

ORDINANCE NO. 2019 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING ORDINANCE NO. 97-19, AS AMENDED, KNOWN AS THE NASSAU COUNTY LAND DEVELOPMENT CODE, SPECIFICALLY RESCINDING AND REPLACING SECTION 28.19, SITING REGULATIONS FOR WIRELESS FACILITIES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Nassau County hired CityScape Consultants, Inc. to create a Wireless Telecommunications Master Plan for Nassau County; and

WHEREAS, The Telecommunications Master Plan is a County-wide plan that identifies and assesses existing wireless communication facilities, determines gaps in existing coverage and provides recommendations for design and siting of future facilities; and

WHEREAS, The purpose of the plan is to provide adequate network service while minimizing visual impacts of the telecommunications infrastructure and maintaining the aesthetics of the community. The plan also serves as a guide for developing planning policies for future wireless infrastructure that are compliant with state and federal regulations; and

WHEREAS, As part of the Telecommunications Master Planning process, it was envisioned that updates to the County's Land Development Code would also be drafted; and

WHEREAS, after a duly noticed public hearing on February 19, 2019, the Planning and Zoning Board recommended approval of the suggested changes; and

WHEREAS, the Board of County Commissioners finds this amendment does not conflict with the goals, objectives and policies of the Nassau County Comprehensive Plan; and

WHEREAS, the Board of County Commissioners has found it in the best interest of the citizens of Nassau County to amend the Land Development Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida that Ordinance No. 97-19, as Amended, known as the Nassau County Land Development Code, shall be further amended as follows:

SECTION 1. FINDINGS

This Ordinance is consistent with the goals, objectives and policies of the Nassau County Comprehensive Plan.

SECTION 2. AMENDMENT

Section 28.19 of the Land Development Code is hereby rescinded and replaced with the following:

Section 28.19. - Siting regulations for wireless facilities.

The County has adopted a Wireless Master Plan (MP) to provide long-term planning for an efficient and capable wireless telecommunications network throughout the county that promotes collocation and optimal new tower and base station locations to meet the current and future wireless telecommunications needs of the county's residents, businesses, industry and visitors. The MP minimizes negative visual impacts to preserve the character and viewsheds of the County and its natural surroundings. Together the MP and Ordinance promote responsible wireless network planning.

(A) Purpose and Intent. The regulations and requirements of this section are intended to:

- (1) Promote the health, safety and general welfare of the citizens by regulating the siting of wireless facilities;
- (2) Accommodate the growth and demand for wireless communication services;
- (3) Provide for the appropriate location and development of wireless facilities within the county;
- (4) Recognize that the provision of wireless services may be an essential service within such land use categories as may be provided for under the Comprehensive Plan, subject to the limitations set forth in this ordinance;
- (5) Minimize adverse visual effects of wireless facilities through careful design, siting, landscape screening and innovative camouflaging techniques;
- (6) Encourage the location and collection of antennas on existing structures thereby minimizing new visual impacts and reducing the need for additional antenna support structures; and
- (7) Further the balance between the need to provide for certainty to the communications industry in the placement of wireless facilities and the need to provide certainty to the residents and citizens of Nassau County that the aesthetic integrity of the county will be protected from the proliferation of unnecessary antenna support structures.
- (8) Accommodate and facilitate the growing need and demand for wireless services while adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including Section 337.401, Fla. Stat., as it may be amended, the provisions of

the Federal Telecommunications Act of 1996 and other federal and state law(s).

- (9) Protect the character of the County while meeting the needs of its citizens to enjoy the benefits of wireless facilities.
- (10) Minimize the clutter of new wireless facility infrastructure in the ROW.
- (11) Prevent interference with the use of streets, sidewalks, alleys, parkways, public utilities, public views, and other public ways and places.
- (12) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic.
- (13) Prevent interference with the facilities and operations of facilities lawfully located in ROW or public property.
- (14) Protect against environmental damage, including damage to trees.
- (15) Minimize the placement, frequency and density of new wireless facilities in ROW for public safety purposes, including vehicular and non-vehicular access and circulation, sight lines, as well as aesthetics. Therefore the County strongly encourages the siting of new wireless facilities on existing base stations and towers or on new base stations and towers outside the ROW wherever possible.
- (16) Preserve the unique character of County neighborhoods by promoting use of County property for new wireless facility placement and managing design and location through contractual lease provisions in addition to regulatory authority.

(B) Definitions For Communication Facilities within a County ROW.

The following definitions apply EXCLUSIVELY to communication facilities located within a County ROW and are applicable in connection with subsections (J)(K)(L) and (M) of this Section 28.19. The following words, terms and phrases, when used in subsection (J)(K)(L) and (M) below shall have the meanings ascribed to them in this subsection (2)(B), except where the context clearly indicates a different meaning. Words not otherwise defined in this section shall be given the meaning set forth in subsection (C) of this Section 28.19, and if not defined therein, as defined in the Communications Act of 1934, 47 USC 151 et seq., as amended by the Telecommunications Act of 1996 (collectively, the "Communications Act"), and, if not defined therein, as defined by Section 337.401, Fla. Stat. or another applicable state statute; and, if not defined therein, be construed to mean the common and ordinary meaning.

Abandoned. Any wireless communication facility not in continued use for a period of one hundred eighty (180) consecutive days.

Ancillary structure. Equipment, devices and structures associated with a wireless communication facility in the right of way, including but not limited to: concrete slabs on grade, guy anchors, generators or other power sources, feed lines, mounting hardware, pedestals, and transmission cable supports; however, specifically excluding equipment cabinets, towers, alternative structures and antenna elements.

Antenna. Communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless communication services.

Antenna array. A group of antennas and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or common mounting support structure for a unified purpose of transmitting or receiving electromagnetic waves for a single wireless services provider, or if combined antennas, for the combined providers.

Antenna element. Any antenna or antenna array.

Applicable codes. Such codes shall include this Code of Ordinances; uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons. The term includes objective design standards adopted by ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived by the County upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request via application to the Conditional Use and Variance Board.

Application. A request that is submitted by an applicant to the County for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, County utility pole, or wireless support structure.

Collocation. To install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public ROW.

Combined antenna. An antenna or an antenna array designed and utilized to provide wireless communications services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

Communications Services. A cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

Communications Service Facilities. A structure or structures used to provide communication services. The term shall include wireless facilities.

Communications Services Facility Provider. An entity who provides communications services. The term shall include wireless infrastructure providers and wireless service providers.

Concealed. A pole, antenna element or ancillary structure, or equipment box that is not readily identifiable as such, and is camouflaged and designed to be aesthetically compatible with the area so as to reduce or mitigate the facility's potential adverse visual impacts on the surrounding areas. Concealed poles are designed to conceal the equipment internally.

Equipment cabinet. Any structure, including: cabinets, shelters, pedestals, and other similar structures that are used exclusively or in combination with ancillary facilities, to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

FDOT. The Florida Department of Transportation.

In public ROW or in the public ROW shall mean in, on, over, under or across the public ROW.

Law means any local, state or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirement, as amended, now in effect or subsequently enacted or issued, including, but not limited to, the Communications Act of 1934, 47 USC 151 et seq., as amended by the Telecommunications Act of 1996, PL 104-104 § 101(a), 110 Stat. 70, and all orders, rules, tariffs, guidelines and regulations issued by the Federal Communications Commission or the governing state authority pursuant thereto.

Micro wireless facility. A small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Pass-through provider. Any person who, upon registering with the County, places or maintains a wireless communications facility in the County's ROW and that does not remit communications service taxes as imposed by the County pursuant to F.S. ch. 202 and F.S. § 337.401.

Place or maintain or placement or maintenance or placing or maintaining. To erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A communications services facility provider or pass-through provider that owns or exercises physical control over wireless communications facilities in public ROW, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A party providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the communications facilities through which such service is provided. The

transmission and receipt of radio frequency signals through the airspace of the public ROW is not placing or maintaining facilities in the public ROW.

