



## Legislation Details (With Text)

**File #:** 17-1543      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Second Reading  
**File created:** 12/1/2017      **In control:** City Commission Regular Meeting  
**On agenda:** 12/12/2017      **Final action:** 12/12/2017  
**Title:** Ordinance No. 2017-37, First Reading, Petition No. TXT-16-121, Updating code language related to communication and wireless facilities to be consistent with Florida Statutes, Section 337.401 by creating Chapter 86 - Communication and Wireless Infrastructure Right-of-Way Utilization in the Administrative Code of the City of North Port, Florida and by amending Appendix A - Fee Structure.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance No. 2017-37, 2. TXT-16-121, Staff Report, 3. Ordinance No. 17-37 Summary

Date	Ver.	Action By	Action	Result
12/12/2017	1	City Commission Regular Meeting	read by title only	Pass
12/12/2017	1	City Commission Regular Meeting	continued for second reading	Pass

**TO:** Honorable Mayor & Members of the North Port Commission

**FROM:** Peter D. Lear, CPA, CGMA, City Manager

**TITLE:** Ordinance No. 2017-37, First Reading, Petition No. TXT-16-121, Updating code language related to communication and wireless facilities to be consistent with Florida Statutes, Section 337.401 by creating Chapter 86 - Communication and Wireless Infrastructure Right-of-Way Utilization in the Administrative Code of the City of North Port, Florida and by amending Appendix A - Fee Structure.

### Recommended Action

Approve and continue Ordinance No. 2017-37, Petition No. TXT-16-121 for second reading on January 23, 2018.

### Background Information

Due to the drastic changes from the State adoption of the Advanced Wireless Infrastructure Deployment Act, many of the regulatory considerations the City was considering are no longer viable. However, the State did leave the ability for municipalities to regulate certain aspects of these facilities by requiring that they comply with "applicable codes" (Exhibit B, p.5, Florida Statutes, Section 337.401(7)(d)2.). "Applicable codes" as defined in Florida Statutes, Section 337.401(7)(b) includes local codes or ordinances adopted to implement the Act and objective design standards.

The public rights-of-way in the City of North Port are a physically limited resource that are critical to the travel and transport of persons and property in the City. It is understood that recent advances in wireless communications technology have resulted in a new generation of cellular communication services. The demand for these services has grown exponentially in recent years, requiring the continual upgrading of telecommunications equipment and services to satisfy such demand. These antennae may be located on existing towers, utility poles, and other similar structures, but will frequently be located on poles constructed or enlarged within the City's rights-of-way.

In crafting Ordinance 2017-37, care was given to ensure compliance with Florida Statutes and to be inclusive to any type

of current or potential future technology. Several model ordinances were used to inform the document to meet this goal. Federal and State law require the nondiscriminatory treatment of providers of telecommunications services. The intent of the Florida Legislature in adopting the Advance Wireless Infrastructure Deployment Act was to ensure that municipalities and counties treat providers of communications and wireless services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way.

With this in mind, it is crucial that the use and occupancy of the public rights-of-way by providers of communications and wireless services be subject to regulation which can ensure minimal inconvenience to the public, coordinate users, maximize available space, reduce maintenance costs to the public, and facilitate entry of an optimal number of providers of services in the public interest. In meeting these needs, Ordinance 2017-37 creates regulations that accomplish the following:

- (a) provides for the placement or maintenance of communications and wireless facilities in the public rights-of-way within the City limits;
- (b) adopts and administers reasonable rules, regulations and general conditions not inconsistent with applicable state and federal law;
- (c) manages the placement and maintenance of communications and wireless facilities in the public rights-of-way by all providers;
- (d) minimizes disruption to the public rights-of-way;
- (e) requires the restoration of the public rights-of-way to original condition; and
- (f) minimizes the impact on surrounding areas by establishing standards for location, aesthetics and compatibility.

### **Strategic Plan**

Maintained/Upgraded/Expanded City Infrastructure  
Financially Responsible City Providing Quality Municipal Services

### **Financial Impact**

Change in fee structure to include collocation of communication or wireless facilities on City-owned infrastructure. Ordinance includes fees for pass-through providers utilizing City-owned rights-of-way.

### **Procurement**

N/A

Attachments:

- 1. Ordinance No. 2017-37
- 2. TXT-16-121, Staff Report
- 3. Ordinance No. 2017-37 Summary

**Prepared by:** Nicole Galehouse

**Department Director:** Scott Williams