”

3
4 **Section 39.** That “**Sec. 22-338. Abandonment of communications facilities.**”
5 is hereby amended by adding the underlined language and deleting the stricken language
6 and is renumbered as follows:
7

8 **“Sec. 22-~~338~~323.9. Abandonment of communications facilities.**

9
10 Any portion of abandoned communications facilities of a provider found by the
11 city to be in conflict with any planned or existing facilities of the city shall be removed
12 by such provider at its expense within thirty (30) days after receipt of written notice from
13 the city. Information on all abandoned communications facilities will be maintained by a
14 provider and will be located, to the best of such provider's ability, in the field along with
15 active communications facilities as the result of a utility notification service contract.

16 (a) Upon determination by a provider that one or more of its communications
17 facilities in the public rights-of-way is to be abandoned, the provider shall notify
18 the city no later than ninety (90) days from such determination, or no later than
19 thirty (30) days following such abandonment, whichever is sooner.

20
21 (b) The city may independently establish that a communications facility has been
22 abandoned. In reaching such determination, the city may request documentation
23 and/or affidavits from the provider regarding the active use of the facility. If the
24 provider fails to provide the requested documentation within thirty (30) days, a
25 rebuttable presumption shall exist that the provider has abandoned the
26 communications facility.

27
28 (c) Abandonment of the communications facility requires removal of the
29 communications facility. If the communications facility is attached to an existing
30 structure that has an independent function, such as a light pole, traffic signal,
31 pedestrian signal, or the like, the abandonment of the communications facility
32 requires removal of the communications facility only and does not require the
33 removal of the existing structure.

34
35 (d) If the provider fails to remove any or all portion(s) of an abandoned
36 communications facility as directed by the city within thirty (30) days, the city
37 may perform such removal and charge the cost of the removal against the
38 provider.”

39
40 **Section 40.** That “**Sec. 22-323.10. Revocation.**” is hereby created as follows:

41
42 **“Sec. 22-323.10. Revocation.**

43
44 The city may revoke any permit granted pursuant to this article (refer to sec. 22-67).”
45

1 **Section 41.** That “**Sec. 22-323.11. Stop work and emergency orders.**” is
2 hereby created as follows:
3

4 “**Sec. 22-323.11. Stop work and emergency orders.**”
5

6 (a) Upon notice from the city, work on any system or facility that is being done
7 contrary to the provisions of this chapter or in a dangerous or unsafe manner shall
8 immediately cease. Such notice shall be in writing, by hand delivery, electronic or
9 standard mail, and shall be posted at the job site, and given to the person
10 performing the work and/or permit holder. Upon issuance of a stop work order,
11 the cited work shall immediately cease. The stop work order shall state the reason
12 for the order, and the conditions under which the cited work will be permitted to
13 resume. Where an emergency exists, verbal notice by the city transportation
14 engineer or designee shall be sufficient to require the stoppage of work.
15

16 (b) Unlawful continuance. Any person who actively continues any work after having
17 been served with a stop work order, except such work as that person is directed by
18 the city to perform, to remove a violation or unsafe condition, shall be subject to
19 penalties as provided in sec. 1-6. The city retains all available legal remedies to
20 abate the work.”
21

22 **Section 42.** That “**Sec. 22-323.12. General restrictions on city.**” is hereby
23 created as follows:
24

25 “**Sec. 22-323.12. General restrictions on city.**”
26

27 Pursuant to section 337.401(7), Florida Statutes, the city shall adhere to the
28 requirements set forth below, regarding applications for right-of-way permits for small
29 wireless facilities and micro-wireless facilities, subject to this article. Refer to additional
30 requirements set forth in the respective sections noted below.
31

32 (a) SWFC application for collocation on existing, non-authority poles (refer also to
33 sec. 22-327.1).
34

35 (1) The city may not directly or indirectly require a wireless provider
36 applicant to perform services unrelated to the collocation for which
37 approval is sought, such as in-kind contributions to the city, including
38 reserving fiber, conduit, or pole space for the city;
39

40 (2) A wireless provider applicant may not be required to provide more
41 information to obtain a permit than is necessary to demonstrate said
42 applicant’s compliance with applicable codes for the placement of small
43 wireless facilities in the locations identified in the SWFC application;
44

1 (3) The city may not require the placement of small wireless facilities on any
2 specific utility pole or category of poles or require multiple antenna
3 systems on a single utility pole; and,

4
5 (4) The city may not limit the placement of small wireless facilities by
6 minimum separation distances; however, the city may require reasonable
7 spacing requirements for ground-mounted equipment.

8
9 (b) SWFC application for new non-authority utility pole to support small wireless
10 facilities (refer also to sec. 22-327.2). The applicable requirements are set forth in
11 (a)(4) above.

12
13 (c) SWFC application for collocation on authority pole (refer also to sec. 22-327.3).
14 Refer to the requirements set forth in (a) above.”

15
16 **Section 43.** That “**Subdivision 2. Specific permit application requirements**
17 **and review procedures.**” is hereby created as follows:

18
19 “Subdivision 2. Specific permit application requirements and review procedures.”

20
21 **Section 44.** That “**Sec. 22-324. Permits required.**” is hereby created as
22 follows:

23
24 “Sec. 22-324. Permits required.

25
26 (a) Pursuant to the requirements of this chapter, any use of the public rights-of-way
27 shall require a right-of-way permit, with the exception of the activities specifically
28 listed below, unless such work exceeds the timeframes set forth in sec. 22-
29 58(b)(1):

30 (1) Emergency actions, with the city reserving authority to require an after-
31 the-fact permit;

32 (2) Routine maintenance and/or repair of communications facilities and/or
33 utility poles authorized to be located within the public rights-of-way;

34 (3) Replacement of existing wireless facilities with wireless facilities that are
35 substantially similar or of the same or smaller size; or,

36 (4) Installation, placement, maintenance, or replacement of micro-wireless
37 facilities that are suspended on cables strung between existing utility poles
38 in compliance with applicable codes by or for a provider authorized to
39 occupy the rights-of-way and who is remitting taxes pursuant to section
40 202.19, Florida Statutes.

41 (b) Notwithstanding this section, the city may require a right-of-way permit for work
42 that involves excavation (regardless of time needed to perform such activity(-ies))
43 or closure of a sidewalk and/or vehicular lane(s) that exceeds those time frames
44 set forth in sec. 22-58(b)(1).

