

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 2003-067, AS AMENDED, TO DELETE EXISTING REGULATIONS PERTAINING TO THE PLACEMENT OF COMMERCIAL COMMUNICATION EQUIPMENT ON FPL TRANSMISSION POLES, AND REPLACE WITH NEW AND EXPANDED REGULATIONS FOR BOTH FPL TRANSMISSION POLES AND SUBSTATIONS, AS FOLLOWS: ARTICLE 1 - GENERAL PROVISIONS; CHAPTER I, DEFINITIONS AND ACRONYMS; ARTICLE 2 – DEVELOPMENT REVIEW PROCEDURES, CHAPTER D, ADMINISTRATIVE PROCESS; ARTICLE 4 – USE REGULATIONS; CHAPTER B, USE CLASSIFICATION; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND, AN EFFECTIVE DATE.

WHEREAS, Section 163.3202, Florida Statutes, mandates the County compile Land Development Regulations consistent with its Comprehensive Plan into a single Land Development Code; and

WHEREAS, pursuant to this statute the Palm Beach County Board of County Commissioners (BCC) adopted the Unified Land Development Code (ULDC), Ordinance 2003-067, as amended from time to time; and

WHEREAS, the BCC has determined that the proposed amendments further a legitimate public purpose; and

WHEREAS, the Land Development Regulation Commission has found these amendments to the ULDC to be consistent with the Palm Beach County Comprehensive Plan; and

WHEREAS, the BCC hereby elects to conduct its public hearings on this Ordinance at 9:30 a.m.; and

WHEREAS, the BCC has conducted public hearings to consider these amendments to the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. Adoption

The amendments set forth in Exhibit A, Florida Power and Light (FPL) Commercial Communication Towers Privately Initiated Amendment (PIA), attached hereto and made a part hereof, are hereby adopted.

1 **Section 2. Interpretation of Captions**

2 All headings of articles, sections, paragraphs, and sub-paragraphs used in this Ordinance
3 are intended for the convenience of usage only and have no effect on interpretation.

4
5 **Section 3. Repeal of Laws in Conflict**

6 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
7 repealed to the extent of such conflict.

8
9 **Section 4. Severability**

10 If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any other
11 item contained in this Ordinance is for any reason held by the Court to be unconstitutional,
12 inoperative, void, or otherwise invalid, such holding shall not affect the remainder of this
13 Ordinance.

14
15 **Section 5. Savings Clause**

16 All development orders, permits, enforcement orders, ongoing enforcement actions, and
17 all other actions of the Board of County Commissioners, the Zoning Commission, the
18 Development Review Officer, Enforcement Boards, all other County decision-making and
19 advisory boards, Special Masters, Hearing Officers, and all other County officials, issued pursuant
20 to the regulations and procedures established prior to the effective date of this Ordinance shall
21 remain in full force and effect.

22
23 **Section 6. Inclusion in the Unified Land Development Code**

24 The provisions of this Ordinance shall be codified in the Unified Land Development Code
25 and may be reorganized, renumbered or re-lettered to effectuate the codification of this
26 Ordinance.

27
28 **Section 7. Providing for an Effective Date**

29 The provisions of this Ordinance shall become effective upon filing with the Department
30 of State.

1 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
2 County, Florida, on this the 27th day of April, 2017

3
SHARON R. BOCK, CLERK &
COMPTROLLER

By: 

Deputy Clerk

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: 

Paulette Burdick, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 

County Attorney

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5
6 **EFFECTIVE DATE:** Filed with the Department of State on the 27th day of
7 April, 2017.

EXHIBIT A

FLORIDA POWER AND LIGHT (FPL) COMMERCIAL COMMUNICATION TOWERS PRIVATELY INITIATED AMENDMENT (PIA)

Part 1. ULDC Art. 1.I.2.E, Definitions (pages 56 and 104 of 119), is hereby amended as follows:

ARTICLE 1 GENERAL PROVISIONS

CHAPTER I DEFINITIONS & ACRONYMS

Section 2 Definitions

S. Terms defined herein or referenced in this Article shall have the following meanings:

100. Street -

- a. a strip of land, owned privately or publicly, which affords legal access to abutting land and is designated for vehicular traffic. "Street" includes road, thoroughfare, parkway, avenue, boulevard, expressway, lane, throughway, place, and square, or however otherwise designated. Streets are further classified according to the function they perform. [Ord. 2017-007]
- b. ~~For the purposes of Art. 4.B.9, Commercial Communication Towers, means Electric Transmission lines or Florida Department of Transportation I-95 and the Florida Turnpike corridors having 250 feet in width or more of right of way (R-O-W) or easements. [Ord. 200- [Ord. 2017-007]~~

T. Terms defined herein or referenced Article shall have the following meanings:

~~59. Transmission Pole – for the purposes of Art. 4.B.9, Commercial Communication Towers, means electrical transmission poles supporting 69kV conductors or greater. This does not include distribution.~~

[Renumber accordingly]

Part 2. ULDC Art. 2.D.1.G.1, Modifications to BCC or ZC Approvals (page 39-40 of 87), is hereby amended as follows:

ARTICLE 2 DEVELOPMENT REVIEW PROCEDURES

CHAPTER D ADMINISTRATIVE PROCESS

Section 1 Development Review Officer (DRO)

G. Modifications to Prior Development Orders

1. Modifications to BCC or ZC Approvals

The DRO shall have the authority to approve modifications to a Development Order approved by the BCC or ZC. An application for an amendment shall be submitted in accordance with Article 2.A.1, Applicability, and reviewed in accordance with the standards in Article 2.D.1.C, Review Procedures. Applications must be submitted on deadlines established on the Zoning Calendar. The authority of the DRO to modify a BCC or ZC approved plan shall be limited to the following: [Ord. 2008-003] [Ord. 2010-005] [Ord. 2010-022] [Ord. 2011-001]

~~g. Add new or amend existing Commercial Communication Tower Transmission Poles or Substation Structures, and any associated Minor Utility, where allowed subject to DRO approval, or Permitted by Right.~~

Part 3. ULDC Art. 4.B.9, Communication Towers, Commercial, is hereby amended as follows:

CHAPTER B USE CLASSIFICATION

Section 9 Commercial Communication Tower Uses

A. Commercial Communication Tower Use Matrix

Notes:

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COMMERCIAL COMMUNICATION TOWERS
PRIVATELY INITIATED AMENDMENT (PIA)

B. General Standards

Table 4.B.9.B – Minimum Separation and Setbacks for Towers Located in Residential Zoning Districts

TOWER TYPE	Adjacent to	AGR	AR/ RSA	AR/ USA	RE	RT	RS	RM	PUD	RVPD	MHPD	TND
****	****	****										
Stealth (3)	Residential Existing (1) or Vacant (2)	150% of tower height for separation, and 100% of tower height for setback from property line.										
	Non Residential	20% of tower height or zoning district setback whichever is greater.										
Full Array Urban ≤ 80' (3)	Residential Existing (1) or Vacant (2)	150% of tower height for separation, and 100% of tower height for setback from property line.										
	Non Residential	20% of tower height or zoning district setback whichever is greater.										
Full Array Urban > 80' > 150' (3)	Residential Existing (1) or Vacant (2)	600% of tower height for separation, and 100% of tower height for setback from property line.										
	Non Residential and Public R-O-W	20% of tower height or zoning district setback whichever is greater.										
Full Array Rural (3)	Residential Existing (1) or Vacant (2)	600% of tower height for separation, and 150% of tower height for setback from property line.										
	Non Residential and Public R-O-W	20% of tower height or zoning district setback whichever is greater.										
Electric-Transmission Line-FPL		Height, tower type, and setbacks limited as provided in Art. 4.B.9, Commercial Communication Towers										
FDOT												
[Ord. 2005-002]												
Notes:												
(1)	Maximum height subject to the specific requirements contained in the Supplementary Use Standards.											
(2)	Applicable to any tower height.											
(3)	Exceptions to minimum setbacks or separations may be allowed in accordance with 4.B.9.D.1.e. Setback Exceptions.											

