



CITY OF TAMARAC
REGULAR CITY COMMISSION MEETING
City Hall - Commission Chambers
March 13, 2013

CALL TO ORDER:

7:00 P.M.

ROLL CALL:

PLEDGE OF ALLEGIANCE:

Mayor Beth Talabisco

INTRODUCTION

1. PROCLAMATIONS AND PRESENTATIONS:

a. State of the City Address

State of the City Address by Mayor Beth Talabisco

b. Purchasing Month Proclamation

Presentation of a proclamation by Mayor Beth Talabisco proclaiming the month of March 2013 as "Purchasing Month". (Requested by Purchasing/Contracts Manager Keith Glatz)

2. CITY COMMISSION REPORTS

a. Commissioner Bushnell

b. Commissioner Atkins Grad

c. Commissioner Glasser

d. Vice Mayor Dressler

e. Mayor Talabisco

3. CITY ATTORNEY REPORT

4. CITY MANAGER REPORT

5. PUBLIC PARTICIPATION

Any member of the public may speak to any issue that is not agendaized for public hearing at this meeting. Speakers will be limited to three minutes during this item and at public hearings. There will be a thirty (30) minute aggregate time limit for this item, and speakers are encouraged to sign up in advance with the City Clerk prior to their participation.

When an issue has been designated as quasi-judicial, public remarks shall only be heard during a quasi-judicial hearing that has been properly noticed for that matter.

ANNOUNCEMENT OF TIME ALLOCATIONS-MOTIONS TO TABLE

The Chair at this time will announce those items that have been given a specific time to be heard, and will entertain motions from the Commission members to table those items that require research. The Commission may agendaize by majority consent matters of an urgent nature which have come to the Commission's attention after publication.

6. CONSENT AGENDA

Items listed under Consent Agenda are viewed to be routine and the recommendation will be enacted by ONE MOTION in the form listed below. If discussion is desired, then, in accordance with Resolution 2003-15, Sec. 4.5, the item(s) will be removed from the Consent Agenda and will be considered separately.

a. Approval of the February 27, 2013 Commission Meeting Minutes

Approval of the February 27, 2013 Commission Meeting Minutes

b. TR12311- Caporella Park Public Art Project

A Resolution of the City Commission of the City of Tamarac, Florida, approving the Public Art Proposal and Concept by Mary Ann Baker to be placed at Caporella Park; providing for conflicts; providing for severability; providing for an effective date.

c. TR12312 - Confirming the Appointment of the Fifth Member Appointed by the Firefighter Pension Board of Trustees to serve a four-year term ending March 13, 2017.

A Resolution of the City Commission of the City of Tamarac, Florida, confirming the appointment of the Fifth Member appointed by the Firefighter Pension Board of Trustees to serve a four-year term ending March 13, 2017 or until new appointments are made; providing for conflicts; providing for severability; and providing an effective date.

7. REGULAR AGENDA

8. ORDINANCE(S) - FIRST READING

9. PUBLIC HEARING(S)

10. ORDINANCE(S) - SECOND READING

a. TO2272 - Amending Chapter 24 entitled "Telecommunications Towers and Antennas"

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on second reading** amending Article IX, Chapter 24 entitled "Telecommunications Towers and Antennas" of the Code of Ordinances of the City of Tamarac, Florida, as amended, and to regulate personal wireless service facilities in the public rights-of-way; containing a repealer provision; a severability clause; providing for codification; providing for conflicts and providing for an effective date.

PASSED ON FIRST READING ON FEBRUARY 27, 2013

11. QUASI-JUDICIAL HEARING(S)

12. OTHER

The City Commission may consider and act upon such other business as may come before it. In the event this agenda must be revised, such revised copies will be available to the public at the City Commission meeting.

Pursuant to Chapter 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing, he may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is based.

The City of Tamarac complies with the provisions of the Americans with Disabilities Act. If you are a disabled person requiring any accommodations or assistance, please notify the City Clerk's Office at (954)-597-3505 of such need at least 48 hours (2 days) in advance. Additionally, if you are hearing or speech impaired and need assistance, you may contact the Florida Relay Service at either of the following numbers: 1-800-955-8770 or 1-

800-955-8771.

A handwritten signature in blue ink that reads "Patricia Teufel". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Patricia Teufel, CMC
Interim City Clerk



Title - 7:00 P.M.

7:00 P.M.

