

ORDINANCE NO. 2021- 46

ORDINANCE AMENDING ORDINANCE NO. 89-104, AS AMENDED, CHAPTER 341 OF THE CODE OF THE CITY OF VINELAND ENTITLED EXCAVATIONS BY ADDING A NEW SECTION ENTITLED SITING OF POLES, CABINETS AND ANTENNAS AND AMENDING ORDINANCE 51, AS AMENDED CHAPTER 603 OF THE CODE OF THE CITY OF VINELAND ENTITLED STREETS AND SIDEWALKS BY ADDING A NEW SECTION ENTITLED SITING OF POLES, CABINETS AND ANTENNAS.

WHEREAS, the City of Vineland (“City”) is aware that certain technological developments have made access to its Municipal Rights-of-Way desirable by certain telecommunications companies for the placement of small cell wireless facilities (“Small Cells”); and

WHEREAS, the City is required to exercise ordinary care to maintain its streets and sidewalks and must not surrender or impair its control over the City streets; and

WHEREAS, the City acknowledges that its streets are used for the ordinary purposes of travel and such other uses as customarily pertain there-to which, in recent years, are numerous and various. It thus follows that these public ways must be kept free from obstruction, nuisances, or unreasonable encroachments which destroy, in whole or in part, or materially impair, their use as public thoroughfares; and

WHEREAS, the City has determined that its Municipal Rights-of-Way, such as they are or may be, themselves constitute a valuable resource, finite in nature, and which exists as a common right of the public to pass and repass freely over and across said lands without unreasonable obstruction or interference, and which therefore must be managed carefully ; and

WHEREAS, the Federal Telecommunications Act preserves local government’s ability to “manage the public Rights-of-Way... on a competitively neutral and non-discriminatory basis” 47 U.S.C. 253 (C); and

WHEREAS, the Federal Telecommunications Act preserves local government’s City over the, “placement, construction and modification of personal wireless service facilities” 47 U.S.C. 332(c)(7)(A); and

WHEREAS, the Federal Telecommunications Act makes it unlawful for local government to prohibit or have the effect of prohibiting the provision of personal wireless services 47 U.S.C. 332(c)(7)(B)(i)(II); and

WHEREAS, the Federal Telecommunications Act provides that municipalities “shall not unreasonably discriminate among providers of functionally equivalent services”; 47 U.S.C. 332(c)(7)(B)(i)(I); and

WHEREAS, recent developments in wireless technology, specifically the development of 5G, involve the placement of Small Cells and Cabinets in the Municipal Rights-of-Way; and

WHEREAS, New Jersey municipalities must give consent before a Small Cell, i.e. a small antenna, can be placed on existing poles pursuant to N.J.S.A. 48:3-19 and for the erection of New Poles within the municipal Rights-of-Way pursuant to N.J.S.A. 48:17-10; and

WHEREAS, the Federal Highway Administration has acknowledged the problem of overburdening the Municipal Right-of-way by stating, “[as] demand for the finite space in existing ROW increases, the difficulty and cost of adding new utility facilities and relocating existing utility facilities also increases. Just as significant is how utility service interruptions may add to public discontent with overall highway construction. It is therefore essential for planners, designers, and builders of street and highway projects to avoid unnecessary utility relocations...” Federal Highway Administration, Avoiding Utility Relocations, <https://fhwa.dot.gov/utilites/utilityrelo/2.cfm> (accessed March 7, 2018); and

WHEREAS, the Federal Communications Commission (FCC) has recently adopted an order entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” WT Docket No. 17-79; WC Docket 17-84, which places a shot clock on municipal review and approval for the placement of Small Cells on Existing Poles and the placement of New Poles and Cabinets in the Municipal Right-of-Way; and

WHEREAS, the erection of New Poles and Ground Level Cabinets in the Municipal Right-of-Way raises significant aesthetic and safety concerns; and

WHEREAS, Ground Level Cabinets attached to small cells trigger certain collocation requirements pursuant to Section 6409(a) of the middle Class Tax Relief and Jobs Creation Act of 2012 which raises serious concerns as to the ability of local government to protect the public’s interest in the Municipal Right-of-Way when it comes to aesthetics and the ability of the public to pass and repass over same; and

WHEREAS, New Poles and Ground Level Cabinets also raise concerns related to sight triangle encroachments and other safety related issues related to the use of roadways by the public; and

WHEREAS, the FCC in its recent order provides that municipalities can impose aesthetic and location requirements on Small cells where said requirements are: 1) reasonable; 2) no more burdensome than those applied to other types of infrastructure deployments; and 3) published in advance; and

WHEREAS, the FCC in its recent order further clarified what it considers “reasonable” aesthetic requirements by stating that “in assessing that this standard has been met, aesthetic requirements that are more burdensome than those the state or locality applies to similar infrastructure deployments are not permissible, because such discriminatory application evidences that the requirements are not, in fact, reasonable and directed at remedying the impact of the wireless infrastructure deployment;” and

WHEREAS, the FCC’s requirement that, in order to protect the aesthetics of the City’s Municipal Right-of-Way, it must treat like infrastructure in a like manner, necessitates the introduction of broader aesthetic requirements that apply to all Poles and Antennas and Cabinets in the Municipal Right-of-Way and not just Small Cells; and

WHEREAS, the City has determined that the most efficient way to effectuate this process is to create a Right-of-Way Permit system for all New Poles, Cabinets and Antennae in the Municipal Right-of-Way; and

WHEREAS, the City has determined that it is necessary to set forth clear standards in relation to the siting of Poles, Cabinets and Antennae for the benefit of its citizens and any utility which use or will seek to make use of said Municipal Right-of-way.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Vineland that Ordinance 89-104, as amended, Chapter 341 of the Code of the City of Vineland entitled Excavations be amended by adding a new section, Section 341-18 Siting of Poles, Cabinets and Antennas as follows:

Section 341-18 Siting of Poles, Cabinets and Antennas

Section 1 Definitions.

- a. **“Administrative Review”** means ministerial review of an Application by the City relating to the review and issuance of a Permit, including review by the City Planner, City Engineer, Utility Engineer and staff or designee to determine whether the issuance of a Permit is in conformity with the applicable provisions of this Chapter. This process does not involve the exercise of discretion. Either the issuance of a Permit is in conformity with the applicable provisions of this Chapter or it is not. This process is not subject to a public hearing.
- b. **“Antenna”** means communications equipment that transmits and/or receives over-the-air electromagnetic signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.
- c. **“Applicable Codes”** means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the City or otherwise are applicable in the jurisdiction.
- d. **“Applicant”** means a Person who submits an Application under this Model Code.
- e. **“Application”** means a written request submitted by an Applicant (such as the form annexed hereto as **Appendix B**) to a City for a Permit (i) to locate or Collocate, or to modify, a Communications Facility underground or on any existing Support Structure, Pole, or Tower, or (ii) to construct, modify or Replace a new Support Structure, Pole or Tower or any other structure on which a Communications Facility will be Collocated.
- f. **“City”** means the City of Vineland or any agency, county, municipality, district, subdivision or any instrumentality thereof, including, but not limited to public utility districts, or municipal electric utilities. The term shall not include courts of the State having jurisdiction over a City or any entities that do not have zoning or permitting jurisdiction within the City.
- g. **“City Pole”** means a Pole owned, managed or operated by or on behalf of the City.
- h. **“Collocate”** means to install, mount, maintain, modify, operate and/or replace a Communications Facility on an existing Support Structure, Pole, or Tower or any other structure capable of supporting such Communications Facility. “Collocation” has a corresponding meaning. The term does not include the installation of a new Utility Pole, Tower or Support Structure in the Public Right-of-Way.

