

ORDINANCE 19-04

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; AMENDING THE CITY OF ALACHUA CODE OF ORDINANCES; CREATING A NEW CHAPTER 39 IN THE CITY OF ALACHUA CODE OF ORDINANCES TO BE ENTITLED “COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS OF WAY”; PROVIDING FINDINGS & INTENT; PROVIDING DEFINITIONS; PROVIDING FOR REGISTRATION OF COMMUNICATION SERVICE PROVIDERS; PROVIDING FOR RULES AND REGULATIONS FOR COMMUNICATIONS SERVICE PROVIDERS, WIRELESS SERVICE PROVIDERS & SMALL WIRELESS SERVICE PROVIDERS & THEIR FACILITIES; PROVIDING FOR A DUTY TO NOTIFY; PROVIDING FOR REVOCATION & SUSPENSION; PROVIDING FOR TERMINATION; PROVIDING FOR APPEALS; PROVIDING FOR APPLICATION OF THESE RULES TO EXISTING COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; PROVIDING FOR INSURANCE; PROVIDING FOR INDEMNIFICATION OF THE CITY; PROVIDING FOR CONSTRUCTION BOND; PROVIDING FOR ABANDONMENT OF A COMMUNICATIONS FACILITY; PROVIDING FOR PASS-THROUGH PROVIDER FEES AND FEES FOR USE OF CITY UTILITY POLES; PROVIDING FOR RESERVATION OF RIGHTS AND REMEDIES; PROVIDING FOR THIS ORDINANCE TO CONTROL IN THE EVENT OF CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR CORRECTION OF SCRIVENER’S ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, effective July 1, 2017, Florida amended Florida Statute 337.301 by adding Section (7) “Advanced Wireless Infrastructure Deployment Act” allowing wireless facilities including micro and small wireless facilities (SWFs) to be located within the public right of way.

WHEREAS, the installation of SWFs contemplated in Section 337.401 will be collocated on existing utility poles in the public rights of way.

WHEREAS, the City of Alachua is in the process of undergrounding all electric and other utility lines in the City where not prohibited by cost or other barrier.

WHEREAS, because matters were pending before the Federal Communications Commission (FCC) that could impact or pre-empt local regulation, on January 8, 2018, the City Commission adopted Ordinance 18-02 which established a 6 month moratorium on wireless communications facilities. On May 21, 2018, the Commission exercised the 6 month extension of the moratorium authorized by Ordinance 18-02.

WHEREAS, Part II, Subpart A, Chapter 39 of the City’s Code of Ordinances (“Code”) is reserved for future ordinances.

WHEREAS, this Ordinance 19-04 as set forth in attached Exhibit “A” is hereby incorporated into the Code as a new Chapter 39 of the City of Alachua Code of Ordinances.

WHEREAS, the City finds it to be within its police powers to establish regulations for communication facilities in public rights-of-ways.

WHEREAS, the City advertised public hearings to be held before the City Commission on November 29 2018 and December 6, 2018.

WHEREAS, the City Commission has determined and found the Amendment in Exhibit “A” to be consistent with the City’s Comprehensive Plan; and.

WHEREAS, for reasons set forth in this Ordinance it is hereby adopted and incorporated as Findings of Fact, that the Alachua City Commission finds and declares that the enactment of the Amendment in Exhibit “A” is in the furtherance of the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare;.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALACHUA, FLORIDA.

Section 1. Interpretation of Recitals

The above recitals are true and correct and incorporated in this Ordinance.

Section 2. Findings of Fact and Conclusions of Law

The authority for the enactment of this Ordinance is Chapter 163, Part I, Florida Statutes; Sections 166.021 and 166.041; and the City’s Comprehensive Plan.

Section 3. Amendment to the City Code of Ordinances

The proposed Amendment to the City of Alachua and Code of Ordinances in attached Exhibit “A” and is incorporated herein by reference. The Public Services Director is authorized to prepare all applications and other papers consistent with and necessary to effectuate the new Chapter 39.

Section 4. Codification of and Correction of Scrivener’s Errors

The City Manager or designee, without public hearing, is authorized to correct any typographical or grammatical errors which do not affect the intent of this Ordinance, including all attachments to it. A corrected copy shall be posted in the public record.

Section 5. Ordinance to be Construed Liberally

This Ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the City of Alachua, Florida.

Section 6. Repealing Clause

All ordinances or parts of ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 7. Severability

It is the declared intent of the City Commission of the City of Alachua that, if any section, sentence, clause, phrase, or provision of this Ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not be affected the remaining provisions of this Ordinance, and the remainder of the Ordinance after the exclusions of such part or parts shall be deemed to be valid.

Section 8. Effective Date

This Ordinance shall take effect immediately upon its adoption by the City Commission.

PASSED on first reading on the 19th day of November, 2018.

PASSED and **ADOPTED**, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 10th day of December, 2018.

**CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA**

Gib Coerper, Mayor

ATTEST:

APPROVED AS TO FORM

Adam Boukari, City Manager/Clerk

Marian B. Rush, City Attorney