

1 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
2 ORLANDO, FLORIDA, AMENDING THE CODE OF THE CITY OF
3 ORLANDO, FLORIDA, RELATING TO COMMUNICATION FACILITIES;
4 CLARIFYING REGULATIONS FOR COMMUNICATION TOWERS;
5 ESTABLISHING NEW REGULATIONS FOR WIRELESS
6 COMMUNICATION FACILITIES; AMENDING TITLE I, SUBTITLE A,
7 GENERAL ORDINANCES, CHAPTER 23, COMMUNICATIONS RIGHT-
8 OF-WAY UTILIZATION, TO INCLUDE REGULATION FOR WIRELESS
9 COMMUNICATION FACILITIES IN PUBLIC RIGHTS-OF-WAY;
10 AMENDING TITLE I, SUBTITLE B, LAND DEVELOPMENT CODE,
11 CHAPTER 58, ZONING DISTRICTS AND USES, PART 40 TO ADD
12 REVIEW PROCEDURES AND REQUIREMENTS FOR THE SITING,
13 DESIGN, LOCATION, AND ABANDONMENT OF WIRELESS
14 COMMUNICATION FACILITIES; AMENDING CHAPTER 65 OFFICERS,
15 BOARDS AND PROCEDURES TO ADD AND AMEND REVIEW
16 PROCEDURES FOR COMMUNICATION TOWERS AND WIRELESS
17 COMMUNICATIONS FACILITIES IN THE HISTORIC PRESERVATION
18 OVERLAY DISTRICT AND THE DOWNTOWN DEVELOPMENT
19 DISTRICT; AMENDING CHAPTER 66, DEFINITIONS; PROVIDING FOR
20 CONFLICTS; PROVIDING FOR CODIFICATION IN THE CODE OF THE
21 CITY OF ORLANDO; PROVIDING CORRECTION OF SCRIVENER'S
22 ERRORS; PROVIDING SEVERABILITY, AND PROVIDING AN
23 EFFECTIVE DATE.

24
25 **WHEREAS**, the intent of this Ordinance is to promote the public health, safety
26 and general welfare by regulating the siting of communication towers and wireless
27 communication facilities; and

28
29 **WHEREAS**, this Ordinance accommodates the growing need and demand for
30 communication services; and

31
32 **WHEREAS**, this Ordinance seeks to minimize the impacts of wireless
33 communication facilities on surrounding areas by establishing standards for location,
34 landscape screening and compatibility; and

35
36 **WHEREAS**, Section 337.401 *et seq.*, Florida Statutes, addresses, *inter alia*, the
37 authority of municipalities to regulate the placement and maintenance of
38 communications facilities in the public rights-of-way; and

39
40 **WHEREAS**, the Code of the City of Orlando (the "Orlando City Code"),
41 provisions regulating communication towers and antennas need to be updated to
42 expressly address new technologies and to address current practices for siting
43 communication facilities in the public right-of-way, while also protecting, preserving and
44 maintaining the aesthetic character of areas where such rights-of-way exist; and

45
46 **WHEREAS**, at its regularly scheduled meeting of January 19, 2016, the
47 Municipal Planning Board recommended to the City Council of the City of Orlando,
48 Florida (the "Orlando City Council"), that the provisions of this ordinance are consistent
49 with the applicable provisions of the City's adopted Growth Management Plan, are in the
50 best interest of the public health, safety, and welfare, are in harmony with the purpose

51 and intent of the City's Land Development Code, and will not result in disorderly and
52 incompatible land uses; and

53
54 **WHEREAS**, the Orlando City Council finds that the provisions of this ordinance
55 are consistent with the applicable provisions of the City's adopted Growth Management
56 Plan, are in the best interest of the public health, safety, and welfare, are in harmony
57 with the purpose and intent of the City's Land Development Code, and will not result in
58 disorderly and incompatible land uses; and

59
60 **WHEREAS**, the Orlando City Council desires to establish uniform standards and
61 general guidelines for the siting, design, and permitting of communication towers and
62 wireless communication facilities in the City of Orlando and to establish review
63 procedures to ensure that applications for communication towers and wireless
64 communication facilities are acted upon within the timeframe established by state and
65 federal law; and

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67 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF**
68 **ORLANDO, FLORIDA, AS FOLLOWS:**

