

**Agenda Item 15.B  
Meeting of 9/20/23****ORDINANCE 2023-15180**

**AN ORDINANCE RELATING TO RIGHTS-OF-WAY AND PUBLIC PROPERTY; AMENDING THE PUBLIC RIGHT-OF-WAY ORDINANCE NO. 06-11099 AS AMENDED BY ORDINANCE 2019-14313 AND BY ORDINANCE 2022-14976, TO AMEND APPENDIX D, AESTHETIC DESIGN STANDARDS, FOR PERMITTING OF CONSTRUCTION AND MAINTENANCE IN THE PUBLIC RIGHTS-OF-WAY, PUBLIC SIDEWALKS AND WAYS, PUBLIC UTILITY EASEMENTS, AND OTHER PUBLIC PROPERTY; PROVIDING FOR REGISTRATION; AND PROVIDING A CONFLICT AND SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE.**

**WHEREAS,** the Federal Communications Commission (FCC) preempts certain actions by local governments and mandating certain review by local governments of small antenna permit applications; and

**WHEREAS,** the Florida Legislature has also adopted and imposed certain preemptions and mandates on local governments including Section 337.401(7)(a) the Florida "Advanced Wireless Infrastructure Deployment Act."; and

**WHEREAS,** the partial preemptions still allow local governments to adopt by ordinance local aesthetic standards for staff to follow when reviewing small wireless permit applications; and

**WHEREAS,** the City of Naples is without debate one of the most beautiful cities in the world with excellence in design, aesthetics and a historic district of contributing structures; and

**WHEREAS,** it is advisable and beneficial for the City to adopt registration requirements for small cell tower applicants and communications services providers that place and maintain facilities in the public rights-of-way; and

**WHEREAS,** federal and state law and orders require that small wireless applications be treated in a non-discriminatory manner with other right-of-way applications; and

**WHEREAS,** an advertisement of the public hearing for adoption of the proposed ordinance was published in the Naples Daily News on the 10th day of September, 2023 as required by Section 166.041, Florida Statutes and City of Naples Code of Ordinances; and

**WHEREAS,** a Business Impact Statement was prepared and posted on the City's website on the 8th day of September, 2023, as required by Section 166.041(4), Florida Statutes; and

**WHEREAS,** the City Clerk submitted notice of this proposed ordinance to the Secretary of State at least 10 days prior to first reading which occurred on September 5, 2023;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, COLLIER COUNTY, FLORIDA:**

**Section 1.** That the Right-of-Way Ordinance and Construction Standards Handbook of the City of Naples, Ordinance No. 06-11099, as amended by Ordinance 2019-14313 and by Ordinance 2022-14976, is hereby further amended to create and add registration requirements for small cell tower applicants and communications services providers to the requirements set forth in Appendix D, Aesthetic Design Standards, for permitting of construction and maintenance in or upon the public rights-of-way, public sidewalks and ways, public utility easements, and for other public property; which shall read as set out in Exhibit A, which is attached hereto and incorporated herein.

**Section 2.** That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same shall not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection or section, shall be revived.

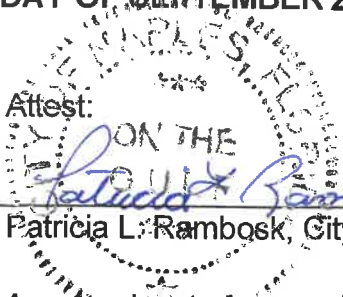
**Section 3.** That all sections or parts of sections of the Ordinances of the City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict. If the procedures contained in this ordinance or the Public Right-of-Way Ordinance and Construction Standards Handbook conflict with a lawful state or federally-mandated or preemptive procedure, the state or federal procedure shall apply.

**Section 4.** This ordinance shall take effect immediately upon adoption at second reading.

**APPROVED AT FIRST READING AND PUBLIC HEARING THE 5TH DAY OF SEPTEMBER 2023.**

ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 20TH DAY OF SEPTEMBER 2023.

