


ST. PETERSBURG CITY COUNCIL

Meeting of December 7, 2017

TO: The Honorable Darden Rice, Chair, and Members of City Council

FROM: Claude D. Tankersley, P.E.
Public Works Administrator

RE: Small Wireless Facilities Ordinance



SUBJECT: An ordinance amending Chapter 25 of the St. Petersburg City Code relating to uses of rights-of-way for the provision of wireless communications services; adding definitions; creating a registration process and amending the permit application process for construction permits in the right-of-way; creating Subsection 25-316 of the St. Petersburg City Code relating to design standards for small wireless facilities; and providing an effective date.

EXPLANATION: The Advanced Wireless Infrastructure Deployment Act became effective on July 1, 2017. This act amended Section 337.401 of the Florida Statutes and established a process whereby wireless providers may place small wireless facilities in the public rights-of-way under county or municipality control. The changes made to section s. 337.401, F.S. in this act, require changes to also be made to the City's Code, specifically Chapter 25 – Streets, Sidewalks and Miscellaneous Public Places, Article VIII – use of Rights-of-Way for the Provision of Services.

A proposed Ordinance is attached for your consideration. The Ordinance:

- adds definitions,
- creates a registration process for providers,
- amends the permit application process for construction permits in the right-of way, and
- creates design standards for small wireless facilities.

RECOMMENDATION: Administration recommends that City Council conduct a first reading of the proposed Ordinance on December 7, 2017 and consider the proposed Ordinance for final adoption following a Public Hearing on December 14, 2017.

ATTACHMENTS: Ordinance

ORDINANCE NO. 2017-_____

AN ORDINANCE AMENDING CHAPTER 25 OF THE ST. PETERSBURG CITY CODE RELATING TO USES OF RIGHTS-OF-WAY FOR THE PROVISION OF WIRELESS COMMUNICATIONS SERVICES; ADDING DEFINITIONS; CREATING A REGISTRATION PROCESS AND AMENDING THE PERMIT APPLICATION PROCESS FOR CONSTRUCTION PERMITS IN THE RIGHT-OF-WAY; CREATING SUBSECTION 25-316 OF THE ST. PETERSBURG CITY CODE RELATING TO DESIGN STANDARDS FOR SMALL WIRELESS FACILITIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of St. Petersburg, Florida (“City”) recognizes the emergence of small wireless facility technologies; and

WHEREAS, the City further recognizes the potential for a rapid expansion of these technologies and their imminent construction throughout its jurisdiction; and

WHEREAS, the City desires to draft regulations to address the potential concerns to its citizens’ health, safety, and welfare, including their ability to traverse freely on the City’s rights-of-way that are maintained by the City for the public trust; and

WHEREAS, the City further desires to adopt design regulations in accordance with amendments to Section 337.401, Florida Statutes, passed by the state legislature in 2017, entitled “The Advanced Wireless Infrastructure Deployment Act,” (“Act”); and

WHEREAS, the design regulations set forth in this Ordinance are intended to enhance traffic, bicycle, and pedestrian safety and minimize aesthetic impacts associated with an excessive number of structures and unnecessarily high structures throughout the City, and particularly in its Traditional and Downtown Center Zones and its Charter Parks; and

WHEREAS, the City has also endeavored to provide options to providers of small wireless facilities technologies in the negotiation of alternative locations, pursuant to the Act, and to the design regulations set forth herein.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

SECTION 1. Subsection 25-299 (a) of the St. Petersburg City Code is hereby amended to read as follows:

Sec. 25-299. - Words and definitions.

(a) *Definitions.* The definitions of the words and phrases set forth in F.S. §§ 202.11, 337.401 and 610.103, are expressly made a part of this article and are expressly incorporated by reference as if fully set forth herein. As used in this article, the following words and phrases shall have the following meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

Abandoned facilities means facilities located in a right-of-way which have remained unused for 12 months and for which the provider is unable to satisfy the POD that:

- (1) The provider has a plan to begin using such facilities within the next 12 months;
- (2) The provider has a potential purchaser or user of the facilities who will be actively using the facilities within the next 12 months;
- (3) The availability of such facilities is required by the provider to adequately and efficiently operate its system; or
- (4) The facilities are reserved by the provider for future use.

