



# Telecommunications Workshop

March 13, 2017



# Agenda

## Topic

### Legal

Introduction of new telecommunications legislation and legal framework for policy discussion

### Telecommunications in ROW

Policy discussion on proposed regulations for telecom facilities in the ROW

### Telecommunications in Parks

Policy discussion on potential telecom facilities in Parks

# Introduction

The following slides shall serve as a general outline of the Town's ability to regulate telecommunication structures within the Town's right of ways and the Town's responsibility to address and respond to permit solicitations for telecom equipment on public right of ways.



# Federal Law

In 1996, Congress enacted the Federal Telecommunications Act of 1996 (FTA).

## *What we can't do.*

In general; no state, local statute or regulation, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.



# *What the State of Florida can do.....*

Nothing in this section shall affect the ability of a State to impose:

On a competitively and neutral basis requirements necessary to preserve and advance **universal service**, **protect the public safety** and **welfare** ensure the continued quality of telecommunications service, and safeguard the rights of consumers.



# *What Municipalities Can Do.....*

Nothing affects the authority of a State or local government to manage the public rights-of-way on a competitively neutral and nondiscriminatory basis.



# State of Florida vs. Municipalities:

- Congress drew a distinction between powers reserved to State and Local Government.
- States may regulate universal service, protect consumers, ensure quality and protect the public safety and welfare. Municipalities can only manage the public rights-of-way.

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# Authority to Regulate:

Florida Law delegates regulation authority over telecommunication companies to the Public Service Commission (“PSC”), a statewide administration. See Florida Statute § 364.01.



# State of Florida

## Authority to Regulate:

While this statute preempts local governmental control over telecommunication companies, Florida municipalities can regulate the use of their right of ways. See Florida Statute § 337.401.



# A municipality cannot:

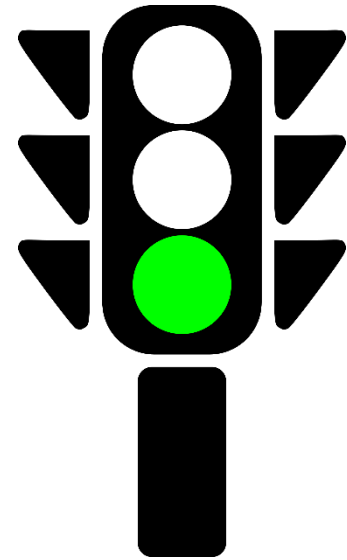
- During the review process for a wireless communication facility application a municipality **may not:**
  - Require information from the applicant on, or evaluate a wireless provider's business decisions about its service
  - Customer demand for service, quality of its service to or from a particular area or site, unless the wireless provider voluntarily offers this information to the municipality, cannot be requested.



- Additionally a municipality many not require information on, or evaluate the wireless provider's designed service unless the information or materials are directly related to and identifies a land development or zoning issue; *unless the wireless provider voluntarily offers the information.*

## A Municipality May:

- Review the application for placement, construction or modification of a wireless communications facility to address land development or zoning issues.



- Review application for **aaesthetics, landscaping and land use, based on location, structural design**; require design to accommodate collocation and setbacks.
- Additionally, a municipality **may exclude** the placement of wireless communication facilities in a **residential area** or zoning district but only in a manner that does not constitute an actual or effective prohibition of the provider's service in that residential area or zoning district.

## Fees:

- Only Permit Fees can be collected. However, pursuant to Town of Miami Lakes' election and pursuant to Florida Statute § 337.401, the Town does not collect permit fees.
- For pass through entities, \$500.00 can be charged per linear mile.



# Collocation:

Collocation: Means the situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennae.





- Collocations are favored by the State, therefore, collocations that meet the following requirements are statutorily subject to only building permit review:
  - The Collocation does not increase the height of the tower to which the antennae are to be attached;
  - Collocation does not increase the ground space area commonly known as the compound, approved in the site plan from equipment enclosures and ancillary facilities;
  - Collocation consists of antennae equipment enclosures and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions or conditions.

- Collocation does not increase the ground space area commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities
- Collocation consists of antennae equipment enclosures and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions or conditions.