Pole or utility pole. A pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less unless an authority grants a waiver for such pole.

Pole height. The vertical distance measured from the grade line to the highest point of the pole, including any antenna, lighting, lightning protection or other equipment affixed thereto.

PSC means the Florida Public Service Commission.

Public safety communications equipment. All communications equipment utilized by a public entity for the purpose of ensuring the safety of the public.

Registrant or facility owner mean a communications services facility provider or pass-through provider, or other person which seeks to use the public ROW and has registered with the County in accordance with the provisions of this article.

Registration and register mean the process described in this article whereby a communications services facility provider or a pass-through provider provides certain information to the County and the County accepts such information as legally sufficient to be registered.

Replacement. The removal of an existing structure for purposes of erecting a new structure of nearly equal dimensions usually for the purposes of improvement structural integrity.

Rights of Way (ROW). Improved ROW owned, leased, or operated by the County, including any public street or alley that is not part of the FDOT highway system, and includes the surface, the air space over the surface and the area below the surface to the extent the government holds a property interest therein.

Small wireless facility. A wireless facility that meets the following qualifications:

- (1) Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
- (2) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the

connection of power and other services, and utility poles or other support structures.

Structure. Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

Transmission. The development of a radio signal from an antenna device for the purpose of communications or communication of data.

Utility Pole. A pole or similar structure that is used in whole or in part to provide communication services or for electrical distribution, lighting, traffic control, signage, or a similar function. The term does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less unless an authority grants a waiver for such pole.

Wireless facility. Equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

- (1) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- (2) Wireline backhaul facilities; or
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider. A person or entity who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

Wireless provider. A wireless infrastructure provider or a wireless services provider.

Wireless services. Any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities, including but not limited to, commercial mobile service, private mobile service, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wireless services provider. A person who provides wireless services.

Wireless support structure. A freestanding structure, such as a monopole or self-supporting tower, or another existing or proposed structure designed

to support or capable of supporting wireless facilities. The term does not include a utility pole.

(C) Definitions For Communication Facilities NOT located in a County ROW.

The following definitions apply EXCLUSIVELY to communication facilities NOT located within a County ROW and are applicable in connection with all subsections of this Section 28.19 except subsections (J), (K), (L) and (M).

The following words, terms and phrases, when used in the subsections below shall have the meanings ascribed to them in this subsection (C), except where the context clearly indicates a different meaning. Words not otherwise defined in this subsection shall be given the meaning as defined in subsection (B) herein above, and if not defined therein, shall be given the meaning as defined in the Communications Act of 1934, 47 USC 151 et seq., as amended by the Telecommunications Act of 1996 (collectively, the "Communications Act"), and, if not defined therein, as defined by Section 365.172, Fla. Stat. or another applicable state statute; and, if not defined therein, be construed to mean the common and ordinary meaning.

Abandoned. Any wireless communication facility not in continued use for a period of one hundred eighty (180) consecutive days.

Amateur radio tower. Any tower used for amateur radio transmissions consistent with the Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio towers.

Antenna structure registration (ASR) number. The registration number as required or listed by the FAA and FCC.

Applicable codes. Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement this subsection. The term includes objective design standards adopted by ordinance or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards adopted by ordinance that may require a wireless facility to meet reasonable location context, color and concealment requirements; however, such design standards may be waived by the County upon a showing that the design standards are not reasonably compatible for the particular location of a wireless facility or that the design standards impose an excessive expense.

Application. A request submitted by an applicant to the County for a permit to install a new wireless facility or collocate a wireless facility.

Base station. A structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subsection or any equipment associated with a tower. Examples include transmission equipment mounted on a rooftop, water tank, silo or other above-ground structure other than a tower. "Base station" includes, but is not limited to:

- (1) Equipment associated with wireless communications services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and
- (2) Radio transceivers, antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-wireless networks); and
- (3) Any structure other than a tower that, at the time the application is filed under this section, supports or houses equipment described in this definition that has been reviewed and approved under the applicable zoning or siting process, or under another County regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and
- (4) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section that does not support or house any equipment described in these definitions.

Breakpoint technology. The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Broadcast facility. A communications facility licensed by the Federal Communications Commission Media Bureau to transmit information on the AM, FM or Television spectrum to the public.

Cellular on wheels (COW). A temporary wireless facility, typically located on a trailer that can be erected/extended to provide short term, high volume communications services to a specific location.

Collocate or collocation. To install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a tower, base station, wireless support structure or utility pole. The term

does not include the installation of an initial wireless facility on a tower, base station, utility pole or wireless support structure.

Concealed. A tower, base station, ancillary structure or equipment compound that is not readily identifiable as a wireless facility and that is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site or in the neighborhood or area. There are two types of concealed facilities:

Concealed tower - which looks like something else that is common in the geographic region such light standard or flagpole with a flag that is proportional in size to the height and girth of existing structures in the area.

Distributed antenna system (DAS). A DAS system consists of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site; and (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through the antennas. DAS systems can be either outdoor or indoor.

Distributed antenna system (DAS) hub. Ancillary equipment usually contained in a shelter or other enclosure which does not have any wireless transmission or receive equipment contained therein but is utilized in the deployment and operation of wireless DAS receive/transmit infrastructure that is located elsewhere.

Development area. The area occupied by a communications facility including areas inside or under an antenna-support structure's framework, equipment cabinets, ancillary structures, and/or access ways.

Dual purpose facility. A structure that is built or an existing structure that is modified to serve two primary purposes one of which is a wireless facility. Examples include but are not limited to decorative light poles, banner poles, church steeples, clock towers and public art.

Discontinued. Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.

Eligible facilities request. A request for a modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Eligible support structure. Any tower or base station as defined in this section, provided that is existing at the time the relevant application is filed under this section.

Equipment compound. The area surrounding the ground-based wireless facility including the areas inside or under a tower's framework and ancillary structures such as equipment necessary to operate the antenna on the

structure that is above the base flood elevation including cabinets, shelters, pedestals, and other similar structures.

Equipment cabinet. Any structure above the base flood elevation including cabinets, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Equipment shelter. A self-contained prefabricated building, made of permanent materials such as steel or concrete, which contains all electronic ancillary equipment and normally including a generator.

Existing. A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower has not been reviewed and approved because it was not in a zoned areas when it was built, but was lawfully constructed, is existing for purposes of this definition.

Feed lines. Cables or fiber optic lines used as the interconnecting media between the transmission/receiving base station and the antenna.

Federal Aviation Administration (FAA). The division of Department of Transportation of the United States government that inspects and rates civilian aircraft and pilots, enforces the rules and air safety, and installs and maintains air-navigation and air traffic-control facilities.

Federal Communications Commission (FCC). An independent United States government regulatory agency that oversees all interstate and international communication and maintains standards and consistency among ever-growing types of media and methods of communication while protecting the interests of both consumers and businesses.

Flush mounted. Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

Lattice tower. A non-concealed self-supporting tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.

Macrocell. A wireless communications facility that exceeds the defined standards of a small wireless facility.

Monopole tower. A non-concealed style of freestanding tower consisting of a single shaft usually composed of two (2) or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are

mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

Neutral host antenna. An antenna or an antenna array designed and utilized to provide services for more than one (1) wireless provider, or a single wireless provider utilizing more than one (1) frequency band or spectrum, for the same or similar type of services.

Node. A single location as part of a larger antenna array which can consist of one or multiple antennas, such as part of a DAS network antenna array.

Non-concealed. A wireless communication tower or base station that is readily identifiable as such type of equipment and structure.

Over the air reception devices (OTARD). Devices which are limited to either a "dish" antenna one meter (39.37 inches) or less in diameter designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, or an antenna that is one meter or less in diameter and is designed to receive video programming services via broadband radio service (wireless cable), or to receive or transmit fixed wireless signals other than via satellite or an antenna that is designed to receive local television broadcast signals.

