



CITY OF TAMARAC
NOTICE OF WORKSHOP MEETING
CITY COMMISSION OF TAMARAC, FL
City Hall - Conference Room 105
June 10, 2013

CALL TO ORDER:

ROLL CALL:

PLEDGE OF ALLEGIANCE:

1. Neighborhood Meetings Report

Neighborhood Meetings Report. - ***Community Development Director Jennifer Bramley***

2. TR12331 - Park Place @ Woodmont / Flex Units

Item No. 6 (d) on the Regular Agenda. (TR12331) A Resolution of the City Commission of the City of Tamarac, Florida, approving a Flex Unit petition to allow for the future construction of 20 townhouse units on land currently designated as commercial, in accordance with the City of Tamarac's Comprehensive Plan; for the property located at the southwest corner of Pine Island Road and NW 77 street (Parcel A, I.C. Plat, according to the Plat thereof as recorded in Plat Book 130, Page 35 of the public records of Broward County, Florida); (Case No. 1-FLX-13); providing for conflicts; providing for severability; and providing for an effective date. - ***Community Development Director Jennifer Bramley***

3. TO2285 - Red Light Camera Ordinance Amendment

Item No. 8(b) on Ordinances - First Reading: (TO2285) Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on first reading** amending Part II of the Code of Ordinances of the City of Tamarac; amending Chapter 2, Article III, Division 2 of the Code of Ordinances to update the definition of "Magistrate" and to authorize the special magistrate to enforce all matters authorized by law; amending and restating Part II, Chapter 14.5, entitled "Tamarac Dangerous Intersection Safety Act" to conform to state law, and to add a new section 14.5-5, to be entitled "Notice of Violation Hearings", to implement 2013 changes in State Law that provide for the City to conduct hearings on notices of violation; providing for severability; providing for codification; providing an effective date. - ***Financial Services Director Mark Mason and Assistant City Attorney Michael Cirullo***

4. TO2278 - Telecommunications Towers and Antennas Ordinance

Item No. 8 (c) on Ordinances - First Reading: (TO2278) Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on first reading** amending Article IX, Chapter 24 entitled "Telecommunications Towers and Antennas" of the Code of Ordinances of the City of Tamarac, Florida, as amended, and to regulate personal wireless service facilities in the public rights-of-way; containing a repealer provision, a severability clause, and providing for an effective date. - ***Assistant City Attorney David Tolces and Community Development Director Jennifer Bramley***

The City Commission may consider and act upon such other business as may come before it. In the event this agenda must be revised, such revised copies will be available to the public at the City Commission meeting.

Pursuant to Chapter 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing, he may need to ensure that a

verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is based.

The City of Tamarac complies with the provisions of the Americans with Disabilities Act. If you are a disabled person requiring any accommodations or assistance, please notify the City Clerk's Office at (954)-597-3505 of such need at least 48 hours (2 days) in advance. Additionally, if you are hearing or speech impaired and need assistance, you may contact the Florida Relay Service at either of the following numbers: 1-800-955-8770 or 1-800-955-8771.

A handwritten signature in blue ink, reading "Patricia Teufel". The signature is fluid and cursive, with the first name "Patricia" and last name "Teufel" clearly legible.

Patricia Teufel, CMC
Interim City Clerk



Title - Neighborhood Meetings Report

Neighborhood Meetings Report. - ***Community Development Director Jennifer Bramley***

ATTACHMENTS:

Name:

Description:

No Attachments Available



Title - TR12331 - Park Place @ Woodmont / Flex Units

Item No. 6 (d) on the Regular Agenda. (TR12331) A Resolution of the City Commission of the City of Tamarac, Florida, approving a Flex Unit petition to allow for the future construction of 20 townhouse units on land currently designated as commercial, in accordance with the City of Tamarac's Comprehensive Plan; for the property located at the southwest corner of Pine Island Road and NW 77 street (Parcel A, I.C. Plat, according to the Plat thereof as recorded in Plat Book 130, Page 35 of the public records of Broward County, Florida); (Case No. 1-FLX-13); providing for conflicts; providing for severability; and providing for an effective date. -

Community Development Director Jennifer Bramley

ATTACHMENTS:

Name:

Description:

- 📎 [1304010M Park Place Flex Units 1-FLX.pdf](#)
- 📎 [12331reso Park Place at Woodmont Flex Units.doc](#)
- 📎 [CC Park Place Flex Unit - Site Location Map.pdf](#)
- 📎 [TR12331 - Justification Letter.pdf](#)

TR12331 - Memo
TR12331 - Resolution
TR12331 - Site Location Map
TR12331 - Justification Letter

CITY OF TAMARAC
INTEROFFICE MEMORANDUM 13-04-010M
COMMUNITY DEVELOPMENT DEPARTMENT

TO:	Michael C. Cernech, City Manager	DATE:	May 22, 2013
FROM:	Jennifer K. Bramley, Director of Community Development	RE:	Park Place @ Woodmont – Flex Units
		CASE#:	1-FLX-13 TEMP. RES. NO. 12331
		MF#:	01-13

RECOMMENDATION: The Director of Community Development recommends that the City Commission approve the allocation of Flex Units application at its June 12, 2013 meeting.

ISSUE: The applicant is requesting approval of the allocation of Flex Units to allow for the construction of 20 townhouse units in accordance with the City's Comprehensive Plan (see site Map). This requested action is associated with other applications that are moving forward through the public hearing process including a New Site Plan application and a rezoning application.

PUBLIC NOTIFICATION: Section 2-370 of the Code of Ordinances requires that all property owners within 400 feet of the subject property be notified of this application. To that end 75 property owners were notified for this petition.

BACKGROUND: Howard Jablon, P.E., Designated Agent for the property owner, Lago Tamarac, LLC, is requesting the allocation of 20 Flex Units to allow for the future development of 20 townhouse dwelling units. The amendment site is located at the southwest corner of Pine Island Road and N.W. 77 Street and is located in Broward County's Flex Zone 61.

Currently, the property is designated "Commercial" on the City's Land Use Map and is zoned B-3. The commercial land use and zoning was the result of litigation between Leadership Housing and the City in 1972 that resulted in a Stipulation executed by the two parties in May, 1979. The Stipulation provided that the property would continue to be zoned for commercial use limiting those uses to professional offices, banks and savings and loan offices and non-fast food restaurants.

The City's Land Use Element allows for residential development of small (less than 5 acres) parcels of land designated "Commercial" on the Land Use Map through the rezoning process and the allocation of Flex Units. The rezoning of this property from B-3 (General Business District) to R-3 (Low Density Multifamily Residential District) is the most appropriate zoning district for the proposed project.

Upon the rezoning of the property and the approval of the future site plan for residential use, the Stipulation will be terminated by agreement by both parties. The commercial use of the property as provided in the Stipulation has been of great concern to the City at this location in terms of compatibility with the surrounding neighborhoods. The use as a new townhouse residential development will be more compatible with the residential nature of the surrounding properties.

The allocation of Flex Units means the difference between the number of dwelling units permitted within a flexibility zone by the City's Future Land Use map and the number of dwelling units permitted within the flexibility zone by the Future Broward County Land Use Plan map. This allows for available flex units to be utilized by a local government to rearrange residential densities without going through a Land Use Plan Amendment but rather rezoning the property from Commercial (B-3) to a residential zoning district (R-3), which is currently processing through as a separate application (2-Z-13). Ultimate approval of the allocation of Flex Units will be determined by the Broward County Commission.

ANALYSIS: Placement of the residential parcel is in keeping with the Policies of the City's Comprehensive Plan specifically Policy 1.4. The Goals, Objectives and Policies (GOP's) of the Future Land Use Element of the Comprehensive Plan and specifically Policy 1.4 state the following;

Policy 1.4 *The Community Development Department will continue to review land use plan amendments, zoning amendments, site plans, and plat approval requests for compatibility with adjacent land uses as currently required in the Code of Ordinances. The Land Development Code revisions should address criteria to be used in reviews for determining whether there is compatibility among adjacent land uses. The Community Development Department will continue to review the Planning Commission Board agendas of surrounding cities to identify land use proposals which might affect the City of Tamarac.*

The proposed amendment supports Goal #5, "A Vibrant Community" by revitalizing our community within the City's residential neighborhoods.