45 (c) Emergency action. Any person who performs work in the public rights-of-way in
46 connection with an emergency action without a permit shall immediately notify

1 the city of the emergency action. The person shall cease all work immediately
2 upon completion of emergency action. The person shall also cease all work
3 immediately upon receipt of a city stop work order determining the situation does
4 not involve an emergency or that the emergency action is no longer warranted.”
5

6 Section 45. That “Sec. 22-325. Permit Duration.” is hereby created as
7 follows:
8

9 **“Sec. 22-325. Permit Duration.**

10
11 Unless revoked by the city pursuant to this chapter, canceled or withdrawn by the
12 wireless provider applicant, or otherwise nullified by a court of law with jurisdiction over
13 such matters, a right-of-way permit issued pursuant this article, shall remain effective for
14 a maximum of one (1) year. Extensions of time beyond the initial one (1) year period
15 may be requested by the wireless provider applicant and granted in no more than three (3)
16 month increments, at the discretion of the city.”
17

18 Section 46. That “Sec. 22-326. Provision and filing of As-Built Surveys.” is
19 hereby created as follows:
20

21 **“Sec. 22-326. Provision and filing of As-Built Surveys.**

22
23 Within sixty (60) days after completion of any placement of a communications
24 facility in the public rights-of-way, the provider shall submit the as-built survey(s), at its
25 expense, showing the final location of such facility in the public rights-of-way, to the
26 city. For maintenance of a communications facility which alters the configuration and/or
27 location of such facility as depicted/described in the as-built survey on file with the city,
28 then a new as-built survey shall be filed. Such survey(s) will be filed with the city and
29 included as part of the right-of-way permit record that was issued for the work
30 performed. Failure of the provider to submit the required as-built survey(s) in a timely
31 manner may cause the subject permit to be revoked and is sufficient grounds for the city
32 to deny the issuance of any future right-of-way permits to the provider.”
33

34 Section 47. That “Sec. 22-327. Permit types; pre-application conference;
35 application requirements; general review procedures.” is hereby created as follows:
36

37 **“Sec. 22-327. Permit types; pre-application conference; application requirements;**
38 **general review procedures.**

- 39
40 (a) Pursuant to the requirements of this chapter, section 337.401, Florida Statutes,
41 and applicable federal law, providers may place and maintain wireless facilities,
42 small wireless facilities, and micro-wireless facilities within public rights-of-way,
43 subject to the specific permit requirements and procedures set forth in subdivision
44 2.
45 (b) Prior to submitting a consolidated SWFC application, Unless otherwise
46 determined by the city transportation engineer or designee of the PDD

1 department, the wireless provider applicant must schedule and attend a pre-
2 application meeting with the city transportation engineer or designee, of the PDD
3 department, in order to determine the scope of the request, efficient processing
4 schedule, and what documentation will be necessary to support said application.”
5

6 **Section 48.** That “**Sec. 22-327.1. Permit for collocation of small wireless**
7 **facilities on existing non-authority utility pole.”** is hereby created as follows:
8

9 **“Sec. 22-327.1. Permit for collocation of small wireless facilities on existing non-**
10 **authority utility pole.**
11

12 As part of any permit application to collocate a small wireless facility (SWFC
13 application) on an existing, non-authority utility pole, a wireless provider applicant shall
14 include with the SWFC application submittal, at a minimum, the information described
15 below. SWFC applications that propose replacing existing, non-authority poles, shall be
16 accepted and processed by the city, in accordance with sec. 22-327.2.
17

18 (a) Minimum application submittal requirements. No permit shall be issued unless a
19 wireless provider applicant submits a written application to the city, in accordance
20 with this article. A SWFC application for a permit shall be filed in the form and
21 manner specified by the city, (such as in an electronic form acceptable to the city)
22 and contain such information as may be required by the city, including, at a
23 minimum, the information contained in this section. The city may require the
24 wireless provider applicant to provide such additional information as the city
25 deems necessary to complete its review of a requested permit. Pursuant to section
26 337.401(7)(d)2, Florida Statutes, the city shall not require a wireless provider
27 applicant to provide more information than is necessary to demonstrate
28 compliance with applicable codes. At a minimum, the wireless provider applicant
29 shall submit the following information in its application:
30

31 (1) The name, address, electronic mail address, and phone number (cellular
32 number if available) of the wireless provider applicant who is requesting
33 the permit and written evidence that such wireless provider applicant has
34 legal authority to place, maintain, or remove the equipment or facilities
35 covered by the requested permit in the public rights-of-way and will own
36 and/or control all such equipment and facilities after completion of
37 construction;

38 (2) A description of the facilities/equipment, dimensions, and proposed
39 locations of all equipment and facilities covered by the requested permit;

40 (3) The specific location, depth, dimensions, and length of each proposed new
41 or replacement duct, conduit, or other underground facility and the
42 specific location, depth, dimensions, and height of any utility pole covered
43 by the requested permit, to the extent necessary to demonstrate
44 compliance with applicable codes;

45 (4) A description of the manner in which the work covered by the requested
46 permit is to be undertaken (i.e., proposed construction methods and

- 1 techniques) and a proposed date for commencement of work and an
2 estimate of the time required to complete all such work;
- 3 (5) A city-approved maintenance-of-traffic plan for vehicular, bicycle, and
4 pedestrian traffic in the area to be affected by the proposed work;
- 5 (6) Proof of insurance; acknowledgement of indemnification; and,
6 performance bond(s);
- 7 (7) Identification and description of any utility or other distribution or
8 transmission system to which any equipment or facility covered by the
9 requested permit is to be connected or attached;
- 10 (8) Sufficient specificity demonstrating compliance with the Florida Building
11 Code, most current edition, specifically including but not limited to terms
12 of compliance with the High Velocity Zone Criteria specified therein;
- 13 (9) The Global Positioning System (GPS) coordinates of the proposed facility.
14 The GPS coordinates shall be based on the reading from a handheld
15 mobile GPS unit set to Datum NAD 83 or WGS84. GPS coordinates based
16 on Google Earth or similar software application may be used where areas
17 of shading occur due to overhead canopy. GPS Coordinates shall be
18 provided in decimal degrees at a 6 decimal point precision;
- 19 (10) Engineering drawings signed and sealed by a structural engineer, which
20 depict:
- 21 a. Details and specifications that demonstrate compliance with
22 applicable codes;
- 23 b. Public rights-of-way in the affected area of the proposed
24 construction;
- 25 c. A survey of locations of all existing equipment and facilities in the
26 area of proposed construction;
- 27 d. All equipment and facilities to be installed and/or removed;
- 28 e. The routes of all transmission and distribution lines to be installed
29 or removed; and,
- 30 f. The sites of all other equipment and facilities to be installed or
31 removed in the public rights-of-way.
- 32 (11) Proof of pole attachment agreement and/or letter of authorization for pole
33 attachment from pole owner or authorized agent;
- 34 (12) Photographic or video documentation of the pre-construction condition of
35 the public rights-of-way in the area to be affected by the proposed work;
36 and,
- 37 (13) Restoration plan and estimated cost of restoration of the public rights-of-
38 way. A restoration plan and a good faith estimate of the cost of restoration
39 of the public rights-of-way. Such good faith estimate shall be accepted by
40 the city, unless the city determines such estimated costs are not
41 representative of the actual costs of the restoration of the public rights-of-
42 way. Estimates of the cost to restore the public rights-of-way shall include
43 all costs necessary to restore the public rights-of-way to its original
44 condition, in compliance with minimum city technical standards. Such
45 good faith estimate may include, but shall not be limited to, costs to
46 restore the paving, curbs/gutters, sidewalks, multi-purpose trails, and

1 landscaping. All planted or naturally occurring shrubbery or vegetation,
2 including sod and/or other ground cover, damaged or destroyed during
3 work in the public rights-of-way shall be replaced. Any tree pruning
4 and/or removal approved as part of the permit shall not be considered
5 damage or impairment to be restored to the original condition, provided
6 the person complies with the approved mitigation plan and ANSI pruning
7 standards, as applicable.

8 (14) Design Standards. The wireless provider applicant shall provide a
9 description of and sufficient details and specifications to demonstrate
10 compliance with design standards to be utilized to minimize the visual
11 impacts, in accordance with sec. 22-328.

