

Meeting Date
September 16, 2014



AGENDA	
Section	Public Hearing
Item No.	III H

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	PUBLIC HEARING, RE: ORDINANCE MODIFYING SECTION 62-1953 TOWERS & ANTENNAS; A NEW ORDINANCE REGULATING COMMUNICATION FACILITIES AND ENACTING A WIRELESS TELECOMMUNICATIONS MASTER PLAN (1 <sup>st</sup> HEARING).
DEPT/OFFICE:	PLANNING & DEVELOPMENT DEPARTMENT

Requested Action:

It is requested that the Board of County Commissioners approve the attached ordinance for second reading on October 2, 2014 along with adopting the Wireless Telecommunication Master Plan developed by CityScape Consultants, Inc.

Summary Explanation & Background:

On August 19, 2014, the Board granted legislative intent and permission to advertise modifications to the Zoning Regulations to implement the Master Plan and update regulations that currently govern towers and antennas through the Conditional Use Permit process.

The proposed ordinance has been considered by the Local Planning Agency on September 8, 2014 and the BCAC on September 10, 2014. Both advisory boards recommended approval. Based upon feedback from amateur/ham radio operators, Section 27 (on page #22 of the ordinance) has been amended by removing proposed height, setback and location requirements and maintaining the current accessory structure setback requirements and language requiring submittal of a copy of a valid FCC amateur operator's license. The ordinance will also clarify that no commercial radio attachments will be made to the tower/antenna.

This is the first of two required public hearings. The second and final reading is tentatively scheduled for October 2, 2014, zoning meeting.

POC: George C. Ritchie Phone: 633-2070 Ext: 52657; Fax 633-2152; E-Mail [george.ritchie@brevardcounty.us](mailto:george.ritchie@brevardcounty.us)

The Wireless Telecommunications Master Plan can be found within the agenda package on the Brevard County Planning & Development's web site at this link: <http://www.brevardcounty.us/docs/default-source/planning-and-development/planning-and-zoning-agenda-2014-09-september.pdf?sfvrsn=2>

Clerk to the Board instruction:

Exhibits Attached: Wireless Telecommunication Ordinance – 1<sup>st</sup> Reading Revised dated 9/11/2014.

Contract /Agreement (If attached): Attorney	Reviewed by County	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
	County Manager Stockton Whitten	Assistant County Manager Mel Scott, AICP			Department Director / Extension Robin M. Sobrino, AICP, Director, Planning and Development Dept. Ext. 5-2069		



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September 17, 2014

**M E M O R A N D U M**

**TO:** Robin Sobrino, Planning and Development Director Attn: George Ritchie

**RE:** Item III.H., Ordinance Modifying Section 62-1953 Towers and Antennas, a New Ordinance Regulating Communication Facilities and Enacting a Wireless Telecommunications Master Plan

The Board of County Commissioners, in regular session on September 16, 2014, continued the public hearing to consider and ordinance modifying Section 62-1953 Towers and Antennas, a new ordinance regulating communication facilities and enacting a wireless telecommunications master plan, to the second and final reading at the October 2, 2014, Board meeting.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, ZONING REGULATIONS; SPECIFICALLY AMENDING SUBSECTION (3) OF THE FOLLOWING SECTIONS: 62-1331 GENERAL USE, GU; 62-1332 PRODUCTIVE AGRICULTURAL, PA; 62-1406 RECREATIONAL VEHICLE PARK, RVP; 62-1481 RESTRICTED NEIGHBORHOOD RETAIL COMMERCIAL, BU-1-A; 62-1482 GENERAL RETAIL COMMERCIAL, BU-1; 62-1483 RETAIL, WAREHOUSING AND WHOLESALE COMMERCIAL, BU-2; 62-1511 GENERAL TOURIST COMMERCIAL, TU-1; 62-1512 TRANSIENT TOURIST COMMERCIAL, TU-2; 62-1541 PLANNED BUSINESS PARK, PBP; 62-1542 PLANNED INDUSTRIAL PARK, PIP; 62-1543 LIGHT INDUSTRIAL, IU; 62-1544 HEAVY INDUSTRIAL, IU-1; AND SUBSECTION (1)(B)(4) OF 62-1574 FARMTON MIXED USE ZONING OVERLAY DISTRICT, FARM-1 TO REPLACE THE PHRASE "TOWERS AND ANTENNAS" WITH "WIRELESS TELECOMMUNICATION FACILITIES AND BROADCAST TOWERS"; SPECIFICALLY AMENDING SUBSECTION (3) OF SECTIONS: 62-1334.5 AGRICULTURAL RURAL RESIDENTIAL, ARR; 62-1335 RURAL ESTATE USE, REU; 62-1343 SINGLE-FAMILY ATTACHED RESIDENTIAL, RA-2-4, RA-2-6, RA-2-8 AND RA-2-10; 62-1344 RESIDENTIAL-PROFESSIONAL, RP; 62-1371 LOW-DENSITY MULTIPLE-FAMILY RESIDENTIAL, RU-2-4, RU-2-6 AND RU-2-8; 62-1372 MEDIUM-DENSITY MULTIPLE-FAMILY RESIDENTIAL, RU-2-10, RU-2-12 AND RU-2-15; 62-1373 HIGH-DENSITY MULTIPLE-FAMILY RESIDENTIAL, RU-2-30; 62-1401 RURAL RESIDENTIAL MOBILE HOME, RRMH-1, RRMH-2.5 AND RRMH-5; 62-1402 SINGLE-FAMILY MOBILE HOME, TR-1 AND TR-1-A; 62-1403 SINGLE-FAMILY MOBILE HOME, TR-2; 62-1405 SINGLE-FAMILY MOBILE HOME COOPERATIVE, TRC-1; 62-1571 ENVIRONMENTAL AREAS, EA AND 62-1573 INSTITUTIONAL USE, IN(L) AND IN(H) TO AMEND THE CONDITIONAL USE TERM FROM "TOWERS AND ANTENNA, NONCOMMERCIAL" TO "WIRELESS TELECOMMUNICATION FACILITIES AND BROADCAST TOWERS"; SPECIFICALLY AMENDING SUBSECTION (3) OF SECTIONS: 62-1334 AGRICULTURAL RESIDENTIAL, AU AND AU(L); 62-1336 RURAL RESIDENTIAL, RR-1; 62-1337 SUBURBAN ESTATE RESIDENTIAL USE, SEU; 62-1338 SUBURBAN RESIDENTIAL, SR; 62-1339 ESTATE USE RESIDENTIAL, EU, EU-1 AND EU-2; 62-1340 SINGLE-FAMILY RESIDENTIAL, RU-1-13 AND RU-1-11; 62-1341 SINGLE-FAMILY RESIDENTIAL, RU-1-9; 62-1342 SINGLE-FAMILY RESIDENTIAL, RU-1-7 AND 62-1404 MOBILE HOME PARK, TR-3 TO AMEND THE CONDITIONAL USE TERM FROM "TOWERS AND ANTENNAS, NONCOMMERCIAL (SEE DIVISION 5, SUBDIVISION III, OF THIS ARTICLE" TO "WIRELESS TELECOMMUNICATION FACILITIES AND BROADCAST TOWERS"; SPECIFICALLY REPLACING DESIGN AND LOCATION STANDARDS FOR TOWERS AND ANTENNAS AND THE BIENNIAL TOWER CONDITIONAL USE PERMIT APPLICATION CYCLE CURRENTLY IN SECTION 62-1953 TOWERS AND ANTENNAS WITH REVIEW CRITERIA FOR WIRELESS TELECOMMUNICATION FACILITIES AND BROADCAST TOWERS; DELETE SEC. 62-2124 TELEVISION DISH RECEIVERS AND ANTENNAS AS SIMILAR LANGUAGE IS BEING CREATED WITHIN SEC. 62-2447 TITLED SATELLITE EARTH STATIONS; CREATE CHAPTER 62, ARTICLE VI, DIVISION 7, COMMUNICATION FACILITIES TO ADMINISTER THE TOWER MASTER PLAN PROCESS; CREATE CHAPTER 62, ARTICLE VI, DIVISION 7, SUBDIVISION I. TITLED GENERAL PROVISIONS TO PROVIDE FOR

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TITLE, INTENT, GOALS, DEFINITIONS, APPLICABILITY, EXISTING COMMUNICATION FACILITIES, EXEMPT FACILITIES, ABANDONMENT, ADMINISTRATION, ENFORCEMENT, PENALTIES, INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS AND APPEALS; CREATE SEC. 62-2400 TITLE; CREATE SEC. 62-2401 INTENT; CREATE SEC. 62-2402 GOALS; CREATE SEC. 62-2403 DEFINITIONS; CREATE SEC. 62-2404 APPLICABILITY; CREATE SEC. 62-2405 EXISTING COMMUNICATIONS; CREATE SEC. 62-2406 EXEMPT FACILITIES; CREATE SEC. 62-2407 ABANDONMENT; CREATE SEC. 62-2408 ADMINISTRATION; CREATE SEC. 62-2409 ENFORCEMENT; CREATE SEC. 62-2410 PENALTIES; CREATE SEC. 62-2411 INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS; CREATE SEC. 62-2412 APPEALS; CREATE CHAPTER 62, ARTICLE VI, DIVISION 7, SUBDIVISION II. PERMIT LEVELS AND GENERAL DEVELOPMENT STANDARDS TO IDENTIFY VARIOUS PERMIT LEVELS, DESIGN PREFERENCE, GENERAL DEVELOPMENT STANDARDS, MAINTENANCE AND FEES; CREATE SEC. 62-2420 PERMIT LEVELS; CREATE SEC. 62-2421 DESIGN PREFERENCE; CREATE SEC. 62-2422 GENERAL DEVELOPMENT STANDARDS; CREATE SEC. 62-2423 MAINTENANCE; CREATE SEC. 62-2424 FEES; CREATE CHAPTER 62, ARTICLE VI, DIVISION 7, SUBDIVISION III LEVEL I PERMITS; CREATE SEC. 62-2430 APPLICATION REQUIREMENTS; CREATE SEC. 62-2431 AMATEUR RADIO TOWERS; CREATE SEC. 62-2432 ANTENNA ELEMENT REPLACEMENT; CREATE CHAPTER 62, ARTICLE VI, DIVISION 7, SUBDIVISION IV LEVEL II PERMITS TO CREATE SUBSECTION FOR LEVEL II PERMITS; CREATE SEC. 62-2440 APPLICATION REQUIREMENTS; CREATE SEC. 62-2441 CO-LOCATION; CREATE SEC. 62-2442 CONCEALED, CAMOUFLAGED AND NON-CONCEALED ATTACHED ANTENNAS; CREATE SEC. 62-2443 SPECIFIC APPLICATION REQUIREMENTS FOR CO-LOCATION AND ATTACHMENT; CREATE SEC. 62-2444 MITIGATION; CREATE SEC. 62-2445 WIRELESS TELECOMMUNICATION FACILITIES ON COUNTY-OWNED PROPERTY; CREATE SEC. 62-2446 SPECIFIC APPLICATION REQUIREMENTS FOR MITIGATION AND NEW LEVEL II TOWERS; CREATE SEC. 62-2447 SATELLITE EARTH STATIONS; CREATE CHAPTER 62, ARTICLE VI, DIVISION 7, SUBDIVISION V LEVEL III PERMITS; CREATE SEC. 62-2450 APPLICATION REQUIREMENTS; CREATE SEC. 62-2451 SPECIFIC APPLICATION REQUIREMENTS FOR NEW WIRELESS TELECOMMUNICATION FACILITIES; CREATE SEC. 62-2452 SPECIFIC APPLICATION REQUIREMENTS FOR NEW BROADCAST TOWERS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the establishment of guidelines for siting of communication facilities, including wireless telecommunication towers and other structures promotes the health, safety and welfare of the public; and

