

## Ordinance 2022-30

### Exhibit A

#### **LDR Sec. 6.2.2.G. Transportation/Communications/Infrastructure:**

3. Wireless Communications Facilities/Towers (excluding facilities in the rights-of-way).

A. The intent of this subsection is to:

1. Minimize the impacts of wireless communications facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility;
2. Avoid conflict with existing and future city and publicly owned utilities and other facilities;
3. Avoid potential injury to persons and properties from tower failure and debris hazards through structural standards and setback requirements;
4. Preserve the aesthetic, scenic and visual character of the area by encouraging the location, design and architectural treatment of wireless communications facilities to avoid the disruption of the natural and built environment and to ensure harmony and compatibility with surrounding land use patterns;
5. Facilitate the provision of communications services to residents, businesses, and visitors;
6. Provide a uniform and comprehensive framework for evaluating proposals for wireless communications facilities;
7. Encourage builders and tenants of wireless communications facilities and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
8. Encourage the location and collocation of wireless communications equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts; minimizing effects upon the natural environment and wildlife; and reducing the need for additional antenna support structures;
9. Accommodate the growing need and demand for communications services;
10. Encourage coordination between suppliers and providers of wireless communications services;
11. Establish predictable and balanced codes governing the construction and location of communications facilities, within the confines of permissible local regulations;
12. Establish review procedures to ensure that applications for wireless and wireline communications facilities are reviewed and acted upon within a reasonable period of time and in accordance with F.S. §§ 365.172 and 337.401, if applicable;
13. Respond to the policies embodied in the Telecommunications Act of 1996, if applicable, in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services facilities or to prohibit or have the effect of prohibiting personal wireless services as those terms are defined in the Act;

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and

14. Encourage the use of public lands, buildings, and structures as locations for wireless communications facilities demonstrating concealed or stealth technologies.

B. Definitions. Terms used herein are defined in Article 3. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not otherwise defined in this subsection or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended (collectively the "Communications Act"); and if not defined in the Communications Act, as defined by Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning.

C. The general standards for all wireless communications facilities are:

1. All wireless communications facilities shall require permits and be subject to these regulations, and all other applicable regulations except wireless communications facilities being constructed exclusively for use by Wellington public safety equipment.
2. No commercial signs or advertising shall be allowed.
3. No signals, lights, or illumination shall be permitted unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the alternatives chosen shall be the least obtrusive to the surrounding community.
4. All wireless communications facilities shall comply with the regulations of the FAA and the Federal Communications Commission (FCC).
5. Owners of wireless communications facilities shall certify that all licenses and franchises required by law for the construction and operation of a facility have been obtained. An owner of a wireless communications facility shall notify Wellington in writing within 48 hours of any revocation or failure to renew such license or franchise.
6. In the event the use of a wireless communications facility is discontinued, the owner and/or operator shall provide written notice to Wellington of its intent to discontinue use and the date when the use shall be discontinued.
7. Wellington may require removal of any abandoned or unused wireless communications facility by the owner within 30 calendar days of confirming abandonment. A wireless communications facility shall be considered abandoned if use has been discontinued for 180 consecutive calendar days as determined by Wellington.
  - a. Where a wireless communications facility is abandoned but not removed within the specified timeframe, Wellington may remove it and place a lien on the property following procedures for demolition of an unsafe structure.

