



STAFF REPORT

Neighborhood Development Services

Planning Division

To: Jonathan R. Lewis, ICMA-CM, City Manager

Thru: Scott Williams, Neighborhood Development Services Director

Thru: Michele Norton, AICP, Planning Manager

From: Sherry Willette-Grondin, Planner

Date: March 24, 2015

Subject: Ordinance No. 2014-42, Petition No. TXT-14-127, Amending Chapter 29, Sign Regulations, Section 29-10 I. and adding provisions for changeable copy/electronic signs on billboards within the incorporated City limits.

RECOMMENDATION: That the City Commission approve Ordinance No. 2014-42, TXT-14-127, Amendments to Chapter 29, Sign Regulations of the Unified Land Development Code (ULDC) Section 29-10 I. and adding provisions for changeable copy/electronic signs on billboards within the incorporated City limits.

I. GENERAL INFORMATION

Project: TXT-14-127, Text Amendment

Request: Approval of Ordinance No. 2014-42, Petition No. TXT-14-127 amendments to Chapter 29 Sign Regulations, Section 29-10I.

Applicant: City of North Port

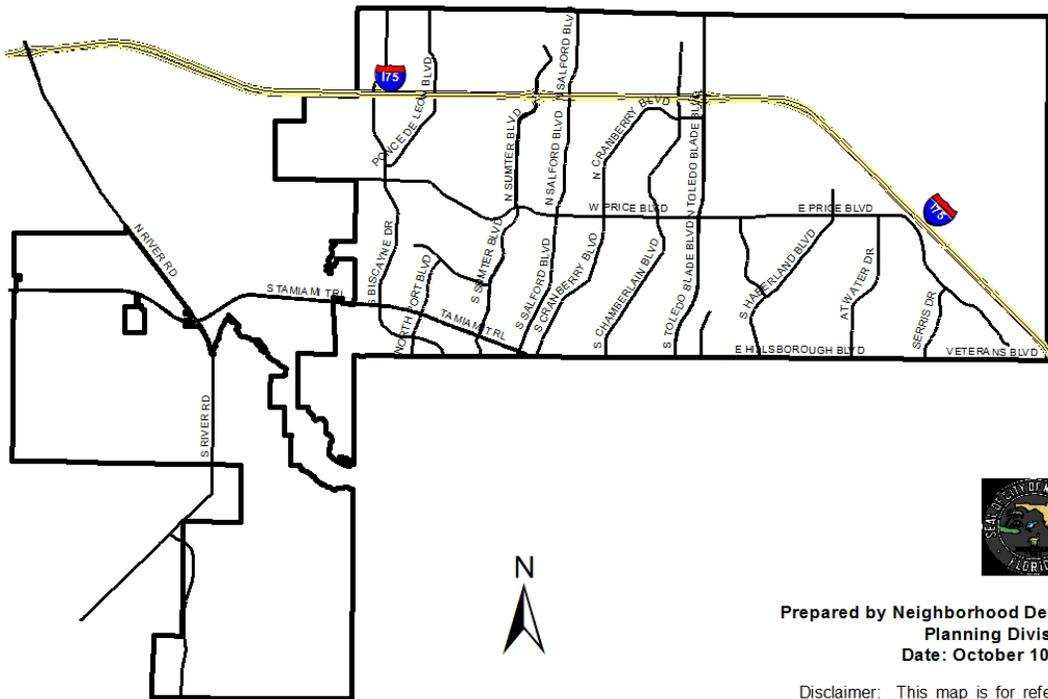
Owner(s): N/A

General Location: N/A

Property Size: N/A

City of North Port

Petition Number TXT-14-127
Ordinance No. 2014-42



Prepared by Neighborhood Development Services
Planning Division
Date: October 10, 2014

Disclaimer: This map is for reference purposes only and is not to be construed as a legal document. Any reliance on the information contained herein is at the user's risk. The City of North Port and its agents assume no responsibility for any use of the information contained herein or any loss resulting therefrom.

II. STAFF RECOMMENDATION

Staff recommends approval of Ordinance No. 2014-42, Petition No. TXT-14-127, Amending Chapter 29, Sign Regulations, Section 29-10 I. and adding provisions for changeable copy/electronic signs on billboards within the incorporated City limits for adoption.