Attest:

 ON THE  
Patricia L. Rambosk  
Patricia L. Rambosk, City Clerk

Teresa Lee Heitmann  
Teresa Lee Heitmann, Mayor

Approved as to form and sufficiency:

Nancy St. John  
Vose Law Firm, City Attorney

Date filed with City Clerk: 9-29-23

**EXHIBIT A**

**APPENDIX D**

**AESTHETIC DESIGN STANDARDS**

**A. General Standards**

1. The following design standards are created as a result of a Federal Communications Commission Declaratory Ruling and Third report and Order, FCC 18-33, WT Docket Nos. 17-79 and 17-84 pertaining to Small Scale Wireless Antenna Deployment. However, to the extent that they are the same or similar to placement of other facilities in or upon the public rights-of-way, public sidewalks, public ways, or public utility easements, they shall apply equally to other facilities. To achieve that end, the City will not discriminate against wireless facilities, including small-scale wireless facilities, within the meaning of the telecommunications laws. However, due to the existing beauty and high level of aesthetic awareness of the City, the City demands a high standard of aesthetic awareness and compliance for all facilities, especially those that are in full or in part above-ground or that can be seen from above the ground.

2. These standards may also be applied as guidelines to any real or personal city-owned or controlled property including city parks, buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the public rights-of-way, City-owned public sidewalks and ways, and City-owned public utility easements.

3. For purposes of these standards the term "facility" or "facilities" will be used to describe all types of placements, including without limitation: wireless facilities, cables, antennas, conduit, rods, electrical transformers, electrical boxes, cable boxes, pull boxes telephone and utility poles, water connections, sewer connections, gas lines, and other similar structures. It is recognized that many of the "facilities" are governed by other laws and regulations, by franchise or other agreements, or other permits.

4. If there is a lawful state or federal mandate or preemption, the mandate or preemption shall apply and the application shall be processed accordingly, but only to the extent of the mandate or preemption. Otherwise, applications shall conform to the standards set out in the Right-of-Way Ordinance and Construction Standards Handbook, as amended.

5. Compliance with Aesthetic Standards. Applications for a Right-of-Way Permit must demonstrate compliance with the following:

- a. Aesthetic standards contained in the City's Comprehensive Plan,
- b. Aesthetic standards applicable to the zoning district in which the permit is being sought, and
- c. Aesthetic Design Standards as supplemented herein.

If compliance with these standards cannot be achieved or are believed by the applicant to be irrelevant, infeasible, not a best practice, or unlawful, the reasons shall be stated in the application or a response to staff request.

6. Registration for placing or maintaining communications facilities in the public right-of-way.

(a) Registration required. All persons, including, but not limited to a communications services provider, pass-through provider, or wireless provider, seeking to place or maintain a communications facility, backhaul facility, or utility pole for collocation of a small wireless facility in public rights-of-way in the city pursuant to this article shall maintain an effective registration with the city in accordance with this article. An effective registration shall be required before being eligible to receive any permit from the city. Subject to the terms and conditions prescribed in this article and approval of a permit, if required, a registrant may place or maintain a communications facility in public rights-of-way. A communications services provider, pass-through provider, or wireless provider with an existing communications facility in the public rights-of-way of the city as of the effective date of this article shall comply with the terms of this article, including, but not limited to obtaining an effective registration, within 90 calendar days from the effective date of this article, or be in violation thereof. This provision shall not require the removal or alteration of existing communications facilities placed or maintained in the public rights-of-way pursuant to a previously issued permit or otherwise lawfully installed prior to the effective date of this article unless such facilities are abandoned or otherwise required to be altered or removed by applicable law or by the city manager consistent with applicable law.