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- b. Where a wireless communications facility is utilized for other purposes, including but not limited to, lighting standards and power poles it shall not be considered abandoned if still being maintained in good condition.
  - c. Where a wireless communications facility is removed by an owner, the owner shall restore the area to as good of a condition as prior to the placement of the facility, unless otherwise instructed by Wellington.
8. Owners or operators of wireless communications facilities shall comply with current radio frequency emissions standards of the FCC, or other legal regulating body. Applicants shall furnish a statement from a qualified professional engineer certifying to the compliance with such standards for the proposed installation of wireless communications equipment, both individually and on a cumulative basis.
  9. Wireless communications facilities shall be maintained in good condition. Maintenance or construction shall be performed by licensed personnel. The owner/operator shall inspect the condition of wireless communications facilities at least annually and perform necessary maintenance. Inspection reports shall be provided if requested by Wellington. If review of the inspection reports and/or Wellington's inspections indicates a need for further maintenance, Wellington shall notify the owner/operator in writing as to what maintenance is required. Failure to complete noticed repairs or maintenance within 30 calendar days of notification may result in revocation of approval/permit and/or removal of wireless communications facilities. Any person aggrieved by an administrative decision may file an appeal pursuant to Article 5.
  10. No equipment or materials shall be stored or parked on the site of a wireless communications facility unless used in direct support or for repairs of a wireless communications facility.
  11. Wellington reserves the right upon reasonable notice to the owner/operator of a wireless communications facility to conduct inspections for the purpose of determining whether the wireless communications facility complies with the LDR, the Building Code, and construction standards provided by local, state, or federal law.
  12. Security and Buffering.
    - a. Wireless communications facilities shall be enclosed by an opaque fence or wall as described in this subsection to prevent public access and for buffering. 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. Wellington may require landscaping in excess of the requirements of the LDR in order to enhance compatibility with adjacent residential and nonresidential land uses.
    - b. If necessary for the operation of the facility, warning signs including "HIGH VOLTAGE - DANGER" and/or "NO TRESPASSING" signs, shall be permanently attached to the fence or wall and shall be spaced no more than 20 feet apart on

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each fence frontage as necessary. The letters for the warning signs shall be at least six (6) inches in height. The signs may be combined into one (1) sign. The warning signs shall be installed at least four and one-half (4½) feet above the finished grade of the wall/fence.

13. Wellington has no obligation to accept an application for the use of Wellington property for wireless communications facilities, regardless if the site is listed as preliminary approved on Wellington's Wireless Communication Tower Map. If an application is accepted, a lease agreement acceptable to Wellington shall be executed as a prerequisite to approval. Wellington has no obligation to execute such a lease.
14. Setback and separation distances for wireless communications facilities shall be measured from the base exterior of the proposed wireless communications facilities to the property lines, residential district property line, base of other wireless communications facilities, or as required in this section.
15. All wireless communications facilities should be designed to minimize the adverse visual impact on the surrounding area. A monopole tower design, reduced height and shape/outline, and/or alternative tower designs should be considered to create the least adverse visual impact to the area. Wireless communications facilities structures or parts that do not require FAA painting/markings shall be of neutral color or material that will reduce visual obtrusiveness and blend with the surrounding environment, such as the finish/color blending with the natural skyline. The design of wireless communications facilities and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, landscaping, and alternative structure design that will blend the structures with the natural setting of on-site structures, and with the surrounding areas and structures. The applicant shall provide photosims (photographic simulation) that reflects the installed structure in the proposed area, and plans illustrating the design and finishes of all proposed wireless communications facilities for review and approval by Wellington.
16. The minimum height necessary (as verified by an independent radio frequency analysis) to provide the applicant's designed service to the area should be utilized for all proposed wireless communications facilities.

#### D. Existing wireless communications facilities.

1. Owners of existing wireless communications facilities shall comply with the procedures herein to replace or re-locate a wireless communications facility, co-locate an antenna on a wireless communications facility, or expand a wireless communications facility.
2. Expansions in height or dimensions to an existing wireless communications facility, or the conversion of an existing wireless communications facility to another design, shall require Wellington Council approval if the site or structure does not comply with the current requirements, or be treated as a new wireless communications facility if the expansion exceeds the threshold for a substantial change per 47 CFR 1.40001(b)(7)(i). Expansions or modifications to existing wireless communications

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facilities that do not exceed the threshold for a substantial change shall utilize the Special Use Permit process pursuant to Article 5.

3. Owners of existing wireless communications facilities shall comply with applicable requirements of the wireless communications facilities section.
- E. Wireless communications facilities may be mounted on alternative structures including utility and street light poles, buildings, and rooftops, and meet the below standards.
1. Pole-mounted wireless communications facilities within rights-of-way are regulated by Chapter 7 of the Wellington Code of Ordinances.
  2. Wireless communications facilities mounted on parking lot lights, or similar poles, or athletic field lights shall not exceed a height above an additional 40% of the height of the pole structure or 10 feet, whichever is less, and shall be designed and mounted by the least visually obtrusive means including minimizing the dimensional width of antennae.
  3. The location, design, and screening of the associated equipment boxes shall be approved by the PZB Director and Wellington Engineer.
  4. Generators associated with wireless communications facilities shall comply with the requirements of the Wellington Code of Ordinances.
  5. Wireless communications facilities shall only be permitted on non-residential buildings that are at least 24-feet in height. Wireless communications facilities may extend a maximum of 10 feet above the highest point of a roof/parapet wall, except 20 feet may be approved by Council if public safety needs warrant the additional height, collocation is unfeasible, natural and manmade environmental limitations warrant the additional height, and the location will serve the provider's system coverage service area as demonstrated by submitted evidence.
  6. If an equipment building associated with the wireless communications facility is located on the roof of the building, each equipment building shall not exceed 10 feet in overall height and 500 square feet in area.
  7. Antennas and related equipment/buildings shall be located or screened so they are not visible from adjacent properties and rights-of-way to the greatest extent practicable. The antennas and equipment/building shall be consistent in colors and/or materials of the structure it is mounted to, as determined during permitting and/or inspection, to achieve maximum compatibility and minimum visibility. Wellington shall approve the concealment or camouflage design before a permit can be granted.
  8. Antenna dimensions.

