



# Staff Report

## Text Amendment

Case #: TA-2017-05-00006

### Attachments:

Staff Report, Proposed Ordinance

Zoning Commission Public Hearing: Wednesday, July 19, 2017

City Council Introduction: Tuesday July 25, 2017

City Council Final: Tuesday August 8, 2017

### **City Council Request (Ordinance):**

Introduction of an Ordinance to amend UDC Ord#14-5364 Article 11.5 Communication Towers/Satellite to revise and add Standards for Wireless Facilities in Public Rights of Way (TA-2017-05-00006) Recommend approval by Zoning Commission

Public Hearing:

For: Berry Balfour

Against: None

Commission Recommendation:

Matt Sandifer recommend approval

For: Matt Sandifer, William Travis, Jimmy Meyer, Stanley Young

Against: None

Absent: Jeffrey Smith

Draft Ordinance Attached.

**AN ORDINANCE ESTABLISHING STANDARDS FOR WIRELESS  
FACILITIES IN THE PUBLIC RIGHTS-OF-WAY IN THE CITY OF HAMMOND**

WHEREAS, the City of Hammond ("City") desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of wireless facilities, while enabling the City to promote the management of the public rights-of-way in the overall interests of the public health, safety and welfare; and

WHEREAS, the City recognizes that wireless facilities are critical to delivering wireless access to advanced technology, broadband and 9-1-1 services to homes, businesses, schools within the City; and

WHEREAS, the City recognizes that wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, often may be deployed most effectively in the public rights-of-way; and,

WHEREAS, the City intends to fully comply with state and federal law to the extent it preempts local municipal control.

NOW, THEREFORE, BE IT ORDAINED by the Hammond City Council that ordinance #14-5364 is amended to add section 11.5.6 to read as follows:

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**11.5.6 Wireless Facilities in Public Rights of Way**

(A) Purpose. The purpose of this section is to establish policies and procedures for the placement of wireless facilities in public rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

(B) Intent. In enacting this Section, the City intends to establish uniform standards for wireless facilities, including without limitation, to:

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of facilities lawfully located in public rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees and vegetation;
- (5) preserve the character of the neighborhoods in which wireless facilities are installed; and
- (6) facilitate rapid deployment of wireless facilities to provide the benefits of advanced wireless services.

(C) Conflicts with Other Sections. This Section shall apply to all wireless facilities in public rights-of-way within the City's jurisdiction. All Sections or parts of Sections adopted prior hereto that are in conflict herewith are superseded, but only to the extent of such conflict.

(D) Definitions

(1) "Applicable Codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons to the extent not inconsistent with the terms of this Section.

(2) "Applicant" means any person who submits an application and is a wireless provider.

(3) "Application" means a request submitted by an applicant (i) for a Permit to collocate wireless facilities; or (ii) to approve the installation or modification of a utility pole or wireless support structure.

(4) "City Owned Pole" means (i) a utility pole owned or maintained by the City in the rights-of-way,

including a utility pole that provides lighting or traffic control functions, including light poles, traffic signals, and structures for signage, and (ii) a pole or similar structure owned or maintained by the City in the ROW that supports only Wireless Facilities.

(5) "Collocate" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning.

(6) "Day" means a day the city's administrative offices are open and does not include weekends or holidays.

(7) "Fee" means a one-time charge.

(8) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

(9) "Rate" means a recurring charge.

(10) "Review Committee" means a committee composed of five (5) members, being (a) the City Building Official, (b) the City Planner, (c) the City Director of Administration, and (d) two (2) members appointed by the Mayor.

(11) "Rights-of-Way" or "ROW" means the area on, below, or above a roadway, highway, street, sidewalk, alley, public place or similar property owned by the City or dedicated to the City, but not including a federal interstate highway, in the City.

(12) "Small Wireless Facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

(13) "Utility Pole" means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including city-owned poles. Such term shall not include structures supporting only Wireless Facilities.

(14) "Wireless Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(15) "Wireless Facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated.

(16) "Wireless Infrastructure Provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.

(17) "Wireless Provider" means a wireless infrastructure provider or a wireless services provider.

(18) "Wireless Services" means any services, whether at a fixed location or mobile, provided using wireless facilities.

(19) "Wireless Services Provider" means a person who provides wireless services.

(20) "Wireless Support Structure" means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or, other existing or proposed structure designed to support or capable of supporting wireless facilities. Such term shall not include a utility pole.

(E) Permitted Use; Application and Fees

(1) Permitted Use: Collocation of a wireless facility or a new or modified utility pole or wireless support structure for the collocation of a wireless facility shall be a permitted use subject to the restrictions in this Section.

(2) Permit Application for Wireless Facility. In addition to all other requirements of the Unified Development Code and other applicable ordinances of the City, all wireless facility applications for permits filed pursuant to this shall contain the following:

(a) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application, and

(b) A general description of the proposed work and the purposes and intent of the wireless facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.

(3) Routine Maintenance and Replacement. An application shall not be required for routine maintenance of any existing approved wireless facility. An application for replacement of an existing wireless facility will be required and must be approved by not less than three (3) members of the Review Committee; however there will be no application fee for an application for replacement of an existing approved wireless facility.