WHEREAS, the County desires to minimize impacts of communication facilities upon surrounding land uses by establishing standards for the location, structural integrity and compatibility; and

WHEREAS, the County desires to avoid potential injury to persons or property from facility failures due to windstorm hazards by creating structural standards and setback regulations; and

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WHEREAS, the County desires to encourage the location and co-location of wireless telecommunication equipment on existing structures; and

WHEREAS, the Board of County Commissioners, on August 19, 2014 directed preparation of an amendment to the Zoning Regulations as it relates to communication facilities and the adoption of a wireless telecommunications master plan; and

WHEREAS, the Building Construction Advisory Committee, on September 10, 2014, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on September 8, 2014, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strike through indicates deletions.~~

**SECTION 1.** Subsection (3) of the following Sections: 62-1331 General use, GU; Sec. 62-1332 Productive agricultural, PA; Sec. 62-1406 Recreational vehicle park, RVP; Sec. 62-1481 Restricted neighborhood retail commercial, BU-1-A; Sec. 62-1482 General retail commercial, BU-1; Sec. 62-1483 Retail, warehousing and wholesale commercial, BU-2; Sec. 62-1511 General tourist commercial, TU-1; Sec. 62-1512 Transient tourist commercial, TU-2; Sec. 62-1541 Planned business park, PBP; Sec. 62-1542 Planned industrial park, PIP; Sec. 62-1543 Light industrial, IU; Sec. 62-1544 Heavy industrial, IU-1; and Subsection (1)(b)(4) of Section 62-1574 Farmton mixed use zoning overlay district, FARM-1 within the Code of Ordinances of Brevard County, Florida, are hereby amended to replace the phrase “towers and antennas” with “Wireless telecommunication facilities and broadcast towers”:

Sec. 62-1331. General use, GU.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1332. Productive agricultural, PA.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas.~~

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Wireless telecommunication facilities and broadcast towers.

Sec. 62-1406. Recreational vehicle park, RVP.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1481. Restricted neighborhood retail commercial, BU-1-A.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1482. General retail commercial, BU-1.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1483. Retail, warehousing and wholesale commercial, BU-2.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1511. General tourist commercial, TU-1.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1512. Transient tourist commercial, TU-2.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1541. Planned business park, PBP.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1542. Planned industrial park, PIP.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

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Sec. 62-1543. Light industrial, IU.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1544. Heavy industrial, IU-1.

(3) Conditional uses. In addition to those specified in section 62-1540, conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1574(1)b.4. Farnton mixed use zoning overlay district, FARM-1.

Conditional uses. Conditional uses are as follows:

~~Towers and antennas.~~

Wireless telecommunication facilities and broadcast towers.

**SECTION 2.** Subsection (3) of the following Sections: 62-1334.5 Agricultural rural residential, ARR; 62-1335 Rural estate use, REU; 62-1343 Single-family attached residential, RA-2-4, RA-2-6, RA-2-8 and RA-2-10; 62-1344 Residential-professional, RP; 62-1371 Low-density multiple-family residential, RU-2-4, RU-2-6 and RU-2-8; 62-1372 Medium-density multiple-family residential, RU-2-10, RU-2-12 and RU-2-15; 62-1373 High-density multiple-family residential, RU-2-30; 62-1401 Rural residential mobile home, RRMH-1, RRMH-2.5 and RRMH-5; 62-1402 Single-family mobile home, TR-1 and TR-1-A; 62-1403 Single-family mobile home, TR-2; 62-1405 Single-family mobile home cooperative, TRC-1; 62-1571 Environmental areas, EA; and 62-1573 Institutional Use, IN(L) and IN(H) within the Code of Ordinances of Brevard County, Florida, are hereby amended to replace the phrase “towers and antennas, noncommercial” with “Wireless telecommunication facilities and broadcast towers”:

Sec. 62-1334.5. Agricultural rural residential, ARR.

(3) Conditional uses. Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1335. Rural estate use, REU.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1343. Single-family attached residential, RA-2-4, RA-2-6, RA-2-8 and RA-2-10.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

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Sec. 62-1344. Residential-professional, RP.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1371. Low-density multiple-family residential, RU-2-4, RU-2-6 and RU-2-8.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1372. Medium-density multiple-family residential, RU-2-10, RU-2-12 and RU-2-15.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1373. High-density multiple-family residential, RU-2-30.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1401. Rural residential mobile home, RRMH-1, RRMH-2.5 and RRMH-5.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1402. Single-family mobile home, TR-1 and TR-1-A.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1403. Single-family mobile home, TR-2.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1405. Single-family mobile home cooperative, TRC-1.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1571. Environmental areas, EA.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1573. Institutional Use, IN(L) and IN(H).

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial.~~

Wireless telecommunication facilities and broadcast towers.

**SECTION 3.** Subsection (3) of the following Sections: 62-1334 Agricultural residential, AU and AU(L); 62-1336 Rural residential, RR-1; 62-1337 Suburban estate residential use, SEU; 62-1338 Suburban residential, SR; 62-1339 Estate use residential, EU, EU-1 and EU-2; 62-1340 Single-family residential, RU-1-13 and RU-1-11; 62-1341 Single-family residential, RU-1-9; 62-1342 Single-family residential, RU-1-7; and 62-1404 Mobile home park, TR-3 within the Code of Ordinances of Brevard County, Florida, are hereby amended to replace the phrase “towers and antennas (see division 5, subdivision III, of this article)” with “Wireless telecommunication facilities and broadcast towers”:

Sec. 62-1334. Agricultural residential, AU and AU(L).

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas (see division 5, subdivision III of this article) (section 62-1953).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1336. Rural residential, RR-1.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial (see division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1337. Suburban estate residential use, SEU.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial (see division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1338. Suburban residential, SR.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial (see division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1339. Estate use residential, EU, EU-1 and EU-2.

(3) *Conditional uses.* Conditional uses are as follows:

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~~Towers and antennas, noncommercial (see division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1340. Single-family residential, RU-1-13 and RU-1-11.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial (see division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1341. Single-family residential, RU-1-9.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial (see division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1342. Single-family residential, RU-1-7.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial (see division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

Sec. 62-1404. Mobile home park, TR-3.

(3) *Conditional uses.* Conditional uses are as follows:

~~Towers and antennas, noncommercial (division 5, subdivision III, of this article).~~

Wireless telecommunication facilities and broadcast towers.

**SECTION 4.** Chapter 62, Article VI, Division 7. Communication Facilities. is hereby created.

**SECTION 5.** Chapter 62, Article VI, Division 7, Subdivision I. General Provisions. is hereby created.

**SECTION 6.** Section 62-2400. Title. is created as follows:

Sec. 62-2400. Title.

This Ordinance shall be known and may be cited as the “Communications Facilities Ordinance of Brevard County, Florida”.

**SECTION 7.** Section 62-2401. Intent. is created as follows:

Sec. 62-2401. Intent.

The intent of this article is to establish general guidelines for the siting of towers and other structures used for the provision of communication services, including but not limited to wireless telecommunications and associated antenna, ground equipment, and accessory structures related to wireless telecommunications infrastructure, and to promote the health, safety, and general welfare of the public from:

1) Potential injury to citizens and damage to property from falling towers or items falling from a tower;

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- 2) Potential injury to people while playing around towers and their appurtenant compounds;
- 3) Potential injury and damage to low-flying aircraft;
- 4) Potential aesthetic harm to residential communities; and
- 5) Potential negative economic impacts on the scenic tourist industry.

**SECTION 8.** Section 62-2402. Goals. is created as follows:

Sec. 62-2402. Goals.

The goals of this Division are to:

- 1) Minimize the impacts of communication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility;
- 2) Avoid potential injury to persons and properties from tower failure and windstorm hazards through structural standards and setback requirements;
- 3) Preserve the scenic and visual character of the geographic area by encouraging the location, design and architectural treatment of wireless telecommunication facilities to avoid the disruption of the natural and built environment, and to ensure harmony and compatibility with surrounding land use patterns;
- 4) Facilitate the provision of communication services to residents, businesses, and visitors;
- 5) Provide a uniform and comprehensive framework for evaluating proposals for communication facilities;
- 6) Encourage builders and tenants of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- 7) Encourage the location and co-location of wireless telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional wireless telecommunications facilities;
- 8) Accommodate the growing need and demand for communication services;
- 9) Encourage coordination between suppliers and providers of communication services;
- 10) Establish predictable and balanced codes governing the construction and location of communications facilities, within the confines of permissible local regulations;
- 11) Establish review procedures to ensure that applications for wireless telecommunications facilities are reviewed and acted upon within a reasonable period of time including compliance with Section 365.172 (12), Florida Statutes, as applicable;
- 12) Respond to the policies embodied in the Federal Telecommunications Act of 1996 (47 USC §332(c)(7)), as applicable, in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services;
- 13) Respond to the policies embodied in Section 6409 of the Middle Tax and Job Creation Act of 2012 (47 USC §1455 (a)).
- 14) Encourage the use of public lands, buildings, and structures as locations for wireless telecommunications infrastructure;
- 15) Consideration of and compatibility with the goals and objectives of Brevard County's Comprehensive Plan; and to

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16) Assure the tower remains in compliance with ANSI/EIA/TIA wind code standards for Brevard County, Florida.

**SECTION 9.** Section 62-2403. Definitions. is created as follows:

Sec. 62-2403. Definitions.

For the purpose of this Ordinance, the following terms shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Abandoned - any tower without any mounted transmitting and/or receiving antennas in continued use.

Alternative structure - a structure that is not primarily constructed for the purpose of supporting antennas but on which one or more antennas may be mounted. Alternative structures include, but are not limited to, buildings, water tanks, light stanchions, pole signs, billboards, church steeples and electric power transmission towers.

