

RESOLUTION NO. 17-1461

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PURSUANT ORDINANCE NO. 17-201, EXTENDING BY SIX (6) MONTHS, THE TEMPORARY MORATORIUM UPON ISSUANCE OF ANY DEVELOPMENT ORDERS, INCLUDING BUT NOT LIMITED TO BUILDING PERMITS, CERTIFICATES OF USES, VARIANCES, SITE PLANS, CONDITIONAL USES, OR SPECIAL EXCEPTIONS, PERTAINING TO THE INSTALLATION OR SITING OF ANY "TELECOMMUNICATIONS TOWERS", AS MAY BE DEFINED BY FEDERAL LAW, OR ANY "NEW WIRELESS PERSONAL TELECOMMUNICATIONS SERVICES TOWER," "TOWER," OR "DISTRIBUTED ANTENNA SYSTEM," AS DEFINED IN ORDINANCE 17-201, OR ANY OTHER COMMUNICATIONS FACILITIES WHOLLY CONTAINED OR MOUNTED ON A SINGLE STAND ALONE TOWER, AS MAY BE CONTEMPLATED BY SECTION 337.401, FLORIDA STATUTES; SUCH MORATORIUM BEING EFFECTIVE FOR ANY PUBLIC RIGHTS-OF-WAY WITHIN THE JURISDICTION OF THE TOWN OF MIAMI LAKES, FLORIDA, AS IMPOSED BY SAID ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, with the enactment of the Telecommunications Act of 1996 ("Act"), the Act prevents the Town from adopting local regulations in response to perceived or real fears of radio frequency emissions once such facilities comply with Federal Communications Commission ("FCC") Regulations; and

WHEREAS, the Act prevents the Town from unreasonably discriminating against providers of functionally equivalent services, such that when the Town allows communications distribution facilities (antennae) or Distributed Antenna Systems wholly contained or mounted on a single, stand-alone tower, or wireless personal telecommunications services antennae towers, within the Town's public rights-of-way, it must formulate reasonable nondiscriminatory rules and

policies that are applicable to all such similar facilities; and

WHEREAS, the State of Florida adopted legislation, presently codified as § 365.172, Fla. Stat (2016) (herein the "Emergency Communications Number E911 Act") which is designed to facilitate E-911 Service Implementation for the wireless personal telecommunications industry, by expediting certain co-location requests and otherwise limiting a municipality's authority to regulate the installation of wireless telecommunications towers and antennae arrays; and

WHEREAS, pursuant to Florida Statute 365.172(13), the Emergency Communications Number E-911 Act does not prevent a municipality from managing its public rights-of-way and provides in pertinent part:

“Further, notwithstanding anything in this section to the contrary, this subsection does not apply to or control a local government's action as a property or structure owner in the use of any property or structure owned by such entity for the placement, construction, or modification of wireless communications facilities. In the use of property or structures owned by the local government, however a local government may not use its regulatory authority so as to avoid compliance with, or in a manner that does not advance, the provisions of this subsection.”

§ 365.172 (13), Fla. Stat (2016); and

WHEREAS, the State of Florida adopted legislation, presently codified as § 337.401, Fla. Stat. (2016) (herein the "Right Of Way Regulatory Laws") which is designed to promote the expansion of the wireless personal telecommunications industry, by confirming a municipality's authority to adopt and enforce reasonable, non-discriminatory rules and regulations which apply to the installation of utilities facilities in public rights-of-way, in stating:

“Because of the unique circumstances applicable to providers of communications services, and the fact that federal and state law require the nondiscriminatory treatment of providers of telecommunications services, and because of the desire to promote competition among providers of communications services, it is the

intent of the Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way. Rules or regulations imposed by a municipality or county relating to providers of communications services placing or maintaining communications facilities in its roads or rights-of-way must be generally applicable to all providers of communications services and, notwithstanding any other law, may not require a provider of communications services to apply for or enter into an individual license, franchise or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way.”

