Legislation Details (With Text)

File #:	PO-2020-10	**Version:** 2	**Name:**	5G Ordinance
Type:	Ordinance		**Status:**	Passed
File created:	8/3/2020		**In control:**	Regular City Commission Meeting
On agenda:	10/7/2020		**Final action:**	10/7/2020
Title:	An Ordinance Of The City Of Hollywood, Florida, Amending The City Code Of Ordinances By Amending Title V, Public Works, Chapter 55, Rights Of Way Construction, Part I: Rights-Of-Way Construction And Administration, And Repealing In Its Entirety Chapter 55, Part II, Telecommunications And Open Video System Facilities Rights-Of-Way Usage Findings And Definitions; And Replacing It With A New Title V, Chapter 55, Entitled “Hollywood Communications Rights-Of-Way Ordinance;” Providing Intent And Purpose, Applicability And Authority To Implement; Providing Definitions; Providing For Registration For Placing Or Maintaining Communications Facilities In The Public Rights-Of-Way; Providing Requirement Of A Permit; Providing Application Requirements And Review Procedures; Providing For Bonds; Providing For Construction Methods; Providing Development And Objective Design Standards; Providing For Fees And Taxes; Providing Enforcement Remedies; Providing For A Severability Clause And A Repealer Provision And Providing For Codification.			
Sponsors:				
Indexes:				
Code sections:				
Attachments:	1. Hollywood Ordinance w_highlights for 2nd Rdg 9-29-20_42335326v1, 2. Appendix - Copy			

Date	Ver.	Action By	Action	Result
10/7/2020	2	Regular City Commission Meeting	adopt on second and final reading	Pass
8/26/2020	1	Regular City Commission Meeting	adopt on first reading	Pass

An Ordinance Of The City Of Hollywood, Florida, Amending The City Code Of Ordinances By Amending Title V, Public Works, Chapter 55, Rights Of Way Construction, Part I: Rights-Of-Way Construction And Administration, And Repealing In Its Entirety Chapter 55, Part II, Telecommunications And Open Video System Facilities Rights-Of-Way Usage Findings And Definitions; And Replacing It With A New Title V, Chapter 55, Entitled “Hollywood Communications Rights-Of-Way Ordinance;” Providing Intent And Purpose, Applicability And Authority To Implement; Providing Definitions; Providing For Registration For Placing Or Maintaining Communications Facilities In The Public Rights-Of-Way; Providing Requirement Of A Permit; Providing Application Requirements And Review Procedures; Providing For Bonds; Providing For Construction Methods; Providing Development And Objective Design Standards; Providing For Fees And Taxes; Providing Enforcement Remedies; Providing For A Severability Clause And A Repealer Provision And Providing For Codification.

Infrastructure & Facilities

Staff Recommends: Approval of the attached Ordinance.

Explanation:
The City engaged services from Gary Resnick, with GrayRobinson P.A. for legal services to develop regulations for 5G Technology and all communications facilities in the City's public rights-of-way. This was done through revisions to Chapter 55 of the Code of Ordinances. Essentially Chapter 55 was divided into two parts: Part I and Part II.

The changes further removed all references to the communication facilities in Part I and created Part II that would apply only to the communication facilities. Based on his scope of services, Mr. Resnick only addressed new regulations relative to the communication facilities. With staff input, he developed the attached Ordinance for consideration and approval.

This is the second reading of the regulations that would be applicable to Right of Way installations throughout the City. The City received several comments from the industry. The City's legal council met with their representatives, and modified sections that were necessary from the first reading. The following are a summary of the revisions:

- Throughout Ordinance, changed "Stealth" to "Camouflage" to be consistent with statute.
- §55.30: Clarified that Chapter 55 Part I applies to utilities other than communications, and Part II applies to communications facilities. Clarified the impact of the Ordinance on existing facilities in the rights-of-way.
- §55.31: Modified definitions of "Abandoned," "As-built plans," "Extension," "Pass-through provider," and "Shroud" consistent with statute.
- §55.32: Revised insurance requirements pursuant to comments from the City's insurance consultant; indemnification consistent with statute; and deleted requirement of notice to the City prior to a registrant obtaining financing.
- §55.33: Revised exception to permit requirements consistent with statute and to ensure notice and protection of City for work performed without permits.
- §55.34: Revised requirements for pre-submittal meetings and attestations required by applicants. Revised review procedures to clarify that the same time frames apply to permits for all communications facilities, but that the basis for denial may be different. Added provisions for the reinstatement of a permit that has been revoked and the preservation of the City's police powers. Modified waiver and appeal procedures consistent with statute.
- §55.35: Modified construction bond requirement to clarify distinction from permanent performance bond.

- §55.36: Modified procedures to address abandoned facilities.
- §55.37: Modified provisions to address underground requirements consistent with statute. Modified objective design standards consistent with the statute. Added that historic property can include designations by Broward County, as well as national, Florida and city designations.
- §55.40: Provided for approval of Appendix containing certain pole design standards, and that revisions must be made available to registrants and are subject to City Commission approval by resolution.

Addressing the leaning communication poles are included and remained from first reading (see below).

§55.37 Development and Objective Design Standards for the Placement or Maintenance of Communications Facilities in the Public-Rights-Of-Way.

C) Objective Design Standards

4) Design Standards for Utility Poles

a) Maintenance of Utility Poles. All new and replaced utility poles for the collocation of small wireless facilities owned by a registrant or utility shall be maintained by the registrant or utility in accordance with applicable codes, including but not limited to the Florida Building Code, the 2017 FDOT UAM, applicable PSC standards, and the National Electric Safety Code. If a utility pole is leaning or becomes damaged, such that it is not in compliance with applicable codes or regulations of the PSC, the owner of the pole shall be required to repair or to replace the pole promptly at its cost. The City reserves the right to issue notices of violation to a registrant or owner of utility pole that fails to maintain a utility pole and to pursue code enforcement actions. In addition to other remedies available, the City reserves the right to remove a utility pole for the collocation of small wireless facilities that is not maintained in accordance with applicable codes that the City Manager determines creates a threat to public safety, or that is abandoned, and to charge the registrant or owner of the pole the costs of such removal. The City may draw upon the registrant's permanent performance bond to recover such costs. In addition, the City may deny permits to a registrant or contractor that is in violation of this subsection.

This Ordinance is specific to communications facilities only, as such, staff is working to engage Mr. Resnick to develop similar regulations for all other private utilities in the public rights-of-way in the near future.

Fiscal Impact:
Approval of this Ordinance will not fiscally impact the City.

Recommended for inclusion on the agenda by:
Azita Behmardi, City Engineer
Shiv Newaldass, Director, Department of Development Services
Gus Zambrano, ACM, Sustainable Development