Amateur radio tower – any tower used for amateur radio transmissions consistent with the “Complete FCC U.S. Amateur Part 97 Rules and Regulations” for amateur radio facilities.

Ancillary structure - equipment, devices and structures associated with a wireless communications facility, including but not limited to: concrete slabs on grade, guy anchors, generators, feed lines, mounting hardware, pedestals, electrical risers and transmission cable supports; however, specifically excluding equipment cabinets, towers, alternative structures and antenna elements.

Anti-climbing device – a piece or pieces of equipment, which are either attached to an antenna support structure, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include but are not limited to fine mesh wrap around structure legs, the removal or absence of climbing pegs, “squirrel-cones,” or other approved devices, but excluding the use of barbed or razor wire.

Antenna - any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio, wireless, or television communications. Types of antenna include, but are not limited to: omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas, and in the case of AM broadcast facilities the actual tower structure.

Antenna array - a group of antennas and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or common mounting support structure for a unified purpose of transmitting and/or receiving electromagnetic waves for a single wireless services provider, or if combined antennas, for the combined providers.

Antenna system – any antenna or antenna array.

ASR - the Antenna Structure Registration number as required by the FAA and FCC for towers that exceed 200 feet in height or may interfere with flight paths.

Antenna support structure – See “Tower”

Attached antenna – an antenna element attached to an alternative structure.

Base station - the electronic equipment utilized by the wireless telecommunication provider(s) for the transmission and/or reception of radio signals.

Board – the Board of County Commissioners of Brevard County, Florida.

Breakpoint technology - the engineering design of a tower wherein a specified point on the tower is designed to have stresses concentrated so that the breakpoint is at least five percent more susceptible to failure than any other point along the tower so that in the event of a structural failure of the tower, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower.

Brevard County Wireless Telecommunication Facilities Master Plan also referred to as the Wireless Telecommunication Master Plan or Master Plan is that certain document prepared by CityScape Consultants, Inc., dated [REDACTED], 2014, adopted by the county and incorporated as part of this Ordinance by this reference. The Master Plan includes a table of county-owned sites potentially available for the location of wireless telecommunication facilities with design recommendations for each site and an inventory of all existing facilities throughout the county. The purpose of the Master Plan is to develop strategies for the improvement of future deployment practices within the county.

Broadcast facilities – towers, antennas, and/or antenna arrays for FM/TV/broadcasting transmission facilities, and tower(s) utilized as antennas for an AM broadcast station that are licensed by the Federal Communications Commission.

Broadcast tower – a tower built primarily for broadcast facilities, but which may also be used for co-location of other wireless telecommunications facilities.

Camouflage – camouflaged antenna systems and/or towers use paint instead of structure to blend into its surroundings; for example, matching the color of the structure upon which the system is attached or if separate and distinct from its surroundings colored to match the sky or nearby vegetation.

Coastal area – defined in the master plan as that area of the barrier islands east of the Banana and Indian Rivers.

Co-location – the practice of installing and operating multiple antenna systems, which are owned or controlled by multiple wireless service providers, and/or radio common carrier licensees on the same tower, antenna support structure, or alternative structure using different and separate antenna, feed lines, equipment cabinets, generators and other radio frequency generating equipment.

Combined antenna – an antenna or an antenna array designed and utilized to provide wireless telecommunications services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

Communication facilities – is the general term used to collectively describe all the various communication towers, antennas, networks, systems, arrays, equipment, devices and structures defined in this Ordinance.

Concealed – a tower, antenna system or ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site so as to reduce or mitigate the facility's potential adverse visual impacts on the surrounding areas. There are two types of concealed facilities: 1) antenna attachments, and 2) freestanding antenna support structures. Examples of concealed attached facility include, but are not limited to the following: antenna systems enclosed within canisters, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. Freestanding concealed antenna support structures usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

County – the Board of County Commissioners of Brevard County, Florida.

Equipment cabinet – any structure, including: cabinets, shelters, pedestals, and other similar structures that are used exclusively or in combination with ancillary facilities, to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Equipment compound – the fenced area surrounding the ground-based wireless communication facility that includes the following: the tower or antenna support structure’s framework and ancillary structures such as equipment necessary to operate the antenna, cabinets, shelters, pedestals, emergency generators and other similar structures.

FAA - the Federal Aviation Administration.

FCC – the Federal Communications Commission.

Feed lines – coaxial cables, power cables, and/or fiber optic cables used as the interconnecting media between the equipment cabinet and the antenna. .

Flush-mounted – any antenna or antenna array attached directly to the tower or alternative structure such that no portion of the antenna extends above the height of the tower or alternative structure. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the tower or alternative structure to the inside edge of the antenna.

Geographic search ring – an area designated by a wireless provider or operator for a new base station and antenna elements, produced in accordance with generally accepted principles of wireless engineering.

Guyed tower – a style of tower consisting of a single truss assembly composed of sections with cross bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Handoff candidate – a wireless telecommunication facility that receives call transference from another wireless facility, usually located in an adjacent first “tier” surrounding the initial wireless facility.

Lattice tower – a self-supporting tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross-bracing and metal crossed diagonal strips or rods to support antennas.

Microcell - a microcell is a cell in a mobile phone network served by a low power cellular base station (tower), covering a limited area such as a mall, a hotel, or a transportation hub.

Mitigation – a modification of an existing antenna support structure to increase the height or to improve its integrity, by replacing or removing one or several antenna support structures located in proximity to a proposed new antenna support structure in order to encourage compliance with this article or improve aesthetics or functionality of the overall wireless network. Mitigation may also include replacement of an existing tower or antenna support structure with a new tower or antenna support structure which mitigates the impacts of its predecessor.

Monopole tower – a style of free-standing tower consisting of a single shaft usually composed of two or more hollow sections used to conceal all feed lines that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building’s roof.

Non-concealed – a wireless communication facility that is readily identifiable as such and can be either freestanding or attached.

Personal communication service (PCS) – commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Federal Telecommunications Act of 1996.

Provider’s designed service – the configuration and manner of deployment of wireless communications

services the wireless services provider has designed for an area as part of its network.

Public safety communications equipment – all communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the county.

Replacement – the removal of an existing tower for purposes of erecting a new tower of nearly equal dimensions usually for the purposes of improved structural integrity.

Rural area - defined in the master plan as that area where there are fewer than 100 addresses per square mile.

Satellite earth station – a single or group of parabolic (or dish) antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless telecommunications signals with satellites.

Substantial increase in size occurs when:

1) the mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits described above if necessary to avoid interference with existing antennas; or

2) the mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

3) the mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits described above if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

4) the mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

Tower – a vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Towers do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty (20) feet. Types of towers include the following: guy, lattice and monopole structures.

Tower base – the above ground portion of the foundation, usually concrete, on which the tower is situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular line from the geometric center of the tower.

Tower height – for ground mounted towers, the vertical distance measured from the average elevation of the finished development grade of the building site to the highest point of the tower, including any antenna, lighting, lightning protection or other equipment affixed thereto. For roof mounted towers, the vertical distance measured from the flat roof section where the tower is mounted to the highest point of the tower, including any antenna, lighting, lightning protection or other equipment affixed thereto.

Tower setback – the minimum distance a tower is located from the property line of the parent tract.

Tower site – the land area that contains, or will contain, a proposed tower, support structures and other related buildings and improvements. Tower sites are confined within a parent tract if non-leased or when leased within the designated area of the lease.

Transmission – the development of a radio signal from an antenna device for the purpose of communications or communication of data.

Transmission line - see “Feed line” – a coaxial cable intended to convey radio frequency between a transmitter/receiver to an antenna.

Urban area - defined in the master plan as that area where there are more than 100 addresses per square mile.

Wireless telecommunications facility (WTFCF) - any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables fiber optic cables, DC power cables, and equipment cabinets, and may include a tower. The following shall be deemed a wireless communications facility: new, mitigated, or existing towers, public towers, replacement towers, antenna co-location on existing towers, attached wireless communications facilities, concealed wireless communication facilities, non-concealed wireless communication facilities.

**SECTION 10.** Section 62-2404. Applicability. is created as follows:

Sec. 62-2404. Applicability.

This Ordinance shall apply to the development activities within the unincorporated area of the county, including installation, construction, or modification of all communications facilities including but not limited to:

- 1) Amateur radio station antennas and structures consistent with the requirements of Section 166.0435, Florida Statutes.
- 2) Satellite earth stations larger than one (1) meter in diameter.
- 3) Existing antenna support structures.
- 4) Proposed antenna support structures.
- 5) Replacement of existing antenna support structures.
- 6) Mitigation of antenna support structures.
- 7) Co-location on existing antenna support structures.
- 8) Attached wireless communications facilities.
- 9) Camouflaged wireless communications facilities.
- 10) Concealed wireless communications facilities.
- 11) Broadcast facilities.

**SECTION 11.** Section. 62-2405. Existing communications facilities. is created as follows:

Sec. 62-2405. Existing communications facilities.

Communications facilities existing prior to the adoption of this Ordinance on October 2, 2014, or permitted prior to the adoption of this Ordinance shall be allowed to continue to operate in compliance with all requirements set forth by the county at the time of approval.

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**SECTION 12.** Section 62-2406. Exempt facilities. is created as follows:

Sec. 62-2406. Exempt facilities.

Communications facilities shall be constructed and maintained in conformance with all applicable building code and site plan requirements. The following are exempt from the provisions of this Ordinance; notwithstanding any other provisions:

- 1) Satellite earth stations that are one (1) meter (39.37 inches) or less in diameter.
- 2) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the county manager or designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.
- 3) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
- 4) A temporary, commercial communications facility, upon the declaration of a state of emergency by federal, state, or local government; except that such facility must comply with all federal and state requirements. The communications facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency.
- 5) A temporary, commercial communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, except that such facility must comply with all federal and state requirements. Said communications facility may be exempt from the provisions of this division up to one (1) week after the duration of the special event.
- 6) Licensees using the FCC's Industrial/Business Pool radio frequencies with towers not exceeding 35 feet in height measured from the average elevation of the finished development grade of the building site are permitted in every zoning classification as an accessory structure to a developed primary use. This exemption shall be utilized only for local, private communication purposes (i.e. cab service, dispatch and tow trucks) not exceeding 35 feet in height. Communication service subscriptions shall be prohibited. Personal wireless services and WTCFs shall not be permitted pursuant to this exemption.

**SECTION 13.** Section 62-2407. Abandonment (discontinued use). is created as follows:

Sec. 62-2407. Abandonment (discontinued use).

- 1) Communications facilities and the equipment compound shall be removed, at the owner's expense, within 180 days of cessation of use, unless the abandonment is associated with a mitigation as provided in Section 62-2444(7), in which case the removal shall occur within ninety (90) days of cessation of use.
- 2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The county manager or designee may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good cause. If the facilities are not removed within this time, the county may give notice that it will contract for removal within thirty (30) days following written notice to the owner. Thereafter, the county may cause removal of the facilities and equipment compound with costs being borne by the owner.
- 3) Upon removal of the facilities and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or

consistent with the current uses of the surrounding or adjacent land at the time of removal, excluding the foundation, which does not have to be removed.