§ 337.401 (3) (a), Fla. Stat. (2016); and

WHEREAS, the expansion of personal wireless communications has included not only "traditional" large towers (“Traditional Towers”), but recently the use of new smaller tower "microcell" technologies such as Distributed Antenna Systems Networks or DAS Networks (“DAS”); and

WHEREAS, the Town has become aware that providers of Traditional Towers desire to begin installation of new tower facilities within the Town’s public rights-of-way; and

WHEREAS; the Town became aware that there is a desire by private entities to install Distributed Antenna System Networks or DAS Networks within the Town's public rights-of-way; and

WHEREAS, these new technologies may require improvements that have not been contemplated by the Town in the management and control of the Town's public rights-of-way and lawful competing uses thereof which need to be weighed and balanced with safety and aesthetic interests in mind; and

WHEREAS, in light of this development, the Town Council, on March 7th, 2017,

adopted Ordinance No. 17-201 (Exhibit A), imposing a moratorium upon the issuance of any development orders, including but not limited to building permits, certificates of uses, variances, site plans, conditional uses, or special exceptions, pertaining to the installation or siting of any “telecommunications towers”, as may be defined by federal law, or any “new wireless personal telecommunications services tower,” “tower,” or “distributed antenna system,” as defined in Ordinance 17-201, or any other communications facilities wholly contained or mounted on a single standalone tower, as may be contemplated by section 337.401, Florida Statutes; such moratorium being effective for any public rights-of-way within the jurisdiction of the town of Miami Lakes, for a period not to exceed 180 days unless otherwise extended by resolution; and

WHEREAS, the Florida Legislature, at the conclusion of the 2017 Legislative Session (2017), again amended the Florida Statutes regarding the regulations of such facilities within the Rights-of-Way of local jurisdictions; and

WHEREAS, the Town now desires to extend the temporary moratorium imposed by Ordinance No. 17-201 for an additional six (6) months to allow time for Town Staff to draft municipal regulations reflective of State Law and Federal Laws, for the Town Council to consider for adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Resolution upon adoption hereof.

Section 2. The Town Council, pursuant to Ordinance No. 17-201 authorizes a six (6) month extension to said ordinance upon the issuance of any development orders, including but not

limited to building permits, certificates of uses, variances, site plans, conditional uses, or special exceptions, pertaining to the installation or siting of any “telecommunications towers”, as may be defined by federal law, or any “new wireless personal telecommunications services tower,” “tower,” or “distributed antenna system,” as defined in ordinance 17-201, or any other communications facilities wholly contained or mounted on a single standalone tower, as may be contemplated by section 337.401, Florida Statutes; such moratorium being effective for any public rights-of-way within the jurisdiction of the town of Miami Lakes, s.


Section 3. This Resolution shall take effect upon its passage and adoption by the Town Council.

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Passed and adopted this 25th day of July, 2017

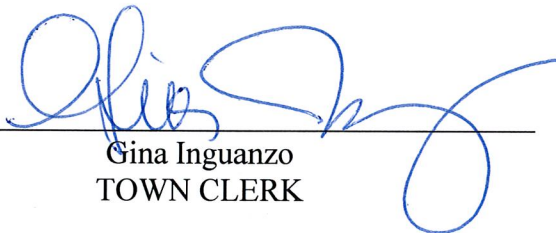
The foregoing resolution was offered by Councilmember Mestre who moved its adoption. The motion was seconded by Councilmember Rodriguez upon being put to a vote, the vote was as follows:

Mayor Manny Cid	<u>yes</u>
Vice Mayor Tony Lama	<u>yes</u>
Councilmember Luis Collazo	<u>yes</u>
Councilmember Tim Daubert	<u>yes</u>
Councilmember Ceasar Mestre	<u>yes</u>
Councilmember Frank Mingo	<u>yes</u>
Councilmember Nelson Rodriguez	<u>yes</u>



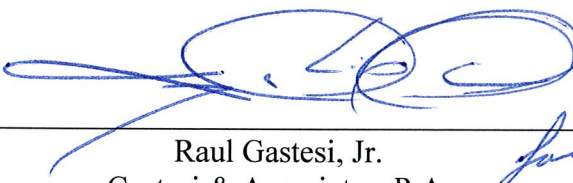
Manny Cid
MAYOR

Attest:



Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

ATTACHMENT A

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ADVANCED WIRELESS DEPLOYMENT ACT

Pertinent Definitions and Shot Clocks

PERTINENT DEFINITIONS

Micro wireless facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, 12 inches in height, and an exterior antenna, if any, no longer than 11 inches

Small wireless facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Wireless facility includes equipment at a fixed location what enable wireless communications between user equipment and a communications network, such as transceivers, antennas, wires, coaxial or fiber-optic cable, power supply, and equipment associated with wireless communications.