Public safety communications equipment. All communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the County and operating within the frequency range of 145 MHZ through 155 MHZ, 445 MHZ through 475 MHZ and 700 MHZ through 1,000 MHZ and any future spectrum allocations at the direction of the FCC.

Radio frequency emissions. Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment.

Radio frequency interference (RFI). Any electromagnetic radiation or other communications signal that causes reception or transmission interference with another electromagnetic radiation or communications signal.

Radio frequency propagation analysis. Computer modeling to show the level of signal saturation in a given geographical area.

Replacement. A modification of an existing tower to increase the height, or to improve its integrity, by replacing or removing one (1) or several tower(s) located in proximity to a proposed new tower in order to encourage compliance with this section, or improve aesthetics or functionality of the overall wireless network.

Satellite earth station. A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Search ring. An area designated by a wireless infrastructure provider or wireless services provider for a new base station or tower, produces in accordance with accepted principles of wireless engineering. The area identifies where a base station or tower must be located in order to meet service objectives of the wireless service provider using the base station or tower.

Site. For towers other than towers in the public ROW, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures (base stations), further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Stanchion. A vertical support structure generally utilized to support exterior lighting elements.

Streamlined processing. Expedited review process for collocations required by the federal government (Congress and/or the FCC) for wireless communication facilities.

Structure. Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

Substantial change pursuant to 47 USC §1455 means a modification or collocation to an eligible support structure if it meets any of the following criteria:

- (1) For towers other than towers in the public ROW , it increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for all other eligible support structures (including towers within a ROW and base stations), it increases the height of the structure by more than ten percent (10%) or ten (10) feet, whichever is greater; or
- (2) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the 47 USC §1455; or
- (3) For towers other than towers in the public ROW, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet of the width of the tower structure at the elevation of the appurtenance, whichever is greater; for other eligible

support structures (including towers within a ROW and base stations) it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet; or

- (4) For any eligible support structure (tower or base station), it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or for towers in the public ROW and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associate with the structure; or
- (5) It entails any excavation or deployment outside the current site; or
- (6) It would defeat the concealment elements of the eligible support structure; or
- (7) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provide however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in 1- 6 above.

Temporary wireless facility. A temporary tower or other structure, typically located on a trailer that provides interim short-term communications when permanent WF equipment is unavailable or offline. A Temporary wireless facility meets an immediate demand for service in the event of emergencies and/or public events where the permanent wireless network is unavailable or insufficient to satisfy demand.

Tower. Any structure build for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The tower can be concealed or non-concealed.

Tower base. The foundation, usually concrete, on which the tower and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular from the geometric center of the tower.

Tower height. The vertical distance measured from the grade line to the highest point of the tower, including any antenna, lighting or other equipment affixed thereto.

Transmission equipment. Equipment that facilitates transmission of any Commission-licensed or authorized wireless communication service including, but not limited to, radio transceivers, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Variance. A modification of the terms of this Ordinance where a literal enforcement of this Ordinance would result in an unnecessary site specific hardship and shall be reviewed and may be granted by the Conditional Use and Variance Board.

Wireless facility (WF). Equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration and equipment associated with wireless communications. The term includes small wireless facilities. The term shall not include:

- (1) The structure or improvements on, under, within or adjacent to the structure on which the equipment is collocated; or
- (2) Wireline backhaul facilities; or
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(D) Exemptions. The following wireless facilities are exempt from the development standards of this Ordinance and subject only to the completion of a Wireless Facility Application and issuance of a building permit for applicable codes; notwithstanding any other provisions:

- (1) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the County designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.
- (2) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.

- (3) A temporary wireless facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the County and approved by the County; except that such facility must comply with all federal and state requirements. The WF may be exempt from the provisions of this division up to sixty (60) calendar days after the duration of the state of emergency.
- (4) Over the air reception devices ("OTARD") as that term is defined by the Federal Communications Commission, including satellite earth stations that are one (1) meter (39.37 inches) or less in diameter in all residential zoning districts and two (2) meters or less in all other zoning districts. OTARD devices are exempt provided that same do NOT require the construction of a tower or other structure, which height exceeds 12 feet above the residential structure of the consumer who desires to receive fixed wireless services, satellite transmissions, or over the air reception of television signals.
- (5) Routine maintenance of small wireless facilities.
- (6) Replacement of small wireless facilities with small wireless facilities that are the same size or smaller.
- (7) Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles within a ROW in compliance with applicable codes by or for a communications services provider authorized to occupy the ROW and who is remitting taxes under F.S. Chapter 202.
- (8) An Amateur Radio Tower that is used exclusively for non-commercial purposes that is less than 65 feet in height.

(E) Applicability For All Non-Exempt WF

- (1) Towers and base stations existing prior to the enactment of this Ordinance or permitted prior to the enactment of this Ordinance shall be allowed to continue to operate provided they met the requirements set forth by the County at the time of final inspection; not including any towers that are currently in violation of this Ordinance and any pre-existing Tower Ordinance of the County.
- (2) This Ordinance (Section 28.19 and its subparts) and the related terms in Tables 28.19(1) and 28.19(2) shall apply to the development activities of communications service, wireless infrastructure and wireless services providers for equipment including the installation, construction, or modification of all macrocell, small wireless and micro

wireless facilities and related ancillary equipment on concealed and non-concealed existing and new wireless communication facilities on public and private land and in County's and other ROW (except small wireless facilities located in a County ROW, which are regulated pursuant to Subsections (J) through (M) below, and micro wireless facilities which are attached to a wire between two utility poles within a ROW, which are exempt from regulation) including but not limited to:

- a. Non-commercial, amateur radio station antennas and towers.
- b. Temporary wireless facility a/k/a Cell on Wheels (COW).
- c. Existing towers and base stations.
- d. Collocation on existing towers and base stations.
- e. Expansion of existing towers and base stations.
- f. Replacement towers and base stations.
- g. Proposed new towers and base stations.
- h. Broadcast towers and antenna.

(F) Building Code Requirements, Permits and Fees


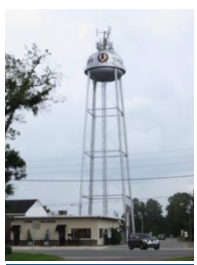

- (1) Building Code Requirements. All wireless facility infrastructure(s) shall be constructed and maintained in conformance with all applicable code requirements.
- (2) Permits and Fees Required. All wireless facility infrastructure(s) shall be subject to completion of a wireless facility application, the development standards described on the WF application and in this Section and all legally permissible permit and review fees.
 - a. The County uses fees set by the Board of County Commissioners (which shall not be considered a license, franchise or privilege tax) payable to Nassau County Planning and Economic Opportunity Department (PEO) to cover the necessary processing cost of all wireless facility applications.
 - b. The PEO reserves the right to conduct a supplemental third party review on all wireless facility applications subject to the same timeframe for initial reviews and approvals for any Permit subject to the following. Based on the results of the supplemental technical review, the approving authority may require changes to the applicant's application or submittals.







- c. The supplemental technical review may address any or all of the following:
- I. The accuracy and completeness of the application and any accompanying documentation.
 - II. The applicability of analysis techniques and methodologies.
 - III. The validity of conclusions reached.
 - IV. Whether the proposed communications facility complies with the applicable approval criteria set forth in these codes.
 - V. Other engineering or technical items deemed by the County to be relevant to determining whether a proposed communications facility complies with the provisions of these codes and not within the knowledge of County staff.



(G) WF Siting Preferences, Zoning Matrix, Review Types and Approvals Required

- (1) Siting Preference. As a result of citizen participation during the Wireless Facility Master Planning Process the Siting of new wireless facilities of any type shall be in accordance with the siting preferences in the WF Use Table 28.19(1) below. The most preferred option is listed first as number one (1) and the least preferred option last as number five. Where a lower-ranked alternative is proposed, the applicant must demonstrate through relevant information why the higher ranked options are not technically feasible, practical or justified given the location of the proposed facilities. The applicant must provide this information in its application in order for the application to be considered complete.