12
13 (b) Application quantity. A wireless provider applicant seeking to collocate small
14 wireless facilities may, at said applicant's discretion, file a consolidated small
15 wireless facility collocation (SWFC) application and receive a single permit for
16 the collocation of up to thirty (30) small wireless facilities.

17
18 (c) Decision & notice for Application Submittal (Completeness): Within fourteen
19 (14) days after receiving a small wireless facility collocation (SWFC) application,
20 the city shall determine and notify the wireless provider applicant by electronic
21 mail as to whether said application is complete.

22 (1) If a SWFC application is deemed incomplete, the city shall specifically
23 identify the missing information.

24 (2) If the SWFC application includes multiple small wireless facilities, the
25 city may separately address small wireless facility collocations for which
26 incomplete information has been received.

27 (3) A SWFC application is deemed complete if the city fails to provide
28 notification to the wireless provider applicant within fourteen (14) days of
29 the application filing date.

30
31 (d) Decision & notice for Application (Permit Issuance/Denial): A small wireless
32 facility collocation (SWFC) application shall be processed on a non-
33 discriminatory basis, and is subject to the following:

34 (1) A complete SWFC application is deemed approved if the city fails to
35 approve or deny the application within sixty (60) days after receipt of the
36 application.

37 (2) If the SWFC application includes multiple small wireless facilities, the
38 city may separately address small wireless facility collocations which are
39 denied.

40 (3) The city shall notify the wireless provider applicant of approval or denial
41 by electronic mail. If the SWFC application is denied, the city shall
42 specify in writing the basis for denial, including the specific code
43 provisions on which the denial was based, and send the documentation to
44 the wireless provider applicant by electronic mail. The date the electronic
45 mail is sent shall be the date of denial.

1 (4) If the city does not use the thirty-day (30-day) negotiation period provided
2 in (e) below, the parties may mutually agree to extend the sixty-day (60-
3 day) application review period. The city shall grant or deny the SWFC
4 application at the end of the extended period.

5 (5) The wireless provider applicant may cure the deficiencies identified by the
6 city and resubmit the SWFC application within thirty (30) days after
7 notice of the denial is sent to the wireless provider applicant. The city shall
8 approve or deny the revised SWFC application within thirty (30) days
9 after receipt of said application is deemed approved. Any subsequent
10 review shall be limited to the deficiencies cited in the denial.

11
12 (e) *Alternative Location:* Within fourteen (14) days after the date of filing the SWFC
13 application, the city may request that the proposed location of a small wireless
14 facility be moved to another location in the rights-of-way and placed on an
15 alternative authority utility pole (refer to “make ready” provisions), support
16 structure, or request the wireless provider applicant to place a new utility pole.
17 The city and the wireless provider applicant may negotiate the alternative
18 location, including any objective design standards and reasonable spacing
19 requirements for ground-based equipment, for thirty (30) days after the date of the
20 request. At the conclusion of the negotiation period, if the alternative location is
21 accepted by the wireless provider applicant, the wireless provider applicant must
22 notify the authority of such acceptance and the application shall be deemed
23 granted for any new location(s) for which there is agreement. If an agreement is
24 not reached, the wireless provider applicant must notify the authority of such non-
25 agreement and the authority must grant or deny the original SWFC application
26 within ninety (90) days after the date said application was filed. A request for an
27 alternative location, an acceptance of an alternative location, or a rejection of an
28 alternative location must be in writing and provided by electronic mail.

29
30 (f) *Permit Review Criteria.*

31 (1) The city shall approve a SWFC application and issue a right-of-way
32 permit to a wireless provider applicant once said applicant has
33 demonstrated compliance with the following non-discriminatory, objective
34 criteria and applicable codes:

35 a. The height of a small wireless facility shall be limited to ten (10)
36 feet above the existing utility pole upon which the small wireless
37 facility is to be collocated;

38 b. The SWFC application shall demonstrate compliance with
39 applicable codes, as defined in this chapter, and design standards
40 set forth in sec. 22-328.

41 c. The SWFC application demonstrates compliance with the
42 requirements set forth in div. 4 below for insurance,
43 indemnification, and performance bonds.

44 d. *Airport airspace protections.* The SWFC application includes
45 evidence of and statement that any structure to be installed
46 pursuant to this article shall comply with Chapter 333, Florida

1 Statutes, and federal regulations pertaining to airport airspace
2 protections.

3 (2) The city shall deny a proposed collocation of a small wireless facility in
4 the public rights-of-way, if the proposed collocation:

- 5 a. Materially interferes with the safe operation of traffic control
6 equipment;
7 b. Materially interferes with sight lines or clear zones for
8 transportation, pedestrians, or public safety purposes;
9 c. Materially interferes with compliance with the Americans with
10 Disabilities Act or similar federal or state standards regarding
11 pedestrian access or movement;
12 d. Materially fails to comply with the 2010 Florida Department of
13 Transportation Utility Accommodation Manual;
14 e. Fails to comply with criteria set forth in (f)(1) above, applicable
15 codes (as defined in sec. 22-5), or design standards set forth in sec.
16 22-328.”

17
18 **Section 49.** That “**Sec. 22-327.2. Permit for new non-authority utility pole**
19 **to support small wireless facilities.**” is hereby created as follows:
20

21 **“Sec. 22-327.2. Permit for new non-authority utility pole to support small wireless**
22 **facilities.**

23
24 As part of any permit application to place a new non-authority utility pole to
25 support the collocation of a small wireless facility(-ies), a wireless provider applicant
26 shall provide a small wireless facility (SWFC) application that includes, at a minimum,
27 the information described below. Applications that propose replacing existing, non-
28 authority poles, shall be accepted and processed by the city, in accordance with this
29 section.

30
31 (a) Minimum application submittal requirements. No permit shall be issued unless a
32 wireless provider applicant submits a written application to the city, in accordance
33 with this subdivision. An application for a permit shall be filed in accordance with
34 the submittal requirements set forth in sec. 22-327.1(a), and shall include the
35 following additional information:

- 36 (1) A certificate of appropriateness, as applicable, pursuant to sec. 27-328;
37 (2) As part of the required construction plans, the survey must also include all
38 utility poles located in the same right(s)-of-way as the proposed pole(s),
39 identifying the height of the existing pole(s) as measured from existing
40 grade, within five hundred (500) feet in any direction; and,
41 (3) A SWFC application from a wireless infrastructure provider must include
42 an attestation by an officer of the registrant that small wireless facilities
43 will be collocated on the utility pole or structure and will be used by a
44 wireless services provider, to provide service, within nine (9) months after
45 the date the application is approved.
46

1 (b) Application quantity. An application to collocate small wireless facilities on a
2 new non-authority pole shall be limited to one (1) new pole per application, unless
3 otherwise determined by the city during the pre-application conference.

4
5 (c) Decision & notice for Application Submittal (Completeness): Refer to sec.
6 327.1(c).

7
8 (d) Decision & notice for Application (Permit Issuance/Denial): Refer to sec.
9 327.1(d).

