

**ORDINANCE 18-1486**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CASSELBERRY, FLORIDA, RELATING TO COMMUNICATION FACILITIES; AMENDING THE CITY UNIFIED LAND DEVELOPMENT REGULATIONS BY AMENDING SECTION 2-7.36, "COMMUNICATION TOWER, COMMUNICATION ANTENNA, AND WIRELESS COMMUNICATION FACILITY REGULATIONS" WITHIN ARTICLE VII, "GENERAL REGULATIONS" OF CHAPTER II, "DISTRICT AND GENERAL REGULATIONS" TO CLARIFY REGULATIONS REGARDING COMMUNICATION TOWERS, COMMUNICATION ANTENNAS, AND WIRELESS COMMUNICATION FACILITIES; AND BY AMENDING SECTION 5-21.2, "DEFINITION OF TERMS" OF ARTICLE XXI, "LANGUAGE AND DEFINITIONS" OF CHAPTER V, "GLOSSARY" TO ADD DEFINITIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, advances in telecommunications infrastructure have been developed which help to meet wireless system capacity demands in dense areas through the deployment of localized networks of antennas; and

**WHEREAS**, Section 337.401 et seq., Florida Statutes, addresses, inter alia, the authority of municipalities to regulate the placement and maintenance of communications facilities in the public rights-of-way; and

**WHEREAS**, the Florida Legislature has adopted, and on June 23, 2017, the Governor signed into law, effective July 1, 2017, the Advanced Wireless Infrastructure Deployment Act (the "Act") codified at Section 337.401, Florida Statutes, which places certain limitations on local government authority to regulate the collocation of small wireless facilities within public rights-of-way; and

**WHEREAS**, the Emergency Communications Number E911 Act, Chapter 365, Florida Statutes (the “Act”), addresses, inter alia, local governments' regulation of the placement, construction or modification of wireless communications facilities; and

**WHEREAS**, the Act establishes parameters for the regulation of communications facilities, and allows local governments to review any applicable land development or zoning issue addressed, including, but not limited to, aesthetics, landscaping, land use based location priorities, structural design, and setbacks; and

**WHEREAS**, courts applying Florida and federal law have held that a municipality may impose reasonable design limitations on communications facilities that deal directly with a concern for aesthetics and may regulate the placement of wireless facilities where such regulation does not prohibit or effectively prohibit the provision of wireless services; and

**WHEREAS**, on July 24, 2017, the City Commission adopted Ordinance 2017- amending Section 2-7.36, “Communication Tower, Communication Antenna, and Wireless Communication Facility Regulations,” of the City of Casselberry Unified Land Development Regulations; and

**WHEREAS**, it is in the best interests of the citizens, business, and visitors in the City of Casselberry to ensure there is sufficient wireless communication service; and

**WHEREAS**, the City of Casselberry has a substantial and significant public interest in regulating the siting of communication towers, communication antennas, and wireless communication facilities to promote the public health, safety, aesthetics, and general welfare; and

**WHEREAS**, the City of Casselberry has a substantial and significant public interest in protecting residential areas and land uses from potential adverse impacts of communication towers, communication antennas, and wireless communication facilities; and

**WHEREAS**, the City of Casselberry desires to avoid potential damage to adjacent properties from tower or wireless communication facility failure through engineering and careful siting; and

**WHEREAS**, the City of Casselberry desires to accommodate the growing need and demand for communication services while minimizing visual and other impacts of wireless communication facilities on surrounding areas by establishing standards for location, design, landscape screening, and compatibility; and

**WHEREAS**, the provisions of the City of Casselberry Unified Land Development Regulations regulating communication towers and communication antennas require updating to address current technology and practices utilizing wireless communication facilities on real property and in the public rights-of-way; and

**WHEREAS**, the City Commission of the City of Casselberry (“City Commission”) desires to establish uniform standards and guidelines for the siting, design, and permitting of communication towers, communication antennas, and wireless communication facilities in the City of Casselberry and to establish review procedures to ensure that applications for same are acted upon consistent with state and federal law; and

**WHEREAS**, at its regularly scheduled meeting of April 11, 2018 the City of Casselberry Planning and Zoning Commission/Local Planning Agency voted in favor of the proposed revisions; and

**WHEREAS**, the City Commission of the City of Casselberry, Florida, has held two public hearings with due public notice to consider the proposed amendments; and

**WHEREAS**, the City Commission of the City of Casselberry, Florida, hereby finds this Ordinance consistent with the Comprehensive Plan of the City of Casselberry, and in the best

interest of the public health, safety, and welfare of the citizens of the City of Casselberry, Florida, while complying with the Act and all other state and federal laws and regulations governing communications facilities; and

**WHEREAS**, words with double underlined type shall constitute additions to the original text and ~~strike through~~ type shall constitute deletions to the original text, and asterisks (\* \* \*) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF CASSELBERRY, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Commission of the City of Casselberry.

**Section 2.**     **Amendment of Section 2-7.36, “Communication Tower, Communication Antenna, and Wireless Communication Facility Regulations”.** That Section 2-7.36, “Communication Tower, Communication Antenna, and Wireless Communication Facility Regulations” of Article VII, “General Regulations” of Chapter II, “District and General Regulations” of the City Unified Land Development Regulations, is hereby amended to read as follows:

Section 2-7.36. – Communication tower, communication antenna, and wireless communication facility regulations.

\* \* \*

C.     *Communication towers and communication antennas.*

\* \* \*

5. Collocation of communication antenna.

a. Collocation of communication antenna on towers. Collocation of communication antenna on towers, including nonconforming towers, are subject only to building-permit review, which may include a review for compliance with this section, if the applicants meet the following requirements:

(1) The collocation does not increase the height of the tower to which the antennas are to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower; and

(2) The collocation does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment facilities and ancillary facilities, except as allowed under this section; and

(3) The collocation consists of antennas, equipment facilities, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennas placed on the tower and to its accompanying equipment facilities and ancillary facilities and, if applicable, applied to the tower supporting the antennas. Such regulations may include design and aesthetic requirements but not procedural requirements, other than those authorized by this subsection, of the applicable ULDRs in effect at the time the initial antenna's placement was approved.

Such collocations shall not be subject to the design or placement requirements of the ULDRs in effect at the time of the collocation that are more restrictive than those in effect at the time of the initial antenna placement approval, to any other portion of the ULDRs, or to public hearing review. Such collocation applications are not subject to the Planning and Zoning Commission's approval and shall be decided by the City Manager or designee.

b. Collocation on structures, other than towers. Except for an historic building, structure, site, object, or district, the following collocation applications on all other existing structures shall be subject to no more than administrative review for compliance with this section and building permit standards if they meet the following requirements:

(1) The collocation does not increase the height; and

(2) The collocation does not increase the existing ground space area, otherwise known as the compound, if any, approved in the site plan for the equipment facility and ancillary facilities.