Table 28.19 (1): Wireless Facility Siting Preferences

<u>Wireless facility Type</u>		<u>Macrocell Tower Examples</u>	<u>Macrocell Base Station Example</u>	<u>Small Wireless Facility Tower Examples</u>	<u>Small Wireless Facility Base Station Examples</u>	<u>Standards</u>
<u>1</u>	<u>Collocation on existing tower or base station, located on:</u> a. <u>County owned land</u> b. <u>Other publicly</u>			<u>No examples at this time of the new infrastructure</u>		<u>Outside ROW: 20.19.(H), (P) and additionally (Q) for small wireless facilities</u>

	<u>owned land</u> c. <u>Private property*</u>					
<u>2</u>	<u>New concealed base station, located on:</u> a. <u>County owned land</u> b. <u>Other publicly owned land</u> c. <u>Private property*</u>	<u>Not Applicable</u>		<u>Not Applicable</u>		<u>Outside ROW: 20.19.(H), (S) and additionally (Q) for small wireless facilities</u>
<u>3</u>	<u>New non-concealed base station, located on:</u> a. <u>County owned land</u> b. <u>Other publicly owned land</u> c. <u>Private property*</u>	<u>Not Applicable</u>		<u>Not Applicable</u>		<u>Outside ROW: 20.19.(H) and (G)</u>
<u>4</u>	<u>New concealed dual purpose tower or utility pole or replacement of a non-concealed tower or utility pole with a new concealed dual purpose tower or utility pole</u> a. <u>On County owned land</u> b. <u>On other publicly owned land</u> c. <u>On private property*</u>		<u>Not Applicable</u>		<u>Not Applicable</u>	<u>Inside ROW: 20.19.(H), (J), (L) and (M)</u> <u>Outside ROW: 20.19.(H) and (U) and in (R) if in a single-family residential zoning district</u>

	d. <u>In public ROW</u>					
5	<u>New non-concealed tower or utility pole or replacement of a non-concealed tower or utility pole with another non-concealed tower or utility pole, located on:</u> a. <u>County owned land</u> b. <u>Other publicly owned land</u> c. <u>Private property*</u> d. <u>In public ROW</u>		<u>Not Applicable</u>		<u>Not Applicable</u>	<u>Inside ROW: 20.19.(H), (J), (K) and (M)</u> <u>Outside ROW: 20.19.(H) and (S) and (U)</u>

*The sub preferences for private property shall be:

1. Non-residential districts.
 2. Multi-family residential districts (where permitted).
 3. Single-family residential districts (where permitted) shall only be on lots not used for single-family homes. Examples include, but are not limited to parks, open space, schools, religious institutions, and public safety facilities.
- (2) Zoning Matrix. Applications and Review Matrix for Approvals. No new wireless facility shall be constructed in the county unless all the applicable approvals listed in the table below are secured.
- (3) Types of Reviews/Approvals Required. No new wireless facility shall be constructed in the County unless all of the applicable approvals listed in the Table below are secured.

Table 28.19(2): Zoning Matrix

Key:

A – Allowed by administrative approvalCU – Allowed by conditional useBlank – Not allowed

<u>Type of Wireless Facility</u>	<u>Amateur Radio and Non- exempt temporari y facilities Over 65'</u>	<u>Macrocell or Small Wireless Facility Outside ROW</u>					<u>Small Wireless Facility Inside ROW: Adjacent Zoning District</u>			
		<u>Collocati on on existing tower or base station</u>	<u>New conceal ed base station</u>	<u>New non- conceal ed base station</u>	<u>New conceal ed dual purpose tower</u>	<u>New non- conceale d monopol e tower</u>	<u>New conceal ed dual purpose pole</u>	<u>New or replacem ent non- conceale d pole</u>	<u>New conceal ed base station</u>	<u>New non- conceale d base station</u>
<u>RS-E</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>RS-1</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>RS-2</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>RS-2AB</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>RS-1AB</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>RM</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>RT</u>	<u>A</u>	<u>A</u>		<u>CU</u>			<u>A</u>		<u>A</u>	
<u>RG-1</u>	<u>A</u>	<u>A</u>		<u>CU</u>			<u>A</u>		<u>A</u>	
<u>RG-2</u>	<u>A</u>	<u>A</u>		<u>CU</u>			<u>A</u>		<u>A</u>	
<u>RG-AB</u>	<u>A</u>	<u>A</u>		<u>CU</u>			<u>A</u>		<u>A</u>	
<u>RMH</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>RJ</u>	<u>A</u>	<u>A</u>					<u>A</u>		<u>A</u>	
<u>CN</u>	<u>A</u>	<u>A</u>				<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	
<u>CN-AB</u>	<u>A</u>	<u>A</u>					<u>A</u>	<u>A</u>	<u>A</u>	
<u>CG</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	
<u>CG-AB</u>	<u>A</u>	<u>A</u>					<u>A</u>	<u>A</u>	<u>A</u>	
<u>CI</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>CHT</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>CPO</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>		<u>A</u>	<u>A</u>	<u>A</u>	
<u>CJ</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>			<u>A</u>	<u>A</u>	<u>A</u>	
<u>IW</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>IH</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>IP</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>OR</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>GPU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>ROS</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>CU</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>PUD*</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>		<u>A*</u>		<u>A*</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>

*Subject to Planned Unit Development (PUD) Development Order (DO).

(H) Provisions for All Wireless Facilities both inside and outside public ROW

(1) Abandonment (Discontinued Use).

- a. Wireless facility towers, antennas, and the equipment compound shall be removed, at the tower or base station owners' expense, within 180 days of cessation of use, unless the abandonment is associated with a replacement as provided in the 'Replacement' section of this Ordinance, in which case the removal shall occur within ninety (90) days of cessation of use.
- b. A tower or base station owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The County may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good and unique cause. If the tower or antenna is not removed within this time, the County may give notice that it will contract for removal within thirty (30) days following written notice to the tower or base station owner. Thereafter, the County may cause removal of the tower with costs being borne by the tower or base station owner.
- c. Upon removal of the wireless facility tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

(2) Interference with Public Safety Communications. In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each wireless provider shall agree in a written statement to the following:

- a. Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.
- b. Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- c. In the case of an application for collocated wireless facility, the applicant, together with the wireless provider, shall use their best

efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the County's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.

d. Whenever the County has encountered radio frequency interference with its public safety communications equipment, and has reasonable cause to believe that such interference has been or is being caused by one or more wireless facility antenna arrays, the following steps shall be taken:

I. The County shall provide written notification to all wireless service providers operating in the County of possible interference with the public safety communications equipment, and upon receipt of such notifications, the wireless providers shall use their best efforts to cooperate and coordinate with the County and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time in any successor regulations.

II. If any wireless provider fails to cooperate with the County in complying with the owner's obligations under this section or if there is a determination of radio frequency interference with the County's public safety communications equipment, the wireless provider who failed to cooperate and/or the wireless provider which caused the interference shall be responsible for reimbursing the County for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the County to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Enhanced Best Practices Guide" within twenty-four (24) hours of County's notification.