FISCAL IMPACT: The application is being funded by an application/processing fee.

SUMMARY RECOMMENDATION: Staff has determined that the proposed allocation of Flex Units to construct 20 townhouse units that is in conjunction with the rezoning of this property from B-3 to R-3 is consistent with the City's Comprehensive Plan. Additionally, the use as a new townhouse residential development versus a commercial use will be more compatible to the residential nature of the surrounding properties. Therefore staff recommends that the City Commission approve this Flex Unit application at its June 12, 2013 meeting.



Jennifer K. Bramley
Director of Community Development

Attachments: Temporary Resolution No. 12331
 Site Map
 Justification Letter

CITY OF TAMARAC, FLORIDA

RESOLUTION NO. R-2013-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, APPROVING A FLEX UNIT PETITION TO ALLOW FOR THE FUTURE CONSTRUCTION OF 20 TOWNHOUSE UNITS ON LAND CURRENTLY DESIGNATED AS COMMERCIAL, IN ACCORDANCE WITH THE CITY OF TAMARAC'S COMPREHENSIVE PLAN; FOR THE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF PINE ISLAND ROAD AND NW 77 STREET (PARCEL A, I.C. PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 130, PAGE 35 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA); (CASE NO. 1-FLX-13); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Howard Jablon, P.E., designated agent for the property owner, Lago Tamarac, LLC., is requesting approval of a Flex Unit petition to allow for the future development of twenty (20) townhouse dwelling units on land currently designated as "Commercial", for the property located at the southwest corner of Pine Island Road and NW 77 Street; and

WHEREAS, the Land Use Element of the City of Tamarac's (hereafter referred to as the "City") Comprehensive Plan allows for residential development of small (less than five (5) acres) parcels of land that is designated as "Commercial" on the City's Land Use Map; and

WHEREAS, the City's Comprehensive Plan allows for residential development through the rezoning process and allocation of Flex Units; and

WHEREAS, the subject property is currently designated as "Commercial" on the City's Land Use Map; and

WHEREAS, the subject property is currently zoned B-3 (General Business District); and

WHEREAS, the Commercial land use and zoning designation was the result of a stipulated agreement between the City and Leadership Housing enacted in 1979; and

WHEREAS, upon approval of the associated Rezoning and New Development Site Plan petitions, the stipulation agreement will be terminated by agreement by both parties; and

WHEREAS, pursuant to the provisions of the Code of Ordinances of the City of Tamarac, Florida, public notice has been given of the time and place of the public hearing regarding the subject property and said public hearing has been held in accordance with the notice and the public has been given an opportunity to be, and has been heard; and

WHEREAS, the Director of Community Development recommends approval of this petition; and

WHEREAS, the City Commission of the City of Tamarac, Florida deems it to be in the best interests of the citizens and residents of the City of Tamarac to approve this petition to allow for the future development of twenty (20) townhouse dwelling units on land that is currently designated as "Commercial" on the City's Land Use Map for which the legal description is described as Parcel A, I.C. Plat, according to the plat thereof as recorded in Plat Book 130, Page 35 of the public records of Broward County, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA:

SECTION 1: The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

SECTION 2: That the future development of twenty (20) townhouse dwelling units on land designated as "Commercial" on the City's Land Use Map for which the legal description is described as Parcel A, I.C. Plat, according to the plat thereof as recorded in Plat Book 130, Page 35 of the public records of Broward County, Florida, is hereby approved.

SECTION 3: All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portions or applications of this Resolution.

SECTION 5: This Resolution shall become effective immediately upon its adoption.

PASSED, ADOPTED AND APPROVED this day of , 2013.

BETH TALABISCO,
MAYOR

ATTEST:

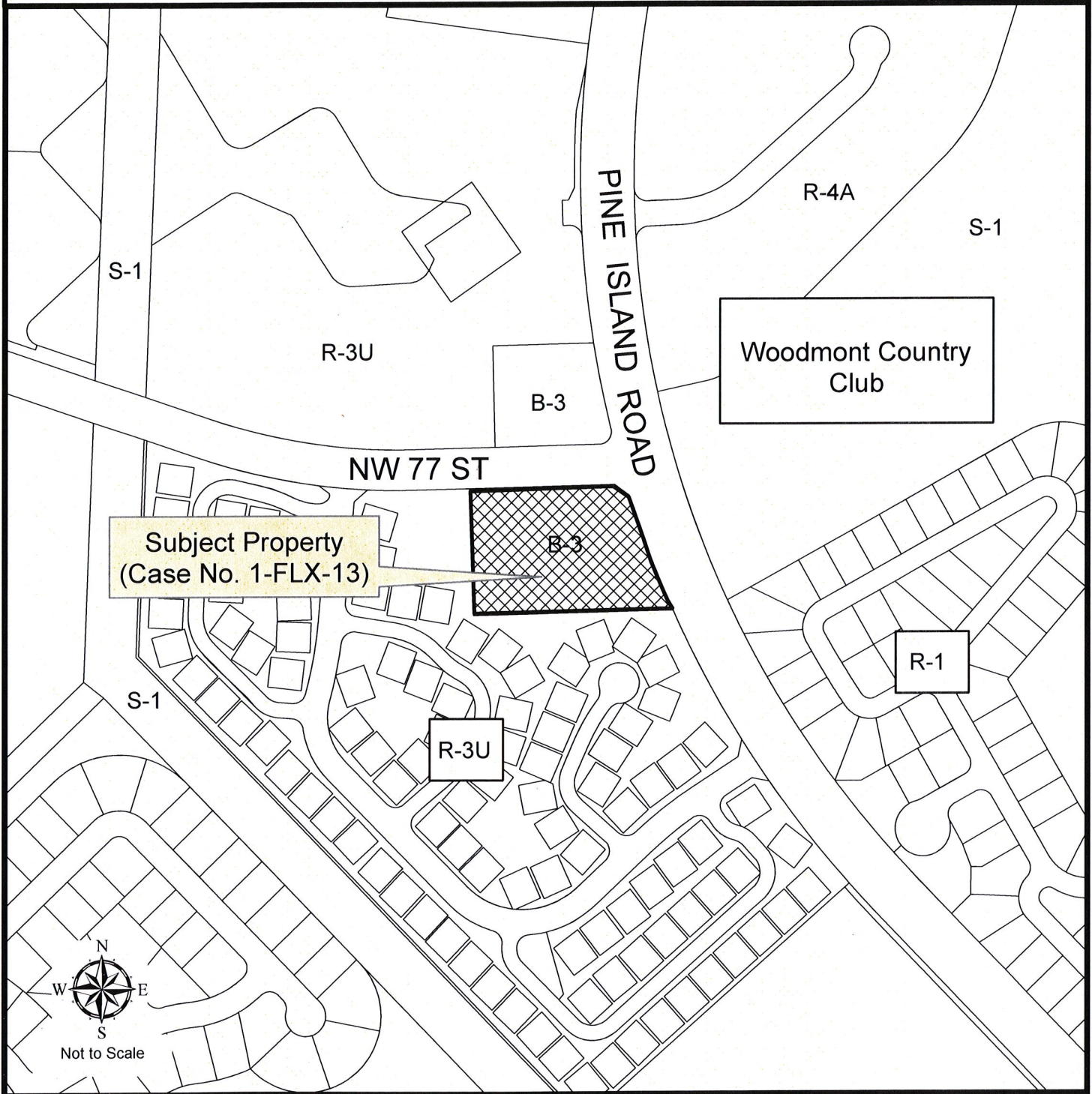
PATRICIA TEUFEL, CMC
INTERIM CITY CLERK

I HEREBY CERTIFY that I
have approved this
ORDINANCE as to form.