ATTACHMENTS:

Name:

Description:

No Attachments Available



Title - Mayor Beth Talabisco

Mayor Beth Talabisco

ATTACHMENTS:

Name:

Description:

No Attachments Available



Title - State of the City Address

State of the City Address by Mayor Beth Talabisco

ATTACHMENTS:

Name:

Description:

No Attachments Available



Title - Purchasing Month Proclamation

Presentation of a proclamation by Mayor Beth Talabisco proclaiming the month of March 2013 as "Purchasing Month". (Requested by Purchasing/Contracts Manager Keith Glatz)

ATTACHMENTS:

Name:

 [Proclamation - Purchasing 2013.doc](#)

Description:

Purchasing Month Proclamation



Requested by Keith Glatz, Purchasing/Contracts Manager

WHEREAS, the purchasing and materials management professions play a significant role in the efficiency and effectiveness of both government and business; and

WHEREAS, in addition to the purchase of goods and services, Purchasing engages in or has direct responsibility for functions such as executing, implementing and administering contracts, and developing working relationships with suppliers and other departments within the organization; and

WHEREAS, the purchasing and materials management profession in the City of Tamarac Government and in other public and private organizations has tremendous influence on the economic conditions in the United States, with accumulative purchasing power running into the billions of dollars; and

WHEREAS, the Purchasing and Contracts Division in the City of Tamarac is committed to excellence always, in the logistical and operational support of all departments within the City; and

WHEREAS, the Purchasing and Contracts Division and the City of Tamarac recognizes, supports and practices the Public Procurement Values and Guiding Principles of Accountability, Ethics, Impartiality, Professionalism, Service and Transparency, established by NIGP – The Institute for Public Procurement, (NIGP) as fundamental tenants of the public procurement profession; an

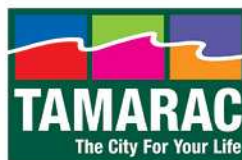
WHEREAS, NIGP, has proclaimed the month of March as Purchasing Month to further expand the awareness of the purchasing professionals’ role to governmental officials, the general public, business and corporate leaders;

NOW THEREFORE I, Beth Talabisco, Mayor of the City of Tamarac, Broward County, Florida do hereby proclaim the month of March 2013 as:

“PURCHASING MONTH”

in Tamarac and urge all citizens to join the City Commission in recognizing the role of the purchasing and materials management profession within business, industry and government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tamarac to be affixed this 13th day of March, 2013.



Beth Talabisco
 Beth Talabisco, MAYOR



Title - 7:00 P.M.

7:00 P.M.

ATTACHMENTS:

Name:

Description:

No Attachments Available



Title - TO2272 - Amending Chapter 24 entitled "Telecommunications Towers and Antennas"

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on second reading** amending Article IX, Chapter 24 entitled "Telecommunications Towers and Antennas" of the Code of Ordinances of the City of Tamarac, Florida, as amended, and to regulate personal wireless service facilities in the public rights-of-way; containing a repealer provision; a severability clause; providing for codification; providing for conflicts and providing for an effective date.

PASSED ON FIRST READING ON FEBRUARY 27, 2013

ATTACHMENTS:

Name:

Description:

 [TO 2272 Telecommunications Chpt 24 - Memodocx.docx](#)

TO 2272 - Cover Memo

 [TO 2272 \(Personal Wireless Facilities\)\(2-14-13\).docx](#)

TO2272 Ordinance

**CITY OF TAMARAC
INTEROFFICE MEMORANDUM
CITY MANAGER'S OFFICE**

TO: Michael C. Cernech, City Manager DATE: February 20, 2013

**FROM: Diane Phillips, Assistant City
Manager**

**RE: TO 2272 / Telecommunications
Towers and Antennas**

Recommendation:

Place Temporary Ordinance 2272 recommending revisions to Article IX Chapter 24 "Telecommunications Towers and Antennas" on the February 27, 2013 Commission Agenda for consideration.

Issue:

Revisions to the existing ordinance governing installation of Telecommunications infrastructure to address Distributed Antenna Systems (DAS).