10
11 (e) Alternative Location: Within fourteen (14) days after the date of filing the SWFC
12 application, the city may request that the proposed location of a small wireless
13 facility be moved to another location in the rights-of-way and placed on an
14 alternative authority utility pole (refer to “make ready” provisions set forth in sec.
15 27-327.3(f)(2)), or support structure, or request the wireless provider applicant to
16 place a new utility pole. The city and the wireless provider applicant may
17 negotiate the alternative location, including any objective design standards and
18 reasonable spacing requirements for ground-based equipment, for thirty (30) days
19 after the date of the request. At the conclusion of the negotiation period, if the
20 alternative location is accepted by the wireless provider applicant, the wireless
21 provider applicant must notify the authority of such acceptance and the SWFC
22 application shall be deemed granted for any new location(s) for which there is
23 agreement. If an agreement is not reached, the wireless provider applicant must
24 notify the authority of such non-agreement and the authority must grant or deny
25 the original SWFC application within ninety (90) days after the date the
26 application was filed. A request for an alternative location, an acceptance of an
27 alternative location, or a rejection of an alternative location must be in writing and
28 provided by electronic mail.

29
30 (f) Permit Review Criteria.

31 (1) The city shall approve an application and issue a right-of-way permit to a
32 wireless provider applicant once said applicant has demonstrated
33 compliance with the following non-discriminatory, objective criteria and
34 applicable codes:

35 a. The height of a small wireless facility shall be limited to ten (10)
36 feet above the utility pole upon which the small wireless facility is
37 to be collocated;

38 b. The height for a new utility pole is limited to the tallest existing
39 utility pole as of July 1, 2017, located in the same rights-of-way,
40 measured from existing grade, within five hundred (500) feet in
41 any direction, of the proposed location of the small wireless
42 facility. If there is no utility pole within five hundred (500) feet,
43 the city shall limit the height of the utility pole to fifty (50) feet;

44 c. The application shall demonstrate compliance with applicable
45 codes, as defined in this chapter, and design standards set forth in
46 sec. 22-328;

1 d. The application shall demonstrate compliance with the
2 requirements set forth in div. 4 below for insurance,
3 indemnification, and performance bonds;

4 e. Airport airspace protections. The application shall include
5 evidence of and statement that any structure to be installed
6 pursuant to this article shall comply with Chapter 333, Florida
7 Statutes, and federal regulations pertaining to airport airspace
8 protections.

9 (2) The city shall deny a proposed collocation of a small wireless facility in
10 the public rights-of-way, if the proposed collocation:

11 a. Materially interferes with the safe operation of traffic control
12 equipment;

13 b. Materially interferes with sight lines or clear zones for
14 transportation, pedestrians, or public safety purposes;

15 c. Materially interferes with compliance with the Americans with
16 Disabilities Act or similar federal or state standards regarding
17 pedestrian access or movement;

18 d. Materially fails to comply with the 2010 Florida Department of
19 Transportation Utility Accommodation Manual;

20 e. Fails to comply with criteria set forth in (e)(1) above, applicable
21 codes (as defined in sec. 22-5), or design standards set forth in sec.
22 22-328."

23
24 **Section 50.** That "**Sec. 22-327.3. Permit for collocation of small wireless**
25 **facilities on authority pole.**" is hereby created as follows:

26
27 **"Sec. 22-327.3. Permit for collocation of small wireless facilities on authority pole.**

28
29 As part of any permit application to collocate small wireless facilities on an
30 authority pole, a wireless provider applicant shall provide a permit application that
31 includes, at a minimum, the information described below:

32
33 (a) Minimum application submittal requirements. No permit shall be issued unless a
34 wireless provider applicant submits a written application to the city, in accordance
35 with this subdivision. An application for a permit shall be filed in accordance with
36 the submittal requirements set forth in sec. 22-327.1(a).

37
38 (b) Application quantity: An application shall be limited to the quantity set forth in
39 sec. 22-327.1(b).

40
41 (c) Decision & notice for Application Submittal (Completeness): The city shall
42 determine and notify the wireless provider applicant by electronic mail pursuant
43 to the time frames set forth in sec. 22-327.1(c).

44
45 (d) Decision & notice for Application (Permit Issuance/Denial): An application shall
46 be processed on a non-discriminatory basis, subject to the following:

- 1 (1) A complete application is deemed approved if the city fails to approve or
2 deny the application within sixty (60) days after receipt of the application.
- 3 (2) If the application includes multiple small wireless facilities, the city may
4 separately address small wireless facility collocations which are denied.
- 5 (3) The city shall notify the wireless provider applicant of approval or denial
6 by electronic mail. If the application is denied, the city shall specify in
7 writing the basis for denial, including the specific code provisions on
8 which the denial was based, and send the documentation to said applicant
9 by electronic mail. The date the electronic mail is sent shall be the date of
10 denial.
- 11 (4) If the city does not use the thirty-day (30-day) negotiation period provided
12 herein, the parties may mutually agree to extend the sixty-day (60-day)
13 application review period.
- 14 (5) The city shall grant or deny the application at the end of the extended
15 period.
- 16 (6) The wireless provider applicant may cure the deficiencies identified by the
17 authority and resubmit the application within thirty (30) days after notice
18 of the denial is sent to the wireless provider applicant.
- 19 (7) The authority shall approve or deny the revised application within thirty
20 (30) days after receipt or the application is deemed approved. Any
21 subsequent review shall be limited to the deficiencies cited in the denial.

22

23 (e) *Alternative Location:* Within fourteen (14) days after the date of filing the
24 application, the city may request that the proposed location of a small wireless
25 facility be moved to another location in the rights-of-way and placed on an
26 alternative authority utility pole (refer to “make ready” provisions set forth in
27 (f)(2) below), support structure, or request the wireless provider applicant to place
28 a new utility pole. The city and the wireless provider applicant may negotiate the
29 alternative location, including any objective design standards and reasonable
30 spacing requirements for ground-based equipment, for thirty (30) days after the
31 date of the request. At the conclusion of the negotiation period, if the alternative
32 location is accepted by the wireless provider applicant, said applicant must notify
33 the authority of such acceptance and the application shall be deemed granted for
34 any new location(s) for which there is agreement. If an agreement is not reached,
35 the wireless provider applicant must notify the authority of such non-agreement
36 and the authority must grant or deny the original application within ninety (90)
37 days after the date the application was filed. A request for an alternative location,
38 an acceptance of an alternative location, or a rejection of an alternative location
39 must be in writing and provided by electronic mail.

40

41 (f) *Permit Review Criteria.*

- 42 (1) The city shall approve an application and issue a right-of-way permit to a
43 wireless provider applicant once said applicant has demonstrated
44 compliance with the following non-discriminatory, objective criteria,
45 applicable codes, and applicable make-ready provisions (refer to (2)
46 below):

- 1 a. The height of a small wireless facility shall be limited to ten (10)
2 feet above the existing utility pole upon which the small wireless
3 facility is to be collocated;
4 b. The height for a new utility pole is limited to the tallest existing
5 utility pole as of July 1, 2017, located in the same rights-of-way,
6 measured from existing grade, within five hundred (500) feet in
7 any direction, of the proposed location of the small wireless
8 facility. If there is no utility pole within five hundred (500) feet,
9 the city shall limit the height of the utility pole to fifty (50) feet;
10 c. The application shall demonstrate compliance with applicable
11 codes, as defined in this chapter, and design standards set forth in
12 sec. 22-328;
13 d. The application shall demonstrate compliance with the
14 requirements set forth in div. 4 below for insurance,
15 indemnification, and performance bonds;
16 e. Airport airspace protections. The application shall include
17 evidence of and statement that any structure to be installed
18 pursuant to this article shall comply with Chapter 333, Florida
19 Statutes, and federal regulations pertaining to airport airspace
20 protections.

