

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       **AMENDING REGULATIONS FOR WIRELESS COMMUNICATION**  
5       **FACILITIES TO CONFORM TO FLORIDA STATUTES; AMENDING**  
6       **CHAPTER 66, DEFINITIONS; PROVIDING FOR CONFLICTS;**  
7       **PROVIDING FOR CODIFICATION IN THE CODE OF THE CITY OF**  
8       **ORLANDO; PROVIDING CORRECTION OF SCRIVENER'S ERRORS;**  
9       **PROVIDING SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

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11       **WHEREAS**, Chapter 337, Florida Statutes, requires the City to "prescribe and  
12 enforce reasonable rules for placing wireless facilities within the right-of-way"; and

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14       **WHEREAS**, the Orlando City Council ("City Council") adopted regulations ("the  
15 regulations") for placement of wireless facilities within the City right-of-way; and

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17       **WHEREAS**, the regulations must be amended to conform to the requirement of  
18 Chapter 337, Florida Statutes; and

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20       **WHEREAS**, this Ordinance accommodates the growing need and demand for  
21 communication services while also protecting the safety and aesthetic character of the  
22 City's rights-of-way and areas surrounding the rights-of-way; and

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24       **WHEREAS**, at its regularly scheduled meeting of April 17, 2018, the Municipal  
25 Planning Board recommended to the City Council of the City of Orlando, Florida (the  
26 "Orlando City Council"), that the provisions of this ordinance are consistent with the  
27 applicable provisions of the City's adopted Growth Management Plan, are in the best  
28 interest of the public health, safety, and welfare, are in harmony with the purpose and  
29 intent of the City's Land Development Code, and will not result in disorderly and  
30 incompatible land uses; and

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32       **WHEREAS**, the Orlando City Council ("City Council") hereby finds and  
33 determines that this ordinance is consistent with the applicable provisions of the city's  
34 adopted Growth Management Plan, is in the best interest of the public health, safety,  
35 and welfare, is in harmony with the purpose and intent of the city's Land Development  
36 Code and other state and federal laws governing communications facilities.

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

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41       **SECTION 1. CHAPTER 23, ORLANDO CITY CODE AMENDED.**

42 Chapter 23, Code of the City of Orlando, Florida is hereby amended as follows:

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44       **Sec. 23.06. - Rules, Regulations and General Conditions.**

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46       As a condition of allowing the placement or maintenance of a Communications  
47 System or any Communications Facility in the Public Rights-of-Way, and under  
48 additional authority granted pursuant to Chapter 337, Florida Statutes, the City hereby  
49 imposes the following rules, regulations and general conditions. Unless otherwise  
50 provided in this Chapter 23, these rules, regulations and general conditions shall apply  
51 to all Communications Services Providers, including those that are Non-Dealers

irrespective of whether they place and maintain only conduit, dark fiber or Pass-Through Facilities.

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B.

B. Regulations on the Placement or Maintenance of Communications Facilities.

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4. Underground. The placement or maintenance of all Communications Facilities shall be underground unless otherwise approved in writing by the City Engineer. Communications Facilities shall be placed between the property line and the curb line of all streets and avenues and shall not be within the roadway or the roadway recovery area unless specifically approved in writing by the City's Public Works Director. All Communications Facilities shall have consistent alignment parallel with the edge of pavement, a thirty-six inch (36") depth of cover for and shall have two feet (2') of horizontal clearance from other underground utilities and their appurtenances. Where approved by the City Engineer, Facilities to be placed in the street shall be laid according to the permanent grade of the street and at a depth below the surface of the permanent grade as each is determined by the City Engineer.

5. Above-Ground Approval. The placement or maintenance of Facilities above-ground, including new poles and aerial wires, is subject to written approval by the City Engineer. Attachment to any pole or other above-ground structure must be pursuant to a valid and effective pole attachment agreement or similar instrument. Location on any pole or other above-ground structure shall not be considered a vested interest of the Communications Services Provider and such poles or structures, if owned by the Communications Services Provider, shall be removed or modified by the Communications Services Provider at its own expense whenever the City or other governmental authority determines that the public convenience would be enhanced thereby. The lowest placement of any Communications Facility on any pole or other above-ground structure in the Public Rights-of-Way shall not be less than eighteen (18) feet from the ground. The Communications Services Provider shall, at such time as the electric utility facilities or other Communications Facilities are placed underground or are required by the City to be placed underground, concurrently place its Communications Facilities underground without cost to the City.