Background:

While the City's telecommunications ordinance addresses citation of traditional telecommunications towers, it does not address DAS which is newer technology. Unlike traditional cell towers which may be as high as 200 feet, DAS uses a smaller cell solution that enables carriers to "boost" their signal. Presently, the City Code limits the installation of cell towers to certain commercial areas and precludes installation of towers within 250 feet of any residential area, absent a special exception. Crown Castle, provides infrastructure for use/ lease by the various carriers, and registered as a telecommunications service provider in accordance with the existing code in June of 2012. In August, permits were requested for installation of one utility pole with attached antenna and associated equipment, and for fiber optics within the public right of way (ROW) in front of houses within the Sunflower subdivision. Given that existing code does not accommodate the installation of cell towers within residential areas, City staff met with representatives for Crown Castle in an attempt to better understand the full scope of services they provide, and their infrastructure needs. During that meeting representatives advised that while they had submitted an application for one pole, they had existing plans to install at four additional residential ROW locations within the City. Alternative locations, as well as the potential to co-locate antennas on existing FPL poles, thereby negating the need to install additional poles, were discussed. Crown Castle representatives concluded that none of the alternatives discussed were viable. The City ultimately denied the permits, given that a special exception would be required for consideration.

On December, 18, 2012 the City Manager issued a zoning in progress order, prohibiting issuance of permits for wireless facilities in residential areas of the City for a period of 90 days. In doing so he noted that as internet usage has increased, service providers are seeking new ways to augment signal strength and increase capacity. Given this, a comprehensive determination is required as to whether existing land use and zoning regulations applying to the citing of telecommunications towers and antennas within public rights of way and residential areas area appropriate.

In the intervening period, City staff has worked with the City Attorney's office and outside telecommunications counsel to draft an ordinance that would preserve the aesthetics of the neighborhoods while protecting the health and safety of the public.

The resultant proposed revisions to Article IX, Chapter 24 "Telecommunications Towers and Antennas" are summarized as follows;

The Proposed Ordinance:

- Revises Sec. 24-700, the "Intent and Purpose" section of Article IX (the Telecommunications Towers and Antennas Article) of the City's Zoning Code, to specify that the provisions of the Article are intended to distinguish between and apply separately to telecommunications towers and personal wireless service facilities.
- Revises Sec. 24-701, the "Definitions" section of Article IX, to provide a definition of the term "personal wireless service facilities" that is consistent with state and federal law, and to include the types of facilities used in a Distributed Antenna System network like the one proposed by Crown Castle NG.
- Creates in Article IX a new Sec. 24-707 concerning personal wireless service facilities in the public rights-of-way. Key provisions of the new section:
 - Provide certain "minimum standards" that apply to personal wireless service facilities in the ROW, including:
 - § A requirement that an application for placement of wireless service facilities in the ROW be approved by the Building Department, the Public Services Department and the Department of Community Development;
 - § A requirement that, because certain personal wireless service facilities are necessarily installed above-ground, a minor development site plan be submitted to the planning division for site development plan approval notwithstanding that applications for use of the ROW do not typically require site plan approval;
 - § Potential waiver of site plan requirements if the applicant proposes a stealth personal wireless service facility that emulates structures existing in adjacent areas of the ROW;
 - § A requirement that City staff determine within 20 days of submittal whether an application is complete, and grant or deny an application within 90 days of a completed filing. These time frames are required under state law, and fall within similar "shot clock" rules adopted by the FCC;
 - § A requirement that, unless a special exception is granted, a new personal wireless service antenna must be collocated or installed as a "stealth"

- free-standing facility similar in character to power and light poles already installed near the proposed site;
- § A requirement that a licensed engineer competent in the relevant disciplines must certify that the personal wireless service facilities to be installed in the ROW meet applicable electric, building and safety codes, and design and construction standards. The engineer's statement must also describe the facility's capacity to permit multiple users and provide examples of the number and type of antennae the structure can accommodate. A facility that will exceed its loading capacity will not be permitted in the ROW; and
 - § A limitation on the exterior dimensions of a personal wireless facility other than a pole or tower of no more than 24 cubic feet.
- Provide certain height, setback and related location requirements for personal wireless facilities located in the ROW, including:
 - § A requirement that personal wireless service facilities not exceed the height of existing poles in the ROW within 100 feet from the proposed facility. If no such existing pole is present, the facility may not exceed 50 feet;
 - § A requirement that personal wireless facilities are subject to the setbacks provided for particular underlying zoning districts, except that no such facility shall be permitted in the ROW within 50-feet of a principal residential structure.
 - § A cooperative process between the City and the applicant for determining an appropriate location for the proposed facility if the setback restrictions result in an actual or effective prohibition of the applicant's service to a residential area from outside that area. This cooperative process is the same as that set forth in s. 365.172(12)(b)3., Florida Statutes. The cooperative determination must, to the extent possible, be consistent with the purposes of the City's Land Development Code, and there will be a preference for collocation and the use of stealth structures.
 - Provide certain requirements with respect to new antennas in the ROW, including:
 - § A requirement that the applicant submit a depiction of the proposed antenna's stealth features. Compliance with the Code's definition of "stealth facility" must be determined by staff. The Director of Community Development may require, to the extent possible, that stealth measures be used to match the antenna to existing fixtures in the ROW.
 - § A prohibition against the use of certain lights on a proposed antenna unless required by state or federal laws or rules;