# Registration:

Florida Law does not permit a municipality from entering into a private license or franchise agreement with a provider of communication service.



## *However.....*

- Florida law permits municipal registration of communication service providers that are seeking the placement or maintenance of facilities within the municipality's right of ways.

# Registration may require:

- The provider to provide:
  - the name of the registrant;
  - the name, address and telephone number of a contact person for the registrant
  - the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission the Federal Communications Commission or the Department of State. *Florida Statute § 337.401.*

- Registration, by itself does not create a right to place or maintain a communication facility in the roads or rights of ways of a municipality.

# Time Frames:

Florida Statutes creates strict timelines that must be followed throughout the application process

## Collocation:

A municipality shall grant or deny each properly completed application for a collocation subject to building permit review, within the same period as a normal building permit review, but in no case later than 45 business days after the date the application is determined to be properly completed.



# Wireless Communication Facility:

A municipality shall grant or deny each properly completed application for a wireless communication facility based on the municipality's requirement including but not limited to land development regulations, consistent with this subsection and within the normal time frame for a similar type review but in not case later than 90 business days after the date the application is determined to be properly completed.





# Submittal of Application and Acceptance:

- An application is deemed submitted or re-submitted on the date the application is received by the municipality.
- The municipality shall have 20 days after receipt to notify the applicant of deficiencies in the application.

# Failure to Respond Applicant in a Timely Manner.....

- The municipality's failure to properly notify the applicant within the 20 day period shall render the application, for administrative purposes, properly completed and submitted.
- The determination by itself shall not be deemed as an approval of the application.



- If the application is deficient, the municipality shall inform the applicant of the deficiency, the required documents, and timeframes for review.
- Review may not be longer than 20 days. Local government may establish reasonable timeframes within which the required information to cure the application is to be provided.

- If the municipality fails to grant or deny a properly completed application, the application shall be deemed automatically approved and the applicant may proceed with the placement of the facilities.



# Telecommunications in ROW



# Telecommunications in ROW



# Telecommunications in ROW

## Planning Research

- Model Code Comparison
  - City of Fort Lauderdale
  - Village of North Palm Beach
- Both Vetted by Industry
  - Meet State & Federal Rules
  - Treat Utilities Fairly
  - **Application Procedures**
  - **Review Standards**

# Telecommunications in ROW

## Registration

- Main Contact Information
- Evidence of Insurance
  - \$2,000,000 (Two Separate Policies)
  - Performance bonding
- Permitting
  - Shot Clocks
  - Safety
  - **Aesthetics**
  - **Height**
  - **Location**
  - **Equipment Size**



# Telecommunications in ROW

## aesthetics - Appearance

- Fort Lauderdale:
  - Stealth Design
  - Color Photo Simulation
  - No Signage
  - Specifies Exterior Finishes
- North Palm Beach
  - Minimize Visual Impact
  - Landscaping

# Telecommunications in ROW

## Height

- Fort Lauderdale:
  - Pole Not to Exceed Height of Nearest Pole
  - Single Antenna +4'
  - Colocation +6' Per Antenna
  - 8' Clearance
- North Palm Beach
  - Pole Not to Exceed Height on a Similar Street
  - Arterial Max 75'
  - Collector Max 55'
  - Local Max 40'

# Telecommunications in ROW

## Location

### Fort Lauderdale:

- Pavement Separation Per FDOT Manual
- 1' Off Sidewalk
- Edge of ROW
- Site Triangles
- 350' Separation Between Poles
- No Residential Front Yards
- 10' Setback from Residential Corner Lots
- Do Not Impair Residential Views

# Telecommunications in ROW

## Location

### North Palm Beach:

- Arterial as Preferred Location
- Engineering Analysis Required All Other Streets
- Not Directly in Front of Residential Structure
- If Residential on One Side – Pole to Other Side
- Located in Areas with Existing Vegetation
- Do Not Impair Residential Views

# Telecommunications in ROW

## Equipment size

- Fort Lauderdale:
  - Antenna 3 Cubic Feet
  - Cabinet 17 Cubic Feet
  - No Lighting
- North Palm Beach
  - Antenna 3 Cubic Feet
  - Cabinet 17 Cubic Feet
  - No Lighting