6. *New Poles or Above-Ground Structures.*

a. In those areas of the City where public utilities providing both telephone and electric service are underground the Communications Services Providers shall utilize existing streetlight and traffic signal poles whenever possible. The placing of any new pole or other above-ground structure to support Communications Facilities is subject to the approval of the City Engineer and shall be done under the supervision of the City Engineer or his designee. Location on any pole or other above-ground structure is not a vested interest of the Communications Services Provider and the City may require removal of the Communications Facility in the interest of the public welfare, health, safety, aesthetics, or as otherwise authorized by law. No such pole or other above-ground structure shall be placed in any gutter or drainage area and

must be behind the curb to avoid damage to any sidewalk. In areas of the City where either electric utility wires or other Communications Facilities are above ground and such facilities are moved, either voluntarily or at the direction of the City, to a new pole or other above-ground structure, the Communications Services Provider shall likewise move all its above-ground Facilities on such poles or structures to such new pole or structure within thirty (30) days after receipt of written notice from either the City or the owner of the new pole or structure, without cost to the City.

b. In those areas of the City where public utilities providing both telephone and electric service are underground, the City Engineer may approve, approve with conditions, or deny the installation of a new utility pole to support wireless communications facilities in the right-of-way based on one or more of the following review criteria:

i. Placement on an existing pole would significantly limit or impede the function or coverage area of the proposed wireless communication facility.

ii. No existing structures are located within the geographic area which would meet the applicant's engineering requirements.

iii. A proposed new pole location is at least ten (10) feet from a driveway and at least ten (10) feet from the edge of an existing tree that is eight (8) inches or greater in diameter.

iv. The proposed new pole location is setback a minimum of twenty-five (25) feet from an existing traffic signal pole and setback a minimum of fifteen (15) feet from any pedestrian ramp.

v. Notwithstanding the above, the city engineer may require greater setbacks from structures in the right-of-way to ensure proper sight lines for public safety purposes.

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## **Sec. 23.08. - Wireless Facilities.**

The placement of communication towers, ~~and~~ communication antennae, and wireless communication facilities anywhere in the corporate limits of the City shall in all cases be subject to the applicable City's zoning and land use regulations, including those set forth in sections 58.840 through ~~58.850~~58.849.8 ~~58.849.8~~ Orlando City Code. ~~The placement of wireless communication facilities anywhere in the corporate limits of the City shall in all cases be subject to the City's zoning and land use regulations, including those set forth in sections 58.844 through 58.858, Orlando City Code.~~ Except as provided in Chapter 58, Orlando City Code, no communication towers or wireless communication facilities shall be placed or maintained in the Public Rights-of-Way without City Council approval. Where placement of a wireless antenna in the Public Rights-of-Way has been approved by the City and to the extent not inconsistent with any City zoning and land use regulations, a wireless antenna attached to a permitted and legally maintained Vertical Structure in the Public Rights-of-Way, such as a light pole or utility pole, shall, unless otherwise agreed to by the City in writing:

- A. not extend more than 5 feet above the highest point of the Vertical Structure;
- B. not have any type of lighted signal, lights, or illuminations (on the wireless antenna) unless required by an applicable federal, state, or local rule, regulation or law;
- C. comply with any applicable Federal Communications Commission Emissions Standards;
- D. comply with any applicable local building codes in terms of design, construction and installation; and
- E. not contain any signage (on the wireless antenna).

**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:

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**Sec. 58.849.2. - 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) The location ~~Co-location~~ of wireless communication facilities on existing utility poles is strongly encouraged. Where multiple providers are seeking to locate in the same geographic area, every effort should be made to locate communication facilities on the same utility pole.

**Sec. 58.849.3 – Use Restrictions and Approval Process.**

(a) Maximum Height. The maximum height of a wireless communication facility ~~in any~~ is ten (10) feet above the utility pole or structure upon which the wireless communication facility is to be collocated. Unless waived by the City, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been

granted, measured from grade in place within 500 feet of the proposed location of the wireless communication facility. If there is no utility pole within 500 feet, the maximum height of a wireless communication facility is 50 feet. The maximum height of a wireless communication facility in a Historic Preservation overlay district is thirty-five (35) feet.

(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 section (a)(1-4), above, may be approved administratively through the right of way permitting process in Chapter 23, Orlando City Code. Applications for waivers to the height and design requirements shall be reviewed and approved, approved with conditions, or denied, by a city engineer or planning official letter of determination. In reviewing an application for a waiver, the planning official shall apply the standards of review provided for review of Conditional Use Permits as provided in Section 65.285, Orlando City Code. If the planning official approves the request, he or she may impose one or more of the conditions of development provided by Section 65.284, Orlando City Code. Conditions of development must be reasonably calculated to mitigate identifiable land use impacts of the installation of wireless communication facilities. Violations of development conditions constitute a violation of this section.