Wireless support structure is a freestanding structure, such as a monopole, a guyed or self-supporting tower or another existing or proposed structure designed to support or capable of supporting wireless facilities. Term does not include utility poles

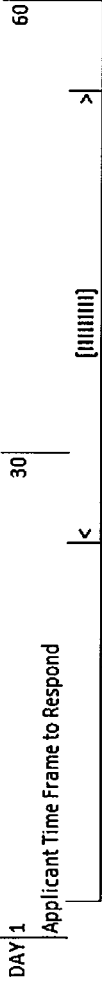
SHOT CLOCK TIME TABLES

STANDARD REVIEW SHOT CLOCK



* Town and applicant may mutually agree to extend Application Review Period

DENIED APPLICATION PROCEDURE



Sliding Scale: Town must respond with 30 days of applicant's resubmittal

TOWN REQUEST FOR ALTERNATE LOCATION SHOT CLOCK



APPLICANT APPEAL OF STEALTH DESIGN



Sliding Scale: Town must respond with 45 days of Applicant's Appeal

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1
2 An act relating to utilities; amending s. 337.401,
3 F.S.; authorizing the Department of Transportation and
4 certain local governmental entities to prescribe and
5 enforce rules or regulations regarding the placing and
6 maintaining of certain voice or data communications
7 services lines or wireless facilities on certain
8 rights-of-way; providing a short title; providing
9 definitions; prohibiting an authority from
10 prohibiting, regulating, or charging for the
11 collocation of small wireless facilities in public
12 rights-of-way under certain circumstances; authorizing
13 an authority to require a registration process and
14 permit fees under certain circumstances; requiring an
15 authority to accept, process, and issue applications
16 for permits subject to specified requirements;
17 prohibiting an authority from requiring approval or
18 requiring fees or other charges for routine
19 maintenance, the replacement of certain wireless
20 facilities, or the installation, placement,
21 maintenance, or replacement of certain micro wireless
22 facilities; providing an exception; providing
23 requirements for the collocation of small wireless
24 facilities on authority utility poles; providing
25 requirements for rates, fees, and other terms related

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26 to authority utility poles; authorizing an authority
27 to apply current ordinances regulating placement of
28 communications facilities in the right-of-way for
29 certain applications; requiring an authority to waive
30 certain permit application requirements and small
31 wireless facility placement requirements; prohibiting
32 an authority from adopting or enforcing any regulation
33 on the placement or operation of certain
34 communications facilities and from regulating any
35 communications services or imposing or collecting any
36 tax, fee, or charge not specifically authorized under
37 state law; providing construction; requiring a
38 wireless provider to comply with certain
39 nondiscriminatory undergrounding requirements of an
40 authority; authorizing the authority to waive any such
41 requirements; authorizing a wireless infrastructure
42 provider to apply to an authority to place utility
43 poles in the public rights-of-way to support the
44 collocation of small wireless facilities; providing
45 application requirements; requiring the authority to
46 accept and process the application subject to certain
47 requirements; providing construction; authorizing an
48 authority to enforce certain local codes,
49 administrative rules, or regulations; authorizing an
50 authority to enforce certain pending local ordinances,

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51 administrative rules, or regulations under certain
 52 circumstances, subject to waiver by the authority;
 53 providing construction; providing an effective date.
 54

55 Be It Enacted by the Legislature of the State of Florida:
 56

57 Section 1. Paragraph (a) of subsection (1) of section
 58 337.401, Florida Statutes, is amended, and subsection (7) is
 59 added to that section, to read:

60 337.401 Use of right-of-way for utilities subject to
 61 regulation; permit; fees.-

62 (1)(a) The department and local governmental entities,
 63 referred to in this section and in ss. 337.402, 337.403, and
 64 337.404 as the "authority," that have jurisdiction and control
 65 of public roads or publicly owned rail corridors are authorized
 66 to prescribe and enforce reasonable rules or regulations with
 67 reference to the placing and maintaining across, on, or within
 68 the right-of-way limits of any road or publicly owned rail
 69 corridors under their respective jurisdictions any electric
 70 transmission, voice ~~telephone~~, telegraph, data, or other
 71 communications services lines or wireless facilities; pole
 72 lines; poles; railways; ditches; sewers; water, heat, or gas
 73 mains; pipelines; fences; gasoline tanks and pumps; or other
 74 structures referred to in this section and in ss. 337.402,
 75 337.403, and 337.404 as the "utility." The department may enter

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76 into a permit-delegation agreement with a governmental entity if
 77 issuance of a permit is based on requirements that the
 78 department finds will ensure the safety and integrity of
 79 facilities of the Department of Transportation; however, the
 80 permit-delegation agreement does not apply to facilities of
 81 electric utilities as defined in s. 366.02(2).