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FLORIDA POWER AND LIGHT (FPL) COMMERCIAL COMMUNICATION TOWERS PRIVATELY INITIATED AMENDMENT (PIA)

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Table 4.B.9.B – Minimum Separation and Setbacks for Towers Located in Non-Residential Zoning Districts

TOWER TYPE	Adjacent to	PC	AP	CN	CLO	CC	CHO	CG	CRE	UC	UI	IRO	IL	IG	IPF	PO	MUPD	MXPD	PIPD	LCC
****	****	****																		
Stealth (3)	Residential Existing (1) or Vacant (2)	150% of tower height for separation, and 100% of tower height for setback from property line.																		
	Non Residential	20% of tower height or zoning district setback whichever is greater.																		
Full Array Urban ≤ 80' (3)	Residential Existing (1) or Vacant (2)	150% of tower height for separation, and 100% of tower height for setback from property line.																		
	Non Residential	20% of tower height or zoning district setback whichever is greater.																		
Full Array Urban >80' > 150' (3)	Residential Existing (1) or Vacant (2)	600% of tower height for separation, and 100% of tower height for setback from property line.																		
	Non Residential and Public R-O-W	20% of tower height or zoning district setback whichever is greater.																		
Full Array Rural (3)	Residential Existing (1) or Vacant (2)	600% of tower height for separation, and 150% of tower height for setback from property line.																		
	Non Residential and Public R-O-W	20% of tower height or zoning district setback whichever is greater.																		
Electric Transmission-Line FPL	Residential	150'-setback-from-abutting-residential-property-line																		
	Non-residential	100'-setback-from-abutting-non-residential-property-line																		
FDOT	Residential	150' setback from abutting residential property line																		
	Non-residential	75' setback from abutting non-residential property line																		
[Ord. 2015-006]																				
Notes:																				
(1)	Maximum height subject to the specific requirements contained in the Supplementary Use Standards.																			
(2)	Applicable to any tower height																			
(3)	Exceptions to minimum setbacks or separations may be allowed in accordance with 4.B.9.D.1.e. Setback Exceptions.																			
%	Separation or setback as a percentage of tower height																			

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Table 4.B.9.B - Distance Between Towers

Tower Type	Zoning District							
	AGR, PC, and parcels less than 10 acres in AR	CC, CHO, CLO, CN, RE, RM, RS, RT, TND - NC	PUD: Commercial and Recreation pods. UC, UI CG, CRE, MUPD: CL and CH FLU. MXPD, LCC, TND OSREC	Pparcels less than 10 acres in: AP, IG, IL, PIPD	Pparcels 10 or more acres in: AP, AR, IG, IL, PIPD	PO	PUD:Civic pod, MUPD: INST FLU, IPF	Electrical Transmission Lines and Substations FPL Trans. R-O-Ws and FDOT R-O-Ws
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C. Definitions and Supplementary Tower Standards

D. R-O-W or Electrical Transmission Lines and Substations Collocation in Streets

1. Electrical Transmission Line Streets

Communication towers, antennas, and related facilities may be located in such streets as provided herein. ~~[Ord. 2017-007]~~

a. Transmission Poles

Antennas attached to existing electrical transmission poles shall not be required to obtain building permits. Building permits are required for accessory structures, such as equipment cabinets, constructed to support such antennas or panels. Height increases to transmission poles to allow antenna attachment shall be subject to the provisions of this Section. ~~[Ord. 2017-007]~~

b. Combined Transmission/Communication Structures

Combined transmission/communication structures may be installed in an electrical transmission streets as provided in 4.B.9.A, Commercial Communication Towers Matrix, and subject to the following requirements. ~~[Ord. 2017-007]~~

1) Structures installed in transmission line streets with a residential Plan and Zoning designation shall be: ~~[Ord. 2017-007]~~

- a) Located in streets a minimum of 250 feet in width; ~~[Ord. 2017-007]~~
- b) Limited to combination structures which are similar to monopole towers; ~~[Ord. 2017-007]~~
- c) No more than 100 feet in height, however the height may be increased to a maximum of 125 feet if an additional provider is accommodated, and proof of collocation is provided in a form acceptable to the County Attorney and the Zoning Director; ~~[Ord. 2017-007]~~
- d) Setback a minimum 150 feet from any property line possessing a residential designation; and, ~~[Ord. 2017-007]~~
- e) Require review as provided in Table 4.B.9.A, Commercial Communication Towers Use Matrix. ~~[Ord. 2017-007]~~