SAMUEL S. GOREN,
CITY ATTORNEY

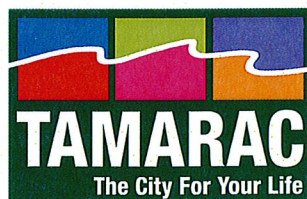
Park Place at Woodmont Flexibility Units

Case No. 1-FLX-13



City Commission

June 12, 2013



Jennifer Bramley, Director
Community Development
7525 NW 88 Avenue
Tamarac, FL 33321
Telephone (954) 597-3530

JUSTIFICATION STATEMENT

CITY OF TAMARAC

PARK PLACE AT WOODMONT

2013 FEB 25 PM 2: 33

General Background Information.

The subject property is 2.01 acres in size and is located at the Southwest corner of Pine Island Road (NW 88th Avenue) and NW 77th Street. The property is designated Commercial on the City's Land Use Map and is zoned B-3. The commercial land use and zoning was the result of litigation between Leadership Housing and the City in 1972 that resulted in a Stipulation executed by the parties in May, 1979. The Stipulation provided that the property would continue to be zoned for commercial use but the uses would be limited to professional offices, banks and savings and loan offices and non-fast food restaurants.

The developer, Klemow, Inc., is proposing to develop a residential townhouse community on the property. Residential development is permitted on land designated Commercial on the City's Land Use Map without a land use change so long as the property is allocated Reserve of Flexibility Units pursuant to the provisions of the City's Land Use Element and the property is rezoned to an appropriate residential zoning category.

Park Place at Woodmont Development.

Park Place consists of 20 fee simple two-story townhouse units. All of the units have three bedrooms. Ingress and egress for the development is from NW 77th Street and there is an exit-only access onto Pine Island Road/NW 88th Avenue. Landscape buffers are provided on the perimeter of the property with 20' wide buffers on the South and West borders and 25' buffers adjacent to NW 77th Street and Pine Island Road. 45 parking spaces plus 5 guest parking spaces are required and provided. Each of the units has a one-car garage with two parking spaces outside of the garage. The parking spaces will be constructed with paver blocks.

Development Applications.

The following applications are being submitted for the City's review and consideration:

1. Rezoning. An application is being submitted to rezone the property from B-3 to R-3 (Low density multi-family) in order to permit 20 residential townhouse units. As stated above, the City's Land Use Element allows the residential development of small (under 5 acres in size) parcels of land designated Commercial on the Land Use Map through the rezoning process and the allocation of Reserve or Flexibility Units. The R-3 zoning district was determined to be the most appropriate zoning district for the proposed project.

2. Site Plan. A site plan application for a 20 unit residential townhouse project is being filed. The site plan is described in the preceding section.
3. Plat Amendment. A delegation request is being filed to place the following note on the plat to permit residential development: "This plat is restricted to 20, 3-bedroom, townhouse units".
4. Allocation of Reserve or Flexibility Units. An application is being filed for the allocation of Reserve or Flexibility Units. In connection with the rezoning and site plan approval applications, the applicant requests the allocation of 20 Reserve or Flexibility Units in accordance with the provisions of the City's Land Use Element.

Termination of Stipulation.

Upon the rezoning of the property and the approval of the site plan for residential use, the Stipulation referenced above will be terminated by agreement between the parties.

Benefits to the City.

The commercial use of the property as provided in the Stipulation has always been of great concern to the City and the residents of the surrounding neighborhood. Park Place at Woodmont is a use that is much more compatible to the neighborhood and accordingly will be a benefit to the City and the surrounding neighborhood.



Title - TO2285 - Red Light Camera Ordinance Amendment

Item No. 8(b) on Ordinances - First Reading: (TO2285) Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on first reading** amending Part II of the Code of Ordinances of the City of Tamarac; amending Chapter 2, Article III, Division 2 of the Code of Ordinances to update the definition of “Magistrate” and to authorize the special magistrate to enforce all matters authorized by law; amending and restating Part II, Chapter 14.5, entitled “Tamarac Dangerous Intersection Safety Act” to conform to state law, and to add a new section 14.5-5, to be entitled “Notice of Violation Hearings”, to implement 2013 changes in State Law that provide for the City to conduct hearings on notices of violation; providing for severability; providing for codification; providing an effective date. - ***Financial Services Director Mark Mason and Assistant City Attorney Michael Cirullo***

ATTACHMENTS:

Name:

📎 [Memo-Temp Ord 2285.doc](#)

📎 [2013-_____\(Amending Red Light Camera Ordinance\).pdf](#)

Description:

Memo-TO 2285 Red Light Camera Ordinance

T0_2285 Amending Red Light Camera Ordinance

CITY OF TAMARAC
INTEROFFICE MEMORANDUM
FINANCE DEPARTMENT
FINANCE ADMINISTRATION

TO: Michael Cernech
City Manager

DATE: June 3, 2013

FROM: Mark C. Mason, CPA 
Director of Financial Services

RE: Temporary Ordinance # 2285
Amending various sections of
the Code for Red Light Cameras

Recommendation:

Place TO # 2285 on the June 12, 2013 City Commission Agenda for first reading with second reading to be scheduled for June 26, 2013.

Issue:

Amend various sections of the code to reflect changes in terminology from "Special Master" to "Special Magistrate" pursuant to State law and amend Section 14.5 entitled "Tamarac Dangerous Intersection Safety Act" to reflect anticipated changes in in the "Mark Wandall Traffic Safety Program" adopted by the Florida Legislature in the 2013 Session.

Background:

In 2010, the Florida Legislature adopted the "Mark Wandall Traffic Safety Program," § 316.0083, Florida Statutes (the "State Act"), which, among other things, expressly preempted to the State the subject matter of using unmanned cameras/monitoring devices, referred to as traffic infraction detectors, in the State Act and defined therein, to enforce violations of red light indications on traffic control devices as of July 1, 2010.

In 2010, the City Commission adopted Ordinance No. 2010-16, which authorized the use of unmanned traffic infraction detectors (red light cameras) to enforce red light violations within the City.

In October 2012, the City entered into an agreement with American Traffic Solutions to provide Red Light Cameras at certain intersections within the City.

During the 2013 Legislative Session, the Florida Legislature passed legislation, CS/CS/HB 7125 (hereinafter HB 7125) which upon approval by the Governor, takes effect July 1, 2013, and provides for municipalities to conduct hearings for persons that receive Notices of Violation (NOV) and request a hearing to contest such NOV with the provision of using a Code Enforcement Special Magistrate as a hearing officer and providing for charging an administrative fee up to \$250 per case.

In addition, this ordinance provides for amending the term “special master” to special magistrate” consistent with Chapter 2004-1, Laws of Florida, wherein the Florida Legislature modified Chapter 162, Florida Statutes to change all references to “special master” to “special magistrate”.

Fiscal Impact:

There is no fiscal impact with this ordinance until the Governor has approved the legislation passed by the legislature amending the Mark Wandall Traffic Safety Program and an administrative fee is calculated.

ORDINANCE NO. 2013-_____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA; AMENDING PART II OF THE CODE OF ORDINANCES OF THE CITY OF TAMARAC; AMENDING CHAPTER 2, ARTICLE III, DIVISION 2 OF THE CODE OF ORDINANCES TO UPDATE THE DEFINITION OF “MAGISTRATE” AND TO AUTHORIZE THE SPECIAL MAGISTRATE TO ENFORCE ALL MATTERS AUTHORIZED BY LAW; AMENDING AND RESTATING PART II, CHAPTER 14.5, ENTITLED “TAMARAC DANGEROUS INTERSECTION SAFETY ACT” TO CONFORM TO STATE LAW, AND TO ADD A NEW SECTION 14.5-5, TO BE ENTITLED “NOTICE OF VIOLATION HEARINGS”, TO IMPLEMENT 2013 CHANGES IN STATE LAW THAT PROVIDE FOR THE CITY TO CONDUCT HEARINGS ON NOTICES OF VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Part II, Chapter 2, Article III, Division 2 of the City of Tamarac Code of Ordinances establishes and defines a “special master” and grants the authority to enforce violations of the City’s code pursuant to Chapter 162, Florida Statutes; and,

WHEREAS, throughout Part II of the City’s Code of Ordinances, there are references to the “special master”; and,

WHEREAS, pursuant to Chapter 2004-1, Laws of Florida, the Florida Legislature modified Chapter 162, Florida Statutes to change all references to “special master” to “special magistrate”; and,

WHEREAS, the City seeks to update Part II of its Code of Ordinances to change all references to “special master” to “special magistrate” so that the Code is consistent with Chapter 162, Florida Statutes; and,

WHEREAS, the City Commission of the City of Tamarac finds it is in the best interest of the City to adopt an ordinance to update the nomenclature used to identify the special magistrate.

