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WHEREAS, pursuant to Chapter 166 of the Florida Statutes, the Village of Wellington (“Village”) has the authority to adopt such ordinances as it deems necessary and appropriate to assure good government in the Village, to protect and preserve the Village’s rights, property and privileges, and to preserve peace, safety and good order; and

WHEREAS, the Village deems it to be necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction and maintenance of communications facilities , and other structures within the Village's public rights-of-way ("ROW"), and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Village Council, that Chapter 23 of the Code of Ordinances for the Village of Wellington (“Code”) be repealed in its entirety and replaced with a new Chapter 23, entitled “Communications Facilities in the Public Rights-of-Way”, to read as follows:

Section 1. Title; authority.

This Chapter shall be known and may be cited as the Village of Wellington Communications Facilities in the Public Rights-of-Way Ordinance. The Village derives the authority for this Chapter from Chapter 166 and Section 337.401 of the Florida Statutes. This Chapter, and any rules, regulations, specifications and agreements adopted pursuant to this Chapter, comply with all applicable federal and state laws.

1 **Section 2. Purpose.**

2
3 (a) The purpose of this Chapter, consistent with the Village's obligation to promote the
4 public health, safety, and welfare, to manage the public rights-of-way, and to
5 ensure that the public is not inconvenienced by the use of the rights-of-way for the
6 placement of wireline and wireless communications facilities, is to establish a
7 process for managing, and enforcing uniform standards for acting upon requests
8 for the placement of wireline and wireless communications facilities within the
9 rights-of-way of the Village. The Village recognizes the importance of wireline and
10 wireless communications facilities to provide high-quality communications service
11 to the residents and businesses within the Village, and the Village also recognizes
12 its obligation to comply with applicable federal and state law regarding the
13 placement of wireline and wireless communications facilities in its rights-of-way.
14 This Ordinance shall be interpreted at all times to be consistent with those Federal
15 and Florida provisions.

16
17 (b) This Chapter is not intended to and shall not be interpreted or applied to:

- 18 (1) Prohibit or effectively prohibit the provision of communications services;
19 (2) Unreasonably discriminate among providers of functionally equivalent
20 communications services;
21 (3) Regulate the installation, operation, collocation, modification or removal of
22 communications facilities on the basis of the environmental effects of RF
23 emissions to the extent that such emissions comply with all applicable FCC
24 regulations;
25 (4) Prohibit or effectively prohibit any collocation or modification that the Village
26 may not deny under state or federal law; or
27 (5) Preempt any applicable state or federal law.
28

29 **Section 3. Definitions.** The terms used in this Chapter shall have the following
30 meanings:

31
32 **Antenna:** Any apparatus designed for the transmitting and/or receiving of
33 electromagnetic waves, including but not limited to telephonic, radio or television
34 communications. Types of elements include, but are not limited to omni-directional
35 (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM and TV),
36 yagi, or parabolic (dish) antennas.
37

38 **Applicable Codes:** Uniform building, fire, electrical, plumbing, or mechanical
39 codes adopted by a recognized national code organization or local amendments to
40 those codes enacted solely to address threats of destruction of property or injury to
41 persons, or local codes or ordinances adopted to implement Section 337.401(7),
42 Florida Statutes, the "Advanced Wireless Infrastructure Deployment Act," as
43 amended. The term includes objective design standards adopted by ordinance that
44 may require a new utility pole that replaces an existing utility pole to be of substantially
45 similar design, material, and color or that may require reasonable spacing
46 requirements concerning the location of ground-mounted equipment.

1
2 **Application:** A formal request, including all required and requested
3 documentation and information submitted by an applicant to the Village, for a
4 communications facility permit.
5

6 **Applicant:** A person filing an application for placement or modification of a
7 communications facility in the rights-of-way.
8

9 **Base Station:** The electronic equipment utilized by the wireless communication
10 provider(s) for the transmission and reception of radio signals.
11

12 **Collocation:** To install, mount, maintain, modify, operate, or replace one (1) or
13 more wireless facilities on, under, within, or adjacent to a wireless support structure or
14 utility pole within a public right-of-way subject to Section 337.401, Florida Statutes, as
15 amended from time to time. The term does not include the installation of a new utility
16 pole or wireless support structure in the public rights-of-way. Collocation outside of a
17 public right-of-way means the mounting or installation of transmission equipment on
18 an eligible support structure for the purpose of transmitting and/or receiving radio
19 frequency signals for communications purposes, where an eligible support structure
20 is a tower or other structure that already has wireless communication equipment
21 located thereon.
22

23 **Communications Facility:** A wireless communications facility or wireline
24 communications facility.
25

26 **Concealed:** A tower, wireless support structure, or equipment cabinet that is not
27 readily identifiable as such, and is designed to be aesthetically compatible with
28 existing and proposed structure(s) and uses on a site. There are three (3) types of
29 concealed facilities: 1) antenna attachments; examples of antenna attachments
30 include, but are not limited to the following: painted antenna and feed lines to match
31 the color of an existing structure, or other architectural features that blend with an
32 existing structure: 2) freestanding; freestanding concealed towers or wireless support
33 structures usually have a secondary, obvious function which may be, but is not limited
34 to the following: banner pole, streetlight, traffic signal light or light standard, and 3)
35 equipment cabinets painted or vinyl "wrapped" to blend with surroundings or to project
36 public art consistent with Village regulations regarding same.
37

38 **Eligible Facilities Request:** shall have the meaning as set forth in 47 C.F.R.
39 Section 1.60001(b)(3).
40

41 **Equipment Cabinet:** Any structure including cabinets, shelters, pedestals, and
42 other similar structures that are used exclusively to contain radio or other equipment
43 necessary for the transmission or reception of wireless communication signals
44

45 **Facility:** Facilities, equipment and installations of any kind, including but not limited
46 to any lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles,

1 towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters,
2 appurtenances, or other equipment. A reference to a facility refers both to the facility
3 considered as a whole and the individual elements of the facility.
4

5 **FCC:** The Federal Communications Commission or its lawful successor.
6

7 **Install:** The placing of a facility in the right-of-way, whether initially or as part of the
8 repair, modification, replacement, removal or expansion of an existing facility, and
9 including any process by which a facility is placed within a right-of-way, including but
10 not limited to attachment, construction, digging, excavation, placement, and pulling.
11

12 **Micro Wireless Facility:** A small wireless facility having dimensions no larger
13 than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12)
14 inches in height and an exterior antenna, if any, no longer than eleven (11) inches.
15

16 **Neutral Host Antenna:** An antenna or an antenna array designed and utilized to
17 provide services for more than one (1) wireless provider, or a single wireless provider
18 utilizing more than one (1) frequency band or spectrum, for the same or similar type
19 of services.
20

21 **Pass-Through Provider:** Any person who places or maintains a
22 communications facility in the roads or rights-of-way of a municipality or county that
23 levies a tax pursuant to Florida Statutes Chapter 202 and who does not remit taxes
24 imposed by the Village pursuant to Chapter 202.
25

26 **Permit:** A permit issued pursuant to this Chapter authorizing the placement or
27 modification of a communications facility of a design specified in the permit at a
28 particular location within the rights-of-way; and the modification of any existing support
29 structure to which the communications facility is proposed to be attached.
30

31 **Permittee:** any person or entity granted a permit pursuant to this Chapter.
32

33 **Personal Wireless Services:** shall have the meaning as set forth in 47 U.S.C.
34 Section 332(c)(7)(C)(i).
35

36 **Pole:** Any street, utility, traffic signal, streetlight or any other pole in the ROW and
37 designed to support facilities in addition to wireless facilities.
38

39 **Right(s)-of-Way, or ROW:** The term right(s)-of-way or ROW means the surface,
40 the airspace above the surface and the area below the surface of any public street,
41 alley, viaduct, elevated roadway, bridge, public easement, or any other public way for
42 which the Village is the authority that has jurisdiction and control and may lawfully
43 grant access to such property pursuant to applicable law. "Public rights-of-way" shall
44 not include any real or personal Village property except as described above and shall
45 not include Village buildings, fixtures, or other structures or improvements, regardless
46 of whether they are situated in the public rights-of-way.

1
2 **Small Wireless Facility:** A wireless communications facility that meets the
3 following conditions:

4 (1) Each antenna associated with the facility is located inside an enclosure of no
5 more than six cubic feet in volume, or in the case of antennas that have exposed
6 elements, each antenna and all of its exposed elements would fit within an enclosure
7 of no more than six cubic feet in volume; and

8 (2) All other wireless equipment associated with the facility is cumulatively no more
9 than 28 cubic feet in volume. The following types of associated ancillary equipment
10 are not included in the calculation of equipment volume: electric meters, concealment
11 elements, telecommunications demarcation boxes, ground-based enclosures,
12 grounding equipment, power transfer switches, cutoff switches, vertical cable runs for
13 the connection of power and other services, and utility poles or other support
14 structures.
15

16 **Underground areas:** Those areas where there are no electrical facilities or
17 facilities of the incumbent local exchange carrier in the right-of-way; or where the wires
18 associated with the same are or are required to be located underground; or where the
19 same are scheduled to be converted from overhead to underground. Electrical
20 facilities are distribution facilities owned by an electric utility and do not include
21 transmission facilities used or intended to be used to transmit electricity at nominal
22 voltages in excess of 35,000 volts.
23

24 **Utility Pole:** A pole or similar structure that is used in whole or in part to provide
25 communications services or for electric distribution, lighting, traffic control, signage, or
26 a similar function. The term includes the vertical support structure for traffic lights but
27 does not include a horizontal structure to which signal lights or other traffic control
28 devices are attached and does not include a pole or similar structure 15 feet in height
29 or less unless the Village grants a waiver for such pole. .
30

31 **Village Pole:** A Village-owned or controlled structure, object, or equipment in the
32 right-of-way, including, but not limited to, street lights, traffic control structures, banner
33 poles, bus shelters, or other poles, lighting fixtures, or electroliers.
34

35 **Wireless Communications Facility:** Equipment at a fixed location which enables
36 wireless communications between user equipment and a communications network,
37 including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other
38 cables, regular and backup power supplies, and comparable equipment, regardless
39 of technological configuration, and equipment associated with wireless
40 communications. The term includes small wireless facilities and micro wireless
41 facilities and all wireless communications facilities as defined in F.S. §365.172. The
42 term does not include: (a) The structure or improvements on, under, within, or adjacent
43 to the structure on which the equipment is collocated; (b) Wireline backhaul facilities;
44 or (c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or
45 that is otherwise not immediately adjacent to or directly associated with a particular
46 antenna.

