

Chapters 67—69

RESERVED

Chapter 70

TELECOMMUNICATIONS*

Article I. In General

- Sec. 70-1. Registration for placing or maintaining communications services facilities in public rights-of-way.
- Sec. 70-2. Owner's authorization.
- Sec. 70-3. Cash escrow.
- Sec. 70-4. Stop work order.
- Sec. 70-5. Limitation on work area.
- Secs. 70-6—70-25. Reserved.

Article II. Cellular Towers

Division 1. Generally

- Sec. 70-26. Definitions.
- Sec. 70-27. Findings, intent and purpose.
- Sec. 70-28. Applicability.
- Sec. 70-29. Exemptions.
- Sec. 70-30. Permitted uses and special exceptions.
- Sec. 70-31. Compliance with federal regulations.
- Secs. 70-32—70-55. Reserved.

Division 2. Performance Standards

- Sec. 70-56. Setbacks.
- Sec. 70-57. Separation from off-site uses.
- Sec. 70-58. Separation distances between communication towers.
- Sec. 70-59. Height limitation and method of determining height.
- Sec. 70-60. Illumination.
- Sec. 70-61. Finished color.
- Sec. 70-62. Anchor location.
- Sec. 70-63. Structural design.
- Sec. 70-64. Equipment buildings.
- Sec. 70-65. Fencing.
- Sec. 70-66. Public information signage.
- Sec. 70-67. Landscaping and parking.
- Sec. 70-68. Documentation or deposit for removal.
- Sec. 70-69. Application and submission requirements for special exception and variance.
- Secs. 70-70—70-95. Reserved.

Division 3. Development Review, Special Exceptions and Variances

- Sec. 70-96. Development review procedure.
- Sec. 70-97. Special exception.
- Sec. 70-98. Variance.
- Sec. 70-99. Public notice.
- Sec. 70-100. Abandonment.
- Sec. 70-101. Special exception time limits for compliance with colocation condition for towers 80 or more feet high.
- Sec. 70-102. Standards and criteria for review of special exception requests.

***Cross references**—Businesses, ch. 22; utilities, ch. 78; franchises, app. B; telephone franchise, app. B, art. II; broadband communications system franchise, app. B, art IV.

WINTER GARDEN CODE

Secs. 70-103—70-130. Reserved.

Division 4. Communication Antennas and Existing Pole Structures

- Sec. 70-131. Communication antennas.
- Sec. 70-132. Colocation of communication antennas.
- Sec. 70-133. Utilization of existing pole-type structures.

Article III. Telecommunications Systems

Division 1. Generally

- Sec. 70-134. Short title.
- Sec. 70-135. Definitions.
- Sec. 70-136. Rights reserved.
- Sec. 70-137. Alternative remedies.
- Secs. 70-138—70-163. Reserved.

Division 2. Franchise

- Sec. 70-164. Franchise required.
- Sec. 70-165. Authority to grant; terms and conditions of granting.
- Sec. 70-166. Franchise nonexclusive.
- Sec. 70-167. Applications.
- Sec. 70-168. Grant procedure.
- Sec. 70-169. Publication costs.
- Sec. 70-170. Duration.
- Sec. 70-171. Acceptance of franchise.
- Sec. 70-172. Franchise fees; audits; inspection of records.
- Sec. 70-173. Assignment/transfer.
- Sec. 70-174. Indemnification.
- Sec. 70-175. Insurance.
- Sec. 70-176. Bonds.
- Sec. 70-177. Termination.
- Sec. 70-178. Force majeure.
- Secs. 70-179—70-204. Reserved.