(b) Requirements for an effective registration. A person that places or maintains a communications facility in the public rights-of-way in the city shall file an original registration, with the city manager. The registration shall be submitted by the person that owns or controls the communications facility and shall include the following information:

- (1) Name of the registrant;
- (2) Name, address, and telephone number of the registrant's primary contact person in connection with the registration and name, address, telephone number and email addresses of the registrant's primary contact person in the event of an emergency or issue involving its facilities, which shall be monitored 24 hours per day, seven days per week;
- (3) A statement of whether the registrant is a pass-through provider in the city as defined in F.S. § 337.401(6)(a)1;
- (4) Evidence of the insurance coverage required under this article;
- (5) Acknowledgment that registrant has received and reviewed a copy of this article;
- (6) A copy showing the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission, the Florida Department of State, or the FCC; and
- (7) The registrant's federal employer identification number.

(c) Insurance.

(1) Registrant shall provide, pay for and maintain satisfactory to the city, the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the state of Florida and having a rating in Best's Insurance Guide of A or better, or having a rating acceptable to the city. All liability policies shall provide that the city is an additional insured in the endorsement. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the city annually. 30 days advance written notice by registered or certified mail must be given to the city of any

cancellation, intent not to renew, or reduction in the policy coverages. In addition to the certificate of insurance, the registrant shall provide a copy of the insurance policy, if requested by the city. A provider of communications services may add the city to any existing insurance policy and the city shall accept such proof of coverage without any conditions other than consent to venue for purposes of any litigation to which the city is a party.

(2) The limits of coverage of insurance required shall be not less than the following:

a. Worker's compensation Coverage A when required by F.S. ch. 440, as amended and employer's liability Coverage B with limits of \$1,000,000.00 per accident, per disease and per policy limit with a waiver of subrogation in favor of the city. Registrant shall require any contractor to provide to a registrant this coverage for the contractor's employees.

b. Comprehensive general liability. Bodily injury and property damage: \$3,000,000.00 combined single limit each occurrence naming the city as an additional insured on a primary and noncontributory basis. Said coverage shall not exclude contractual liability, products/completed operations, explosion, collapse, and underground property damage, subcontractors or independent contractors.

c. Automobile liability. Bodily injury and property damage: \$3,000,000.00 combined single limit each accident owned and nonowned vehicles, naming the city as an additional insured on a primary and noncontributory basis.

d. Umbrella or excess liability. Registrant may satisfy the minimum limits required above for either commercial general liability, business auto liability, and employer's liability coverage under umbrella or excess liability. The umbrella or excess liability shall have an aggregate limit not less than the highest "each occurrence" limit for commercial general liability, business auto liability, or employer's liability. The city shall be specifically endorsed as an "additional insured" on the umbrella or excess liability, unless the certificate of insurance states the umbrella or excess liability provides coverage on a "follow-form" basis.

e. Self-insurance. Registrant may satisfy the insurance requirements and conditions of this division under a self-insurance plan and/or retention if acceptable to the city in its sole discretion based on the city's evaluation of the registrant's ability to comply with the city Code. Registrant agrees to notify the city, and/or indicate on the certificate(s) of insurance when self-insurance is relied upon or when a self-insured retention meets or exceeds \$100,000.00. The city reserves the right, but not the obligation, to request and review a copy of the registrant's most recent annual report or audited financial statement, which the registrant agrees to furnish for the purpose of determining the registrant's financial capacity self-insure.

(3) Right to review. The city, by and through its risk manager, reserves the right to review, to reject, or to accept any required policies of insurance or self-insurance, including limits, coverages, or endorsements herein from time to time throughout the life of this article. The city reserves the right, but not the obligation, to review and reject any insurer or self-insurer providing coverage because of its poor financial condition or failure to operate legally.

(4) This article shall not be construed to affect in any way the city's rights, privileges and immunities as set forth in F.S. § 768.28. Insurance under this article shall run continuously with the presence of the registrant's facilities in the public rights-of-way, and any termination or lapse of such insurance shall be a violation of this article and subject to the remedies as set forth herein. Notwithstanding the foregoing, the city may, in its sole discretion, require increased or decreased levels of insurance.

