Introduced by Council Member Boyer:

**ORDINANCE 2018-463**

AN ORDINANCE Amending subpart a (wireless communication facilities), PART 15(COMMUNICATION TOWER AND ANTENNA REGULATIONS), Chapter 656 (zoning Code), *Ordinance Code*, to include reference to standards for small wireless facilities as defined in part 4, chapter 711, *ordinance code*; PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED** by the Council of the City of Jacksonville:

**Section 1. Amending Chapter 656 (Zoning Code), Part 15 (Communication Tower and Antenna Regulations), *Ordinance Code***. Part 15 (Communication Tower and Antenna Regulations), Chapter 656 (Zoning Code), *Ordinance Code*, is hereby amended to read as follows**:**

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**CHAPTER 656 – ZONING CODE**

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**PART 15. COMMUNICATION TOWER AND ANTENNA REGULATIONS**

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**SUBPART A. - WIRELESS COMMUNICATION FACILITIES**

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**Sec. 656.1505. - Track I Towers.**

(a)  Applications for wireless communication towers that meet the location and design requirements to be "Track I" towers shall be assigned for processing on an expedited "Track I" schedule. Upon a determination by the Coordinator that the application is complete, the Coordinator shall determine whether the application satisfies the criteria for a Track I Tower and issue an order granting or denying the application for a Track I Tower, within the timeframe set forth in Section 656.1511(b), Ordinance Code. If the Coordinator determines that the application satisfies the criteria, the Coordinator shall issue an order approving the application and forward a copy of the order and application to the District Council Member, and if there is no District Council Member, the At-large Council Member from the Group which contains the appropriate district.

(b)  Track I requirements. A tower may be considered a Track I camouflaged tower if it satisfies all of the following criteria:

(1)  The tower is an appropriate approved camouflaged design, pursuant to section 656.1509(c), Ordinance Code, or the tower is less than 50 feet and less than the maximum height allowed of a principle structure on the site per Chapter 656 and meets the definition for “small wireless facilities”, as defined in Part 4, Chapter 711, Ordinance Code;

(2)  The tower is located in a non-residential zoning district;

(3)  The tower height shall be:

(i)  150 feet or less, if located in an industrial use category of the Future Land Use Plan;

(ii)  130 feet or less, if located in a Community/General Commercial, Regional Commercial or Central Business District category of the Future Land Use Plan;

(iii)  110 feet or less, if located in a Neighborhood Commercial or Public Buildings and Facilities category of the Future Land Use Plan;

(iv)  90 feet or less, if located in any other non-residential category of the Future Land Use Plan, except the Conservation category;

(4)  The tower will be located at least 100 feet or 100% of the tower height, whichever distance is greater, from the property line of any property within a Residential category of the Future Land Use Plan and with residential zoning, or from a portion of a Planned Unit Development zoned for residential uses;

(5)  The tower will be set back a minimum distance of 50 feet from any transportation view corridor, a public park, a historic district, a historic landmark, and any environmentally sensitive land, unless the camouflaged tower is designed to resemble a utility or light pole~~;~~ ,or the tower is 50 feet or less and less than the maximum height allowed of a principle structure on the site per Chapter 656 and meets the definition and the design guidelines for “small wireless facilities”, as defined in Part 4, Ch. 711, Ordinance Code. ~~a public park; a historic district; a historic landmark; and any environmentally sensitive land;~~

(6)  There is no technologically and structurally suitable space available on commercially reasonable terms on an existing or proposed tower or structure within the search ring; and

(7)  The view of the base of the wireless communication facility from any residentially neighborhoods, environmentally sensitive lands, historic districts, historic landmarks, public parks or transportation view corridors will be mitigated through the use of either: (i) ~~landscaping buffer outside the perimeter of the security fence~~; meeting performance standards of Sec. 656.1512(c), Ordinance Code; (ii) ~~a wall, a minimum of eight feet in height and with 100% opacity;~~ intervening structures or existing vegetation that provide the equivalent screening, or (iii) ~~intervening structures or existing vegetation that provide the equivalent screening~~ the tower is 50 feet or less and less than the maximum height allowed of a principle structure on the site per the Chapter 656 and meets the definition for “small wireless facilities”, as defined in Part 4, Ch. 711, Ordinance Code. ~~The landscape buffer, if provided, shall be a minimum of ten feet wide and consist of the landscaping indicated in the landscaping performance standard of Sec. 656.1512(c), Ordinance Code.~~

(8) Separation. For towers over 50 feet, no tower shall be permitted to be constructed within 750 feet of another tower over 50 feet.