82 (7) (a) This subsection may be cited as the "Advanced
 83 Wireless Infrastructure Deployment Act."

84 (b) As used in this subsection, the term:

85 1. "Antenna" means communications equipment that transmits
 86 or receives electromagnetic radio frequency signals used in
 87 providing wireless services.

88 2. "Applicable codes" means uniform building, fire,
 89 electrical, plumbing, or mechanical codes adopted by a
 90 recognized national code organization or local amendments to
 91 those codes enacted solely to address threats of destruction of
 92 property or injury to persons, or local codes or ordinances
 93 adopted to implement this subsection. The term includes
 94 objective design standards adopted by ordinance that may require
 95 a new utility pole that replaces an existing utility pole to be
 96 of substantially similar design, material, and color or that may
 97 require reasonable spacing requirements concerning the location
 98 of ground-mounted equipment. The term includes objective design
 99 standards adopted by ordinance that may require a small wireless
 100 facility to meet reasonable location context, color, stealth,

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101 and concealment requirements; however, such design standards may
 102 be waived by the authority upon a showing that the design
 103 standards are not reasonably compatible for the particular
 104 location of a small wireless facility or that the design
 105 standards impose an excessive expense. The waiver shall be
 106 granted or denied within 45 days after the date of the request.

107 3. "Applicant" means a person who submits an application
 108 and is a wireless provider.

109 4. "Application" means a request submitted by an applicant
 110 to an authority for a permit to collocate small wireless
 111 facilities.

112 5. "Authority" means a county or municipality having
 113 jurisdiction and control of the rights-of-way of any public
 114 road. The term does not include the Department of
 115 Transportation. Rights-of-way under the jurisdiction and control
 116 of the department are excluded from this subsection.

117 6. "Authority utility pole" means a utility pole owned by
 118 an authority in the right-of-way. The term does not include a
 119 utility pole owned by a municipal electric utility, a utility
 120 pole used to support municipally owned or operated electric
 121 distribution facilities, or a utility pole located in the right-
 122 of-way within:

123 a. A retirement community that:

124 (I) Is deed restricted as housing for older persons as
 125 defined in s. 760.29(4)(b);

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126 (II) Has more than 5,000 residents; and
 127 (III) Has underground utilities for electric transmission
 128 or distribution.

129 b. A municipality that:

130 (I) Is located on a coastal barrier island as defined in
 131 s. 161.053(1)(b)3.;

132 (II) Has a land area of less than 5 square miles;

133 (III) Has less than 10,000 residents; and

134 (IV) Has, before July 1, 2017, received referendum
 135 approval to issue debt to finance municipal-wide undergrounding
 136 of its utilities for electric transmission or distribution.

137 7. "Collocate" or "collocation" means to install, mount,
 138 maintain, modify, operate, or replace one or more wireless
 139 facilities on, under, within, or adjacent to a wireless support
 140 structure or utility pole. The term does not include the
 141 installation of a new utility pole or wireless support structure
 142 in the public rights-of-way.

143 8. "FCC" means the Federal Communications Commission.

144 9. "Micro wireless facility" means a small wireless
 145 facility having dimensions no larger than 24 inches in length,
 146 15 inches in width, and 12 inches in height and an exterior
 147 antenna, if any, no longer than 11 inches.

148 10. "Small wireless facility" means a wireless facility
 149 that meets the following qualifications:

150 a. Each antenna associated with the facility is located

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151 inside an enclosure of no more than 6 cubic feet in volume or,
 152 in the case of antennas that have exposed elements, each antenna
 153 and all of its exposed elements could fit within an enclosure of
 154 no more than 6 cubic feet in volume; and

155 b. All other wireless equipment associated with the
 156 facility is cumulatively no more than 28 cubic feet in volume.
 157 The following types of associated ancillary equipment are not
 158 included in the calculation of equipment volume: electric
 159 meters, concealment elements, telecommunications demarcation
 160 boxes, ground-based enclosures, grounding equipment, power
 161 transfer switches, cutoff switches, vertical cable runs for the
 162 connection of power and other services, and utility poles or
 163 other support structures.

164 11. "Utility pole" means a pole or similar structure that
 165 is used in whole or in part to provide communications services
 166 or for electric distribution, lighting, traffic control,
 167 signage, or a similar function. The term includes the vertical
 168 support structure for traffic lights but does not include a
 169 horizontal structure to which signal lights or other traffic
 170 control devices are attached and does not include a pole or
 171 similar structure 15 feet in height or less unless an authority
 172 grants a waiver for such pole.