69
70 **SECTION 1. CHAPTER 23, ORLANDO CITY CODE AMENDED.**

71 Section 23.08, Code of the City of Orlando, Florida is hereby amended as follows:

72
73 **Sec. 23.08. - Wireless Facilities.**

74
75 The placement of communication towers and communication antennae anywhere
76 in the corporate limits of the City shall in all cases be subject to the City's zoning and
77 land use regulations, including those set forth in ~~Sections 58.840 through 58.850 of the~~
78 Orlando City Code. The placement of wireless communication facilities anywhere in the
79 corporate limits of the City shall in all cases be subject to the City's zoning and land use
80 regulations, including those set forth in sections 58.844 through 58.858, Orlando City
81 Code. Except as provided in Chapter 58, Orlando City Code, nNo communication
82 towers or wireless communication facilities shall be placed or maintained in the Public
83 Rights-of-Way without City Council approval. Where placement of a wireless antenna in
84 the Public Rights-of-Way has been approved by the City and to the extent not
85 inconsistent with any City zoning and land use regulations, a wireless antenna attached
86 to a permitted and legally maintained vertical structure in the Public Rights-of-Way, such
87 as a light pole or utility pole, shall, unless otherwise agreed to by the City in writing:

88
89 A. not extend more than 5 feet above the highest point of the Vertical Structure;

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91 B. not have any type of lighted signal, lights, or illuminations unless required by
92 an applicable federal, state, or local rule, regulation or law;

93
94 C. comply with any applicable Federal Communications Commission Emissions
95 Standards;

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97 D. comply with any applicable local building codes in terms of design,
98 construction and installation; and

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100 E. not contain any commercial advertising thereon.
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SECTION 2. PART 40, CHAPTER 58, ORLANDO CITY CODE AMENDED.

Part 40, Chapter 58, Code of the City of Orlando, Florida is hereby amended as follows:

40. - COMMUNICATION TOWERS and WIRELESS COMMUNICATION FACILITIES.

Sec. 58.840. - General Requirements.

~~In addition to any applicable Zoning District and Use Regulations of Figures 1—3, communications towers shall be subject to the requirements of this chapter.~~

(a) All communication towers shall be subject to these land development regulations (including Figures 2B and 2D in Chapter 58, Orlando City Code), the City of Orlando Engineering Standards Manual, Downtown Design Guidelines and Downtown Streetscape Design Guidelines as applicable. A communication tower is a permitted use in the General Industrial District and the Industrial Park District. Communication towers in other zoning districts may be permitted upon the granting of a Conditional Use Permit. Additionally, communication towers located inside:

(1) a Historic Preservation Overlay District must obtain a certificate of appropriateness prior to the issuance of any permit for the construction, installation, or alteration of a communication tower or communication antenna;

(2) the Downtown CRA and outside a Historic Preservation Overlay District must obtain a certificate of appearance approval;

(3) the Traditional City (/T) Overlay Zoning District, a Special Plan (SP) Overlay Zoning District or a Planned Development (PD) Zoning District shall require Urban Design review as part of the Engineering permit process.

Sec. 58.841. - Use Restrictions.

~~(a) — In order to address potential incompatibilities between communication towers and Historic Preservation Overlay Districts, a Certificate of Appropriateness from the Historic Preservation Board shall be required in accordance with the procedures set forth in Chapter 65, Part 4B of this Code prior to the issuance of any permit for the construction, installation, or alteration of a communication tower or communication antenna in a Historic Preservation Overlay District.~~

~~(b) — A tower that would be considered a communication tower but for the fact that it is in excess of three hundred (300) feet in height shall be subject to Conditional Use permit approval and shall comply with all other requirements of this chapter. For the purposes of implementing the off-site separation requirements provided in section 58.844(a), the maximum required separation distance for communication towers in excess of three hundred (300) feet in height shall be fifteen hundred (1500) feet.~~

153• **Sec. 58.842. - Exemptions.**

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155 Government-owned communication towers shall be exempted from the minimum
 156 separation distances set forth in §sections 58.844(a) and (b), Orlando City Code,
 157 provided that those communication towers are used for a governmental purpose
 158 including, but not limited to the provision of fire safety, law enforcement, emergency
 159 management or emergency medical services telecommunications.

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163• **Sec. 58.844. - Separation and Site Development Standards.**