(3) Signage. All wireless facilities shall be clearly identified with the following information:

a. Name plate signage shall be provided in an easily visible location to include: FCC Antenna Registration System (ASR) registration

- number (if applicable); site owner's name, site identification number and/or name, phone number of contact to reach in event of an emergency or equipment malfunction, any additional security and safety signs.
- b. If more than 220 voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four (4) inches, the following: "HIGH VOLTAGE - DANGER."
 - c. No outdoor advertising signage is permitted at the wireless facility.
- (4) Lighting. Lighting on wireless facility towers and base stations shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following:
- a. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required with strobe during daytime and red flashing lights at night unless prohibited by the FAA.
 - b. Lights shall be filtered or oriented so as not to project directly onto surrounding property or ROW, consistent with FAA requirements.
- (5) Structural integrity: The entire tower or base station and all appurtenances shall be designed pursuant to the design requirements of ASCE 7, including wind speed design requirements, and tower loading/wind design requirements of Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) 222-H, Series II, including any subsequent modification to those specifications.
- (6) Grading shall be minimized and limited only to the area necessary for the new tower and equipment.
- (7) A signed statement from the wireless facility owner or owner's agent stating that the radio frequency emissions comply with FCC standards for such emissions as set forth in 47 CFR 1.1307, 1.310, 2.091 or 2.093, as applicable (*Report and Order*, ET Docket 93-62 (*Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*), 11 FCC Rcd 15123 (1996); *Second Memorandum Opinion and Order and Notice of Proposed Rule Making*, ET Docket 93-62 (WT Docket 97-192), 12 FCC Rcd 13494 (1997). In addition, any collocation,

modification or upgrade application shall contain an analytical report that confirms that following installation, the composite facility will remain in compliance with FCC standards as stated in OET-65.

(I) Additional Provisions for all Wireless Facilities Outside County ROW (subject to definitions in Sec. 28.19(C)).

(1) Parking. One parking space is required for each tower development area located outside of the ROW. The space shall be provided within the leased area, or equipment compound or the development area as defined on the site plan.

(2) Buffers and landscaping shall be per County Land Development Code Sections 37.05 Landscaping and 37.06 Buffers between certain uses.

(J) Additional Provisions for all New Small Wireless Facilities Inside County ROW (subject to definitions in Sec. 28.19(B)).

(1) The County may require a ROW permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane. Only small wireless facilities shall be permitted inside a County ROW. No other type of wireless facilities shall be permitted.

(2) Nothing in this subsection authorizes a person to:

a. Collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.

b. Collocate small wireless facilities or micro wireless facilities on a County utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association.

(K) Additional Provisions for New Small Wireless Facility on Existing Utility Pole Inside County ROW (subject to definitions in Sec. 28.19(B)).

(1) Small wireless facilities shall be no larger in size than specified in the definition for these facilities.

(2) Height shall be limited to 10 feet above the utility pole or structure upon

which the small wireless facility is to be collocated.

- (3) No portion of a small wireless facility shall obstruct pedestrians or vehicular or bicycle access, obstruct sight lines or visibility for traffic, traffic signage or signals, or interfere with access by persons with disabilities.
- (4) Small wireless facilities added to an existing utility pole or other structure are considered a base station for purposes of determining future collocation height increases allowed by the Spectrum Act and subject to 28.19(B).
- (5) The County may request an alternative location of a small wireless facility subject to the process described below:
 - a. A request by the County to the applicant for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.
 - b. Within 14 days after the date of filing the application, the County may request that the proposed location of a small wireless facility be moved to another location in the ROW and placed on an alternative County or third-party provider utility pole or support structure or may place a new utility pole.
 - c. For 30 days after the date of the request, the County and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment.
 - d. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the County of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application.
 - e. If an agreement is not reached, the applicant must notify the County of such nonagreement and the County must grant or deny the original application within 90 days after the date the application was filed.
- (6) An applicant may file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. The County may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

- (7) The County may deny a proposed collocation of a small wireless facility in the public ROW if the proposed collocations:
 - a. Materially interferes with the safe operation of traffic control equipment.
 - b. Materially interferes with sightlines or clear zones for transportation, pedestrians, or public safety purposes.
 - c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
 - d. Materially fails to comply with the 2010 edition of the FDOT Utility Accommodation Manual.
 - e. Fails to comply with applicable codes.
- (8) The County may reserve space on a County utility pole for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the County utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to the make-ready provisions of F.S. Sec. 337.401(7) and the replaced pole shall accommodate the future public safety use.
- (L) Additional Provisions for the Placement of a New Utility Pole or Replacement of Existing Utility Pole for Installation of Small Wireless Facility inside County ROW (subject to definitions in Sec. 28.19(B)).
 - (1) Small wireless facilities shall be no larger in size than specified in the definition for these facilities.
 - (2) Installation of a new utility pole is subject to the County's Roadway and Drainage Standards, Ordinance 99-17: Article 8. - Construction Within ROW.
 - (3) Height shall be limited to the tallest existing utility pole as of July 1, 2017, located in the same ROW, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the proposed wireless facility shall limited to a height of 50 feet. The County may allow a greater height on a case-by-case basis.
 - (4) A replacement utility pole shall be a substantially similar design, material, and color of the utility pole being removed.

- (5) A new utility pole for small wireless facilities shall include concealment of the small wireless facility; however, the applicant may request such design standard be waived by the County upon showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense.
- (6) A photo rendering shall be provided of the proposed new or replacement utility pole that depicts aesthetic features including, but not limited to, the use of colors and concealment with a before and after installation exhibit.
- (7) Ground-mounted equipment shall be concealed through the use of (a) design wrapping, for the purpose of blending into the surrounding environment or (b) fencing or landscaping, consistent with the requirements of Section 37.05 of the Land Development Code, shall be installed around the entire area of ground-mounted equipment. If fencing is utilized, additional landscaping may be required around the perimeter of the fence or wall and around any or all anchors or supports if deemed necessary to buffer adjacent properties. The County may require landscaping in excess of the requirements of the County code in order to enhance compatibility with adjacent residential and nonresidential land uses. Landscaping shall be installed on the outside of the perimeter fence or wall. The County shall determine which method of concealment is more appropriate for each set of ground-mounted equipment.
- (8) New and replacement utility poles for small wireless facilities are considered a tower for purposes of determining future collocations and height increases allowed by the Spectrum Act and subject to (P) 20.19.(H), and (J- M)
- (9) Applicants shall include an attestation that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than nine (9) months after the date the application is approved.
- (10) Abandoned small wireless facilities shall be removed within 180 days of abandonment. Should the wireless services provider or wireless infrastructure provider fail to remove the facility within this time period, the County may have facility removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless service provider or wireless infrastructure provider. A wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a

signal, unless the wireless services provider or wireless infrastructure provider gives the County reasonable evidence that it is diligently working to place such wireless facility back in service.

(11) Applicants are subject to any local historic preservation zoning regulations.

(M) Approval Process for Small Wireless Facilities inside County ROWs (subject to definitions in Sec. 28.19(B)).

(1) A permit is required for small wireless facilities within the County ROW for work that involves excavation, affects traffic patterns or obstructs vehicular traffic within or along the County's ROW as provided in and subject to the County's Roadway and Drainage Standards, Ordinance 99-17: Article 8. - Construction Within ROW.

(2) Within 14 days after receiving an application, the County Planning and Economic Opportunity Department (PEO) must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the PEO must specifically identify the missing information. An application is deemed complete if the PEO fails to provide notification to the applicant within 14 days.

(3) The PEO may request an alternative location of the placement or replacement of the proposed utility pole for the small wireless facility subject to the process described below:

a. A request by the PEO to the applicant for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

b. Within 14 days after the date of filing the application, the PEO may request that the proposed location of a small wireless facility be moved to another location in the ROW and placed on an alternative utility pole or support structure or may place a new utility pole.

c. For 30 days after the date of the request, the PEO and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment.

d. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the County of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application.