173 12. "Wireless facility" means equipment at a fixed
 174 location which enables wireless communications between user
 175 equipment and a communications network, including radio

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176 transceivers, antennas, wires, coaxial or fiber-optic cable or
 177 other cables, regular and backup power supplies, and comparable
 178 equipment, regardless of technological configuration, and
 179 equipment associated with wireless communications. The term
 180 includes small wireless facilities. The term does not include:
 181 a. The structure or improvements on, under, within, or
 182 adjacent to the structure on which the equipment is collocated;
 183 b. Wireline backhaul facilities; or
 184 c. Coaxial or fiber-optic cable that is between wireless
 185 structures or utility poles or that is otherwise not immediately
 186 adjacent to or directly associated with a particular antenna.
 187 13. "Wireless infrastructure provider" means a person who
 188 has been certificated to provide telecommunications service in
 189 the state and who builds or installs wireless communication
 190 transmission equipment, wireless facilities, or wireless support
 191 structures but is not a wireless services provider.
 192 14. "Wireless provider" means a wireless infrastructure
 193 provider or a wireless services provider.
 194 15. "Wireless services" means any services provided using
 195 licensed or unlicensed spectrum, whether at a fixed location or
 196 mobile, using wireless facilities.
 197 16. "Wireless services provider" means a person who
 198 provides wireless services.
 199 17. "Wireless support structure" means a freestanding
 200 structure, such as a monopole, a guyed or self-supporting tower,

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201 or another existing or proposed structure designed to support or
 202 capable of supporting wireless facilities. The term does not
 203 include a utility pole.

204 (c) Except as provided in this subsection, an authority
 205 may not prohibit, regulate, or charge for the collocation of
 206 small wireless facilities in the public rights-of-way.

207 (d) An authority may require a registration process and
 208 permit fees in accordance with subsection (3). An authority
 209 shall accept applications for permits and shall process and
 210 issue permits subject to the following requirements:

211 1. An authority may not directly or indirectly require an
 212 applicant to perform services unrelated to the collocation for
 213 which approval is sought, such as in-kind contributions to the
 214 authority, including reserving fiber, conduit, or pole space for
 215 the authority.

216 2. An applicant may not be required to provide more
 217 information to obtain a permit than is necessary to demonstrate
 218 the applicant's compliance with applicable codes for the
 219 placement of small wireless facilities in the locations
 220 identified the application.

221 3. An authority may not require the placement of small
 222 wireless facilities on any specific utility pole or category of
 223 poles or require multiple antenna systems on a single utility
 224 pole.

225 4. An authority may not limit the placement of small

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226 wireless facilities by minimum separation distances. However,
227 within 14 days after the date of filing the application, an
228 authority may request that the proposed location of a small
229 wireless facility be moved to another location in the right-of-
230 way and placed on an alternative authority utility pole or
231 support structure or may place a new utility pole. The authority
232 and the applicant may negotiate the alternative location,
233 including any objective design standards and reasonable spacing
234 requirements for ground-based equipment, for 30 days after the
235 date of the request. At the conclusion of the negotiation
236 period, if the alternative location is accepted by the
237 applicant, the applicant must notify the authority of such
238 acceptance and the application shall be deemed granted for any
239 new location for which there is agreement and all other
240 locations in the application. If an agreement is not reached,
241 the applicant must notify the authority of such nonagreement and
242 the authority must grant or deny the original application within
243 90 days after the date the application was filed. A request for
244 an alternative location, an acceptance of an alternative
245 location, or a rejection of an alternative location must be in
246 writing and provided by electronic mail.

247 5. An authority shall limit the height of a small wireless
248 facility to 10 feet above the utility pole or structure upon
249 which the small wireless facility is to be collocated. Unless
250 waived by an authority, the height for a new utility pole is

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251 limited to the tallest existing utility pole as of July 1, 2017,
 252 located in the same right-of-way, other than a utility pole for
 253 which a waiver has previously been granted, measured from grade
 254 in place within 500 feet of the proposed location of the small
 255 wireless facility. If there is no utility pole within 500 feet,
 256 the authority shall limit the height of the utility pole to 50
 257 feet.

258 6. Except as provided in subparagraphs 4. and 5., the
 259 installation of a utility pole in the public rights-of-way
 260 designed to support a small wireless facility shall be subject
 261 to authority rules or regulations governing the placement of
 262 utility poles in the public rights-of-way and shall be subject
 263 to the application review timeframes in this subsection.