(c) Conditional Use Permit. A Conditional Use Permit is required for wireless communication facilities that exceed the heights in sections (a)(1-4) 58.849.3(a) above. The maximum height permitted with a Conditional Use Permit is seventy-five (75) feet. Applications for Conditional Use Permits will be evaluated to ensure compliance with Section 58.844(a) and (b), Orlando City Code, and in accordance with the standards of review provided in Section 65.285, Orlando City Code.

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

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

~~(f)~~(e) Modification of existing wireless communication facilities.

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

- (a) increase the height of the wireless communication facility by more than 10% or 10 feet whichever is greater.
- (b) involve installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four cabinets;
- (c) entail any excavation, closure of sidewalk, closure of vehicular lane, or deployment outside the current site of the wireless communication facility
- (d) defeat the existing concealment elements of the wireless communication facility; or
- (e) violate conditions associated with the prior approval of the wireless communication facility, unless the violation involves height, addition of cabinets, or new excavation.

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

**~~Sec. 58.849.4. Exemptions.~~**

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

**Sec. 58.849.54. Location Requirements for Wireless Communication Facilities.**

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

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

~~\_\_\_\_\_ (2) Wireless communication facilities taller than thirty-five (35) feet shall comply with the minimum separation requirements from adjacent zoning districts set forth in Section 58.844(a).~~

~~\_\_\_\_\_ (3) The separation between wireless communication facilities shall be seven hundred fifty (750) feet.~~

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

(c) Where there is no furniture zone or parkway strip, wireless communication facilities shall maintain either a minimum six (6) foot wide pedestrian clear zone from

back-of-curb to the inward edge of a wireless communication facility or a minimum five (5) foot wide pedestrian clear zone between the outward edge of a wireless communication facility and the back-of-sidewalk.

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

(e) Wireless communication facilities shall not be installed on a horizontal structure to which signal lights or other traffic control devices are attached ~~traffic signal poles inside the City's public right-of-way~~. Further, wireless communication facilities shall be setback a minimum of twenty-five (25) feet from a traffic signal pole and setback a minimum of fifteen (15) feet from any pedestrian ramp.

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

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

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

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

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

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

#### **Sec. 58.849.65. Design Requirements.**

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

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



(c) 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.

(d) Wireless communication facilities mounted to the exterior of a pole 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 area. The external finish of the equipment cases shall generally match the color of the utility pole. All mounting and banding fixtures shall also match the color of the utility pole.

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

(f) Electric meters and disconnect switches shall be located as required by the Orlando Utilities Commission. 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 generally match the color of the utility pole.

(g) The grounding rod may not extend above the top of 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.

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

**Sec. 58.849.76. Waivers**

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

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

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

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

~~\_\_\_\_\_ (1) \_\_\_\_\_ an existing utility pole is being replaced, or~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ impediments such as a dense tree canopy or tall structure interfere with signal transmission.~~

~~(e)~~(b) Waivers above ten (10) percent may be granted through the Conditional Use Permit process.



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

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

**Sec. 58.849.87. - 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. 58.849.98. - Abandonment.**

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

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

Wireless Communication Facility: any equipment or facility used for the transmission or reception of wireless communications and located on public right-of-way. 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 cell networks). For purposes of this Ordinance, the term shall not include communication towers.

**SECTION 4. CONFLICT.** The provisions of this Ordinance will prevail in the event of conflict with the provisions of any existing ordinance.

**SECTION 5. CODIFICATION.** The City Clerk and the City Attorney shall cause the Code of the City of Orlando, Florida to be amended as provided in this ordinance and may renumber, re-letter and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

**SECTION 6. SCRIVENER'S ERROR.** The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

**SECTION 7. SEVERABILITY.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**SECTION 8. EFFECTIVE DATE.** This ordinance is effective upon adoption.

**DONE, THE FIRST READING,** by the City Council of the City of Orlando, Florida, at a regular meeting, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**DONE, THE FIRST PUBLIC NOTICE,** in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**DONE, THE SECOND PUBLIC NOTICE,** in a newspaper of \_\_\_\_\_, 2018.

**DONE, THE SECOND READING, A PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE,** by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

BY THE MAYOR/MAYOR PRO TEMPORE  
OF THE CITY OF ORLANDO, FLORIDA:

\_\_\_\_\_  
Mayor/Mayor Pro Tempore

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

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Print Name

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

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Print Name