(3) The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration

consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure in effect at the time of approval of the structure, but not prohibitions or restrictions on the placement of additional collocations on the existing structure or procedural requirements other than those authorized by this subsection at the time of the collocation application; and

(4) The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with subsection (3), and were applied to the initial antennas placed on the structure and to its accompanying equipment facility and ancillary facilities and, if applicable, applied to the structure supporting the antennas.

c. If only a portion of the collocation does not meet the requirements of any of the above subsections, such as an increase in the height or a proposal to expand the ground space approved in the site plan for the equipment facility by more than 400 square feet or 50 percent, where all other portions of the collocation meet the requirements of this subsection, that portion of the collocation only may be reviewed as set forth in subsection (f) below. A collocation proposal under this subsection that increases the ground space area approved in the original site plan, for equipment facilities and ancillary facilities, by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall require no more than administrative review for compliance with the city's regulations; including, but not limited to, ULDRs and building permit review; provided, however, that any collocation proposal that increases the original compound size more than such greater cumulative amount shall be reviewed as if it were a new communications facility.

d. Any existing tower, including a nonconforming tower, may be structurally modified to permit collocation or may be replaced through no more than administrative review and building permit review, and is not subject to public hearing review, if the overall height of the tower is not increased and if the replacement tower is a monopole tower; or, if the pre-existing tower is a stealth tower, the replacement tower is a similar stealth tower.

e. The owner of the existing tower on which the proposed antennas are to be collocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the land development regulations to which the pre-existing tower must comply, including any aesthetic requirements, provided the condition or requirement is not inconsistent with this subsection.

f. Collocations, or portions thereof, not meeting the requirements set forth in subsections (a) and (b) above shall be subject to the approval and permitting process set forth in subsection (6)(a) below, and shall meet the standards and additional requirements set forth herein.

5-6. Approval and permitting process.

a. Site plan review. Notwithstanding the requirements of Article XVIII, Section 4-18.2 of the Unified Land Development Regulations, all communication tower and applicable communication antenna applications shall be reviewed under the general site plan review procedure prior to issuance of a building permit pursuant to the site plan review requirements of Chapter IV, Section 4-18.1-5. Any request to deviate from any of the requirements of this Section shall require conditional use approval from the Planning and Zoning Commission. In addition to the submittal requirements contained therein, the following information shall be required:

i. Documentation of compliance with separation requirements of Tables (2)(a) and (2)(b). The applicant shall indicate the exact distance, location, and identification of other communication towers on an appropriate map or drawing. This documentation shall include, but not be limited to, the distances between the base of the tower and the location of the residential uses and residential zoning districts as documented by a professional surveyor. The applicant shall also identify the type of construction of the existing communication tower(s) and the owner/operator of the existing tower(s) within three miles of the proposed tower location;

ii. Drawing(s) showing elevation of the proposed communication tower, indicating the finished color and, if applicable, the method of camouflage and illumination;

iii. Site plans, landscape plans, or other information showing compliance with the performance standards outlined in Subsection (3);

iv. A statement by the applicant as to how construction of the communication tower will accommodate ~~co-location~~ collocation of additional antennas for future users. This documentation shall include information that ~~co-location~~ collocation shall provide accommodation for a communication provider of identical technology. The statement shall set forth all efforts made to co-locate on existing structures.

v. If applicable, a signed affidavit from the landowner or tower owner that an executed lease agreement with a service provider for placement of the communication antenna collocation

exists or will be executed upon approval of the application, and where the tower or antenna will be collocated.

b. Conditional use review. All communication towers requiring conditional use review shall be subject to the conditional use review criteria in Chapter 2, Article VI. Notwithstanding any of the foregoing provisions of this Section, if a communication tower is to be located on City-owned property, the tower shall in all cases be subject to the conditional use approval process.

c. Building permits. Except for eligible facilities requests in accordance with Subsection 2-7.36(E), a building permit shall be required for the construction and modification of all communication towers and communication antennas.

d. Permit processing timeframes; "shot clock". The City's action on proposals to place or maintain Communications Facilities shall be subject to the applicable standards and time frames set out in Section 365.172, Florida Statutes, 47 U.S.C. § 1455 (a) and Orders issued by the FCC, as same may be amended from time to time. All Federal and State "shot clock" timeframe guidelines that apply to any particular permit are hereby recognized by the City, and the City will make all reasonable efforts to comply. The following procedures apply to construction of a new tower or modifications:

(1) Notification of completeness. The City Manager or designee shall notify the applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed.

(2) The City shall grant or deny each properly completed application for a collocation based on the application's compliance with this section, applicable provisions of the City Code and any other applicable regulations, and within the normal timeframe for a similar building permit review but in no case later than 45 business days after the date the application is determined to be properly completed. This timeframe shall not apply to lease negotiations for collocation on city-owned property. Eligible facilities shall be subject to the requirements set forth in subsection (D).

(3) The City shall grant or deny each properly completed application for any other communication tower or antenna based on the application's compliance with this section and any other applicable law, including but not limited to the City Code, and



within the normal timeframe for a similar type of review, but in no case later than 90 business days after the date the application is determined to be properly completed. This timeframe shall not apply to lease negotiations for wireless communications facilities on City-owned property.

(4) An application is deemed submitted or resubmitted on the date the application is received by the City. If the City does not notify the applicant in writing that the application is not completed in compliance with the City's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the application. If the application is not completed in compliance with the City's regulations, the City shall so notify the applicant in writing indicating with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the City shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. However, if applicant does not cure the application deficiencies within 20 business days after receiving the notice of deficiencies, the application shall be considered withdrawn or closed unless an extension, due to reasonable circumstances, of the time to cure is requested by the applicant prior to the expiration of the 20-day period, and such extension is granted by the City Manager or designee.

(5) The timeframes specified above may be extended only to the extent that the application has not been granted or denied, because the City's procedures generally applicable to all other similar types of applications require action by the City Commission or Planning and Zoning Commission, and such action has not taken place within the specified timeframes. Under such circumstances, the City Commission or Planning and Zoning Commission, as applicable, shall either grant or deny the application at its next regularly scheduled meeting, or, otherwise, the application shall be deemed automatically approved; accordingly, the City Manager or designee may by letter to the applicant extend the timeframe for a decision until the next available scheduled meeting date of the City Commission or Planning and Zoning Commission as to whether to grant or deny an application for a permit taken pursuant to this section. To be effective, a waiver of the timeframes set forth herein must be voluntarily agreed to by the applicant and the City. The City may request, but not require, a waiver of the timeframes by the

applicant, except that, with respect to a specific application, the City may require a one-time waiver in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the City. Notwithstanding the foregoing, the City and an applicant may voluntarily agree to waive the timeframes set forth above.

f. Public notice. For purposes of this ordinance, any conditional use request, variance request, or appeal of the Planning and Zoning Commission's decision regarding this section, shall require public notice to all directly abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Subsection (3)(c).