III. STAFF ANALYSIS AND FINDINGS

The City Commission held a workshop on March 4, 2014 and September 25, 2014 to discuss changeable copy signs in North Port. Specifically, the Commission discussed the maximum allowable area of changeable copy/electronic signs on billboards and freestanding signs and the timing intervals for the electronic sign copy to change its message. At the September 25, 2014 workshop, staff presented a Power Point presentation and a draft ordinance of proposed changes to Chapter 29 Sign Regulations, Section 29-10I. At the direction of Commission, staff has incorporated these changes into the attached Ordinance No. 2014-42. These changes are as follows:

- Allow a maximum of 100% changeable copy for billboards on I-75
- Increase maximum allowance of changeable copy to 60% for freestanding signs
- Increasing the display time for changeable copy on freestanding signs from six (6) seconds to seven and one-half (7 ½) minutes
- To allow for subtle transitions for sign face
- Provisions to control brightness of signs
- Conditions for malfunctioning changeable copy/electronic signs

At its regularly scheduled meeting of November 6, 2014, The Planning and Zoning Advisory Board voted to recommend to the City Commission approval of Ordinance No. 2014-42, Petition No. TXT-14-127, Amending Chapter 29, Sign Regulations, Section 29-10 I. and adding provisions for changeable copy/electronic signs on billboards within the incorporated City limits. The motion failed unanimously on a zero-to-six (0-6) roll-call vote.

The Board stated their concerns with the display time increasing from six (6) seconds to seven and one-half (7 ½) minutes, as the Board felt that seven and one-half (7 ½) minutes was too long a time lapse for the sign face to change.

The Planning & Zoning Advisory Board moved to recommend to the City Commission to reconsider within a six month time period, the proposed changes to Ordinance No. 2014-42, TXT 14-127, amending Chapter 29, Sign Regulations, Section 29-10 I, and adding provisions for changeable copy/electronic signs on billboards within the incorporated City limits, with the express aim to incorporate more input from the local business community and technical community into the proposed changes; the motion was seconded and the motion carried unanimously on a six-to-zero (6-0) roll-call vote.

The ordinance was presented to Commission for first reading at their regularly scheduled meeting of November 24, 2014. After discussion, the Commission tabled Ordinance 2014-42 to a Commission Workshop to be held in January 2015.

On January 29, 2015 at a third workshop regarding changeable copy/electronic signs, the Commission direction to staff regarding the sign Ordinance includes:

- 1) Changing the timing for changeable copy from seven and one-half minutes 7 ½ minutes for changeable copy to seven and one-half seconds 7 ½ seconds throughout the Ordinance;
- 2) Staff to research and propose a resolution requirement for changeable copy; and
- 3) Staff to research technology and legal criteria to add State issued alerts such as "Amber Alerts" to changeable copy signage.

It would not be necessary for the revised Ordinance to go before the Planning & Zoning Advisory Board prior to presenting to the Commission.

Based on Commission direction, Ordinance 2014-42 has been revised to change the timing of changeable copy from seven and one-half (7½) minutes to seven and one-half (7 ½) seconds.

Staff has researched sign industry standards regarding the resolution of Light Emitting Diode (LED) for changeable copy/electronic signs. This research included contacting local sign professionals as well as the Florida Department of Transportation (FDOT).



Figure 1 – 16mm pixels

Based on the research, staff has found the LED sign industry uses pixel pitch as a standard measurement to specify the resolution of a digital sign based on the spacing of the LED clusters. The method of measuring the spacing between pixels is millimeters. The further the spacing between pixels decreases the image sharpness and conversely, the closer the spacing between pixels increases the image clarity. (See figure 1, figure 2 and Figure 3)