WHEREAS, Part II, Chapter 2, Article III, Division 2 of the City of Tamarac Code of Ordinances specifies the duties of the special magistrate; and,

WHEREAS, the special magistrate duties set forth in Part II, Chapter 2, Article III, Division 2 limit the authority of the special magistrate to enforcement of violations of the City's Code of Ordinances; and,

WHEREAS, the City seeks to expand the authority of the special magistrate such that the special magistrate may enforce any and all violations which are authorized by law, including red light camera traffic infractions; and,

WHEREAS, the City Commission of the City of Tamarac finds it is in the best interest of the City to adopt an ordinance to expand the enforcement authority of the special magistrate.

WHEREAS, in 2010, the Florida Legislature adopted the "Mark Wandall Traffic Safety Program," § 316.0083, Florida Statutes (the "State Act"), which, among other things, expressly preempted to the State the subject matter of using unmanned cameras/monitoring devices, referred to as traffic infraction detectors, in the State Act and defined therein, to enforce violations of red light indications on traffic control devices as of July 1, 2010; and,

WHEREAS, in 2010, the City Commission adopted Ordinance No. 2010-16, which authorized the use of unmanned traffic infraction detectors (red light cameras) to enforce red light violations within the City; and,

WHEREAS, during the 2013 Legislative Session, the Florida Legislature passed legislation, CS/CS/HB 7125 (hereinafter HB 7125) which upon approval by the Governor,

takes effect July 1, 2013, and provides for municipalities to conduct hearings for persons that receive Notices of Violation (NOV) and request a hearing to contest such NOV; and,

WHEREAS, the City Commission of the City of Tamarac finds it is in the best interest of the City to adopt an ordinance to authorize the local hearings on NOV as required by HB 7125.

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Part II of the City of Tamarac Code of Ordinances shall be amended as follows: any and all references to the phrase "special master" shall be changed to "special magistrate".

Section 3. Part II, Chapter 2, Article III, Division 2 of the City of Tamarac Code of Ordinances shall be amended as follows:

Sec. 2-71. - Intent.

It is the intention of this article to promote, protect, and improve the health, safety and welfare of the citizens and residents of the city by authorizing the creation of an administrative board and a special ~~master~~ magistrate, both with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing this Code and ordinances in force in the city where a pending or repeated violation continues to exist. The special magistrate shall also have the authority to adjudicate cases and impose fines and penalties for any and all matters authorized by Florida law, including civil traffic infractions.

...

Sec. 2-73.01. - Definitions.

...

~~Special master~~ magistrate. The city special ~~master~~ magistrate appointed by the city commission to hear code enforcement violation cases, civil traffic infractions as authorized by law, and any and all other matters authorized by law.

Sec. 2-73.02. - Establishing a special magistrate. ~~master.~~

...

(b) The rules and regulations as found in Fla. Statute Ch. 162, as currently enacted or as may be amended from time to time, shall be adopted herein by reference. Additional rules and regulations, consistent with the provisions of ~~Fla. Statute Ch. 162~~ state law, necessary to carry out the provisions of this chapter may be adopted by resolution of the city commission.

...

Sec. 2-73.06. - Conducting hearings.

(a) The clerk for the special ~~master~~ magistrate shall set a time and date for the hearing and notify the alleged violator and the code prosecutor. Unless otherwise provided by law, the violator shall be given at least seven working days' written notification of the hearing. The conduct of the hearing shall be consistent with ~~Fla. Statute Ch. 162, Fla. Statute Ch. Chapters 162 and 316,~~ Florida Statutes, or any other applicable Florida law as currently enacted or as amended from time to time.

(c) Unless otherwise provided by law, hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but hearsay evidence shall not, in and of itself, be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

...

(f) Unless otherwise provided by law, the burden of proof shall be with the code inspector, police officer, or traffic infraction enforcement officer to show by the greater weight of the evidence that a ~~code~~ violation exists and that the alleged violator committed or was responsible for maintaining the violation.

(h) Unless otherwise provided by law, the special ~~master~~ magistrate may, for good cause shown, postpone or continue a hearing.

(i) If any of the hearing procedures specified in this Code conflict with state law, the procedure(s) set by state law shall prevail.

Section 4. Chapter 14.5 of the Code of Ordinances of the City of Tamarac, entitled Tamarac Dangerous Intersection Safety Act, shall be amended and restated as follows:

Sec. 14.5-1. Intent.

The purpose of this chapter is to authorize the use of traffic infraction detectors to promote compliance with red light signal directives as defined in and prescribed by ~~Laws of Florida, Chapter 2010-80 (the "State Act")~~ §316.0083, Florida Statutes, as may be amended from time to time ("State Act"). Consistent with state law, this chapter will also supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for a red light signal violation in accordance with other statutory traffic enforcement techniques.

Sec. 14.5-2. Authorization for enforcement program.

Effective July 1, 2010, the city shall enforce compliance with red light signal directives pursuant to the State Act, as may be amended from time to time. This chapter shall not supersede, infringe, curtail or impinge upon state laws related to red light signal violations or conflict with such laws.

Sec. 14.5-3. Implementation of general law.

The city manager, or his designee, is authorized to implement the provisions and requirements of the State Act, as may be amended from time to time, and may take any action which is necessary for such purpose.

Sec. 14.5-4 Notice of Violation Hearings

Upon the effective date of state law authorizing Notice of Violation Hearings to be conducted by the City, the City authorizes its code enforcement special magistrates, as may be appointed from time to time by the City Commission, to serve as the City's Local Hearing Officer, as defined by §316.003(91), Florida Statutes, as amended from time to time. The Local Hearing Officer shall conduct hearings in accordance with the requirements of §316.0083, Florida Statutes, as amended from time to time. Administrative Costs shall be assessed in those cases in which the violation is upheld, in an amount to be established by Resolution of the City Commission.

~~Sec. 14.5-3. Definitions.~~

~~The definitions set forth in the State Act, as may be amended, shall apply to the city's implementation and application of the State Act. In addition, the following definitions shall apply to this chapter:~~

~~*Notice of violation* means initial notification from the city to the registered owner of a motor vehicle involved in a violation, notifying the registered owner of the violation, and containing information required by the State Act.~~

~~Recorded images means images recorded by a traffic infraction detector, which includes but is not limited to photographic or electronic images or streaming video.~~

~~Traffic citation means notification to the registered owner of a motor vehicle involved in a violation who failed to timely pay the fine pursuant to a notice of violation, and containing all information required by the State Act.~~

~~Traffic infraction enforcement officer means the city police department employee designated pursuant to section 14.5-4 herein, who meets the requirements of the State Act and who shall review the recorded images and issue notices of violation and traffic citations pursuant to the requirements of this chapter and the State Act.~~

~~Violation means violation of F.S. §§ 316.074(1) or 316.075(1)(c)1.~~

~~Sec. 14.5-4. Traffic infraction enforcement officer.~~

~~The city's police chief shall designate traffic infraction enforcement officers, who shall meet the qualifications set forth in the State Act.~~

~~(1) A traffic infraction enforcement officer shall review the recorded images that comply with the requirements of the State Act, prior to the issuance of a notice of violation pursuant to the State Act. Once the traffic infraction enforcement officer has verified the accuracy of the recorded images he or she shall note the violation and a notice of violation shall be sent to the registered owner of the involved vehicle pursuant to the State Act no later than thirty (30) days after the violation. The notice of violation shall be sent by first class mail.~~

~~(2) The State Act provides that in the event of non-payment of the notice of violation, the city shall issue a traffic citation to the vehicle owner. In the event of non-payment of the notice of violation within thirty (30) days of notification, the recorded images will be reviewed again by a traffic infraction enforcement officer, who will take all necessary action required by the State Act to send a traffic citation to the registered owner of the involved vehicle pursuant to the State Act no later than sixty (60) days after the violation. The traffic citation shall be sent by certified mail.~~

Section 5. The City Administration, including without limitation the City Manager, the Finance Department, the Police Department, Code Enforcement, and the City Attorney,

are authorized to take all steps necessary to implement the Notice of Violation hearings required by state law.