Affiliate means any person who falls into one or more of the following categories:

- (1) A person having, directly or indirectly, a controlling interest in a provider;
- (2) A person in which a provider has, directly or indirectly a controlling interest;
- (3) Each officer, director, general partner, limited partner or shareholder holding an interest of 15 percent or more, joint venturer or joint venture partner, of a provider; and
- (4) Each person, directly or indirectly, controlling, controlled by, or under common control with the provider; provided, that the term "affiliate" shall not mean any limited partner or shareholder holding an interest of less than 15 percent of such provider, or any creditor of such provider solely by virtue of its status as a creditor and which is not otherwise an affiliate by reason of owning a controlling interest in, being owned by, or being under common ownership, common management, or common control with such provider.

Agreement or open video agreement means an agreement between the City and a provider of open video services pursuant to which such provider may offer such services in the City.

Antenna means as defined in F.S. § 337.401.

Air-to-ground communications service means a radio service provided to consumers while on board an aircraft.

Applicable codes means as defined in F.S. § 337.401.

Applicant means any person who seeks to obtain a permit.

Application means the process by which an applicant submits a request to the City to obtain a construction permit.

Cable services means as defined by F.S. § 202.11.

Cable system means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service and that otherwise meets the definition of "cable system" in 47 USC 522.

Camouflage means the act of disguising one or more facilities as a natural object, or otherwise rendering a facility aesthetically pleasing through means including but not necessarily limited to the use of colors or textures appropriate to the environment of the facility, or the placement of foliage sufficient to conceal in whole or in substantial part the facility from view from the road, or the appearance of such facility after such act has been completed. The term "camouflage" also includes, when appropriate to the environment of the facility, the use of a facility designed to resemble a tree, flag pole, or spire or other architectural feature of a building.

Certificate of franchise authority means a certificate issued by the State to a cable or video service provider pursuant to F.S. ch. 610.

City means the municipality of St. Petersburg, Florida, with jurisdiction and control of the rights-of-way within the corporate limits.

Collocate or Collocation means as defined in F.S. § 337.401.

Communications facility means the aggregate of equipment for the transmission of voice or data such as telephones, facsimile equipment, conduits, cables, fiber optic cables, wireless facilities, and other electronic equipment used for various modes of transmission, such as light, digital data, audio signals, image and video signals.

Communications service or service means as defined by F.S. § 202.11.

Communications service provider means a person who provides communications services.

Construct means to excavate, obstruct, install wires, install poles, install cable or wire, install conduit, install signs, install equipment, or install physical features, other than landscaping, in, on, above, within, below or under any part of a right-of-way. The term "construct" also includes an extension or enlargement or the replacement or collocation of any such equipment or features.

Construction means the act or process of excavating, obstructing, installing wires, installing poles, installing signs, installing equipment, or installing physical features, other than landscaping, or extending, enlarging, or replacing any of the foregoing, in, on, above, within, below or under any part of a right-of-way.

Construction and major maintenance plan means a written plan including maps of the expected location and design of wire plant, wireless facilities, conduit and other related equipment and facilities of a provider which describes the new construction and replacement construction intended to be accomplished by the provider in the rights-of-way over the next calendar year. A maintenance project will be deemed major maintenance if the project requires linear excavation of any portion of a right-of-way greater than 500 feet in length, the excavation of any major or secondary arterial street regardless of length, or the replacement of any pole line involving six or more consecutive poles.

Construction permit means the permit which shall be obtained by a person before the person may construct in, or locate, occupy, move, maintain, or remove any of its facilities over, in, under, or on a right-of-way.

Continuing security fund means a performance bond or an irrevocable and unconditional letter of credit, or a combination thereof, posted to ensure proper and complete construction or repair of a facility and restoration of the affected rights-of-way pursuant to a construction permit, as provided in section 25-309.