Figure 2 – 35mm pixels

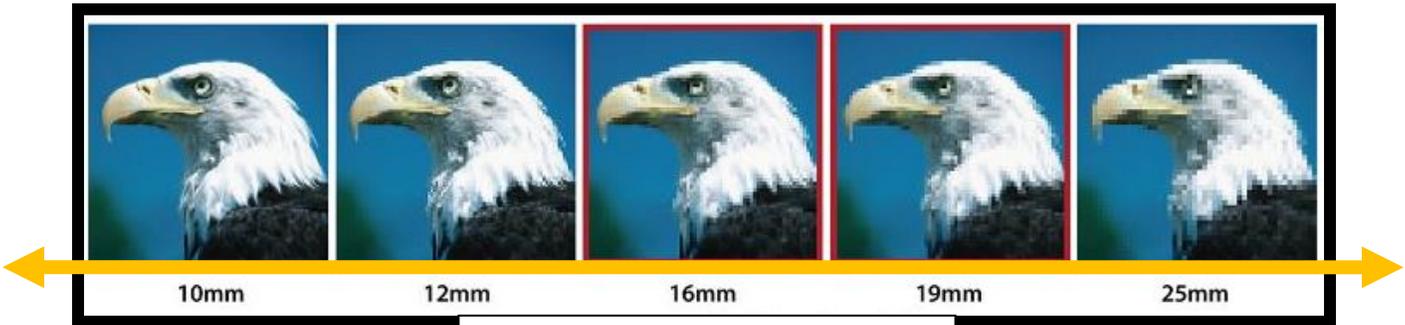


Figure 3 – Pixel pitch
10mm to 25mm

At this time, FDOT has not established standards for regulating the resolution of LED copy on billboards. As the technology of electronic signs continue to advance there will conceivably be regulating guidelines in the future. Staff will monitor any changes in regulations as it become available.

Staff is recommending a maximum pixel pitch of 25mm for freestanding signs and a maximum of 35mm for billboards. The recommendation is based on the available research and discussion with local sign professionals. The maximum pixel recommendations are broad enough to

safeguard the ability to read the electronic sign copy and not cause the signs to become cost prohibitive for the business owner.

Concerning item #3 above, staff researched if there were any standards that regulated adding State issued alerts such as Amber/Silver Alerts to changeable copy signage. Staff reached out to several government agencies including the Department of Justice, Outdoor Advertising Association of America and the Florida Department of Law Enforcement (FDLE). Staff was able to make contact with the Florida Department of Law Enforcement who informed staff that the missing child and missing adult reports are regulated by Florida Statutes 937.021 and 202.11 (**Exhibit A**) and an individual can subscribe to receive an Amber/Silver Alert with the FDLE and then display the information on their electronic sign. However, it was recommended that a program of this type be coordinated with the local law enforcement agency.

The City Attorney has provided the following determination:

- An individual business owner can post on their electronic/changeable copy sign AMBER/SILVER Alerts and that this should be in coordination with our Police Department and not regulated in our ULDC.
- That a business owner can have AMBER/SILVER alerts posted on their monuments signs and these are regulated by Florida Statute 937-021 (5) and 202.11 (Civil liability) and with coordination with our local law enforcement agency and do not need to be regulated in our ULDC.

The option for participating in the Amber/Silver Alerts notifications and to post on electronic/changeable copy signs is voluntary by the property owner.

IV. REVIEW PROCESS

The City Attorney reviewed and approved Ordinance No. 2014-42 for form and correctness.

V. PUBLIC NOTICE

The petition was advertised in a newspaper of general circulation within the City of North Port on October 14, 2014, March 10, 2015 and March 31, 2015 pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 9.01(b) of the Charter of the City of North Port, and Chapter 1 Article II, Section 1-12 of the City's Unified Land Development Code (ULDC) as amended.

VI. COMMISSION HEARING:

At its regularly scheduled meeting of March 23, 2015, the City Commission voted 5-0 to approved Ordinance No. 2014-42, Petition No. TXT-14-127 to second reading.

VII. PUBLIC HEARING SCHEDULE

**Planning and Zoning Advisory Board
Public Hearing**

November 6, 2014
9:00 AM or as soon thereafter

**City Commission
Public Hearing**

November 24, 2014
6:00 PM or as soon thereafter

**City Commission
Public Hearing**

March 23, 2015
6:00 PM or as soon thereafter

**City Commission
Public Hearing**

April 13, 2015
1:00 PM or as soon thereafter

EXHIBIT A

The 2014 Florida Statutes
Title XLVII
CRIMINAL PROCEDURE AND CORRECTIONS

Chapter 937
MISSING PERSON INVESTIGATIONS

937.021 Missing child and missing adult reports.—

(1) Law enforcement agencies in this state shall adopt written policies that specify the procedures to be used to investigate reports of missing children and missing adults. The policies must ensure that cases involving missing children and adults are investigated promptly using appropriate resources. The policies must include:

(a) Requirements for accepting missing child and missing adult reports;

(b) Procedures for initiating, maintaining, closing, or referring a missing child or missing adult investigation; and

(c) Standards for maintaining and clearing computer data of information concerning a missing child or missing adult which is stored in the Florida Crime Information Center and the National Crime Information Center. The standards must require, at a minimum, a monthly review of each case and a determination of whether the case should be maintained in the database.