264 7. Within 14 days after receiving an application, an
 265 authority must determine and notify the applicant by electronic
 266 mail as to whether the application is complete. If an
 267 application is deemed incomplete, the authority must
 268 specifically identify the missing information. An application is
 269 deemed complete if the authority fails to provide notification
 270 to the applicant within 14 days.

271 8. An application must be processed on a nondiscriminatory
 272 basis. A complete application is deemed approved if an authority
 273 fails to approve or deny the application within 60 days after
 274 receipt of the application. If an authority does not use the 30-
 275 day negotiation period provided in subparagraph 4., the parties

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276 may mutually agree to extend the 60-day application review
 277 period. The authority shall grant or deny the application at the
 278 end of the extended period. A permit issued pursuant to an
 279 approved application shall remain effective for 1 year unless
 280 extended by the authority.

281 9. An authority must notify the applicant of approval or
 282 denial by electronic mail. An authority shall approve a complete
 283 application unless it does not meet the authority's applicable
 284 codes. If the application is denied, the authority must specify
 285 in writing the basis for denial, including the specific code
 286 provisions on which the denial was based, and send the
 287 documentation to the applicant by electronic mail on the day the
 288 authority denies the application. The applicant may cure the
 289 deficiencies identified by the authority and resubmit the
 290 application within 30 days after notice of the denial is sent to
 291 the applicant. The authority shall approve or deny the revised
 292 application within 30 days after receipt or the application is
 293 deemed approved. Any subsequent review shall be limited to the
 294 deficiencies cited in the denial.

295 10. An applicant seeking to collocate small wireless
 296 facilities within the jurisdiction of a single authority may, at
 297 the applicant's discretion, file a consolidated application and
 298 receive a single permit for the collocation of up to 30 small
 299 wireless facilities. If the application includes multiple small
 300 wireless facilities, an authority may separately address small

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301 wireless facility collocations for which incomplete information
302 has been received or which are denied.

303 11. An authority may deny a proposed collocation of a
304 small wireless facility in the public rights-of-way if the
305 proposed collocation:

306 a. Materially interferes with the safe operation of
307 traffic control equipment.

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

310 c. Materially interferes with compliance with the
311 Americans with Disabilities Act or similar federal or state
312 standards regarding pedestrian access or movement.

313 d. Materially fails to comply with the 2010 edition of the
314 Florida Department of Transportation Utility Accommodation
315 Manual.

316 e. Fails to comply with applicable codes.

317 12. An authority may adopt by ordinance provisions for
318 insurance coverage, indemnification, performance bonds, security
319 funds, force majeure, abandonment, authority liability, or
320 authority warranties. Such provisions must be reasonable and
321 nondiscriminatory.

322 13. Collocation of a small wireless facility on an
323 authority utility pole does not provide the basis for the
324 imposition of an ad valorem tax on the authority utility pole.

325 14. An authority may reserve space on authority utility

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326 poles for future public safety uses. However, a reservation of
 327 space may not preclude collocation of a small wireless facility.
 328 If replacement of the authority utility pole is necessary to
 329 accommodate the collocation of the small wireless facility and
 330 the future public safety use, the pole replacement is subject to
 331 make-ready provisions and the replaced pole shall accommodate
 332 the future public safety use.

333 15. A structure granted a permit and installed pursuant to
 334 this subsection shall comply with chapter 333 and federal
 335 regulations pertaining to airport airspace protections.

336 (e) An authority may not require approval or require fees
 337 or other charges for:

338 1. Routine maintenance;

339 2. Replacement of existing wireless facilities with
 340 wireless facilities that are substantially similar or of the
 341 same or smaller size; or

342 3. Installation, placement, maintenance, or replacement of
 343 micro wireless facilities that are suspended on cables strung
 344 between existing utility poles in compliance with applicable
 345 codes by or for a communications services provider authorized to
 346 occupy the rights-of-way and who is remitting taxes under
 347 chapter 202.

348
 349 Notwithstanding this paragraph, an authority may require a
 350 right-of-way permit for work that involves excavation, closure

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351 of a sidewalk, or closure of a vehicular lane.

352 (f) Collocation of small wireless facilities on authority

353 utility poles is subject to the following requirements:

354 1. An authority may not enter into an exclusive

355 arrangement with any person for the right to attach equipment to

356 authority utility poles.