~~D. Co-location of communication antennas. To minimize adverse visual impacts associated with the proliferation and clustering of communication towers, co-location of communication antennas by more than one carrier on existing or new communication towers shall take precedence over the construction of new single-use communication towers as follows:~~

~~1. Proposed communication antennas may, and are encouraged to, co-located onto existing communication towers. Provided such co-location is accomplished in a manner consistent with Subsections 2-7.36(E)(2) through (E)(3), and in accordance with building permit review, such co-locations are permitted by right and new or additional conditional use approval shall not be required.~~

~~2. Type of construction. A communication tower which is modified or reconstructed to accommodate the co-location of an additional communication antenna shall be of the same tower type as the existing communication tower or as a standard monopole tower, except that a lattice communication tower may be reconstructed as a monopole tower.~~

~~3. Height.~~

~~a. An existing communication tower may be modified or rebuilt to a taller height not to exceed 20 feet over the tower's original height for each co-location opportunity and subject to the maximum height allowed for towers, to accommodate the co-location of an additional communication antenna.~~

~~b. The height change referred to in Subsection 2-7.36(D)(3)(a) may only occur one time per communication tower.~~

~~e. The additional height referred to in Subsection 2-7.36(D)(3)(a) shall not require an additional distance separation as set forth in either Table (2)(a) or Table (2)(b). The communication tower's premodification height shall be used to calculate such distance separations.~~

~~4. Onsite location. A communication tower which is being rebuilt to accommodate the co-location of an additional communication antenna may be moved onsite within 50 feet of its existing location, however the antenna shall meet the setback requirements in Subsection 2-7.36(C)(3)(a). A relocated onsite communication tower shall continue to be measured from the original tower location for the purposes of calculating separation distances between towers and separation distances to residentially zoned lands. After the communication tower is rebuilt to accommodate co-location, only one tower may remain on the site.~~

~~5. A relocated onsite communication tower shall continue to be measured from the original tower location for purposes of calculating separation distances between communication towers pursuant to Table (2)(b). The relocation of a tower in accordance with this Subsection shall in no way be deemed to cause a violation of Table (2)(b).~~

~~6. Existing electrical transmission poles and towers on utility owned or privately owned property shall be considered existing towers upon which antennas are permitted to be co-located. However, new transmission towers located upon electrical facility sites shall be subject to the distance requirements of Subsection 2-7.36(C)(3).~~

ED. Wireless communication facilities. All wireless communication facilities in the City of Casselberry shall be subject to these regulations:

1. General Requirements.

a. Within the City of Casselberry, wireless communication facilities, as defined in Section 5-21.2, shall be permitted on private or public property, and within city, county, and state public rights-of-way and public easements, subject to the requirements of this Section.

b. All wireless communication facilities in or on privately-owned and publicly-owned property and in public rights-of-way and public easements shall be constructed, utilized, and maintained in a manner consistent with the City ULDRs ~~subject to the City's zoning and land use regulations.~~

c. ~~Co-location~~ Collocation of wireless communication facilities is strongly encouraged. Where multiple providers are seeking to locate in the same geographic area, every effort should be made to co-locate.

d. Wireless communication facilities attached to a permitted and legally installed and maintained vertical structure in a public right-of-way or public easement, such as a street light pole or utility pole, is strongly encouraged.

2. Use, height and separation ~~and height~~ requirements.

a. Zoning and maximum heights. Wireless communication facilities shall be permitted in the zoning districts indicated below, at the maximum heights indicated. The zoning of the nearest adjacent property will apply to wireless communication facilities proposed in a city, county, or state public right-of-way.

Table 3  
 Permitted Zoning Districts and Maximum Heights for Wireless\*  
 Communication Facilities

<b>Zoning District</b>	<b>Private and Public Property</b>	<b>Public Rights-of-Way</b>
<del>R 12.5, R 9, R 8, RMH 8, PRD, RMHP ROS</del>  Any similar zoning district in adjoining jurisdictions.	Not permitted	Not permitted
<del>R 2F, RMF 13, RMH, PRD, RMF 20</del>  Any similar zoning district in adjoining jurisdictions.	35 ft.	35 ft.
<del>OR, CL</del>  Any similar zoning district in adjoining jurisdictions.	35 ft.	35 ft.
<del>CG, CS, PMX L, PMX H, PMX MID(1), PMX HIGH (1), PS, I, I M</del>  Any similar zoning district in adjoining jurisdictions.	45 ft.	45 ft.

<p>C, SB 2, CRD, LCOD</p> <p><del>** Wireless communication facilities shall be indicated as a permitted use on a PUD final development plan to be considered as permitted on private and public property pursuant to this table.</del></p>	<p>Not permitted</p>	<p>Not permitted</p>
---	----------------------	----------------------

<u>Zoning District</u>	<u>Permitted Use</u>	<u>Maximum Height</u>
<p><u>R-12.5, R-9, R-8, RMH-8, PRD, RMHP</u> <u>ROS</u></p> <p><u>Any similar zoning district in adjoining jurisdictions.</u></p>	<p><u>Not permitted unless applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its personal wireless service to the residential area from outside of the district.</u></p>	<p><u>35 ft.</u></p>
<p><u>R-2F, RMF-13, RMH, PRD, RMF-20</u></p> <p><u>Any similar zoning district in adjoining jurisdictions.</u></p>	<p><u>Permitted.</u></p>	<p><u>35 ft.</u></p>
<p><u>OR, CL</u></p> <p><u>Any similar zoning district in adjoining jurisdictions.</u></p>	<p><u>Permitted.</u></p>	<p><u>35 ft.</u></p>
<p><u>CG, CS, PMX-L, PMX-H, PMX-MID(1), PMX-HIGH (1), PS, I, I-M</u></p> <p><u>Any similar zoning district in adjoining jurisdictions.</u></p>	<p><u>Permitted.</u></p>	<p><u>45 ft.</u></p>

<p><u>C, SB-2, CRD, LCOD</u></p> <p><u>Wireless communication facilities shall be indicated as a permitted use on a PRD or PMX final development plan to be considered as permitted on private and public property pursuant to this table.</u></p>	<p><u>Not permitted unless applicant can conclusively demonstrate to the satisfaction of the city that it cannot reasonably provide its personal wireless service to the proposed district from outside of the district.</u></p>	<p><u>35 ft.</u></p>
<p><u>* The height and zoning requirements set forth herein shall not apply to the collocation of a small wireless facility permitted in accordance with the City of Casselberry Communications Rights-of-Way Ordinance, codified at Chapter 68. In accordance with Section 337.401, F.S., the height for a new utility pole installed in conjunction with the collocation of a small wireless facility shall be limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the height of the utility pole shall not exceed 50 feet.</u></p>		

b. Height compatibility. In addition to the maximum heights in (a) above, the size and height of vertical structures supporting wireless communication facilities in the right-of-way or public easements shall not be greater than the maximum size and height of vertical structures of the same type (i.e., other street light poles for street light pole installations, other utility poles for utility pole installations, etc.) in the same block-face.