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165 (a) *Separation from Off-Site Uses.* Communications Towers shall be located so as
 166 to comply with the following standards for the minimum separation distance from the
 167 closest required building setback line for any off-site principal use structure:
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Off-Site Uses/Zoning	Minimum Separation from <u>Off-Site Structures required building setback</u>
All uses in Any residential zoning district R-3A or less, any similar residential zoning districts in Orange County, any O-1 office and residential district, and any residential component in a PD. R-1AA, R-1A, R-1, R-1N, R-2A, R-2B, RN, and H; existing single-family uses and vacant property in R-3A; existing single-family uses NC; existing single-family uses and vacant property designated for single-family uses in an approved PD; all uses in Orange County R-CE, R-1AAAA, R-1AAA, R-1AA, R-1A, R-1, R-2 and R-3, Cluster Residential Districts, R-T, R-T-1, R-T-2, and R-L-D; and existing single-family uses or vacant property in Orange County R-2 and R-3.	200 feet or 300% height of tower, whichever is greater
All uses in Any multi-family zoning district R-3B, R-3C, and above, mixed use district (MXD, MU), activity center district (AC), office and residential district (O-2 and O-3), any public use district (P), and similar R-3D; existing multifamily uses in R-3A and NC; existing multifamily uses and vacant property designated for multifamily uses in an approved PD; and existing multifamily uses in Orange County R-2 and R-3.	100 feet or 100% height of tower, whichever is greater

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173 (f) *Fencing and Walls.* A fence or masonry wall not less than eight (8) feet in
 174 height from finished grade shall be provided around the perimeter of all
 175 communication tower sites for ground-mounted communication towers. The decision
 176 to provide either a fence or a wall shall rest with the applicant. If a fence is used to
 177 enclose the site, the fence shall be constructed of chain link, wire mesh, metal picket,
 178 or an alternative material as approved by the Zzoning Oofficial. If a wall is used to
 179 enclose the site, the wall shall have a decorative finish of stucco, split faced block,

180 brick, or an alternative material as approved by the Zoning Official. Access to the
181 communication tower site shall be through a locked gate.

182
183 (g) *Landscaping.* The following landscaping and buffering shall be required
184 around the perimeter of communication tower sites, except that the Zoning Official
185 may waive the required landscaping on one or more sides of the communication tower
186 site or allow the placement of required landscaping elsewhere on the development
187 site when the required landscape area is located adjacent to undevelopable lands or
188 lands not in public view. Alternative landscaping may be approved by the Zoning
189 Official. Landscaping shall be installed on the outside of the perimeter fence or wall.
190 Existing vegetation shall be preserved to the maximum extent practicable and may be
191 used as a substitute for or in supplement towards meeting the landscaping
192 requirements, subject to approval by the Zoning Official.

193
194• **Sec. 58.845. - Communication Antennas.**

195•
196 Subject to section 58.852(f), Orlando City Code, Any communication antenna
197 which is not attached to a communication tower shall be a permitted ancillary use to any
198 commercial, industrial, office, institutional, multifamily, or public utility structure, provided
199 that:

- 200
- 201 (a) The communication antenna does not exceed twenty (20) feet above the
202 highest point of the structure;
- 203
- 204 (b) The communication antenna complies with all applicable FCC and FAA
205 regulations; ~~and~~
- 206
- 207 (c) The communication antenna complies with all applicable building codes; ~~and~~
- 208
- 209 (d) The public utility structure is not located in a public right-of-way.

210•
211• **Sec. 58.846. - Co-Location of Communication Antennas.**

212•
213 The modification or reconstruction of an existing communication tower to
214 accommodate the co-location of two (2) or more communication antennas shall be
215 permitted without new or additional Conditional Use permit approvals, provided that the
216 communication antennas are owned or operated by more than one communication
217 service provider and the co-location is accomplished in a manner consistent with the
218 following requirements:

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222• (c) *On-Site Location.*

223
224 (3) ~~The on-site relocation of a communication tower to a location within the~~
225 ~~minimum separation distance from residentially zoned property as set forth in Section~~
226 ~~58.844(a) shall only be permitted when notarized written consent is obtained from the~~
227 ~~owners of all residentially zoned property located within the minimum separation~~
228 ~~distance.~~

230 (4) Any existing communication tower replaced by a new communication
231 tower on the same development site shall be dismantled and removed from the
232 development site within ~~six (6) months~~ one hundred eighty (180) days of the date of
233 the building permit for the new communication tower.

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237• **Sec. 58.847. - Waivers.**
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239• (a) A waiver from the minimum separation distance to off-site uses set forth in
240 ~~Section~~ Section 58.844(a), Orlando City Code, may be approved (1) by City Council upon
241 recommendation of the ~~P~~planning Director official, when the proposed communication
242 tower is a permitted use, or (2) through the Conditional Use Permit process, in
243 accordance with the procedure set forth in Chapter 65, Part 2D of this Code, when the
244 proposed communication tower is a Conditional Use, ~~provided that notarized written~~
245 ~~consent is obtained from those affected property owners within the applicable separation~~
246 ~~distance.~~

247
248 (b) A waiver from the minimum separation distance between communication
249 towers set forth in ~~Section~~ Section 58.844(b), Orlando City Code, may be approved by the
250 City Council, upon recommendation of the ~~P~~planning Director official, when the
251 proposed communication tower is a permitted use, or through the Conditional Use
252 Permit process, in accordance with the procedure set forth in Chapter 65, Part 2D of
253 this Code, when the proposed communication tower is a Conditional Use, provided
254 two (2) or more communication service providers agree to co-locate communication
255 antennas on the same tower (co-location).