- § A requirement that the height or location of an exterior mounted antenna not interfere with the use of the ROW;
 - § A requirement that the antenna installed in the ROW not exceed the height of the pole to which it is attached, that it be mounted no more than 4 inches from the pole, and that no exterior loop cable is installed;
 - § A requirement that the Director of Community Development determine that the proposed dimensions of an antenna are required by existing technology, as certified by a licensed engineer competent in the relevant disciplines.
 - § A requirement that a distance of at least 1,000 feet be maintained between antenna sites, and that no more than 5 antenna sites occur within a 1-square-mile area, to minimize the visual impacts caused by proliferation or clustering of antenna sites.
 - § A cooperative process between the City and the applicant for determining an appropriate location for the proposed antenna if the distance restrictions result in an actual or effective prohibition of the applicant's service to a residential area from outside that area. This cooperative process is the same as that set forth in s. 365.172(12)(b)3., Florida Statutes. The cooperative determination must, to the extent possible, accommodate the City's preference for collocation on existing sites or on the use of existing capacity. Where collocation or use of existing capacity is not possible, stealth facilities must be used and sited in a location that is consistent, to the extent possible, with the purposes of the City's Land Development Code.
- Provide various other requirements or conditions of approval, including:
 - § Compliance with FCC radio frequency emissions standards;
 - § The use of walls, fencing or landscape as a buffer consistent with other buffers used in the ROW, if determined by the Director of Community Development to be necessary;
 - § A prohibition against the above-ground placement of cabinets or equipment in the ROW unless approved by the City Engineer as to safety and approved as a special exception;
 - § A prohibition against the use of generators in the ROW except in the case of emergency and with prior approval of the City Engineer;
 - § Requirements related to decommissioning or abandoning personal wireless service facilities in the ROW;
 - § A prohibition against posting signs or advertising on personal wireless service facilities in the ROW;
 - § A requirement that an applicant provided a statement by a licensed qualified engineer certifying that the construction and use of the facilities will not interfere with public safety communications or the usual and

customary transmission and reception of communication service enjoyed by adjacent properties;

- § A requirement that inspections by a licensed engineer competent in the relevant disciplines evaluating the structural and electrical integrity of personal wireless service facilities be conducted, and that every two years, the owner or operator of such facilities certify the structural and electrical integrity of the facilities. Any facility lacking structural or electrical integrity may be ordered repaired or removed by the building department;
- § A requirement that replacements or modifications to personal wireless service facilities that result in a change of size type and appearance that is readily discernible at ground-level from surrounding properties be approved as a special exception. This standard is taken from s. 365.172(12)(e), Florida Statutes.

Fiscal Impact

The proposed ordinance has no direct budgetary impact.

CITY OF TAMARAC, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA; AMENDING ARTICLE IX, CHAPTER 24 ENTITLED "TELECOMMUNICATIONS TOWERS AND ANTENNAS" OF THE CODE OF ORDINANCES OF THE CITY OF TAMARAC, FLORIDA, AS AMENDED, AND TO REGULATE PERSONAL WIRELESS SERVICE FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE, PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, to promote the public health, safety, aesthetics, and general welfare, the City of Tamarac has a substantial and significant public interest in maintaining and protecting its public-rights of way in a non-discriminatory manner, and requiring that individuals and entities seeking permits to conduct any type of excavation, construction or other activity therein do so in a safe, expeditious, and professional manner; and

WHEREAS, the Emergency Communications Number E911 Act, Chapter 365, Florida Statutes, (the "Act") addresses, *inter alia*, local governments' regulation of the placement, construction or modification of wireless communications facilities; and

WHEREAS, Section 337.401 *et seq*, Florida Statutes, addresses, *inter alia*, the authority of municipalities to regulate the placement and maintenance of communications facilities in the public rights-of-way; and