21 (2) Authority Make-Ready provisions.

- 22 a. Pursuant to section 337.401(7)(f)5b, Florida Statutes, for a city-
23 owned utility pole ("authority utility pole" as defined in sec. 22-5)
24 that supports an aerial facility used to provide communications
25 services or electric service, the parties shall comply with the
26 process for make-ready work under 47 U.S.C. section 224 and
27 implementing regulations. The good faith estimate of the person
28 owning or controlling the pole for any make-ready work necessary
29 to enable the pole to support the requested collocation must include
30 pole replacement, if necessary.
31 b. Pursuant to section 337.401(7)(f)5c, Florida Statutes, for a city-
32 owned utility pole ("authority utility pole") that does not support
33 an aerial facility used to provide communications services or
34 electric service, the city shall provide a good faith estimate for any
35 make-ready work necessary to enable the pole to support the
36 requested collocation, including necessary pole replacement,
37 within sixty (60) days after receipt of a complete application.
38 Make-ready work, including any pole replacement, must be
39 completed within sixty (60) days after written acceptance of the
40 good faith estimate by the wireless provider applicant.
41 c. Make-ready alternative. Alternatively, pursuant to section
42 337.401(7)(f)5c, Florida Statutes, the city may require the wireless
43 provider applicant seeking to collocate a small wireless facility to
44 provide a make-ready estimate, at said applicant's expense, for the
45 work necessary to support the small wireless facility, including
46 pole replacement, and perform the make-ready work. If pole

1 replacement is required, the scope of the make-ready estimate is
2 limited to the design, fabrication, and installation of a utility pole
3 that is substantially similar in color and composition. The city may
4 not condition or restrict the manner in which the wireless provider
5 applicant obtains, develops, or provides the estimate or conducts
6 the make-ready work, subject to usual construction restoration
7 standards for work in the right-of-way. The replaced or altered
8 utility pole shall remain the property of the city.

9 d. Pursuant to section 337.401(7)(f)5d, Florida Statutes, the city shall
10 not require more make-ready work than is required to meet
11 applicable codes and/or industry standards. Fees for make-ready
12 work shall not include costs related to pre-existing damage or prior
13 non-compliance. Fees for make-ready work, including any pole
14 replacement, shall not exceed actual costs or the amount charged to
15 communication services providers, other than wireless services
16 providers, and shall not include any consultant fee or expense.

17 (3) The city may reserve space on authority utility poles for future public
18 safety uses. However, a reservation of space may not preclude collocation
19 of a small wireless facility. If replacement of the authority utility pole is
20 necessary to accommodate the collocation of the small wireless facility
21 and the future public safety use, the pole replacement is subject to make-
22 ready provisions and the replaced pole shall accommodate the future
23 public safety use.

24 (4) Collocation of small wireless facilities on authority utility poles is subject
25 to the following requirements:

26 a. The city shall not enter into an exclusive arrangement with any
27 person for the right to attach equipment to authority utility poles;

28 b. The rates and fees for collocations on authority utility poles must
29 be nondiscriminatory, regardless of the services provided by the
30 collocating person;

31 c. The rate to collocate small wireless facilities on an authority utility
32 pole shall be \$150 per pole annually, or maximum amount allowed
33 by applicable law.

34 (5) The city shall deny a proposed collocation of a small wireless facility in
35 the public rights-of-way, if the proposed collocation:

36 a. Materially interferes with the safe operation of traffic control
37 equipment;

38 b. Materially interferes with sight lines or clear zones for
39 transportation, pedestrians, or public safety purposes;

40 c. Materially interferes with compliance with the Americans with
41 Disabilities Act or similar federal or state standards regarding
42 pedestrian access or movement;

43 d. Materially fails to comply with the 2010 Florida Department of
44 Transportation Utility Accommodation Manual;

45 e. Fails to comply with criteria set forth in (e)(1) through (4) above
46 and/or applicable codes (as defined in sec. 22-5)."

1
2 **Section 51.** That “**Sec. 22-328. Design standards.**” is hereby created as
3 follows:
4

5 “Sec. 22-328. Design standards.

- 6
7 (a) Purpose and intent. Aboveground and underground facilities, communications
8 facilities, utility poles, and associated facilities and equipment shall be designed
9 in such a manner to ensure such facilities and poles are placed in locations that do
10 not interfere with the safe operation of traffic control equipment and movement of
11 the traveling public. These facilities and poles shall be designed to maximize
12 compatibility with the affected area (a 500’ radius of the proposed location) and
13 to minimize any negative visual impact on that area. Pursuant to section
14 337.401(7), Florida Statutes, the following design standards shall apply, unless
15 waived pursuant to sec. 22-329.
16
- 17 (b) General placement requirements within public rights-of-way.
- 18 (1) Aboveground facilities, communications facilities, utility poles, and
19 associated ground mounted facilities and equipment. Such facilities and
20 equipment shall not create any safety hazard(s) or physical or visual
21 obstruction to vehicular, bicycle, and/or pedestrian traffic.
- 22 (2) Communications facilities placement within public rights-of-way.
23 Communications facilities shall be placed between the property line and
24 the curb line of all streets and shall not be within the roadway recovery
25 area. Underground cables, where required, shall have consistent alignment
26 parallel with the edge of pavement, a thirty-six-inch (36”) depth of cover
27 for the paved portion of roadways, a twenty-four-inch (24”) to thirty-inch
28 (30”) depth of cover in all areas except the paved portion of roadways, and
29 shall have a two-foot (2’) horizontal clearance from other underground
30 utilities and their appurtenances.
- 31 (3) Grounding rods and pull boxes. The grounding rod may not extend above
32 the top of sidewalk and must be placed in a pull box, and the ground wire
33 between the pole and ground rod must be inside an underground conduit.
34 All pull boxes shall be vehicle load bearing, comply with FDOT Standard
35 specification 635 and be listed on the FDOT Approved Products List. A
36 concrete pad shall be installed around all pull boxes not located in the
37 sidewalk. No new or replacement pull boxes shall be located in pedestrian
38 ramps.
- 39 (4) Signs. No signs shall be permitted on or attached to communications
40 facilities or utility poles in public rights-of-way, unless otherwise required
41 by federal or state law. Any existing facility or structure that lawfully
42 supports signs may continue to support such signs, as otherwise permitted
43 by city code or state or federal law, as may be amended.
- 44 (5) Other associated ground mounted facilities and equipment. Ground-
45 mounted equipment for small wireless facilities shall be located within a
46 ten (10) feet radius of the utility pole supporting such facility and, if

1 possible, in areas with existing foliage or other aesthetic features to
2 obscure the view of the ground-mounted equipment. The ground-mounted
3 equipment shall use wrap that is similar to the pole color. If the city has a
4 planned future project to replace facilities or equipment in the subject
5 public rights-of-way, the replacement facilities or equipment proposed in
6 the application or SWFC application shall conform to the city's updated
7 design, material, and color.