(2) An entry concerning a missing child or missing adult may not be removed from the Florida Crime Information Center or the National Crime Information Center databases based solely on the age of the missing child or missing adult.

(3) A report that a child or adult is missing must be accepted by and filed with the law enforcement agency having jurisdiction in the county or municipality in which the child or adult was last seen. The filing and acceptance of the report imposes the duties specified in this section upon the law enforcement agency receiving the report. This subsection does not preclude a law enforcement agency from accepting a missing child or missing adult report when agency jurisdiction cannot be determined.

(4)(a) Upon the filing of a police report that a child is missing by the parent or guardian, the Department of Children and Families, a community-based care provider, or a sheriff's office providing investigative services for the department, the law enforcement agency receiving the report shall immediately inform all on-duty law enforcement officers of the missing child report, communicate the report to every other law enforcement agency having jurisdiction in the county, and within 2 hours after

receipt of the report, transmit the report for inclusion within the Florida Crime Information Center and the National Crime Information Center databases. A law enforcement agency may not require a reporter to present an order that a child be taken into custody or any other such order before accepting a report that a child is missing.

(b) Upon the filing of a credible police report that an adult is missing, the law enforcement agency receiving the report shall, within 2 hours after receipt of the report, transmit the report for inclusion within the Florida Crime Information Center and the National Crime Information Center databases.

(5)(a) Upon receiving a request to record, report, transmit, display, or release Amber Alert or Missing Child Alert information from the law enforcement agency having jurisdiction over the missing child, the Department of Law Enforcement as the state Amber Alert coordinator, any state or local law enforcement agency, and the personnel of these agencies; any radio or television network, broadcaster, or other media representative; any dealer of communications services as defined in s. 202.11; or any agency, employee, individual, or entity is immune from civil liability for damages for complying in good faith with the request and is presumed to have acted in good faith in recording, reporting, transmitting, displaying, or releasing Amber Alert or Missing Child Alert information pertaining to the child.

(b) Upon receiving a request to record, report, transmit, display, or release information and photographs pertaining to a missing adult or missing child from the law enforcement agency having jurisdiction over the missing adult or missing child, the department, a state or local law enforcement agency, and the personnel of these agencies; any radio or television network, broadcaster, or other media representative; any dealer of communications services as defined in s. 202.11; or any agency, employee, individual, or person is immune from civil liability for damages for complying in good faith with the request to provide information and is presumed to have acted in good faith in recording, reporting, transmitting, displaying, or releasing information or photographs pertaining to the missing adult or missing child.

(c) Upon receiving a request to record, report, transmit, display, or release Silver Alert information from the law enforcement agency having jurisdiction over the missing adult, the Department of Law Enforcement as the state Silver Alert coordinator, any state or local law enforcement agency, and the personnel of these agencies; any radio or television network, broadcaster, or other media representative; any dealer of communications services as defined in s. 202.11; or any agency, employee, individual, or entity is immune from civil liability for damages for complying in good faith with the request and is presumed to have acted in good faith in recording, reporting, transmitting, displaying, or releasing Silver Alert information pertaining to the missing adult.

(d) The presumption of good faith is not overcome if a technical or clerical error is made by any agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction, or if the Amber Alert, Missing Child Alert, missing child information, missing adult

information, or Silver Alert information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.

(e) Neither this subsection nor any other provision of law creates a duty of the agency, employee, individual, or entity to record, report, transmit, display, or release the Amber Alert, Missing Child Alert, missing child information, missing adult information, or Silver Alert information received from the local law enforcement agency having jurisdiction. The decision to record, report, transmit, display, or release information is discretionary with the agency, employee, individual, or entity receiving the information.

(6) If a missing child or missing adult is not located within 90 days after the missing child or missing adult report is filed, the law enforcement agency that accepted the report shall attempt to obtain a biological specimen for DNA analysis from the missing child or missing adult or from appropriate family members in addition to obtaining necessary documentation. This subsection does not prevent a law enforcement agency from attempting to obtain information or approved biological specimens for DNA analysis before the expiration of the 90-day period.

(7) The department shall adopt rules specific to cases involving missing children and missing adults which will:

(a) Identify biological specimens that are approved by the department for DNA analysis.

(b) Identify the documentation necessary for the department to use the biological specimens for DNA analysis.

(c) Establish procedures for the collection of biological specimens by law enforcement agencies.