- e. If an agreement is not reached, the applicant must notify the PEO of such nonagreement and the County must grant or deny the original application within 90 days after the date the application was filed.
- f. If the application is denied, the PEO must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the County denies the application.
- g. The applicant may cure the deficiencies identified by the PEO and resubmit the application within 30 days after notice of the denial is sent to the applicant. Any subsequent review shall be limited to the deficiencies cited.
- h. The PEO shall approve or deny the revised application within 30 days after receipt or the application is deemed approved.
- i. A waiver from required concealment shall be granted or denied within 45 days after the date of the request.
- j. A complete application is deemed approved if an authority fails to approve or deny the application within 60 days after receipt of the application.
- k. If the PEO does not use the 30-day negotiation period described in subparagraph 3.C., the parties may mutually agree to extend the 60-day application review period. The County shall grant or deny the application at the end of the extended period.
- l. An approved application permit shall remain effected for 1 year unless extended by the PEO.
- m. The PEO may deny an application on the basis that it does not meet any of requirements below:
 - I. The County's applicable codes;
 - II. Concern for public safety, including but not limited to obstruction to: pedestrians or vehicular or bicycle access; sight lines or visibility for traffic, traffic signage or signals; or interference with access by persons with disabilities
 - III. Failure to meet reasonable location, color, and established streetscapes along within 500 feet of a proposed site.

(N) Additional Provisions for Non-Commercial, Amateur Radio Station Towers and Antennas Over 65 Feet in Height.

(1) Development Standards.

- a. The tower and antennas shall be accessory to a legal, principal use on site (such as a residence).
- b. Collocation of any WF equipment not used for the purposes of either a satellite earth station or an amateur wireless tower is prohibited.
- c. Height. Amateur tower height, location and other technical specifications shall comply with federal and state law. Amateur towers shall not exceed eighty-five (85) feet. Amateur tower permits shall be issued conditioned upon the tower being solely used for non-commercial purposes and no commercial wireless facilities may be collocated thereon (notwithstanding the provisions of 47 USC 1455 (a)).
- d. Structures, including towers, shall meet the setback requirements for primary structures for the zoning district in which the proposed facility shall be located.
- e. Applicant shall commit in writing that the facility will be erected in accordance with manufacturer's recommendations.
- f. If more than 220 voltage is present in the ground grid or in the tower, a sign shall be attached to the tower and shall display in large bold letters the following: "HIGH VOLTAGE- DANGER."
- g. Applicant shall certify that the proposed facility meets or exceeds FCC guidelines for radio frequency radiation exposure.

(2) Application Requirements. Must include information in (N)(1)(a-g) above and applicant's copy of current, valid FCC license for amateur radio operation (not applicable for earth station applicants).

(3) Approval Process. Administrative approval by County PEO.

(O) Additional provisions for Non-Exempt Temporary Wireless Facilities and Cellular on Wheels outside the County ROWs (subject to definitions in Sec. 28.19(C)).

(1) Development Standards.

- a. Proof of notification of installation or construction from the FAA, if applicable.

- b. Height shall be less than 120'.
- c. It does not involve any excavation (or excavation where prior disturbance exceeds proposed excavation by at least 2 feet).
- d. Description of proposed location, including type of temporary structure, type of electrical service to be utilized, description of temporary necessity requiring Temporary WF.
- e. Duration of proposed cellular on wheel facility shall not exceed 14 calendar days.

(2) Approval Process. Administrative approval by the County's PEO.

(P) Additional provisions for Collocation on any existing tower or base station outside the County ROWs (subject to definitions in Sec. 28.19(C)).

(1) Development Standards. For collocation on any tower or base stations (concealed or non-concealed) outside the County ROW, additions or modifications may not exceed the definition of substantial change.

(2) Application review timeframes.

- a. A collocation application entitled to expedited streamlined processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC §1455(a)) shall be deemed complete unless the County provides written notice to the applicant that the submission is incomplete (a "notice of incompleteness") within 30 calendar days of application submission (or within some other mutually agreed upon timeframe). Notice of incompleteness shall be in writing and shall identify specifically the deficiencies in the application which, if cured, would make the application complete. Upon notice of incompleteness, the timeline for a decision shall be tolled until the applicant re-submits to correct such deficiency. The County shall, within ten (10) calendar days of re-submission, notify the applicant of continuing deficiencies or the application will be deemed complete. The timeline for a decision shall be likewise tolled during the additional re-submission deficiency period until the second resubmission.
- b. Other collocation applications entitled to expedited streamlined process review pursuant to F.S. 365.172(13) shall be deemed complete unless the County provides a written notice of incompleteness to the applicant within 20 business days of submission (or within some other mutually agreed upon timeframe). Notice of incompleteness shall identify specifically the deficiencies

in the application which, if cured, would make the application complete. Upon notice of incompleteness, the timeline for a decision shall be tolled until the applicant re-submits to correct such deficiency. The County shall, within twenty (20) business days of re-submission, notify the applicant of continuing deficiencies or the application will be deemed complete. The timeline for a decision shall be likewise tolled during the additional re-submission deficiency period until the second resubmission.

(3) Approval Process. Administrative approval by the County's Planning and Economic Opportunity Department.

(Q) Additional provisions for New Small Wireless Facilities outside County ROWs (subject to definitions in Sec. 28.19(C)).

(1) Development Standards:

a. Concealed and Non-concealed New Base Stations.

- I. Small wireless facilities shall be no larger in size than specified in the definition for these facilities.
- II. Concealed new base station antenna and concealed wireless equipment associated with the facility is preferred over new non-concealed base stations.
- III. The top of the attached wireless facility antenna shall not be more than ten (10) feet above the existing or proposed building or structure.
- IV. Concealed WF antennas, feed lines and ground related equipment shelters/cabinets shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.
- V. A photo rendering shall be provided of the WF that depicts aesthetic features including, but not limited to, the use of colors, concealment, screening and buffering, with a before and after installation exhibit.
- VI. When a new base station is located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.

- VII. To the extent possible, base stations should be located outside of the floodplain and wetland areas. Where it is not possible, placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.

b. New Concealed Dual Purpose Tower

- I. Small wireless facilities shall be no larger in size than specified in the definition for these facilities.
- II. Concealment design is required to minimize the visual impact of wireless communication facilities. For this reason, all new towers shall be a concealed dual-purpose wireless facility.
- III. All new small wireless towers shall be designed with considerations of height, scale, color, texture and architectural design of the buildings where the new facility is proposed. All cables, conduits, electronics and wires shall be enclosed within the structure.
- IV. Neutral host antenna, smart poles and prefabricated multi-tenant dual-purpose type facilities are preferred. Applicants may seek a waiver of this requirement if they can demonstrate that there is no commercially available single antenna system, smart pole or multi-tenant dual purpose tower that can accommodate multiple wireless service providers.
- V. Height: The total height including antenna shall not exceed thirty-five (35) feet.
- VI. To the extent possible, base stations should be located outside of the floodplain and wetland areas. Where it is not possible, placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.

c. New Non-concealed Tower

- I. Small wireless facilities shall be no larger in size than specified in the definition for these facilities.
- II. A photo rendering shall be provided of the proposed antenna that depicts a before and after installation exhibit.

- III. Height shall be limited to thirty (30) feet.
- IV. Neutral host antenna, smart poles and prefabricated multi-tenant dual-purpose facilities are preferred. Applicants may seek a waiver of this requirement if they can demonstrate that there is no commercially available single antenna system, smart pole or multi-tenant dual purpose tower that can accommodate multiple wireless service providers.
- V. To the extent possible, base stations should be located outside of the floodplain and wetland areas. Where it is not possible, placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.
- VI. Wireless equipment (other than the antenna) associated with the facility to be located in accordance with the descending order of preference:
 - (a) Concealed on the ground away from the tower;
 - (b) Concealed at the base of the tower;
 - (c) Non-concealed on the tower
 - (d) Non-concealed on the ground next to the tower or away from tower to be determined on a case by case basis depending on sidewalk and ROW width.

(2) Approval Process.

- a. The PEO staff designee shall review and provide comment on any deficiencies in wireless facility applications in writing within thirty (30) days of submission or within some other mutually agreed upon time frame. The comment notice shall identify the deficiencies in the WF application, which, if cured, would make the application complete. The WF application shall be deemed complete on resubmission if the resubmitted materials cure the original deficiencies indicated by the County.
- b. If the PEO does not approve or deny the application following resubmission then the application shall be deemed approved within ninety (90) business days from the time the application is deemed complete or a mutually agreed upon time frame between the County and the applicant.

c. The PEO may deny an application on the basis that it does not meet any of requirements below:

- I. The County's applicable codes;
- II. Local code provisions or regulations that concern public safety, reasonable and nondiscriminatory concealment requirements
- III. Historic preservation requirements.