8 (6) Separation from driveways and hydrants. Communications facilities and
9 utility poles shall be located at least ten (10) feet from a driveway apron
10 and at least thirty (30) feet from a fire hydrant.

11 (7) New and replacement utility poles; general, city-wide placement and
12 maintenance standards.

13 a. New utility poles, where permitted, shall be placed between the
14 property line and the curb line of all streets and shall not be within
15 the roadway recovery area. The lowest wire on any of such poles,
16 placed in any public rights-of-way open to vehicular, bicycle,
17 and/or pedestrian traffic shall not be less than eighteen (18) feet
18 from the ground and, whenever telephone and electric power wires
19 cross each other, wires shall cross and be maintained in accordance
20 with the National Electrical Code, the National Electrical Safety
21 Code and the "Safety Rules for the Installation and Maintenance of
22 Electrical Supply and Communication Lines" established by the
23 Department of Commerce, Bureau of Standards of the United
24 States, as may be amended;

25 b. New utility poles, where permitted, shall be made of the similar
26 design, material, and color as other utility poles within the same
27 public right-of-way (within five hundred (500) feet in any direction
28 along that right-of-way). Where no utility poles exist within the
29 aforementioned right-of-way, black enamel/paint-clad metal or
30 concrete poles are required, and such poles are generally preferred
31 throughout the city, as applicable;

32 c. New poles, where permitted, shall adhere to the protection and
33 pruning standards, as set forth in chapter 13 and ANSI standards,
34 for protected and grand tree species, located in the public rights-of-
35 way and/or on private property. A provider shall not prune,
36 remove, or irreversibly damage any protected or grand tree, as
37 defined in chapter 13 of this Code, unless such activity is
38 authorized by a permit issued by the city; and,

39 d. Replacement utility poles shall be of similar design, material, and
40 color of the existing pole being replaced; however, black
41 enamel/paint-clad metal or concrete poles, are preferred. The
42 replacement pole shall be located in approximately the same
43 location as the existing pole. The replacement pole shall continue
44 to serve its primary function. If the city has a planned future
45 project to replace utility poles in the subject public rights-of-way,
46 the replacement poles proposed in the application or SWFC

1 application shall conform to the city's updated design, material,
2 and color.

3
4 (c) General stealth design requirements within public rights-of-way, city-wide.

- 5 (1) The small wireless facility, electric meters and disconnect switches may
6 be mounted on the exterior of the pole and shall be concealed with use of
7 shrouds that are similar to the pole color and texture;
8 (2) No exposed wires, cables, conduits, etc. attached to poles; preferred if
9 such are placed internal to pole, but if not possible, then such attachments
10 must be concealed with use of shrouds that are similar to the pole color
11 and texture;
12 (3) Other components, such as back-haul, where housed above-ground, shall
13 be placed within a cabinet, box, or other such container that are concealed
14 with durable materials or paint that are similar to the pole color or includes
15 other imagery in context with the location of equipment (i.e. imagery of
16 vegetation, architectural/geometrical patterns, or equivalent).

17
18 (d) Location context placement standards.

- 19 (1) Placement in relation to adjacent uses of property and building facades
20 thereon, city-wide. Where parking and/or loading spaces are not permitted
21 between a building façade and the corresponding property line (i.e. front
22 façade and front property line, side street façade and side street property
23 line) by design standard or district standard set forth in chapter 27, or such
24 spaces do not exist in those locations on existing properties, new
25 communication facilities and new utility poles shall be placed in-line with
26 the common, interior side lot lines and shall not be placed in-line with the
27 front/principal façade of a residence, place of business, or any other
28 principal use building, as defined in chapter 27 of this code.
29 (2) Placement within Ybor City Historic District. The purpose of the district,
30 in part and as further described in secs. 27-176 and -178, is to safeguard
31 the heritage of Ybor City by preserving and regulating the district and its
32 landmarks, which reflect elements of our cultural, social, economic,
33 political and architectural history. Unless otherwise authorized by a
34 franchise agreement or for public safety purposes, any new utility pole,
35 small wireless facility (including collocation) shall meet the minimum
36 design standards below. Applications that demonstrate compliance with
37 the minimum design standards shall be approved administratively.
38 Applications seeking a waiver to the minimum design standards shall
39 require approval of a certificate of appropriateness through the Barrio
40 Latino Commission, as set forth in chapter 27, art. II, div. 4 of this code.
41 The minimum design standards are as follows:
42 a. Installation of a new pole.
43 1. Use of a metal fluted pole, not to exceed a 12" diameter,
44 and decorative fluted base (TECO Franklin, or design
45 equivalent);

- 1 2. No lighting is to be affixed to the pole, unless otherwise
2 approved as part of a certificate of appropriateness;
3 3. Pole base height shall be less than 24" from grade;
4 4. Pole, base, antenna, housings, components, and all
5 attachments thereto shall be finished to the Sherwin
6 Williams Exterior Finishes – Street Pole Signs specification
7 (or equivalent): Primer: B66A00050 – DTM Bonding
8 Primer, 2 Coats: B66B00011 – DTM Acrylic Gloss
9 Acrylic Coating Black; and,
10 5. The small wireless facility, electric meters, disconnect
11 switches, wires, cables, conduit, and all other
12 appurtenances shall be stealth designed and consistent with
13 the material and color of the Ybor City exterior metal trash
14 receptacle (model SD-42) manufactured by Victor Stanley
15 (or design equivalent).
16 b. Collocation on existing and replacement poles, buildings, or non-
17 pole structures.
18 1. The small wireless facility, electric meters, disconnect
19 switches, wires, cables, conduit, and all other
20 appurtenances shall be stealth designed and in compliance
21 with (c) above;
22 2. Where affixed to a building or non-pole structure,
23 application shall demonstrate compliance with a. above and
24 shall require approval of a certificate of appropriateness
25 through the Barrio Latino Commission:
26 i. Design referenced to original architectural
27 characteristics of building or structure;
28 ii. Required to be incorporated or affixed in a manner
29 that will not damage or destroy original
30 architectural features of the building or structure;
31 iii. Utilizes materials that are original or similar to the
32 building or structure, and are appropriate for the
33 stealth reference;
34 iv. Required to be designed in a manner that replicated
35 original historic references of the specific historic
36 district, such as blade signs, other encroachment
37 signs, balcony supports, canopy supports, chimneys,
38 cupolas, architectural ornamentation, cornices,
39 statuary, fencing, and light fixtures.
40 (3) Central Business District and Channel District. Pursuant to section
41 337.401(7)(i), Florida Statutes, a wireless provider shall, in relation to a
42 small wireless facility or utility pole in the rights-of-way, comply with
43 non-discriminatory undergrounding requirements of an authority that
44 prohibit above-ground structures in public rights-of-way. The city has
45 undergone, and continues to undergo, great expense to place utility
46 facilities underground in the Central Business District and Channel

1 District Community Redevelopment Areas, thus the following provisions
2 are intended to enhance traffic, bicycle, and pedestrian safety and
3 minimize aesthetic impacts associated with an excessive number of
4 structures and unnecessarily high structures in the rights-of-way of the
5 pedestrian oriented downtown area planned for higher densities and
6 intensities.