**SECTION 14.** Section 62-2408. Administration. is created as follows:

Sec. 62-2408. Administration.

This Ordinance shall be administered and enforced by the county manager or designee. The county may, through contract, secure the professional services of communications consultants to assist county staff in the implementation of this Ordinance. Such professional services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed Federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed.

**SECTION 15.** Section 62-2409. Enforcement. is created as follows:

Sec. 62-2409. Enforcement.

If the county manager or designee shall find that any of the provisions of this Ordinance are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The county manager or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Ordinance. The county may seek enforcement action against both the record owner of the property and any other person or entity responsible for carrying out any prohibited action.

**SECTION 16.** Section 62-2410. Penalties. is created as follows:

Sec. 62-2410. Penalties.

Penalties for violations of this Ordinance shall be as specified in Sections 125.69 or Ch. 162, Florida Statutes, as amended, or any other appropriate remedy provided by law. Each day such violation exists shall constitute a separate offense.

**SECTION 17.** Sec. 62-2411. Interference with public safety communications. is created as follows:

Sec. 62-2411. Interference with public safety communications.

In order to facilitate the regulation, placement, and construction of antenna(s), and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a co-location shall demonstrate:

- 1) Compliance with "good engineering practices" as defined by the FCC in its rules and regulations.
- 2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- 3) In the case of an application for co-located, upgraded, or modified wireless communications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the county's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.

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- 4) Whenever the county has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:
- a. The county shall provide notification to all wireless service providers operating in the area of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the county and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time in any successor regulations.
  - b. If any equipment owner fails to cooperate with the county in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the county public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the county for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the county to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within twenty-four (24) hours of county's notification.

**SECTION 18.** Section 62-2412. Appeals. is created as follows:

Sec. 62-2412. Appeals

Appeals from the administrative enforcement and interpretation of this Ordinance may be filed pursuant to Section 62-301. Any aggrieved or adversely affected party with legal standing may challenge a quasi-judicial decision of the Board of County Commissioners by filing an action for appropriate relief in a court of competent jurisdiction within thirty (30) days of the date the decision was rendered.

**SECTION 19.** Chapter 62, Article VI, Division 7, Subdivision II. Permit levels and general development standards. is hereby created.

**SECTION 20.** Section 62-2420. Permit levels. is created as follows:

Sec. 62-2420. Permit levels.

- 1) Permit (Level I) - The development order (building permit) issued by the county manager or designee to an individual, corporation, partnership, or other entity to engage in the creation of:
  - a. An amateur radio tower not exceeding 100 feet in height, in accordance with the provisions of Section 166.0435, Florida Statutes, as amended.
  - b. An antenna element replacement that does not cause a substantial increase in the size of the existing structure or tower.
- 2) Permit (Level II) - The development order (site plan and/or building permit) issued by the county manager or designee to an individual, corporation, partnership, or other entity to engage in
  - a. Wireless telecommunication facilities development on county-owned properties.

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- b. Concealed, camouflaged or non-concealed attached antenna on utility structures not located within county-owned properties.
  - c. Co-located facilities on existing tower, building or water tank not located within county-owned properties.
  - d. Mitigation of an existing tower.
  - e. A satellite earth station greater than one (1) meter in diameter.
  - f. Wireless communication facilities, towers and antenna not exceeding 35 feet in height.
- 3) Permit (Level III) - The conditional use permit issued by the Board of County Commissioners, pursuant to the public hearing process and requirements set forth in Sections 62-1901 and 62-1953, to an individual, corporation, partnership, or other entity to engage in the creation of:
- a. All wireless telecommunication facilities not authorized under permit levels 1 or 2.
  - b. Communication facilities identified as a level 1 or 2 permit that exceed the development standards designated by this Ordinance.
  - c. Broadcast towers.

**SECTION 21.** Section 62-2421. Design preference. is created as follows:

Section 62-2421. Design preference.

Design of a new wireless telecommunications facility (antenna array or new tower), co-location, or combined antenna shall be in accordance with the following order (1 – most preferred, 6(c) – least preferred):

- 1. Concealed attached antenna.
- 2. Camouflaged non-concealed attached antenna.
- 3. New concealed tower.
- 4. Mitigation of existing tower.
- 5. Camouflaged tower.
- 6. New non-concealed.
  - a. Monopole.
  - b. Lattice.
  - c. Guyed.

Where a less preferred design is proposed, the applicant must file an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, the more preferred options are not technically feasible, practical or justified given the location of the proposed wireless telecommunications facility. Design preferences for facilities located on county-owned properties are set forth in Appendix A of the Master Plan.

**SECTION 22.** Section 62-2422. General development standards. is created as follows:

Sec. 62-2422. General development standards.

The following design standards apply generally to all WTCF antenna, antenna support structures and towers unless a different design standard is identified in the specific permit level requirements.

- 1) Minimum setbacks:

- a. Residential setback. All WTCFs must be setback from residentially zoned properties, excluding the property that the facility is located on, at a distance equal to twice the height of the proposed tower.
- b. For all other WTCFs:
  - i. If the WTCF is constructed using breakpoint design technology, the minimum setback distance shall be equal to 110 percent of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of Florida of the breakpoint design and the design's fall radius must be provided together with the other information required from an applicant. (For example, on a 100 foot tall monopole with a breakpoint at eighty (80) feet, the minimum setback distance would be twenty-two (22) feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) if the minimum side or rear yard setback requirements for that zoning classification is less than 22 feet.)
  - ii. If the WTCF is not constructed using breakpoint design technology, the minimum setback distance from the property line shall be equal to 110 percent of the height of the proposed tower.

2) Height.

The master plan recommends maximum heights for new towers according to location in a coastal, urban or rural area. These recommendations are based on signal propagation mapping of existing sites, compatibility with current land development patterns, and location of population centers (service need). In general, the maximum heights are: 80' in coastal areas, 120' in urban areas, and 199' feet in rural areas. Maximum heights for facilities on specified county-owned properties are set forth in Appendix A of the Master Plan . All conditional use permit applications that seek to exceed these maximum heights will be required to provide written certification from a radio frequency (RF) engineer licensed in the State of Florida stating that the maximum height recommendation will not satisfy the proposed service network objective and that the proposed height is the minimum necessary to satisfy those needs.

3) Co-location.

- a. All commercial towers must be constructed to permit co-location by other service providers where feasible. The term "where feasible," as it applies to co-location, means that utilization of a tower by another party would, at the time of such utilization, comply with sound engineering principles, would not materially degrade or impair the communication tower's utilization by existing users, would not unduly burden the tower structurally, and would not otherwise materially and adversely impact existing users. Reasonable terms for use of a communication tower that may be imposed by the owner include a requirement for reasonable rent or fees, taking into consideration the capitalized cost of the communication tower and land, the incremental cost of designing and constructing the tower so as to accommodate additional users, increases in maintenance expenses relating to the tower and a fair return on investment, provided such amount is also consistent with rates paid by other providers at comparable tower sites.
- b. All towers taller than sixty (60) feet in height shall be engineered and constructed to accommodate no less than three (3) antenna arrays.

4) Lighting.

- a. All towers required by the FAA to be lit must use the minimum number of warning and obstruction lights having the minimum intensity and number of flashes per minute permitted by the Federal

Aviation Administration (FAA). County lighting standards on towers/antenna from 60 feet to 100 feet in height require a single red light on the top of the structure; towers/antenna between 100 feet to 200 feet will require dual red lights, one located at mid-height and the second located at the top of the structure; refer to Section 210-1 for exemptions.

- b. As provided for in section 210-1, where lighting is required by Brevard County Mosquito Control on towers equal to or less than 200 feet in height, the frequency of high intensity lighting shall not exceed 20 flashes per minute.
- c. All lights on towers and antennas of any height shall be up-shielded.
- d. Where permitted, guyed towers shall use daytime visual markers (e.g., bird diverter devices) on the guy wires to reduce collisions by migratory birds.
- e. Third party: Third party (i.e., private sector tower company) tower construction projects on county lands are subject to the provisions of this section, unless the third party is acting on behalf of the federal or state government. A tower constructed by a third party on behalf of the federal or state government does not require local permits.

5) Equipment cabinets: Cabinets shall not be visible from pedestrian views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

6) Equipment Compound: The fenced in compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound, and the compound shall not be used as habitable space.

7) Fencing: All equipment compounds shall be enclosed with an opaque fence or similar structure.

8) Buffers: The equipment compound shall be landscaped with a minimum fifteen (15) foot wide perimeter buffer containing the following planting standards (See Section 62-4332 for defined terms):

- a. At least fifty percent (50%) of trees required for preservation and planting shall be of native species. At least fifty percent (50%) of shrubs and groundcovers shall be native species or recommended by "Waterwise Florida Landscapes" (2004), Florida Water Management Districts, as may be amended. Vegetation defined as Non-Native Invasive or Undesirable Plants per Section 62-4332 shall not be credited towards fulfillment of preservation or planting requirements.
- b. Satisfaction of the landscaping standards shall be achieved through the preservation of existing native vegetation to the greatest extent feasible. When the minimum landscaping standards cannot be achieved through preservation, plantings of new vegetation shall be required to meet the standards. Replacement tree criteria as outlined in Section 62-4341 (18) shall be met.
- c. One (1) row of large species trees with a minimum twelve (12) feet tall with two and one-half (2.5) inch diameter (caliper) minimum and five (5) foot spread, twenty-five (25) foot on center. Shrubs capable of creating a continuous hedge and obtaining a height of at least six (6) feet shall be planted, minimum three (3) gallon and twenty-four (24) inches tall at the time of planting, five (5) foot on center.

- d. Proposed landscape material, design, required removal of exotics and plant installation shall be consistent with Chapter 62, Article XIII, Division 2 - Landscaping, Land Clearing & Tree Protection.
- e. Landscaping plans which provide for the same average canopy and understory trees but propose alternative siting on the entire subject property on which the proposed facility is projected may be considered and approved by the county, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of this section.

9) Signage:

- a. Signage is required to be placed upon an antenna support structure, equipment cabinets, or fence for the purpose of identifying the antenna support structure (either by the ASR registration number or other identifying information), as well as the party responsible for the operation and maintenance of the facility; i.e. the address and telephone number, security or safety signs, and property manager signs (if applicable).
- b. If more than two hundred twenty (220) volts are necessary for the operation of the facility and are utilized within the equipment compound or in the antenna support structure, signs located every twenty (20) feet and attached to the fence or wall shall display in large, bold, high contrast letters (minimum height of each letter four (4) inches) the following: "HIGH VOLTAGE - DANGER."
- c. All other signage is prohibited.