357 2. The rates and fees for collocations on authority

358 utility poles must be nondiscriminatory, regardless of the

359 services provided by the collocating person.

360 3. The rate to collocate small wireless facilities on an

361 authority utility pole may not exceed \$150 per pole annually.

362 4. Agreements between authorities and wireless providers

363 that are in effect on July 1, 2017, and that relate to the

364 collocation of small wireless facilities in the right-of-way,

365 including the collocation of small wireless facilities on

366 authority utility poles, remain in effect, subject to applicable

367 termination provisions. The wireless provider may accept the

368 rates, fees, and terms established under this subsection for

369 small wireless facilities and utility poles that are the subject

370 of an application submitted after the rates, fees, and terms

371 become effective.

372 5. A person owning or controlling an authority utility

373 pole shall offer rates, fees, and other terms that comply with

374 this subsection. By the later of January 1, 2018, or 3 months

375 after receiving a request to collocate its first small wireless

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376 facility on a utility pole owned or controlled by an authority,
 377 the person owning or controlling the authority utility pole
 378 shall make available, through ordinance or otherwise, rates,
 379 fees, and terms for the collocation of small wireless facilities
 380 on the authority utility pole which comply with this subsection.

381 a. The rates, fees, and terms must be nondiscriminatory
 382 and competitively neutral and must comply with this subsection.

383 b. For an authority utility pole that supports an aerial
 384 facility used to provide communications services or electric
 385 service, the parties shall comply with the process for make-
 386 ready work under 47 U.S.C. s. 224 and implementing regulations.
 387 The good faith estimate of the person owning or controlling the
 388 pole for any make-ready work necessary to enable the pole to
 389 support the requested collocation must include pole replacement
 390 if necessary.

391 c. For an authority utility pole that does not support an
 392 aerial facility used to provide communications services or
 393 electric service, the authority shall provide a good faith
 394 estimate for any make-ready work necessary to enable the pole to
 395 support the requested collocation, including necessary pole
 396 replacement, within 60 days after receipt of a complete
 397 application. Make-ready work, including any pole replacement,
 398 must be completed within 60 days after written acceptance of the
 399 good faith estimate by the applicant. Alternatively, an
 400 authority may require the applicant seeking to collocate a small

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401 wireless facility to provide a make-ready estimate at the
402 applicant's expense for the work necessary to support the small
403 wireless facility, including pole replacement, and perform the
404 make-ready work. If pole replacement is required, the scope of
405 the make-ready estimate is limited to the design, fabrication,
406 and installation of a utility pole that is substantially similar
407 in color and composition. The authority may not condition or
408 restrict the manner in which the applicant obtains, develops, or
409 provides the estimate or conducts the make-ready work subject to
410 usual construction restoration standards for work in the right-
411 of-way. The replaced or altered utility pole shall remain the
412 property of the authority.

413 d. An authority may not require more make-ready work than
414 is required to meet applicable codes or industry standards. Fees
415 for make-ready work may not include costs related to preexisting
416 damage or prior noncompliance. Fees for make-ready work,
417 including any pole replacement, may not exceed actual costs or
418 the amount charged to communications services providers other
419 than wireless services providers for similar work and may not
420 include any consultant fee or expense.

421 (g) For any applications filed before the effective date
422 of ordinances implementing this subsection, an authority may
423 apply current ordinances relating to placement of communications
424 facilities in the right-of-way related to registration,
425 permitting, insurance coverage, indemnification, performance

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426 bonds, security funds, force majeure, abandonment, authority
 427 liability, or authority warranties. Permit application
 428 requirements and small wireless facility placement requirements,
 429 including utility pole height limits, that conflict with this
 430 subsection shall be waived by the authority.

431 (h) Except as provided in this section or specifically
 432 required by state law, an authority may not adopt or enforce any
 433 regulation on the placement or operation of communications
 434 facilities in the rights-of-way by a provider authorized by
 435 state law to operate in the rights-of-way and may not regulate
 436 any communications services or impose or collect any tax, fee,
 437 or charge not specifically authorized under state law. This
 438 paragraph does not alter any law regarding an authority's
 439 ability to regulate the relocation of facilities.

440 (i) A wireless provider shall, in relation to a small
 441 wireless facility, utility pole, or wireless support structure
 442 in the public rights-of-way, comply with nondiscriminatory
 443 undergrounding requirements of an authority that prohibit above-
 444 ground structures in public rights-of-way. Any such requirements
 445 may be waived by the authority.