Direct-to-home satellite service has the meaning ascribed in section 303(v) of the Telecommunications Act of 1996 (47 USC 303(v)).

Emergency means a condition that poses a clear and immediate danger to the life, health, or safety of any natural person or of a significant loss of property, or an out-of-service condition or an imminent threat to the continued provision of a communications service.

Facilities means any tangible thing located in any right-of-way; the term "facilities" does not include boulevard plantings or gardens planted or maintained in the right-of-way.

FCC means the Federal Communications Commission or any successor thereto.

Franchise means an agreement between the City and any provider as required or authorized by law, pursuant to which the provider may offer a service in the City.

In, with respect to any right-of-way, means and includes on, above, within, below or under any part of the right-of-way.

Inspector means any officer, employee or agent of the City who is authorized by the Mayor to carry out inspections related to the provisions of this article and other applicable provisions of the Code.

Inter-exchange carrier means a carrier of voice and data services who uses the right-of-way to transport inter-LATA voice and data signals using fiber optics or copper cable placed in the rights-of-way, and who provides communications services in the City.

Inter-LATA telecommunications services means telecommunications services that originate in one LATA and terminate in another LATA. Such services may pass through several LATAs before termination.

LATA or *local access transport area* means a geographical service area where a local telephone company is authorized to provide communications services.

Law means any applicable local, State, or federal statute or resolution, or binding judicial or administrative order or decision, constitutional provision, local ordinance or resolution, or any applicable regulation, rule, tariff, or other requirement in effect either as of the effective date of the ordinance from which this article is derived or at any time during the location of, and/or while a provider's facilities are located in a public right-of-way.

Micro wireless facility means as defined in F.S. § 337.401.

Open video service or *OVS* means any video programming service provided to any person through the use of rights-of-way, which provider is certified by the FCC to operate an open video system pursuant to sections 651 et seq. of the Telecommunications Act of 1996 (47 USC 651 et seq.), regardless of the facilities used.

Pass-through carrier means a carrier of voice or data services who uses the right-of-way to transport inter-LATA voice or data signals using fiber optics or copper cable placed in the rights-of-way, but who does not provide communications services in the City.

Permit means a construction permit.

Permit cost means all direct, incidental and indirect costs borne by the City for permit issuance, permit oversight and pavement degradation resulting from construction permit activity.

Private communications system means a communications system using the rights-of-way for the exclusive purpose of connecting two or more facilities of a private concern for the purpose of providing communications services for the sole and exclusive use of such person but not offering communications services for sale to the public.

Private communications system provider means any person who uses the right-of-way for the purpose of placing and maintaining any communications facilities therein for the sole and exclusive use of such person.

Probation means the status of a person who has not complied with, or is currently not in compliance with, conditions or requirements of this article and who has been given notice of such status after being given notice of noncompliance and a reasonable opportunity to take curative action.

Probationary period means one year from the date that a person has been notified in writing that they have been put on probation. The probationary period may be extended at the discretion of the POD.

Provider means a person who owns or operates a system providing a communications service, wireless infrastructure services, or any public utility service that does not have a franchise agreement with the City. The term "provider" does not include the City or any of its utility services.

PSC means the Public Service Commission of the State of Florida.

Public land means any property owned by the City that is not considered a public right-of-way under State law.

Restoration means the process and the resultant effects by which a right-of-way is returned to a condition as good as or better than its condition immediately prior to construction. Restoration shall occur in accordance with the City's rules and regulations for making openings in a public way.

Right-of-way means the surface and space above and below any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public. The term "right-of-way" includes, but is not limited to, any public street, road, highway, alley, sidewalk, river, tunnel, viaduct, bridge, or any other place, area, or real property owned by or under the legal or equitable control of the City over which the public has a right to travel and that, consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, or repairing a telecommunications system or any part thereof to provide a service as defined herein. The term "right-of-way" does not include public roads, streets and highways under the jurisdiction of the State or of the county for the purposes of maintenance and traffic control. The term "right-of-way" does not include buildings, parks, or other public property or easements that have not been dedicated to compatible uses, except to the extent the use or occupation of such property is specifically granted in a permit or by law.

