

## ATTACHMENT B ARTICLE III SUMMARY

The purpose of Article III is to provide a basic framework for the Town in the regulation of its public rights-of-way (ROW) as it pertains to communication facilities such as cellular utility poles, antennas, cable TV, and/or any other facility that serves to transmit communications. The provisions are tailored to comply with State and Federal law in their interest to ensure adequacy of communication facilities. This is particularly case with the government's interest in maintaining a fully functional 911 emergency response system. The State of Florida's recent legislation related specifically to small and micro cell facilities, including the antennas, support equipment, cabling, and the poles to which they are attached. The ordinance is not meant to obstruct any one communication company from their obligation under state law to provide services. Franchise agreements for communication providers are not permitted as all such providers must be treated equitable in a neutrally competitive environment as required under the State law.

The following summary is a brief review of Article III and its contents:

- Division 1 identifies the intent and purpose of the Article and provides for the pertinent definitions specific to those provisions.
- Division 2 provides for the registration of a communication company. The intent here is to ensure that any communication company that seeks to utilize the Town's ROW is properly insured, and indemnifies and holds harmless the Town. It also ensures the they participate in the defense of the town for claims arising from their facilities. A Security Fund of \$50,000 is required in the event the Town needs to draws down the money to restore its ROW as a result of damages, incomplete work, or abonnement by the communications company.
- Division 3 requires permitting for all facilities within the ROW as well as the standards for their physical location. Service and repairs resulting from emergency situations may be issued after the fact permits. Division 3 comes principally in two (2) parts. The first part (sec. 35-52) addresses communication facilities in general. Compliance with the Florida Building Code is required (unless otherwise exempt by Florida Statute) and each permit application must include a maintenance of traffic (MOT) plan. Repair and maintenance of the ROW is required of the communication company as a result any work or incident occurring at their facility. Facility placement standards are provided to ensure adequate spacing is provided for proper functioning of the ROW (sidewalks, roadways, site triangles etc.).

The second (sec. 35-53) part of the Division 3 is particular to small and micro cell facilities including the antennas, support structures, support equipment, and underground cabling. Review periods ("Shot Clocks") are defined and options are provided regarding location and design. Stealth and concealment options are provided and include a waiver procedure where it may be demonstrated that such design is not (1) reasonably compatible or (2) imposes an excessive expense. While distance separations between poles cannot be

required, the Town may request a nearby relocation, an alternative pole, or other objective design standards. Maximum pole height is limited to the height of any pole in existence as of 07/01/2017, that is within 500' of the requested location. However, if no existing pole is within 500' of the proposed, the default height is 50'. Nevertheless, any antenna may be 10' feet higher than the pole to which it is attached. See Attachment "C" for the permitted review procedure and time lines as well as pertinent definitions.

The ordinance incorporates new Statutory requirements regarding grounds for denial of a small/micro cell facility application. Denial may be rendered if any of the conditions described below are met:

- Safe operation of Traffic Control Equipment is compromised.
  - Site lines and clear zones for traffic and pedestrians are obstructed by the pole or equipment.
  - ADA standards are violated
  - Noncompliance with the 2010 editions of the FDOT Utility Accommodation Manual.
  - Noncompliance with other applicable safety code.
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- Division 4 provides for enforcement provisions as the tool to ensure the integrity of the rights-of-way are maintained. Appeal provisions are provided for and in no way do the procedures interfere with a facilities legal obligation to provide service as required by State Law. Fines resulting from enforcement are currently under review and may return under a separate ordinance.
  - Division 5 provides for abatement of a facility located in the ROW. In such an unlikely event, the procedures provide for a notice and appeal process in advance of any action that may result in the removal of the facility. The intent of this provision is to ensure the ROW is clear of any unused and unnecessary equipment.
  - Division 6 relates to fees and taxes. The town participates in the Communication Services Tax option provided by Florida Statutes. As such, the town can not charge a building permit or registration fee to communication service companies. The town is permitted to charge an annual of \$150 fee for each Town own utility pole upon which a communication facility is attached and may charge up to \$500 per linear mile of cabling, conduits, strands, and fibers that pass through the Town's ROW. The fee is to be collected annually at the time of registration of the communication registrant.