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- a. Omni-Directional (whip) antennas, and their supports, shall not exceed 25 feet in height and 12 inches in diameter and shall be constructed of a material or color that matches the exterior of the building.
- b. Directional or Panel antennas and their supports shall not exceed eight (8) feet in height or two (2) feet in width and shall be constructed of materials and coloration that achieves maximum compatibility and minimum visibility.
- c. Satellite and microwave dish antennas located in the Commercial, Open Space Recreation, Equestrian Commercial Recreation and the Community Facilities Future Land Use Map designations may not exceed 10 feet in diameter.

#### F. Wireless communications facilities.

##### 1. Preliminary approved sites:

- a. Wellington's Wireless Communication Tower Map is hereby adopted and as amended, with the locations of preliminary approved tower sites and all approved tower sites within the municipal boundaries.
- b. Preliminary approved tower locations are Wellington or Acme owned properties, the Florida Power & Light (FP&L) major transmission line corridor, and other properties as illustrated on the adopted map. Towers proposed on a preliminary approved site on the Wireless Communication Tower Map may be allowed with the property owner/easement holder approval, and administrative site plan approval for the tower and support facilities if the below standards are met.
  - i. Setback from all property lines and separated from residential property lines by 110% of the tower height. The PZB Director may reduce the setback and separation requirement up to 50% of the tower height if the tower site property lines are not directly adjacent (within 50 ft.) to residential lots, if the proposed setback will not increase any visual impact from adjacent properties or public rights-of-way, or if designed with a breakpoint.
  - ii. Separated a minimum of 500 feet from any other tower.
  - iii. Shall be natural camouflaged concealment (trees and other natural concealment as approved) structures, except towers within the Wellington Environmental Preserve (Section 24) and FP&L corridor may be a mono-pole design with externally attached wireless communication facilities as approved by the PZB Director.
  - iv. Public notification of the proposed tower shall be provided (by regular mail) to property owners within a 300 feet radius of the site prior to site plan approval.
  - v. Other applicable standards as required by the PZB Director for the proposed site and tower.

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2. All sites:

a. Minimum setback and location standards are indicated in Table 6.2.2.G-1 below for all sites, and preliminary approved sites as noted.

**Table 6.2.2.G-1 Wireless Communications Facility/Tower Standards**

Future Land Use Map Designation	Minimum Separation from Residential Land Use B-H	Minimum Setback from Property Line <sup>(1)</sup>	Maximum Height	Natural Camouflaged Concealment Required <sup>(2)</sup>
Flex, Commercial, Open Space Recreation, Equestrian Commercial Recreation, Community Facilities, and Residential A.	110% of the facility/tower height.	50' or the facility/tower certified breakpoint/collapse area, whichever is greater.	160', except 200' is allowed for Flex and Residential A land uses.	Yes, except in Flex and Residential A land use. A waiver to this standard may be approved as a Conditional Use per the proposed facility/tower design and/or the location or acreage of the proposed site.

<sup>(1)</sup> The setbacks of tower compounds and the appurtenances within them shall conform to setbacks for the zoning district or Master Plan.

<sup>(2)</sup> Self-supporting or guyed lattice towers shall be permitted as a replacement of similar facilities.

b. Tower designs shall be certified by an engineer specializing in tower structures and licensed in Florida. The certification shall state that the design is structurally sound, and in conformance with the Building Code and other standards in this Article.

c. Measurement of tower height shall include the tower structure, base pad and attached facilities measured from grade. Lightning rods are excluded from the height measurement. The height requirements may not apply if the applicant can show that Federal Communications Commission rules require operation at a specific height. The maximum tower height shall otherwise be as indicated in Table 6.2.2.G-1 above.

d. Separated a minimum of 500 feet from any other tower.