Right-of-way costs means all direct, incidental and indirect costs borne by the City for the acquisition, management, administration and protection of the rights-of-way.

Rules and regulations for making openings in a public way means the administrative rules and regulations governing the making and restoration of openings in any right-of-way that have been adopted by the POD and are on file with the City Clerk and the department or agency of the City having direct responsibility for the administration of such rules, as amended.

Sales price means as defined by F.S. § 202.11.

Security fund means a continuing security fund, a security fund for a specific project, or a security fund for an occasional project.

Security fund for a specific project means a performance bond or an irrevocable and unconditional letter of credit, or a combination thereof that may be required to be posted to ensure proper and complete construction or repair of a facility and restoration of the affected rights-of-way pursuant to a permit, as provided in section 25-309.

Service means communications service (see *Communications service*).

Small wireless facility means as defined in F.S. § 337.401.

Substitute communications system means any telephone system or other system capable of providing communications services, which a person purchases, installs, rents or leases for his own use to provide himself with services used as a substitute for any switched service or dedicated facility by which a dealer of communications services provides a communication path. The term "substitute communications system" includes any key telephone system, electronic key telephone system, private branch exchange (PBX), voice over IP system, satellite communications system, V-SAT communications system, or any other similar system providing switched or dedicated voice, data or video services. The term "substitute communications system" does not include a system used by a provider which is being used for the provider's sole use.

Supplementary application means an application made to revise, modify or extend any of the terms of an existing construction permit.

System means any system of conduit, cables, pipes, wires, lines, towers, antennae wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities or utilities located in whole or in part in a right-of-way and designed and constructed for the purpose of producing, receiving, amplifying, delivering or distributing a communications service, as that term is defined in this section, to or from subscribers or locations within the City. A non-system component such as a pole, when used by a provider having the right to use such component to support an element of the provider's system will be deemed part of the provider's system to the extent of such right and use.

System representative means the specifically identified officer, employee or agent of a provider who is authorized to direct field activities of that provider and serve as official notice agent for system-related information (but who is not necessarily the agent of the provider for service of process). Any such system representative shall be required to be available at all times to receive notices of, and immediately direct responses to, system related emergencies or situations.

Telecommunications Act of 1996 means the Act of Congress which is codified at 47 USC 251 et seq., as amended.

Telecommunications company means as defined in F.S. § 364.02.

Telecommunications facility means communications facility, as defined herein.

Telecommunications service means communications service, as defined herein.

Trenchless technology means the use of directional boring, horizontal drilling, microtunneling and other techniques used in the construction or installation of underground portions of facilities to minimize disruption and damage to rights-of-way.

Underground facilities means all lines, cables, conduits, pipes, posts, tanks, vaults and any other facilities which are located wholly or partially underneath rights-of-way.

Utility or *utilities* means any water, sewer, gas, drainage, sprinkler or culvert pipe and any electric power, telecommunication, signal, communication, or cable television conduit, fiber, wire, trackless trolley wires, cable, or operator thereof.

Utility pole means as defined in F.S. § 337.401.

Wireless facility means as defined in F.S. § 337.401.

Wireless infrastructure provider means as defined in F.S. § 337.401.

Wireless provider means as defined in F.S. § 337.401.

Wireless services means as defined in F.S. § 337.401.

Wireless services provider means as defined in F.S. § 337.401.

Wireless support structure means as defined in F.S. § 337.401.

SECTION 2. Subsection 25-300 (b) of the St. Petersburg City Code is hereby amended to read as follows:

Sec. 25-300. - Rights-of-way administration; nature of grant; discontinuance of operations, abandoned and unused facilities.