(d) Review of registration. The city shall review the information submitted for the registration. If the registration includes the information in accordance with this subsection, the city shall notify the requester of the effectiveness of registration in writing. If the city determines that the information has not been submitted in accordance with this subsection, the city shall notify the registration requester in writing of the noneffectiveness of registration, and reasons for the

noneffectiveness. The city shall endeavor to notify a requester for a registration within 30 days after receipt of registration information. A notice of noneffectiveness of a registration shall not preclude the filing of a subsequent request for registration under the provisions of this article.

(e) Regulations applicable to registrations.

(1) A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this article governs only the placement or maintenance of communications facilities in public rights-of-way. To the extent not inconsistent with applicable law, registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the city's or another person's facilities. Within 90 days of any change in the information required to be submitted by a registrant, a registrant shall provide updated information to the city.

(2) Registration shall be nonexclusive. Registration shall not establish any right or priority to place or maintain a communications facility in any particular area in public rights-of-way within the city. Registrations are expressly subject to any future amendment to or replacement of this article, and further subject to any additional city ordinances, as well as any applicable state or federal laws.

(3) Unregistered use of public rights-of-way. To the extent that a communications services provider, wireless provider, or pass-through provider with facilities in the public rights-of-way, is not registered as required herein, said person shall register with the city pursuant to this article within 90 calendar days from the effective date of this article. No new permits shall be issued to unregistered persons with communications facilities within the public rights-of-way and such persons shall be subject to the city's enforcement remedies.

(4) Registration renewal. A registrant shall renew its registration with the city on or about April 1 every five years from the first April after the initial effectiveness of the registration in accordance with the registration requirements in this section, as may be amended. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may result in the city restricting the issuance of permits until the registrant has complied with the registration requirements of this article. An existing effective registration pursuant to the city Code prior to the effective date of this article shall continue to be effective and as set forth herein, the registrant shall comply with this article by the earlier of the following: 90 calendar days from the effective date of this article, the renewal of a registration as required herein, or prior to applying for a permit.

(5) A registrant may cancel a registration upon written notice to the city that the registrant will no longer place or maintain any communications facilities in public rights-of-way, and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain any communications facilities in the public rights-of-way.

(6) Termination of registration. The city may terminate a registration if:

a. A federal or state authority suspends, denies, or revokes a registrant's certification or license required to provide communications services;

b. The registrant's placement or maintenance of a communications facility in the public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way and the registrant fails to remedy the danger promptly after receipt of written notice;

c. The registrant abandons its facilities in the public rights-of-way; or

d. The registrant commits substantial and material violations of any of the provisions of applicable codes including, but not limited to this article.

(7) Notice of intent to terminate. Prior to termination, the city shall notify the registrant with a written notice setting forth all matters pertinent to the proposed termination action, including the reason therefore. Except in the case of failure to remedy an extraordinary danger within the time required by the city pursuant to this article, the registrant shall have 30 calendar days after receipt of such notice within which to address or to eliminate the reasons or within which to present a plan, satisfactory to the city, to accomplish the same and to take such steps as are necessary to render every portion of the facilities remaining in the public rights-of-way of the city safe. If the plan is rejected by the city, the city shall provide written notice of such rejection within 15 calendar days of receipt of the plan to the registrant and shall make a final determination as to termination of the registration and the terms and conditions relative thereto.