“Communications Facility” means, collectively, the equipment at a fixed location or locations that enables communication between user equipment and a communications network, including: (i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.

- i. **“Communications Service Provider”** means a cable operator, as defined in 47 U.S.C. § 522(5), a provider of information service, as defined in 47 U.S.C. § 153(24); or a provider of telecommunications service, as defined in 47 U.S.C. § 153(53); or provider of fixed wireless or other wireless services as defined in 47 U.S.C. § 332(c)(7)(C)(i).
- j. **“Decorative Pole”** means a City Pole that is specially designed and placed for aesthetic purposes.
- k. **“Deployable”** means a portable, self-contained Wireless Facility that can be moved to a specified location or area and provide Wireless Services on a temporary or emergency basis such as a “cell on wheels” or “COW,” “cell on light truck” or “COLT,” tethered balloon, tethered drone or other unmanned device.
- l. **“Discretionary Review”** means review of an Application by the City relating to the review and issuance of a Permit that is other than an Administrative Review. Discretionary Review involves discretion on the part of the City (subject to any applicable limits on such discretion) in determining whether to issue a Permit and may be subject to one or more public hearings or meetings.
- m. **“Eligible Facilities Request”** means an eligible facilities request as set forth in 47 C.F.R. Section 1.40001(b)(3), as may be amended from time to time.
- n. **“FCC”** means the Federal Communications Commission of the United States.
- o. **“Fee”** means a one-time, nonrecurring charge, whether a fixed amount or cost- based amount based on time and expense.
- p. **“Historic Property”** means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the United States Secretary of the Interior (in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C) or established pursuant to the State of New Jersey historic preservation law.
- q. **“Ground Level Cabinets”** shall mean a Cabinet that is not attached to an Existing Pole or new Pole and is touching or directly supported by the ground which is part of a Communications Facility.
- r. **“Pole Mounted Cabinet”** shall mean a Cabinet that is proposed to be placed on an Existing or Proposed Pole which is part of a Communications Facility.
- s. **“Laws”** means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.

- t. **“Ordinary Maintenance, Repair and Replacement”** means (i) with respect to a Communications Facility and/or the associated Support Structure, Pole or Tower, inspections, testing, repair and modifications that maintain functional capacity, aesthetic and structural integrity, and (ii) with respect to a Communications Facility only, the replacement or upgrade of Antennas and/or other components of the Communications Facility (specifically, such as a swap out or addition of 5G Antennas and radio equipment as required by the Applicant), with Antennas and/or other components substantially similar, in color, aggregate size and other aesthetics to that previously permitted by the City (and/or consistent with the same height and volume limits for Wireless facilities under this Chapter), so long as the Support Structure, Pole, or Tower will structurally support, or prior to installation will be modified to support, the structural load. Modifications are limited to by the structural load analysis supplied by the Applicant to the City, and by the volume limits in Subsection 1.2(bb). Modifications beyond the foregoing must be requested in writing by the Applicant and are subject to Discretionary Approval by the City.
- u. **“Permit”** means a written authorization (in electronic or hard copy format) required by the City to initiate, continue, or complete installation of a Communications Facility, or an associated Support Structure, Pole, or Tower.
- v. **“Person”** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.
- w. **“Pole”** means a pole, such as a utility, lighting, traffic, or similar pole, made of wood, concrete, metal or other material, located or to be located within the Public Right of Way. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached unless the City grants a waiver for such pole. A Pole does not include a Tower or Support Structure.
- x. **“Provider”** means a Communications Service Provider or a Wireless Provider. A “Provider may also be referred to herein as “occupant” when referencing occupation of a Public Right of Way.
- y. **“Public Right of Way” or “Public ROW”** means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, but not including a federal interstate highway or other area not within the legal jurisdiction, or within the legal ownership or control of the municipality.
- z. **“Rate”** means a recurring charge.
- aa. **“Replace” or “Replacement”** means, in connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, similar in design, size and scale to the existing structure and in conformance with current City Code and Policies, in order to address limitations of, or change requirements applicable to, the existing structure to structurally support Collocation of a Communications Facility. In connection with replacement of a Pole or Tower to support Collocation of a Wireless Facility, similarity in size and scale shall be evaluated consistent with 47 C.F.R. 1.40001 Subpart b(7).

- bb. **“Small Wireless Facility”** means a Wireless Facility that meets both of the following qualifications: (i) each Wireless Provider’s Antenna (including, without limitation, any strand-mounted Antenna) could fit within an enclosure of no more than 1.2 cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 2.2 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, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for connection of power and other services.
- cc. **“State”** means the State of New Jersey.
- dd. **“Support Structure”** means a building, a billboard, a water tank or any other structure to which a Communications Facility is or may be attached. Support Structure does not include a Pole or a Tower.
- ee. **“Tower”** means any structure built for the sole or primary purpose of supporting a Wireless Facility, such as a self-supporting Tower, a monopole, a lattice Tower or a guyed Tower. Tower also includes a structure designed to conceal from the general public the Wireless Facility. A Tower does not include a Pole or a Support Structure.
- ff. **“Wireless Facility”** means a Communications Facility installed and/or operated by a Wireless Provider. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one example of a Wireless Facility.
- gg. **“Wireless Infrastructure Provider”** means any Person, including a Person authorized to provide telecommunications service in the State, that builds or installs and/or operates Wireless Facilities or Poles, Towers or Support Structures on which Wireless Facilities are or are intended to be used for Collocation, but that is not a Wireless Services Provider.
- hh. **“Wireless Provider”** means a Wireless Infrastructure Provider or a Wireless Services Provider.
- ii. **“Wireless Services”** means any wireless services including, without limitation, personal wireless services as that term is defined in 47 U.S.C. § 332(c)(7)(C)(i), fixed wireless and other wireless services.
- jj. **“Wireless Services Provider”** means a Person who provides Wireless Services.

Section 2. Governance of Deployment in the Public ROW

2.1 General Provisions of Agreement for Access to Public ROW

A. Fees and Rates

As a condition to the effectiveness of a permit to install a communications Facility in the Public Right of Way, the Applicant shall pay the following Fees and Rates, as more particularly set forth in this Chapter

(i) Fees and Rates. The Applicant will pay the following Fees and Rates:

(a) **Application Fee**, equal to \$500.00 for a single Permit, and \$100.00 for each additional colocation site on an Existing Pole for multiple number of similar Applications submitted simultaneously by a Wireless Provider or any other Communications Service Provider to the City shall be paid upon submission of the Application.