2) Transmission lines streets in areas with a nonresidential Plan and Zoning designation shall be: ~~[Ord. 2017-007]~~

- a) Located in streets a minimum of 250 feet in width; ~~[Ord. 2017-007]~~
- b) Limited to combination structures which are similar to Monopole Towers or Self Support/Lattice Towers; not exceed 300 feet in height; ~~[Ord. 2017-007]~~
- c) Setback a minimum of 200 feet from any property line possessing a nonresidential designation; ~~[Ord. 2017-007]~~
- d) Setback a minimum of 100 feet from any property line possessing a nonresidential designation; and, ~~[Ord. 2017-007]~~
- e) Require review as provided in Table 4.B.9.A, Commercial Communication Towers Matrix.

c. Separation of New Combined Transmission/Communication Structures

New Combined Transmission Communication Structures shall be subject to the standards provided in Table 4.B.9.B, Distances Between Towers. ~~[Ord. 2017-007]~~

1. Electrical Transmission Lines and Substations

Antennas and other wireless equipment may be attached to existing or modified Transmission Poles or utility structures within an Electric Distribution or Transmission Substation, subject to the following:

a. Stealth Electrical Communication Structures and Poles

1) Definition

A Transmission Pole, or structure within an Electric Distribution Substation or Electric Transmission Substation, supporting collocated wireless attachments, which is not readily identifiable as a tower. Stealth structures are limited to canister-type antenna design.

b. Full Array Electrical Communication Structures and Poles

1) Definition

A Transmission Pole, or structure within an Electric Distribution Substation or Electric Transmission Substation, supporting collocated wireless attachments, which are visible and readily identifiable as a Commercial Communication Tower.

c. Typical Structures

Typical structures include Transmission Poles within utility transmission corridors or substations, or other similar electrical transmission infrastructure located within substations such as lighting masts or backup transformer connection poles.

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Figure 4.B.9.D - Typical Examples of Electrical Transmission Poles or Utility Structures



[Ord. ...]

d. Modifications to Transmission Poles or Utility Structures

Height increases to Transmission Poles and other Substation structures may be allowed to accommodate antenna attachments. Modified replacement poles or utility structures may be permitted to the extent required to meet structural or Building Code requirements due to increased wind load from height increases or attachments, provided that modifications generally appear to be of a similar dimensions and appearance to existing or adjacent poles or structures.

1) Application Requirements

Applications for Stealth or Full Array Electrical Transmission Poles or Utility Structures shall include a detailed analysis and supporting documentation establishing the original dimensions, including height or any other structural characteristics, that the proposed modifications are based on.

2) Determination of Original Pole or Structure Dimensions

The final determination of the original dimensions specified in an application shall be decided by the DRO in consultation with the Building Official, or the Building Official where Permitted by Right.

e. Approval Process

Exceptions to the approval processes for modification to Electric Transmission Poles or Utility Structures specified in Table 4.B.9.A, Commercial Communication Towers, Stealth Transmission Poles or Utility Structures, may be allowed as follows:

1) Stealth

a) Subject to DRO Approval

May be Permitted by Right provided the increase in height is either:

- (1) less than 35 percent, or
- (2) 50 percent and the Tower is located a minimum of 2,500 feet from a Public Street or parcel with a residential FLU designation or use.

b) Subject to Class A or Class B Conditional Use Approval

May be allowed subject to DRO approval provided the increase in height is either:

- (1) less than 35 percent, or
- (2) 50 percent and the Tower is located a minimum of 2,500 feet from a Public Street or parcel with a residential FLU designation or use.