1 **Wireless Provider:** An wireless infrastructure provider or a wireless services
2 provider.
3

4 **Wireless Infrastructure Provider:** A person who has been received a certificate
5 from the Florida Public Service Commission to provide telecommunications service in
6 Florida and who builds or installs wireless communication transmission equipment,
7 wireless communication facilities, or wireless support structures but is not a wireless
8 services provider.
9

10 **Wireless Services Provider:** A person or entity that provides wireless services
11 as defined by the Federal Communications Commission.
12

13 **Wireless Support Structure:** A freestanding structure, such as a monopole, a
14 guyed or self-supporting tower, or another existing or proposed structure designed to
15 support or capable of supporting wireless facilities. The term does not include a utility
16 pole.
17

18 **Wireline Communications Facility:** Equipment at a fixed location which enables
19 wireline communications between user equipment and a communications network,
20 including wires, coaxial or fiber-optic cable or other cables, regular and backup power
21 supplies, and comparable equipment, regardless of technological configuration, and
22 equipment associated with wireline communications.
23

24 **Section 4. Scope.** 25

26 (a) **In general.** Unless exempted, every person who desires to place a
27 communications facility in the rights-of-way or modify an existing communications
28 facility in the rights-of-way must obtain a permit authorizing the placement or
29 modification in accordance with this Chapter. Except for small cell facilities, facilities
30 qualifying as Eligible Facilities Requests, or any other type of facility expressly allowed
31 in the right-of-way by state or federal law, no other communications facilities shall be
32 permitted pursuant to this Chapter.
33

34 (b) **Exemptions.** This Chapter does not apply to:

- 35 (1) The placement or modification of communications facilities by the Village or
36 by any other agency of the state solely for public safety purposes.
- 37 (2)
- 38 (3) Routine maintenance of a wireless or wireline communications facility;
- 39 (4) Replacement of an existing wireless facilities with wireless facilities that are
40 substantially similar or of the same or smaller size.
- 41 (5) Installation, placement, maintenance or replacement of micro wireless
42 facilities that are suspended on cables strung between existing utility poles in
43 compliance with applicable codes by or for a wireless services provider
44 authorized to occupy the rights-of-way and who is remitting taxes under
45 Florida Statutes Chapter 202;

- 1 (6) Any facilities located on public or private property outside the rights-of-way
2 managed by the Village.
3

4 (c) **Other applicable requirements.** In addition to the permit required herein, the
5 placement of a communications facility in the rights-of-way requires the persons who
6 will own or control those facilities to obtain all permits required by applicable law, and
7 to comply with applicable law, including, but not limited to, applicable Federal law
8 governing radio frequency (RF) emissions, and the Village Engineering Standards
9 Manual or its successor, as may be amended from time to time.
10

11 (d) **Public use.** Except as otherwise provided by state law, any use of the right-of-way
12 authorized pursuant to this Chapter will be subordinate to the Village's use and use
13 by the public.
14

15 **Section 5. Administration.** 16

17 (a) **Review by Village Engineer.** The Village Engineer or his designee shall be
18 responsible for administering this Chapter. As part of the administration of this
19 Chapter, the Village Engineer may:
20

- 21 (1) Adopt regulations governing the placement and modification of
22 communications facilities consistent with the requirements of this Chapter
23 and applicable state and federal law, including regulations governing
24 collocation and resolution of conflicting applications for placement of both
25 wireline and wireless communications facilities;
26 (2) Interpret the provisions of this Chapter;
27 (3) Develop acceptable engineering standards for wireline and wireless
28 communications facilities in particular corridors;
29 (4) Issue any notices of incompleteness, requests for information, or conduct or
30 commission such studies as may be required to determine whether a permit
31 should be issued.
32 (5) Develop forms and procedures for submission of applications for placement
33 or modification of wireline and wireless communications facilities, and
34 proposed changes to any wireless support structure consistent with this
35 Chapter;
36 (6) Determine the amount of and collect, as a condition of the completeness of
37 any application, any fee established by this Chapter;
38 (7) Require, as part of, and as a condition of completeness of any application,
39 notice to members of the public who may be affected by the placement or
40 modification of any above ground wireline or wireless communications facility
41 visible to the public and proposed changes to any above ground wireline or
42 wireless support structure;
43 (8) Establish deadlines for submission of information related to an application,
44 and extend or shorten deadlines where appropriate and consistent with
45 federal laws and regulations;

- 1 (9) Subject to appeal as provided herein, determine whether to approve, approve
2 subject to conditions, or deny an application; and
3 (10) Take such other steps as may be required to timely act upon applications for
4 placement of personal wireless services facilities, including issuing written
5 decisions and entering into agreements to mutually extend the time for action
6 on an application.
7

8 **(b) Appeal.**

- 9 (1) Any person adversely affected by the decision of the Village Engineer
10 pursuant to this Chapter may appeal the Village Engineer's decision to the
11 Village Manager, who may decide the issues *de novo*, and whose written
12 decision will be the final decision of the Village. An appeal by a wireless
13 infrastructure provider must be taken jointly with the wireless service provider
14 that intends to use the wireless communications facility.

15 All appeals must be filed within two (2) business days of issuance of the
16 written decision of the Village Engineer, unless the Village Engineer extends
17 the time therefore. An extension may not be granted where extension would
18 result in approval of the application by operation of law. Any request for
19 extension must be filed at least three (3) business days prior to the
20 expiration of the initial time for filing an appeal.

- 21 (2) Any appeal shall be conducted so that a timely written decision may be issued
22 in accordance with applicable law. Costs incurred by the Village associated
23 with conducting the appeal shall be borne by the applicant.
24

25 **Section 6. Registration.**
26

27 (a) A communications services provider, as defined by Florida law, who desires to
28 place or maintain a communications facility in public rights-of-way within the Village
29 shall first register with the Village in accordance with this Chapter. Subject to the
30 terms and conditions prescribed in this Chapter, a registrant may place or maintain a
31 wireless facility in public rights-of-way.
32

33 (b) A registration shall not convey any title, equitable or legal, to the registrant in
34 the public rights-of-way. Registration under this Chapter governs only the placement
35 or maintenance of communications facilities in public rights-of-way. Other ordinances,
36 codes or regulations may apply to the placement or maintenance in the public rights-
37 of-way of facilities that are not communications facilities. Registration does not excuse
38 a communications services provider from obtaining appropriate access or pole
39 attachment agreements before locating its facilities on the Village or another person's
40 facilities. Registration does not excuse a communications services provider from
41 complying with Applicable Codes, .
42

43 (c) Each communications services provider who desires to place or maintain a
44 communications facility in public rights-of-way in the Village shall file a single
45 registration with the Village, which shall include the following information:

- (1) Name of the applicant under which it will transact business in the Village and, if different, in the State of Florida;
- (2) Name, address, email address, and telephone number of the applicant's primary contact person in connection with the registration;
- (3) The type of communications services that the applicant intends to provide within the Village (if more than one, state all that apply), or, if none, state that the applicant is a pass-through provider of both the applicant's resale certificate and certificate of registration issued by the Florida Department of Revenue to engage in the business of providing communications services in the State of Florida;
- (4) A copy of the applicant's certificate of authorization, public convenience and necessity, or other similar certification issued by the Florida Public Service Commission;
- (5) The number of the applicant's current certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the Florida Department of State, the Federal Communications Commission, or other federal or state authority, if any;
- (6) Evidence of the insurance coverage and any bond required under this Chapter;
- (7) If the registrant is a corporation or limited liability company, proof of authority to do business in the State of Florida, which may be satisfied by certificate of good standing from the Florida Department of State or by other means; and
- (8) Acknowledgment that the applicant has received and reviewed a copy of this Chapter, which acknowledgment shall not be deemed an agreement.

(d) The Village shall review the information submitted by the applicant. Such review shall be conducted by the Village Manager or his designee. If the Village determines that the applicant submitted information in accordance with subsection (c) of this section, the registration shall be effective and the Village shall notify the applicant of the effectiveness of registration in writing. If the Village determines that the information has not been submitted in accordance with subsection (c) of this section, the Village shall notify the applicant of the non-effectiveness of registration, and reasons for the non-effectiveness, in writing. The Village shall so reply to an applicant within 30 days after receipt of registration information from the applicant. Non-effectiveness of registration shall not preclude an applicant from filing subsequent applications for registration under the provisions of this section. An applicant has 30 days after receipt of a notice of non-effectiveness and denial of registration to appeal the decision.