(b) **Make-Ready Fee**, determined on a site-specific, engineering basis, for work reasonably necessary to make a particular City Pole suitable for attachment of the applicable Communications Facility shall be paid upon submission of the Application as more particularly described in Subsection 2.3(f) below.

(c) **Annual ROW or Occupancy Rate**, for non-exclusive occupancy of the Public ROW by the Applicant, equal to \$270.00 per year per installation shall be paid within thirty (30) days of issuance of the applicable Permit(s) and annually thereafter.

(d) **Annual Attachment Rate**, equal to \$100.00 for attachment to a City Pole in the amount shall be paid within thirty (30) days of issuance of the applicable Permit(s) and annually thereafter.

(e) **Generally Applicable, Non-discriminatory Fees**, such as those required for land use board applications, electrical Permits, building Permits, or street opening Permits, shall be paid by Applicant as required in the applicable provisions of the City Code.

(f) **Deposit Towards Anticipated Municipal Expenses:**

(i) In addition to the Right-of-Way Permit Fee, the City shall, require the posting of a two thousand-dollar (\$2,000.00) Deposit Towards Anticipated Municipal Expenses related to an application made pursuant to this Chapter.

(ii) Applicant's Deposit Towards Anticipated Municipal Expenses shall be placed in an escrow account. If said deposit contains insufficient funds to enable the City to perform its review, the Chief Financial Officer of the City shall provide applicant a notice of insufficient balance. In order for review to continue, the applicant shall, within ten (10) days post an additional two thousand-dollar (\$2,000.00) deposit.

(iii) The Chief Financial Officer shall, upon request by the applicant, and after a final decision has been made by the City Council regarding his or her pending Right-of-Way Permit application, and subject to review by the City Engineer and City Solicitor, refund any unused balance from applicant's Deposit Towards Anticipated Municipal Expenses.

(g) An Applicant shall not be subject to any municipal Fees or Rates, other than those expressly cited above or as may be otherwise negotiated between an Applicant and the City.

(h) The Applicant, or person who owns or operates the Communications Facility installed in the Public ROW (including, without limitation, on a City Pole) may remove its facilities at any time from the Public ROW, upon not less than thirty (30) days prior written notice to the City and may cease paying to the City any applicable Fees and Rates for such use, as of the

Section 2.2 Permitted Communications Facility Uses/Administrative Review; Application

A. Permitted Use. The following uses within the Public ROW shall be a permitted use, subject to Administrative Review only and issuance of a Permit as set forth in this Section 2.2. All such uses shall be in accordance with all other applicable provisions of this Chapter, including without limitation, those set forth in Section 2.5 below:

- (i) Collocation of a Small Wireless Facility or a Collocation that qualifies as an Eligible Facilities Request;
- (ii) Modification of a Pole, Tower or Support Structure or Replacement of a Pole, for Collocation of a Communications Facility that qualifies as an Eligible Facilities Request or involves a Small Wireless Facility that does not exceed the maximum limitations set forth in Subsection 2.3(c)(i)(A)(i) below. All other such modifications or Replacements are subject to Discretionary Review.
- (iii) Construction of a new Pole to be used for Collocation of a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 2.3(c)(i)(A)(1) below; and
- (iv) Construction of a Communications Facility, other than those set forth in subparagraphs (i), (ii) or (iii) in this Subsection 2.2(a), involving the installation of coaxial, fiber-optic or other cabling, that is installed underground (direct buried or in conduit) or aboveground between two or more Poles or a Pole and a Tower and/or Support Structure, and related equipment and appurtenances.

- a. Permit Required. No Person shall place any facility described in Subsection 2.2(a) above in the Public ROW without first filing an Application for same and obtaining a Permit therefor, except as otherwise expressly provided in this Chapter.
- b. Proprietary or Confidential Information in Application. The City shall make accepted Applications publicly available. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the City shall treat the information as proprietary and confidential, subject to applicable State and local “freedom of information,” Common Law Right to Know and/or Open Public Records Act Laws and the City’s determination that the Applicant’s request for confidential or proprietary treatment of an Application material is reasonable.
- c. Administrative Review Application Requirements. The Application shall be made by the applicable Provider or its duly authorized representative and shall contain the following:

- (i) The Applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.
 - (ii) 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.
 - (iii) A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed.
 - (iv) Detailed construction drawings regarding the proposed facility as may be required by the Code of the City of Vineland.
 - (v) To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by an engineer licensed in the State of New Jersey evidencing that the Pole, Tower or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.
 - (vi) For any new aboveground facilities, visual depictions or representations if not included in the construction drawings.
- d. Ordinary Maintenance, Repair and Replacement. An Application shall not be required for Ordinary Maintenance, Repair and Replacement, other than to the extent required for Permits described in Subsection 2.5(b)(iii) below.
 - e. Information Updates. Any material change to information contained in an Application shall be submitted in writing to the City Engineer and Planning Division within thirty (30) days after the change necessitating the change.
 - f. Application Fees. Unless otherwise provided by applicable Laws, all Applications pursuant to this Chapter shall be accompanied by the Fees required under Subsection 2.1(a) above.

Section 2.3 Action on Administrative Review Applications

- a. Review of Applications for Administrative Review.
 - (i) The City shall review the Application in light of its conformity with applicable provisions of this Chapter, and shall issue a Permit on nondiscriminatory terms and conditions, subject to the following requirements:
 - (A) Within twenty (20) days of receiving an Application, the City must determine and notify the Applicant whether the Application is complete; or if an Application is incomplete, the City must specifically identify the missing information, and may toll the approval interval in Subsection 2.3(a)(i)(B) below. The Applicant may resubmit the completed Application within twenty (20) days without additional charge, and the subsequent review will be limited to the

specifically identified missing information subsequently completed, except to the extent material changes to the proposed facility have been made by the Applicant (other than those requested or required by the City) in which case a new Application and Application Fee for same must be submitted; and