c. Determination of similar zoning district in adjoining jurisdictions. When a wireless communication facility is proposed to be located in a right-of-way within the city limits which is adjacent to property located in an adjoining jurisdiction, the City Engineer, in consultation with the Community Development Director, or his or her designee, shall determine the corresponding zoning district for purposes of applying the zoning and maximum height requirements of this Section.

d. Separation from off-site adjacent residential. No wireless communication facility shall be permitted within seventy-five (75) feet of any off-site adjacent single-family or multi-family residential principal structure. Documentation shall be submitted with any application for permit approval to demonstrate conformance with the separation requirement.

e. Separation distances between wireless communication facilities. In accordance with Section 337.401(7)(d)(4), Florida Statutes, the placement of small wireless facilities is not limited by minimum separation distances. Except for small wireless facilities collocated pursuant to Section 68-156 of the City Code, the minimum separation distance between wireless communication facilities shall be six hundred (600) feet. Separation distances shall be irrespective of jurisdiction or location in rights-of-way or on parcels of land and shall be measured by drawing or following a straight line between the base of the existing wireless communication facility and the base of the proposed facility. Documentation shall be submitted with any request for a wireless communication facility to demonstrate conformance with the requirement for separation distances between wireless communication facilities.

3. Approval and permitting process.

a. Private and public property. Wireless communication facilities that comply with the requirements of this Section may be installed and located on private or public property through the building permit review and approval process. Such wireless communication facilities shall be exempt from site plan review provided the proposed wireless communication facility does not impact or conflict with improvements or landscaping on the subject property. In the event a proposed wireless communication facility conflicts with existing or proposed improvements or landscaping on the subject property, a site plan revision shall be required before permit issuance.

(1) Submittal Requirements. In addition to the standard building permit submittal requirements, applicants for wireless communication facilities shall submit plans which include the following:

a. A site plan of the entire property indicating where the limits of work are located on the property, and a blow-up of the limits of work area depicting the details of the proposed installation.

b. Depiction and identification within a minimum of 100 feet of work of all above ground infrastructure and improvements, including without limitation, pavement, curb, sidewalks, buildings, utility poles, etc. and all below ground infrastructure and utilities, including without limitation, foundations, tanks, utilities, etc. within limits of work.

c. Depiction and identification within a minimum of 50 feet of work of all existing landscaping and vegetation.

d. Depiction and identification of all existing easements within limits of work and any additional easement(s) acquired (e.g., access easement, temporary construction easement, or other easement) for construction of work. Easements must denote recording information.

e. Depiction and identification of the separation distance from all residential uses, include addresses, zoning, and type of residential use (e.g. single-family residential, multi-family, townhomes).

f. A profile view of the wireless communication facility demonstrating overall height and compliance with the pole construction requirements, design requirements, and all other applicable requirements of this Section.

g. Indication of the assigned address on the plan and a copy of the address assignment letter from Seminole County.

h. Depiction and identification of all wireless communication facilities located within a 600-foot radius measured from the center of the proposed wireless communication facility to the center of any existing wireless communication facility. If none exist within the 600-foot radius, the plans must denote this.

i. Depiction and identification of all proposed improvements for the wireless communication facility.

(2) Permit processing timeframes; "shot clock". The City's action on proposals to place or maintain communications facilities shall be subject to the applicable standards and time frames set out in Section 365.172, Florida Statutes, 47 U.S.C. § 1455 (a) and Orders issued by the FCC, as may be amended from time to time. All Federal and State "shot clock" timeframe guidelines that apply to any particular permit are hereby recognized by the City, and the City will make all reasonable efforts to comply. The following procedures apply to construction or installation of a new wireless communication facility or modification thereto:

a. Notification of completeness. The City Manager or designee shall notify the applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity



any deficiencies which, if cured, could make the application properly completed.

b. The City shall grant or deny each properly completed application for a collocation based on the application's compliance with this section, applicable provisions of the City Code and any other applicable regulations, and within the normal timeframe for a similar building permit review, but in no case later than 45 business days after the date the application is determined to be properly completed. This timeframe shall not apply to lease negotiations for collocation on City-owned property. Eligible facilities shall be subject to the requirements set forth in subsection (E).

c. The City shall grant or deny each properly completed application for any other wireless communications facility based on the application's compliance with this section and any other applicable law, including but not limited to the City Code, and within the normal timeframe for a similar type of review, but in no case later than 90 business days after the date the application is determined to be properly completed. This timeframe shall not apply to lease negotiations for wireless communications facilities on City-owned property.

d. An application is deemed submitted or resubmitted on the date the application is received by the City. If the City does not notify the applicant in writing that the application is not completed in compliance with the City's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the application. If the application is not completed in compliance with the City's regulations, the City shall so notify the applicant in writing indicating with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the City shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. However, if applicant does not cure the application deficiencies within 20 business days after receiving the

notice of deficiencies, the application shall be considered withdrawn or closed unless an extension due to reasonable circumstances of the time to cure is requested by the applicant prior to the expiration of the 20-day period and such extension is granted by the City Manager or designee.

e. The timeframes specified above may be extended only to the extent that the application has not been granted or denied, because the City's procedures generally applicable to all other similar types of applications require action by the City Commission or Planning and Zoning Commission, and such action has not taken place within the specified timeframes. Under such circumstances, the City Commission or Planning and Zoning Commission, as applicable, shall either grant or deny the application at its next regularly scheduled meeting, or, otherwise, the application shall be deemed automatically approved; accordingly, the City Manager or designee may by letter to the applicant extend the timeframe for a decision until the next available scheduled meeting date of the City Commission or Planning and Zoning Commission. To be effective, a waiver of the timeframes set forth herein must be voluntarily agreed to by the applicant and the City. The City may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, the City may require a one-time waiver in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the City. Notwithstanding the foregoing, the City and an applicant may voluntarily agree to waive the timeframes set forth above.

b. Public rights-of-way. Wireless communication facilities that comply with the requirements of this Section may be installed and located within public rights-of-way and public easements within the city limits of the City of Casselberry through the right-of-way permitting process set forth in Article IV, Communications Right-of-Way, City Code of Ordinances.