256
257 (c) A waiver from the minimum separation distances set forth in ~~Sections~~
258 58.844(a) and (b), Orlando City Code, may be approved through the Conditional Use
259 Permit process in accordance with the procedures set forth in Chapter 65, Part 2D,
260 Orlando City Code when the proposed communication tower conforms to two
261 (2) or more of the following criteria:

262 * * * *

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265 ~~(5) Notarized written consent is obtained from those affected property owners~~
266 ~~within the required separation distance from off-site uses.~~

267 * * * *

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270• **Sec. 58.849. - Abandonment.**
271•

272 In the event that the use of any communication tower has been discontinued for
273 a period of one hundred eighty (180) consecutive days, the tower shall be deemed to be
274 abandoned. Determination of the date of abandonment shall be made by the ~~Z~~oning
275 ~~O~~fficial who shall have the right to request documentation and/or affidavits from the
276 communication tower owner/operator regarding the active use of the tower. The
277 owner/operator of the tower shall have one-hundred eighty (180) days from the date of
278 the notice of the ~~Z~~oning O~~fficial's~~ determination of abandonment to either, (1)
279 reactivate the use of the tower or transfer the tower to another owner/operator who
280 makes actual use of the tower, or (2) dismantle and remove the tower. At the earlier of

one hundred eighty-one (181) days from the date of the notice of the Zoning Official's determination of abandonment without reactivation, or upon completion of dismantling and removal, any conditional use and/or variance approval for the tower shall automatically expire.

Sec. 58.850. - Occupational Licensing Business Tax Receipt Requirement.

The occupational license business tax receipt required for a communication tower shall specify that the receipt license is for an accessory service use.

Sec. 58.851. - Wireless Communication Facilities.

(a) All wireless communication facilities shall be subject to the City's zoning and land use regulations, the City of Orlando Engineering Standards Manual, Downtown Design Guidelines and Downtown Streetscape Design Guidelines as applicable. Additionally, wireless communication facilities located inside:

(1) a Historic Preservation Overlay District must obtain a certificate of appropriateness prior to the issuance of any permit for the construction, installation, or alteration of a wireless communication facility;

(2) the Downtown CRA and outside a Historic Preservation Overlay District must obtain a certificate of appearance approval;

(3) the Traditional City (/T) Overlay Zoning District, a Special Plan (SP) Overlay Zoning District or a Planned Development (PD) Zoning District shall require Urban Design review as part of the Engineering permit process.

(b) Co-location 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.

Sec. 58.852. – Use Restrictions and Approval Process.

(a) Maximum Height. The maximum height of a wireless communication facility in any:

(1) Residential zoning district (O-1 and any R-3A or less) is thirty-five (35) feet;

(2) Multi-family zoning district (R-3B and above), mixed use district (MXD-1, MXD-2, MU-1 and MU-2), activity center district (AC-N, AC-1, AC-2 and AC-3), office and residential district (O-2 and O-3), or public use district (P) is forty-five (45) feet;

(3) Industrial zoning district (IG, IP and IC) is fifty-five (55) feet.

(4) Historic Preservation Overlay District is thirty-five (35) feet.

(b) Administrative Review. Wireless communication facilities that comply with the height requirements in sections (a)(1-4) above may be approved administratively through the right of way permitting process in Chapter 23, Orlando City Code.

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332 Applications for waivers to the height and design requirements shall be reviewed and
333 approved, approved with conditions, or denied, by planning official letter of
334 determination. In reviewing an application for a waiver, the planning official shall apply
335 the standards of review provided for review of Conditional Use Permits as provided in
336 section 65.285, Orlando City Code. If the planning official approves the request, he or
337 she may impose one or more of the conditions of development provided by section
338 65.284, Orlando City Code. Conditions of development must be reasonably calculated to
339 mitigate identifiable land use impacts of the installation of wireless communication
340 facilities. Violations of development conditions constitute a violation of this section.

341
342 (c) Conditional Use Permit. A Conditional Use Permit is required for wireless
343 communication facilities that exceed the heights in sections (a)(1-4) above.

344 The maximum height permitted with a Conditional Use Permit is seventy-five (75) feet.
345 Applications for Conditional Use Permits will be evaluated to ensure compliance with
346 sections 58.844(a) and (b), Orlando City Code, and in accordance with the standards
347 of review provided in section 65.285, Orlando City Code.