**SECTION 23.** Section 62-2423. Maintenance. is created as follows:

Sec. 62-2423. Maintenance.

Every five years, the owner of any tower and wireless communication facilities shall submit to the county building official a sealed statement from a registered professional engineer that the structure is sound. The certification shall be due by the end of the month upon each anniversary of the issuance of the building permit. If the report is not provided within 14 days after receipt of written notice by the CUP holder and property owner, towers which have not been certified shall be considered dilapidated and shall be removed by the property owner. Subject to subsection 62-1953 (4), if the property owner fails to remove the tower within 30 days after receiving notice to effect removal, the county shall have the right to remove such tower and impose a lien on the site which was the subject of the application.

**SECTION 24.** Section 62-2424. Fees. is created as follows:

Sec. 62-2424. Fees.

- 1) The county shall set a fee to cover the necessary processing cost of all communications facilities permits required by this Ordinance. The set fee shall be established by resolution and posted in the Planning and Development Department.
- 2) The county reserves the right to require a supplemental review for any Permit (Level I, II, or III) subject to the following:
  - a) Where due to the complexity of the methodology or analysis required to review an application for a Permit (Level I, II, or III) facility, the county may require the applicant to pay for a technical review

by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. Schedules of current fees are listed in the Fee Schedule.

- b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
- c) The supplemental review may address any or all of the following:
  - 1. The accuracy and completeness of the application and any accompanying documentation.
  - 2. The applicability of analysis techniques and methodologies.
  - 3. The validity of conclusions reached.
  - 4. Whether the proposed communications facility complies with the applicable approval criteria set forth in these codes.
  - 5. Other items deemed by the county to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

**SECTION 25.** Chapter 62, Article VI, Division 7, Subdivision III. Level I Permits. is hereby created.

**SECTION 26.** Section 62-2430. Application requirements. is created as follows:

Sec. 62-2430. Application requirements.

Permit Level I applications shall contain the following:

- 1) Application fee
- 2) Complete building permit application

**SECTION 27.** Section 62-2431. Amateur radio towers. is created as follows:

Sec. 62-2431. Amateur radio towers.

- 1) Applicant shall confirm there will be no commercial radio attachments and shall provide a copy of a valid FCC amateur operator's license, as required by 47 C.F.R. §97.5.
- 2) Antennas or antenna support structures shall continue to be subject to accessory structure setbacks (excluding guy wires) as required under section 62-2100.5(1)(c).

**SECTION 28.** Section 62-2432. Antenna element replacement. is created as follows:

Sec. 62-2432. Antenna element replacement.

- 1) Replacement of existing antenna elements shall be permitted provided that the replacement does not increase the height or wind loading of the subject facility or add additional frequencies. In those cases where a substantial increase in size is necessitated by a proposed co-location and would result in a tower that would require a conditional use permit, the applicant shall seek a conditional use permit pursuant to the procedures set forth in section 62-1901 and section 62-1953.
- 2) Replacement antennas added to non-concealed towers must be painted to match the structure upon which they will be placed, if possible. Antenna systems added to concealed towers shall also be concealed.

**SECTION 29.** Chapter 62, Article VI, Division 7, Subdivision IV. Level II Permits. is hereby created.

**SECTION 30.** Sec. 62-2440. Application requirements. is created as follows:

Sec. 62-2440. Application requirements.

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Permit Level II applications shall contain the following:

- 1) Application fee
- 2) Complete building permit application
- 3) Complete zoning package including one copy of a full sized reproducible fully dimensioned site plan, signed and sealed by a registered land surveyor, engineer or architect. The site plan must show all existing and proposed structures on the property including the tower and equipment building(s), structure heights, parking, ingress/egress, landscaping, refuse, screening or buffering and storm water retention areas as well as tower elevations from the front, rear and sides, including height, style, type and number of antennas to be installed. The legend shall include NAD83 latitude and longitude of the proposed tower and State Plane Coordinates and should be submitted in paper and electronic format.
- 4) Complete site plan application, (See Sections 62-3200 through 62-3207)
- 5) Specific application requirements for co-location and attachment (See Section 62-2441 – 62-2443)
- 6) Specific application requirements for mitigation and new towers (See Section 62-2444)

**SECTION 31.** Section 62-2441. Co-location. is created as follows:

Sec. 62-2441. Co-location.

The county requires co-location and combining of antennas on existing communications towers as a first priority where co-location is possible. Co-locations are subject to the following:

- 1) A co-located or combined antenna or antenna array shall not exceed the maximum height prescribed in the conditional use permit (if applicable) or increase the height of an existing tower by more than twenty (20) feet and shall not affect any tower lighting.
- 2) New antenna mounts shall be flush-mounted onto existing structures, unless it is demonstrated through radio frequency (RF) propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
- 3) The equipment cabinet shall be subject to the setback requirements of the underlying zoning district.
- 4) When a co-located or combined antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
- 5) Applications entitled to the streamlined processes described in Section 365.172(12), Florida Statutes, shall meet all the following requirements:
  - a. The additional antenna array, transmission lines, and related ancillary equipment including the base station shall not exceed the number of same items previously approved for such tower when originally approved, and the co-located facility is in conformance with the original zoning conditions imposed on the tower upon which it is being attached.
  - b. The proposed co-location shall not increase the overall height and width of the tower or telecommunications support structure to which the proposed infrastructure is to be attached.
  - c. The co-location shall not increase the ground space area, commonly known as the compound, approved in the antenna support facility site plan for equipment enclosures and ancillary facilities.
  - d. The existing tower on which the co-location will attach shall comply with applicable regulations, restrictions, or conditions, if any, applied to the initial telecommunications facilities placed on the tower.

- e. The proposed additional co-location and tower shall comply with all federal, State and local safety requirements.
- f. The proposed co-location and ancillary equipment shall comply with the ANSI/EIA/TIA-222 (as amended) code for Brevard County, Florida.

6) Applications for co-location entitled to streamlined processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 shall be approved provided they meet the following requirements:

- a. A co-location on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than 10% or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the structure, whichever is greater.
- b. Any co-location on an existing antenna-supporting structure shall meet current building code requirements (including wind loading).
- c. A co-location shall not add more than 4 additional equipment cabinets or 1 additional equipment shelter to be eligible as a co-location under this subsection.
- d. A co-location eligible under this subsection shall not require excavation outside of existing leased or owned parcel or existing easements.
- e. Proposed co-locations that do not meet the standards of this subsection shall be processed either pursuant to subsection (5) above or pursuant to this Section 62-2420(3), as applicable.

**SECTION 32.** Sec. 62-2442. Concealed, camouflaged and non-concealed attached antenna. is created as follows:

Sec. 62-2442. Concealed, camouflaged and non-concealed attached antenna.

Concealed, camouflaged and non-concealed attached antenna shall be subject to the following:

- 1) The placement of antennas on buildings and other structures is encouraged and preferred over the installation of towers or monopoles. Where feasible, co-location of facilities and minimum number of antennas shall be evaluated to determine the proposed facility has been designed properly.
- 2) New antenna shall be flush-mounted onto existing structures, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
- 3) The top of the attached antenna shall not be more than twenty (20) feet above the existing structure. In those cases where a substantial increase in size is necessitated by the proposed co-location and would result in a tower that would require a conditional use permit if being reviewed for the first time, the applicant shall seek a conditional use permit pursuant to the procedures set forth in section 62-1901 and section 62-1953 and the tower shall be subject to setback criteria as if being permitted for the first time.
- 4) Equipment cabinets shall be located within the existing building, existing equipment compound or behind an opaque enclosure matching the architectural designs and colors of the principal building or structure.

5) If the existing equipment compound is not sized adequately to accommodate the new proposed ground equipment, then a revised site plan of the original tower site shall be submitted addressing the overall ground space for said tower. New equipment cabinets are subject to the underlying zoning setbacks and current buffer and screening requirements.

6) Concealed and non-concealed attached antenna systems shall be subject to approval by the county and the utility company, if applicable, and the attachments shall be painted to match the structure upon which they will be placed, if possible.

7) Except for non-concealed attached antennas, feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color and texture.

8) All exposed cables, conduits; surface mounted wires shall be concealed or painted to match the building.

9) Screening enclosures shall be allowed when the design is architecturally compatible with the building.

10) Lighting of these facilities is not allowed except as required by Section 62-2422(4).

**SECTION 33.** Sec. 62-2443. Specific application requirements for co-location and attachment. is created as follows:

Sec. 62-2443. Specific application requirements for co-location and attachment.

1) A signed statement from the tower owner or owner's agent agreeing to allow the co-location of other wireless equipment on the proposed tower, if the structure is designed or capable of additional wireless equipment.

2) Compliance with American National Standards Institute (ANSI) standards for electromagnetic radiation: In order to protect the public from excessive exposure to electromagnetic radiation, the facility applicant shall certify through a written statement that the facility meets or exceeds current ANSI standards as adopted by the FCC.

3) Certification furnished by a registered professional engineer licensed in the Florida that the structure has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.

4) One (1) original and two (2) copies of a survey of the property completed by a registered professional engineer, licensed in the State of Florida showing all existing uses, structures, and improvements.

5) Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion.

6) Streamlined process for co-location approvals are subject to the following:

- a. A co-location application entitled to streamlined processing shall be deemed complete unless the county notifies the applicant within forty-five (45) business days of submission (or within some

other mutually agreed upon timeframe) that the submission is incomplete. Notices of application incompleteness shall identify the deficiencies in the application which, if cured, would make the application complete. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the forty-fifth (45) business day after the submission is deemed complete.

- b. Upon resubmitting of the revised application the county shall follow the process identified in this section, above, until all deficiencies identified are deemed cured.
- c. If the county does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.
- d. Application entitled to the streamlined review process shall not be subject to design or placement requirement, or public hearing review. All applications shall be initially submitted to the county for review and processing.

**SECTION 34.** Section 62-2444. Mitigation. is created as follows.

Sec. 62-2444. Mitigation.

Mitigation of an existing tower shall accomplish a minimum of one of the following: (1) reduce the total number of towers within the county; or (2) reduce the total number of nonconforming towers within the county; or (3) replace an existing tower with a new tower on the same property to improve network functionality resulting in compliance with this ordinance. Mitigation is subject to the following:

- 1) No tower shall be mitigated more than one time.
- 2) Height: The height of a tower approved for mitigation shall not exceed one hundred and fifteen (115) percent of the height of the tallest tower that is being mitigated. (For example a 100 foot existing tower could be rebuilt at 115 feet.)
- 3) Setbacks: Attempts shall be made to meet the setback requirement for the new tower on the same property to the maximum degree possible. At a minimum, the new tower and its equipment compound shall be no closer to any property lines, neighboring structures or adjacent dwelling units as the tower and equipment compound being mitigated.
- 4) Breakpoint technology: A newly mitigated tower shall use breakpoint technology when possible in the design of the replacement facility.
- 5) Buffers: The tower equipment compound shall be brought into compliance with landscape and vegetation buffer requirements listed in section 62-2422(8).
- 6) Visibility: Mitigated antenna-supporting structures shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.
- 7) The existing tower, including tower base but excluding the tower foundation, must be removed within ninety (90) days of the completion of the new tower.