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- e. A wireless communications facility owner shall permit other wireless communications providers to co-locate facilities on a tower if space and structural capacity exists subject to mutually agreeable terms between the parties. Co-location requirements shall not apply to towers erected within the FP&L corridor easements that are designed to look like power transmission poles or structures. Towers over 100 feet in height shall accommodate three (3) providers with an additional provider required for each additional 20 feet in height. The number of co-location providers may be reduced if reports are provided showing factors limiting the ability to co-locate on the tower, which may include insufficient tower height to meet coverage demands for the area with multiple providers, wireless facilities/equipment design and upgrades, and natural/manmade environmental limitations that will affect a provider's service area/signal.
- f. A landscape buffer shall be provided to minimize the view of the wireless communications facility and compound, internally to the site and from surrounding property. The buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound. Landscaping shall include, but not be limited to, canopy trees with a minimum height of 14 feet and a hedge with a minimum height of 48 inches, three (3) feet on center when installed and maintained at the fence/wall height. Existing mature growth, not including exotics and natural land forms, shall be preserved to the extent possible. All areas disturbed during construction shall be replanted.
- g. A tower compound shall provide an opaque wall or fence, along with landscaping, to screen all equipment, mechanical facilities, etc. for all proposed providers based upon the capacity of the tower. The tower compound shall contain sufficient area to accommodate the equipment/mechanical facilities for all providers. The wall/fence height shall be a minimum of two (2) feet above all objects within the compound to ensure sufficient screening. To ensure safety of the facilities and surrounding area, the PZB Director or Wellington Engineer may require a concrete wall.
- h. An applicant seeking to construct a wireless communications facility greater than 60 feet in height shall submit a visual impact analysis with the use of photosims (photographic simulation) as determined by Wellington during the pre-application and/or review process per the wireless communications facility design, height, location within the site, and site location and acreage. The applicant shall utilize digital imaging to prepare a visual analysis in a manner acceptable to Wellington, and shall provide the following:
  - i. The location of the proposed wireless communications facility illustrated on an aerial photograph at scale of not more than one (1) inch equals 300 feet.
  - ii. All zoning districts surrounding the property of the proposed site shall be indicated.
  - iii. A line of site analysis that shall include the following information:



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- a. Identification of all significant existing natural and manmade features adjacent to proposed tower site and identification of features that may provide buffering and screening for adjacent properties and public rights-of-way;
  - b. Identification of at least three (3) specific viewpoints within a 2,000-foot radius of the proposed location. The viewpoint locations shall be approved by the PZB Director;
  - c. Copies of all calculations and data used, and a description of the methodology used in the analysis for selecting the viewpoints;
  - d. Graphic illustration of the visual impact of the proposed wireless communications facility, at a scale that does not exceed five (5) degrees of horizontal distance from the identified points. The height at which the horizontal distance shall be measured from will depend on the finished floor or elevation of the viewpoints approved by the PZB Director;
  - e. Identification of screening and buffering materials within the wireless communications facility site's boundaries and under the applicant's control; and
  - f. Any additional information that may be required by the PZB Director to evaluate the impact of the proposed wireless communications facility.
- G. In addition to the requirements of Conditional Use, Special Use Permit, and Site Plan applications, as required, the below shall be provided for specific types of wireless communications facilities.
1. Tower/structure application shall contain the following:
    - a. A scaled site plan indicating the location, type, and height of the proposed tower, site land uses and zoning, design elevations of the proposed tower, topography, and other information deemed by Wellington to be necessary to assess compliance.
    - b. A certified statement from a qualified professional engineer that the construction and placement of the wireless communications facility will not unnecessarily interfere with public safety communications and the usual and customary transmission or reception of radio, and television, service enjoyed by adjacent residential and non-residential properties. The statement shall be prepared by a registered professional engineer identifying any interference that may result from the proposed construction and placement. Whenever Wellington encounters radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one (1) or more wireless communications facilities, Wellington shall provide notification to all communications service providers operating in Wellington of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with

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Wellington 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. If any equipment owner fails to cooperate with Wellington in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the Wellington public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing Wellington for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by Wellington 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 "Best Practices Guide" within twenty-four (24) hours of Wellington's notification.