- (B) The City must make its final decision to approve or deny the Application within sixty (60) days for a collocation, and ninety (90) days for any new structure, after the Application is complete (or deemed complete);
 - (C) The City must advise the Applicant in writing of its final decision, and in the final decision document the basis for a denial, including specific code provisions and/or regulations on which the denial was based. A decision to deny an application shall be in writing and supported by evidence contained in a written record and sent to the applicant. The written decision, supported by such evidence, shall constitute final action by the City. The review period or “shot clock” shall run until the written decision, supported by evidence, is released and sent to the Applicant contemporaneously. The Applicant may cure the deficiencies identified by the City and resubmit the Application within 30 days of the denial without paying an additional Application Fee unless denial was issued due to non-compliance with Design Guidelines or other requirements under this Article II (in which case a new Application Fee must be paid). The City shall approve or deny the revised Application within thirty (30) days of receipt of the revised Application. The subsequent review by the City shall be limited to the deficiencies cited in the original denial and any material changes to the Application made to cure any identified deficiencies.
- (ii) If the City fails to act on an Application within the review period referenced in Subsection 2.3(a)(i)(B), the Applicant may provide the City written notice that the time period for acting has lapsed, and the City then has twenty (20) days after receipt of such notice within which to render its written decision, failing which the Application is then deemed approved by passage of time and operation of law. Applicant shall provide notice to the City at least seven (7) days prior to beginning construction or collocation pursuant to a Permit issued pursuant to a deemed approved Application, and such notice shall not be construed as an additional opportunity for objection by the City or other entity to the deployment.
 - (iii) An Applicant seeking to construct, modify or replace a network of Communications Facilities may, at the Applicant’s discretion and subject to the City’s batch Application requirements and process under Section 2.7 below, file a consolidated Application and receive a single Permit for multiple Communications Facilities, or multiple Permits. The City’s denial of any site or sites within a consolidated Application shall not affect other sites submitted in the same Application. The City shall grant a Permit(s) for any and all sites in a consolidated

Application that it does not otherwise deny, subject to the requirements of this Section.

- b. Review of Eligible Facilities Requests. Notwithstanding any other provision of this Chapter, the City shall approve within sixty (60) days and may not deny Applications for Eligible Facilities Requests according to the procedures established under 47 C.F.R. 1.40001(c).
- c. Small Wireless Facilities; Maximum Height; Other Requirements.
 - (i) Maximum Size of Permitted Use. Small Wireless Facilities, and new, modified or Replacement Poles, Towers and Support Structures (subject to the further limitation for Replacement of Support Structures described in Subsection 1.2(aa) above) to be used for Collocation of Small Wireless Facilities may be placed in the Public Right of Way as a permitted use in accordance with this Subsection 2.2, subject to the following requirements:
 - (A) Each new, modified or Replacement Pole, Tower or Support Structure installed in the Public ROW shall not exceed:
 - 1. Ten (10) percent above the average height of existing Poles in the surrounding ROW but in no event exceeding 50 feet above ground level in the Public ROW.
- d. Discretionary Review Requirements. Unless an Applicant seeks to install a Communications Facility that conforms to the specific uses and size and height limitations set forth in Subsection 2.2(a) above (or involves Ordinary Maintenance, Repair and Replacement), the Application shall be subject to the Discretionary Review - e.g., zoning/land use - requirements set forth elsewhere in the City Code and/or policies applicable to construction and placement of such facilities.
- e. Undergrounding Provisions. The City shall administer undergrounding provisions in a non-discriminatory manner. It shall be the objective of the City and all Public ROW occupants to minimize disruption or discontinuance of service of all kinds to consumers, through mutual obligation to coordinate and timely complete such projects.

An occupant shall comply with nondiscriminatory City undergrounding requirements that 1) are in place and published prior to the date of initial filing of the Application, and 2) prohibit electric, telecommunications and cable providers from installing above-ground horizontal cables, Poles, or equivalent vertical structures in the Public ROW; and the City may require the removal of overhead cable and subsequently unused Poles. In areas where existing aerial utilities are being moved underground, Wireless Providers shall retain the right to remain in place, under their existing authorization, by replacing the existing Pole(s) or vertical structure locations for Antennas and accessory equipment with a similar type Pole, such as a Decorative Pole or existing Pole used for lighting, as a permitted use, within 50 feet of the prior location, unless a minimally greater distance is necessary for compelling public welfare.

In neighborhoods or areas with existing underground utilities that do not have Small Wireless Facilities deployed as a permitted

use, a new entrant Wireless Provider applying after utilities have been placed underground shall first seek existing vertical structure locations, if technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved Permit, the Applicant shall be entitled to place Poles or vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures in the neighboring underground utility area. The location of such structures shall take into consideration the use and need of the ROW by other utilities.

In neighborhoods or areas with existing underground utilities that do have Small Wireless Facilities deployed as a permitted use, a new entrant Wireless Provider applying after utilities have been placed underground shall first seek existing vertical structure locations. The Applicant shall provide substantial evidence that the use of existing vertical structures are not technically feasible for the wireless service to be deployed. To the degree such vertical structures are not available, and upon receiving an approved Permit, the Applicant shall be entitled to place Poles or approved vertical structures as necessary to provide the wireless service using vertical structures commensurate with other vertical structures of Wireless Providers in the neighboring underground utility area.

In neighborhoods with underground utilities, whether being converted from overhead utilities or initially underground, microwireless devices, typically strand-mounted, shall be treated like other Small Wireless Facilities in the Public ROW, requiring permitted use status, and subject to non-recurring and recurring Fees and Rates.

f. Underground Construction.

- (i) Placement. Unless agreed to in writing by the City in advance, underground facilities may, in general be placed between the property line and the curb line of all streets and avenues. Underground facilities shall have consistent alignment parallel with the edge of pavement and, unless agreed to in writing by the City, shall have a minimum [two-foot - OR consider local conditions] horizontal and vertical clearance from other underground utilities and their appurtenances.
- (ii) Depth. Unless agreed to in writing in advance by the City, the depth of installed facilities shall be, at a minimum, measured from the bottom of the facility to the top of the cable, as follows:
 - (a) If the road style and other conditions permit, microtrenching no more than sixteen (16) inches in soil;⁴
 - (b) Twenty-four (24) inches in soil; (may be up to 48" depending on local conditions)
 - (c) Twenty-four (24) inches below a projected slope from the flowline of a ditch at a three (3) horizontal and one (1) vertical slope;
 - (d) Forty-eight (48) inches under a roadway measured from the surface of said roadway to the top of the installation;
 - (e) Forty-eight (48) inches under a stormwater or creek channel design flowline; and

- (f) Twenty-four (24) inches under all water and natural gas lines.
- (ii) Excavations. Excavations shall be promptly backfilled according to City standards and the earth shall be restored to original grade and condition to assure no hazard to vehicular or pedestrian traffic. The Public ROW occupant shall perform all necessary compaction tests in accordance with the latest design and construction specifications approved and disseminated by the City setting forth requirements for backfill and paving cut repairs (e.g., standard concrete pavement cut and repair; standard asphalt pavement cut and repair, etc.).

(iv) Repair and Replacement. The repair or replacement of any sidewalk, any driving surface and the base of any roadway shall comply with City standards, pursuant to engineering plans on file with the City and may require additional removal to the nearest joint in all directions. Performance and payment of such repair and restoration shall be the responsibility of the Applicant, unless the City elects, in its sole discretion, to perform such repair or restoration, in which case Applicant will reimburse City for all actual and reasonable costs within thirty (30) days of demand by City for payment.