If the PEO denies an application, then the PEO must:

- I. Document the basis for a denial, including the specific code provisions on which the denial was based;
- II. Send the documentation to the applicant on or before the day the PEO denies an application. The applicant may cure the deficiencies identified by the County and resubmit the application within thirty (30) days of the denial without paying an additional application fee. The County shall approve or deny the revised application within thirty (30) days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

(R) Additional provisions for Small Wireless Facilities Outside County Rights-of Way in Single-Family Residential Districts (subject to definitions in Sec. 28.19(C)).

(1) General Development Standards - New Concealed Dual Purpose Tower

- a. Small wireless facilities shall be no larger in size than specified in the definition for these facilities.
- b. Concealment design is required to minimize the visual impact of wireless facilities. For this reason, all new towers shall be a concealed dual-purpose wireless facility.
- c. All new dual purpose towers shall be designed with considerations of height, scale, color, texture and architectural design of the buildings where the new facility is proposed. All cables, conduits, electronics and wires shall be enclosed within the structure.
- d. Neutral host antenna, smart poles and prefabricated multi-tenant dual-purpose facilities are preferred. Applicants may seek a waiver

of this requirement if they can demonstrate that there is no commercially available single antenna system, smart pole or multi-tenant dual purpose tower that can accommodate multiple wireless service providers.

- e. Height: The total height of a new small wireless facility outside a County ROW in Single-Family Residential Districts, including antenna, shall not exceed thirty (30) feet.
- f. To the extent possible, facilities should be located outside of the floodplain and wetland areas. Where it is not possible, placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.

(2) Approval Process. A new concealed small wireless tower under this subsection shall be reviewed and a decision rendered by the Nassau County Conditional Use and Variance Board to issue a conditional use permit within ninety (90) business days of receipt of the application, subject to any applicable tolling for application deficiencies and resubmissions, so long as the applicant demonstrates that the facilities will be used, immediately upon completion of construction, to provide personal wireless services, or within such other mutually agreed upon time (Speculative towers without an associated wireless service provider are not entitled to review and decision within ninety (90) business days, or to any of the other protections of the Telecommunications Act). Construction permits issued for new concealed small wireless tower or base station shall be valid for a term of one hundred eighty (180) days and shall lapse and be void if construction of the contemplated concealed small wireless tower or base station is not completed within that time.

(S) Additional provisions for new Macrocell Facilities: New Base Station outside the County ROWs (subject to definitions in Sec. 28.19(C)).

(1) Development Standards.

- a. Concealed new base stations are preferred over new non-concealed base stations per the siting preference matrix in Table 28.19(1).
- b. The top of the attached wireless facility antenna shall not be more than ten (10) feet above the existing or proposed building or structure.

- c. Concealed WF antennas, feed lines and ground related equipment shelters/cabinets shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.
- d. A photo rendering shall be provided of the WF that depicts aesthetic features including, but not limited to, the use of colors, concealment, screening and buffering, with a before and after installation exhibit.
- e. When a new wireless facility base station is located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.
- f. To the extent possible, macrocell towers should be located outside of the floodplain and wetland areas. Where it is not possible, tower placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.

(2) Application Review Timelines.

- a. County planning staff designee shall review and provide comment on any deficiencies in new base station WF applications in writing which shall be postmarked to the applicant within twenty (20) business days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the wireless facility application, which if cured, would make the application complete. The WF will be deemed complete on resubmission if the resubmitted materials cure the original deficiencies indicated by County.
- b. If the County does not respond in writing to the applicant of an eligible facility collocation request within the specified timeframe, the application shall be deemed complete.
- c. The County shall issue a written decision approving or denying an application request within ninety (90) business days of such application being deemed complete.

(3) Approval Process. Administrative approval by the County's Planning and Development Services Department.

(T) Additional provisions for Outdoor Distributed Antenna System Hub outside the County ROWs (subject to definitions in Sec. 28.19(C)):

(1) Development Standards.

- a. Setbacks for outdoor distributed antenna system hub shelters/buildings shall meet the setback standards of the underlying zoning district.
- b. Equipment shelters/building shall be architecturally compatible with the general character of the neighborhood and historic character if applicable.
- c. Equipment shelters/buildings/cabinets shall be screened with materials and colors consistent with the surrounding backdrop and/or textured to match the existing structure. The use of foliage and vegetation around ground equipment may be required based on conditions of the specific area where the ground equipment is to be located.
- d. To the extent possible, base stations should be located outside of the floodplain and wetland areas. Where it is not possible, placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.

(2) Application Review Timelines.

- a. The PEO shall review and provide comment on any deficiencies in new outdoor DAS hub applications in writing which shall be postmarked to the applicant within twenty (20) business days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the wireless facility application, which if cured, would make the application complete. The WF will be deemed complete on resubmission if the resubmitted materials cure the original deficiencies indicated by County.
- b. If the County does not respond in writing to the applicant of an eligible facility collocation request within the specified timeframe, the application shall be deemed complete.
- c. The County shall issue a written decision approving or denying an application request within ninety (90) business days of such application being deemed complete.

(3) Approval Process. Administrative approval by the County's Planning and Economic Opportunity Department.

(U) Additional provisions for Conditional Use Permit Approvals

- (1) Macrocell Facility Development Standards - New Concealed Dual Purpose Tower, New Non-concealed Tower and Replacement Tower outside the County ROWs (subject to definitions in Sec. 28.19(C)).

a. Visibility

I. Concealed

- (a) New concealed wireless facility towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture with existing structures and landscapes on the property.
- (b) New antenna mounts shall be concealed and match the concealed WF tower.
- (c) In residential zoning districts, new concealed wireless facility towers shall only be permitted on lots whose principal use is not single-family residential, such as schools, churches, synagogues, fire stations, parks, and other public property.

II. Visibility Non-concealed

- (a) Monopoles only shall be allowed in the, unincorporated Island and unincorporated non-island areas east of I-95.
- (b) Monopoles and lattice towers shall be allowed in unincorporated areas west of I-95.

- b. Replacement – any replacement tower must achieve either the same level of visibility or less than the tower that it is replacing. A replacement for a concealed wireless facility must be concealed. A replacement of a non-concealed tower must be either concealed or a monopole type tower.

c. Height.

- I. Where permitted, new concealed towers in single-family districts shall be limited to 70'. Where permitted, new nonconcealed towers in single-family districts shall be limited to 60'.
- II. Where permitted, new concealed towers in non-single-family districts in the unincorporated island areas shall be limited to 120'. Where permitted, new nonconcealed towers in non-

single-family districts in the unincorporated island areas shall be limited to 100'.

- III. Where permitted, new concealed towers in non-single-family districts in unincorporated non-island areas shall be limited to 150'. Where permitted new nonconcealed towers in non-single-family districts in unincorporated non-island areas shall be limited to 130'.

d. Setbacks. New towers shall be subject to the setbacks described below:

- I. A concealed wireless facility may be constructed using breakpoint design technology (see 'Definitions'), in which case the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of Florida of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. (For example, on a 100-foot tall monopole with a breakpoint at eighty (80) feet, the minimum setback distance would be twenty-two (22) feet (110 percent of twenty (20) feet, the distance from the top of the monopole to the breakpoint) in addition to the minimum side or rear yard setback requirements for that zoning district.
- II. For a non-concealed wireless facility tower or a concealed wireless facility tower not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed WF.
- III. Nonconcealed towers shall be subject to the minimum setback distance required by the applicable zoning district.
- IV. Replacement towers shall be subject to the minimum setback distance imposed upon the tower being replaced.

e. Equipment cabinets and Equipment Shelters. Electronic equipment shall be contained in either (a) equipment cabinets or (b) equipment shelters. Equipment cabinets shall not be visible from pedestrian and ROW views. Equipment cabinets may be provided within the principal building on the lot, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

f. Fencing. All equipment compounds shall be enclosed with an opaque fence or masonry wall in residential zoning districts and in any zoning

district when the equipment compound adjoins a public ROW. Alternative equivalent screening may be approved through the site plan approval process.