**SECTION 35.** Section. 62-2445. Wireless telecommunication facilities on county-owned property. is created as follows:

Sec. 62-2445. Wireless telecommunication facilities on county-owned property.

1) The master plan identifies sites the county considers preferred for the location of commercial wireless telecommunication facilities. These properties and the specific height and design recommendations are provided in Appendix A of the Master Plan. Each site has been specifically reviewed for service needs and zoning and land use compatibility through an administrative rezoning process pursuant to Section 62-1152. Designation of these sites for the location of wireless telecommunications facilities is considered a zoning overlay. Properties may be added or deleted from Appendix A of the Master Plan through the same public hearing process.

2) Applications that seek to exceed the maximum height and design standards established in Appendix A of the Master Plan are considered a level III permit and must be reviewed as a conditional use pursuant to Section 62-1953.

3) Pursuant to applicable law, the county may contract with a third party to administer those publicly-owned sites for purposes of developing the sites as part of its master plan, consistent with the terms of this Ordinance. Except as specifically provided herein, the terms of this article, and the requirements established thereby, shall be applicable to all wireless telecommunications facilities to be developed or co-located on county-owned sites.

4) If an applicant requests a permit to develop a communications facility on county-owned property, the permit granted hereunder shall not become effective until the applicant and the county have executed a written agreement or lease setting forth the particular terms and provisions under which the authorization to occupy and use the public lands of the county will be granted. Authorization to use public lands is subject to the terms of the lease.

5) No development permit granted under this section shall convey any exclusive right, privilege, permit, or franchise to occupy or use the publicly-owned sites of the jurisdiction for delivery of wireless communications services or any other purpose.

6) No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the separate agreement between the county as lessor and applicant as lessee. Further, no permit shall be construed as a conveyance of a title interest in the public property.

**SECTION 36.** Section 62-2446. Specific application requirements for mitigation and new level II towers.

Sec. 62-2446. Specific application requirements for mitigation and new level II towers.

- 1) A report and supporting technical data shall be submitted, demonstrating the following:
  - a. All antenna attachments and co-locations, including all potentially useable cross country utility distribution towers and other elevated structures within the proposed service area and alternative antenna configurations have been examined, and found unacceptable.
  - b. Reasoning as to why existing facilities such as cross country utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower.
  - c. Reasoning as to why the adequacy of alternative existing facilities or the mitigation of existing facilities are not acceptable in meeting the applicant's need or the needs of service providers, indicating that no existing communications facility could accommodate the applicant's proposed facility shall consist of any of the following:
    - i. No existing towers located within the geographic area meet the applicant's engineering requirements, and why.

- ii. Existing towers are not of sufficient height to meet the applicant's engineering requirements, and cannot be mitigated to increase in height.
  - iii. Existing towers do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
  - iv. Other limiting factors that render existing wireless communications facilities unsuitable.
- 2) Technical data included in the report shall include certification by a registered professional engineer licensed in the State of Florida or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed tower, and accompanying maps and calculations demonstrating the need for the proposed tower.
  - 3) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf (if applicable).
  - 4) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
  - 5) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of Florida indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended).
  - 6) An affidavit by a radio frequency engineer demonstrating compliance with 'Design preference' section of this Ordinance, Section 62-2421. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, or justified given the location of the proposed communications facility.
  - 7) Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning classifications.
  - 8) Written statement by a registered professional engineer licensed by the State of Florida specifying the design structural failure modes of the proposed facility.
  - 9) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency Generators are permitted. Sound levels shall not exceed seventy decibels (70 db).
  - 10) A map showing the designated search ring.
  - 11) Materials detailing the locations of existing antenna and tower facilities to which the proposed antenna will be a handoff candidate; including latitude, longitude, and power levels of the proposed and existing antenna is required.
  - 12) A radio frequency propagation plot indicating the coverage of existing antenna sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, co-location, or new tower. These documents are needed to justify a facility and to determine if the proposed location is the best suitable land use in the designated geographic area of the proposed facility.
  - 13) One (1) original and two (2) copies of a survey of the property completed by a registered professional engineer, licensed in the State of Florida showing all existing uses, structures, and improvements.

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- 14) Six (6) sets (24"×36") of signed and sealed site plans shall include the following:
- a. Name of project and date
  - b. Deed Book, and Page and Map Book and Page Reference
  - c. Scale, north arrow, and vicinity map
  - d. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area)
  - e. Adjacent property information, including land owners, land uses, height of principal building, size of lots, zoning, and land use designation.
  - f. Tower elevations
  - g. Landscape buffering plans
  - h. Maximum height of the proposed tower and proposed and future mounting elevations of future antenna, including individual measurement of the base, the tower, and lightning rod
  - i. One (1) parking space is required for each tower development area. The space shall be provided within the leased area, or equipment compound, or the development area as defined on the site plan.
  - j. Location, classification, and size of all major public or private streets and rights-of-way
  - k. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features
  - l. Two (2) reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
- 15) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- 16) List of adjacent property owners and keyed to the map. The list must be from the most current ownership information supplied by the Brevard County Property Appraiser's Office, together with two (2) sets of mailing labels for such property owners. Applicant will also provide a notarized letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.
- 17) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the county manager or designee, including the facility types the applicant has considered and the impact on adjacent properties including:
- a. Overall height
  - b. Configuration
  - c. Physical location
  - d. Mass and scale
  - e. Materials and color
  - f. Illumination
  - g. Architectural design
- 18) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this Ordinance.

- 19) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

**SECTION 37.** Section 62-2447. Satellite earth stations. is created as follows:

Sec. 62-2447. Satellite earth stations.

Satellite earth stations are hereby permitted in all zoning classifications, as an accessory use, under the following conditions:

- (1) The maximum diameter of a dish receiver shall be four meters. Dish receivers one meter or less in diameter exempted by Section 62-2406 (1) are not required to meet the criteria in subsections 2-5 noted below.
- (2) The maximum height of a dish receiver shall be 14 feet.
- (3) The dish receiver or antenna shall be set back from all lot lines not less than a distance equal to the height of the dish receiver or antenna, and shall not be located to the front of the principal building.
- (4) The dish receiver or antenna may not be mounted on the roof of the principal or accessory structure, and must be detached from the principal structure.
- (5) The dish receiver or antenna must be capable of being placed in a "stow" position and tethered, unless engineered to withstand winds exceeding 120 miles per hour.

**SECTION 38.** Chapter 62, Article VI, Division 7, Subdivision V. Level III Permits. is hereby created.

**SECTION 39.** Section. 62-2450. Application requirements. is created as follows:

Sec. 62-2450. Application requirements.

Permit Level III applications shall include the following:

- 1) Application fee
- 2) Conditional use permit application (See Section 62-1953)
- 3) Complete zoning package including one copy of a full sized reproducible fully dimensioned site plan, signed and sealed by a registered land surveyor, engineer or architect. The site plan must show all existing and proposed structures on the property including the tower and equipment building(s), structure heights, parking, ingress/egress, landscaping, refuse, screening or buffering and storm water retention areas as well as tower elevations from the front, rear and sides, including height, style, type and number of antennas to be installed. The legend shall include NAD83 latitude and longitude of the proposed tower and State Plane Coordinates and should be submitted in paper and electronic format.
- 4) Complete building permit application
- 5) Complete site plan application (See Sections 62-3200 through 62-3207)
- 6) Specific application requirements for new towers (See Section 62-2451)
- 7) Specific application requirements for broadcast towers (See Section 62-2452)

**SECTION 40.** Section 62-2451. Specific application requirements for new wireless telecommunication facilities. is created as follows:

Sec. 62-2451. Specific application requirements and review process for new wireless telecommunication facilities.

1) Application Materials

- a. All wireless telecommunications facility applications. In addition to the materials required elsewhere by the code for the appropriate type of review, all wireless facility applications shall provide sufficient materials (plans, graphics, narratives, or expert statements) to demonstrate compliance with the applicable requirements of this Ordinance.
- b. Determination of need for a new tower: No new tower shall be permitted unless the applicant demonstrates that no existing tower or alternative structure within the applicant wireless provider's geographic search area can accommodate the applicant provider's proposed use antenna elements; or that use of such existing facilities would prohibit personal wireless services in the geographic search area to be served by the proposed antenna support structure. Accordingly, the applicant shall provide:
  - i. A copy of the geographic search area of the wireless provider committed to locate on the tower and that is justifying the placement of the tower;
  - ii. An inventory of all existing towers or potential support structures equal in height to the proposed facility that are located within an area that is ¼ of a mile in radius around the applicant's identified geographic search area;
  - iii. A written explanation documenting why an existing tower cannot reasonably be used, instead of building a new tower. Evidence submitted to demonstrate that no existing or approved tower or structure can accommodate the applicants proposed antenna may consist of any of the following:
    - A. No existing or approved towers or structures are located within the required geographic area meet the applicant's engineering requirements.
    - B. Existing or approved towers or structures are not of sufficient height to meet applicant's engineering requirements.
    - C. Existing or approved towers or structures do not have sufficient structural strength and cannot be modified to support applicant's proposed antenna and related equipment.
    - D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved towers or structures, or the antenna on the existing or approved towers or structures would cause interference with the applicant's proposed antenna.
    - E. The fee, costs, or contractual provisions required by the owner in order to share an existing or approved tower or structure or to adapt an existing or approved tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
    - F. The applicant demonstrates that there are other limiting factors that render existing and/or approved towers and structures unsuitable, as documented by a qualified and licensed professional electrical engineer, as applicable.
- c. Visual Impact Analysis. The applicant must demonstrate that the proposed tower does not create a significant adverse visual aesthetic impact on the surrounding landscape and adjacent properties. Refer to criteria posted in section 62-2446 (17) above.

- d. Design Preference Justification. If the proposed tower is non-concealed, the applicant must file relevant information that demonstrates why a concealed tower is not technically feasible, practical, or justified, given the designed location and configuration of the proposed wireless communications facility, the land uses and features of the subject and surrounding properties within 300 feet of the subject property, and the criteria of minimizing adverse visual impacts on the aesthetics of the surrounding area as measured against the review factors indicated in this section.

2) Application Completeness Review.

If the county determines the application and/or documentation fails to meet all the requirements of the ordinance, then the county shall provide written notification to the applicant as to the materials which need to be amended or supplied for review. The applicant shall provide to the county any requested materials for review. This process shall continue until the county has approved the application package, at which time the applicant may proceed to request a building permit.