~~e. — Compliance with Unified Land Development Regulations. An existing or proposed wireless communication facility on private or public property or in public rights-of-way or public easements shall only be constructed, utilized, and maintained in a manner consistent with the City Unified Land Development Regulations.~~

~~d. — Plan requirements. In addition to the standard permit submittal requirements, applicants for wireless communication facilities shall submit plans which include the following:~~

~~i. Depict the area where the work shall be performed:~~

~~(a) For proposed locations on private and public property, provide a site plan of the entire property indicating where the limits of work are located on the property, and a blow-up of the limits of work area depicting the details of the proposed installation.~~

~~(b) For proposed locations in rights-of-way or public easements, provide the limits of right of way and easements and limits of work where work shall be performed.~~

~~ii. Depict and identify within a minimum of 100 feet of work all above ground infrastructure and improvements, including without limitation, pavement, curb, sidewalks, buildings, utility poles, etc. and all below ground infrastructure and utilities, including without limitation, foundations, tanks, utilities, etc. within limits of work.~~

~~iii. Depict and identify within a minimum of 50 feet of work all existing landscaping and vegetation.~~

~~iv. Depict and identify all existing easements within limits of work and any additional easement(s) acquired (e.g., access easement, temporary construction easement, or other easement) for construction of work. Easements must denote recording information.~~

~~v. Depict and identify the separation distance from all residential uses, include addresses, zoning, and type of residential use (e.g. single family residential, multi family, townhomes).~~

~~vi. Include a profile view of the wireless communication facility demonstrating overall height and compliance with the pole construction requirements, design requirements, and all other applicable requirements of this Section.~~

~~vii. Indicate the assigned address on the plan and submit a copy of the address assignment letter from Seminole County.~~

~~viii. Depict and identify all wireless communication facilities located within a 600-foot radius measured from the center of the proposed wireless communication facility to the center of any existing wireless communication facility. If none exist within the 600-foot radius, the plans must denote this.~~

~~ix. Plan and profile drawings must depict and identify all proposed improvements for the wireless communication facility.~~

~~x. For wireless communication facilities proposed to be located in a county or state right of way, a copy of the right of way utilization permit or authorization from the county or state.~~

~~xi. Drawings must be 24 x 36 inches, to a standard engineering scale, signed and sealed by a Professional Engineer registered in the State of Florida, and provided by electronic mail.~~

4. Objective design standards ~~Performance and construction standards for wireless communication facilities.~~

~~a. Separation from off-site residential. No wireless communication facility shall be permitted within seventy five (75) feet of any off-site single family or multi-family residential principal structure. Documentation shall be submitted with any application for permit approval to demonstrate conformance with the separation requirement.~~

~~b. Separation distances between wireless communication facilities. The minimum separation distance between wireless communication facilities shall be six hundred (600) feet. Separation distances shall be irrespective of jurisdiction or location in rights-of-way or on parcels of land and shall be measured by drawing or following a straight line between the base of the existing wireless communication facility and the base of the proposed facility. Documentation shall be submitted with any request for a wireless communication facility to demonstrate conformance with the requirement for separation distances between wireless communication facilities.~~

~~e. a. Type of pole construction. The following vertical pole structures may be used as support structures for new wireless communication facilities, subject to compliance with the requirements of this Section, to include the maximum heights set forth in Section 2-7.36 (ED)(2) use and height requirements.~~

~~i. Utility poles.~~

~~(a) Utility poles (as defined in Section 5-21.2) may be used as wireless communication facility support structures when wireless communication facilities are added to an existing utility pole, or an existing utility pole is replaced to support wireless communication facilities.~~

~~(b) Except for small wireless facilities, collocated or installed in accordance with Section 68-156 of the City Code, Wireless-wireless communication facilities~~

shall not be installed on existing, replacement, or new wood utility poles.

(c) New and replacement utility poles that support wireless communication facilities shall match the style, design, and color of non-wood utility poles in the surrounding area.

(d) New utility poles shall not be permitted in areas that have streetscaping or where the above-ground utilities have been removed or placed underground.

(e) In areas where decorative street lights are the predominant fixture, utility poles that support wireless communication facilities shall match the style, design, and color of the decorative streetlight poles.

ii. Streetlights and on-site light poles.

(a) Street lights in public rights-of-way and on-site light poles may be used as wireless communication facility support structures when wireless communication facilities are added to an existing light pole, or an existing light pole is replaced to support wireless communication facilities.

(b) Such street lights or on-site light poles shall continue to match the style, design, and color of existing street light poles on that particular street or parcel of land.

(c) In areas where decorative street lights are the predominant fixture, streetlight poles that support wireless communication facilities shall match the style, design, and color of the decorative streetlight poles.

iii. Stand-alone wireless support structure  
~~communication facility support pole.~~

(a) New poles designed specifically to support wireless communication facilities may be used for wireless communication facilities.

(b) For placement in public rights-of-way, an applicant must provide satisfactory evidence to the City that no existing utility poles or streetlights can be reasonably used for the wireless communication facility placement instead of the construction of a new, single-purpose support pole.

(c) New wireless ~~communication facility~~ support structures ~~poles~~ shall be a decorative monopole with a black finish.

(d) In areas where decorative street lights are the predominant fixture, wireless ~~communication facility~~

support structures ~~poles~~ shall match the style, design, and color of the decorative streetlight poles.

iv. Traffic signal poles.

(a) Except for small wireless facilities collocated pursuant to Chapter 68 of the City Code, wireless ~~Wireless~~ communication facilities shall not be installed on traffic signal poles owned by the City or located in the City's public right-of-way.

(b) Wireless communication facilities may be installed on traffic signal poles which are not owned by the City and not located in the City's public rights-of-way, if authorized by the agency owning the pole and the agency having control of the right-of-way, provided such installation complies with the requirements of this division.

~~d.~~ Design requirements. b. Installation and stealth requirements.

i. Stealth design for above-ground communications facilities, and in particular, utility poles and wireless support structures, shall be utilized wherever possible to minimize the visual impact of communications facilities on, and preserve compatibility with, surrounding neighborhoods, and to eliminate the need to locate any ground or elevated equipment on the exterior of a communications facility or existing structure. Stealth design is not required with respect to wireline pole attachment installations made in the communication space of utility poles. To the extent reasonably practicable for the site, stealth design features shall include, but are not limited to, the following:

(a) For new utility poles and new wireless support structures, as well as existing structures in the public rights-of-way, (i) top mounted antennas within enclosures that do not extend the diameter of the supporting communications facility pole, wireless support structure, existing structure or other support structure at the level of antenna attachment, or (ii) side mounted antennas within enclosures that extend no more than two (2) feet beyond the exterior dimensions of the supporting structure at the level of antenna attachment shall be utilized. For purposes of calculating the above, the dimensions of the supporting communications facility pole, wireless support structure, existing structure or other support structure do not include any platform, rack, mount or other hardware used to attach an antenna or antenna enclosure to the supporting structure.

Nothing contained in this subparagraph (1) shall be construed to limit stealth design as specified in other subparagraphs below.

(b) Small wireless facilities are prohibited on utility poles, wireless support structures, or similar structures 15 feet or less in height unless incorporated into and hidden in the pole under a top mounted street light in a design substantially similar to the acorn lights in the City.