2) Full Array Urban

a) Subject to DRO Approval

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- May be Permitted by Right where allowed in Agricultural, Commercial, Industrial, or Institutional zoning districts, provided the increase in height is:
- (1) less than 35 percent, and
 - (2) the Tower is located a minimum of 2,500 feet from a Public Street or any parcel with a residential FLU designation or use.
- b) Subject to Class A or Class B Conditional Use Approval**
May be allowed subject to DRO approval, where allowed in Agricultural, Commercial, Industrial or Institutional zoning districts, provided the increase in height is either:
- (1) less than 35 percent, or
 - (2) 50 percent and the Tower is located a minimum of 2,500 feet from any Public Street, or parcel with a residential FLU designation or use.
- c) Residential Districts including Residential Pod of PUD**
May be allowed to be collocated within a Transmission or Distribution Substation subject to Class A Conditional Use approval.
- 3) Full Array Rural**
- a) Subject to DRO Approval**
May Permitted by Right where allowed in Agricultural, Commercial, Industrial or Institutional Zoning districts, subject to the following:
- (1) the increase in height is less than 50 percent,
 - (2) located a minimum of:
 - (a) 2,500 feet from any Public Street,
 - (b) 1 mile from any Arterial or Collector, and
 - (c) parcel with a residential FLU designation or use.
- b) Subject to Class A or Class B Conditional Use Approval**
May be allowed subject to DRO approval, where allowed in Agricultural, Commercial, Industrial or Institutional Zoning districts, provided the increase in height is less than 50 percent, and the Tower is located a minimum of 2,500 feet from any Public Street, and 1 mile from any Arterial or Collector or parcel with a residential FLU designation or use.
- f. Exceptions to Separation and Setback Requirements**
The following exceptions may be allowed from the minimum separation or setbacks established in Art. 4.B.9.B.2, Separation and Setbacks:
- 1) General Exceptions**
- a) Stealth**
Modifications to Stealth Transmission Poles or Electric Distribution or Transmission Substation utility structures that do not exceed 35 percent of the height of the original Pole or structure.
- b) R-O-W with Collocated Minor Utility on Adjacent Parcel**
Setbacks from adjacent parcels that are included in the Development Order for the purposes of providing for a supporting Collocated Minor Utility (excluding separations from residential or occupied buildings).
- c) Adjacent Properties with Bona-fide Agriculture Uses**
Parcels with an Agricultural FLU designation and zoning district, supporting Bona-fide Agriculture, provided that separation distances from occupied structures are a minimum of 150 percent of the Tower height.
- 2) Towers Located on Residential Parcels**
Measurement may exclude Open Space areas designated on an approved Plan for non-residential uses such as water management tracks or landscape buffers, but excluding any common areas located within 50 feet of a Recreation Amenity or Public or Civic use such as Daycares, Schools, or Places of Assembly, including any outdoor recreation areas.
- g. Other Attachments or Structures**
Additional wireless support attachments or structures other than that permitted at the top of the structure or pole, may be allowed subject to the following:
- 1) Transmission Corridors**
- a) Attachments**
Attachments must be concealed within the pole or structure. External attachments such as, electrical or mechanical boxes or backpacks, excluding a utility meter, electrical cabling, platforms or other similar modifications shall be prohibited, unless allowed otherwise herein.
- b) Equipment Boxes**
Equipment boxes may be allowed within an Arterial or Planned Collector Street, subject to approval by the County Engineer.
- c) Equipment Shelters**

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Equipment shelters supporting collocated cellular equipment placed on Electrical Transmission Lines, may be allowed to be located on an adjacent parcel, subject to compliance with the following:

(1) Minor Utility

May be allowed in accordance with the districts, approval process and any other development standards for a Minor Utility.

(2) Developed Parcels

Where a Minor Utility is collocated with another use, the Minor Utility shall be prohibited within the front or side street yard, unless abutting a perimeter buffer. In either scenario, the Minor Utility shall not adversely impact interior site design or function, including but not limited to pedestrian or vehicular circulation, landscaping, or commonly recognized CPTED standards.

h. FDO Requirements

Prior to the issuance of a Building Permit, the applicant shall supply a letter from FDO demonstrating no anticipated impact to the usual and customary transmission or reception operability of public safety communication systems. This letter shall be based upon information supplied to FDO by the applicant identifying the latitudinal and longitudinal coordinates of the proposed wireless communication equipment, the proposed RF spectrum of operations, and any further technical information deemed necessary by FDO in order to render a technical conclusion. Any costs incurred by FDO for an independent third party to provide technical assistance in rendering a conclusion, as determined by FDO in its sole and absolute discretion and authorized in advance by the applicant, shall be the responsibility of the applicant regardless of permit issuance, failure to obtain a permit or withdrawal.

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