(b) *Nature of grant.*

- (1) A construction permit issued to any provider shall not convey equitable or legal title in the rights-of-way or any property interest therein. A construction permit is only a license or the limited permission to use or collocate within rights-of-way in the City, in accordance with the terms of the permit and in accordance with this article and other applicable Code provisions. The license to use the right-of-way may not be subdivided or subleased; provided, however, that two or more providers may collocate facilities in the same geographical area of a right-of-way so long as each such provider complies with the provisions of this article. Collocating providers may file a joint application for a construction permit.
- (2) A construction permit shall not entitle a provider to use, alter, convert to, or interfere with, the facilities, easements, poles, conduits, lines, pipelines, wires, fiber, cable, or any other real or personal property of any kind whatsoever under the management or control of the City or any other person.
- (3) Future uses; no liability. In allowing facilities to be placed in the rights-of-way, the City shall not be liable for any damages caused thereby to any provider's facilities that are already in place or may be placed in the future. No provider is entitled to rely on the

provisions of this article, and no special duty is created as to any provider. This article is enacted to protect the general health, welfare and safety of the public at large.

SECTION 3. Subsection 25-308 of the St. Petersburg City Code is hereby amended to read as follows:

Sec. 25-308. - Construction permits.

(a) *Generally.*

- (1) No person may construct any facility for use by any provider in any right-of-way without first having obtained a construction permit for the work. Provided, however, that any person constructing any facility in a right-of-way for use by any pass-through carrier or for use as a private or substitute communications system shall comply with the requirements of article VII of this chapter, and shall obtain a minor easement permit and a construction permit before commencing such work. The requirements of this article do not apply to facilities constructed for use by any pass-through carrier or for use as a private or substitute communications system, except the requirements of section 25-315.
- (2) A construction permit allows the permit holder to construct in that part of the right-of-way described in such permit.
- (3) A construction permit is valid only for the dates and the area of right-of-way specified in the permit.
- (4) No permit holder may construct in the rights-of-way beyond the date specified in the permit or outside the area of the right-of-way described in the permit unless such permit holder:
 - a. Submits a supplementary application for another permit before the expiration of the initial permit; and
 - b. Obtains a new permit or a permit extension.
- (5) Original permits shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by inspectors and authorized City personnel. If the original permit involves work conducted simultaneously at multiple locations, each location shall display a photocopy of the original permit.
- (6) All providers must register with the City and update registration annually prior to applying for a permit to place or maintain facilities in the City right-of-way. The registration process includes:
 - a. The name and address of the provider.
 - b. Provide a Certificate of Franchise Authority issued by the State of Florida pursuant to Chapter 610, Florida Statutes, and verify that the City of St. Petersburg is listed as a service area; or provide evidence of a Certificate of Authorization from the Florida Public Service Commission; or provide applicant's Florida Department of Revenue Telecom Tax registration number. Also, provide a copy of the current Florida Annual Resale Certificate for Communications Services Tax. If none of the requirements of this subsection are applicable to the provider, then provider shall submit a written response indicating the intent to pay permit fees.

- c. Provide a Certificate of Insurance on which the City of St. Petersburg is named as an additional insured, providing comprehensive general liability coverage, property damage liability coverage, automobile liability coverage, and umbrella coverage as required by City of St. Petersburg Municipal Code (see City Code section 25-304 (b), Indemnification and hold harmless; insurance).
- d. Furnish a Continuing Security Fund in the amount of \$25,000.00 per the requirements of City of St. Petersburg Municipal Code section 25-311 (Security Fund Requirements). The continuing security fund may be accepted from the provider or its parent company. The continuing security fund will be applicable for all construction permits issued to the provider during the year.
- e. Provide the name, telephone number and e-mail address of the person who is responsible for providing information on the status of the active work, restoration, and warranty information related to the facility.
- f. Provide verification that the provider has paid applicable business taxes required per City of St. Petersburg Municipal Code Section 17-124, to the extent permitted by section 202.24(2)(c)3, Florida Statutes.