348
349 (d) Zoning. If a wireless communication facility is proposed in a public right-of-
350 way with no zoning designation, the zoning of the nearest adjacent property will apply.

351
352 (e) Appeal of planning official's Determination. Whenever the applicant disagrees
353 with the decision of the planning official or any of the conditions imposed in the letter of
354 determination, he or she may elect to appeal the planning official's determination to the
355 Municipal Planning Board by filing a written Notice of Appeal within fifteen (15) days after
356 receipt of the determination.

357
358 (f) Modification of existing wireless communication facilities.

359
360 1) Co-location, removal, or replacement of transmission equipment on an existing
361 wireless communication facility shall be subject to no more than building permit review,
362 and an administrative review for compliance with this section, provided the modification
363 does not:

364
365 (a) increase the height of the wireless communication facility by more than 10%
366 or 10 feet whichever is greater.

367 (b) involve installation of more than the standard number of new equipment
368 cabinets for the technology involved, not to exceed four cabinets;

369
370 (c) entail any excavation or deployment outside the current site of the wireless
371 communication facility;

372
373 (d) defeat the existing concealment elements of the wireless communication
374 facility; or

375
376 (e) violate conditions associated with the prior approval of the wireless
377 communication facility, unless the violation involves height, addition of cabinets, or new
378 excavation.

379
380 2) This section does not apply to structures owned by the City or a historic
381 building, structure, site, object, or district.

382
383 **Sec. 58.853. Exemptions.**
384

385 Government-owned wireless communication facilities shall be exempted from the
386 minimum separation distances set forth in sections 58.844(a) and (b), Orlando City Code
387 provided that those wireless communication facilities are used for a governmental
388 purpose including, but not limited to the provision of fire safety, law enforcement,
389 emergency management or emergency medical services telecommunications.
390

391 **Sec. 58.854. Location Requirements for Wireless Communication Facilities.**
392

393 (a) Wireless Communication Facilities may be installed and located inside the City's
394 public rights-of-way as provided in Chapter 23, Orlando City Code and under the
395 following conditions:
396

397 (1) All wireless communication facilities and accessory equipment shall be
398 located to avoid any physical or visual obstruction to pedestrian or vehicular traffic, or to
399 otherwise create safety hazards to pedestrians or motorists.
400

401 (2) Wireless communication facilities taller than thirty-five (35) feet in
402 residential zoning districts (O-1, R-3A or less), shall comply with the minimum
403 separation requirements from adjacent zoning districts set forth in section 58.844(a),
404 Orlando City Code.
405

406 (3) The separation between wireless communication facilities shall be
407 seven-hundred fifty (750) feet.
408

409 (b) Where available, wireless communication facilities shall be located in the
410 furniture zone or parkway strip. In no instance when a furniture zone or parkway strip is
411 available, shall wireless communication facilities be located in the pedestrian clear zone.
412 Wireless communications facilities in the furniture zone shall generally be placed in the
413 center of the furniture zone or parkway strip and shall meet minimum Florida Department
414 of Transportation ("FDOT") and City of Orlando Engineering Standards Manual setback
415 requirements from the back-of-curb.
416

417 (c) Where there is no furniture zone or parkway strip, wireless communication
418 facilities shall maintain either a minimum six (6) foot wide pedestrian clear zone from
419 back-of-curb to the inward edge of a wireless communication facility or a minimum five
420 (5) foot wide pedestrian clear zone between the outward edge of a wireless
421 communication facility and the back-of-sidewalk.
422

423 (d) Wireless communication facilities shall be located at least ten (10) feet from a
424 driveway and at least ten (10) feet from the edge of existing trees twelve (12) inches or
425 greater in diameter.
426

427 (e) Wireless communication facilities shall not be installed on traffic signal poles
428 inside the City's public right-of-way. Further, wireless communication facilities shall be
429 setback a minimum of twenty-five (25) feet from a traffic signal pole and setback a
430 minimum of fifteen (15) feet from any pedestrian ramp.
431

432 (f) Notwithstanding the above, the city engineer may require greater setbacks from
433 these and other fixtures in the right-of-way to ensure proper sight lines for public safety
434 purposes.

435
436 (g) In residential zoning districts, wireless communication facilities must be located
437 where the shared property line between two residential parcels intersects the right-of-
438 way.

439
440 (h) In nonresidential districts wireless communication facilities shall be located
441 between tenant spaces or adjoining properties where their shared property lines
442 intersect the right-of-way.

443
444 (i) Wireless communication facilities shall not be installed on existing, replacement,
445 or new wood utility poles unless the utility pole is located in a Historic Preservation
446 Overlay District where wood utility poles are the predominant poles in the right-of-way.