(e) *Cancellation of Registration.* A registrant may cancel a registration upon written notice to the Village stating that it will no longer place or maintain any communications facilities in public rights-of-way within the Village and will no longer need to obtain

1 permits to perform work in public rights-of-way. A registrant cannot cancel a
2 registration if the registrant continues to place or maintain any communications
3 facilities in public rights-of-way.
4

5 (f) *Limited Rights Conferred by Registration.* Registration does not, in and of itself,
6 establish a right to place or maintain or priority for the placement or maintenance of a
7 communications facility in public rights-of-way within the Village, but shall establish for
8 the registrant a right to apply for a permit from the Village. Registrations are expressly
9 subject to any future amendment to or replacement of this Chapter and further subject
10 to any additional Village ordinances, as well as any state or federal laws that may be
11 enacted.
12

13 (g) *Registration Renewal and Updates.* A registrant shall renew its registration with
14 the Village by October 1 of each year in accordance with the registration requirements
15 of subsection (c) of this section. Additionally, within 30 days of any change in the
16 information required to be submitted pursuant to subsection (c) of this section, a
17 registrant shall provide updated information to the Village. If no information in the
18 then-existing registration has changed, the renewal may state that no information has
19 changed. Failure to renew a registration may result in the Village restricting the
20 issuance of additional permits until the communications services provider has
21 complied with the registration requirements of this Chapter.
22

23 (h) *Permit Required.* In accordance with applicable Village ordinances, codes, or
24 regulations and except for the exemptions provided in this Chapter, a permit is
25 required for a communications services provider to place or maintain a
26 communications facility in the public rights-of-way. An effective registration shall be a
27 condition of obtaining such a permit. Notwithstanding an effective registration, all
28 permitting requirements shall apply. A permit may be obtained by or on behalf of a
29 registrant having an effective registration if all permitting requirements of the Village
30 and other provisions of this Chapter are met.
31

32 (i) *Insurance.* At all times during the use or occupancy of the public rights-of-way,
33 including any time during placement or maintenance of communications facilities, the
34 Permittee shall obtain, pay all premiums for, and maintain satisfactory to the Village,
35 insurance coverage insuring the Permittee and naming the Village, its officers, boards,
36 council, council members, agents and employees as additional insureds: workers'
37 compensation and employer liability insurance to meet all requirements of Florida law
38 and commercial general liability insurance with respect to the construction, operation
39 and maintenance of the communications facilities, and the conduct of registrant's
40 business in the Village, in the minimum amounts of:
41

- 42 (1) \$1,000,000.00 in any one accident for bodily injury, personal injury or
43 death, property damage;
44 (2) \$500,000.00 for personal injury to any one person;
45 (3) \$250,000.00 for property damage in any one accident;

- 1 (4) Business automobile liability insurance valid in the State of Florida which
2 policy limit shall be in an amount not less than \$1,000,000.00 combined
3 single limit, including bodily injury and property damage covering owned,
4 leased, hired and non-owner vehicles.
- 5 (5) Workers' Compensation valid in the State of Florida which policy limit
6 shall be in an amount not less than the statutory limit for Workers'
7 Compensation.
- 8 (6) Employer's liability insurance valid in the State of Florida which policy
9 limit shall be in an amount not less than \$1,000,000.00 each accident
10 for employer's liability.
- 11 (7) All insurance providers used shall be admitted and duly authorized to do
12 business in the State of Florida and shall have been assigned by A. M.
13 Best Company a minimum Financial Strength Rating of "A" and a
14 minimum Financial Size Category of "IX" (i.e., a size of \$250,000,000.00
15 to \$500,000,000.00 based on capital, surplus, and conditional reserve
16 funds). Insurance policies and certificates issued by non-admitted
17 insurance companies are not acceptable. All liability policies shall name
18 the Village, its council members, officers, boards, agents and employees
19 as additional insureds with respect to any covered liability arising out of
20 the placement or maintenance of communications facilities in the public
21 rights-of-way or other activities under this Chapter. Each
22 communications services provider shall furnish annually to the Village
23 certificates showing proof of all required insurance coverage. All liability
24 coverage must be in occurrence form and in accordance with the limits
25 specified. Claims made policies are not acceptable. No insurance policy
26 shall be canceled, nor shall the occurrence or aggregate limits set forth
27 herein be reduced, until the Village has received at least 30 days'
28 advance written notice by registered, certified or regular mail of any
29 cancellation, intent not to renew or reduction in policy coverage. Each
30 communications services provider shall be responsible for notifying the
31 Village of such cancellation, intent not to renew or reduction in coverage.
32 All certificate(s) of insurance, including all endorsements and riders,
33 evidencing insurance coverage shall be submitted to the Village within
34 30 days after the date of registration with the Village in order for a
35 communications services provider to obtain a permit required for
36 construction in the public rights-of-way. Each communications services
37 provider shall, in the event of any such notice described above, obtain,
38 pay all premiums for, and file with the Village, written evidence of the
39 issuance of replacement policies within 30 days following receipt by the
40 Village or the communications services provider of such notice.

(8) Nothing contained in this Chapter shall limit a communications service provider's liability to the Village to the limits of insurance certified or carried.

Under extraordinary circumstances a communications services provider may satisfy the insurance requirements of this Chapter by providing documentation of self-insurance that, in the sole discretion of the Village Manager, demonstrates incontrovertibly the adequacy to defend and cover claims of any nature that might arise from the placement and maintenance of facilities in the public ROW. The communications services provider must be authorized as a self-insurer by the Department of Insurance under the laws of the State of Florida.

Section 7. General Standards for Wireless Communications Facilities in the Rights-of-Way.

(a) **Generally.** Consistent with Section 337.401, Florida Statutes, as may be amended, only small wireless facilities and micro wireless facilities may be considered for placement within the Village's rights-of-way, and same shall be limited to the size parameters listed therein and any other design specifications detailed in this subdivision. Due to the unique nature of wireless signals and the specific equipment needed for transmission and reception of wireless signals, placement of wireless communications facilities in the public right-of-way shall comply with the following:

(1) Collocation or use of concealed facilities. A small or non-exempt micro wireless facility and any antennas in the public right-of-way shall, to the extent possible, be collocated on an existing power, light or other utility pole. When collocation of an antenna or small wireless facility or non-exempt micro wireless facility is not possible, a freestanding new concealed facility is preferred. The applicant shall submit a permit application to the Village Engineer for approval prior to any installation. The Village prefers that small wireless facilities and non-exempt micro wireless facilities located in the public right-of-way, whether collocated or freestanding, be technically capable of servicing a minimum of four (4) wireless service providers with like technical facilities through the use of neutral host antenna.

(2) When collocation occurs upon Village utility poles within the Village's rights-of-way, in addition to the permit, the Village shall require the communications service provider and/or owner, if different parties, to execute a lease agreement and collect an annual rent of one hundred and fifty dollars (\$150) per Village utility pole as provided for hereinbelow.

(3) Height, setbacks and related location requirements.

i. The height limitation of a small wireless or non-exempt micro wireless facility is ten (10) feet above the utility pole or structure upon which the small

1 wireless or non-exempt micro wireless facility is to be collocated. Unless waived
2 by the Village, the height for a new utility pole is limited to the tallest existing
3 utility pole as of July 1, 2017, located in the same right-of-way, other than a utility
4 pole for which a waiver has previously been granted, measured from grade in
5 place within five hundred (500) feet of the proposed location of the small
6 wireless facility. If there is no utility pole within five hundred (500) feet, the
7 Village shall limit the height of the new utility pole to fifty (50) feet.

8 ii. Except as otherwise provided herein, small wireless or non-exempt micro
9 wireless facilities in the public rights-of-way shall conform to the standards and
10 requirements set forth in the State of Florida Department of Transportation
11 Manual of Uniform Minimum Standards for Design, Construction and
12 Maintenance for Streets and Highways.

13 iii. No antenna attached to a freestanding pole in the public rights-of-way with
14 a ground mounted equipment, other than as a collocation with an existing power,
15 light or other utility pole, or unless installed as a concealed facility, shall be
16 permitted within fifty (50) feet of any principal residential structure.

17 iv. An external box or cabinet housing the equipment connected to an antenna
18 attached to a freestanding pole in the public rights-of-way shall be vaulted
19 underground or wrapped with a design that screens it from view consistent with
20 the requirements of this subdivision, or complies with the Village Public Art
21 Program as set forth in Chapter 54.

22 v. When collocation is not available, the Village prefers the following locations
23 for new small wireless facilities or non-exempt micro wireless facilities within a
24 right of way: from most preferred to least preferred:

- 25 1. Within existing utility easements on the same side of the street as an
26 existing pole line;
 - 27 2. Behind sidewalks on the same side of the street as an existing pole line;
 - 28 3. Within existing utility easements;
 - 29 4. Behind sidewalks;
 - 30 5. On the same side of the street as an existing pole line.
- 31

32 Applicants should avoid proposing new small wireless or non-exempt micro
33 wireless facilities in the following locations:

- 34 1. Within or adjacent to residential property where no pole line exists;
- 35 2. In swale areas utilized for stormwater collection;
- 36 3. Closer to the travel way than permitted by Florida Department of
37 Transportation minimum roadside offset standards.

vi. Small wireless or non-exempt micro wireless communications facilities shall be located in state or county arterial or collector rights-of-way, whenever possible. Placement of small wireless or non-exempt micro wireless facilities in a Village collector street, cul-de-sac, local street and marginal access street rights-of-way shall be discouraged unless the applicant cannot otherwise provide service to a particular customer or customers without doing so, and the inability to place facilities in such rights-of-way is necessary to accomplish requirements of nondiscriminatory treatment of the applicant in relation to the Village's treatment of other communications service providers. In such circumstances, the applicant shall include with its Village permit application, sufficient evidence consistent with industry standards, to justify such placement. Whenever small wireless facilities must be placed in a right-of-way with residential uses on one (1) or both sides, neither poles, equipment, antennas or other structures shall be placed directly in front of a residential structure. If a right-of-way has residential structures on only one (1) side, the small wireless facilities shall be located on the opposite side of the right-of-way whenever possible. All small wireless facilities shall be located in such a way that they do not unreasonably interfere with views from residential structures, such as placement that is at the farthest point from the principal structure within the property line.