(b) *Construction permit applications - General.*

- (1) Application for a construction permit shall be made to the POD using a form to be provided by the POD.
- (2) The application shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:
 - a. Evidence that the applicant has obtained written authority to apply for a construction permit on behalf of a provider;
 - b. All required attachments and dated drawings showing the location and area of the proposed project and the location of all existing and proposed facilities, accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations. However, per sections 471.003 and 471.037, Florida Statutes (F.S. §§ 471.003 and 471.037), drawings, plans and specifications prepared by regular full-time employees of a provider regulated by the Florida Public Service Commission, Federal Energy Regulatory Commission, or Federal Communications Commission are not required to be sealed and certified by a professional engineer unless required by the Florida Department of Transportation Utility Accommodation Manual Guidelines, as amended;
 - c. Payment of all money lawfully due to the City for:
 - 1. Prior construction permits issued to applicant; and
 - 2. Any loss, damage, or expense suffered by the City as a result of applicant's prior construction in the rights-of-way or any emergency actions taken by the City.

(c) Construction permit application for small wireless facilities.

- (1) Application for a construction permit for wireless systems shall be made to the POD using a form to be provided by the POD.

- (2) The application shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:
- a. Evidence that the applicant has obtained written authority to apply for a construction permit on behalf of a provider;
 - b. Three (3) sets of plans drawn to a standard engineering scale showing proposed small wireless facilities and all existing facilities. Plans shall include:
 - 1. Latitude/Longitude coordinates of site and site address.
 - 2. Current photo documentation of the existing site and immediate surroundings.
 - 3. Rendering showing the proposed equipment superimposed on a current site photo.
 - 4. Height of pole, height of antenna, and height of tallest existing utility pole as of July 1, 2017 located in the same right of way within 500 feet of any proposed new pole or support structure to be placed in the right of way. The peak height of structures supporting electrical transmission systems should not be considered when determining the tallest existing utility pole height.
 - 5. Right of way boundaries and width.
 - 6. Width of the parkway.
 - 7. Existing underground and above ground public infrastructure in the vicinity of construction.
 - 8. A typical utility cross section profile (for all proposed underground work) showing all existing City infrastructure and proposed underground utilities near the work zone with proposed horizontal and vertical utility clearances noted.
 - 9. Adjacent private lot line boundaries near any proposed poles, support structures, or proposed above ground fixed utilities.
 - 10. Location and footage of proposed underground conduit/cable/fiber.
 - 11. Existing public sidewalk and driveway approach locations and width and other surface features in the right of way in the vicinity of construction (bicycle paths/trails, poles and/or support structures, signals, utility appurtenances, bus stops, street furnishings/art work, etc.).
 - 12. The roadway clear zone per FDOT Utility Accommodation Manual.
 - 13. Visibility triangles for driveways and intersections per the City's Land Development Regulations.
 - 14. Illustration showing the size, height, color, and placement of all proposed and existing above ground fixed utilities or equipment.
 - i. Include a declaration that size, volume, and height of all antennae, ancillary equipment, poles, and support structures meet the requirements of Florida Statutes, and comply with City regulations and design guidelines.

- ii. Demonstrate adequate shielding of equipment. Include a feasibility statement discussing use of camouflage techniques when appropriate to meet City Design Guidelines, historic preservation, zoning restrictions, and neighborhood design review criteria. Examples of such camouflage techniques include, but are not limited to: integration as part of new or existing signs, including neighborhood signs, as part of new or existing electric light poles, as part of trash receptacles, or as part of public art approved by the City, as may be appropriate under local, state, and federal law.
 - iii. For all new above ground facilities provide the equipment designation number which identifies the pole owner, contact information, and location of the equipment. Clarify where this number is found on the infrastructure facility.
 - iv. It is presumed that new poles will not require guy wires. If guy wires are demonstrated by the applicant to be required for above ground facilities they must be shown on the plans when submitted for City review.
 - v. Provide method of equipment noise attenuation when internal fans are used and demonstrate measures implemented to eliminate noise disruption to adjacent private properties. Any noise disruptions complaints must be immediately resolved by the equipment owner.
 - vi. All equipment shall be mounted directly to the utility pole unless otherwise directed by the utility pole owner. Show the location and height of any pedestals.
15. The applicant shall provide a description of and sufficient details and specifications to demonstrate compliance with design standards to be utilized to minimize the visual impacts, in accordance with Sec. 25-316 of the City Code.
16. For collocation, provide the name of the owner of the utility pole.
- i. If the pole is a City owned facility, include a structural plan prepared, signed, and sealed by a professional engineer licensed in the State of Florida certifying that the existing utility pole is structurally sufficient to support the wireless facilities; or,
 - ii. Applicants seeking to collocate a wireless facility on a City owned pole shall provide a make-ready plan for all necessary work to support the small wireless facility, including pole replacement if required, and shall be responsible to perform the make ready work at their sole expense. New poles shall be designed with all conduits internal to the pole; or,
 - iii. If the pole is owned by another entity provide evidence of pole attachment agreement.
17. Include a sworn statement acknowledging conformance with all standard City Engineering Right of Way Permit General Requirements, City Engineering Standards and Specifications.