WHEREAS, the City Code provisions regulating telecommunications towers and antennas need to be updated to expressly address current practices utilizing personal wireless service facilities in the public rights-of-way and to protect the public interest by protecting, preserving and maintaining the health, safety and welfare of the users of the public rights-of-way, while also protecting, preserving and maintaining the aesthetic character of areas where such rights-of-way exist, and this ordinance achieves such purpose; and

WHEREAS, the City Clerk has provided at least ten days advance notice prior to first reading of this Ordinance to the Secretary of State.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF TAMARAC, FLORIDA, THAT:

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. Sec. 24-700. – Intent and purpose, is hereby amended as follows:

The regulations and requirements of this article are intended to:

- (1) Promote the health, safety and general welfare of the citizens by regulating the siting of telecommunications towers and personal wireless service facilities;
- (2) Provide for the appropriate location and development of telecommunications towers, personal wireless service facilities and antennas within the city;
- (3) Minimize adverse visual effects of telecommunications towers, personal wireless service facilities and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;
- (4) Avoid potential damage to adjacent properties from tower or facility failure through engineering and careful siting of tower structures and personal wireless service facilities;
- (5) Protect residential areas and land uses from potential adverse impacts of telecommunications towers, personal wireless service facilities and antennas by maximizing use of any new or existing telecommunications towers through shared use, i.e., co-location, to reduce the number of towers or structures used in connection with personal wireless service facilities that are needed.

SECTION 3. Sec. 24-701, Definitions, is hereby amended as follows¹:

Personal wireless services means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, and shall include “wireless service” as defined in Section 365.172, Florida Statutes, as well as “personal wireless services” defined in 47 USC §332(c)(7)(C)(i), as they may be amended.

Personal wireless service facilities means facilities for the provision of personal wireless services, and shall include all of those “wireless communications facilities” as defined in Section 365.172, Florida Statutes, as it may be amended, that are not telecommunications towers as defined in this section,

¹ Language underlined in sections 2 and 3 is to be added. Language in said sections with a strikethrough is to be deleted.

Public rights-of-way has the same meaning as provided in Section 5.6-3 of the City Code.

SECTION 4. There is hereby created a new Section 24-707 to provide as follows:

Section 24-707. Personal wireless service facilities in the public rights-of-way.

(a) Minimum standards. Personal wireless service facilities in the public rights-of-way must meet the following minimum standards:

(1) Required approvals. No application for placement of wireless service facilities in the public right-of-way shall be permitted without approval of the building department, the public services department and the department of community development.

(2) Site plan. Prior to the issuance of a building permit by the building department or an engineering permit by the public services department, a site plan for a minor development shall be presented for approval to the planning division, department of community development. Notwithstanding that site plan approval is not otherwise required for use of the public rights-of-way, due to the necessity of above ground installation or placement of certain personal wireless service facilities, each application for such facilities in the public rights-of-way shall include all requirements for site development plan approval as required by section 10-47 of the Land Development Code. The director of community development may waive all or some of requirements of section 10-47 of the Land Development Code for a stealth facility which is designed to emulate existing structures or fixtures already within the public rights-of-way adjacent to the site.

(3) Completeness review; time limitation. The City shall grant or deny a properly completed application for personal wireless service facilities in the public rights-of-way no later than 90 business days after the date the application is determined be properly completed. An application is deemed submitted or resubmitted on the date the application is received by the planning division. The planning division shall notify the applicant within twenty (20) business days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the City's requirements. If the application is not completed in compliance with the City's requirements, the planning division shall so notify the applicant in writing indicating with

specificity any deficiencies which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the planning division shall notify the applicant, in writing, no later than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the planning division may continue to request the information until such time as the specified deficiency is cured, or may establish a reasonable time frame within which the required information to cure the application deficiency is to be provided. If the curative information is not provided within such time frame, the application will be considered withdrawn or closed.

(4) *Stealth facilities.* When collocation of an antenna associated with personal wireless service facilities is not possible, a free standing stealth facility similar in appearance and construction to existing power or light poles in the public rights-of-way in terms of height, color and material shall be utilized; however, another facility type may be utilized if approved as a special exception.

(5) *Statement.* A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the state, which through rational engineering analysis certifies that the personal wireless service facilities located in the public rights-of-way comply with applicable standards as set forth in the Florida Building Code, latest edition, the State of Florida Department of Transportation, Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, and any associated regulations including all electrical codes; and describes the proposed personal wireless service facilities' capacity to permit multiple users, including an example of the number and type of antennas or other attachments it can accommodate. Any registered and licensed engineer performing the required analysis shall also certify that he or she is competent in the engineering disciplines necessary to determine and certify compliance with the specified standards, or that the analysis has been performed by a competent engineer under his or her direction or supervision. No personal wireless service facility which exceeds its loading capacity, or which causes any pole or structure to exceed its loading capacity, shall be permitted in the public rights of way.