(iiv) Casement. Underground conduit shall be placed in such a manner so it can be located by any Public ROW occupant. All conduit should have sequentially marked footage at every foot. The approved methods of locating conduit are by using locatable pull tape, installing a ground wire, using a toneable duct or installing armored cable. All Public ROW occupants shall make all reasonable efforts to ensure that all existing facilities shall be marked during the normal course of business.

(iiiv) Construction Signage.

(a) Any permittee excavating or obstructing any portion of the ROW shall erect a temporary sign displaying either: (1) The names of the Public ROW occupant, any contractors and/or subcontractors involved in the project and the City Permit number authorizing said activity; or (2) the names of the Public ROW occupant and a local telephone number or toll free number manned during regular business hours by an individual who is knowledgeable about the construction project. The sign shall be visible from any adjacent traffic lane and shall be maintained throughout the duration of the project.

(b) All vehicles used, parked or stored by or on behalf of a Public ROW occupant or permittee within a permitted construction zone shall be clearly marked, providing the name of the facility's owner, the permittee, the contractor or subcontractor. Any unmarked vehicles shall be subject to all moving and parking ordinances. Private vehicles shall not be permitted to be parked or stored within any permitted work zone at any time.

(c) A copy of the current Permit shall be maintained on each work site, and shall be presented upon request to any City representative.

(i) City 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 Chapter, 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 Public ROW.

(ii) Duration. Any Permit for construction issued under this Section shall be valid for a period of six (6) months after issuance, provided that the six month period shall be extended for up to two additional 3 month periods upon written request of the Applicant (made prior to the end of the initial 6 month period and made prior to the end of the first 3 month extension) if the failure to complete construction is delayed as a result of circumstances beyond the reasonable control of the Applicant in the sole discretion of the City.

g. Removal, Relocation or Modification of a Communications Facility in the ROW.

(i) Notice. Within ninety (90) days following written notice from the City, a Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Communications Facility within the Public ROW 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 ROW. The City shall apply the same standards to all utilities in the Public ROW.

(ii) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut power to or move any Communications Facility located within the Public ROW of the City, as the City may determine to be necessary, appropriate or useful in response to any public welfare emergency, or safety emergency. If circumstances permit, the City shall notify the Provider and provide the Provider an opportunity to move its own facilities prior to cutting power to or removing the Communications Facility and in all cases shall notify the Provider after cutting power to or removing the Communications Facility as promptly as reasonably possible.

Abandonment of Facilities. A Provider is required to notify the City of abandonment of any Communications Facility at the time the decision to abandon is made, however, in no case shall such notification be made less than 30 days prior to abandonment. Such notice shall describe the facilities for which the use is to be discontinued, and the date of discontinuance of use. Upon notification, the City will choose from the following options within 30 days or any other agreed upon option, and so notify the occupant of its decision:

1. Abandon the facilities in place and the occupant shall further convey full title and ownership of such abandoned facilities to the City. The occupant is responsible for all obligations of the facilities, or other associated liabilities until the conveyance to the City is completed; or
2. The facilities shall be removed and the occupant shall be liable for removing the facilities at its own cost. If an occupant fails to remove facilities that the City requires it to remove, after ninety (60) days notice to the occupant, the City may perform the work and shall be entitled to collect the cost from the occupant its successors and/or assigns.

(iii) Structural reconditioning, repair and replacement. From time to time, the City may paint, recondition, or otherwise improve or repair the City Poles (“Reconditioning Work”). The Provider shall reasonably cooperate with the City to carry out Reconditioning Work activities in a manner that minimizes interference with the Provider’s approved use of the facility.

(A) Prior to commencing Reconditioning Work, the City will use reasonable efforts to provide the Provider with at least sixty (60) days prior written notice. Upon receiving that notice, it shall be the Provider’s sole responsibility to provide adequate measures to cover, remove, or otherwise protect the Provider’s Communications Facility from the consequences of the Reconditioning Work, including but not limited to paint and debris fallout. The City reserves the right to require the Provider to remove all of the Provider’s Communications Facility from the City Pole and surrounding premises during Reconditioning Work, provided the requirement to remove same is contained in the written notice required by this Subsection. All cost associated with the protection measures, including temporary removal, shall be the sole responsibility of the Provider. If the City fails in good faith to give notice of less than sixty (60) days notice, it will not affect the City’s rights under this Subsection. The City will provide the Provider with a date by which its equipment must be protected or removed.

- (B) The Provider may request a modification of the City procedures for carrying out Reconditioning Work in order to reduce the interference with Provider's operation of its Communications Facility. If the City agrees to the modification, the Provider shall be responsible for all reasonable incremental cost related to the modification.
- (C) If the City Poles need to be replaced ("Replacement Work"), the City shall provide Provider with at least sixty (60) days written notice to remove its Communications Facilities. The City shall also promptly notify Provider when the City Poles have been replaced and Provider may re-install its equipment. During the Replacement Work, the Provider may maintain a temporary Communications Facility provided it does not impair the health or safety of people, or after approval by City, on any land owned or controlled by City, in the vicinity of the property. If the property will not accommodate the Provider's temporary Communications Facility or if the parties cannot agree on a temporary location, the Provider, at its sole option, shall have the right to suspend the applicable permit, until the replacement Pole is installed, upon thirty (30) days written notice to the City.

If the City Poles need to be repaired due to storm or other damage ("Repair Work"), the City shall notify the Provider to remove its Communications Facilities as soon as possible. In the event of an emergency, the City shall contact the Provider by telephone at its emergency contact of record upon or prior to removing the Provider's equipment. Once the City Poles have been replaced or repaired, the City will promptly notify the Provider that it can reinstall its equipment. During City Repair Work, the Provider may maintain a temporary Communications Facility provided it does not impair the health or safety of people, or after approval by the City, on any land owned or controlled by the City in the vicinity of the property. All cost associated with any removal or protection of Communications Facilities shall be the sole responsibility of the Provider.

h. Attachment to City Poles in the Public ROW.

- (i) Make-Ready. For any attachment to City Poles in the Public ROW, the City shall provide a good faith estimate for any make-ready work necessary to enable the City Pole to support the proposed facility, including Replacement of the Pole if necessary, within sixty (60) days after receipt of a completed Application requesting attachment to the City Pole. Make-ready work including any Pole Replacement shall be completed within one hundred and twenty (120) days of written acceptance of the good faith estimate by the Provider. Such acceptance shall be signified by payment via check or other commercially reasonable and customary means specified by the City.

Section 2.4 Applications Requiring Discretionary Review and Approval.

- a. Discretionary Review Required. All other uses not expressly set forth or referenced in Subsection 2.2(a) above shall require compliance with, and issuance of a Permit under the appropriate section of the Code of the City of Vineland.

Section 2.5 Other Public ROW Installation Requirements.