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**Sec. 656.1506. - Track II Towers.**

(a)  Application and review. Applications to construct a camouflaged tower not satisfying the criteria set forth in Section 656.1505, Ordinance Code, or low impact/stealth tower shall be assigned for processing on a "Track II" schedule. Within 15 days of notification from the Coordinator that the application is complete, a Track II application shall be scheduled for review at the next regularly scheduled meeting of the Commission. The Commission shall approve, deny or conditionally approve the application where it finds that the proposed tower (1) complies with the tower siting and design requirements and performance standards of this Subpart; and (2) is compatible with the existing contiguous uses or zoning and compatible with the general character and aesthetics of the surrounding neighborhood or area, considering (a) the design and height of the wireless communication tower; and (b) the potential adverse impact upon any environmentally sensitive lands, historic districts or historic landmarks, public parks or transportation view corridors.

(b)  Camouflaged towers; Siting and Design Requirements. Except as set forth in Section 656.1514, Ordinance Code, Track II camouflaged towers shall be permitted in all zoning districts, including Planned Unit Development Districts, and shall meet the compatibility requirements set forth in subsection (a) above and shall be subject to the following siting and design requirements:

(1)  Height. Track II camouflaged towers shall not be subject to a maximum height requirement, so long as the proposed tower is architecturally and aesthetically compatible with the surrounding community. Towers meeting the definition for “small wireless facilities”, as defined in Part 4, Chapter 711, Ordinance Code, shall not exceed the maximum height allowed of a principle structure on the site per Chapter 656, or 50 feet whichever is less.

(2)  Setbacks. Regardless of the zoning district in which a camouflaged tower is proposed to be constructed, the tower shall be set back a distance of at least 100 feet or 100 percent of the tower height, whichever distance is greater, from the nearest residential lot line of any single family residence or single family residentially-zoned property, including residential PUD districts and properties with a single-family residential component in a mixed-use PUD district, or AGR IV land use category; provided, however, that this setback shall not be required where legal title to the nearest residential parcel is held by the owner of the tower site. In the event that the proposed tower is to be located within a mixed use Planned Unit Development (PUD), the minimum distance set forth herein shall be measured from the nearest residential use. Camouflaged towers shall also be set back a minimum distance of 50 feet from any transportation view corridor or environmentally sensitive lands; provided, however, that the set back from the transportation view corridor shall not apply where the camouflaged tower is designed to resemble a utility or light pole, or the tower is 50 feet or less, and less than the maximum height allowed of a principle structure on the site per Chapter 656, and meets the definition and the design guidelines for “small wireless facilities”, as defined in Part 4, Chapter 711, Ordinance Code.

(3)  Collocation. Any camouflaged tower in excess of 100 feet in height shall be designed to accommodate antennas for at least two separate wireless communication service providers.

(4) Separation. For towers over 50 feet, no camouflaged tower shall be permitted to be constructed within 750 feet of another camouflaged tower;

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**Sec. 656.1510. - Wireless communication antennas.**

The placement of a new wireless communication antenna on any structure within the City may be initiated only upon approval of an application in accordance with the relevant procedures set forth in this section; provided, however, "small cell antennas" to be mounted on "City improvements" as those terms are defined in Part 4A, Ch. 711, Ordinance Code, shall be governed by Part 4A, Ch. 711, Ordinance Code, and not by this Ch. 656, Ordinance Code. Applications shall be filed with the Coordinator by the owner of the structure upon which the proposed antenna is to be located, or his authorized agent. Within ten working days of receipt of an application, the Coordinator shall determine if the application form has been fully completed and all required items submitted. Upon making this determination, the Coordinator shall notify the applicant, in writing, of the status of the application. If the Coordinator determines that the application is incomplete, the Coordinator shall advise the applicant of those items that need to be submitted. If the Coordinator determines that the application is complete, the Coordinator shall advise the applicant of the estimated schedule for processing the application and projected date for obtaining either an approval or denial of same.