- c. The applicant shall submit any technical information requested by Wellington or any independent consultant engaged by Wellington to review such applications.
  - d. If co-location is not available the applicant shall submit an affidavit stating that the applicant made diligent efforts for permission to install or co-locate the facilities on all existing support structures located within the search ring (coverage area) for the proposed facility. The applicant shall establish in the application that they are unable to provide service at existing sites, including co-location nearby, no other suitable existing structure is available including utility poles, or that no reasonable alternative technology can accommodate the facility due to one (1) or more of the following factors:
    - i. Insufficient height to allow the facility to function reasonably in parity with similar facilities;
    - ii. Insufficient structural strength to support the antenna and related equipment;
    - iii. Insufficient space to allow the antenna to function effectively and reasonably in parity with similar equipment;
    - iv. Resulting electromagnetic interference which cannot reasonably be corrected;
    - v. Unavailability of a reasonable leasing agreement;
    - vi. The resulting facility would create a greater visual impact than the proposed alternative or otherwise would be less in compliant with the intent and objectives of the LDR; or
    - vii. Other limiting factors.
2. Wireless communication facilities mounted on alternative structures including utility and street light poles, buildings, and rooftops shall meet the below standards.

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- a. Shall require a Special Use Permit approval, pursuant to Article 5.
  - b. The application shall contain a scaled site plan indicating the location, type and height of the proposed facility, site land uses and zoning, design elevations of the pole or building structure showing how concealment design is incorporated, dimensioned profiles of antennas and mountings on the structure, topography, survey, landscape plans and other information deemed by Wellington to be necessary to assess compliance.
3. The PZB Director may waive the Conditional Use, Special Use Permit and Site Plan application submittal requirements for the expansion or replacement of an existing facility if due to maintenance or industry upgrades provided such maintenance or upgrades do not increase the weight loading of the supporting structure. The requirement to submit an application may be waived, at the PZB Director's discretion, if the proposed expansion or replacement is:
- a. No more than 10% or 20 feet increase to the existing tower/facilities, if the increase does not exceed the supplementary regulations for Wireless Communications Facilities/Towers. This waiver provision shall be used only once during the life of a tower/facility, and any further increase in height will require a Conditional Use, Special Use Permit, or Site Plan approval, as required above.
  - b. Located within the same site as the existing tower/facility and in compliance with existing setbacks/separation. If the replacement will be relocated within the same site, all existing tower/facility shall be removed within 90 days of completion of the replacement.
- H. Temporary portable wireless communication tower (maximum 100 feet height) may be allowed during the Conditional Use approval and construction process, and/or expansion/replacement of an existing tower with a Special Use Permit and building permit(s) approval for a site with a pending application or during construction/replacement work. The temporary tower shall be removed within 30 days of an application being denied/withdrawn or final inspection approval, or within one (1) year of the Special Use Permit approval. The Special Use Permit may be extended up to six (6) months at the PZB Director's discretion. Temporary tower shall be located on-site to minimize on and off-site impact and in compliance with tower setback/separation requirements.
- I. Construction and Maintenance of Wireless Communications Facilities.
1. Shall be constructed in accordance with the Florida Building Code, including obtaining all required building and engineering permits. It shall be unlawful for any person to erect, construct, enlarge, alter, move, or convert any wireless communications facilities in Wellington, or cause the same to be done, without first obtaining permits.
  2. Shall be kept in good condition and operational. The facilities shall be compliant with all local, state and federal regulations, present a neat appearance, and be maintained free of debris, stains, mold, discoloration, or deterioration.

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3. The repainting, changing of parts/equipment, and other normal maintenance of approved wireless communications facilities shall not require a permit, provided such maintenance is consistent with the approved plans and is not modified in any way consistent with this section and applicable codes.
4. Any graffiti or other unauthorized inscribed materials shall be removed or covered in a manner consistent with the original exterior finish. Wellington may provide the tower owner and/or operator written notice to remove or cover graffiti within a specific period of time. In the event the graffiti has not been removed or painted within the specified timeframe, Wellington shall have the right to remove or paint over the graffiti, and in that event, the owner or operator of the facility shall bear all costs incurred.
5. Failure to construct and/or maintain wireless communications facilities in accordance with the LDR shall be a violation of the LDR.