- a. General Principles.
- (i) The City shall have the power to establish reasonable and non-discriminatory limitations on the placement of new or additional facilities within specific congested segments of the Public ROW if there is insufficient space to accommodate all of the requests of Applicants or other Persons to occupy and use the Public ROW. In making such decisions, the City shall to the extent possible accommodate all existing users and potential users (i.e. those who have submitted an Application to deploy facilities within the Public ROW) of the Public ROW, and shall be guided primarily by considerations of the public interest, the width and physical condition of the Public ROW, the time of year with respect to essential utilities, the protection of existing facilities in the Public ROW and established plans for public improvements and development projects which have been determined to be in the public's interest.
 - (ii) Leasing of excess space in ducts, conduits and on a Pole is a matter between interested parties (subject to any applicable Pole Attachment regulations and any other applicable statutory, regulatory or contractual obligations); however, lessees or licensees of such physical facilities must still comply with the terms of this Chapter, unless otherwise expressly exempted by the City.
 - (iii) An occupant of the Public ROW shall employ due care during the installation and maintenance process, and comply with all safety and Public ROW-protection requirements of applicable Federal, State and local Laws (and any generally applicable City guidelines, standards and practices), and any additional commonly accepted safety and Public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable Laws). All facilities under the streets of the City shall be kept and maintained in a safe and well-ordered condition, and in good order and repair.

- (A) Any permittee occupying any portion of the Public ROW shall erect a barrier around the perimeter of any excavation and provide any and all traffic-control devices, signs and lights appropriate to the level of complexity of the activity in order to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic-control plan in accordance with the Uniform Manual of Traffic Control Devices and approved by the City Engineer and Vineland Police Department as appropriate.
 - (B) Occupants of the Public ROW with open excavations awaiting final restoration shall maintain all devices as set forth herein.
 - (C) Each occupant shall designate a safety officer. The safety officer shall be responsible for safety-related issues affecting both the public and the occupant's field employees and contractors for all job sites within the Public ROW. Prior to any excavation, the occupant shall he occupant shall notify the City Engineer of the name and all contact information for the safety officer.
- (iv) Location of Existing Facilities.
- (A) An occupant of the Public ROW shall not place any fixtures or equipment where the same will interfere with any existing facility, and shall locate its lines and equipment in such a manner as not to interfere with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Public ROW.
 - (B) To minimize disruption of public passage or infrastructure, to forestall or relieve overcrowding of the Public ROW, or to protect Historic Property or environmentally sensitive areas, the City may require, as a condition of issuing any Permit for placement of underground facilities that the occupant place empty conduits in excess of its own present and reasonably foreseeable requirements for the purpose of accommodating the City's use. The occupant shall cooperate with the City in any such construction and shall notify the City prior to closure or completion of installation of conduits, trenches or bores. The City may then notify the occupant in writing that it is interested in sharing the trenches or bores in the area where the construction is occurring. The occupant shall allow the City to place its infrastructure in the occupant's trenches and bores as requested by the City, provided that the City incurs an incremental share of the costs of trenching, boring, and placing the conduit/infrastructure. The City shall be responsible for maintaining its facilities buried in the trenches and bores or otherwise placed in the Public ROW under this Subsection.

(C) Before beginning excavation in any Public ROW, an occupant shall contact the regional notification center for subsurface installations (One-Number Locator Service) to determine possible conflicts. The occupant shall provide the City with proof of such notification.

(v) Relocation of Existing Facilities.

(vi) If relocation of facilities is required as a result of any public project, the City shall provide the greatest practical advance notice to the affected occupants of the Public ROW and shall facilitate the greatest reasonable project coordination among the affected occupants, whereas coordinated sequencing dependencies are common. Generally, projects of greater scale and scope will have a longer planning horizon, and commensurate notice. Ten (10) days after notification as outlined in this Subsection, the City may remove any Communications Facilities that obstructs the progress of a public project. All costs associated with any removal or protection of Communications Equipment shall be the sole responsibility of the Provider.

(A) The objective of the relocation process recognizes the mutual obligations and responsibilities of the City and the Public ROW occupants to avoid or minimize service disruption and to timely and economically complete the public project. Public ROW occupants are obligated to proceed with diligent speed and attention so as to not unreasonably delay or complicate a public project.

(B) As general guidance, projects involving a public project of greater than \$50,000.00 dollars, or more than ten (10) utility poles, or more than one thousand (1000) frontage feet of public roadway would be smaller projects; and projects greater than any of the above would be larger projects. A reasonable, general expectation is that that smaller projects would provide ninety (90) days' notice, and larger projects would provide one hundred and eighty (180) days' notice to complete the relocation of the Public ROW occupants.

(C) Unless otherwise provided by applicable Laws, the occupant, at no cost to the City, shall accomplish the necessary relocation within a reasonable time from the date of the notification, but, in no event, no later than seven (7) days prior to the date the City has notified the occupant that it intends to commence its work which mechanically requires the occupant's relocation, or immediately in the case of emergencies. With as much notice as possible, but in no event less than sixty (60) days following written notice from the City, a Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Communications Facility within the Public ROW 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 ROW. The City will use its best efforts to accommodate the Provider's request for relocation of the Communications Facility.

- (D) Except as provided in Section 2.5(a)(iv)(B), the City may not directly or indirectly require an Applicant to perform services unrelated to the Communications Facility or Support Structure for which approval is sought, such as in-kind contributions, except reserving fiber, conduit or pole space for the City. Notwithstanding the foregoing, an Applicant may offer in-kind contributions related to Communications Facility or Support Structure for which approval is sought, on a reasonable and nondiscriminatory basis, including by contributing the cash value of an in-kind contribution already provided by another party.

(vii) In the event of an emergency where any Communications Facility in the Public ROW creates or is contributing to an imminent danger to health, safety, or property, the City may protect, support, temporarily disconnect, remove, or relocate any or all parts of such Communications Facility, and charge the occupant for actual and reasonable costs incurred. The City shall engage the emergency contact information of record or best available, if possible for prior notice, and if not possible because of emergent and imminent danger, shall notify the occupant promptly afterwards. Abandonment of Facilities.

b. Additional Requirements.

- (i) General. All deployments of Communications Facilities in the Public ROW shall comply with the following:
 - (A) Compliance with ADA and other applicable Federal, State and local Laws and standards.
 - (B) Pedestrian and vehicular traffic and safety requirements established by the City.
 - (C) Existing Public ROW occupancy or management ordinances, not otherwise inconsistent with this Chapter.
- (ii) Design Standards. All aboveground Communications Facilities in the Public ROW requiring Administrative Review only shall conform to the following non-discriminatory design guidelines generally applicable to all facilities in the Public ROW
 - (A) Add shape and other requirements for attachments and ground-based equipment.
 - (B) If the proposal involves Collocation on or Replacement of a Decorative Pole, such collocation or Replacement must comply with Section 2.6 below.
 - (C) If the proposal involves attachment to or a new Pole or Tower on or adjacent to a Historic Property, consider further requirements.
 - (D) Reasonable public safety standards.