# Telecommunications in ROW

## Variance

- Fort Lauderdale:
  - Yes
- North Palm Beach
  - Yes

# Telecommunications in ROW

## Recommendation

- **Aesthetics - Appearance**
  - Stealth Design
  - Color Photo Simulation
  - No Signage
  - Specify Exterior Finishes
  - Minimize Visual Impact
  - Landscaping

# Telecommunications in ROW

## Recommendation

- **Height**
  - Pole Not to Exceed Height of Nearest Pole
  - Single Antenna +4'
  - Colocation +6' Per Antenna
  - 8' Clearance
  - Arterial Max 45'
  - Collector Max 35'
  - Local Max 20'



# Telecommunications in ROW

## Recommendation

- **Location**
  - Arterial as Preferred Location
  - Engineering Analysis Required All Other Streets
  - Pavement Separation Per FDOT Manual
  - If Residential on One Side – Pole to Other Side
  - Do not Impair Residential Views
  - 10' Setback from Residential Corner Lots
  - No Residential Front Yards
  - Located in Areas with Existing Vegetation
  - 350' Separation Between Poles
  - 1' off Sidewalk
  - Edge of ROW
  - Site Triangles

# Telecommunications in ROW

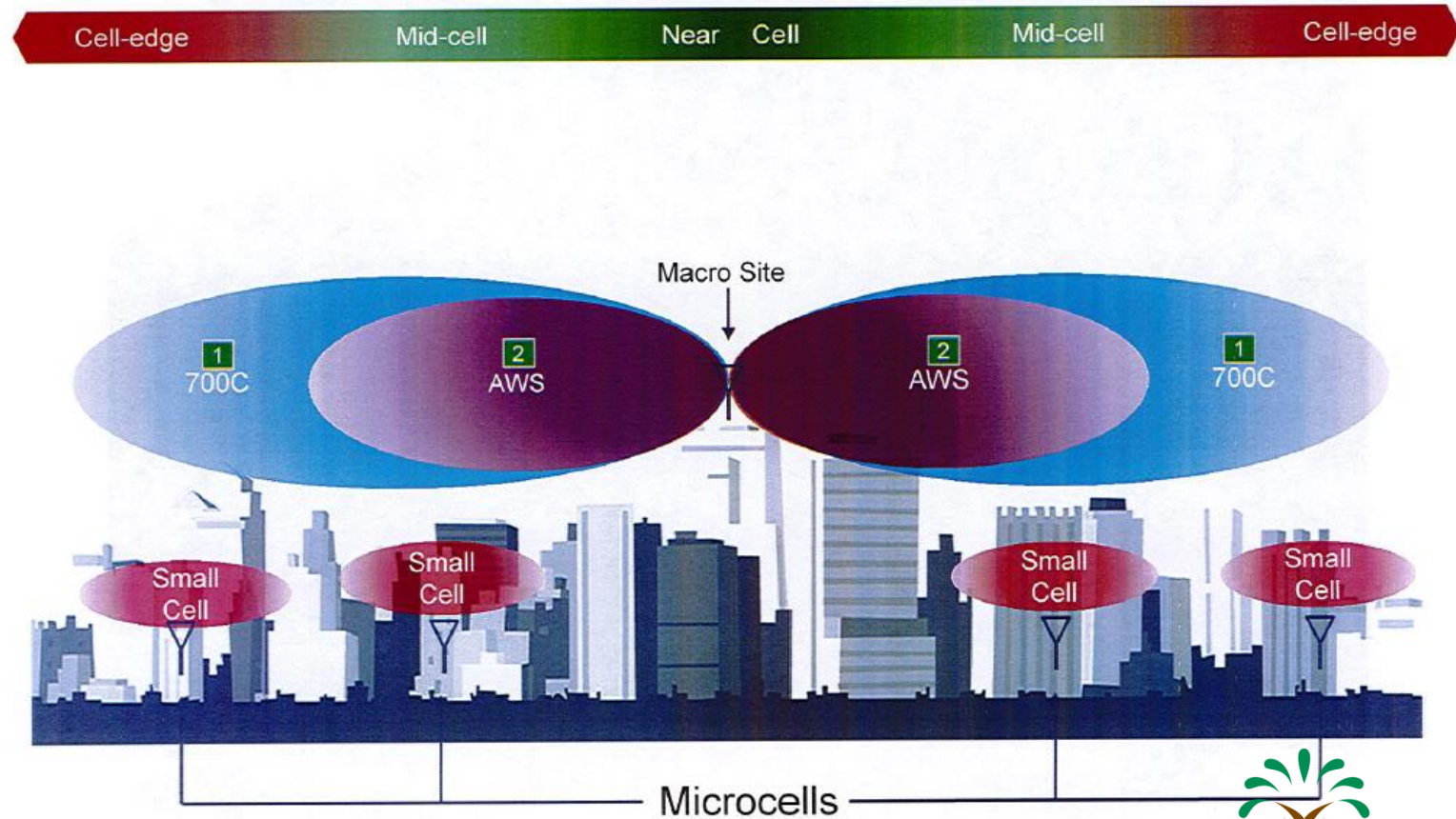
## Recommendation

- **Equipment size**
  - Antenna 3 Cubic Feet
  - Cabinet 17 Cubic Feet
  - No Lighting
- **Variance Procedure**
  - Provide