(c) The use of foliage and vegetation based on conditions of the specific area where the communication facility is to be located. Trees shall be approved by the City's landscape plans examiner under separate permit.

(d) Equipment wraps (the imagery in a wrap shall not contain any advertising).

(e) Flag poles.

(f) Street light fixtures.

(g) Other stealth design proposed by an applicant and approved by the City based on unique circumstances applicable to the facility or the location or both.

i-ii. Ground-mounted equipment cabinets and battery backup cabinets shall be permitted when such cabinets are located on a concrete pad on the ground. On private and public property, equipment boxes for wireless communication facilities must be located in areas with existing foliage or another aesthetic feature to obscure the view of the equipment box. Additional plantings may be provided to meet this requirement. The external finish of all ground mounted cabinets and associated hardware shall be dark gray, dark hunter green, or wrapped as approved by the City.

ii-iii. Pole-mounted equipment cabinets or battery backup cabinets shall be permitted when mounted to the same support pole as the communication antenna. Such cabinets shall be a minimum of twelve (12) feet above finished grade, excluding the electric meter and disconnect switch. Individual pole mounted equipment components shall be no more than fifteen (15) cubic feet in volume. The equipment cases and all mounting and banding fixtures shall match the color of the pole, or painted or wrapped as approved by the City. Small wireless facilities shall be flush mounted to the vertical structure, if the public right-of-way is fifteen feet or less in

width and the facility is to be located adjacent to real property used as a single-family residence.

~~iii~~.iv. Electric power and communication lines servicing wireless communication facilities shall be located underground. Aerial connections shall be prohibited.

~~iv~~.v. No exposed wiring or conduit is permitted. Above the electric meter and disconnect switch, all conduit and wiring shall be located inside the pole.

~~v~~.vi. Exterior looping of excess cable length installed on any wireless communication facility is prohibited.

~~vi~~.vii. Electric meters and disconnect switches shall be located on the equipment cabinet or the wireless ~~communication facility support pole~~ support structure, and shall not be located on a separate meter pole. When pole-mounted, electric meters and disconnect switches shall not be located on the side of the pole that faces the sidewalk. Conduit leading to the electric meter box and disconnect switch shall match the color of the pole, if pole mounted; otherwise, the finish shall be black.

~~vii~~.viii. The grounding rod shall not extend above the top of the sidewalk and must be placed in a pull box, and the ground wire between the pole and ground rod must be inside an underground conduit.

~~viii~~.ix. All pull boxes must be vehicle load bearing, comply with FDOT standard specification 365, as amended, and be listed on the FDOT approved products list. No new pull boxes may be located in pedestrian ramps.

~~ix~~.x. No signals, lights, or illumination shall be permitted on an antenna, except in the case of a light pole on a pole to which such antenna is attached, unless required by applicable state or federal laws or rules.

~~x~~.xi. For purposes of emergency contact, the owner of the wireless communication facility shall place one identification label on the equipment advising of the name and contact telephone number of the owner of the wireless communication facility.

~~xi~~.xii. FCC emissions standards. All personal wireless service facilities in the public rights-of-way shall comply with current radio frequency emissions standards of the Federal Communications Commission.

xiii. Aerial towers and aerial fiber-optic cable connections are not permitted.

e. c. Placement requirements.

i. All wireless communication facilities and accessory equipment, including, but not limited to landscaping, fencing or other screening features, shall be located to avoid any physical or



visual obstruction to pedestrian, bicycle, or vehicular traffic, or to otherwise create safety hazards to pedestrians, bicyclists, or motorists.

ii. Wireless communication facilities shall be located at least ten (10) feet from a driveway.

iii. When located within a public right-of-way, public easement, or private street:

(a) ~~Stand-alone wireless communication facility support poles~~ support structures shall be located in line with other vertical structures in the right-of-way, such as streetlight poles, when possible.

(b) Where available, wireless communication facilities shall be located in the parkway strip or street furniture zone (as defined in Section 5-21.2), Unified Land Development Regulations. In no instance when a parkway strip or street furniture zone is available, shall wireless communication facilities be located in the pedestrian clear zone (as defined in Section 5-21.2, Unified Land Development Regulations). Wireless communications facilities in the parkway strip or street furniture zone shall generally be placed in the center of the parkway strip or street furniture zone and shall meet minimum Florida Department of Transportation and City of Casselberry roadway setback requirements from the back-of-curb.

(c) Where there is no parkway strip or street furniture zone, wireless communication facilities shall maintain a minimum five (5) foot wide pedestrian clear zone between the wireless communication facility and edge of sidewalk.

(d) Wireless communication facilities shall be located at least ten (10) feet from the edge of existing trees twelve (12) inches or greater in diameter at breast height. No trees within public rights-of-way or private property can be trimmed by the provider, or its agents, for the purpose of locating and installing a wireless communication facility.

ii. When located in any other location that is adjacent to a sidewalk or pedestrian way, a minimum five (5) foot wide pedestrian clear zone shall be maintained.

iii. Wireless communication facilities shall be set back a minimum of twenty-five (25) feet from a traffic signal pole and set back a minimum of fifteen (15) feet from any pedestrian ramp.

iv. Notwithstanding the above, the City may require greater setbacks from these and other fixtures in the right-of-way to ensure proper sight lines for public safety purposes.

v. When adjacent principal use buildings are located within ten (10) feet of the right-of-way, wireless communication facilities shall be located between tenant spaces or adjoining properties where their shared property line intersect the right-of-way.

~~f.~~ d. Setback and landscape buffer requirements. When located on privately- or publicly-owned parcels of land (i.e., not right-of-way), wireless communication facilities, support structures/poles, cabinets, and equipment shall conform to the following setback and landscape buffer requirements, which are similar to the requirements for other types of accessory uses (refer to the definitions for yards in Section 5-21.2, Unified Land Development Regulations, for determining front, side, and rear yards).

i. Front yards. Wireless communication facilities shall be located behind the front building line established by existing buildings on the property, and shall not be located in front landscape buffers. Exception: Poles located in public easements adjacent to the right-of-way which support wireless communication facilities.

ii. Side yards. Wireless communication facilities shall not be located in the required side yard setback or landscape buffer. Exception: Utility poles located in public easements that support wireless communication facilities.

iii. Rear yards. Wireless communication facilities shall be no closer than six feet to the rear lot line. Exception: Utility poles located in public easements that support wireless communication facilities.

iv. The City may require the use of landscaping as a buffer, ~~which landscaping is~~ consistent with the landscaping otherwise located on the property. Additional landscaping or fencing may be required if deemed necessary to buffer adjacent properties or to screen the proposed wireless communication facility equipment.