Section 6. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 7. Inclusion in Code. It is the intention of the City Commission of the City of Tamarac, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Tamarac Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 8. Effective Date. This Ordinance shall become effective as provided by law.

PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, THIS ____ DAY OF _____, 2013.

PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA THIS ____ DAY OF _____, 2013.

BY: _____
MAYOR BETH TALABISCO

ATTEST:

PAT TEUFEL, CMC,
INTERIM CITY CLERK

I HEREBY CERTIFY that I have
approved this ORDINANCE as to form:

SAMUEL S. GOREN
CITY ATTORNEY

RECORD OF COMMISSION VOTE: 1ST Reading

MAYOR TALABISCO	_____
DIST 1: COMM BUSHNELL	_____
DIST 2: COMM ATKINS-GRAD	_____
DIST 3: COMM GLASSER	_____
DIST 4: V/M DRESSLER	_____

RECORD OF COMMISSION VOTE: 2ND Reading

MAYOR TALABISCO	_____
DIST 1: COMM BUSHNELL	_____
DIST 2: COMM. ATKINS-GRAD	_____
DIST 3: COMM GLASSER	_____
DIST 4: V/M DRESSLER	_____

SSG:MDC:SHB

H:_GOV CLIENTS\TAM 2704\050164 GM\ORD 2013\2013-_____(Amending Red Light Camera Ordinance).doc



Title - TO2278 - Telecommunications Towers and Antennas Ordinance

Item No. 8 (c) on Ordinances - First Reading: (TO2278) Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on first reading** amending Article IX, Chapter 24 entitled "Telecommunications Towers and Antennas" of the Code of Ordinances of the City of Tamarac, Florida, as amended, and to regulate personal wireless service facilities in the public rights-of-way; containing a repealer provision, a severability clause, and providing for an effective date. - ***Assistant City Attorney David Tolces and Community Development Director Jennifer Bramley***

ATTACHMENTS:

Name:

Description:

- 📎 [1306003m Telecommunication Towers and Antennas - A.pdf](#)
- 📎 [TO 2278 \(Personal Wireless Facilities\)REV4_06_06_2013 CLEAN.docx](#)

TO2278 - Memo

TO2278 - Ordinance

CITY OF TAMARAC
INTEROFFICE MEMORANDUM 13-06-003M
CITY MANAGER'S OFFICE

TO: Michael C. Cernech,
City Manager

DATE: June 5, 2013

THRU: Diane Phillips,
Assistant City Manager

FROM: Jennifer K. Bramley,
Director of Community
Development

RE: TO 2278 - Telecommunications
Towers and Antennas

Recommendation: Staff recommends that the City Commission approve First Reading of Temporary Ordinance 2278 at its June 12, 2013 meeting and set Second Reading for June 26, 2013.

Issue: Revisions to the existing ordinance governing installation of Telecommunications infrastructure to address Distributed Antenna Systems (DAS).

Background:

Placement of DAS Poles in the Right-of-Way

While the City's telecommunications ordinance addresses traditional telecommunications towers, it does not address DAS which is newer technology. Unlike traditional cell towers which may reach 200 feet in height, DAS uses a smaller cell solution that enables carriers to "boost" their signal. Presently, the City Code limits the installation of cell towers to certain commercial areas and precludes installation of towers within 250 feet of any residential area, absent a special exception.

Crown Castle, provides infrastructure for use/ lease by the various carriers, and is registered as a telecommunications service provider in accordance with the existing code in June of 2012. In August, permits were requested for installation of one utility pole with attached antenna and associated equipment, and for fiber optics within the public right of way (ROW) in front of houses within the Sunflower subdivision. Given that existing code does not accommodate the installation of cell towers within residential areas, City staff met with representatives for Crown Castle in an attempt to better understand the full scope of services they provide, and their infrastructure needs. During that meeting representatives advised that while they had submitted an application for one pole, they had existing plans to install at least four additional residential ROW locations within the City. Alternative locations, as well as the potential to co-locate antennas on existing FPL poles, thereby negating the need to install additional poles, were discussed. Crown Castle representatives concluded that none of the alternatives discussed were viable. The City ultimately denied the permits, given that a special exception would be required for consideration in order for the permits to be approved.

Prior Actions - Zoning in Progress

On December, 18, 2012 the City Manager issued a zoning in progress order, prohibiting issuance of permits for wireless facilities in residential areas of the City for a period of 90 days. In doing so he noted that as internet usage has increased, service providers are seeking new ways to augment signal strength and increase capacity.

Given this fact, a comprehensive determination is required as to whether existing land use and zoning regulations applying to the siting of telecommunications towers and antennas within public rights-of-way and residential areas are appropriate.

In the intervening period, City staff has worked with the City Attorney's office and outside telecommunications counsel retained by the City to draft an ordinance that would preserve the aesthetics of the neighborhoods while protecting the health and safety of the public. Temporary Ordinance 2272 was forwarded to the City Commission for First Reading on February 27, 2013. DAS industry representatives had numerous comments regarding the ordinance. The City Commission directed staff to investigate these comments and make recommendations at Second Reading of the ordinance. In order to afford more time for input from the telecommunications industry, the City Manager extended the zoning in progress for sixty (60) days on March 13, 2013.

In keeping with the City Commission's directive, Staff met with representatives from Crown Castle, PCIA, ATT and Florida Powers and Light on March 28, 2013. The meeting resulted in numerous amendments to the proposed ordinance and as such it was determined that the item should again to be heard by the City Commission at First Reading (Temporary Ordinance 2278). The City Commission tabled this item at its April 24, 2013 so that staff could research questions posed by the City Commission regarding the ordinance. The zoning in progress was extended until July 2, 2013.

Temporary Ordinance 2278

The resultant proposed revisions to Article IX, Chapter 24 "Telecommunications Towers and Antennas" are summarized as follows;

The Proposed Ordinance:

- Revises Sec. 24-700, the "Intent and Purpose" section of Article IX (the Telecommunications Towers and Antennas Article) of the City's Zoning Code, to specify that the provisions of the Article are intended to distinguish between and apply separately to telecommunications towers and personal wireless service facilities.
- Revises Sec. 24-701, the "Definitions" section of Article IX, to provide a definition of the term "personal wireless service facilities" that is consistent with state and federal law, and to include the types of facilities used in a Distributed Antenna System network like the one proposed by Crown Castle NG.
- Creates in Article IX a new Sec. 24-707 concerning personal wireless service facilities in the public rights-of-way. Key provisions of the new section:
 - Provide certain "minimum standards" that apply to personal wireless service facilities in the ROW, including:
 - A requirement that an application for placement of wireless service facilities in the ROW be approved by the Building Department, the Public Services Department and the Department of Community Development;

- A requirement that, because certain personal wireless service facilities are necessarily installed above-ground, a minor development site plan must be submitted to the Planning Division for facilities that are not stealth;
 - Potential waiver of site plan requirements if the applicant proposes a stealth personal wireless service facility that emulates structures existing in adjacent areas of the ROW;
 - A requirement that City staff determine within 20 days of submittal whether an application is complete, and grant or deny an application within 90 days of a completed filing. These time frames are required under state law, and fall within similar “shot clock” rules adopted by the FCC;
 - A requirement that, unless a special exception is granted, a new personal wireless service antenna must be collocated or installed as a “stealth” free-standing facility similar in character to power and light poles already installed near the proposed site; and
 - A limitation on the exterior dimensions of a personal wireless facility other than a pole or tower of no more than 24 cubic feet.
- Provide certain height, setback and related location requirements for personal wireless facilities located in the ROW, including:
 - A requirement that personal wireless service facilities not exceed the height of existing poles in the ROW within 100 feet from the proposed facility. If no such existing pole is present, the facility may not exceed 50 feet;
 - A requirement that personal wireless facilities are subject to the setbacks provided for particular underlying zoning districts, except that no such facility shall be permitted in the ROW within 50-feet of a principal residential structure.
 - A cooperative process between the City and the applicant for determining an appropriate location for the proposed facility if the setback restrictions result in an actual or effective prohibition of the applicant’s service to a residential area from outside that area. This cooperative process is the same as that set forth in s. 365.172(12) (b) 3. Florida Statutes. The cooperative determination must, to the extent possible, be consistent with the purposes of the City’s Land Development Code, and there will be a preference for collocation and the use of stealth structures.
 - Provide certain requirements with respect to new antennas in the ROW, including:
 - A requirement that the applicant submit a depiction of the proposed antenna’s stealth features. Compliance with the Code’s definition of “stealth facility” must be determined by staff. The Director of Community Development may require, to the extent possible, that stealth measures be used to match the antenna to existing fixtures in the ROW.
 - A requirement that antennas in the public right of way shall to the extent possible be co-located on existing light or other utility poles.