7 a. No new utility poles are allowed in public rights-of-way in the
8 CBD or CD zoning districts, unless otherwise required in the
9 special district requirements for CBD and CD, as set forth in
10 chapter 27 of this code, or as waived subject to sec. 22-329.

11 b. Antennae are allowed to be attached to existing utility poles within
12 the CBD and CD, provided they are located no lower than fifteen
13 (15) feet from the ground as measured vertically from the base of
14 the pole. The communications facility, electric meters, disconnect
15 switches, wires, conduit, and all other appurtenances shall
16 incorporate stealth design consistent with the design standards in
17 (c) above.

18 (4) Placement within a Scenic or Gateway Corridor. Unless otherwise
19 authorized by a franchise agreement or for public safety purposes, no new
20 utility poles shall be placed within a designated Scenic or Gateway
21 Corridor, as described in the Tampa Comprehensive Plan. The purpose
22 and intent of the designations is to protect these corridors into and through
23 the city. The following roadways are designated corridors:

24 a. Bayshore Boulevard, Scenic Corridor (south of Platt Street and
25 north of Gandy Boulevard); and

26 b. Kennedy Boulevard, Gateway Corridor (east of Memorial
27 Highway and west of Nebraska Avenue).

28 The communications facility, electric meters, disconnect switches, wires,
29 conduit, and all other appurtenances shall incorporate stealth design
30 consistent with the design standards in (c) above."

31
32
33 **Section 52.** That **"Sec. 22-329. Waiver of objective design standards for**
34 **small wireless facilities."** is hereby created as follows:

35
36 **"Sec. 22-329. Waiver of objective design standards for small wireless facilities.**

37
38 (a) Objective design standards provided in sec. 22-328 may be waived by the city
39 transportation engineer or designee, upon the wireless services provider
40 demonstrating to the city, that the objective design standards are not reasonably
41 compatible for the particular location of a small wireless facility or that the
42 objective design standards impose an excessive expense. The objective design
43 standards may also be waived to comply with 47 U.S.C. 332 pertaining to gap in
44 coverage. Any application seeking a waiver to sec. 22-328 within a local historic
45 district or local landmark, outside of Ybor City Historic District, shall require

1 approval of a certificate of appropriateness through the Architectural Review
2 Commission as set forth in chapter 27, art. II, div. 4 of this code.
3

4 (b) A request for a waiver shall be filed contemporaneously with the small wireless
5 facility collocation (SWFC) application. The request for waiver shall contain each
6 section or subsection for which a waiver is being sought. A request for a waiver
7 shall include a detailed explanation, with supporting engineering or other data, as
8 to why a waiver from the requirements of this article is required. For waivers
9 based on 47 U.S.C. 332, the request for waiver must demonstrate that denial of
10 the SWFC application will result in a significant gap in a wireless service
11 provider's coverage, and that the proposed facility is the least intrusive means for
12 closing that gap within said wireless service provider's network.
13

14 (c) In granting any waiver, the city transportation engineer may impose conditions to
15 the extent the engineer concludes such conditions are necessary to minimize any
16 adverse effects of the proposed small wireless facility within a five hundred (500)
17 feet radius of the proposed location, or to protect the health, safety, and welfare of
18 the public.
19

20 (d) The city transportation engineer shall grant or deny a request for a waiver within
21 forty-five (45) days after receiving such request."
22

23 **Section 53.** That "**Secs. 22-330 through 22-338. Reserved.**" are hereby
24 created as follows:
25

26 **"Secs. 22-330 through 22-338. Reserved."**
27

28 **Section 54.** That "**DIVISION 4. - INSURANCE AND**
29 **INDEMNIFICATION.**" is hereby amended by adding the underlined language and
30 deleting the stricken language as follows:
31

32 **"DIVISION 4. - INSURANCE, AND INDEMNIFICATION, AND**
33 **PERFORMANCE BOND."**
34

35 **Section 55.** That "**Sec. 22-339. Insurance.**" is hereby amended by adding the
36 underlined language and deleting the stricken language as follows:
37

38 **"Sec. 22-339. Insurance.**
39

40 (a) A provider shall provide, pay for, and maintain with companies satisfactory to the
41 ~~official city,~~ the types of insurance described in this section. All insurance shall be
42 from responsible companies duly authorized to do business in the state and having
43 a financial rating in Best's Insurance Guide of ~~B+ Class VI~~ A- Class VII or better.
44 All liability policies shall provide that the city is an additional insured as to such
45 provider's operations in the public rights-of-way and shall provide the severability
46 of interest provision. The required coverages must be evidenced by properly

1 executed certificates of insurance on forms furnished by the official. Certified
2 copies of the policies required by this section are acceptable in lieu of such
3 certificates of insurance and shall be furnished at the time of application/SWFC
4 application to the official within five (5) days of the ~~official~~ city's request therefor.
5 Renewal certificates shall be provided to the ~~official~~ city at least ten (10) days
6 prior to the expiration of the current coverages. The certificates must be manually
7 signed by the authorized representative of the insurance company. Thirty (30)
8 days advanced written notice by registered or certified mail must be given to the
9 ~~official~~ city of any cancellation, intent not to renew or reduction in the policy
10 coverages.

11 (b) The limits and types of coverage of insurance required shall not be less than the
12 following:

13 (1) *Commercial general liability insurance.* Commercial general liability
14 insurance shall be written on ISO Occurrence Form CG 00 01 or an
15 equivalent substitute form to cover liability arising from premises and
16 operations, independent contractors, products and completed operations,
17 personal and advertising injury, blanket contractual, and XCU exposures,
18 unless waived by the ~~official~~ city. Completed operations liability coverage
19 shall be maintained for a minimum of one (1) year following the cessation
20 of the placement of communications facilities in the public rights-of-way.
21 The combined bodily injury and property damage limit shall not be less
22 than five million dollars (\$5,000,000.00) each occurrence and annual
23 aggregate and shall apply specifically to the provider's activities in the
24 public rights-of-way.

25 (2) *Automobile liability insurance.* Automobile liability insurance shall be
26 maintained in accordance with the laws of the state as to the ownership,
27 maintenance and use of all owned, non-owned, leased and hired vehicles.
28 The combined bodily injury and property damage limit shall not be less
29 than five million dollars (\$5,000,000.00) each accident.

30 (3) *Workers' compensation/employer's liability insurance.* Workers'
31 compensation insurance shall cover all employees engaged in work for the
32 provider in accordance with the laws of the state. The employer's liability
33 limit shall not be less than five hundred thousand dollars (\$500,000.00)
34 disease each employee, five hundred thousand dollars (\$500,000.00)
35 disease aggregate and five hundred thousand dollars (\$500,000.00) each
36 accident.

37 (c) Notwithstanding the foregoing, a provider may provide such coverage through an
38 actuarially sound and prudent self-insurance program that is satisfactory to the
39 ~~official~~ city."