(6) *Dimensional Limits.* No permit or order shall be granted authorizing the placement, construction or modification in the public rights of way of a personal wireless communications facility, other than a pole or tower, having exterior dimensions greater than four feet (4') high, by three feet

(3') long, by two feet (2') wide, or having a total volume exceeding twenty four cubic feet (24 ft³). A power or light pole shall not be considered a personal wireless communications facility merely because a personal wireless communications facility has been installed on or attached to such pole.

(b) Height/setbacks and related location requirements.

(1) The height of a personal wireless service facility in the public rights-of-way shall not exceed the height of existing poles within one-hundred feet of such proposed facility in the public rights-of-way, or if no such existing poles are present within one-hundred feet of such proposed facility, such facility shall not exceed a height of fifty (50) feet. Height shall be measured from the crown of the road of the nearest public street.

(2) Except as otherwise provided herein, personal wireless service facilities in the public rights-of-way shall conform to the setbacks established for the underlying zoning district.

(3) Personal wireless service facilities in the public rights-of-way which are above ground shall not be permitted within fifty (50) feet of any principal residential structure. In the event a provider of wireless service, as defined in section 365.172(3), Florida Statutes, demonstrates to the satisfaction of the director of community development that application of this paragraph results in an actual or effective prohibition of wireless service to a residential area or zone from outside the residential area or zone, the applicant and the director of community development shall cooperate to determine an appropriate location and design for such proposed above ground facility. In any such cooperative determination there shall be a preference for collocation with existing personal wireless service facilities or other utility facilities. Where facilities cannot be collocated, there shall be a preference for the use of free standing stealth-type structures associated with the proposed personal wireless service facilities which are consistent, to the extent possible, with the purposes of the Land Development Code as that code is defined in Sec. 10.327. The director of community development may require a statement, prepared by a professional registered engineer licensed to practice in the state, that the proposed location is needed by a wireless service provider to close a significant gap in its service to that area. Any registered and licensed engineer preparing any such statement shall also certify that he or she is competent in the engineering discipline or disciplines necessary to make the required determination, or that the determination has been made by a competent engineer under his or her direction or supervision. The

applicant shall reimburse the reasonable costs incurred by the City for this cooperative determination.

(c) Antennas

(1) Each application shall contain a rendering or photograph of the proposed antenna which depicts its aesthetic features including, but not limited to, the use of colors and screening devices. The application shall be subject to administrative approval determining consistency with the definition of a stealth facility as defined in Sec. 24-701 of the Zoning Code. The director of community development may require, to the extent possible, that stealth antennas be utilized to match existing fixtures in the public rights-of-way.

(2) No signals, lights, or illumination shall be permitted on an antenna, except as required by applicable state or federal laws or rules.

(3) Exterior mounted antennas shall only be permitted at a height and location that will not interfere with use of the public rights-of-way.

(4) No exterior antenna in the public right-of-way shall exceed the height of the pole to which it is attached. No antenna shall be mounted more than four inches (4") from the pole to which it is attached. No exterior loop cable shall be installed on any personal wireless service facilities located in the public rights-of-way.

(5) *Antenna dimensions.* Antenna dimensions shall be approved by the director of community development as required by existing technology. The director of community development may require a statement, prepared by a professional registered engineer licensed to practice in the state, to certify the need for the required dimensions. Any registered and licensed engineer preparing any such statement shall also certify that he or she is competent in the engineering discipline or disciplines necessary to make the required determination, or that the determination has been made by a competent engineer under his or her direction or supervision.

(6) *Distance between antenna locations/number of antenna locations within a specified area.* To minimize the adverse visual impacts associated with the proliferation and clustering of antenna and associated above ground personal wireless service facilities, no antenna site in the public rights-of-way shall be located within one thousand feet (1,000') of any other such antenna site or telecommunications tower. Further, no more than five (5) antenna sites may be located within an area of one (1) square mile. In the event a provider of wireless service, as defined in section 365.172(3), Florida Statutes, demonstrates to the satisfaction of the director of community development that application of this paragraph