- a. Within twenty (20) business days of receipt of an application for a wireless communications facility, the county shall determine if the application form has been completed and if all required items have been submitted.
- b. If county determines that the application is not complete and/or if all required items have not been submitted, the county shall, within the twenty (20) business days of the application submittal, notify the applicant in writing that the application is incomplete "notification of incompleteness". The notification of incompleteness shall list, with specificity, those items that are incomplete and/or missing and indicate what must be provided to make the application complete.
- c. If the applicant resubmits the additional information or revised application, the county shall review the resubmitted materials for completeness. If the application is still not complete, county shall send the applicant another Notification of Incompleteness indicating the remaining deficiencies within the regular review timeframes, but in no case longer than twenty (20) business days after the application is resubmitted.
- d. Upon resubmitting the resubmittal of the revised site plan and paperwork materials, the county shall follow the process identified in a. and b. through c. above until all deficiencies identified are deemed cured and the application is deemed complete.
- e. If the county does not respond in writing to the applicant within the specified timeframes detailed above, then the application shall be deemed approved to be properly complete.
- f. When the application is deemed complete and all required items have been submitted, the county shall advise the applicant and begin processing the application.

3) Supplemental Reviews.

The county reserves the right to require a supplemental review for any other type of co-location, attachment, mitigated tower, new tower, or antenna element replacement subject to the following:

- a) Where due to the complexity of the methodology or analysis required to review an application for any proposed or existing antenna support facility, the county may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. The supplemental review fees shall be a fixed sum and shall be established by separate resolution. Schedules of current fees are posted in the planning division office.

- b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
  - c) The supplemental review may address any or all of the following:
    - i. The accuracy and completeness of the application and accompanying documentation.
    - ii. The applicability of analysis techniques and methodologies.
    - iii. The validity of conclusions reached.
    - iv. Whether the proposed wireless communications facility complies with the applicable approval criteria set forth in these codes.
    - v. Other items deemed by the county to be relevant to determining whether a proposed wireless communications facility complies with the provisions of these codes.
- 4) Application Review Timeframes.
- a) Review timeframe for wireless telecommunications facilities. The county shall review and grant or deny each properly completed application for all wireless communications facilities other than expedited review co-locations within ninety (90) business days from the date the application is determined to be properly complete.
  - b) If the county does not grant or deny a properly completed application for a within the timeframes set forth above, the application shall be deemed automatically approved and the applicant may proceed with the next level of review or, if no additional levels of review are required, with the placement of the wireless communications facility.
  - c) For level III applications only, the ninety (90) business-day time frame may be extended if the hearing on the conditional use permit before the Board of County Commissioners, following the review process and timeframe applicable to all conditional use approvals for all uses, cannot reasonably occur within the ninety (90) business days. Under such circumstances, the Board must either grant or deny the application at a regularly scheduled meeting prior to the ninety (90) business days expiration or the application shall be deemed automatically approved.
  - d) These time frames may be waived, if a waiver is voluntarily agreed to by the applicant and the county. A one-time waiver may be required by the county, without the applicant's consent, in the case of a declared local, state, or federal emergency, which directly affects the permitting activities of the county, for the length of that emergency.

**SECTION 41.** Section 62-2452. Specific application requirements for new broadcast towers. is created as follows:

Sec. 62-2452. Specific application requirements for new broadcast towers.

- 1) Technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application.
- 2) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.
- 3) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.

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4) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of Florida indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended).

5) A written statement by a registered professional engineer licensed by the State of Florida specifying the design structural failure modes of the proposed facility.

6) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency Generators are permitted. Sound levels shall not exceed seventy decibels (70 db).

7) One (1) original and two (2) copies of a survey of the property completed by a registered professional engineer, licensed in the State of Florida showing all existing uses, structures, and improvements.

8) Six (6) sets (24"×36") of signed and sealed site plans shall include the following:

- a. Name of project and date
- b. Deed Book, and Page and Map Book and Page Reference
- c. Scale, north arrow, and vicinity map
- d. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area)
- e. Adjacent property information including land owners, land uses, height of principal building, size of lots, and existing zoning and land use
- f. Landscape buffering plans
- g. Maximum height of the proposed tower and/or antenna, including individual measurements of the base, tower, and lightning rod
- h. One (1) parking space is required for each tower development area. The space shall be provided within the leased area, or equipment compound, or the development area as defined on the site plan.
- i. Location, classification, and size of all major public or private streets and rights-of-way
- j. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features
- k. Two (2) reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.
- l. Structure elevations
- m. NAD83 latitude and longitude coordinates of the proposed broadcast tower.
- n. State Plane coordinates of the proposed broadcast tower.
- o. Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- p. List of property owners within 1,000 feet in residential zoning districts and 500 feet in all other zoning districts and keyed to the map. The list must be from the most current ownership information supplied by the Brevard County Property Appraiser's Office, together with two (2) sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.

- q. A pre-application conference will be required for any new broadcast facility.
- r. Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

**SECTION 42.** Sec. 62-1953. Towers and antenna. Code of Ordinances of Brevard County, Florida, is hereby deleted in its entirety.

~~(a) Exemptions:~~

- ~~(1) This section shall not apply to antennas or antenna support structures owned by amateur radio service operators licensed by the Federal Communications Commission (FCC). However, such antennas or antenna support structures shall continue to be subject to accessory structure setbacks (excluding guy wires) as required under section 62-2100.5(1)(e).~~
- ~~(2) Towers and antennas owned and/or operated by the county for public service and public safety purposes shall be exempt from the placement, construction and modification requirements set forth in this section.~~
- ~~(3) Towers and antennas under 35 feet in height measured from the average elevation of the finished development grade of the building site are permitted in every zoning classification in the unincorporated areas of the county, provided such towers and antennas continue to be subject to accessory structure setbacks as noted in subsection (a)(1), above. Commercial towers and antennas permitted pursuant to this exemption may be utilized for single use applications notwithstanding subsection (g)(6) below.~~

~~(b) Definitions:~~

~~Collocation means the placement of more than one communication antenna by more than one provider on a single existing or new tower or other supporting structure.~~

~~Substantial increase in size means the proposed antenna collocation, tower reconstruction or tower replacement (1) would increase the height of the existing structure or tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 25 feet, whichever is greater; (2) would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; (3) would involve adding an appurtenance to the existing structure or tower that would protrude from the edge more than 25 feet, or more than the width of the structure at the level of appurtenance, whichever is greater; or (4) would involve excavation outside the current site, defined as the current boundaries of the leased or owned property surrounding the existing structure and any access or utility easement currently related to the site.~~

~~(c) Addition of antennas to existing structures and towers:~~

- ~~(1) A conditional use permit (CUP) shall not be required to locate antennas on or within existing or permitted structures and towers over 35 feet in height, regardless of the zoning classification, provided that the new single use antenna or collocation does not involve a substantial increase in size of the existing structure or tower. An application for collocation on an existing or permitted structure or tower which does not involve a substantial increase in size shall be subject to no more than a building permit review. In those cases where a substantial increase in size is necessitated by the proposed collocation and would result in a tower that would require a conditional use permit if being reviewed for the first time, the applicant shall submit a conditional use permit application to the county as~~

contemplated by section 62-1953(i) herein below, and the tower shall be subject to setback criteria as if being permitted for the first time.

- ~~(2) The antenna elements must be painted to match the structure upon which they will be placed.~~
- ~~(3) Where an existing tower is nonconforming, the location of additional antenna elements on an existing tower pursuant to this subsection shall not be considered an expansion of a nonconforming use.~~
- ~~(4) Existing commercial towers may be reconstructed, or removed and rebuilt, if the reconstruction is for the purpose of adding additional antennas which would otherwise require construction of a new tower. Provided that the reconstructed or replacement tower does not involve a substantial increase in size, such modification or replacement shall be subject to no more than a building permit review. However, if the existing tower was permitted without a conditional use permit, and the tower is reconstructed or rebuilt such that a conditional use permit would be required if the tower were being reviewed for the first time, then a conditional use permit shall be required for the reconstructed tower or replacement tower. In those cases where a substantial increase in size is requested, the applicant shall submit a conditional use permit application to the county as contemplated by section 62-1953(i) herein below, and the application shall be subject to setback criteria as if being permitted for the first time. Replacement towers shall be of the same type as the existing tower or improved aesthetically as follows. For the purpose of this section, a lattice tower is more aesthetic than a guyed tower, a monopole tower is more aesthetic than a lattice tower, and a stealth tower is more aesthetic than a monopole tower. Reconstructed or replacement towers which require a new conditional use permit shall be subject to setback criteria as if being permitted for the first time. If a conditional use permit is already in place for the existing tower, and if the reconstructed or replacement tower does not result in a substantial increase in size, the reconstructed or replacement tower shall meet the following criteria:
  - ~~a. Replacement towers shall be set back from the nearest property line a distance equal to or greater than the existing tower's setback distance to the nearest property line; and~~
  - ~~b. Replacement towers shall be set back from the nearest residentially zoned property a distance equal to or greater than the existing tower's setback distance to the nearest residentially zoned property.~~
  - ~~c. Replacement towers shall be designed/engineered to fall within the confines of the subject property should the proposed setback be less than the total tower height.~~~~
- ~~(d) In the PBP, PIP, IU and IU-1 zoning classifications, towers and antennas up to 200 feet in height may be permitted without a conditional use permit under the following circumstances:
  - ~~(1) Towers and antennas which exceed 35 feet in height shall be located on the site at a distance equal to or in excess of five times the height of the tower or antenna, (from the base of the tower or antenna) from existing off-site single family residential homes or property zoned primarily for single family residential use (including AU). Any tower shall be set back a minimum of 200 feet from all property lines.~~
  - ~~(2) Such towers shall use construction techniques that do not require guy wires (e.g., lattice or monopole structures).~~~~
- ~~(e) In the PA and AGR zoning classifications, towers and antennas may be permitted without a conditional use permit under the following circumstances:
  - ~~(1) Such towers and antennas are subject to the requirements of subsection (d) above.~~
  - ~~(2) Towers exceeding 200 feet must be spaced at least 3,500 feet from the nearest off-site tower.~~~~