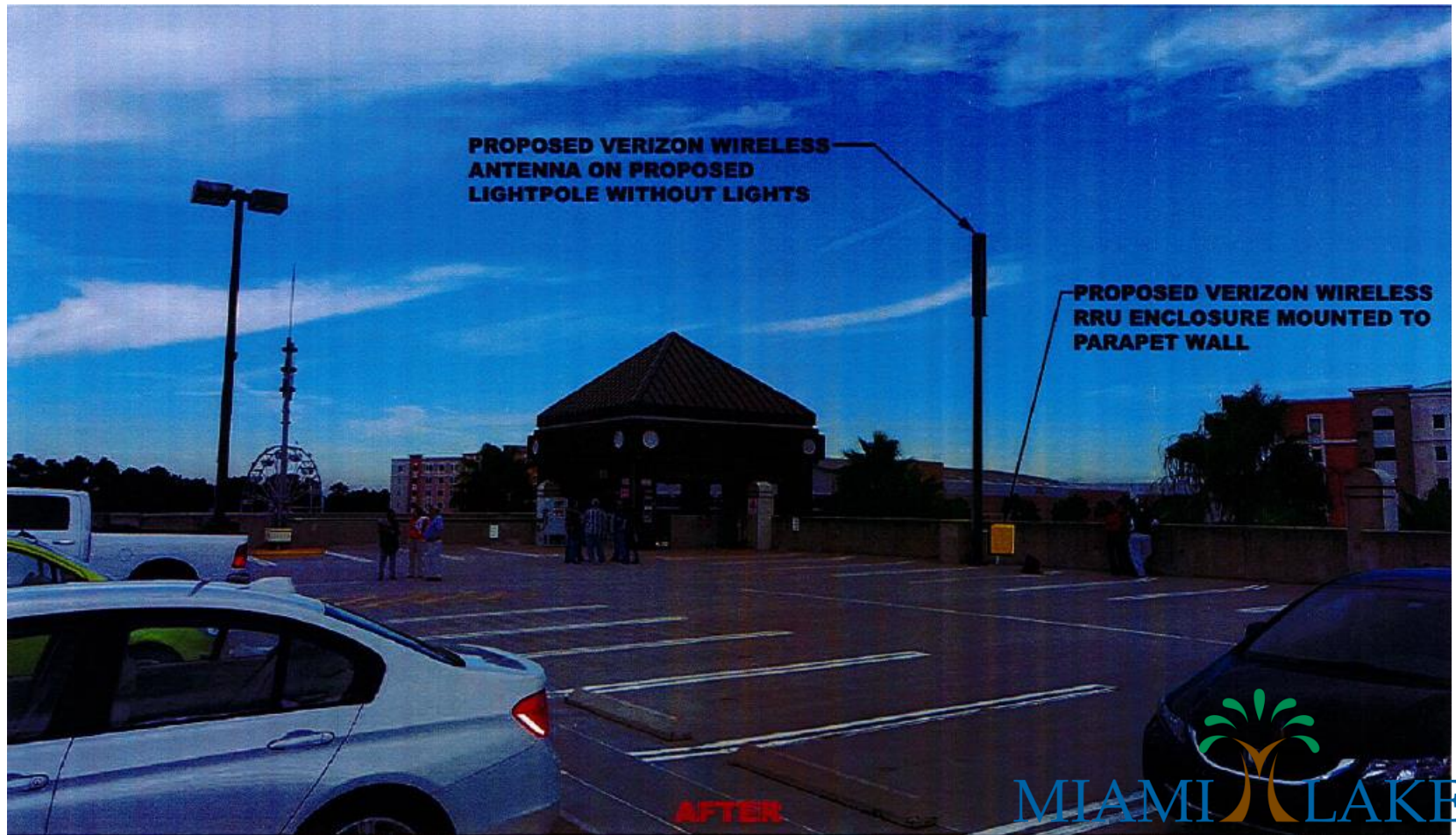
# Telecommunications in Parks



# Small Cell Deployment Strategy

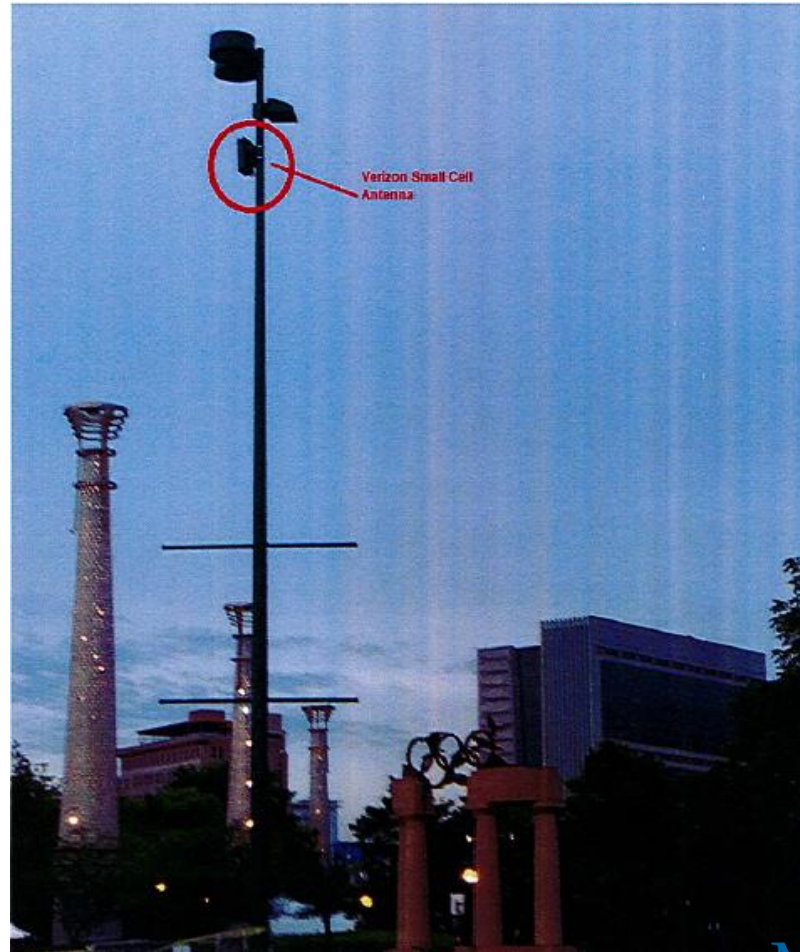


# Photo Simulations Parking Garage





# Actual Deployment of a Small Cell Antenna on Existing Light Pole



# Telecommunications in Parks





# 100 SF. Flagpole Simulation





# 100 SF Flagpole Simulation



# 80 SF. Light pole Simulation





# 100 SF. Light pole Simulation





Thank you!