- (E) Reasonable stealth and concealment requirements that are consistent and set forth in writing, provided that such design standards may be waived by the City upon a showing that the design standards are not reasonably compatible for the particular location of a Small Wireless Facility or that the design standards impose an excessive expense.
- (F) Ground Level Cabinets are prohibited in all Residential Zones. Ground Level Cabinets are permitted in non-residential zones provided that each Ground Level Cabinet:
 - 1 Is less than twenty eight cubic feet in volume; and
 - 2 Is finished and/or painted so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
 - 3. Does not inhibit an existing sight triangle or sight distance
 - 4. Allows adequate room for the public to pass and repass across the Public Right of Way.

- (iii) Additional Permits. In addition to obtaining a Permit for installation of a Communications Facility in the Public ROW, an Applicant must obtain the following additional permits: street opening permit, electrical permit and such other permit as required by the Code of the City of Vineland.
- (iv) Placement of facilities. The City engineer may assign specific corridors within the Public ROW, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology that the City engineer expects will someday be located within the Public ROW. All excavation, obstruction, or other Permits issued by the City engineer involving the installation or replacement of facilities shall designate the proper corridor for the facilities.

Mapping Data. Applicants shall provide to the City engineer information indicating the horizontal and approximate vertical location, relative to the boundaries of the Public ROW, of all equipment which it owns or over which it has control and which is located in any Public ROW. Mapping data shall be provided with the specificity and in the format requested by the City engineer for inclusion in the mapping system used by the City Engineer.

c. Existing Utility Easements in the Public Right of Way.

- (i) Applicants will work with the City engineer to coordinate and protect existing utilities in the Public ROW.
- (ii) Applicants will coordinate with the City engineer all public safety considerations prior to and during installation in the Public ROW to ensure public safety response in the case of gas line, water line or electricity disturbance.

Section 2.6 Attachment to and Replacement of Decorative Poles.

Notwithstanding anything to the contrary in this Chapter, an Applicant may install a Small Wireless Facility on a Decorative Pole, or may Replace a Decorative Pole with a new Decorative Pole that is in keeping with the aesthetics of the existing Decorative Pole, in the event the existing Decorative Pole will not structurally support the attachment, only upon satisfaction of the following additional requirements:

- (i) Issuance of a Permit under Subsection 2.2(a) above.
- (ii) The attachment and/or the Replacement Pole is in keeping with the aesthetics of the Decorative Pole in the judgement of the City.

Section 2.7 Batch Applications.

An Applicant may submit simultaneously not more than five (5) Applications to the City. Alternatively, Applicant may file a single, consolidated Application covering such facilities.

Article III. Governance of Deployment Outside the Public ROW

Section 3.1 Permitted Communications Facility Uses Administrative Review; Application and Fees.

- a. Permitted Use. The following uses outside the Public ROW, on privately-owned property, shall be a permitted use, subject to Administrative Review only and issuance of a Permit as set forth in this Section 3.1, and subject to Applicant's legal right to install and operate the Communications Facility on the property or structure:
 - (i) Collocation of a Small Wireless Facility or a Collocation that qualifies as an Eligible Facilities Request on privately-owned property consistent with the height and other limitations set forth in Subsection 2.3(c) above;
 - (ii) Modification of a Pole, Tower or Support Structure, or Replacement of a Pole or Tower, for Collocation of a Communications Facility on privately owned property (including within a Utility Easement that contains other existing Poles) that qualifies as an Eligible Facilities Request or involves a Small Wireless Facility that does not exceed the limitations set forth in Subsection 2.3(c)(i)(A)(1) above. All other such modifications or Replacements are subject to Discretionary Review by the appropriate Land Use Board of the city of Vineland;
 - (iii) Construction of a new Pole (or monopole Tower), within a Utility Easement on which there currently exist adjacent Poles that are unavailable for Collocation due to structural, accessibility or other reasons, to be used for Collocation of a Small Wireless Facility (that does not exceed the maximum height set forth in Subsection 2.3(c)(i)(A)(1) above), and the new Pole (or monopole Tower) is similar in design, size and scale to those of the existing, adjacent Poles; and
 - (iv) Construction of a Communications Facility, other than those set forth in subparagraphs (i), (ii) or (iii) in this Subsection 3.1(a), involving the installation of coaxial, fiber-optic or other cabling, that is installed underground (direct buried or in conduit) or aboveground between two or more Poles or a Pole and a Tower and/or Support Structure, and related equipment and appurtenances.

- b. Permit Required. No Person shall place a facility described in Subsection 3.1(a) or perform any construction activities above without first filing an Application for same and obtaining a Permit therefor, except in Subsection 1.2(s) or as otherwise expressly provided in this Chapter.
- c. Proprietary or Confidential Information in Application. The City shall make accepted Applications publicly available. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the City shall treat the information as proprietary and confidential, subject to applicable State and local “freedom of information” or “sunshine” Laws and the City’s determination that the Applicant’s request for confidential or proprietary treatment of an Application material is reasonable.
- d. Administrative Review Application Requirements. The Application shall be made by the applicable Provider or its duly authorized representative and shall contain the following:
 - (i) The Applicant’s name, address, telephone number, and e-mail address, including emergency contact information of record.
 - (ii) A certification by the Applicant that it has the legal right to install and operate the Communications Facility on the property or structure.
 - (iii) 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.
 - (iv) A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed.
 - (v) Detailed construction drawings regarding the proposed facility.
 - (vi) To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a [duly licensed engineer] evidencing that the Pole, Tower or Support Structure will structurally support the Collocation or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.
 - (vii) For any aboveground facilities, visual depictions or representations, if not included in the Construction drawings.
- e. Ordinary Maintenance, Repair and Replacement. An Application shall not be required for Ordinary Maintenance, Repair and Replacement, other than to the extent required for applicable Permits described in Subsection 2.5b(iii) above.
- f. Information Updates. Any material change to information contained in an Application shall be submitted in writing to the City within thirty (30) days after the change necessitating the change.

- g. Application Fees. Unless otherwise provided by applicable Laws, all Applications for a Facility under Section 3.1 above shall be accompanied by the Fees set forth in Section 2.1A

Section 3.2 Action on Administrative Review Application.

a. Review of Applications for Administrative Review. Shall be in conformance with Section 2.3 herein.

b. Effect of Permit.

- (i) City 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 Chapter, and does not create a property right or grant authority to the Applicant to impinge upon the rights of others who may own or have other interests in the Utility Easement or other privately- owned property.
- (ii) Duration. Any Permit for construction issued under this Article III shall be valid for a period of six (6) months after issuance, provided that the six month period shall be extended for up to two additional 3 months upon written request of the Applicant (made prior to the end of the initial 6 month period and prior to the end of the first 3 month extension) if the failure to complete construction is delayed as a result of circumstances beyond the reasonable control of the Applicant.

Section 3.3 Eligible Facilities Requests.

- a. Review of Eligible Facilities Requests. Notwithstanding any other provision of this Chapter, the City shall approve and may not deny Applications for Eligible Facilities Requests within sixty (60) days according to the procedures established under 47 C.F.R. 1.40001(c).

Section 3.4 Applications Requiring Discretionary Review and Approval.