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- ~~(3) Any existing vegetation six feet in height or above along a 50 foot perimeter around the entire parcel upon which the tower is to be erected must be preserved until the property is developed and county land clearing and landscaping requirements are met.~~
- ~~(f) Noncommercial towers and antennas over 35 feet in height are permitted as a conditional use in any residential zoning classification on lots of one acre or more, provided they are set back from all property lines equal to the height of the tower. Such towers shall not exceed 100 feet. Noncommercial towers and antennas within residential areas may not use the collocation provision described above to increase the overall height of a Board approved tower and antenna above 100 feet; rather they shall be reviewed as a commercial tower. The applicant must demonstrate consistency with (1) the general criteria set forth in section 62-1901(e); and (2) the requirements listed in subsections (d) and (e) above.~~
- ~~(g) Provisions applicable to all commercial towers and wireless communication facilities required to apply for a conditional use permit.~~
- ~~(1) Towers and wireless communication facilities which have not had active antennas for a period of six consecutive months shall be considered abandoned and shall be removed by the owner of the tower at their own expense. Subject to subsection (ek), if a tower is not removed within 60 days after notice, the county shall have the right to remove such tower and wireless communication facilities and impose a lien for the cost of removal on the site which was the subject of the application. This provision is deemed a condition to the issuance of any permit and applicant seeking a permit waives and releases any claim for damages as a result of the county's invocation of the removal condition.~~
- ~~(2) Every five years, the owner of any tower and wireless communication facilities approved under this section shall submit to the county building official a sealed statement from a certified civil engineer that the structure is sound. The certification shall be due by the end of the month upon each anniversary of the issuance of the building permit. If the report is not provided within 14 days after receipt of written notice by the CUP holder and property owner, towers which have not been certified shall be considered dilapidated and shall be removed by the property owner. Subject to subsection (ek), if the property owner fails to remove the tower within 30 days after receiving notice to effect removal, the county shall have the right to remove such tower and impose a lien on the site which was the subject of the application.~~
- ~~(3) Equipment buildings and pads shall be fenced and shall be landscaped and maintained with opaque landscape buffer. Security lighting for on-ground facilities and equipment shall be down shielded to keep light within the boundaries of the site and minimize its potential attraction for birds.~~
- ~~(4) In the GU and agricultural zoning classifications, equipment buildings shall be unmanned and not exceed 600 square feet.~~
- ~~(5) Applicants seeking to erect new or towers that require a conditional use permit shall demonstrate to the reasonable satisfaction of the county that no existing or approved tower or structure, irrespective of municipal and county jurisdictional boundaries, can accommodate the applicant's proposed antenna. Notwithstanding any other provision in the zoning ordinance relating to the contrary, applications for towers shall be considered two times each year. Complete applications for the first bi-annual review must be submitted between January 1 and January 15 in any year. Complete applications for the second bi-annual review must be submitted between July 1 and July 15 in any year. After receipt of a complete application during the applicable bi-annual review period, the county shall review and take action upon completed tower applications in a timely manner consistent with the most restrictive of the time limitations on review and approval specified in either F.S. § 365.172(12), as amended or federal~~

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~~law. The county reserves the right to hire, at a reasonable fee to the applicant, an independent expert witness to evaluate any evidence submitted by applicants pursuant to this section. Evidence submitted to demonstrate that no existing or approved tower or structure can accommodate the applicants proposed antenna may consist of any of the following:~~

- ~~a. No existing or approved towers or structures are located within the required geographic area meet the applicant's engineering requirements.~~
  - ~~b. Existing or approved towers or structures are not of sufficient height to meet applicant's engineering requirements.~~
  - ~~c. Existing or approved towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.~~
  - ~~d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved towers or structures, or the antenna on the existing or approved towers or structures would cause interference with the applicant's proposed antenna.~~
  - ~~e. The fee, costs, or contractual provisions required by the owner in order to share an existing or approved tower or structure or to adapt an existing or approved tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.~~
  - ~~f. The applicant demonstrates that there are other limiting factors that render existing and/or approved towers and structures unsuitable, as documented by a qualified and licensed professional electrical engineer, as applicable.~~
- ~~(6) Excluding AM array, all commercial towers, including those granted as a conditional use permit, must be constructed to permit collocation by other providers. New communication towers shall be designed and constructed, both structurally and electrically, to (a) provide sufficient excess capacity over the initial loading; and (b) permit at least two other comparable communication providers to use the approved tower where feasible and subject to reasonable terms. The term "where feasible," as it applies to collocation, means that utilization of a tower by another party would, at the time of such utilization, comply with sound engineering principles, would not materially degrade or impair the communication tower's utilization by existing users, would not unduly burden the tower structurally, and would not otherwise materially and adversely impact existing users. Reasonable terms for use of a communication tower that may be imposed by the owner include a requirement for reasonable rent or fees, taking into consideration the capitalized cost of the communication tower and land, the incremental cost of designing and constructing the tower so as to accommodate additional users, increases in maintenance expenses relating to the tower and a fair return on investment, provided such amount is also consistent with rates paid by other providers at comparable tower sites.~~
- ~~(7) For purposes of this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one communication tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.~~
- ~~(8) Tower and antenna lighting.~~
- ~~a. Towers exceeding 200 feet in height must use the minimum number of warning and obstruction lights having the minimum intensity and number of flashes per minute permitted by the Federal Aviation Administration (FAA).~~

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- b. ~~As provided for in section 2-10-1, where lighting is required by Brevard County Mosquito Control on towers and antennas equal to or less than 200 feet in height, the frequency of high intensity lighting shall not exceed 20 flashes per minute.~~
- e. ~~All lights on towers and antennas of any height shall be up-shielded.~~
- d. ~~Where permitted, guyed towers shall use daytime visual markers (e.g., bird diverter devices) on the guy wires to reduce collisions by migratory birds.~~
- (h) ~~A waiver to one or more of the conditions enumerated in subsection (d) or (e) above may be considered by the board of county commissioners through a conditional use permit (CUP) application, provided the general section 62-1901(c) CUP standards are met. The applicant must also demonstrate technical necessity for the location of the tower, that there are special existing or proposed circumstances pertaining to the structures or properties involved, and that the proposed setback and distance separation will satisfy safety and aesthetic concerns which the conditions in subsections (d) and (e) are intended to address. The applicant shall prepare an exhibit which will demonstrate to the board the visual impact of the proposed tower.~~
- (i) ~~Excluding those towers in a GML zoning classification, any tower in excess of 200 feet or any other tower not permitted without a conditional use permit shall require a conditional use permit. The applicant must demonstrate consistency with (1) the general criteria set forth in section 62-1901(c); and (2) the requirements listed in subsections (d) and (e) above.~~
- (j) ~~The conditional use permit or building permit for a tower shall expire if a site plan for the tower (if required) is not submitted within one year of approval or if construction does not commence within three years of approval.~~
- (k) ~~Prior to effecting the removal of any tower, the county shall provide notice and an opportunity to be heard to both the landowner and the CUP holder who shall show cause why the tower should not be removed in accordance with the provisions and requirements of the ordinance. A notice describing the reason for removal and the date of a hearing before the county commission shall be served by certified mail, fax, actual delivery, or U.S. mail (if otherwise undeliverable) at least 21 days prior to the hearing. The time for effecting removal shall be tolled pending a final determination by the board or, if an action is filed, by a court with jurisdiction.~~
- (l) ~~Third party (i.e., private sector tower company) tower construction projects on federal or state lands are subject to the provisions of this section, unless the third party is acting on behalf of the federal or state government. A tower constructed by a third party on behalf of the federal or state government does not require local permits; however, a tower constructed on federal or state property for a private sector endeavor shall comply with all local regulations.~~

**SECTION 43.** Section 62-1953. Wireless telecommunication facilities and broadcast towers. is created as follows:

Sec. 62-1953. Wireless telecommunication facilities and broadcast towers.

Wireless telecommunication facilities and broadcast towers may be permitted as a conditional use subject to the applicable requirements of Communications Facilities Ordinance, Section 62-1901(c) and this section.

- 1) In addition to the general review criteria in Section 62-1901(c), the Board shall consider the following:
  - a. The aesthetic effects of the proposed tower on surrounding areas as well as mitigating factors concerning aesthetics.

- b. The Board may disapprove an application on the grounds that the proposed tower's aesthetic effects are incompatible, or may condition approval on changes in tower height, design, style, buffers, or other features of the wireless communications facility or its surrounding area. Such changes in non-broadcast installations need not result in performance identical to that of the original application.
- c. Factors relevant to aesthetic effects include: the protection of the view in sensitive or scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways and historic sites; the concentration of towers in the proposed area; and whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive visual impact.
- d. If Board determines that the proposed additional service of non-broadcast facilities, coverage, or capacity to be achieved by the location of the proposed facility can be achieved by use of one or more alternative existing wireless communications facilities addressed in this section, which better serve the stated goals set forth in section 62-2402, it may deny the proposed antenna support facility application.

2) A waiver to the maximum tower heights for wireless telecommunications facilities established in Section 62-2422(2) may be considered. The applicant must demonstrate the technical necessity for the proposed tower height in excess of the maximum designation and provide written certification from a radio frequency (RF) engineer licensed in the State of Florida stating that the maximum height recommendation will not satisfy the proposed service network objective and that the proposed height is the minimum necessary to satisfy those needs.

3) A conditional use permit or building permit for a wireless communication facility or broadcast tower shall expire if a site plan for the tower (if required) is not submitted within one year of approval or if construction does not commence within three years of approval.

4) Prior to effecting the removal of any tower, the county shall provide notice and an opportunity to be heard to both the landowner and the CUP holder who shall show cause why the tower should not be removed in accordance with the provisions and requirements of the ordinance. A notice describing the reason for removal and the date of a hearing before the county commission shall be served by certified mail, fax, actual delivery, or U.S. mail (if otherwise undeliverable) at least 21 days prior to the hearing. The time for effecting removal shall be tolled pending a final determination by the Board or, if an action is filed, by a court with jurisdiction.

**SECTION 44.** Section 62-2124. Television dish receivers and antennas., Code of Ordinances of Brevard County, Florida, is hereby deleted in its entirety.

~~Sec. 62-2124. Television dish receivers and antennas.~~

~~Television dish receivers and antennas are hereby permitted in all residential zoning classifications, as an accessory use to single family residential use, under the following conditions:~~

- ~~(1) The maximum diameter of a dish receiver shall be four meters.~~
- ~~(2) The maximum height of a dish receiver shall be 14 feet.~~
- ~~(3) The dish receiver or antenna shall be set back from all lot lines not less than a distance equal to the height of the dish receiver or antenna, and shall not be located to the front of the principal building.~~
- ~~(4) The dish receiver or antenna may not be mounted on the roof of the principal or accessory structure, and must be detached from the principal structure.~~

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~~(5) The dish receiver or antenna must be capable of being placed in a "stow" position and tethered, unless engineered to withstand winds exceeding 120 miles per hour.~~

**SECTION 45. Conflicting Provisions.** In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

**SECTION 46. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION 47. Area Encompassed.** This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

**SECTION 48. Effective Date.** A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

**SECTION 49. Inclusion in code.** It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this 2<sup>nd</sup> day of October, 2014.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

\_\_\_\_\_  
Mary Bolin Lewis, Chairman  
(as approved by the Board on October 2, 2014)

Reviewed for legal form and content by: \_\_\_\_\_