- A requirement that except in the case of co-location, an applicant proposing placement of facilities in the right-of-way within districts where communications facilities are otherwise required to be placed underground shall submit a site plan for a minor development;
 - A prohibition against the use of certain lights on a proposed antenna unless required by state or federal laws or rules;
 - A requirement that the height or location of an exterior mounted antenna not interfere with the use of the ROW;
 - A requirement that the antenna installed in the ROW not exceed the height of the pole to which it is attached, that it be mounted no more than 4 inches from the pole, and that no exterior loop cable is installed;
 - A requirement that the Director of Community Development determine that the proposed dimensions of an antenna are required by existing technology, as certified by an industry specialist in the relevant disciplines.
 - A requirement that a distance of at least 400-feet be maintained between antenna sites, and that no more than 13 antenna sites occur within a 1-square-mile area for non-stealth facilities to minimize the visual impacts caused by proliferation or clustering of antenna sites.
 - A cooperative process between the City and the applicant for determining an appropriate location for the proposed antenna if the distance restrictions result in an actual or effective prohibition of the applicant's service to a residential area from outside that area. This cooperative process is the same as that set forth in s. 365.172(12) (b) 3. Florida Statutes. The cooperative determination must, to the extent possible, accommodate the City's preference for collocation on existing sites or on the use of existing capacity. Where collocation or use of existing capacity is not possible, stealth facilities must be used and sited in a location that is consistent, to the extent possible, with the purposes of the City's Land Development Code.
- Provide various other requirements or conditions of approval, including:
 - Compliance with FCC radio frequency emissions standards;
 - The use of fencing or landscaping as a buffer consistent with other buffers used in the ROW, if determined by the Director of Community Development to be necessary;
 - A prohibition against the above-ground placement of cabinets or equipment in the ROW unless approved by the City Engineer as to safety and approved as a special exception;
 - A prohibition against the use of generators in the ROW except in the case of emergency and with prior approval of the City Engineer;
 - Requirements related to decommissioning or abandoning personal wireless service facilities in the ROW;
 - A prohibition against posting signs or advertising on personal wireless service facilities in the ROW;
 - The owner of the personal wireless facility in the public right-of-way shall submit a report to the City's Building Department certifying structural and electrical integrity every two (2) years;

- A requirement that replacements or modifications to personal wireless service facilities that result in a change of size type and appearance that is readily discernible at ground-level from surrounding properties be approved as a special exception. This standard is taken from s. 365.172(12)(e), Florida Statutes.

Summary:

Policy 1.5 of the Future Land Use Element of the Comprehensive Plan states “The City will continue to promote “quality development” in all land use categories by the establishment and implementation of design criteria and development standards in the Land Development Code (LDC) which promote the highest standards of urban development and community aesthetics”. It is in keeping with the Goals, Objectives and Policies of the Comprehensive Plan for the City Commission to adopt Land Development Code regulations that support neighborhood aesthetics. While many of the comments forwarded from telecommunications industry professionals have been incorporated in Temporary Ordinance 2278, staff believes that the criteria for placement of DAS facilities will ensure the quality of Tamarac’s built environment is maintained.

Fiscal Impact:

The proposed ordinance has no direct budgetary impact.



Jennifer K. Bramley,
Director of Community Development

Attachments: Temporary Ordinance No. 2278

JKB/alg

CITY OF TAMARAC, FLORIDA

ORDINANCE NO. 2013 -

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA; AMENDING ARTICLE IX, CHAPTER 24 ENTITLED "TELECOMMUNICATIONS TOWERS AND ANTENNAS" OF THE CODE OF ORDINANCES OF THE CITY OF TAMARAC, FLORIDA, AS AMENDED, AND TO REGULATE PERSONAL WIRELESS SERVICE FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, to promote the public health, safety, aesthetics, and general welfare, the City of Tamarac has a substantial and significant public interest in maintaining and protecting its public-rights of way in a non-discriminatory manner, and requiring that individuals and entities seeking permits to conduct any type of excavation, construction or other activity therein do so in a safe, expeditious, and professional manner; and

WHEREAS, the Emergency Communications Number E911 Act, Chapter 365, Florida Statutes, (the "Act") addresses, *inter alia*, local governments' regulation of the placement, construction or modification of wireless communications facilities; and

WHEREAS, Section 337.401 *et seq*, Florida Statutes, addresses, *inter alia*, the authority of municipalities to regulate the placement and maintenance of communications facilities in the public rights-of-way; and

WHEREAS, said statutes authorize regulations of telecommunications facilities in the public rights-of-way that are related to the placement or maintenance of facilities in the public rights-of-way, are reasonable and non-discriminatory, and are necessary to the management of the public rights-of-way; and

WHEREAS, courts applying Florida and federal law have held that a municipality may impose reasonable design limitations on telecommunications facilities that deal directly with a concern for aesthetics and may regulate the placement of wireless facilities where such regulation does not prohibit or effectively prohibit the provision of wireless services; and

WHEREAS, the City Code provisions regulating telecommunications towers and antennas need to be updated to expressly address current practices utilizing personal wireless service facilities in the public rights-of-way and to protect the public interest by protecting, preserving and maintaining the health, safety and welfare of the users of the public rights-of-way, while also protecting, preserving and maintaining the aesthetic character of areas where such rights-of-way exist, and this ordinance achieves such purpose; and

WHEREAS, the City Clerk has provided at least ten days advance notice prior to first reading of this Ordinance to the Secretary of State.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF TAMARAC, FLORIDA, THAT:

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. Sec. 24-700. – Intent and purpose, is hereby amended as follows:

The regulations and requirements of this article are intended to:

- (1) Promote the health, safety and general welfare of the citizens by regulating the siting of telecommunications towers and other personal wireless service facilities;

- (2) Provide for the appropriate location and development of telecommunications towers, antennas and other personal wireless service facilities and ~~antennas~~ within the city;
- (3) Minimize adverse visual effects of telecommunications towers, antennas and other personal wireless service facilities and ~~antennas~~ through careful design, siting, landscape screening and innovative camouflaging techniques;
- (4) Avoid potential damage to adjacent properties from tower or facility failure through engineering and careful siting of tower structures and other structures used for the provision of personal wireless services;
- (5) Protect residential areas and land uses from potential adverse impacts of telecommunications towers, antennas and other personal wireless service facilities and ~~antennas~~ by maximizing use of any new or existing telecommunications towers through shared use, i.e., co-location, to reduce the number of towers or other structures used in connection with personal wireless service facilities that are needed.

SECTION 3. Sec. 24-701, Definitions, is hereby amended as follows¹:

Personal wireless services means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, and shall include “wireless service” as defined in Section 365.172, Florida Statutes, as well as “personal wireless services” defined in 47 USC §332(c)(7)(C)(i), as they may be amended.

Personal wireless service facilities means facilities for the provision of personal wireless services, and, for the purposes of section 24-707, shall include all of those “wireless communications facilities” as defined in Section 365.172, Florida Statutes, as it may be amended, that are not also telecommunications towers as defined in this section. For the purposes of section 24-707, a power, light or other utility pole used exclusively as such prior to attachment of a personal wireless service facility shall not be considered a personal wireless service facility because of such attachment.

Public rights-of-way has the same meaning as provided in Section 5.6-3 of the City Code.