(c) Concealment. All new small wireless facilities within a public right-of-way shall be constructed using concealment techniques, as further described in subsection (d) below. In all residential and non-residential districts, the concealment technique to be utilized shall be through the installation of either (i) a decorative banner pole capable of concealing all equipment and related appurtenances within the pole structure or located under the ground, or design wrapped on the ground adjacent to the wireless facility support structure; or (ii) a concealed facility designed to replicate existing standard or decorative street lights located in the applicable zoning district. In the Equestrian Overlay Zoning District, the concealment technique to be utilized shall be through the installation of a decorative banner and/or pedestrian scale pole designed to be consistent with the equestrian nature of the Equestrian Preservation Areas, and capable of concealing all equipment and related appurtenances within the pole structure. The Village Engineer shall determine the applicable concealment technique for each proposed facility pursuant to the parameters described in subsection (d) below. In all instances, exterior looping of excess cable length installed on any small wireless facility or non-exempt micro wireless facility located in the public right-of-way is prohibited and all cabling and interconnecting wires must be concealed.

(d) **Design Standards.** In addition to the concealment requirements set forth in subsection (c) above, wireless communication facilities shall meet all applicable design standards. Specifically:

1 (1) All underground portions of wireless communications facilities shall be
2 placed in conduit using material subject to review and approval by the Village
3 Engineer. The Village Engineer may permit the use of "trenchless technology" for
4 installation in lieu of traditional installation methods but in all instances the
5 underground portions of the wireless communications facility shall be contained
6 within conduit material following installation.
7

8 (2) The Village prefers that all underground facilities, poles, and all associated
9 equipment should be placed in Utility Easements, dedicated for such a purpose,
10 wherever Utility Easements exist, even if this means the underground facilities,
11 poles, and associated equipment will be placed outside of the road right-of-way,
12 on private property.

13 (3) All underground facilities must be buried at a minimum depth of 24-inches
14 below existing grade.

15 (4) Conflicts between small wireless facilities (poles, underground facilities, and
16 above ground equipment) and existing Village-owned utilities including but not
17 limited to potable water, sanitary sewer, stormwater drainage, and reclaimed water
18 must be avoided, wherever possible. When avoiding conflicts with Village-owned
19 utilities is not feasible, the following minimum separations apply:

20 1. Horizontal separation: 10-ft preferred; 6-ft minimum

21 2. Vertical separation: 2-ft minimum

22 3. Small wireless facility underground conduit must be placed below
23 existing Village-owned utilities.

24 4. The Village Engineer has the authority to allow lesser separations
25 where deemed necessary.

26 (5) The images below this section depict some examples of small wireless or
27 non-exempt micro wireless facility pole types deemed acceptable by the Village of
28 Wellington. These depictions are not meant to be inclusive. Other similar pole
29 types may be deemed acceptable by the Village of Wellington Engineering
30 Department, on a case by case basis, but must be presented to the Engineering
31 Department for approval. The exact pole type proposed by an applicant will be
32 chosen by the Village of Wellington Engineering Department and shall be based
33 on the character of the surrounding neighborhood and harmony of the proposed
34 pole type with the surrounding neighborhood. The following small wireless or non-
35 exempt micro wireless facility pole criteria must be met in order to achieve permit
36 approval:

37 i. No equipment, meters, cables, or other attachments shall be visible on the
38 exterior of the pole structure.

39 ii. The antenna element located on the top of the pole shall be encased in a
40 shroud or other concealment element. Although the Village recognizes that the
41 antenna element may be larger in diameter than the pole itself, in no instance
42 shall the antenna element have a diameter greater than two times that of the
43 pole.

1 iii. The pole must include a street light, pedestrian pathway light, or both,
2 depending on the proposed location of the pole, together with design elements
3 to permit affixation of a banner to the pole. If the pole is to be placed in close
4 proximity to a vehicular travel way, a street light shall be included in the design
5 of the pole. The street light shall be placed at a height similar to that of other
6 street lights already existing along the roadway. If the pole is to be placed in
7 close proximity to a pedestrian pathway, a pedestrian pathway light shall be
8 included in the design of the pole. The pedestrian pathway light shall be placed
9 at a height similar to that of other pedestrian pathway lights already existing
10 along the pathway. If the proposed location of the pole is between a vehicular
11 travel way and a pedestrian pathway, where existing lighting exists along the
12 roadway and pedestrian pathway, then both a street light and a pedestrian
13 pathway light shall be included in the design of the pole. Where existing lights
14 exist, the type and character of the light, whether a street light, pedestrian
15 pathway light, or both, shall be similar to that of the existing lights.

16 iv. The Village's preference is for the equipment cabinet, meter, and any other
17 required non-antenna equipment be built into the base of the pole. The Village
18 recognizes that this may not always be possible due to space limitations such
19 as, but not limited to, minimum sidewalk width or minimum roadside
20 offsets. When these space limitations exist, the Village shall permit a separate
21 cabinet to be installed adjacent to the proposed pole. A single cabinet including
22 all necessary equipment is preferred and multiple cabinets or boxes shall not
23 be permitted when a single cabinet can be utilized. When a separate cabinet
24 is necessary, the proposed cabinet shall be covered on all exposed sides by a
25 polymer wrap. The color and aesthetic design of the polymer wrap shall be
26 selected by the Village of Wellington Engineering Department based on the
27 subject location. The wrap design type shall be provided to the permittee in the
28 permit approval package.

29 v. In each approved application for a new wireless communications facility in
30 a right-of-way, the Village shall be given the right by the permittee to attach and
31 maintain a banner to the pole. The type of banner, wording, colors, and
32 pictorial elements of the banner shall be chosen at the sole discretion of the
33 Village.

34 vi. All proposed poles shall be painted either gray or green at the sole
35 discretion of the Village of Wellington. The exact paint color of the proposed
36 pole shall be selected by the Village of Wellington Engineering
37 Department. The exact paint color shall be provided to the permittee in the
38 permit approval package. The Village of Wellington reserves the right to
39 change the preferred color(s) of any and all proposed poles, prior to permit
40 approval, at its sole discretion.



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(5) The use of landscaping around any pole or external equipment, cabinet, box or vault may be required as a buffer. Such landscaping shall be consistent with the landscaping otherwise located in the public rights-of-way. Additional landscaping may be required if deemed necessary to buffer adjacent properties. In addition, for concealment purposes, all wireless communications facilities and accompanying equipment must blend into the surrounding environment by utilizing appropriate design wraps and/or colors as described above. As a condition of approval the Village Engineer, or his/her designee, may require: all buffering required in connection with the use of wireless communications facilities in the public rights-of-way shall be maintained by the owner of such facilities at its own cost.

(6) All above ground installations associated with a wireless communications facility within the Village right-of-way are subject to minimum roadside offset and clear zone requirements as specified in the latest edition of the Florida Department of Transportation standards manuals.

Section 8. General Standards for Wireline Communications Facilities in the Rights-of-Way.

(a) Generally. The purpose of this section is to protect and limit deterioration and obstruction of the Village rights-of-way. The Village herein adopts uniform regulations for the construction, placement, and maintenance of equipment and wireline communications facilities in the rights-of-way. Such rights-of-way within the Village are a unique and physically limited resource that are critical to the travel and transport of persons and property and must be managed and controlled in the best interest of the citizens of the Village of Wellington, consistent with applicable federal and state law. When applicable, all wireline communications facilities proposed to be installed in the Village's rights-of-way must comply with the undergrounding regulations contained in this Section.

(b) This section does not authorize an applicant to place wireline communications facilities, including cables or wires, nor construct or install wireline facilities on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned communications facility support structure, or other private property without first obtaining the consent of the property owner.

(c) As part of a building, electrical, and/or an engineering permit application for a wireline communications facility, a site development plan shall be presented for approval to the Village Engineer. Each application for a proposed wireline communications facility shall include all requirements for site development plan approval as required by Article 7 of the Village Unified Land Development Code.

1 The Village Engineer or his/her designee may waive all or some of these
2 provisions for underground wireline facilities that comply with subsection (g) below
3 in order to achieve the objectives of that subsection. Each application shall
4 contain a rendering or photograph of the wireline communications facility
5 including, but not limited to, colors and screening devices.

6 (d) A statement shall be submitted, including technical data demonstrating that all
7 wireline facilities and collocation options (including all potentially useable HVET
8 poles), replacement poles and other elevated structures within the proposed
9 service area have been examined, and found unacceptable for attachment of new
10 wireline facility. The report shall include reasons why existing facilities, such as
11 HVET poles and other elevated structures, are not acceptable alternatives to a
12 new freestanding wireline communications support structure. The report regarding
13 the adequacy of alternative existing facilities or the replacement or mitigation of
14 existing facilities to meet the applicant's need or the needs of service providers
15 indicating that no existing structures could accommodate the applicant's proposed
16 facility shall consist of any of the following:

17 a. No existing poles located within the geographic area meet the
18 applicant's engineering requirements to attach wireline facilities to,
19 and why.