(8) Post termination action. In the event of termination, following any appeal period, the former registrant shall: (a) in accordance with the provisions of this article and as may otherwise be provided under state law, notify the city of the assumption or anticipated assumption by another registrant of ownership of the registrant's communications facilities in the public rights-of-way; or (b) provide the city with an acceptable plan for removal or disposition of its communications facilities in the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal. If a registrant fails to comply with this subsection, the communications facilities are deemed to be abandoned and the city may exercise any remedies or rights it has at law or in equity as well as the city's remedies pursuant to this article, including, but not limited to, utilize or allow other persons to utilize the registrant's facilities. The obligations of the registrant hereunder shall survive the termination of a registration. A registrant that has its registration terminated by the city under this article may reapply for registration one year after the termination date of the prior registration, unless otherwise permitted to reapply at the sole discretion of the city.

(9) When removal not authorized or required. In the event of termination of a registration, this article does not authorize the city to cause the removal of communications facilities used to provide another service for which the registrant or another person who owns or exercises physical control over the communications facilities holds a valid certification or license with the governing federal or state agency, if required, for the provision of such service, and is registered with the city, if required.

(10) Transfer or control, sale or assignment of assets. If a registrant transfers, sells or assigns its registration or its facilities in the public rights-of-way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the city within 20 days after the effective closing date of the transfer, sale or assignment. If the transferee, buyer, or assignee is a current registrant, and is in compliance with the provisions of this article, then the transferee, buyer, or assignee is not required to re-register. If the transferee, buyer, or assignee is not a current registrant, or has an effective registration that is not in compliance with this article as it may have been amended, then the transferee, buyer, or assignee shall register as provided in this article within 60 calendar days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer, or assignee shall notify the appropriate city officials that the transferee, buyer, or assignee is the new applicant. An effective registration by the transferee, buyer, or assignee is required for the issuance of any permits.

## B. Specific Standards

1. Insurance; bond. The City requires an application, proof of insurance, and a bond or bonds for performance as provided in this Handbook. A maintenance bond may be required to ensure



removal or repair of a structure or facility.

2. **Underground.** To the extent feasible, and allowed by law, facilities or the equipment portions of facilities must be placed underground. Facilities or portions of facilities that are above ground or that can be seen from above ground must be installed and maintained in a first-class manner.
3. **Avoidance of multiple facilities; coordination.** Where the same or similar service is being provided, applicants must avoid proposing additional facilities if feasible. This includes collocation, sharing of equipment, lines, cables/conduits and their pathways and common or joint trenches; and coordination of installation and maintenance unless infeasible. Seeking competitive advantage alone does not make collocation or sharing of facilities infeasible. This does not permit the City to provide, or the Applicant to receive, exclusive use of the right-of-way.
4. **Avoidance of view of equipment.** Where feasible, equipment such as antenna boxes, electrical boxes, pull boxes, cables, grounding rods, water and sewer connections and equipment must be placed below or underground. If not feasible they must be buffered, such as with vegetation such as bushes or flowers, or an aesthetically pleasing non-advertisement paint or wrap. Wires, cables and equipment to be collocated on a utility pole must be inside the pole or covered with a shroud. No exposed wires or cables are permitted.
5. **Avoidance of bulkiness or clutter.** To the extent feasible, the equipment portion of a facility must be no larger than is necessary for the proper functioning of the facility. The City reserves the right to require replacement or removal of facilities or portions of facilities where fewer or smaller facilities or portions become feasible or where a facility is abandoned. An example would be advancing technology that allows for fewer or smaller facilities or portions of facilities.
6. **Avoidance of placement in front of structures.** Poles, pipes, conduit, and related equipment must not be placed on the front, or principal façade, of a structure unless it is demonstrated that there is no other feasible location. New Communication Facilities, Wireless Facilities, and Wireless Support Structures shall be placed along Common Side-Lot Lines and not in front of or directly across a street from residences, buildings, or places of business.
7. **Boring under rights-of-way and sidewalks.** Boring of multiple lines under rights-of-way and sidewalks is not permitted where conduit or lines can run parallel, and one line or conduit be placed. The application must show the proposed route.
8. **High level of maintenance.** The facility must be properly installed and maintained in working condition. It must be highly polished, painted, and clean. It must blend in with the surrounding background and must be compatible with other facilities including city facilities and other structures. The City reserves the right to require, by bond, agreement, or other means, the proper ongoing maintenance, and the removal of the facility or portion that does not meet this standard.
9. **Non-removal of Trees; damage to vegetation.** Where removal of trees or damage to trees or other vegetation is proposed, the application must be accompanied by a landscape restoration plan and must comply with the City's tree protection ordinances.
10. **Any new landscaping in the City Rights-of-Way** must be approved by the City which may require a landscape maintenance agreement to be executed as a condition of the permit.
11. **Historic Preservation.** The City retains its authority to preserve historic districts and review compatibility of all Small Wireless Facilities within and adjacent to historic districts to protect the aesthetic integrity of contributing structures within historic districts and the qualities which caused it to be originally designated and to enforce historic preservation regulations and guidelines