~~e.~~ Modification of existing wireless communication facilities. Co-  
location Collocation, removal, or replacement of reception or transmission equipment for an existing wireless communication facility shall only be subject to a building permit and, if applicable, a rights-of-way engineering permit in public rights-of-way. either of which shall include an administrative review for compliance with this section, provided the modification does not result in a wireless communication facility that is readily discernibly different in size, type and appearance, when viewed from ground level, from surrounding properties, and the replacement or modification of equipment that is not visible from surrounding properties, all as reasonably determined by the City Engineer. This requirement shall

not supersede any lease agreement between a service provider and landowner, including the City.:

- ~~i. Increase the height of the wireless communication facility such that it would exceed the maximum height requirements of this Section;~~
- ~~ii. Involve installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed a total of four cabinets;~~
- ~~iii. Involve any excavation or deployment outside the current site of the wireless communication facility;~~
- ~~iv. Defeat the existing concealment elements of the wireless communication facility; or~~
- ~~v. Violate conditions associated with the prior approval of the wireless communication facility, except for addition of cabinets, or new excavation pursuant to the allowances of this Section.~~

h.f. *Maintenance.*

- i. All wireless communication facilities shall be maintained consistent with city approvals, the requirements of the unified land development regulations, and in good repair, including exterior finishes, surfaces and structures.
- ii. Routine maintenance not modifying the wireless communications facility from the approved permitted drawings may be performed without a permit from the City.
- iii. Damaged poles or facilities shall be immediately repaired, removed, or replaced. Within public rights-of-way, if damage to a wireless communication facility poses a safety hazard to the public, the City has a right to remove of ~~removal~~ at the owner's expense.
- iv. All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities and wireless communication facilities.
- v. The use of any portion of a wireless communication facility or support structure ~~pole~~ for the posting of signs or for advertising purposes, including, but not limited to, the display of lights, banners and streamers, is strictly prohibited.

i.g. Waivers. Notwithstanding the waiver provisions set forth in Section 68-161(2) of the City Code, which are applicable to the collocation of small wireless facilities within public rights-of-way, waivers ~~Waivers~~ related to the following situations for wireless communication facilities

located on private or public property and in rights-of-way, may be granted by the Community Development Director and City Engineer, respectively, upon their finding that such waiver would not be contrary to the public interest.:

- i. To increase the maximum height of a wireless communication facility up to ten percent, the applicant must show if the increased height:
  - (a) Accommodates the ~~co-location~~ collocation of antennas from more than one wireless provider; or
  - (b) Improves transmission impacted by surrounding buildings or topography, if there is adequate tree canopy to mitigate for the increase in height.
  
- ii. To decrease the separation distance requirement between wireless communication facilities required in Section 2-7.36(~~E~~)(4)(~~b~~)(D)(2) by up to ten percent, the applicant must show if:
  - (a) An existing utility pole is being replaced; or
  - (b) Impediments such as a dense tree canopy or tall structure interfere with signal transmission.
  
- iii. To reduce the ~~design~~ installation and stealth requirements in Section 2-7.36(~~ED~~)(4)(b), the placement requirements in Section 2-7.36(~~ED~~)(4)(~~c~~), and/or the setback and landscape buffer requirements in Section 2-7.36(~~ED~~)(4)(~~d~~), the applicant must show ~~when he or she finds~~ the intent of this Section is better served by such waiver.

#### E. Eligible Facilities Request.

1. Applicability and Intent. This section implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”) as interpreted by the Federal Communications Commission’s (“FCC”) Acceleration of Broadband Deployment Report & Order dated October 21, 2014, which requires local governments to approve any eligible facilities request for modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. This section shall apply only to eligible facilities requests for an eligible support structure that is a legal conforming or legal

nonconforming structure at the time a completed eligible facilities request is submitted to the City. To the extent that the nonconforming structures and use provisions of the City ULDRs would operate to prohibit or condition approval of an eligible facilities request otherwise allowed under this section, such provisions are superseded by this section. This subsection shall not apply to an eligible facilities request replacement of the existing tower or base station. This subsection shall also not apply where the wireless communications facility requested to be modified is located upon a City-owned structure, or upon non-right-of-way property which is either City-owned or City-leased.

2. Sole and Exclusive Procedure. Except as may otherwise be provided in this section, and notwithstanding any other provisions in the City Code, the provisions of this section shall be the sole and exclusive procedure for review and approval of an eligible facilities request which the applicant asserts is subject to review under the Spectrum Act. To the extent that other provisions of the City Code establish a parallel process for review and approval of a project application for a proposed eligible facilities request, the provisions of this section shall control. In the event that an application for a project approval includes a proposal to modify an eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be entitled to review under this section and may be subject to review under other applicable provisions of the City Code.

3. Application Requirements. No eligible facilities request shall be deemed complete unless it is in writing, accompanied by the application fee, includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant. The application shall be submitted on a form prepared by the City. The applicant shall be obligated to demonstrate conclusively that the proposed modification satisfies the standards set forth herein and that the modification shall meet all applicable building codes.

4. Review of Application. The City shall review an eligible facilities request application to determine if the proposed modification is subject to this section, and if so, if the proposed modification will result in a substantial change to the physical dimensions of an eligible support structure.

5. Timeframe for Review. Within forty-five (45) calendar days of the date on which an applicant submits a request seeking approval under this subsection, the City shall approve, and may not deny, an eligible facilities request, unless it determines that the application is not covered by this section or proposes a substantial change to the physical dimensions of the eligible support structure.

6. Tolling of Timeframe for Review. The 45-day period begins to run when the application is filed with the Land Use Administrator or designee in person during the City's regular business hours, and may be tolled only by mutual agreement, or in cases where the City determines that the application is incomplete.

a. To toll the time frame for incompleteness, the City must provide written notice to the applicant within thirty (30) calendar days of receipt of the application, clearly and specifically delineating all missing documents or information.

b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.

c. Following a supplemental submission, the City shall have ten (10) calendar days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the same procedure used for the first notice of incompleteness. Except as may be otherwise agreed to by the applicant and the City, second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

d. Notices of incompleteness from the City shall be deemed received by the applicant upon the earlier of personal service upon the applicant, three days from deposit of the notice in the U.S. Mail, postage prepaid, to the applicant, or by electronic mail if the applicant has agreed to receive notices in such a manner.

e. If after submittal of the application the applicant modifies the eligible facilities request, the modified application shall be considered a new application subject to commencement of a new application review period.

7. Approval or Denial. An eligible facilities request shall be approved, and an eligible facilities permit issued, upon determination by the City that the proposed modification is subject to this section and that it does not substantially change the physical dimensions of an eligible support structure. An eligible facilities request shall be denied upon determination by the City that the proposed modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure.

8. Denial. A denial of an eligible facilities request shall be in writing and shall set forth the reasons for the denial.