Stealth facility means any telecommunications facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof-mounted antennas, antennas integrated into architectural elements, poles in the rights-of-way that are designed to look like light poles, and telecommunications towers designed to look like light poles, power poles or trees.

¹ Language underlined in sections 2 and 3 is to be added. Language in said sections with a strikethrough is to be deleted.

SECTION 4. There is hereby created a new Section 24-707 to provide as follows:

Section 24-707. Personal wireless service facilities in the public rights-of-way.

(a) *Minimum standards.* Personal wireless service facilities in the public rights-of-way must meet the following minimum standards:

(1) *Required approvals.* No application for placement of personal wireless service facilities in the public rights-of-way shall be permitted without approval of the building department, the public services department and the department of community development.

(2) *Site plan review in lieu of underground placement.* Because an antenna must be placed above-ground in order to transmit and receive signals, except in the case of co-location, an applicant proposing placement of an antenna in the public rights-of-way within districts where communications facilities are otherwise required to be placed underground shall submit a site plan for a minor development as required by section 10-47 of the Land Development Code. The director of community development may waive all or some of the requirements of section 10-47 of the Land Development Code if the applicant proposes the use of a stealth facility. No building permit shall be issued by the building department and no engineering permit shall be issued by the public services department prior to the approval of a site plan required pursuant to this paragraph.

(3) *Completeness review; time limitation.* The city shall grant or deny a properly completed application for personal wireless service facilities in the public rights-of-way no later than 90 business days after the date the application is determined to be properly completed. An application is deemed submitted or resubmitted on the date the application is received by the planning division. The planning division shall notify the applicant within twenty (20) business days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the city's requirements. If the application is not completed in compliance with the city's requirements, the planning division shall so notify the applicant in writing indicating with specificity any deficiencies which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the planning division shall notify the applicant, in writing, no later than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the planning division may continue to

request the information until such time as the specified deficiency is cured, or may establish a reasonable time frame within which the required information to cure the application deficiency is to be provided. If the curative information is not provided within such time frame, the application will be considered withdrawn or closed.

(4) *Co-location or use of stealth facilities.* An antenna in the public rights-of-way, shall to the extent possible, be collocated on an existing power, light or other utility pole. When co-location of an antenna is not possible, a free standing stealth facility shall be utilized; however, a non-stealth type facility may be utilized if approved as a special exception.

(5) *Statement.* A statement or statements shall be submitted certifying that the construction of personal wireless service facilities proposed to be located in the public rights-of-way will comply with applicable standards as set forth in the Florida Building Code, latest edition, the State of Florida Department of Transportation, Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, and any associated regulations including all electrical codes; and describing the proposed personal wireless service facilities' capacity to permit multiple users, including an example of the number and type of antennas or other attachments that can be accommodated on support structures. No personal wireless service facility which exceeds its support structure's loading capacity, which causes any pole or structure to exceed its loading capacity or which does not conform to applicable electrical codes shall be permitted in the public rights-of-way.

(6) *Dimensional limits for cabinets, boxes and vaults.* No permit or order shall be granted authorizing the placement, construction or modification in the public rights-of-way of a personal wireless service facility cabinet, box or vault having a total volume exceeding twenty-four cubic feet (24 ft³), unless the applicant provides a statement explaining the need for the greater proposed dimensions and certifying that current technology provides no alternative consistent with the dimensional requirements of this subsection.

(b) *Height, setbacks and related location requirements.*

(1) The height of a personal wireless service facility in the public rights-of-way shall not exceed the height of existing poles or structures within one-hundred feet of such proposed facility in the public rights-of-way, or if no such existing poles are present within one-hundred feet of such proposed facility, such facility shall not exceed a height of fifty (50) feet. Height shall be measured from the crown of the road of the nearest public street.

(2) Except as otherwise provided herein, personal wireless service facilities in the public rights-of-way shall conform to the standards and

requirements set forth in the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

(3) No antenna attached to a free-standing pole in the public rights-of-way, other than as a co-location with an existing power, light or other utility pole, or unless installed as a stealth facility, shall be permitted within fifty (50) feet of any principal residential structure.

(4) A box or cabinet housing the equipment connected to an antenna attached to a free-standing pole in the public rights-of-way shall be placed on the ground instead of attached to the pole supporting the antenna, and shall be screened from view.

(c) Antennas

(1) Each application, other than for co-location, shall contain a rendering or photograph of the proposed antenna which depicts its aesthetic features including, but not limited to, the use of colors and screening devices. The application shall be subject to administrative approval determining consistency with the definition of a stealth facility as defined in Sec. 24-701 of the Zoning Code. The director of community development may require, to the extent possible, that stealth antennas be utilized to match existing fixtures in the public rights-of-way.

(2) No signals, lights, or illumination shall be permitted on an antenna or, except in the case of a light pole or a stealth facility designed to emulate a light pole, on a pole to which such antenna is attached, unless required by applicable state or federal laws or rules.

(3) Antennas shall be mounted at a height and location that will not interfere with use of the public rights-of-way.

(4) No exterior antenna in the public rights-of-way shall exceed the height of the pole to which it is attached unless it is attached as a co-location to an existing power, light or other utility pole or on a pole designed to emulate a light pole.

(5) No antenna shall be mounted more than four inches (4") from the pole to which it is attached unless it is attached as a co-location to an existing power, light or other utility pole.

(6) Exterior looping of excess cable length installed on any personal wireless service facility located in the public right-of-way is prohibited.

(7) *Antenna dimensions.* Antenna dimensions shall be approved by the director of community development as required by existing technology. The director of community development may require a statement certifying the need for the required dimensions.

(8) *Distance between antenna locations/number of antenna locations within a specified area.* To minimize the adverse visual impacts associated

with the proliferation and clustering of antennas and associated above-ground personal wireless service facilities, no antenna site in the public rights-of-way shall be located within four hundred feet (400') of any other such antenna site or telecommunications tower. Further, no more than thirteen (13) antenna sites may be located within an area of one square mile (1 mi²). This paragraph (c)(8) shall not apply to any antenna collocated on an existing power, light or other utility pole within the public rights-of-way.

(d) Co-locations. For the purposes of this section, "co-location" means the mounting or installation of an antenna on an existing power, light or other utility pole for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. In any co-location, the existing power, light or other utility pole may be modified or replaced to accommodate the new attachment, provided however that the modified or replacement pole complies with the height, setback and related location requirements of sections 24-707(b)(1), (2), and (4).

(e) Approval required from other governmental agencies and owners. Each application for the location of a personal wireless service facility in the public rights-of-way may be required to include written approval, or a statement of no objection, from state agencies that regulate siting, design, and construction of such facilities, or have jurisdiction over the public rights-of-way. An existing facility in the public rights-of-way shall only be utilized in a manner consistent with the City Code and with the written permission of the facility owner.

(f) FCC emissions standards. All personal wireless service facilities in the public rights-of-way shall comply with current radio frequency emissions standards of the Federal Communications Commission.

(g) Buffering.

(1) Except in the case of an application for a co-location, as a condition of approval the director of community development may require the use of a fence as a buffer that is consistent in design and function with existing fencing used in the public rights-of-way.

(2) Except in the case of an application for a co-location, as a condition of approval the director of community development may require the use of landscaping as a buffer, which landscaping is consistent with the landscaping otherwise located in the public rights-of-way. Additional landscaping may be required if deemed necessary to buffer adjacent properties. The director of community development may require landscaping in excess of the requirements of the City Code to enhance compatibility with adjacent residential and nonresidential land uses.

(3) All buffering required in connection with the use of personal wireless service facilities in the public rights-of-way shall be maintained by the owner of such facilities at its own cost.

(h) Equipment. The location in the public rights-of-way of any equipment or equipment cabinets associated with personal wireless service facilities shall be subject to the approval of the city engineer. Any such cabinets or equipment must be approved by the city engineer as to safety, and shall not interfere with the use of the public rights-of-way. The city engineer may require a statement certifying the need for the proposed equipment and location. No generators utilized in connection with personal wireless services facilities may be placed in the public rights-of-way, except temporarily in the case of emergency and if approved in advance by the city engineer.