20 b. Existing poles are not of sufficient height to meet the applicant's
21 engineering requirements, and cannot be increased in height.

22 c. Existing poles do not have sufficient structural integrity to support
23 the applicant's proposed wireline communications facilities and
24 related equipment, and the existing facility cannot be sufficiently
25 improved or replaced.

26 d. Other limiting factors that render existing poles unsuitable.

27 (e) Wireline communications facilities; inside the Village's rights-of-way. Because of
28 the unique nature of communications services transmitted via wires, cables, fiber
29 optic, or other hardline transmission equipment and the specific structures needed
30 for construction and/or assembly of same, placement of wireline communications
31 facilities in the public right-of-way shall comply with the following:

32 (1) All newly proposed wireline and/or pole fixtures for wireline communications
33 facilities, whether above or below ground, must not unreasonably interfere
34 with the presently existing infrastructure systems and other operations
35 within the Village's rights-of-way. Before consideration of constructing new
36 infrastructure for hardline or wireline communications services, the

1 communication services provider must show that other existing conduits or
2 poles cannot be used. An applicant for a permit under this subsection shall
3 notify the Village when it enters into an agreement for use of existing poles
4 and conduits.

5 (2) Any wireline communications system located within the Village's rights-of-
6 way shall meet or exceed the technical standards set forth in 47 C.F.R. §
7 76.601, as applicable, and any other applicable technical standards.

8 (3) Any wireline communications system shall perform all tests necessary to
9 demonstrate compliance with the technical and performance standards
10 established by applicable law. Unless an applicable law provides otherwise,
11 all tests shall be conducted in accordance with federal rules and in
12 accordance with the most recent edition of National Cable Television
13 Association's "Recommended Practices for Measurements on Cable
14 Television Systems," or such other manual as may be directed under FCC
15 regulations. A written report of compliant test results shall be filed with the
16 Village within seven (7) days of a request by the Village. If a location fails to
17 meet technical or performance specifications, the owner of the wireline
18 communications facility, without requirement of additional notice or request
19 from the Village, shall promptly notify the Village of such noncompliance,
20 take corrective action, and retest the locations.

21 (4) Every cable system and every cable operator shall be required to
22 interconnect with every other cable system and cable operator within the
23 Village on fair and reasonable terms for purposes of providing Public
24 Educational Government channels ("PEG") and, if appropriate, I-Net
25 services.

26 (5) Wireline communications facilities shall have the same distance separation
27 requirements from any principal residential structure as wireless
28 communications service facilities.

29 (6) The use of landscaping around any pole or external equipment, cabinet,
30 box or vault associated with a wireline communications facility may be
31 required as a buffer. Such landscaping shall be consistent with the
32 landscaping otherwise located in the public rights-of-way. Additional
33 landscaping may be required if deemed necessary to buffer adjacent
34 properties. In addition, for concealment purposes, all wireline
35 communications facilities and accompanying equipment must blend into the
36 surrounding environment by utilizing appropriate design wraps and colors.
37 As a condition of approval, the Village Engineer, or his/her designee, may

1 require: all buffering required in connection with the use of wireline
2 communications facilities in the public rights-of-way shall be maintained by
3 the owner of such facilities at its own cost.

4 (7) Minimum separation from Village-owned equipment.

- 5 a. Wireline communications facilities including appurtenances shall have
6 a minimum horizontal separation of ten (10) feet from any Village-
7 owned utility pole and Village-owned underground facility. Ten (10)
8 feet shall be measured from closest outer diameter (OD) or outer edge
9 (OE) to OD or OE.

10 (8) High voltage and "no trespassing" and other warning signs.

- 11 a. If high voltage is necessary for the operation of the wireline
12 communications facility or any accessory structures, "HIGH VOLTAGE
13 - DANGER" warning signs shall be permanently attached to the fence
14 or wall and shall be spaced no more than forty (40) feet apart.
- 15 b. "NO TRESPASSING" warning signs shall be permanently attached to
16 the fence or wall and shall be spaced no more than forty (40) feet apart.
- 17 c. The letters for the "HIGH VOLTAGE - DANGER" and "NO
18 TRESPASSING" warning signs shall be at least six (6) inches in
19 height. The two (2) warning signs may be combined into one (1) sign.
20 The warning signs shall be installed at least five (5) feet above the
21 finished grade of the fence.
- 22 d. The warning signs may be attached to freestanding poles if the content
23 of the signs may be obstructed by landscaping.
- 24 e. Signs noting federal registration (if required) shall be attached to the
25 wireline communications facility in compliance with federal regulation.

26 (9) Equipment storage. Mobile or immobile equipment not used in direct support
27 of a wireline communications facility shall not be stored or parked on the site of the
28 wireline communications facility, unless repairs to same are being made.

29 (10) Signs and advertising. The use of any portion of a pole for signs or advertising
30 purposes including company name, banners, streamers, etc., shall be strictly
31 prohibited.

32 (11) Accessory buildings or structures. All accessory buildings or structures shall
33 meet all building design standards as listed in this Code, and in accordance with
34 the provisions of the Florida Building Code and shall be painted or constructed
35 using neutral colors. All accessory buildings or structures shall require a building
36 permit issued by the Planning, Zoning and Building Department.

37 (12) Colors. Except where superseded by the requirements of other county, state,
38 or federal regulatory agencies possessing jurisdiction over poles, poles shall be
39 painted or constructed in neutral colors, designed to blend into the surrounding
40 environment.

1 (13) Inspection report.

2 a. Wireline communications facility owners shall submit a report to the
3 Village Engineer certifying structural and electrical integrity every two (2)
4 years.

5 b. Inspections shall be conducted by an engineer licensed to practice in
6 the State of Florida. The results of such inspections shall be provided to
7 the Planning, Zoning and Building Department. Based upon the results
8 of an inspection, the building official may require repair or removal of a
9 wireline communications facility.

10 c. Following the completion of construction of a wireline communications
11 facility in the Village, the owner shall submit a report to the Village
12 Engineer certifying "as-built" compliance with the permitted structural
13 and electrical parameters. The Village shall conduct a post-construction
14 inspection to verify the submitted report and confirm the constructed
15 facility does not present a public safety hazard.

16 (14) Existing wireline infrastructure.

17 a. Notwithstanding the above provisions of this section, wireline
18 communications facilities in existence as of _____, may be
19 replaced with equal or less visually impacting facilities after approval by
20 the Village Engineer or his/her designee, and same are processed
21 through the permitting process outlined herein.

22 (15) System maintenance. Scheduled maintenance shall be performed so as to
23 ensure the integrity of the structures and adjoining wirelines and to minimize
24 potentially hazardous conditions, and to minimize the existence and effect of any
25 downed lines in the Village's rights-of-way.

26 (16) All regulations stated herein applicable to wireless communications facilities are,
27 as deemed appropriate based on the nature of the equipment and type of wireline
28 installation, equally applicable to proposed wireline communications facilities.

29 (17) Modifications or replacements. Modification or replacement of any wireline
30 communications facilities in the Village shall be subject to permit approval of the
31 Village Engineer consistent with the requirements of this section. Any removal or
32 replacement of communications facilities that substantially changes the physical
33 dimensions of a wireline system shall be subject to permit approval.

34 (f) Cooperative determination. In the event an applicant demonstrates, in writing, to the
35 satisfaction of the Village Engineer, or designee, that the operation of this section
36 produces a result which is either: (i) overly burdensome and a hardship on the
37 applicant, and is inconsistent with the general public welfare; or (ii) inconsistent with
38 the intent of the particular provisions of this section, and inconsistent with the general
39 public welfare, the applicant and the Village Engineer, or designee, shall cooperate

1 to determine an appropriate location and aesthetic design for the proposed wireline
2 communications facility. In any such cooperative determination there shall be a
3 preference for collocation with existing wireline communications facilities or other
4 utility facilities, or for use of unused space on existing wireline communications
5 facilities. Where wireline communications facilities cannot be collocated and no such
6 unused space exists, there shall be a preference for the use of concealed type
7 structures which are consistent, to the extent possible, with this section.
8

- 9 (g) Underground installation; relocation. Any wireline communications facility to be
10 located underground shall comply with the provisions of this subsection, to the
11 extent not prohibited by federal law, state law or applicable PSC rules and
12 regulations.

13 (1) Every applicant who places or constructs wireline communications
14 facilities underground shall maintain appropriate participation in the regional
15 notification center for subsurface installations.

16 (2) Any wireline communications facilities heretofore or hereafter placed
17 upon, under, over, or along any public rights-of-way that is found by the Village to
18 be unreasonably interfering in any way with the convenient, safe or continuous
19 use or the maintenance, improvement, extension or expansion of such public
20 rights-of-way shall, upon written notice to the applicant or its agent, be removed
21 or relocated, within 30 days of such notice, by such applicant at its own expense
22 consistent with F.S. ch. 337.403. The Village Manager may extend the time within
23 which an applicant shall remove or relocate a wireline communications facility for
24 good cause shown.

25 (3) The applicant shall not in any way displace, damage, or destroy any
26 wireline facilities, including, but not limited to, gas, sewer, water main, pipe, cable,
27 conduit, fiber optic, or other pathway or any other facilities belonging to the Village.
28 The applicant shall be liable to the Village for the costs of any repairs made
29 necessary by any such displacement, damage or destruction, of facilities
30 belonging to the Village, and the applicant shall pay such costs upon demand. In
31 the case of an emergency, the Village may commence repairs without any prior
32 notice to the applicant. The term emergency shall mean a condition that may affect
33 the public's health, safety or welfare. In the event of an emergency, the Village
34 may cause the repairs to be made at the facility owner's expense, utilizing Village
35 employees, agents or contractors, charge any and all costs, and require
36 reimbursement within 30 days after the submission of the bill by the Village to the
37 applicant. In all other nonemergency circumstances, the applicant shall be given
38 prior written notice. If such repairs are not performed in a reasonable and
39 satisfactory manner within the 30 calendar days after receiving notice, the Village
40 may cause the repairs to be made at the facility owner's expense, utilizing Village

1 employees, agents or contractors, charge any and all costs, and require
2 reimbursement within 30 days after the submission of the bill by the Village to the
3 applicant.

