

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

AUGUST 23, 2018

The Planning and Development Department hereby forwards to the Planning Commission, Land Use and Zoning Committee, and City Council its comments and recommendations on:

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.

I. GENERAL INFORMATION

The bill amends Ordinance Code Chapter 656 (Zoning Code) to revise Part 15 (Communication Towers and Antenna Regulations) to incorporate new language regarding “small cell wireless facilities” necessitated by changes to the chapter resulting from the repeal and replacement of Part 4 (Communications Facilities) to address regulation of small cell wireless facilities. The bill adds references to small cell wireless facilities to the definitions of Track 1 and Track 2 towers. It prohibits rooftop or side-mount antennas from being sited on any lot containing a single-family dwelling unit as the principal structure. It adds references to small cell wireless facilities to the Performance Standards and Historic Landmarks, Historic Districts and Neighborhood Conservation Districts sections of the Zoning Code.

II. EVALUATION

A. The need and justification for the change

A recent change in state law requires local governments to allow the installation of “small cell wireless facilities” infrastructure and limits the type of regulations and conditions that may be imposed by local governments on such installations. The LUZ and NCSPHS Committees, meeting jointly over the past year, have crafted legislation (pending Ordinance 2017-863) to provide for appropriate authorization and regulation of these facilities, which will facilitate the roll-out of the next generation 5G wireless technology. This bill makes changes to other parts of the Zoning Code that are affected by or are referred to in the new Part 4 to be created by 2017-863.

B. The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Zoning Code and Comprehensive Plan.

The proposed legislation will further the intent of the Zoning Code in that the wireless communication facilities standards will protect the natural features and aesthetic character of the City by regulating the location, and design of small cell wireless facilities, with placement of antennas on roofs, walls, existing towers and other existing structures in residential neighborhoods, public parks, transportation view corridors, historic districts, and environmentally sensitive lands. The legislation will also minimize the adverse visual and aesthetic impacts of wireless communication facilities through siting and landscaping standards.

D. Consistency with the Comprehensive Plan.

The Comprehensive Plan is silent with regard to this topic.

III. RECOMMENDATION

Based upon examination of the proposed ordinance with respect to the goals, objectives and policies of the 2030 Comprehensive Plan, and the intent of the Zoning Code, the Planning and Development Department finds that Ordinance 2018-463 is consistent with the Comprehensive Plan and furthers the spirit and intent of the Zoning Code. Therefore, it is the recommendation of the Planning and Development Department that Ordinance 2018-463 be **APPROVED**.

1 Introduced by Council Member Boyer:
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4 **ORDINANCE 2018-463**

5 AN ORDINANCE AMENDING SUBPART A (WIRELESS
6 COMMUNICATION FACILITIES), PART 15
7 (COMMUNICATION TOWER AND ANTENNA REGULATIONS),
8 CHAPTER 656 (ZONING CODE), *ORDINANCE CODE*, TO
9 INCLUDE REFERENCE TO STANDARDS FOR SMALL
10 WIRELESS FACILITIES AS DEFINED IN PART 4,
11 CHAPTER 711, *ORDINANCE CODE*; PROVIDING AN
12 EFFECTIVE DATE.
13

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

15 **Section 1. Amending Chapter 656 (Zoning Code), Part 15**
16 **(Communication Tower and Antenna Regulations), *Ordinance Code*.** Part
17 15 (Communication Tower and Antenna Regulations), Chapter 656
18 (Zoning Code), *Ordinance Code*, is hereby amended to read as
19 follows:

20 * * *

21 **CHAPTER 656 - ZONING CODE**

22 * * *

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

24 * * *

25 **SUBPART A. - WIRELESS COMMUNICATION FACILITIES**

26 * * *

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

28 (a) Applications for wireless communication towers that meet the
29 location and design requirements to be "Track I" towers shall be
30 assigned for processing on an expedited "Track I" schedule. Upon a
31 determination by the Coordinator that the application is complete,

1 the Coordinator shall determine whether the application satisfies
2 the criteria for a Track I Tower and issue an order granting or
3 denying the application for a Track I Tower, within the timeframe
4 set forth in Section 656.1511(b), Ordinance Code. If the
5 Coordinator determines that the application satisfies the criteria,
6 the Coordinator shall issue an order approving the application and
7 forward a copy of the order and application to the District Council
8 Member, and if there is no District Council Member, the At-large
9 Council Member from the Group which contains the appropriate
10 district.

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

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

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

20 (3) The tower height shall be:

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

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

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

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

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

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

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

19 (7) The view of the base of the wireless communication facility
20 from any residentially neighborhoods, environmentally sensitive
21 lands, historic districts, historic landmarks, public parks or
22 transportation view corridors will be mitigated through the use of
23 either: (i) ~~landscaping buffer outside the perimeter of the~~
24 ~~security fence; meeting performance standards of Sec. 656.1512(c),~~
25 Ordinance Code; (ii) ~~a wall, a minimum of eight feet in height and~~
26 ~~with 100% opacity;~~ intervening structures or existing vegetation
27 that provide the equivalent screening, or (iii) ~~intervening~~
28 ~~structures or existing vegetation that provide the equivalent~~
29 ~~screening~~ the tower is 50 feet or less and less than the maximum
30 height allowed of a principle structure on the site per the Chapter
31 656 and meets the definition for "small wireless facilities", as

1 defined in Part 4, Ch. 711, Ordinance Code. ~~The landscape buffer,~~
2 ~~if provided, shall be a minimum of ten feet wide and consist of the~~
3 ~~landscaping indicated in the landscaping performance standard of~~
4 ~~Sec. 656.1512(e), Ordinance Code.~~

5 (8) Separation. For towers over 50 feet, no tower shall be
6 permitted to be constructed within 750 feet of another tower over
7 50 feet.