446 (j) A wireless infrastructure provider may apply to an
 447 authority to place utility poles in the public rights-of-way to
 448 support the collocation of small wireless facilities. The
 449 application must include an attestation that small wireless
 450 facilities will be collocated on the utility pole or structure

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451 and will be used by a wireless services provider to provide
 452 service within 9 months after the date the application is
 453 approved. The authority shall accept and process the application
 454 in accordance with subparagraph (d)6. and any applicable codes
 455 and other local codes governing the placement of utility poles
 456 in the public rights-of-way.

457 (k) This subsection does not limit a local government's
 458 authority to enforce historic preservation zoning regulations
 459 consistent with the preservation of local zoning authority under
 460 47 U.S.C. s. 332(c)(7), the requirements for facility
 461 modifications under 47 U.S.C. s. 1455(a), or the National
 462 Historic Preservation Act of 1966, as amended, and the
 463 regulations adopted to implement such laws. An authority may
 464 enforce local codes, administrative rules, or regulations
 465 adopted by ordinance in effect on April 1, 2017, which are
 466 applicable to a historic area designated by the state or
 467 authority. An authority may enforce pending local ordinances,
 468 administrative rules, or regulations applicable to a historic
 469 area designated by the state if the intent to adopt such changes
 470 has been publicly declared on or before April 1, 2017. An
 471 authority may waive any ordinances or other requirements that
 472 are subject to this paragraph.

473 (l) This subsection does not authorize a person to
 474 collocate or attach wireless facilities, including any antenna,
 475 micro wireless facility, or small wireless facility, on a

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476 privately owned utility pole, a utility pole owned by an
 477 electric cooperative or a municipal electric utility, a
 478 privately owned wireless support structure, or other private
 479 property without the consent of the property owner.

480 (m) The approval of the installation, placement,
 481 maintenance, or operation of a small wireless facility pursuant
 482 to this subsection does not authorize the provision of any
 483 voice, data, or video communications services or the
 484 installation, placement, maintenance, or operation of any
 485 communications facilities other than small wireless facilities
 486 in the right-of-way.

487 (n) This subsection does not affect provisions relating to
 488 pass-through providers in subsection (6).

489 (o) This subsection does not authorize a person to
 490 collocate or attach small wireless facilities or micro wireless
 491 facilities on a utility pole, unless otherwise permitted by
 492 federal law, or erect a wireless support structure in the right-
 493 of-way located within a retirement community that:

- 494 1. Is deed restricted as housing for older persons as
 495 defined in s. 760.29(4) (b);
- 496 2. Has more than 5,000 residents; and
- 497 3. Has underground utilities for electric transmission or
 498 distribution.

499
 500 This paragraph does not apply to the installation, placement,

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501 maintenance, or replacement of micro wireless facilities on any
 502 existing and duly authorized aerial communications facilities,
 503 provided that once aerial facilities are converted to
 504 underground facilities, any such collocation or construction
 505 shall be only as provided by the municipality's underground
 506 utilities ordinance.

507 (p) This subsection does not authorize a person to
 508 collocate or attach small wireless facilities or micro wireless
 509 facilities on a utility pole, unless otherwise permitted by
 510 federal law, or erect a wireless support structure in the right-
 511 of-way located within a municipality that:

- 512 1. Is located on a coastal barrier island as defined in s.
- 513 161.053(1)(b)3.;
- 514 2. Has a land area of less than 5 square miles;
- 515 3. Has fewer than 10,000 residents; and
- 516 4. Has, before July 1, 2017, received referendum approval
 517 to issue debt to finance municipal-wide undergrounding of its
 518 utilities for electric transmission or distribution.

519

520 This paragraph does not apply to the installation, placement,
 521 maintenance, or replacement of micro wireless facilities on any
 522 existing and duly authorized aerial communications facilities,
 523 provided that once aerial facilities are converted to
 524 underground facilities, any such collocation or construction
 525 shall be only as provided by the municipality's underground

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526 utilities ordinance.

527 (q) This subsection does not authorize a person to
528 collocate small wireless facilities or micro wireless facilities
529 on an authority utility pole or erect a wireless support
530 structure in a location subject to covenants, conditions,
531 restrictions, articles of incorporation, and bylaws of a
532 homeowners' association. This paragraph does not apply to the
533 installation, placement, maintenance, or replacement of micro
534 wireless facilities on any existing and duly authorized aerial
535 communications facilities.

536 Section 2. This act shall take effect July 1, 2017.