4 (4) Subject to F.S. ch. 337.403, whenever an order of the Village
5 requires such removal or change in the location of any wireline communications
6 facility from the public rights-of-way, and the facility owner fails to remove or
7 change the same at its own expense to conform to the directive within the time
8 stated in the notice, the Village may proceed to cause the communications facility
9 to be removed. The expense thereby incurred, except as provided in F.S. ch.
10 337.403 shall be paid out of any money available therefor, and such expense shall
11 be charged against the owner of the wireline communications facility and levied,
12 collected and paid to the Village.

13 (5) Subject to F.S. ch. 337.404, whenever it shall be necessary for the
14 Village to remove or relocate any wireline communications facility, the owner of
15 the wireline communications facility, or the owner's chief agent, shall be given
16 written notice of such removal or relocation and requiring the payment of the costs
17 thereof, and shall be given reasonable time, which shall not be less than 20 nor
18 more than 30 days in which to file an appeal with the Village Manager to contest
19 the reasonableness of the order. Upon receipt of a written appeal, the Village
20 Manager shall undertake consideration within 45 working days. Should the owner
21 or the owner's representative not appear, the determination of the cost to the
22 owner shall be final, in accordance with F.S. § 337.404.

23 (6) A final order of the Village imposed pursuant to the Florida Statutes
24 and applicable provisions of the Village Code, if any, shall constitute a lien on any
25 property of the owner and may be enforced as provided therein.

26 (7) The Village retains the right and privilege to cut or remove any
27 wireline facilities located within the public rights-of-way as the Village Manager in
28 his/her reasonable discretion may determine to be necessary, appropriate or
29 useful in response to any public health or safety emergency. If circumstances
30 permit, the Village shall attempt to notify the owner of the wireline facility, if known,
31 prior to cutting or removing a wireline facility and shall notify the owner of the
32 facility, if known, after cutting or removing a wireline facility.

33 (8) Upon abandonment of a wireline facility within the public rights-of-
34 way of the Village, the facility owner shall notify the Village within 90 days.
35 Following receipt of such notice, the Village may direct the facility owner to remove
36 all or any portion of the wireline facility if the Village determines that such removal
37 will be in the best interest of the public health, safety and welfare. In the event that
38 the Village does not direct the removal of the abandoned facility by the owner of
39 the wireline facility and the facility owner chooses not to remove its facilities, then
40 such owner, by its notice of abandonment to the Village, shall be deemed to

1 consent to the alteration or removal of all or any portion of the facility by another
2 utility or person.

3 (9) An applicant shall, on the request of any person holding a permit
4 issued by the Village, temporarily raise or lower its wireline communications
5 facilities to permit the work authorized by the permit. The expense of such
6 temporary raising or lowering of facilities shall be paid by the person requesting
7 same, and the applicant shall have the authority to require such payment in
8 advance. The applicant shall be given not less than 30 days' advance notice to
9 arrange for such temporary relocation.

10 11 **Section 9. Applications & Decisions.**

12
13 (a) **Submission.** All applications, including the full application, amendments,
14 or supplements to an application, or responses to requests for information
15 regarding an application, shall be submitted electronically through the
16 Village's permitting portal.

17
18 (b) **Pre-application meeting.** Prior to filing an application for a communications
19 permit, an applicant is strongly encouraged to schedule a pre-application meeting with
20 the Village Engineer or his designee to discuss the proposed facility, the requirements
21 of this Chapter, and any potential impacts of the proposed facility.

22
23 (c) **Content.** An applicant shall submit an application on the form approved by the
24 Village Engineer for this purpose, which may be updated from time-to-time.

25
26 (d) **Completeness Review.** A communications permit application is deemed
27 submitted or resubmitted on the date the application is received by the Village
28 Engineer. The Village Engineer shall notify the applicant in writing via electronic mail
29 within ten (10) days after the date the application is initially submitted or additional
30 information resubmitted, whether the application is properly completed in compliance
31 with the Village's requirements. If the application is not completed in compliance with
32 the Village's requirements, the Village Engineer shall so notify the applicant specifying
33 any missing information or deficiencies which, if cured, make the application properly
34 completed. An application is deemed complete if the Village fails to provide notification
35 to the applicant within ten (10) days. Upon resubmission of information to cure the
36 stated deficiencies, the Village shall notify the applicant, in writing via electronic mail,
37 no later than ten (10) days after the additional information is submitted, of any
38 remaining deficiencies that must be cured. If a specified deficiency is not properly
39 cured when the applicant resubmits its application to comply with the notice of
40 deficiencies, the Village may continue to request the information until such time as the
41 specified deficiency is cured, or may establish a reasonable time frame within which
42 the required information to cure the application deficiency is to be provided. If the
43 curative information is not provided within such time frame, the application will be
44 considered withdrawn or closed for incompleteness..

1
2 (e) **Consolidated Application.** A permit applicant seeking to collocate small
3 wireless facilities or non-exempt micro wireless facilities within the Village right-of-way
4 may file a consolidated communications facility application and receive a single permit
5 for the collocation of up to thirty (30) small wireless facilities. If the permit application
6 includes multiple small wireless facilities or non-exempt micro wireless facilities, the
7 Village may separately address small wireless facility or non-exempt micro wireless
8 facility collocations for which incomplete information has been received or which are
9 denied. A consolidated communications facility application must include all the general
10 permit application information required by this Section.
11

12 (f) **Application Decisions.** Unless otherwise specified herein, the Village shall
13 grant or deny a properly completed application for small wireless facilities or non-
14 exempt micro wireless facilities in the public right-of-way within sixty (60) days or, as
15 otherwise required by federal and state law, after the date the application is
16 determined to be properly completed. Failure to take any action on the permit
17 application within that time shall be deemed to be approval of such application. Unless
18 the parties engage in alternate location negotiations as provided herein below, the
19 parties may mutually agree to extend the sixty (60) day application review period. At
20 the end of such extended time, the Village shall grant or deny the permit application.
21 A permit issued pursuant to this subdivision shall remain effective for one (1) year
22 unless extended by the Village. If a permit is denied pursuant to this subdivision, the
23 specific reasons for rejecting the permit application, including the specific code
24 provisions on which the denial was based, shall be explained and set forth in writing
25 via electronic mail to the permit applicant on the day the Village denies the application.
26 The permit applicant may cure the deficiencies identified by the Village and resubmit
27 the application within thirty (30) days after notice of the denial is sent to the applicant.
28 The Village shall approve or deny the revised application within thirty (30) days after
29 receipt, otherwise the application is deemed approved. The subsequent review shall
30 be limited to the deficiencies cited in the denial. The Village may deny an application
31 for small wireless facilities or non-exempt micro wireless facilities in the public right-
32 of-way if the proposed application:

- 33 (i) Materially interferes with the safe operation of traffic control equipment.
34 (ii) Materially interferes with sight lines or clear zones for transportation,
35 pedestrians, or public safety purposes.
36 (iii) Materially interferes with compliance with the Americans with
37 Disabilities Act or similar federal or state standards regarding
38 pedestrian access or movement.
39 (iv) Materially fails to comply with the 2010 edition of the Florida
40 Department of Transportation Utility Accommodation Manual.
41 (v) Fails to comply with Applicable Codes.
42

43 (g) **Alternate location negotiation period for small wireless facilities or non-**
44 **exempt micro facilities proposed in the public right-of-way.** Within fourteen (14)
45 days after receipt of an application to install a small wireless facilities or non-exempt

1 micro facility within the public right-of-way, the Village may request the applicant via
2 e-mail to move the proposed small wireless facility or non-exempt micro wireless
3 facility to another utility pole within the right-of-way or to construct a new utility pole or
4 support structure within the right-of-way. The Village and applicant shall negotiate the
5 design, location and spacing of the alternate small wireless facility for thirty (30) days
6 after the date of the request. At the conclusion of the negotiation period, the applicant
7 shall either accept the proposed modification, which will thereafter be approved by the
8 Village, or reject the proposed modification in which event the Village shall process
9 the original application for a decision to be made within ninety (90) days of original
10 submission. Decisions issued by the Village must be in writing and provided by
11 electronic mail.