40
41 **Section 56.** That "**Sec. 22-340. Indemnification.**" is hereby amended by
42 adding the underlined language and deleting the stricken language as follows:

43
44 "**Sec. 22-340. Indemnification.**

1 ~~A provider shall indemnify and hold the city and its officers, directors, agents,~~
2 ~~servants, employees, successors, and assigns harmless of and from any and all claims for~~
3 ~~personal injury, death or property damage, any other losses, damages, charges or~~
4 ~~expenses, including attorneys' fees (whether at the trial or appellate level, or otherwise),~~
5 ~~witness fees, court costs and the reasonable value of any services rendered by any officer~~
6 ~~or employee of the city, and any orders, judgments or decrees which may be entered,~~
7 ~~which arise or are alleged to have arisen out of, in connection with, or attributable to,~~
8 ~~such provider's acts or omissions in connection with its activities in the public rights of~~
9 ~~way and the placement, maintenance, relocation or removal by such provider of any~~
10 ~~portion of its communications facilities. Such provider shall undertake at its own expense~~
11 ~~the defense of any action which may be brought against the city for damages, injunctive~~
12 ~~relief or for any other cause of action arising or alleged to have arisen out of, in~~
13 ~~connection with or attributable to, the foregoing and, in the event any final judgment~~
14 ~~therein should be rendered against the city resulting from the foregoing, such provider~~
15 ~~shall promptly pay the final judgment together with all costs relating thereto; such~~
16 ~~provider being allowed, however, an appeal or appeals to the appropriate court or courts~~
17 ~~from the judgment rendered in any such suit or action upon the filing of such supersedeas~~
18 ~~bond as shall be required to prevent levy or judgment against the city during such appeal~~
19 ~~or appeals.~~

20 (a) By reason of the acceptance of a registration or a permit under this article, the city
21 does not assume any liability for injuries to persons, damage to property, or loss
22 of service claims by parties other than the registrant or the city; or for claims or
23 penalties of any sort resulting from the installation, placement, maintenance,
24 and/or operation of communication facilities by registrants or activities of
25 registrants.

26
27 (b) A registrant shall defend, indemnify, and hold the city whole and harmless from
28 all costs, liabilities, and claims for damages of any kind arising out of the
29 construction, presence, placement, installation, maintenance, repair or operation
30 of its communications facilities, whether any act or omission complained of is
31 authorized, allowed, or prohibited by a permit, inspection of plans or work by the
32 city, except to the extent that such claims are caused by the sole negligence or
33 willful misconduct of the city. This section is not, as to third parties, a waiver of
34 any defense or immunity otherwise available to the registrant or to the city; and
35 the registrant, in defending any action on behalf of the city, shall be entitled to
36 assert in any action every defense or immunity that the city could assert in its own
37 behalf. The provisions of this section include, but are not limited to, the city's
38 reasonable attorneys' fees incurred in defending against any such claim, suit, or
39 proceeding(s).

40
41 (c) The city agrees to notify the registrant, in writing, within thirty (30) days of the
42 city receiving notice, of any issue it determines may require indemnification.

43
44 (d) This indemnification obligation is not limited in any way by a limitation of the
45 amount or type of damages or compensation payable by or for the registrant under
46 workers' compensation, disability, or other employee benefit acts, or the

1 acceptance of insurance certificates required under this article, or the terms,
2 applicability, or limitations of any insurance held by the registrant.

3
4 (e) The registrant shall investigate, handle, respond to, provide defense for, and
5 defend any such claims at its sole expense and shall bear all other costs and
6 expenses related thereto, even if the claim is groundless, false, or fraudulent, and
7 if called upon by the city, the registrant shall assume and defend not only itself
8 but also the city, in connection with any such claims and any such defenses shall
9 be at no cost or expense whatsoever to the city, provided the city shall retain the
10 right to select counsel of its own choosing. The city shall not settle or compromise
11 any matter for which a registrant is obligated to indemnify without the prior
12 written consent of the registrant. Such consent shall not be unreasonably withheld.

13
14 (f) The city does not and shall not waive any rights against the registrant which it
15 may have by reason of this indemnification, or because of the acceptance by, or
16 the registrant's deposit with the city of any of the insurance policies required by
17 this article for registration.

18
19 (g) This indemnification by the registrant shall apply to all damages and claims for
20 damages of any kind suffered regardless of whether such insurance policies shall
21 have been determined to be applicable to any such damages or claims for
22 damages.

23
24 (h) Nothing contained in this section shall be construed or interpreted as denying to
25 either party any remedy or defense available to such party under the laws of the
26 state of Florida or as a waiver of sovereign immunity beyond the waiver provided
27 in section 768.28, Florida Statutes, as may be amended.

28
29 (i) The indemnification requirements under this section and this article shall survive
30 and be in full force and effect after the termination or cancellation of a
31 registration.”

32
33 **Section 57.** That **“Sec. 22-341. Performance bond.”** is hereby created as
34 follows:

35
36 **“Sec. 22-341. Performance bond.**

37
38 (a) Prior to issuance of any permit in accordance with this article, the registrant shall
39 be required to obtain, pay for, and file with the city, a performance bond. The
40 performance bond shall serve to guarantee proper performance under the
41 requirements of this article and the permit, the timeliness and quality of the
42 construction and restoration of the affected public rights-of-way, and to secure,
43 and enable the city to recover all costs related to the restoration of the rights-of-
44 way, in the event the registrant fails to make such restoration to the city’s
45 satisfaction or causes damage to the rights-of-way during construction. The
46 performance bond must name the city as obligee, and be conditioned upon the full

1 and faithful compliance by the registrant, with all requirements, duties, and
2 obligations imposed by the permit and provisions of this article, during and
3 through completion of the proposed placement and/or maintenance activity(-ies).
4 The performance bond shall be in a form acceptable to the city attorney and must
5 be issued by a surety having an A.M. Best A- Class VII rating or better and duly
6 authorized to conduct business in the state of Florida.

7
8 (b) The performance bond shall be in the face amount of the estimated costs of the
9 restoration of the rights-of-way, but in no event shall be less than two thousand-
10 five hundred dollars (\$2,500.00). For a consolidated SWFC application, when
11 allowed under this chapter, the registrant shall provide a performance bond in the
12 amount of the total costs of the restoration of the rights-of-way for all wireless
13 communication facilities requested to be collocated on an existing structure within
14 the rights-of-way, but in no event shall be less than five thousand dollars
15 (\$5,000.00).

16
17 (c) The performance bond must be issued as non-cancelable and be for a term of not
18 less than ninety (90) days after the anticipated date of completion of construction,
19 restoration, and city inspection. In the event the term of any construction bond
20 expires, or is reasonably expected to expire, prior to ninety (90) days after the
21 completion of construction, restoration, and city inspection, the registrant shall
22 immediately obtain, pay for, and file with the city, a replacement performance
23 bond.

24
25 (d) The city's right to recover under the performance bond shall be in addition to all
26 other rights of the city, whether reserved in this article, or authorized by other
27 law, and no action, proceeding, or exercise of a right, with respect to the
28 performance bond, will affect or preclude any other right the city may have. Any
29 proceeds recovered under the performance bond may be used to reimburse the
30 city for such additional expenses, as may be incurred by the city, as a result of the
31 failure of the registrant to comply with the responsibilities imposed by this article,
32 including, but not limited to, attorney's fees and costs of any action or
33 proceeding."

34
35 **Section 58.** That should a court of competent jurisdiction declare any part of
36 this Ordinance invalid the remaining parts hereof shall not, in any way, be affected by
37 such determination as to the invalid part.

38
39 **Section 59.** That all ordinances or parts of ordinances in conflict herewith are
40 hereby repealed to the extent of any conflict.
41
42