results in an actual or effective prohibition of wireless service to a residential area or zone from outside the residential area or zone, the applicant and the director of community development shall cooperate to determine an appropriate location and design for such proposed above ground facility. In any such cooperative determination there shall be a preference for collocation with existing personal wireless service facilities or other utility facilities, or for use of unused capacity on existing personal wireless service facilities. Where facilities cannot be collocated and no such unused capacity exists, there shall be a preference for the use of free standing stealth-type structures associated with the proposed personal wireless service facilities which are consistent, to the extent possible, with the purposes of the Land Development Code as that code is defined in Sec. 10.327. The director of community development may require a statement, prepared by a professional registered engineer licensed to practice in the state, that the proposed location is needed by a wireless service provider to close a significant gap in its service to that area. Any registered and licensed engineer preparing any such statement shall also certify that he or she is competent in the engineering discipline or disciplines necessary to make the required determination, or that the determination has been made by a competent engineer under his or her direction or supervision. The applicant shall reimburse the reasonable costs incurred by the City for this cooperative determination.

(d) Approval required from other governmental agencies and owners. Each application for the location of a personal wireless service facility in the public rights-of-way may be required to include written approval, or a statement of no objection, from federal or state agencies that regulate siting, design, and construction of such facilities, or have jurisdiction over the public rights-of-way. An existing facility in the public rights-of-way shall only be utilized in a manner consistent with the City Code and with the written permission of the facility owner.

(e) FCC emissions standards. All personal wireless service facilities in the public rights-of-way shall comply with current radio frequency emissions standards of the Federal Communications Commission.

(f) Buffering.

(1) The director of community development, as condition of approval, may require the use of a fence or wall as a buffer, which fence or wall is

consistent in design and function with fencing or walls currently used in the public Rights-of-Way around any personal wireless service facilities.

(2) The director of community development, as a condition of approval, may require the use of landscaping as a buffer, which landscaping is consistent with the landscaping otherwise located in the public rights-of-way. Additional landscaping may be required if deemed necessary to buffer adjacent properties. The director of community development may require landscaping in excess of the requirements of the city code to enhance compatibility with adjacent residential and nonresidential land uses.

(g) Equipment. Unless approved by the city engineer with respect to safety within the public rights-of-way, and by special exception, no equipment or equipment cabinets associated with the personal wireless service facilities shall be located above ground in the public rights-of-way or in a location that, in the determination of the City engineer, will interfere with the use of the public rights-of-way. The location in the public rights-of-way of any equipment associated with personal wireless service facilities shall be subject to the approval of the City engineer. The City engineer may require a statement, prepared by a professional registered engineer licensed to practice in the state, to certify the need for the proposed equipment and location. Any registered and licensed engineer preparing any such statement shall also certify that he or she is competent in the engineering discipline or disciplines necessary to make the required determination, or that the determination has been made by a competent engineer under his or her direction or supervision. No generators may be placed or utilized in connection with personal wireless service facilities in the public rights-of-way, except in the case of emergency and approved in advance by the City engineer.

(h) Removal of personal wireless service facilities in the public rights-of-way and restoration of the public rights-of-way.

(1) All abandoned or unused personal wireless service facilities in the public rights-of-way shall be removed by the owner/operator within ninety (90) days of the cessation of use. A personal wireless service facility in the public rights-of-way shall be considered abandoned if use has been discontinued for one hundred eighty (180) consecutive days. Personal wireless service facilities in the public rights-of-way being utilized for other purposes, including but not limited to light standards and power poles, may be exempt from this provision where superseded by the requirements of county, state or federal regulatory agencies.

(2) Upon the removal of any personal wireless service facilities from the public rights-of-way, such public rights-of-way shall be completely restored to the satisfaction of the City engineer at the cost of the owner or operator of the personal wireless service facilities in the public rights-of-way. The City engineer shall require a bond or other fund sufficient to secure the restoration of the public rights-of-way.

(i) Signs and advertising. The use of any portion of a personal wireless service facility in the public rights-of-way for the posting of signs or for advertising purposes, including the display of company name, banners, streamers, etc., is strictly prohibited.

(j) Non-interference. Each application to allow construction of personal wireless service facilities in the public rights-of-way shall include a statement prepared by a registered radio audio frequency (RAF) engineer that the construction and use of the facilities will not interfere with public safety communications or the usual and customary transmission or reception of communications service enjoyed by adjacent residential and nonresidential properties. A statement shall be prepared by a registered engineer identifying any interference that may result from the proposed construction and use of such facility.

(k) Inspections.

(1) Owners or operators of personal wireless service facilities in the public rights-of-way shall ensure that the City's building department has current contact information for such owner or its authorized representative.