12 (h) **Public notice.** Prior to the issuance of any permit pertaining to the placement and
13 maintenance of any communications facilities within the public rights-of-way located
14 in residential zoning districts, the Village Engineer or designee may require the
15 applicant to issue notice of the proposed work, via writing, to property owners within
16 250 feet of such rights-of-way, as well as provide notification to any affected home
17 owners' association or neighborhood association (the "notification area"). The Village
18 may further require the applicant to hold a public information meeting for purposes of
19 answering questions and taking comments from affected property owners. Such public
20 information meeting shall be held within ten (10) days of the Village's receipt of request
21 for same. Comments may be submitted in person or in writing to the Village. The
22 process for submitting written comments shall be provided to all property owners in
23 the notification area by the applicant. Should a public information meeting be required,
24 the applicant shall submit a report to the Village, no later than ten (10) days after such
25 meeting, stating the public comments received and any responses provided by the
26 applicant. The applicant shall meet with Village staff as soon as practical to review
27 comments received at the public information meeting, and attempt to resolve all
28 negative comments or issues raised. No permit application will be deemed complete,
29 nor permit shall be issued, by the Village until this process, if required, has been
30 completed.
31

32 (i) **Waivers.** Requests for waivers from any requirement of this section shall be made
33 in writing to the Village Engineer or his or her designee. The Village Engineer may
34 grant or deny a request for a waiver pursuant to this subsection. The Village Engineer
35 may grant a request for waiver if it is demonstrated that, notwithstanding the issuance
36 of a waiver, the Village will be provided all information necessary to understand the
37 nature of the construction or other activity to be conducted pursuant to the permit
38 sought, or if otherwise required by law. The Village Engineer's decision as to any
39 waiver request pursuant to this subsection shall be subject to appeal in accordance
40 with Section 5(b) of this Chapter. All waivers approved pursuant to this subsection
41 shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored to
42 minimize deviation from the requirements of the Village Code.
43

1
2
3 **Section 10. Consultants.**
4
5

6 The Village Engineer or Village Manager, as the case may be, is authorized, in its
7 discretion, to select and retain independent consultant(s) with expertise in
8 telecommunications in connection with the review of any application under this
9 Chapter. Such independent consultant review may be retained on any issue that
10 involves specialized or expert knowledge in connection with an application, including,
11 but not limited to, application completeness or accuracy, structural engineering
12 analysis, and/or verification of compliance with FCC radio frequency emissions
13 standards.
14

15 **Section 11. Conditions of Approval.**
16

17 (h) **Generally.** In addition to any supplemental conditions assigned by the Village
18 Engineer or Village Manager, as the case may be, all permits granted pursuant to this
19 Chapter shall be subject to the following conditions, unless modified by the approving
20 authority:
21

- 22 (1) *Code compliance.* The Permittee shall at all times maintain compliance with
23 all Applicable Codes, including federal, state and local laws, regulations and
24 other rules, including, without limitation, those applying to use of rights-of-
25 way.
26
- 27 (2) *Inspections; Emergencies.* The Village or its designee may enter onto the
28 facility area to visually inspect the communications facility upon 48 hours prior
29 notice to the Permittee. The Permittee shall cooperate with all inspections
30 and may be present for any inspection of its communications facility by the
31 Village. The Village reserves the right to examine or direct its designee to
32 examine the facility and support, repair, disable, or remove any elements of
33 the facility in an emergency when the facility threatens imminent harm to
34 persons or property. The Village shall make every effort to contact the
35 Permittee prior to disabling or removing any facility elements, but in any case
36 shall notify Permittee within 24 hours of doing so.
37
- 38 (3) *Contact.* The Permittee shall at all times maintain accurate contact
39 information for all parties responsible for the facility, which shall include a
40 phone number, street mailing address and email address for at least one
41 natural person.
42
- 43 (4) *Indemnities.* The Permittee shall defend, indemnify and hold harmless the
44 Village, its agents, officers, officials, and employees (i) from any and all
45 damages, liabilities, injuries, losses, costs, and expenses, and from any and
46 all claims, demands, lawsuits, writs of mandamus, and other actions or

proceedings brought against the Village or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the Village's approval of the permit, and (ii) from any and all damages, liabilities, injuries, losses, costs, and expenses, and any and all claims, demands, law suits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the Permittee or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors excepting therefrom any damages, liabilities, injuries, losses, costs and expenses that are the result of the negligent, intentional or willful and wanton acts of the Village, its agents, officers, officials and employees. Further, Permittees shall be strictly liable for interference caused by their facilities with the Village's communications systems. Whenever the Village 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, the Village shall provide notification to all wireless providers operating in the Village of possible interference with the public safety communications equipment, and upon such notifications, the wireless providers shall use their best efforts to cooperate and coordinate with the Village 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 wireless provider fails to cooperate with the Village in complying with the wireless provider's obligations under this section or if the FCC makes a determination of radio frequency interference with the Village public safety communications equipment, the wireless provider who failed to cooperate and/or the owner of the equipment that caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the Village for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Village 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 Village's notification.

- (5) *Adverse impacts on adjacent properties.* Permittee shall undertake all reasonable efforts to avoid material adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility.
- (6) *General maintenance; Graffiti.* The site and the facility, including, but not limited to, any landscaping, concealment elements, and related transmission equipment, must be maintained in a neat, orderly, and clean manner and in

1 accordance with all approved plans and conditions of approval. All graffiti on
2 facilities must be removed at the sole expense of the Permittee within 48
3 hours after notification from the Village.
4

- 5 (7) *RF exposure compliance.* All facilities must comply with all standards and
6 regulations of the FCC and any other state or federal government agency with
7 the authority to regulate RF exposure standards. All applications must
8 demonstrate compliance by including a certified analysis showing that the
9 proposed facility satisfies the FCC's Radio-Frequency ("RF") exposure
10 guidelines applicable on an individual basis, and on a cumulative basis
11 (considering all frequencies, and all emitting sources as required by FCC
12 regulations). After transmitter and antenna system optimization, but prior to
13 unattended operations of the facility, Permittee or its representative must
14 conduct on-site post-installation RF emissions testing to demonstrate actual
15 compliance with the FCC OET Bulletin 65 RF emissions safety rules for
16 general population/uncontrolled RF exposure in all sectors. For this testing,
17 the transmitter shall be operating at maximum operating power, and the
18 testing shall occur outwards to a distance where the RF emissions no longer
19 exceed the uncontrolled/general population limit
20 (8) *Testing.* Testing of any back-up generators and other noise producing
21 equipment associated with any communications facility located within a
22 Village right-of-way shall take place on weekdays only, and only between the
23 hours of 9:00 a.m. and 4:00 p.m., except that testing is prohibited on holidays
24 that fall on a weekday. In addition, testing is prohibited on weekend days.
25
26 (9) *Utilities undergrounded.* Extensions of electrical and telecommunications
27 land lines to serve any communications facility located in the Village right-of-
28 way shall be undergrounded where the existing electrical and
29 telecommunications facilities are located below grade.
30
31 (10) *Other approvals.* The Permittee shall obtain all other applicable permits,
32 approvals, and agreements necessary to install and operate the facility in
33 conformance with federal, state, and local laws, rules, and regulations.
34
35 (11) *Modifications.* No changes shall be made to the approved plans without
36 review and approval in accordance with this Chapter subject to the
37 exemptions provided in Section 337.401(7)(e).
38

39 *Agreement with Village.* Permittee shall enter into the appropriate agreement
40 with the Village, as determined by the Village, prior to constructing, attaching,
41 or operating a facility on a Village Pole. Such agreement shall include
42 provisions outlining the process for make-ready work as provided in 47 U.S.C.
43 §224 and implementing regulations, including provisions for good-faith
44 estimates for such make-ready work necessary to support the proposed
45 facility, or provide a replacement pole if the existing pole is incapable of
46 hosting the facility. Alternatively, the Village may require the Permittee to

1 provide such make-ready estimate at Permittee's expense for the work
2 necessary to support the facility, including a pole replacement, and perform
3 the make-ready work. If pole replacement is required, the scope of the make-
4 ready estimate shall include the design, fabrication and installation of a pole
5 that is substantially similar in color, size, and composition to the existing pole.
6 The replacement pole shall remain the property of the Village.

7 (12) *Village Not Liable.* Nothing contained in this Chapter shall be construed to
8 make or hold the Village responsible or liable for any damage to persons or
9 any property whatsoever, from any cause whatsoever, arising from the use,
10 operation or condition of the Permittee's wireline or wireless communications
11 facilities; or by reason of any inspection or reinspection authorized herein or
12 failure to inspect or reinspect. Nor shall the issuance of any permit or the
13 approval or disapproval of any placement or maintenance of the Permittee's
14 wireline or wireless communications facilities as authorized herein constitute
15 any representation, guarantee or warranty of any kind by, nor create any
16 liability upon, the Village or any official, agent or employee

17 (13) *Construction Bond.*

18 (a) Prior to performing any permitted work in the Village's rights-of-way, the
19 Village shall require the Permittee and/or owner of the communications facility to
20 establish in the Village's favor a performance and payment bonds in an amount
21 equal to a minimum of one hundred ten (110) percent of the cost of the work being
22 permitted, exclusive of equipment cost to secure the restoration of the public
23 rights-of-way, and to ensure the Permittee's and/or owner's faithful performance
24 of the construction or other obligations related to the work in the public rights-of-
25 way, in accordance with applicable sections of the Village Code of Ordinances.

26 (b) In the event a Permittee and/or owner of the communications facility fails to
27 complete the work in accordance with the provisions of the permit and this
28 subdivision, or fails to complete all restoration work in the right-of-way as required
29 by the Village, including but not limited to repair or replacement of damaged
30 landscaping, structures, hardscape, underground utility facilities, structures or
31 equipment, or any other item or feature disturbed by the permitted work, there
32 shall be recoverable, jointly and severally from the principal and surety of the
33 bond, any damages or loss suffered by the Village as a result, including the full
34 amount of any compensation, indemnification or cost of removal of any property
35 of the Permittee or owner, or the cost of completing the work, plus a reasonable
36 allowance for attorney's fees, up to the full amount of the bond.

37 (c) No less than twelve (12) months after completion of the construction and
38 satisfaction of all obligations in accordance with the bonds, the Permittee and/or
39 owner of the communications facility may request the Village Engineer or his/her
40 designee to remove the requirement to continue the bonds and the Village, if the
41 communications facility is completed, shall release the bonds within ten (10) days.
42 Notwithstanding the foregoing, the Village shall require a new bond for any
43 subsequent work performed in the public rights-of-way.