447
448 (j) The size and height of wireless communication facilities in the right-of-way shall
449 be no greater than the maximum size and height of any other utility pole in the same
450 block-face. The height shall not exceed seventy-five (75) feet.

451
452 (k) Unless required by the Orlando Police Department, Orlando Fire Department or
453 other related governmental or emergency services provider, wireless communication
454 facilities in the public right-of-way shall not include ground mounted equipment cabinets
455 or battery back-up cabinets. If required, placement of such equipment shall comply with
456 the requirements herein.

457
458 **Sec. 58.855. Design Requirements.**

459
460 (a) New and replacement utility poles that support wireless communication facilities
461 shall match the style, design, and color of the utility poles in the surrounding area.

462
463 (b) In the Downtown CRA, Historic Preservation Overlay District, Traditional City
464 Overlay, Special Plan Overlay, or PD Zoning District where double or single acorn
465 streetlights are the predominant fixture, utility poles that support wireless communication
466 facilities shall match the style, design and color of the acorn streetlight poles.

467
468 (c) Equipment boxes for wireless communication facilities must be located in areas
469 with existing foliage or another aesthetic feature to obscure the view of the equipment
470 box. Additional plantings may be provided to meet this requirement.

471
472 (d) Wireless communication facilities mounted to the exterior of a pole shall be a
473 minimum of twelve (12) feet above finished grade, excluding the electric meter and
474 disconnect switch. Individual pole mounted equipment components shall be no more
475 than fifteen (15) cubic feet in area. The external finish of the equipment cases shall
476 generally match the color of the utility pole. All mounting and banding fixtures shall also
477 match the color of the utility pole.

478
479 (e) No exposed wiring or conduit is permitted. Above the electric meter and
480 disconnect switch, all conduit and wiring shall be located inside the pole.

481

482 (f) Electric meters and disconnect switches shall be located as required by the
483 Orlando Utilities Commission. Electric meters and disconnect switches shall not be
484 located on the side of the pole that faces the sidewalk. Conduit leading to the electric
485 meter box and disconnect switch shall generally match the color of the utility pole.

486
487 (g) The grounding rod may not extend above the top of sidewalk and must be placed
488 in a pull box, and the ground wire between the pole and ground rod must be inside an
489 underground conduit.

490
491 (h) All pull boxes must be vehicle load bearing, comply with FDOT Standard
492 specification 635 and be listed on the FDOT Approved Products List. A concrete apron
493 must be installed around all pull boxes not located in the sidewalk. No new pull boxes
494 may be located in pedestrian ramps.

495
496 **Sec. 58.856. Waivers**

497
498 (a) The planning official has the authority to grant a waiver to increase the
499 maximum height of a wireless communication facility up to ten (10) percent if the
500 increased height:

501
502 (1) accommodates the co-location of antennas from more than one
503 wireless provider; or

504
505 (2) improves transmission impacted by surrounding buildings or
506 topography, provided that there is adequate tree canopy to mitigate for the increase in
507 height.

508
509 (b) The planning official has the authority to decrease the separation requirements
510 between wireless communication facilities up to ten (10) percent if:

511
512 (1) an existing utility pole is being replaced, or

513
514 (2) impediments such as a dense tree canopy or tall structure interfere with
515 signal transmission.

516
517 (c) Waivers above ten (10) percent may be granted through the Conditional Use
518 Permit process.

519
520 (d) The planning official has the authority to waive or reduce the design
521 requirements for wireless communication facilities when the planning official finds the
522 intent of this Part is better served by such waiver.

523
524 (e) The city engineer, in coordination with the planning official have the authority to
525 wave or reduce the location requirements for wireless communication facilities when the
526 city engineer and planning official find the intent of this Part is better served by such
527 waiver.

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Sec. 58.857. Wireless Facilities in Existence on the Date of Adoption of this Ordinance.

Wireless communication facilities that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use. Installations that do not comply with the requirements of this section shall be considered a legal non-conforming use.

Sec. 58.858. Abandonment.

~~(a) Wireless Communication Facilities outside the public right-of-way. In the event that the use of any wireless communication facility located outside the public right-of-way has been discontinued for a period of one hundred eighty (180) consecutive days, the wireless communication facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the planning official who shall have the right to request documentation and/or affidavits from the wireless communication facilities owner/operator regarding the active use of the wireless communication facilities. The owner/operator of the wireless communication facilities shall have one hundred eighty (180) days from the date of the notice of the planning official's determination of abandonment to either, (1) reactivate the use of the wireless communication facilities or transfer the wireless communication facilities to another owner/operator who makes actual use of the facilities, or (2) dismantle and remove the wireless communication facilities. At the earlier of one hundred eighty-one (181) days from the date of the notice of the planning official's determination of abandonment without reactivation, or upon completion of dismantling and removal, any conditional use and/or variance approval for the wireless communication facilities shall automatically expire.~~

The abandonment of wireless communication facilities shall be managed in accordance with the procedures set forth in section 23.21, Orlando City Code.