Division 3. Operational Rules

- Sec. 70-205. Compliance with state and federal law.
- Sec. 70-206. Authority to use right-of-ways.
- Sec. 70-207. Conditions of public right-of-way occupancy.
- Sec. 70-208. Erection of poles.
- Sec. 70-209. Undergrounding.
- Sec. 70-210. Relocation.
- Sec. 70-211. Movement of buildings.
- Sec. 70-212. Removal.
- Sec. 70-213. Inspection; correction of defects of the system.
- Sec. 70-214. Communications with regulatory agencies.
- Sec. 70-215. Compliance with city, state and federal law.
- Sec. 70-216. Payment center.
- Sec. 70-217. Failure to enforce franchise.
- Sec. 70-218. Headings.
- Sec. 70-219—70-229. Reserved.

Article IV. Wireless Facilities in the Rights-of-Way

- Sec. 70-230. Intent and purpose; applicability to state-controlled rights-of-way.

TELECOMMUNICATIONS

- Sec. 70-231. Definitions.
- Sec. 70-232. Registration for placing or maintaining wireless facilities in public rights-of-way.
- Sec. 70-233. City-owned structures, facilities, and real property.
- Sec. 70-234. Prohibitions.
- Sec. 70-235. Applications; application requirements; timeframes.
- Sec. 70-236. Objective design standards.
- Sec. 70-237. Maintenance; replacement; micro wireless facilities.
- Sec. 70-238. Collocation on city utility poles.
- Sec. 70-239. Force majeure.
- Sec. 70-240. Reservation of rights and remedies.
- Sec. 70-241. Pass-through provider fees, collocation fees, and other charges.
- Sec. 70-242. Insurance and bonds.
- Sec. 70-243. Compliance with state and federal law.
- Sec. 70-244. Relocation of wireless facilities.
- Sec. 70-245. Conditions of public right-of-way occupancy.
- Sec. 70-246. Erection of new utility poles; availability of alternatives.
- Sec. 70-247. Notice of transfer, sale or assignment of assets in public rights-of-way.
- Sec. 70-248. Termination.
- Sec. 70-249. Abandonment.
- Sec. 70-250. Removal and relocation.
- Sec. 70-251. Inspection; correction of defects of the system.
- Sec. 70-252. Communications with regulatory agencies.
- Sec. 70-253. Indemnification.
- Sec. 70-254. Enforcement remedies.
- Sec. 70-255. Appeals.

ARTICLE I. IN GENERAL

Secs. 70-1—70-25. Reserved.

ARTICLE II. CELLULAR TOWERS*

DIVISION 1. GENERALLY

Sec. 70-1. Registration for placing or maintaining communications services facilities in public rights-of-way.

(a) A communications services provider that desires to place or maintain a facility in public rights-of-way in the city shall first register with the city in accordance with this section before it is eligible to apply for a permit. The city has the right to refuse to process any application for a permit if there is not an active registration of the communications services provider under this section.

(b) A registration shall not convey any title, equitable or legal, to the registrant in the public rights-of-way. Registration under this article only applies for the placement or maintenance of communications services facilities in public rights-of-way. Other ordinances, codes or regulations may apply to the placement or maintenance in the public rights-of-way of facilities that are not communications services facilities. Registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the city's or another person's facilities. Registration does not excuse a communications services provider from complying with all applicable city ordinances, codes or regulations, including this article.

(c) Each communications services provider that desires to place or maintain a communications services facility in public rights-of-way in

*Cross reference—Buildings and building regulations, ch. 18.

the city shall file a single registration with the city building department which shall include the following information:

- (1) Name of the applicant, including a contact person;
- (2) Name, address, email address, and telephone number of the applicant's primary contact person in connection with the registration, and the person to contact in case of an emergency;
- (3) Evidence of the insurance coverage or self-insuring status adequate to defend and cover claims and damages caused during installation, maintenance and repair activities;
- (4) Acknowledgment that registrant has received and reviewed a copy of this article, which acknowledgment shall not be deemed an agreement;
- (5) The number of the applicant's certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the Federal Communications Commission, or other federal or state authority, if any.