9. Remedies. Applicant and City retain any and all remedies that are available at law or in equity and any action challenging a denial of an

application or notice of a deemed approved remedy, may be brought in a court of competent jurisdiction within thirty (30) days following the date of the denial or following the date of notification of the deemed approved remedy.

10. Applicable Code Requirements. Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety. Any approved eligible facilities request may be conditioned upon compliance with such codes and other laws.

11. Expiration of Approval. An approved eligible facilities request shall be valid for a term of 180 days from the date of approval or the date the application is deemed approved.

12. Not Covered as an Eligible Facilities Request. Should the City determine that an applicant's request is not covered by Section 6409(a) of the Spectrum Act, the presumptively reasonable time frame under 47 U.S.C. § 332 (c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the City's decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the applicant to evaluate the application under 47 U.S.C. § 332 (c)(7), pursuant to the limitations applicable to other reviews under that statute.

13. Failure to Act. In the event the City fails to approve or deny a request under this section within the timeframe for review, accounting for any tolling, the request shall be deemed granted. The application deemed granted does not become effective until the applicant notifies the City in writing after the review period has expired, accounting for any tolling, that the application has been deemed granted.

F. Abandonment. In the event the use of any communication tower or wireless communication facility has been discontinued for a period of 180 consecutive days, the tower or facility shall be deemed to be abandoned. Except for those facilities located within public rights-of-way, determination of the date of abandonment shall be made by the Administrative Official who shall have the right to request documentation and/or affidavits from the communication tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional 180 days within which to: (i) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (ii) dismantle and remove the tower. Except as provided herein, the abandonment of communication towers and wireless communication facilities within public rights-of-way shall be managed in

accordance with the procedures set forth in Section 68-166(a)172, City Code of Ordinances.

**Section 3. Amendment of Section 5-21.2, “Definition of terms”.** That Section 5-21.2, “Definition of terms” of Article XXI, “Language and Definitions” of Chapter V, “Glossary” of the City Unified Land Development Regulations, is hereby amended as follows:

Section 5-21.2.- Definition of terms.

\* \* \*

Base Station shall mean a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein, or any equipment associated with a tower. “Base station” includes, without limitation:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems (“DAS”) and small-cell networks).

3. Any structure other than a tower that, at the time the relevant application is filed with the city under this subsection, supports or houses equipment described in subsections (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the city under this subsection, does not support or house equipment described in subsections (1) and (2) of this definition.

\* \* \*

~~Co-location~~Collocation. The situation in which a second or subsequent communications services provider or a pass-through provider uses an existing structure to locate a second or subsequent antenna or wireless communication facility. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of a communication antenna.



\* \* \*

~~Communication tower. A guyed, monopole or self supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas built for the sole or primary purpose of supporting any Federal Communications Commission licensed antennas and their associated facilities. The term communication tower shall not include amateur radio operators' equipment as licensed by the Federal Communications Commission (FCC). Communication towers permitted in the City are generally described as either monopole (freestanding) or self supporting lattice (square, triangular or pyramidal in plain view and constructed of steel lattice). For purposes of this definition, the term shall not include wireless communication facility support structures. Any structure built for the sole or primary purpose of supporting any FCC- licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.~~

\* \* \*

Eligible Facilities Request. Any request for modification of an existing tower or base station that, in accordance with the definitions contained in FCC regulations codified at 47 C.F.R. § 1.40001, does not substantially change the physical dimensions of the existing support structure and is requesting:

1. Collocation of new transmission equipment;
2. Removal of existing transmission equipment; or
3. Replacement of existing transmission equipment.

Eligible support structure. Any tower or base station that is existing at the time the relevant application is filed with the City under this subsection.

\* \* \*

Equipment facility. A room, cabinet, shelter, pedestal, build-out of an existing structure, building, or similar structure used to house ancillary equipment for a communication tower or antenna. Each such cabinet, shelter, or building shall be considered a separate equipment facility.

\* \* \*

Existing. A constructed tower or base station existing for purposes of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process,

provided that a tower that has not been reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this subsection.

\* \* \*

*Repurposed structure.* An existing structure that has been renovated, reconfigured, or replaced with a similar structure so as to continue serving its primary existing purpose while also supporting the attachment of communications facilities through stealth design or otherwise that is approximately in the same location as the existing structure and in such a manner that does not result in a net increase in the number of structures located within the city's public rights-of-way and does not interfere with pedestrian or vehicular access, and is compliant with applicable codes.

\* \* \*

*Site.* For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower, and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

\* \* \*

*Stealth Design.* A method of camouflaging any tower, antenna or other communications facility, including, but not limited to, supporting electrical or mechanical equipment, which is designed to enhance compatibility with adjacent land uses and be as visually unobtrusive as possible. Stealth design may include a repurposed structure or a wrap.

\* \* \*

*Substantial Change.* A modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other

circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;

2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;

4. It entails any excavation or deployment outside the current site;

5. It would defeat the concealment elements of the eligible support structure; or

6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in subsections (1) through (4) of this definition.

\* \* \*

*Transmission Equipment.* Equipment that facilitates transmission for any FCC- licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

\* \* \*

~~*Wireless communication facility.* Any equipment or facility used for the transmission or reception of wireless communications. This term includes but is not limited to wireless support structures, antennas, cabling, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems (“DAS”)) and small wireless facilities. For purposes of this definition, the term shall not include communication towers.~~

*Wireless communication facility (WCF).* Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other personal wireless communications, as defined in the Telecommunications Act of 1996, and usually consisting of an antenna or antenna array, transmission cables, feed lines, equipment cabinets, towers, cabling, antenna brackets, and other such equipment. The following shall be deemed a wireless communication facility: new, replacement, or existing towers, government-owned towers, modified towers, collocation on existing towers or base stations, attached concealed and non-concealed antenna, dual purpose facilities, DAS, small cell, concealed towers, and non-concealed towers, so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

*Wireless support structure.* 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 communication facilities. The term does not include a utility pole.

*Wrap.* An aesthetic covering depicting scenic imagery, such as vegetation, which blends with the surrounding area.

**Section 4.    Codification.** It is the intention of the City Commission of the City of Casselberry, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Casselberry, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, “Ordinance” may be changed to “Section,” “Article,” or other appropriate word.

**Section 5.    Conflicts.** All Ordinances or Resolutions, or parts of Ordinances or Resolutions in conflict with any provisions of this Ordinance are hereby repealed to the extent of the conflict.

**Section 6.**    **Severability.** If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

**Section 7.**    **Effective Date.** This Ordinance shall become effective ten (10) days after its passage and adoption.

**FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2018.

**SECOND READING AND ADOPTION** this \_\_\_\_ day of \_\_\_\_\_, A.D. 2018.

ATTEST:

\_\_\_\_\_  
Donna G. Gardner, CMC  
City Clerk

\_\_\_\_\_  
Charlene Glancy  
Mayor/Commissioner