8 * * *

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

10 (a) Application and review. Applications to construct a
11 camouflaged tower not satisfying the criteria set forth in Section
12 656.1505, Ordinance Code, or low impact/stealth tower shall be
13 assigned for processing on a "Track II" schedule. Within 15 days of
14 notification from the Coordinator that the application is complete,
15 a Track II application shall be scheduled for review at the next
16 regularly scheduled meeting of the Commission. The Commission shall
17 approve, deny or conditionally approve the application where it
18 finds that the proposed tower (1) complies with the tower siting
19 and design requirements and performance standards of this Subpart;
20 and (2) is compatible with the existing contiguous uses or zoning
21 and compatible with the general character and aesthetics of the
22 surrounding neighborhood or area, considering (a) the design and
23 height of the wireless communication tower; and (b) the potential
24 adverse impact upon any environmentally sensitive lands, historic
25 districts or historic landmarks, public parks or transportation
26 view corridors.

27 (b) Camouflaged towers; Siting and Design Requirements. Except as
28 set forth in Section 656.1514, Ordinance Code, Track II camouflaged
29 towers shall be permitted in all zoning districts, including
30 Planned Unit Development Districts, and shall meet the
31 compatibility requirements set forth in subsection (a) above and

1 shall be subject to the following siting and design requirements:

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

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

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

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

7 * * *

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

9 The placement of a new wireless communication antenna on any
10 structure within the City may be initiated only upon approval of an
11 application in accordance with the relevant procedures set forth in
12 this section; provided, however, "small cell antennas" to be
13 mounted on "City improvements" as those terms are defined in Part
14 4A, Ch. 711, Ordinance Code, shall be governed by Part 4A, Ch. 711,
15 Ordinance Code, and not by this Ch. 656, Ordinance Code.
16 Applications shall be filed with the Coordinator by the owner of
17 the structure upon which the proposed antenna is to be located, or
18 his authorized agent. Within ten working days of receipt of an
19 application, the Coordinator shall determine if the application
20 form has been fully completed and all required items submitted.
21 Upon making this determination, the Coordinator shall notify the
22 applicant, in writing, of the status of the application. If the
23 Coordinator determines that the application is incomplete, the
24 Coordinator shall advise the applicant of those items that need to
25 be submitted. If the Coordinator determines that the application is
26 complete, the Coordinator shall advise the applicant of the
27 estimated schedule for processing the application and projected
28 date for obtaining either an approval or denial of same.

29 (a) Collocation on existing wireless communication towers.
30 Applications for collocations on existing towers shall be filed as
31 part of the building permit application process and routed to the

1 Coordinator for review. Upon proof of compliance with the
2 application requirements set forth in this section, and proof that
3 either the proposed communication antenna is an approved low
4 impact/stealth or camouflaged design pursuant to Section
5 656.1509(c), Ordinance Code, or that the antenna is consistent with
6 the design or placement requirements that were in effect at the
7 time of the initial antennae placement approval, then the
8 Coordinator shall issue an order authorizing the placement of the
9 proposed collocation on an existing wireless communication tower.
10 The permitting of such a collocation shall not abrogate the
11 characterization of a tower as a legally permitted nonconforming
12 use, and the tower site's original landscape plan shall remain in
13 effect. Additionally, expansions of the footprint of an existing
14 wireless communication facility compound to accommodate collocation
15 shall not be deemed an expansion of a nonconforming use; provided,
16 however, that all additional accessory equipment shall be
17 landscaped pursuant to Section 656.1512(c), or as otherwise
18 determined by the Coordinator so long as the visual impacts of the
19 additional accessory equipment are mitigated. Final orders issued
20 by the Coordinator under this section may be appealed to the
21 Commission. When the Commission acts on an appeal filed under this
22 section, such action shall be deemed the final action of the City
23 as of the effective date of the final action by the Commission. A
24 final action under this section shall not be reviewed further by
25 the City Council. Any person with standing may challenge a final
26 action taken by the Commission in whatever way authorized by
27 federal or state law.

28 (b) Administratively approved antennas. Except for a historic
29 building, structure, site, object, or district, small cell antennas
30 governed by Part 4A, Ch. 711, Ordinance Code, or a tower included
31 in Section 656.1510(a), the Coordinator shall issue an order

1 authorizing the placement of a communication antenna on an existing
2 structure that meets the requirements set forth in subsections (1)-
3 ~~(4)~~(5) below.

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

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

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

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

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

21 * * *

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

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

30 * * *

31 **Sec. 656.1514. - Historic Landmarks, Historic Districts and**

1 **Neighborhood Conservation Districts.**

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

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

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

27 **Section 3. Effective Date.** This ordinance shall become
28 effective upon signature by the Mayor or upon becoming effective
29 without the Mayor's signature.

1 Form Approved:

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3 /s/ Paige Hobbs Johnston

4 Office of General Counsel

5 Legislation prepared by: Paige H. Johnston

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