(a)  Collocation on existing wireless communication towers. Applications for collocations on existing towers shall be filed as part of the building permit application process and routed to the Coordinator for review. Upon proof of compliance with the application requirements set forth in this section, and proof that either the proposed communication antenna is an approved low impact/stealth or camouflaged design pursuant to Section 656.1509(c), Ordinance Code, or that the antenna is consistent with the design or placement requirements that were in effect at the time of the initial antennae placement approval, then the Coordinator shall issue an order authorizing the placement of the proposed collocation on an existing wireless communication tower. The permitting of such a collocation shall not abrogate the characterization of a tower as a legally permitted nonconforming use, and the tower site's original landscape plan shall remain in effect. Additionally, expansions of the footprint of an existing wireless communication facility compound to accommodate collocation shall not be deemed an expansion of a nonconforming use; provided, however, that all additional accessory equipment shall be landscaped pursuant to Section 656.1512(c), or as otherwise determined by the Coordinator so long as the visual impacts of the additional accessory equipment are mitigated. Final orders issued by the Coordinator under this section may be appealed to the Commission. When the Commission acts on an appeal filed under this section, such action shall be deemed the final action of the City as of the effective date of the final action by the Commission. A final action under this section shall not be reviewed further by the City Council. Any person with standing may challenge a final action taken by the Commission in whatever way authorized by federal or state law.

(b)  Administratively approved antennas. Except for a historic building, structure, site, object, or district, small cell antennas governed by Part 4A, Ch. 711, Ordinance Code, or a tower included in Section 656.1510(a), the Coordinator shall issue an order authorizing the placement of a communication antenna on an existing structure that meets the requirements set forth in subsections (1)— ~~(4)~~(5) below.

(1)  The antenna does not increase the height of the existing structure to which the antennae are to be attached, measured to the highest point of any part of the structure or any existing antenna attached to the structure, by more than 15 feet;

(2)  The antenna does not increase the area of the wireless communication facility, if any, approved in the site plan for equipment enclosures and ancillary facilities;

(3)  The antennae, equipment enclosures, and ancillary facilities are of an appropriate camouflaged or low-impact/stealth design or are of a design consistent with the design of an initial antennae placed on the structure, if applicable; and

(4)  There no technologically and structurally suitable manner on commercially reasonable terms to place the antenna on an existing structure within the search ring without increasing the height.

(5)  Neither rooftop nor side-mount antennas shall be sited on any lot containing a single-family dwelling unit as the principal structure.

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**Sec. 656.1512. - Performance standards.**

In addition to the siting and design standards set forth in this Subpart, all wireless communication towers shall satisfy the following performance standards, except that towers 50 feet or less and less than the maximum height allowed of a principle structure on the site per Chapter 656 and meets the definition for “small wireless facilities”, as defined in Part 4, Ch. 711, Ordinance Code are excluded from these requirements:

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**Sec. 656.1514. - Historic Landmarks, Historic Districts and Neighborhood Conservation Districts.**

A wireless communication tower may only be located in an Historic District if it is a camouflaged tower or the tower is 50 feet or less and meets the definition and the design guidelines for “small wireless facilities”, as defined in Part 4, Chapter 711, Ordinance Code. Applications to site a camouflaged tower or place a wireless communication antenna in a Historic District will not be processed until such time as the applicant has obtained a Certificate of Appropriateness, pursuant to Chapter 307, Ordinance Code.

Any alteration made to an historical structure to accommodate the siting of a wireless communication antenna shall be fully reversible.

**Section 2. Severability.** It is the specific intent of the Council that in the event that any portion of this ordinance, is declared invalid, unenforceable, unconstitutional or void, or is permanently enjoined, or if the existence of any provision of this ordinance would result in any other portion of Chapter 656, *Ordinance Code*, or the Charter being held to be invalid, unenforceable, unconstitutional or void, and the court does not sever such invalid portion of this section, then the invalid portion of this ordinance is repealed and invalid. It is the specific intent that the invalidity of any portion of this ordinance shall not affect any other section, subsection, paragraph, subparagraph, sentence, phrase, clause or word of Chapter 656, *Ordinance Code*, or the Charter.

Section 3. Effective Date. This ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor’s signature.

Form Approved:

\_\_/s/ Paige Hobbs Johnston

Office of General Counsel

Legislation prepared by: Paige H. Johnston

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