(4) Application Fees. Except as provided in section (3) above, all applications for permits pursuant to this Section shall be accompanied by a fee of One Hundred Dollars (\$100.00) for each wireless facility units up to five (5) addressed in the application and Fifty Dollars (\$50.00) for each additional wireless facility unit.

(F) Wireless Facilities in the ROW; Maximum Height; Other Requirements; Appeals

(1) Maximum Size of Permitted Use. Wireless facilities, and new or modified utility poles and wireless support structures for the collocation of wireless facilities may be placed in the public rights-of-way as a permitted use subject to the following requirements:

(a) Each application must be approved by at least three (3) members of the Review Committee for placement of all wiring, unit location, type of unit, and height all in accordance with zoning requirements; and

(b) Undergrounding Provisions. Applicant shall comply with nondiscriminatory undergrounding requirements that prohibit electric utilities, telecommunications or cable providers from installing structures in the public rights-of-way without prior zoning approval in areas zoned for single family residential use, provided such requirements shall not prohibit the replacement of existing structures; and

(c) Zoning. Applicant shall comply with all zoning ordinances of the City.

(2) Appeals.

(a) An Applicant may appeal any decision by the Review Committee to the Planning and Zoning Commission. The appeal must be filed within seven (7) days from the date of notice by the Applicant of the decision of the Review Committee.

(b) The Planning and Zoning Commission shall consider the appeal at its next regularly scheduled meeting or any special meeting called for the purpose of considering the appeal, unless the appeal is timely filed within ten (10) days of the next scheduled Planning and Zoning Commission meeting, in which case the appeal shall be considered at the following meeting of the Planning and Zoning Commission.

(G) Effect of Permit

(1) Authority Granted; No Property Right or Other Interest Created. A permit from the City authorizes an applicant to undertake only certain activities in accordance with this Section, and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have

an interest in the rights-of-way.

(2) Duration. No permit for construction issued under this Section shall be valid for a period longer than twelve (12) months unless construction has actually begun within that period and is thereafter diligently pursued to completion.

(H) Removal, Relocation or Modification of Wireless Facility in the ROW

(1) Notice. Within forty-five (45) days following written notice from the City, wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any wireless facilities within the public rights-of-way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the public rights-of-way.

(2) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any wireless facility located within the public rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a wireless facility and shall notify the wireless provider after cutting or removing a wireless facility.

(3) Abandonment of Wireless Facilities. Upon abandonment of a wireless facility within the public rights-of-way of the City, the wireless provider shall notify the City within forty-five (45) days. Following receipt of such notice the City may direct the wireless provider to remove all or any portion of the wireless facility if the City, or any of its departments, determines that such removal will be in the best interest of the public health, safety and welfare.

(I) ROW Rates

(1) Annual Rate. A wireless provider authorized to place wireless facilities in the public rights-of-way shall pay to the City for use of the public rights-of-way owned or controlled by the City the amount of Two Hundred Dollars (\$200.00) annually per wireless facility.

(2) Cease Payment. A wireless provider is authorized to remove its facilities at any time from the public rights-of-way and cease paying the City compensation for use of the public rights-of-way. The provider must provide the city thirty days prior notice of its intent for removal. The provider must restore the surface of the right of way in a manner and with material reasonable required by the city, including grading and sodding as appropriate.

(3) Make-Ready. For City-owned utility poles in the rights-of-way, the City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested wireless facility, including pole replacement if necessary, within sixty (60) days after receipt of a completed request. Make-ready work shall be at the sole cost of the wireless provider. Make-ready including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the wireless provider

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The above and foregoing ordinance having been duly submitted to the Hammond City Council in writing; introduced at a public meeting on \_\_\_\_\_, 2017, of the Hammond City Council and discussed at a public meeting held on \_\_\_\_\_, 2017; after motion and second was submitted to the official vote of the Hammond City Council.

On motion of \_\_\_\_\_ and seconded by \_\_\_\_\_, the foregoing ordinance was hereby declared adopted on \_\_\_\_\_, 2017, by the following roll call vote:

Votes: Johnny Blount ( ) Jason Hood ( ) Janice Carter Beard ( ) Lemar Marshall ( ) Mike Williams ( ). Motion carried.

WHEREFORE, the above and foregoing ordinance was declared duly adopted on this \_\_\_\_ day of \_\_\_\_\_ 2017, at Hammond, Tangipahoa Parish, Louisiana.

Lemar Marshall  
President, Hammond City Council

Honorable Pete Panepinto  
Mayor, City of Hammond

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Tonia Banks, Clerk  
Hammond City Council

INTRODUCED: \_\_\_\_\_, 2017

PUBLISHED: \_\_\_\_\_, 2017

ADOPTED: \_\_\_\_\_, 2017

DELIVERED TO MAYOR: \_\_\_\_\_, 2017

APPROVED BY MAYOR: \_\_\_\_\_, 2017

RECEIVED FROM MAYOR: \_\_\_\_\_, 2017