- g. Equipment Compound. The fenced-in compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.
- h. Non-concealed towers: New antenna mounts shall extend no more than 10 feet from the tower structure, unless it is demonstrated through RF propagation analysis that compliance with this limitation will not meet the network objectives of the desired coverage area.
- i. Balloon Test.
 - I. New concealed and non-concealed wireless facility towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.
 - II. A balloon test shall be required subsequent to the receipt of the photo simulations in order to demonstrate the proposed height and concealment solution of the WF. The applicant shall arrange to raise a colored balloon no less than three (3) feet in diameter at the maximum height of the proposed tower, and within twenty-five (25) horizontal feet of the center of the proposed tower. The applicant shall meet the following for the balloon test:
 - (a) Applicant must inform the Planning and Economic Opportunity Department and abutting property owners in writing of the date and times, including alternative date and times, of the test at least fourteen (14) days in advance.
 - (b) A 3' by 5' sign with lettering no less than 3 inches high stating the purpose of the balloon test shall be placed at closest major intersection of proposed site.
 - (c) The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven (7) but no more than fourteen (14) days in advance of the test date.
 - (d) The balloon shall be flown for at least four (4) consecutive hours during daylight hours on the date chosen. The

applicant shall record the weather, including wind speed during the balloon test.

(e) Re-advertisement will not be required if inclement weather occurs.

- j. WFs shall be engineered and constructed for collocation as follows: 2 tenants between 80 and 100 feet, for 3 tenants between 101 and 120 feet in height, and for 4 tenants above 120 feet in height.
- k. Grading shall be minimized and limited only to the area necessary for the new WF and equipment compound.
- l. All landscaping shall be subject to Section 37.05 of the Land Development Code.
- m. To the extent possible, base stations should be located outside of the floodplain and wetland areas. Where it is not possible, placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.

(8) Additional Submittal Requirements for Applications for Conditional Use Permits

- a. Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the Planning and Development Services Department including the facility types the applicant has considered and the impact on adjacent properties including:
 - i. Overall height.
 - ii. Configuration.
 - iii. Physical location.
 - iv. Mass and scale.
 - v. Materials and color.
 - vi. Illumination.
 - vii. Architectural design.
- b. Applicant shall provide a written statement of proposed facility compliance with all applicable FCC rules and regulations.

- c. A map of the same search ring submitted and used by the applicant's site locator with a statement confirming the same.
- d. A map indicating applicant's existing RF signal propagation, a map indicating applicant's proposed new radio frequency (RF) signal propagation, and a map indicating the proposed facility's coverage area, which provides sufficient justification for the requested support structure height.
- e. A map indicating applicant's existing RF signal propagation and a map indicating applications proposed new RF signal propagation.
- f. A statement from the applicant providing information regarding justification for the proposed new WF facility.
- g. An affidavit by a radio frequency engineer demonstrating compliance with the Permitted Use List (Table 28.19(1)) of this Ordinance and providing the qualifications of affiant. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, and/or justified given the location of the proposed communications facility.
- h. Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.
- i. Written statement by a registered professional engineer licensed by the State of Florida specifying the design structural failure modes of the proposed facility, if applicable.
- j. A radio frequency propagation plot indicating the coverage of existing antenna sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new tower and reasons why such alternative structures are unacceptable.
- k. All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this Ordinance.
- l. Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

- m. Proof of compliance with National Environmental Policy Act and National Historic Preservation Act.

(9) Application Review Timelines:

- a. County planning staff designee shall review and provide comment on any deficiencies in new conditional use permit applications in writing which shall be postmarked to the applicant within twenty (20) business days of submission or within some other mutually agreed upon time frame.
- b. The County shall issue a written decision approving or denying a conditional use permit application request within ninety (90) business days of such application being deemed complete.

- (10) Approval Process: A new conditional use permit application for a new macrocell facility in this section shall be reviewed and a decision rendered by the Conditional Use and Variance Board within ninety (90) business days of receipt of the application, subject to any applicable tolling for application deficiencies and resubmissions, so long as the applicant demonstrates that the facilities will be used, immediately upon completion of construction, to provide wireless communication services, or within such other mutually agreed upon time.

(V) Additional provisions for Broadcast towers *outside the County ROWs* (subject to definitions in Sec. 28.19(C)).

(1) Development Standards.

- a. Broadcast Tower Determination of Need. No new broadcast towers shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.
- b. The zoning lot on which a broadcast facility is located shall have a minimum gross land area of one hundred fifty thousand (150,000) square feet.
- c. Height. Height for broadcast towers shall be evaluated on a case-by-case basis; the determination of height contained in the applicant's FCC Form 351/352 construction permit or application for construction permit and an FAA determination of no hazard (FAA

Form 7460/2) shall be considered prima facie evidence of the tower height required for such broadcast facilities.

- d. Setbacks. New broadcast towers and anchors shall be setback a minimum of five hundred (500) feet from any single-family dwelling unit on same zone lot; and a minimum of 1 foot for every 1 foot of tower height from all adjacent lots of record.
- e. Equipment Cabinets. Except for AM broadcast towers, cabinets shall not be visible from pedestrian views.
- f. All landscaping shall be subject to Section 37.05 of the Land Development Code.
- g. Fencing. All broadcast facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.
- h. Equipment Compound. The fenced in compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.
- i. To the extent possible, base stations should be located outside of the floodplain and wetland areas. Where it is not possible, placement shall comply with Nassau County's floodplain management ordinance and Land Development Code regarding floodplain and wetlands.

(2) Application Review Timelines.

- a. County planning staff designee shall review and provide comment on any deficiencies in new broadcast tower applications in writing which shall be postmarked to the applicant within thirty (30) calendar days of submission or within some other mutually agreed upon time frame.
- b. The County shall issue a written decision approving or denying an application request within one hundred fifty (150) calendar days of such application being deemed complete.

- (3) Approval Process. A new broadcast tower application shall be reviewed and a decision rendered by the Conditional Use and Variance Board as applicable within one hundred and fifty (150) days of receipt of the application, subject to any applicable tolling for application deficiencies and resubmissions, so long as the applicant demonstrates that the facilities will be used, immediately upon completion of

construction, to provide AM/FM/TV Broadcast services, or within such other mutually agreed upon time.

(W) Appeals

- (1) Appeals from Administrative Review Process Denials. Appeals from the Administrative Review Process shall be heard by the Board of County Commissioners and subject to provisions in Section 5.06 of the County Land Development Code.
 - (2) Appeals from Conditional Use and Variance Board. CUVB denials shall be subject to Section 5.06 of the County Land Development Code. Appeals should not be heard de novo before the Board of County Commissioners.
- (X) Severability. If any section, subsection, paragraph, sentence, clause or phrase of Section 28.19 of this Land Development Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of Section 28.19 shall continue in full force and effect.

SECTION 3. CODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall be included and incorporated into the Code of Laws and Ordinances of Nassau County, Florida. The codifier may re-letter or renumber sections to conform to the uniform numbering and style of the section.

SECTION 4. SEVERABILITY

It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Secretary of State as provided in Florida Statutes, Section 125.66.

Adopted this _____ day of _____, 2019 by the Board of County Commissioners of Nassau County, Florida.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

JUSTIN M. TAYLOR
Its: Chair

ATTEST as to Chairman's Signature:

John A. Crawford
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney

Michael S. Mullin
County Attorney