(d) Establish procedures for forwarding biological specimens by law enforcement agencies to the department.

(8) Subsections (6) and (7) are contingent upon the availability of federal funding for the submission and processing of approved biological specimens for DNA analysis.

History.—s. 1, ch. 83-32; s. 11, ch. 2003-146; s. 3, ch. 2006-176; s. 3, ch. 2008-162; s. 22, ch. 2008-245; s. 93, ch. 2009-21; s. 2, ch. 2011-218; s. 5, ch. 2013-116; s. 311, ch. 2014-19.

The 2014 Florida Statutes
Title XIV
TAXATION AND FINANCE

Chapter 202
COMMUNICATIONS SERVICES TAX SIMPLIFICATION LAW

202.11 Definitions.—As used in this chapter, the term:

(1) “Communications services” means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added. The term does not include:

- (a) Information services.
 - (b) Installation or maintenance of wiring or equipment on a customer’s premises.
 - (c) The sale or rental of tangible personal property.
 - (d) The sale of advertising, including, but not limited to, directory advertising.
 - (e) Bad check charges.
 - (f) Late payment charges.
 - (g) Billing and collection services.
 - (h) Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.
- (2) “Dealer” means a person registered with the department as a provider of communications services in this state.

(3) "Department" means the Department of Revenue.

(4) "Direct-to-home satellite service" has the meaning ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

1(5) "Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services, including, but not limited to, electronic publishing, web-hosting service, and end-user 900 number service. The term includes data processing and other services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser whose primary purpose for the underlying transaction is the processed data or information. The term does not include video service.

(6) "Internet access service" has the same meaning as ascribed to the term "Internet access" by s. 1105(5) of the Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by Pub. L. No. 110-108.

(7) "Mobile communications service" means commercial mobile radio service, as defined in 47 C.F.R. s. 20.3 as in effect on June 1, 1999. The term does not include air-ground radiotelephone service as defined in 47 C.F.R. s. 22.99 as in effect on June 1, 1999.

(8) "Person" has the meaning ascribed in s. 212.02.

2(9) "Prepaid calling arrangement" means:

(a) A right to use communications services, other than mobile communications services, for which a separately stated price must be paid in advance, which is sold at retail in predetermined units that decline in number with use on a predetermined basis, and which consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered; or

(b) A right to use mobile communications services that must be paid for in advance and is sold at retail in predetermined units that expire or decline in number on a predetermined basis if:

1. The purchaser's right to use mobile communications services terminates upon all purchased units' expiring or being exhausted unless the purchaser pays for additional units;

2. The purchaser is not required to purchase additional units; and

3. Any right of the purchaser to use units to obtain communications services other than mobile communications services is limited to services that are provided to or through the same handset or other electronic device that is used by the purchaser to access mobile communications services.

Predetermined units described in this subsection may be quantified as amounts of usage, time, money, or a combination of these or other means of measurement.

(10) "Purchaser" means the person paying for or obligated to pay for communications services.

(11) "Retail sale" means the sale of communications services for any purpose other than for resale or for use as a component part of or for integration into communications services to be resold in the ordinary course of business. However, any sale for resale must comply with s. 202.16(2) and the rules adopted thereunder.

(12) "Sale" means the provision of communications services for a consideration.

(13) "Sales price" means the total amount charged in money or other consideration by a dealer for the sale of the right or privilege of using communications services in this state, including any property or other service, not described in paragraph (a), which is part of the sale and for which the charge is not separately itemized on a customer's bill or separately allocated under subparagraph (b)8. The sales price of communications services may not be reduced by any separately identified components of the charge which constitute expenses of the dealer, including, but not limited to, sales taxes on goods or services purchased by the dealer, property taxes, taxes measured by net income, and universal-service fund fees.

(a) The sales price of communications services includes, whether or not separately stated, charges for any of the following:

1. The connection, movement, change, or termination of communications services.
2. The detailed billing of communications services.
3. The sale of directory listings in connection with a communications service.
4. Central office and custom calling features.
5. Voice mail and other messaging service.
6. Directory assistance.
7. The service of sending or receiving a document commonly referred to as a facsimile or "fax," except when performed during the course of providing professional or advertising services.

(b) The sales price of communications services does not include charges for any of the following:

1. An excise tax, sales tax, or similar tax levied by the United States or any state or local government on the purchase, sale, use, or consumption of any communications service, including, but not limited to, a tax imposed under this chapter or chapter 203 which is permitted or required to be added to the sales price of such service, if the tax is stated separately.