44 (d) The bonds shall be issued by a surety; (i) authorized to do business in the
45 state of Florida and having evidenced same by a certificate of good standing from

1 the Florida Department of State, and (ii) having a minimum rating of A-1 in Best's
2 Key Rating Guide, Property/Casualty Edition; the bond shall be subject to the
3 approval of the Village Attorney; and shall provide that:

4 "Unless released by the Village, this bond may not be canceled, or allowed to
5 lapse, until sixty (60) days after receipt by the Village, by certified mail, return
6 receipt requested, of a written notice from the issuer of the bond of intent to cancel
7 or not to renew."

8 (e) The rights reserved by the Village with respect to any bond established
9 pursuant to this section are in addition to all other rights and remedies the Village
10 may have under this section, or at law or equity, and no action, proceeding or
11 exercise of a right with respect to the bonds will affect any other right the Village
12 may have.

13 (14) *Conflicts with improvements.* Except as may be otherwise provided by
14 Section 337.403 and 337.404, Florida Statutes, for all facilities located within
15 the right-of-way, the Permittee shall remove or relocate, at its expense and
16 without expense to the Village, any or all of its facilities when such removal
17 or relocation is deemed necessary by the Village by reason of any change of
18 grade, alignment, or width of any right-of-way, for installation of services,
19 water pipes, drains, storm drains, power or signal lines, traffic control devices,
20 right-of-way improvements, or for any other construction, repair, or
21 improvement to the right-of-way. Any removal or relocation required under
22 this paragraph shall be completed by Permittee within ninety (90) days of
23 receipt of notice from the Village. In the event Permittee fails to abide by this
24 timeframe, and Permittee's failure to remove or relocate its facilities impedes
25 the progress of the project that necessitated said removal or relocation, the
26 Village shall have the right to cure this deficiency, and recover the costs
27 incurred in doing so by drawing on the required performance bond. In such a
28 case, the Village shall bear no liability for any damage or disruption to
29 Permittee's facilities or operations directly or indirectly resulting from the
30 Village's reasonable efforts to cure Permittee's noncompliance with this
31 paragraph.

32
33 (15) *Vacation.* Permittee shall notify the Village Engineer of the intent to vacate a
34 facility at least thirty (30) days prior to the vacation.

35
36 (16) *Abandonment.* If a facility is not operated for a continuous period of nine (9)
37 months, the wireless permit and any other permit or approval therefor shall
38 be deemed abandoned and terminated automatically, unless before the end
39 of the nine (9) month period (i) the Village Engineer has determined that the
40 facility has resumed operations, or (ii) the Village has received an application
41 to transfer the permit to another service provider. No later than ninety (90)
42 days from the date the facility is determined to have ceased operation or the
43 Permittee has notified the Village Engineer of its intent to vacate the site, the
44 Permittee shall remove all equipment and improvements associated with the
45 use and shall restore the site to its original condition to the satisfaction of the
46 Village Engineer. The Permittee shall provide written verification of the

1 removal of the facilities within thirty (30) days of the date the removal is
2 completed. If the facility is not removed within thirty (30) days after the permit
3 has been discontinued pursuant to this subsection, the site shall be deemed
4 to be a nuisance, and the Village may cause the facility to be removed at
5 Permittee's expense. If there are two (2) or more users of a single facility or
6 support structure, then this provision shall apply to the specific elements or
7 parts thereof that were abandoned, but will not be effective for the entirety
8 thereof until all users cease use thereof.
9

10 (17) *Encourage co-location.* Where the facility site is capable of accommodating
11 a co-located facility upon the same site, the owner and operator of the existing
12 facility shall allow another carrier to co-locate its facilities and equipment
13 thereon, provided the parties can mutually agree upon reasonable terms and
14 conditions.
15

16 (18) *Compliance.* The Permittee must at all times construct, operate, and maintain
17 the facility in accordance with all permits, requirements, Applicable Codes,
18 and approvals.
19

20 (19) *Force Majeure.* In the event the Village's or Permittee's performance of or
21 compliance with any of the provisions of this Chapter is prevented by a cause
22 or event not within the Village's or Permittee's control, such inability to
23 perform or comply shall be deemed excused and no penalties or sanctions
24 shall be imposed as a result, provided, however, that such Permittee uses all
25 practicable means to expeditiously cure or correct any such inability to
26 perform or comply. For the purposes of this section, cause or events not
27 within the Village's or Permittee's control shall include, but not be limited to,
28 acts of God, floods, earthquakes, landslides, hurricanes, fires and other
29 natural disasters, acts of public enemies, riots or civil disturbances, sabotage,
30 strikes, and restraints imposed by order of a governmental agency or court.
31 Causes or events within a Permittee's control, and thus not falling within this
32 section shall include without limitation, Permittee's financial inability to
33 perform or comply, economic hardship, and misfeasance, malfeasance or
34 nonfeasance by any of Permittee's directors, officers, employees,
35 contractors, or agents.
36

37 (i) **Eligible Facilities Requests.** An application to add a second wireless
38 communications facility to an existing wireless communications facility located within
39 a right-of-way that meets the specifications for an "eligible facilities request" under
40 section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, (47 USC §
41 1455(a)) and does not cause the existing wireless communications facility to exceed
42 the definition of "small wireless facility" as defined herein shall be subject to the
43 processing and approval by the Village Engineer or his/her designee pursuant to the
44 processes outlined in this Chapter and . shall be subject to the following conditions,
45 unless modified by the approving authority:
46

- 1 (1) *General conditions.* The conditions provided in Section 7 of this Chapter shall
2 apply to the extent permissible by law.
3
- 4 (2) *No permit term extension.* The Village's grant or grant by operation of law of
5 an Eligible Facilities Request permit constitutes a federally-mandated
6 modification to the underlying permit or approval for the subject wireless
7 facility. The Village's grant or grant by operation of law of an Eligible Facilities
8 Request permit will not extend the permit term for the underlying permit or
9 any other underlying regulatory approval, and its term shall be coterminous
10 with the underlying permit or other regulatory approval for the subject tower
11 or base station.
12
- 13 (3) *No waiver of standing.* The Village's grant or grant by operation of law of an
14 Eligible Facilities Request does not waive, and shall not be construed to
15 waive, any standing by the Village to challenge Section 6409(a) of the
16 Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum
17 Act, or any modification to Section 6409(a) of the Spectrum Act.
18

19 **Section 12. Breach; Termination of Permit.**

20

21 (a) **For breach.** A permit granted under this Chapter may be revoked for failure to
22 comply with the conditions of the permit or applicable law. Upon revocation, the
23 communications facility must be removed; provided that removal of a Utility Pole
24 owned by the Village, a utility, or another entity authorized to maintain a Utility Pole
25 in the right-of-way need not be removed, but must be restored to its prior condition,
26 except as specifically permitted by the Village. All costs incurred by the Village in
27 connection with the revocation and removal shall be paid by entities who own or
28 control any part of the communications facility.
29

30 (b) **For installation without a permit.** Any communications facility installed without
31 a permit (except for those exempted by this Chapter or pursuant to F.S. §337.401)
32 must be removed; provided that removal of a Utility Pole owned by the Village, a utility,
33 or another entity authorized to maintain a Utility Pole in the right-of-way need not be
34 removed, but must be restored to its prior condition, except as specifically permitted
35 by the Village. All costs incurred by the Village in connection with the revocation and
36 removal shall be paid by entities who own or control any part of the personal wireless
37 services facility.
38

39 (c) **Municipal Infraction.** Any violation of this Chapter will be subject to the same
40 penalties as a violation of the Chapter II, Article IV, Division I of the Village Code.
41

42 **Section 13. Infrastructure Controlled By Village.** The Village, as a matter of policy,
43 will negotiate agreements for use of Village Poles. The placement of small wireless
44 facilities on Village Poles shall be subject to the agreement. The agreement shall specify
45 the compensation to the Village for use of the Village Pole as provided in F.S. §337.401.
46 The person seeking the agreement shall additionally reimburse the Village for all costs

the Village incurs in connection with its review of, and action upon, the person's request for an agreement.

Section 14. Nondiscrimination. In establishing the rights, obligations and conditions set forth in this Chapter, it is the intent of the Village to treat each applicant or public right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, and with considerations that may be unique to the technologies, situation and legal status of each particular applicant or request for use of the public rights-of-way.

Section 15. Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Chapter is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Chapter, it being the intent of the Village that the remainder of the Chapter shall be and shall remain in full force and effect, valid, and enforceable.

Section 16. Conflicts. Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

Section 17. Effective Date. This Ordinance shall become effective immediately upon adoption of the Wellington Council following second reading.

PASSED this _____ day of _____, 20____ upon first reading.

PASSED AND ADOPTED this _____ day of _____, 20____ on second and final reading.

WELLINGTON

	FOR	AGAINST
BY: _____	_____	_____
Anne Gerwig, Mayor		
_____	_____	_____
Michael Drahos, Vice Mayor		
_____	_____	_____
John McGovern, Councilman		
_____	_____	_____
Michael Napoleone, Councilman		
_____	_____	_____
Tanya Siskind, Councilwoman		

1
2
3 **ATTEST:**
4

5 BY: _____
6 Chevelle Nubin, Clerk
7

8
9 **APPROVED AS TO FORM AND**
10 **LEGAL SUFFICIENCY**
11

12 BY: _____
13 Laurie S. Cohen, Village Attorney
14
15
16
17