SECTION 3. PART 4B, CHAPTER 65, ORLANDO CITY CODE AMENDED.

Part 4B, Chapter 65, Code of the City of Orlando, Florida is hereby amended as follows:

Sec. 65.471. - Procedure for Issuance of Certificate of Appropriateness; Application; Review; Hearing; Criteria; Approval/Denial; 180-Day Waiting Period; Appeal.

* * * *

MINOR REVIEW

One procedure shall be a minor review procedure composed of Administrative review performed by the Planning Official or designee and a qualified member of the Historic Preservation Board.

* * * *

General. A minor review shall occur for construction and alterations of an Historic Landmark or structure in an HP Overlay District which have a minor impact on the significant historical, architectural, or cultural materials of the structure and/or the district.

582 If there is a conflict between any historic district ordinance and this ordinance, this
583 ordinance shall apply. The minor review procedure shall apply to the following:

584 * * * *

585
586
587 ~~14. Any other request determined by the Planning Official or his designee~~
588 ~~and the Minor Review Committee to have a minor impact or no potential detriment on~~
589 ~~the structure or historic district.~~

590
591 14. Communication Towers and wireless communication facilities:

592
593 15. Any other request determined by the planning official or his designee
594 and the Minor Review Committee to have a minor impact or no potential detriment on
595 the structure or historic district.

596
597 If either the Planning Official or his designee and the Minor Review Committee
598 member determines that there would be a major impact or potential detriment as a result
599 of the proposed action, the application shall be submitted for major review.

600 * * * *

601
602
603 *Minor Review.* After submission of the minor review application, the Planning
604 Official or his designee shall prepare a written recommendation which addresses the
605 criteria listed above in the paragraph entitled "Minor Review Criteria," and which
606 recommends approval, denial, or approval-with-conditions of the application. The
607 recommendation of the Planning Official or his designee shall be presented to the
608 applicant and Minor Review Committee at a Minor Review Committee meeting which
609 shall take place within ten (10) days of the submittal of a Certificate of Appropriateness
610 application.

611 * * * *

612
613
614 **SECTION 4. PART 4F, CHAPTER 65, ORLANDO CITY CODE AMENDED.**
615 **Part 4F, Chapter 65, Code of the City of Orlando, Florida is hereby amended as**
616 **follows:**

617
618• **Sec. 65.511. - Types of Certificates of Appearance Approval.**
619•

620 There are hereby established two types of certificates of appearance approval. One
621 shall be known as a major certificate of appearance approval, and the other known as a
622 minor certificate of appearance approval.

623
624 *Major certificates of appearance approval.* Major certificates of appearance
625 approval are for significant works of construction, alteration, modification, or repair of
626 private or public buildings and improvements. Applications for the following kind of work
627 must be approved by a major certificate of appearance approval:

628 * * * *

629
630
631 ~~h. Telecommunications equipment visible from the public right-of-way.~~
632

633 ih. Any work typically requiring a minor certificate of appearance approval if a
634 major certificate of appearance approval is requested by the applicant or required by
635 the Appearance Review Official.

636
637 ji. Any work typically requiring a minor certificate of appearance approval if the
638 minor certificate application is denied by the Appearance Review Official or if the
639 applicant objects to conditions of approval.

640
641 *Minor certificates of appearance approval.* Minor certificates of appearance
642 approval are for less than significant works of construction, alteration, modification, or
643 repair of private or public buildings and improvements. Applications for the following kind
644 of work must be approved by a minor certificate of appearance approval:

645 * * * *

646
647
648 ~~w. All other work requiring a certificate of appearance approval and not otherwise~~
649 ~~determined to be work requiring a major certificate of design approval.~~

650
651 w. Telecommunication towers and wireless communication facilities visible from
652 the public right-of-way.

653
654 x. All other work requiring a certificate of appearance approval and not otherwise
655 determined to be work requiring a major certificate of design approval.

656
657 In cases of uncertainty, the Appearance Review Official shall determine whether an
658 application for certificate of appearance approval is for a major or minor certificate.
659 Applicants may appeal the official's determination by application for an official P~~l~~anning
660 O~~fficial~~ determination.