recommended by the Secretary of the Interior. Communications facilities shall not be permitted to be collocated on or to interfere with the aesthetics of historic property or contributing structures within a historic district, unless waived or conditioned by the city.

12. **City's Use of Right-of-Way.** A facility must not interfere with the City's use of the right-of-way, public sidewalk, public way, or public utility easement. To the extent not prohibited by law, regulation, or agreement, the City retains the right to require relocation of a facility, (temporarily or permanently), or removal and replacement at the applicant's cost. In such case the City will provide, or attempt in good faith to provide, a suitable alternative location.

13. Applicants must not place or maintain signage on facilities, including small wireless facilities or utility poles unless otherwise required by lawful federal or state law or regulations.

14. Applicants must not have any type of lighted signal, lights, or illuminations unless required by federal or state law or regulations or City codes.

15. **Waivers.** Waivers can be given where it is clearly demonstrated that strict compliance with these standards or the standards in the Right-of-Way Ordinance/Handbook cannot be met due to infeasibility or to existence of overriding state or federal law or regulations.

16. **New Technology.** The City will embrace amendments that reduce the incursion into aesthetics that may occur due to new technological advances.

17. **Obsolete or abandoned equipment must be removed.**

18. **All Small Wireless Facilities shall use camouflage techniques which incorporate architectural treatment to conceal or screen their presence from public view through design to unobtrusively blend in aesthetically with the surrounding environment.**

19. The separation distance between new and existing Communication Facilities, Wireless Facilities, and Wireless Support Structures shall be a minimum of 120 feet. New Communication Facilities, Wireless Facilities, and Wireless Support Structures shall avoid placement in City Rights of Way adjacent to a residentially zoned district to the greatest extent possible. An Applicant shall demonstrate through engineering analysis why it is unable to locate a new facility outside a residentially zoned district unless otherwise required or preempted by state or federal law.

20. **New Communication Facilities, Wireless Facilities, and Wireless Support Structures shall be located on Collector Roadways and Arterial Roadways to the greatest extent possible.**

21. Unless otherwise determined not feasible by the City, there shall be a minimum six (6) foot wide pedestrian clear zone between the back-of-curb and the outward edge of a Communications Facility, Wireless Facility, or Wireless Support Structure.

22. **New Communication Facilities, Wireless Facilities, and Wireless Support Structures shall be located at least ten (10) feet from a driveway and at least thirty (30) feet from the center of existing trees with matured diameter of eight (8) inches or greater.**

23. The size and height of new Communication Facilities, Wireless Facilities, and Wireless Support Structures in the City Rights-of-Way shall be no greater than the maximum size and height of any other Utility Pole, Communications Facility, Wireless Facility or Wireless Support Structure located in the City Rights-of-Way within 500 feet of the proposed structure.

24. Any new proposal to construct a new Communication Facility, Wireless Facility, or Wireless Support Structure must first demonstrate why the services cannot be Collocated on an existing Communication Facility, Wireless Facility, Wireless Support Structure, or Utility Pole in the City Rights-of-Way.