- a. Discretionary Review Required. The following uses on private property including, without limitation, on any Utility Easement, shall require compliance with, and issuance of a Permit under the Code of the City of Vineland:
 - (i) Collocation of Wireless Facilities that do not qualify as Eligible Facilities Requests
 - (ii) All other uses not expressly set forth or referenced in Subsection 3.1(a) above.

Section 3.5 Temporary and Emergency Installations.

- a. A Deployable may be operated for a period of not more than sixty (60) days, when operated in connection with a special event after issuance by the City of a Permit based upon an Administrative Review only. Deployable operated in conjunction with a special event shall meet reasonable setbacks determined by the City engineer, shall be subject to receipt of a valid building Permit, if applicable, shall meet uniform fire code requirements, and shall be removed within seventy-two (72) hours of completion of the event.

Section 3.6 Design Standards.

All aboveground Communications Facilities to be installed outside of the Public ROW and requiring Administrative Review only shall conform to the zoning standards of the Code of the City of Vineland for such structures as well as the following standards:

- a. Structure classification for existing Towers shall be evaluated under the latest version of ANSI/TIA-222
- b. Excluded Poles and mitigation approach (including City requirement to "facilitate alternative location recommendation")
- c. Default aesthetic approach per facility finished and/or painted and otherwise camouflaged, in conformance with the best available stealth technology methods, so as to blend in compatibly with is background and so as to minimize its visual impact on the surrounding landscape.
- d. Default construction approach per facility including powering and metering
- e. Default structural integrity/remediation approach per facility
- f. Default electrical integrity/remediation approach per facility
- g. Default set-backs
 - (i) Setbacks for ground-mounted equipment.
 - (ii) Ground-mounted equipment for Wireless Facilities, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Tower. Any equipment not used in direct support of such operation shall not be stored on the site.
 - (iii) Ground-mounted equipment for Wireless Facilities must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the City.
- j. Lighting and Marking
 - (A) Towers shall not be lighted or marked unless required by, and compatible with requirements of, the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
 - In all districts, appropriate security lighting meeting generally applicable standards for security lighting for the district shall be permitted.
- k. Fencing/landscaping/signage.
 - (A) Fencing.
 - 1. Towers shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the City.
 - 2. The City may waive the requirement of Subsection (1) above if it is deemed that a fence is not appropriate or needed at the proposed location.

3. For locations where decorative fencing is otherwise required, the City may allow chain link fence if decorative fence poses a risk for security or vandalism in its sole discretion.
- (B) Landscaping. In all districts, the City shall have the authority to impose reasonable landscaping requirements surrounding any ground-mounted equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The City may choose to not require landscaping for sites where in the sole judgment of the City, landscaping is not appropriate or necessary.
 - (C) Signage. Signs located shall be limited to ownership and contact information, FCC's "Antenna Structure Registration" information (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.
 - (D) Other Decision factors.
 1. Collocation analysis.
 2. Alternative site analysis.

Section 3.7 "DIG ONCE" REQUIREMENTS³

a. Requirements for New Developments

- (i) For all new commercial, residential, mixed use and other significant planned developments, the City's planning department may require that the project developer publicly offer to coordinate with Providers who operate, or have applied for, facilities in the City either through the Municipal Planning/Utilities/Engineering Department or similar process to ensure the Public ROW and any planned utility easements are adequate to accommodate the deployment of both aboveground and underground Communications Facilities. Specifically, planned utility easements should allow for an adequate number of utility Poles and other structures, as well as belowground conduit, to adequately serve current and anticipated Communications Facilities. Access to easements should be provided to Providers on a non-discriminatory basis and at a reasonable cost, or pursuant to applicable Laws.
- (ii) In instances where a project developer chooses to install conduit for belowground Communications Facilities, the developer should be required to provide on a non-discriminatory basis and reasonable cost access to the planned utility easement areas. In addition, access to easements and trenches should be made available to Providers as early in the development cycle as possible to minimize installation costs and disruption to residents, businesses, institutions and governments, and their property. The project developer should be encouraged to promote coordination among Providers and other utilities so that each can benefit from the other's construction activities to allow timely and efficient access.

- (iii) When constructing roads or public utilities, the City should make open trenches available to Providers on a non-discriminatory basis and at a reasonable cost or pursuant to applicable Laws.

Section 3.8 Violation of this Chapter:

- a. Violation of any of the provisions of this Chapter shall be punishable with a civil penalty of \$1,000.00 for each violation which continues more than ten (10) days after written notice of such violation is provided to the Applicant. Each day, after such notice, that a violation occurs or is permitted to exist by the Applicant constitutes a separate offense.

Section 3.9 Exceptions to Applicability of this Chapter.

- a. Notwithstanding anything to the contrary in this Chapter, the following facilities are not subject to the provisions of this Chapter: (1) antennas used by residential households solely for broadcast radio and television reception; (2) satellite antennas used solely for residential or household purposes; and (3) television and AM/FM radio broadcast Towers and associated facilities.

BE IT FURTHER ORDAINED that the balance of Ordinance not amended hereby shall remain in full force and effect.

BE IT FURTHER ORDAINED that should any portion of this Ordinance be deemed unenforceable by a court of competent jurisdiction, that portion so determined to be unenforceable, shall be void and the balance hereof shall remain in full force and effect.

BE IT FURTHER ORDAINED that should any Ordinance or portion thereof be inconsistent herewith, such Ordinance or portion thereof shall be void to the extent of such inconsistencies.

This Ordinance shall take effect upon adoption and publication according to law.

Passed first reading:

Passed final reading:

President of Council

Approved by the Mayor:

Mayor

ATTEST:

City Clerk

Application

**For Wireline Only Installations
(coax, fiber-optic or other cabling, and related equipment)**

Applicant Information

Applicant Name		Company Name	
Applicant Email		Company Address	
On-Site Contact Name		On-Site Contact Phone #	
On-Site Contact Email			

Project Information

Location(s): _____

Project Description: _____

Portion(s) of the Public Right of Way affected by project. (Select all that apply) Street _____
Sidewalk _____ Shoulder _____

Work Types:

Telecommunications: Linear Feet: _____ Underground _____ Aerial _____ Service _____

Other Infrastructure Impacts (Power/Gas/Sewer): _____

Public Right of Way Obstruction Request: (Select all that apply)

Sidewalk _____ To: _____
_____ To: _____
_____ To: _____

Obstruction/Detour: Date(m/d/yy) From: Lane _____
Obstruction: Date(m/d/yy) From: Full Street Closure: _____
Date(m/d/yy) From: _____

Checklist:

Applicant agrees to comply with all applicable Local, State, and Federal Regulations.

CITY OF VINELAND, NJ

Applicant agrees to all street, lane and sidewalk closures and detours will be in Compliance with the ADA and MUTCD requirements.

A copy of the Permit must be on-site of construction.

All Fees must be paid prior to the start of construction.

Applicant/Permittee Signature

Date