(2) The owner or operator of a personal wireless service facility in the public rights-of-way shall submit a report to the city's building department, certifying structural and electrical integrity at least once every two (2) years.

(3) Inspections evaluating the structural and electrical integrity of the facilities shall be conducted by an engineer licensed to practice in the state. The results of such inspections shall be provided to the building department along with certification that the engineer or engineers conducting such inspections are competent in the engineering discipline or disciplines necessary to evaluate the structural and electrical integrity of the facilities, or that the evaluation has been made by a competent engineer or engineers under his or her direction or supervision. Any personal wireless service facilities in the public rights-of-way found in such inspection or otherwise determined to be lacking structural or electrical

integrity shall be repaired or removed as required by the building department.

(4) The building department may conduct periodic inspections of personal wireless service facilities in the public rights-of-way to ensure structural and electrical integrity. The owner or operator of personal wireless service facilities in the public rights-of-way may be required to have more frequent inspections of a particular facility should there be reason to believe that the structural and electrical integrity of said facility is jeopardized.

(m) Modifications or replacements. Modification or replacement of personal wireless service facilities and equipment in the public rights-of-way shall be subject to approval of the City's building department. If such modification or replacement would, as reasonably determined by the City, result in the facility or equipment being readily discernibly different in size, type, and appearance when viewed from ground level from surrounding properties, such modification shall require approval as a special exception.

(n) Reservation of Rights.

(1) The City does not waive any rights under applicable law with respect to management of its public rights-of-way. The City shall require that owners and users of personal wireless service facilities in the public rights-of-way pay the maximum compensation to the City. The City reserves the right to enforce all applicable city code provisions with respect to personal wireless service facilities in the public rights-of-way.

(2) The City does not warrant or make any representations that the public rights-of-way are available, suitable or appropriate for the construction, placement, maintenance or use of personal wireless service facilities.

(3) The City's approval of an application for the construction, placement, or modification of a personal wireless service facilities in the public rights-of-way shall not create any rights in such facilities' ability to be maintained or utilized in the public rights-of-way for any particular period of time or any rights that are inconsistent with the City Code.

(4) The City reserves the right to abandon any public rights-of-way, notwithstanding the presence of any personal wireless service facilities in the public rights-of-way that have been approved by the City and the City shall have no liability or responsibility to the owner, operator, or users of such personal wireless service facilities in the public rights-of-way.

(5) The City reserves the right to require the relocation or removal of any personal wireless service facilities in the public rights-of-way consistent with its authority under applicable law. The City shall have no liability or

responsibility to the owner, operator or users of the personal wireless service facilities in the public rights-of-way.

(6) The City shall have no responsibility or liability for damage to or interference with the use or maintenance of personal wireless service facilities in the public rights-of-way by any third party.

Secs. 24-707—24-799. — Reserved

Secs. 24-708—24-799. - Reserved

SECTION 5. Conflicts. That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. Savings. All fees and other dollar amounts owed to the City under any contract, Agreement, or other provisions of the City Code as of the effective date of this Ordinance, whether known or unknown, shall not be affected by the adoption of this Ordinance and the City expressly reserves its rights with respect to such amounts.

SECTION 7. Severability. It is declared to be the intent of the City Commission of the City of Tamarac, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of the this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 8. Inclusion in Code. It is the intent of the City Commission of the City of Tamarac that the provisions of this Ordinance shall become and be made a part of the City Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 9. Effective Date. This Ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED, FIRST READING this ____ day of _____, 2013.

PASSED, SECOND READING this ____ day of _____, 2013.

ATTEST:

BY: _____
MAYOR BETH TALABISCO

PAT TUEFEL, CMC,
INTERIM CITY CLERK

RECORD OF COMMISSION VOTE: 1ST Reading

MAYOR TALABISCO _____
DIST 1: COMM BUSHNELL _____
DIST 2: COMM ATKINS-GRAD _____
DIST 3: COMM GLASSER _____
DIST 4: V/M DRESSLER _____

I HEREBY CERTIFY that
I have approved this
ORDINANCE as to form:

RECORD OF COMMISSION VOTE: 2ND Reading

MAYOR TALABISCO _____
DIST 1: COMM BUSHNELL _____
DIST 2: COMM. ATKINS-GRAD _____
DIST 3: COMM GLASSER _____
DIST 4: V/M DRESSLER _____

SAMUEL S. GOREN
CITY ATTORNEY