25. New and replacement Wireless Support Structures and Utility Poles that support Small Wireless Facilities shall match the color and match or enhance the style and design of the existing Utility Poles in the surrounding area. Further, all Wireless Support Structures and Utility Poles shall meet current safety standards in Applicable Codes.

26. No exposed wiring or conduit is permitted. 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. 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.

27. The timetable for construction of the project or each phase thereof, and the areas of the City which will be affected. A permit issued pursuant to an approved application shall remain effective for one year unless extended by the City for an additional year. The City may only grant a single extension. The status of the facility must be periodically reported to the City.

28. Upon completion of work authorized by a permit for a Small Wireless Communications Facility or a Wireless Support Structure, if additional field work resulted in changes from the permit plans, the applicant shall furnish to the City the exact GPS coordinates of the Small Wireless Communications Facility or Wireless Support Structure, at no cost to the City, and one complete set of sealed as-built plans. The as-built plans shall be in an electronic format specified by the City.

~~29. Each Registrant shall renew its Registration annually within one year from the date of issuance. Registration renewals shall include an inventory of the Registrant's newly installed Communications Facilities or Abandoned Communications Facilities within the City Rights-of-way placed since the most recent renewal or update. Failure to renew a Registration may result in the City restricting the submittal and acceptance of any additional Permit applications until the Communications Services Provider, Communications Facility Provider or the Pass-Through Provider has complied with the Registration requirements. An Applicant shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, a Registration granted pursuant to this Article without having first provided the City with at least thirty (30) days written notice of the same. Further, any such Person to whom such transfer has been made, must register with the City in accordance with this Article within sixty (60) days of the transfer. If Permit Applications are pending in the Applicant's name, the transferee, buyer or assignee shall notify the City that the transferee, buyer or assignee is the new Applicant.~~

~~30. The City may terminate a Registration if: a federal or state authority suspends, denies, or revokes a Registrant's certification or license required to provide Communications Services; the Registrant's use of the City Rights-of-Way presents a danger to the general public or other users of the City Rights-of-Way and the Registrant fails to remedy the danger promptly after receipt of written notice; the abandonment by the Registrant of any of its Communications Facilities in the City Rights-of-Way; or Substantive and material repetitive violations of any of the provisions of this Article. Prior to termination, the Registrant shall be notified by the City Manager with a written notice setting forth all matters pertinent to the proposed termination action, including the reason therefore. The Registrant shall have thirty (30) days after receipt of such notice within which to address or eliminate the reason or within which to present a plan, satisfactory to the City to accomplish the same. If the plan is rejected, the City shall provide written notice of such rejection within fifteen (15) days of receipt~~

~~of the plan to the Registrant and shall make a final determination as to termination of the Registration and the terms and conditions relative thereto. A final determination to terminate a Registration may be appealed as set forth below. In the event of termination, following any appeal period, the former Registrant shall: (1) in accordance with the provisions of this Article and as may otherwise be provided under state law, notify the City of the assumption or anticipated assumption by another Registrant of ownership of the Registrant's Communications Facilities in the City Rights-of-Way; or (2) provide the City with an acceptable plan for disposition of its Communications Facilities in the City Rights-of-Way. If a Registrant fails to comply with this subsection, the City may exercise any remedies or rights it has at law or in equity, including, but not limited to taking possession of the Communications Facilities.~~

29. A Registrant shall not place or maintain its Communications Facilities so as to interfere with, displace, damage or destroy any facilities, including but not limited to sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables or conduits of the City or any other Person's facilities lawfully occupying the City Rights-of-Way and shall not endanger the life or property of other persons. Upon request of the City, and as notified by the City of other work, construction, installation or repairs, a Registrant is encouraged to coordinate Placement or Maintenance activities under a Permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject City Rights-of-Way, and the Registrant may be required to reasonably alter its Placement or Maintenance schedule as necessary so as to minimize disruptions and disturbance in the City Rights-of-Way.