(i) Removal of personal wireless service facilities in the public rights-of-way and restoration of the public rights-of-way.

(1) Upon abandonment of an antenna or other personal wireless facility within the public rights-of-way of the city, the owner of the antenna or personal wireless facility shall notify the city within ninety (90) days. Following receipt of such notice, the city may direct the facility owner to remove all or any portion of the antenna or the personal wireless facility if the city determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the city does not direct the removal of the abandoned antenna or personal wireless facility by the owner of the antenna or personal wireless facility and the owner chooses not to remove its antenna or personal wireless facilities, then such owner, by its notice of abandonment to the city, shall be deemed to consent to the alteration or removal of all or any portion of the antenna or personal wireless facility by another entity or person. ~~(1) All abandoned or unused personal wireless service facilities in the public rights of way shall be removed by the owner/operator within ninety (90) days of the cessation of use. A personal wireless service facility in the public rights of way shall be considered abandoned if use has been discontinued for one hundred eighty (180) consecutive days. Personal wireless service facilities in the public rights of way being utilized for other purposes, including but not limited to light standards and power poles, may be exempt from this provision where superseded by the requirements of county, state or federal regulatory agencies.~~

(2) Upon the removal of any personal wireless service facilities from the public rights-of-way, such public rights-of-way shall be completely restored to the satisfaction of the city engineer at the cost of the owner or operator of the personal wireless service facilities in the public rights-of-way. The

city engineer shall require a bond or other fund sufficient to secure the restoration of the public rights-of-way.

(j) Signs and advertising. The use of any portion of a personal wireless service facility in the public rights-of-way for the posting of signs or for advertising purposes, including but not limited to the display of company name, banners and streamers is strictly prohibited, unless required by state or federal law.

(k) Inspections.

(1) Owners or operators of personal wireless service facilities in the public rights-of-way shall ensure that the city's building department has current contact information for such owner or its authorized representative.

(2) The owner or operator of a personal wireless service facility in the public rights-of-way shall submit a report to the city's building department, certifying the integrity of structures and the safety of electrical components at least once every two (2) years.

(3) Inspections evaluating the structural integrity and electrical safety of the facilities shall be conducted by an engineer licensed to practice in the state. The results of such inspections shall be provided to the building department along with certification that the engineer or engineers conducting such inspections are competent in the engineering discipline or disciplines necessary to evaluate the structural and electrical integrity of the facilities, or that the evaluation has been made by a competent engineer or engineers under his or her direction or supervision. Any personal wireless service facilities in the public rights-of-way found in such inspection or otherwise determined to be lacking structural integrity or electrical safety shall be repaired or removed as required by the building department.

(4) The building department may conduct periodic inspections of personal wireless service facilities in the public rights-of-way to ensure structural integrity and electrical safety. The owner or operator of personal wireless service facilities in the public rights-of-way may be required to have more frequent inspections of a particular facility should there be reason to believe that the structural integrity and electrical safety of said facility has been jeopardized.

(l) Actual or effective prohibition; cooperative determination. In the event an applicant that is a provider of personal wireless services, as defined in 47 U.S.C. 332(c)(7)(C)(i), demonstrates to the satisfaction of the director of community development that operation of this section results in an actual or effective prohibition of personal wireless services, the applicant and the director of community development shall cooperate to determine an appropriate location

and aesthetic design for the proposed facility. Where an applicant is a neutral host and does not provide personal wireless services directly to end users, such applicant may if expressly authorized to do so by a hosted personal wireless services provider, assert that the hosted personal wireless service provider's service is effectively prohibited. In any such cooperative determination there shall be a preference for co-location with existing personal wireless service facilities or other utility facilities, or for use of unused capacity on existing personal wireless service facilities. Where facilities cannot be co-located and no such unused capacity exists, there shall be a preference for the use of free standing stealth-type structures which are consistent, to the extent possible, with the purposes of the Land Development Code as that code is defined in Sec. 10.327. The director of community development may require a statement certifying that the proposed location is needed by a personal wireless services provider to close a significant gap in its service to the affected area. The applicant shall reimburse the reasonable costs incurred by the city for this cooperative determination.

(m) Modifications or replacements. Modification or replacement of any personal wireless service facilities or equipment in the public rights-of-way, except co-location of new transmission equipment, removal of transmission equipment or replacement of transmission equipment, shall be subject to approval of the city's building department. If such modification or replacement of facilities or equipment other than transmission equipment would, as reasonably determined by the city, result in the facility or equipment being readily discernibly different in size, type, and appearance when viewed from ground level from surrounding properties, such modification shall require approval as a special exception. Any co-location of new transmission equipment, removal of transmission equipment or replacement of transmission equipment that substantially changes the physical dimensions of an antenna node site shall be subject to approval of the city's building department.

(n) Statements and certifications. Any statement or certification submitted by or on behalf of an applicant pursuant to the provisions of this section shall be prepared applying rational analysis by one or more engineers registered and licensed in the state, or by such other person or persons designated by the applicant who are qualified to perform the required analysis. Any person or persons providing such a statement or statements shall also certify as to his or her competence in the discipline or disciplines necessary to perform the analysis and to provide the statement.

(o) Reservation of Rights.

(1) The city does not waive any rights under applicable law with respect to management of its public rights-of-way. The city shall require that owners and users of personal wireless service facilities in the public rights-of-way pay the maximum compensation to the city that is allowed by law. The city reserves the right to enforce all applicable city code provisions with respect to personal wireless service facilities in the public rights-of-way.

(2) The city does not warrant or make any representations that the public rights-of-way are available, suitable or appropriate for the construction, placement, maintenance or use of personal wireless service facilities.

(3) The city's approval of an application for the construction, placement, or modification of a personal wireless service facilities in the public rights-of-way shall not create any rights in such facilities' ability to be maintained or utilized in the public rights-of-way for any particular period of time or any rights that are inconsistent with the city code.

(4) The city reserves the right to abandon any public rights-of-way, notwithstanding the presence of any personal wireless service facilities in the public rights-of-way that have been approved by the city and the city shall have no liability or responsibility to the owner, operator, or users of such personal wireless service facilities in the public rights-of-way.

(5) The city reserves the right to require the relocation or removal of any personal wireless service facilities in the public rights-of-way consistent with its authority under applicable law. The city shall have no liability or responsibility to the owner, operator or users of the personal wireless service facilities in the public rights-of-way.

(6) The city shall have no responsibility or liability for damage to or interference with the use or maintenance of personal wireless service facilities in the public rights-of-way by any third party.

~~Secs. 24-707—24-799.—Reserved~~

~~Secs. 24-708—24-799. - Reserved~~

SECTION 5. Conflicts. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. Savings. All fees and other dollar amounts owed to the City under any contract, Agreement, or other provisions of the City Code as of the effective date of this Ordinance, whether known or unknown, shall not be affected by the adoption of this Ordinance and the City expressly reserves its rights with respect to such amounts.

SECTION 7. Severability. It is declared to be the intent of the City Commission of the City of Tamarac, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of the this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 8. Inclusion in Code. It is the intent of the City Commission of the City of Tamarac that the provisions of this Ordinance shall become and be made a part of the City Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 9. Effective Date. This Ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED, FIRST READING this ____ day of _____, 2013.

PASSED, SECOND READING this ____ day of _____, 2013.

ATTEST:

BY: _____
MAYOR BETH TALABISCO

PAT TUEFEL, CMC,
INTERIM CITY CLERK

RECORD OF COMMISSION VOTE: 1ST Reading

MAYOR TALABISCO	_____
DIST 1: COMM BUSHNELL	_____
DIST 2: COMM ATKINS-GRAD	_____
DIST 3: COMM GLASSER	_____
DIST 4: V/M DRESSLER	_____

I HEREBY CERTIFY that
I have approved this
ORDINANCE as to form:

RECORD OF COMMISSION VOTE: 2ND Reading

MAYOR TALABISCO	_____
DIST 1: COMM BUSHNELL	_____
DIST 2: COMM. ATKINS-GRAD	_____
DIST 3: COMM GLASSER	_____
DIST 4: V/M DRESSLER	_____

SAMUEL S. GOREN
CITY ATTORNEY