(d) The city shall review the information submitted by the applicant for registration to the building department. Such review shall be by the city manager or his or her designee. If the applicant submits information in accordance with subsection (c) above and other provisions of this chapter and the city code, the registration shall be effective and the city shall notify the applicant of the effectiveness of registration in writing. If the city determines that the information has not been submitted in accordance with subsection (c) above, the city shall notify the applicant of the non-effectiveness of registration, and reasons for the non-effectiveness, in writing. The city shall so reply to an applicant within 30 days after receipt of registration information from the applicant. Non-effectiveness of registration shall not preclude an applicant from filing subsequent applications for registration under the provisions of this section.

(e) *Cancellation of registration.* A registrant may cancel a registration upon written notice to the city stating that it will no longer place or maintain any communications services facilities in public rights-of-way within the city and will no longer need to obtain permits to perform work in public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain any communications services facilities in public rights-of-way.

(f) *Limited rights conferred by registration.* Registration does not, in and of itself, establish a right to place or maintain or priority for the placement or maintenance of a communications services facility in public rights-of-way within the city but shall establish for the registrant a right to apply for appropriate and necessary permits to do so. Registrations are expressly subject to any future amendment to or replacement of this article and further subject to any additional city ordinances, as well as any state or federal laws that may be enacted. (Ord. No. 24-09, § 2, 5-23-24)

Sec. 70-2. Owner's authorization.

Each applicant for a right-of-way permit must have an owner's authorization executed by the communication services facilities owner authorizing the applicant to apply for a right-of-way permit on its behalf. The owner's authorization must provide that the communication services facilities owner accepts responsibility for the acts and omissions of the permit applicant and its contractors, subcontractors and others performing work through the applicant. The owner's authorization must be executed by the same legal entity that is registered with the city under section 70-1. The owner's authorization must be in a form and with terms acceptable to the city. The city manager or his/her designee is authorized to create an owner's authorization form for use by applicants. The city has the right not to process any permit application submitted without a fully executed owner's authorization. (Ord. No. 24-09, § 2, 5-23-24)

Sec. 70-3. Cash escrow.

(a) The city shall not be liable or responsible for damages or repair cost caused by or resulting from a permit holder's communication services facilities installation activities.

(b) As a condition to applying for a permit for the installation of communication services facilities with the right-of-way, each applicant for a right-of-way permit involving a project area exceeding 500 linear feet must execute an escrow agreement and submit into escrow with the city a cash deposit in an amount equal to the greater of (i) \$250,000.00, and (ii) ten percent of the estimated installation cost of the communication services facilities being placed in the right-of-way under the requested permit, provided that the total amount deposited is not required to exceed \$2,500,000.00. In combination with at least a \$100,000.00 cash deposit, the city manager may allow an applicant to provide an original letter of credit from a local bank within Orange County, Florida for required escrow amounts exceeding \$100,000.00 for applicants without a history' of causing damages during installation activities within rights-of-way.

(c) As a condition to applying for a permit for the installation of communication services facilities with the right-of-way, each applicant for a right-of-way permit involving a project area of 500 linear feet or less must either: (i) execute an escrow agreement and submit into escrow with the city a cash deposit in an amount equal to \$25,000.00; or (ii) execute a letter of credit draw agreement with terms acceptable to the city and deliver an original letter of credit in the amount of \$25,000.00 drawable by the city from a local bank within Orange County, Florida. Provided however, if an applicant for a right-of-way permit has a history of causing damages during installation activities within rights-of-way, then the city may require a minimum escrow of \$250,000.00.

(d) The cash deposit or letter or credit will be held by the city from the issuance of the right-of-way permit and until 200 days after completion of the installation of the communications services facilities subject to the permit. Provided, however, the city and applicant may mutually agree to a modified escrow or letter of credit to accommodate an applicant's request for multiple right-of-way permits within a year; such modifications may include utilizing one escrow or letter of credit for multiple right-of-way permits or adjusting the holding period. Subject to deduc-