30. The Applicant shall remove any rubbish, excess earth, rock, or other debris arising from or associated with any work performed in the City Rights-of-Way and any other property affected by such work on a frequent and regular basis (or as specifically directed by the City), to the satisfaction of the City, and at the expense of Applicant.

31. Any work performed by an Applicant in the City Rights-of-Way, including restoration, shall be completed by the completion date specified in the permit or as otherwise specified or provided by the City. Upon completion of work (or at such time as may be specified by the City if construction is not completed by the completion date or construction is terminated for any reason, including revocation of the permit), the Applicant shall restore the City Rights-of-Way to a condition which is at least as good as its condition prior to commencement of work. The Applicant shall perform restoration of the City Rights-of-Way in accordance with any specifications or standards regarding materials or any other matter specified by the City. The City may establish generally applicable restoration standards, which apply unless the City specifies other standards in a particular situation or may establish restoration standards on a case-by-case basis.

32. If an Applicant fails to restore the City Rights-of-Way, including any paved surface, curbs, or fixtures, to a condition at least as good as its condition prior to commencement of construction or to complete such restoration work by the completion date specified in the permit or as otherwise specified or provided by the City, the City may perform any work or undertake any other activity which it deems necessary to complete such work and/or restore the City Rights-of-Way. The Applicant shall reimburse the City for any such costs in an amount equal to the sum of the actual cost of any work or other activity undertaken by the City plus 25 percent of such cost as compensation to the City for general overhead and administrative expenses associated with such work and shall pay such costs as directed by the City and not later than 20 calendar days after receipt of a bill.

33. An Applicant shall provide an executed City Rights-of-Way Use Bond or other form of surety acceptable to the City in an amount of not less than \$20,000, to ensure against any damage that may take place within rights-of-way and easements. All restoration shall leave the City Rights-of-Way or easement in a condition which is as good as or better than that which existed prior to construction. The bond shall remain in effect for the life of the project to ensure funds are available for removal of the facilities in the event of abandonment.

34. In the event of construction in the right of way or emergency repairs, and upon demand by the City, an Applicant at their own costs shall move, alter, relocate, or remove equipment or facilities and restore any affected City Rights-of-Way as may be required by the City and shall complete any such work promptly or by such date as may be specified by the City. In the event of an emergency, the City may in its sole discretion, move, alter, relocate, or remove any equipment or facility and restore the affected City Rights-of-Way. The Applicant shall be responsible for repairing or replacing any affected equipment or facility at its own cost and shall reimburse the City for any costs incurred by the City in moving, altering, relocating, or removing any equipment or facility and in restoring the affected City Rights-of-Way in an amount equal to the sum of the actual cost of moving, altering, relocating, or removing any equipment or facility and restoring the affected City Rights-of-Way associated with such work and shall make any payment due as directed by the City and not later than twenty (20) calendar days after receipt of a bill. If an Applicant fails to fully comply with a demand by the City pursuant to this section promptly or by the date specified by the City, the City shall have the right to: Declare that all rights and title to and interest in the affected equipment or facilities are the property of the City; and/or Move, alter, relocate, or remove any such equipment or facilities and restore the affected City Rights-of-Way as it deems necessary. The Applicant shall reimburse the City for any costs incurred in moving, altering, relocating, or removing any equipment or facilities and restoring the affected City Rights-of-Way in an amount equal to the sum of the actual cost of moving, altering, relocating, or removing any equipment or facilities and restoring the affected City Rights-of-Way associated with such work and shall make any payment due as directed by the City and not later than 20 calendar days after receipt of a bill.

35. Any person adversely affected by the final decision of the City shall have the constitutional due process right to appeal that decision. An appeal shall be made in writing through filing of an Administrative Appeal explaining the basis for the appeal to the City Council within thirty (30) calendar days of the final decision before seeking judicial review or filing an appeal in a court of competent jurisdiction.