661
662 **SECTION 5. CHAPTER 66, ORLANDO CITY CODE AMENDED.** Chapter 66,
663 Code of the City of Orlando, Florida is hereby amended as follows:

664
665 Communication Tower: A building or ground-mounted tower which as measured
666 from the finished grade of the property (1) is greater than thirty-five (35) feet in height (2)
667 does not exceed 300 ft in height (including antenna), and (3) ~~is principally intended to~~
668 ~~support communication (transmission or receiving) equipment for radio, TV, microwave,~~
669 ~~cellular and similar communication purposes.~~ built for the sole or primary purpose of
670 supporting any Federal Communications Commission (FCC) licensed antennas and their
671 associated facilities. The term communication tower shall not include amateur radio
672 operators' equipment licensed by the ~~Federal Communications Commission (FCC).~~
673 Communication towers are generally described as either Monopole (freestanding),
674 Guyed (anchored with guy wires), or Self Supporting (square, triangular or pyramidal in
675 plan view and constructed of steel lattice, tubular steel, reinforced concrete, or wood)

676
677 Furniture Zone: the paved portion of the streetscape zone typically located
678 between the back of curb and the sidewalk. The furniture zone typically includes street
679 light poles and lights, utility poles, regulatory signage, traffic signal equipment and street
680 trees. In some cases a streetscape zone may not have a furniture zone.

681
682 Parkway Strip: the unpaved portion of the right-of-way between the back of curb
683 and the sidewalk. The parkway strip typically includes street light poles and lights, utility

684 poles, regulatory signage, traffic signal equipment and street trees. In some instances a
685 streetscape zone may not have a parkway strip.

686
687 Pedestrian Clear Zone: the unencumbered paved, or sidewalk portion of the
688 streetscape zone inside the right-of-way. The pedestrian clear zone may or may not be
689 separated from the travel lane by a furniture zone or parkway strip.

690
691 Utility Pole: any pole or structure utilized for electric, telephone, cable television,
692 street lights, other lighting standards, or comparable standards.

693
694 Wireless Communication Facility: any equipment or facility used for the
695 transmission or reception of wireless communications and located on public right-of-way.
696 This term includes but is not limited to wireless support structures, antennas, cabling,
697 regular and backup power supplies, and comparable equipment, regardless of
698 technological configuration (including Distributed Antenna Systems (“DAS”) and small
699 cell networks). For purposes of this Ordinance, the term shall not include
700 communication towers.

701
702 **SECTION 6. CONFLICT.** The provisions of this Ordinance will prevail in the
703 event of conflict with the provisions of any existing ordinance.

704
705 **SECTION 7. CODIFICATION.** The City Clerk and the City Attorney shall cause
706 the Code of the City of Orlando, Florida to be amended as provided in this ordinance
707 and may renumber, re-letter and rearrange the codified parts of this ordinance if
708 necessary to facilitate the finding of the law.

709
710 **SECTION 8. SCRIVENER’S ERROR.** The city attorney may correct scrivener’s
711 errors found in this ordinance by filing a corrected copy of this ordinance with the city
712 clerk.

713
714 **SECTION 9. SEVERABILITY.** If any provision of this ordinance or its
715 application to any person or circumstance is held invalid, the invalidity does not affect
716 other provisions or applications of this ordinance which can be given effect without the
717 invalid provision or application, and to this end the provisions of this ordinance are
718 severable.

719
720 **SECTION 10. EFFECTIVE DATE.** This ordinance is effective upon adoption.

721
722 **DONE, THE FIRST READING,** by the City Council of the City of Orlando,
723 Florida, at a regular meeting, this _____ day of _____, 2016.

724
725 **DONE, THE FIRST PUBLIC NOTICE,** in a newspaper of general circulation in
726 the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this
727 _____ day of _____, 2016.

728
729
730 **DONE, THE SECOND PUBLIC NOTICE,** in a newspaper of
731 _____, 2016.

732
733 **DONE, THE SECOND READING, A PUBLIC HEARING, AND ENACTED ON**
734 **FINAL PASSAGE,** by an affirmative vote of a majority of a quorum present of the City

ORDINANCE NO. 2016-39

735 Council of the City of Orlando, Florida, at a regular meeting, this _____ day of
736 _____, 2016.

737

738

739

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

740

741

742

743

Mayor

744

ATTEST, BY THE CLERK OF THE
745 CITY COUNCIL OF THE CITY OF
746 ORLANDO, FLORIDA:

747

748

749

City Clerk

750

751

752

Print Name

753

754

755

APPROVED AS TO FORM AND LEGALITY
756 FOR THE USE AND RELIANCE OF THE
757 CITY OF ORLANDO, FLORIDA:

758

759

760

City Attorney

761

762

763

Print Name

764

765

[Remainder of page intentionally left blank.]

766