2. A fee or assessment levied by the United States or any state or local government, including, but not limited to, regulatory fees and emergency telephone surcharges, which must be added to the price of the service if the fee or assessment is separately stated.
3. Communications services paid for by inserting coins into coin-operated communications devices available to the public.
4. The sale or recharge of a prepaid calling arrangement.
5. The provision of air-to-ground communications services, defined as a radio service provided to a purchaser while on board an aircraft.
6. A dealer's internal use of communications services in connection with its business of providing communications services.
7. Charges for property or other services that are not part of the sale of communications services, if such charges are stated separately from the charges for communications services.
8. Charges for goods or services that are not subject to tax under this chapter, including Internet access services but excluding any item described in paragraph (a), that are not separately itemized on a customer's bill, but that can be reasonably identified from the selling dealer's books and records kept in the regular course of business. The dealer may support the allocation of charges with books and records kept in the regular course of business covering the dealer's entire service area, including territories outside this state.

(14) "Service address" means:

(a) Except as otherwise provided in this section:

1. The location of the communications equipment from which communications services originate or at which communications services are received by the customer;
2. In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, and in the case of third-number and calling-card calls, the term "service address" means the address of the central office, as determined by the area code and the first three digits of the seven-digit originating telephone number; or
3. If the location of the equipment described in subparagraph 1. is not known and subparagraph 2. is inapplicable, the term "service address" means the location of the customer's primary use of the communications service. For purposes of this subparagraph, the location of the customer's primary use of a communications service is the residential street address or the business street address of the customer.

(b) In the case of video services and direct-to-home satellite services, the location where the customer receives the services in this state.

(c) In the case of mobile communications services, the customer's place of primary use.

(15) "Unbundled network element" means a network element, as defined in 47 U.S.C. s. 153(29), to which access is provided on an unbundled basis pursuant to 47 U.S.C. s. 251(c)(3).

(16) "Private communications service" means a communications service that entitles the subscriber or user to exclusive or priority use of a communications channel or group of channels between or among channel termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(17)(a) "Customer" means:

1. The person or entity that contracts with the home service provider for mobile communications services; or

2. If the end user of mobile communications services is not the contracting party, the end user of the mobile communications service. This subparagraph only applies for the purpose of determining the place of primary use.

(b) "Customer" does not include:

1. A reseller of mobile communications services; or

2. A serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(18) "Enhanced zip code" means a United States postal zip code of 9 or more digits.

(19) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile communications services.

(20) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide mobile communications service to the customer.

(21) "Place of primary use" means the street address representative of where the customer's use of the mobile communications service primarily occurs, which must be:

(a) The residential street address or the primary business street address of the customer; and

(b) Within the licensed service area of the home service provider.

(22)(a) “Reseller” means a provider who purchases communications services from another communications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile communications service.

(b) “Reseller” does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider’s licensed service area.

(23) “Serving carrier” means a facilities-based carrier providing mobile communications service to a customer outside a home service provider’s or reseller’s licensed service area.

(24) “Video service” means the transmission of video, audio, or other programming service to a purchaser, and the purchaser interaction, if any, required for the selection or use of a programming service, regardless of whether the programming is transmitted over facilities owned or operated by the video service provider or over facilities owned or operated by another dealer of communications services. The term includes point-to-point and point-to-multipoint distribution services through which programming is transmitted or broadcast by microwave or other equipment directly to the purchaser’s premises, but does not include direct-to-home satellite service. The term includes basic, extended, premium, pay-per-view, digital video, two-way cable, and music services.

History.—ss. 2, 58, ch. 2000-260; ss. 2, 38, ch. 2001-140; s. 1, ch. 2003-254; ss. 1, 14, ch. 2005-187; s. 6, ch. 2005-280; s. 3, ch. 2007-29; s. 2, ch. 2012-70; s. 1, ch. 2014-36; s. 1, ch. 2014-38.

1Note.—Section 2, ch. 2014-36, provides that “[t]he amendments made by this act are intended to be remedial in nature and apply retroactively but do not provide a basis for an assessment of any tax not paid, or create a right to a refund or credit of any tax paid, before the effective date of this act.”

2Note.—Section 3, ch. 2014-38, provides that “[t]he amendments made to ss. 202.11 and 212.05(1)(e)1.a., Florida Statutes, by this act are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.”