18. Provide prior notification to all adjacent property owners and neighborhood associations. The notification shall include a description of the work and the Provider's telephone number for citizen inquires/concerns. The applicant shall adjust infrastructure locations to address reasonable citizen concerns to the greatest extent practical.

19. Include the intended construction schedule for initiation and completion of the work.

c. Payment of all money lawfully due to the City for:

1. Prior construction permits issued to applicant; and

2. Any loss, damage, or expense suffered by the City as a result of applicant's prior construction in any rights-of-way of the City or any emergency actions taken by the City.

(3) Within 14 days of the filing of a complete application for a small wireless facility construction permit, the POD may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative utility pole or support structure or may place a new utility pole. If the POD requests an alternative location for a small wireless facility, the City and the applicant may negotiate the alternative location, including any objective design standards, in accordance with Sec. 25-316 of the City Code, and reasonable spacing requirements for ground-based equipment, for 30 days after the POD's request. The alternative location negotiation process described in this subsection shall be implemented and completed in accordance with section 337.401, Florida Statutes (F.S. § 337.401).

(de) Issuance of construction permit; conditions.

(1) If the POD determines that the applicant has satisfied the requirements of this article, including but not limited to bonding and insurance requirements, the POD shall issue a construction permit subject to the applicable provisions of the Code.

(2) The POD may impose reasonable conditions upon the issuance of the construction permit and the performance of the provider thereunder in order to protect the public health, safety and welfare, to ensure the structural integrity of the rights-of-way, to protect the property and safety of other users of the rights-of-way, and to minimize the disruption and inconvenience to the public.

(ed) Security funds. When a construction permit is requested, the applicant shall furnish to the POD a security fund meeting the requirements of article VIII of this chapter.

(fe) Joint applications. Applicants are encouraged to submit joint applications for construction permits to work in the rights-of-way at the same place and time.

(gf) Annual general permits. The Annual General Permit (AGP) allows a provider to construct, operate, maintain, renew and remove on an annual basis limited facilities as specifically described in the City Operational Standards for AGPs, adopted by the POD, a copy of which shall be made available for public inspection, the terms of which are incorporated by reference with each AGP. The AGCP shall be effective until February 28; however, if a complete and

acceptable application is filed after January 1, and an AGCP is issued before February 28 of the same year, the AGCP shall be valid until February 28 of the following calendar year.

SECTION 4. The St. Petersburg City Code is hereby amended by adding a new Section 25-316, to read as follows:

Sec. 25-316. – Design standards for small wireless facilities.

(a) Design Standards - General. Small wireless facilities and accessory equipment placed anywhere in the City right-of-way are subject to the following design guidelines:

- (1) Small wireless facilities may not extend more than ten (10) feet above the utility pole upon which it is mounted.
- (2) A new pole is limited to the height of the tallest existing utility pole, as of July 1, 2017, located in the same right-of-way and within 500 feet of the proposed new pole. If there is no existing pole within 500 feet of the new pole site, the new pole is limited to 50 feet.
- (3) Above ground facilities must be located within the right-of-way where the shared property line between two parcels intersects the right-of-way boundary, or otherwise in a manner that demonstrates the least impact to access to private property.
- (4) Equipment boxes and other ground equipment located at grade must be located in areas with existing foliage or another aesthetic feature to obscure it from the view, to the greatest extent possible. The application must include a depiction of techniques utilized for camouflaging.
- (5) Equipment mounted to the exterior of a pole shall be a minimum of 12 feet above finished grade, excluding the electric meter and disconnect switch. The external finish of the equipment cases shall generally match the color of the pole. All mounting and banding fixtures shall also match the color of the pole. Conduits mounted to an existing pole must match the pole color and be encased with a shroud cover.
- (6) New poles shall be located at or near roadway intersections or in alleys when possible. When mid-block locations are necessary, new poles shall be located near the property boundary line at the edge of the site or otherwise sited in a manner that demonstrates the least impact to access to private property.
- (7) Separation from driveways and hydrants. Communications facilities and utility poles shall be located at least ten (10) feet from a driveway apron and at least thirty (30) feet from a fire hydrant.
- (8) New poles shall be designed with conduit internal to the pole. Above the electric meter and disconnect switch, all conduit and wiring shall be located inside the pole.
- (9) New poles shall be consistent with the existing poles located in the same right-of-way and within 500 feet of the proposed new pole, unless approved otherwise by the POD.
- (10) Facilities shall not block or encroach into an existing or future public sidewalk paths as required in the City's Land Development Regulations.

- (11) Electric meters and disconnect switches shall not be located on the side of the pole that faces the sidewalk, or if there is not currently a sidewalk, the area identified for the preferred placement of any future sidewalk. Conduit leading to the electric meter box and disconnect switch shall generally match the color of the utility pole.
 - (12) Grounding rods shall not extend above the surface elevation and the ground wire between the pole and ground rod must be inside an underground conduit.
 - (13) All pull boxes shall be located outside of the sidewalk or pedestrian ramp. A concrete apron must be installed around all pull boxes located within the landscape area of the parkway.
 - (14) All pull boxes must be vehicle load bearing, comply with FDOT Standard Specifications and be listed on the FDOT Approved Products List.
 - (15) Small wireless facilities and accessory equipment shall meet all applicable historic preservation regulations required by the City's Historic and Archaeological Preservation Overlay Ordinance, including obtaining a certificate of appropriateness if necessary.
- (b) *Design Standards – Traditional Zones, Downtown Center Zones, and Charter Parks.* Small wireless facilities and accessory equipment placed in the City right-of-way in an NT, CRT, CCT, or DC zone, or in a Charter Park, are subject to the following design guidelines, in addition to the general guidelines set forth above:
- (1) New utility poles for small wireless facilities shall be constructed in alleys. Introduction of pedestrian level light poles which augment district design characteristics and accommodate small wireless facilities may be considered within the right-of-way and at intersections.
 - (2) Any request by an applicant to construct a new utility pole in City right-of-way that is not an alley shall be subject to the alternative location negotiation procedure, in accordance with Sec. 25-308(c)(3) of the City Code.
- (c) *Placement within a Scenic/Non-Commercial Corridor.* Unless otherwise authorized by a franchise agreement, for public safety purposes, or waived in accordance with subsection (d) below, no net new utility poles shall be placed within a designated Scenic/Non-Commercial Corridor.
- (d) *Waiver of design standards.* The design standards may be waived by the POD if a particular standard is either not reasonably compatible to a particular location or imposes an excessive expense.

SECTION 5. Coding: As used in this ordinance, language appearing in struck-through type is language to be deleted from the City Code, and underlined language is language to be added to the City Code, in the section, subsection, or other location where indicated. Language in the City Code not appearing in this ordinance continues in full force and effect unless the context clearly indicates otherwise. Sections of this ordinance that amend the City Code to add new sections or subsections are generally not underlined.

SECTION 6. The provisions of this ordinance shall be deemed to be severable. If any provision of this ordinance is determined unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this ordinance.

SECTION 7. In the event this Ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto this Ordinance, in which case this Ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this Ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

LEGAL:



City Attorney (designee)

ADMINISTRATION:

