

## M E M O R A N D U M

**DATE:** June 19, 2014

**TO:** Dave Bullock, Town Manager

**FROM:** Alaina Ray, AICP, Director  
Planning, Zoning and Building Department

**SUBJECT:** Ordinance 2013-18, Amending Chapter 158, Personal Wireless Services  
Facilities

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At the November 13, 2014 Regular Workshop Meeting, Ordinance 2013-18, as recommended by the Planning and Zoning Board, was presented to the Town Commission. Following discussion, the Town Commission provided new direction to Staff regarding personal wireless service facilities on Longboat Key.

Based on Town Commission direction, Staff drafted revisions to Ordinance 2013-18 and forwarded the revised Ordinance to the Town Commission for consideration at their June 16, 2014 Regular Workshop Meeting. The Town Commission forwarded Ordinance 2013-18 to the June 16, 2014 Special Meeting for first reading and public hearing. Ordinance 2014-18 is being presented to the Town Commission for second reading and public hearing at their June 30, 2014 Special Meeting.

**Attachments:** Proposed Ordinance 2013-18;  
Proposed Ordinance 2013-18 – as originally proposed by P&Z Board;  
PowerPoint Presentation Ordinance 2013-18.

**xc:** Maggie Mooney-Portale, Town Attorney  
Alaina Ray, AICP, Director – Planning, Building & Zoning

## ORDINANCE 2013-18

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 57, *RIGHTS-OF-WAY USE*, SECTION 57.06(E), EXEMPTIONS, OF THE TOWN CODE OF ORDINANCES; AMENDING CHAPTER 158, *ZONING CODE*, SECTION 158.006, *DEFINITIONS*, SECTION 158.097(W), *APPLICATION FOR SITE PLAN APPROVAL*, SECTION 158.125 *SCHEDULE OF USE REGULATIONS*, SECTION 158.157(F), *MECHANICAL EQUIPMENT*, SECTION 158.200, *PERSONAL WIRELESS SERVICE FACILITIES*; AND ADDING NEW SECTION 158.201, *PERSONAL WIRELESS SERVICE FACILITIES DEVELOPMENT STANDARDS*; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, The Town of Longboat Key (Town) is a barrier island with unique natural attributes and limited development; and

**WHEREAS**, Policy 1.1.7 of the Town's Comprehensive Plan mandates that, in development planning efforts, emphasis will be placed upon the protection of the visual and aesthetic character of neighborhoods, including open space; and

**WHEREAS**, Policy 1.6.4 of the Town's Comprehensive Plan states that, because adequate Town-wide wireless communication infrastructure is important to safety and the continued economic and social vitality of Town life, the Town will encourage the location of such infrastructure in suitable areas, consistent with criteria that include safety, aesthetics and neighborhood compatibility and as provided by state and federal law; and

**WHEREAS**, an Urban Land Institute study was performed for the Town in October 2013 and found that the personal wireless service technology is rapidly advancing and that efforts should be made to investigate and implement enhanced solutions that do not have aesthetic impacts; and

**WHEREAS**, a study was performed by TE Connectivity in April 2012 and concluded that the underserved areas of the Town, with regards to personal wireless service, could be resolved through the deployment of distributed antennae systems and small cell technology; and

**WHEREAS**, at a duly noticed public hearing on September 17, 2013, the Planning and Zoning Board found the subject Zoning Code amendments to be consistent with the Town's Comprehensive Plan and recommended that the Town Commission approve the Zoning Code amendments; and

**WHEREAS**, the Town Commission of the Town of Longboat Key, at a duly noticed public workshop on November 13, 2013, requested revisions to the proposed zoning code amendments based on additional policy direction; and

**WHEREAS**, the Town Commission of the Town of Longboat Key, at duly noticed public hearings on June 16, 2014, and on June 30, 2014, considered the proposed Zoning Code and Land Development Code amendments as recommended by the Planning and Zoning Board and revised per Town Commission direction; and

**WHEREAS**, the Town has received and considered comments from the public; and

**WHEREAS**, the Town Commission of the Town of Longboat Key, after review of the recommendations of the Planning and Zoning Board, comments made at public hearings, and careful consideration of the issues, finds that the proposed Zoning Code amendments are consistent with the Comprehensive Plan and are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 57, RIGHTS-OF-WAY USE, Section 57.06, Exemptions, and Subsection 57.06(E) is amended to read as follows:

57.06 Exemptions, Telecommunication antennae located on existing or replacement utility poles.

~~57.06(E) Personal wireless service facilities primarily mounted on utility poles that meet the requirements of section 158.201(B) or freestanding facilities meeting the requirements of section 158.201(C). Telecommunication antennae located on existing or replacement utility poles (the applicant shall provide proof that the owner of the system authorizes the installation of the antennae). Said antennae shall not extend more than ten feet from the top of the pole. Equipment and cabinet structures required in rights-of-way shall not exceed three feet in height, one foot in width and one foot in depth, shall be located attached to the utility pole and shall be painted the same color as the utility pole. Larger equipment cabinets shall not be located within the rights-of-way.~~

SECTION 3. Chapter 158, ZONING CODE, Section 158.097, Application for Site Plan Approval, Subsection 158.097(W), is deleted in its entirety, as follows:

- ~~(W) (1) In addition to the applicable provisions for site plan approval enumerated above, the following will be required for consideration of site plan approval or site plan exemption for personal wireless service facilities classified as rooftop antennas or antennas placed on the exterior of buildings or structures which meet the requirements of section 158.1361 of this chapter.~~
- ~~(a) The name of the applicant;~~
  - ~~(b) Whether the applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;~~

- ~~(c) A complete, thorough and accurate description of the proposed antenna, including where necessary, an elevation drawing or model of the proposed antenna showing the view from north, east, west and south;~~
- ~~(d) The type of structure on which the antenna is proposed to be located;~~
- ~~(e) Certification that the proposed antenna will comply with all applicable state, local and federal radiation standards in effect at the time of the application;~~
- ~~(f) The proposed use of the antenna;~~
- ~~(g) The proposed location of the antenna with a map in sufficient detail to indicate the location with precision;~~
- ~~(h) The zoning/land use designation of the site for the proposed antenna;~~
- ~~(i) The height of the proposed antenna;~~
- ~~(j) Where applicable, a lighting plan, that is consistent with all federal, state and local requirements;~~
- ~~(k) Documentation that the proposed antenna and any appurtenances will withstand wind speeds as set forth in the Florida Building Code;~~
- ~~(l) A thorough plan detailing the steps to visually blend the proposed antenna with surrounding structures and facilities;~~
- ~~(m) The estimated completion date for constructing and/or locating the antenna, and any structures necessary for the backhaul network.~~
- ~~(2) The following will be required for conditions of site plan approval and a special exception permit for personal wireless service facilities not governed by subsection (W) (1) above, including, but not limited to towers:~~
  - ~~(a) The name of the applicant;~~
  - ~~(b) Whether the applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;~~
  - ~~(c) A complete, thorough and accurate description of the proposed personal wireless service facility, including where necessary, a scale drawing or model of the proposed personal wireless service facility;~~
  - ~~(d) The proposed use of the proposed tower;~~
  - ~~(e) If applicable, an acknowledgment that the applicant has a contract, license, lease, letter of understanding, agreement in principle, or other type of agreement with another entity for use of an antenna or antennas on the tower and a summary of the agreement or arrangement;~~
  - ~~(f) The proposed location of the tower together with both a legal description of the location, and a map in sufficient detail to indicate the location with precision;~~
  - ~~(g) The zoning/land use designation for the proposed tower;~~
  - ~~(h) The proposed type of tower or structure;~~
  - ~~(i) The height of the proposed tower;~~
  - ~~(j) An engineering analysis and/or other data and/or documents that certify that in the event of catastrophic failure, fall or collapse of the tower, said tower would fall or collapse within the collapse zone of the proposed tower and would not~~

- ~~damage or negatively impact the real or personal property of the surrounding property owners;~~
- ~~(k) With the exception of stealth towers and monopoles documentation that the proposed tower can support and locate the antennas or other type of personal wireless service facilities as provided in section 158.200;~~
  - ~~(l) Documentation that any existing tower or structure (whether owned by the applicant or not) located within a two-mile radius of the proposed location is physically unable to support co-location of one or more antennas on the existing tower, the height of the existing tower is insufficient or that the existing tower does not meet the engineering requirements of the applicant;~~
  - ~~(m) Documentation that the proposed tower will be constructed in a manner to withstand wind speeds as set forth in the Florida Building Code;~~
  - ~~(n) A copy of the construction plans to be used in constructing and/or modifying a tower;~~
  - ~~(o) A description of the proposed steps to be taken to ensure that the aesthetic requirements are met and/or exceeded;~~
  - ~~(p) A detailed plan for camouflaging or minimizing the visual obtrusion of the tower, which shall include the following documentation:
    - ~~1. An accurate colorized pictorial representation, artist's rendering, three-dimensional rendering, or digitized (super-imposed) to scale or the like, of the tower;~~
    - ~~2. Design specifications which include total height, diameter and colorations;~~
    - ~~3. A corresponding statement and pictures that explains the nature and character of the area within which the camouflaged tower is proposed with respect to land use, surrounding environment, building heights and designs; and building/environment density;~~
    - ~~4. A corresponding statement that explains how the proposed camouflaged agent will blend and harmonize with the nature and character of the area.~~~~
  - ~~(q) A detailed plan for landscaping the perimeter of the tower, and/or equipment and surrounding leased area noting that the landscaping shall be native, xeriscape plants only;~~
  - ~~(r) A detailed plan for landscaping the perimeter of any mechanical/electronic equipment buildings that adjoin or are attached to the base of the tower, in such a manner that the landscaping shall shield the buildings or structures from the view of adjoining parcels, noting that the landscaping described shall be native, xeriscape plants only;~~
  - ~~(s) A detailed plan for sufficient, unobtrusive lighting, which is consistent with all federal, state and local requirements;~~
  - ~~(t) A detailed plan outlining the proposed security measures, including the proposed means to limit access to the tower, in order to reduce the likelihood of trespass, damage, and/or injury to children and others. There are to be no climbing pegs on towers, except during maintenance and/or installation of equipment;~~

- ~~(u) A detailed plan for ingress and egress, including where needed, special ingress and egress routes for emergency vehicles such as emergency medical transport, fire, police and other law enforcement vehicles and ambulances;~~
- ~~(v) A detailed preventive maintenance program that meets minimum maintenance program standards for which the applicant is to remain solely responsible. The town will not be responsible for monitoring the maintenance program;~~
- ~~(w) Documentation of having conducted a balloon test, together with a visual impact analysis of such test, which test consists of a balloon, red or orange in color, no less than four feet in diameter, anchored to the ground, and flown at a height which is the same height as the proposed tower. The balloon shall be flown continuously for at least ten hours per day (between 8:00 a.m. and 6:00 p.m.) on three consecutive days. The applicant shall document the balloon test with photographic evidence depicting the balloon in its relationship and proximity to the neighboring property, land and uses;~~
- ~~(x) Certification by a professional engineer, with qualifications as a soil engineer that a topographical survey has been conducted, and that the subsurface, substrata, and the proposed drainage are adequate to assure stability to the tower;~~
- ~~(y) Certification that the applicant has met all FCC regulations regarding radio frequency emissions in effect at the time of the application, including certification by a professional engineer that the proposed design of the antennas located upon a tower will comply with non-ionizing electromagnetic radiation standards in effect at the time of the application;~~
- ~~(z) Certification by a professional engineer that the proposed design of the antennas and tower demonstrates compliance with applicable Telecommunications Industry Association/Electronic Industries Association 222 standards in effect at the time of the application;~~
- ~~(aa) The estimated completion date for the location and/or construction or modification of the tower, and any structures necessary for the backhaul network;~~
- ~~(bb) The identity and location of any land-line backhaul connections to each tower location;~~
- ~~(cc) A map noting all personal wireless service facilities within a two-mile radius of the proposed location, and supporting documentation that lists or notes the identification of the classification of personal wireless service facility (antenna, tower, structure, or other type), its height, location, address, current location and current use;~~
- ~~(dd) A listing, if applicable, of municipalities or local governments within Manatee County and Sarasota County (including the counties) where the applicant, within one year preceding the current application, sought any permit (or similar or equivalent authorization) to locate, construct, and/or modify a tower or antenna, and, if so, what was the ultimate disposition of the application;~~
- ~~(ee) Whether the applicant, within a two-mile radius of the proposed location, has ever had any permit (or similar or equivalent authorization) revoked, rescinded,~~

~~canceled or terminated which authorized the placement, construction, and/or modification of the tower or antenna, and, if so, what were the reasons surrounding such revocation;~~

- ~~(ff) An acknowledgment that the applicant has read, understands and intends to comply with the applicable rules and regulations governing the issuance and enforcement of special exception permits for personal wireless service facilities.~~

SECTION 4. Chapter 158, ZONING CODE, Section 158.157, Mechanical Equipment, Subsection 158.157(F), is deleted in its entirety, as follows:

~~(F) *Distributive antenna systems ground level equipment.* Ground level mechanical equipment installed to serve personal wireless service facilities classified as distributive antenna systems (DAS), shall be permitted by site plan exemption, or by site plan review granted by the planning and zoning board, and shall meet the following minimum criteria:~~

- ~~(1) The equipment will serve a DAS system approved by the town through a rights-of-way use permit as provided for in section 57.03.~~
- ~~(2) The applicant shall provide documentation from the owner or operator of the DAS system intended to be served authorizing the use of the equipment to serve the antenna system.~~
- ~~(3) Unless located within a building, ground level equipment including the equipment cabinet, if any:
  - ~~(a) Shall be no wider than seven feet;~~
  - ~~(b) Shall be no longer than 13 feet;~~
  - ~~(c) Shall not exceed the height limitations for mechanical equipment as provided by the zoning code;~~
  - ~~(d) May be located within a required side or required rear yard, provided, that the equipment shall be no closer than ten feet to any lot line;~~
  - ~~(e) Shall be included in lot coverage and nonopen space calculations for the site, including the pad;~~
  - ~~(f) Shall be located on a concrete pad;~~
  - ~~(g) Shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the equipment on all sides and shall be maintained in good order to minimize adverse visual impacts and preserve the stability and integrity of adjacent areas. Failure to maintain fences, walls or landscaping shall constitute a violation of this chapter;~~
  - ~~(h) Ground level mechanical equipment and screening must meet the requirements of section 158.148 "Intersection visibility".~~~~
- ~~(4) All proposed lighting shall be consistent with all federal, state and local regulations, and shall not be intrusive to the surrounding area.~~

~~(5) The DAS equipment shall not interfere with or obstruct public safety telecommunications facilities.~~

SECTION 5. Chapter 158, ZONING CODE, Section 158.006, Definitions, is amended as follows:

158.006 Definitions.

~~"Adverse visual impact." As it relates to personal wireless service facilities, the negative visual effect of a personal wireless service facility on its surroundings. Being able to merely see a personal wireless service facility does not necessarily equate to a negative visual effect. Whether the visual effect of a personal wireless service facility is adverse is based on the existence of relevant negative factors for that facility, the number of those negative factors, and the degree that the facility evidences those negative factors. Relevant negative factors may include: A large amount of the personal wireless service facility is visible; the personal wireless service facility is of a design, material, location, or size that readily catches and holds a viewer's eye; the personal wireless service facility is in the reasonable view of a person in a moving vehicle for more than a short period of time; the personal wireless service facility is to be lighted and in an area with few or no other lights; the personal wireless service facility is readily identifiable as a personal wireless service facility by the average viewer; the personal wireless service facility, when viewed from regular views, appears out of place in the area; there is an absence of existing visual impact from other uses in the area surrounding the personal wireless service facility; there is an absence of vegetation, structures or other screening between the personal wireless service facility and reasonable views; the scale (height and bulk) of the personal wireless service facility is significantly greater than other uses existing or allowed in the surrounding area; the facility is proposed in an area visually protected by adopted view protection corridors or generally applicable aesthetic regulations that heighten the protection of the overall aesthetics of the area; and, a large amount of the available view is occupied by the personal wireless service facility, relative to all available views.~~

"Ancillary equipment." Components subordinate to, but necessary for the operation of, personal wireless service facility. Such components include, but are not limited to, cabinets and electrical. This term shall not be interpreted to include structures designed and constructed to support antennas.

~~"Backhaul network." The lines that connect a provider's tower to one or more cellular telephone switching offices, and/or long distance services to the public switched telephone network. The technology and infrastructure responsible for transporting voice and data communications from end users or nodes to the central network or infrastructure.~~

~~"Collapse zone." The area surrounding a tower freestanding facility, which, in the event of a structural failure of all, or part, of the tower freestanding facility, would result in the tower freestanding facility falling or collapsing within the boundaries of the property on which the tower freestanding facility is placed. The collapse zone must equal at least 100 percent of the tower freestanding facility height, but in no event be less than 100 feet.~~

~~“Co-location.” As used in section 158.200, †~~The situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennas. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennas.

~~“Designed service.” The configuration and manner of deployment of personal wireless the personal wireless service provider has designed for an area as part of its network.~~

“Distributed Antenna System (DAS).” A network of spatially separated antenna nodes connected to a common source via a transport medium that provides personal wireless service within a geographic area or structure.

“Freestanding facility.” A structure designed and constructed to support and/or house small cell technology and/or one or more antennae.

*“Height.”* In relation to a personal wireless service facility, shall be measured from the ground or base level of the personal wireless facility to the highest point of the personal wireless service facility, including, but not limited, the highest point of the antenna or other telecommunications attachment.

*“Personal wireless ~~services~~ service.”* Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access facilities and those defined by the Federal Telecommunications Act of 1996.

~~“Monopole.” A tower consisting of a single pole to support external antennas and connecting appurtenances.~~

“Personal wireless service facility” or “Personal wireless service facilities.” Facilities used for the provision of personal wireless ~~services~~ service including any tower or antenna used for the provision of personal wireless services freestanding facility, antennae, distributed antennae system, and/or small cell technology.

~~“Personal wireless service facilities, height.” The height of personal wireless service facilities shall be measured from the ground or base level of the personal wireless facility to the highest point of the personal wireless facility, including, but not limited, the highest point of the antenna or other telecommunications attachment.~~

*“Personal wireless service provider.”* A company licensed by the Federal Communications Commission (FCC) that provides personal wireless ~~services~~ service. A tower builder or owner of a personal wireless service facility is not a personal wireless service provider unless licensed to provide personal wireless services.

*“Planning and zoning official.”* The official designated by the town manager as the individual responsible for the administration and enforcement of these regulations.

“Small cell.” Low power radio access node that operates in both the licensed and unlicensed spectrum and typically has a range of 30 feet to hundreds of yards, which can

provide either indoor or outdoor wireless coverage. This term may include femtocells, microcells, picocells, and other similar technology.

~~“Stealth structure.” Architectural treatment of a tower to conceal or screen the presence of antennas, related supports and associated antenna facilities from public view by designing the tower to unobtrusively blend in aesthetically with the surrounding environment pursuant to the requirements of the Town Code.~~

~~“Tower.” Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.~~

“Temporary personal wireless service facility.” A portable personal wireless service facility that is designed for use during a declared emergency by the Town and can typically be mounted on or towed by a vehicle or trailer.

~~“Unlicensed wireless service.” The offering of telecommunications personal wireless services service using authorized devices which do not require individual licenses, such as Wi-Fi, but does not mean the provision of direct-to-home satellite services service.~~

“Utility pole.” A structure owned and/or operated by a public utility, municipality, electric membership corporation, or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

“Wi-Fi.” A term used to certify the interoperability of wireless computer networking devices.

**SECTION 6.** Chapter 158.125, Schedule of Use Regulations, is amended as follows:

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
Open Space— Active (OS-A)	Publicly owned or controlled open space which is designed, used or intended to be used for recreational activities by residents and visitors. Impervious surface coverage is limited to 30% of the lot or parcel	<ol style="list-style-type: none"> <li>1. Bird and wildlife sanctuaries and nature areas.</li> <li>2. Public open areas for passive recreational activities.</li> <li>3. Essential services.</li> </ol>	<ol style="list-style-type: none"> <li>1. On-site improvements, structures or other active, player-oriented facilities such as playgrounds, ball fields, tennis courts and associated accessory uses.</li> </ol>	<ol style="list-style-type: none"> <li>1. Associated accessory uses customarily incidental to a permitted use or permitted with a site plan review use.</li> </ol>	<ol style="list-style-type: none"> <li>1. Windwalls</li> <li>2. Trellis, subject to the standards contained in <u>§ 158.152(J)</u>.</li> <li>3. Boat dock in excess of 500 square feet.</li> <li>4. <u>Personal wireless service freestanding facility.</u></li> </ol>

<p>(INS) Community Facility Institutional District</p>	<p>The purpose of this district is to delineate those areas suitable for public and semipublic facilities.</p>	<p>1. Essential services.</p>	<p>1. Churches, synagogues and other houses of worship. 2. Government buildings and services, such as fire stations, public works buildings, and emergency operation center facilities and libraries. 3. Public parks and recreation areas. 4. Town-owned or town-operated marine facilities. 5. Personal wireless service facility, <u>not including a freestanding facility, rooftop antennas and building or structure-mounted antennas.</u></p>	<p>1. Off-street parking and loading facilities. 2. Other accessory uses customarily incident to a use permitted with site plan review or special exception use. 3. Private noncommercial dish antennas.</p>	<p>1. Continuing education centers. 2. Civic centers. 3. Nursing homes. 4. Nonprofit cultural centers. 5. Cemeteries. 6. Worship centers. 7. Private clubs. 8. Windwalls. <del>8. Personal wireless service towers with site plan review. Personal wireless service freestanding facility.</del> 9. Trellis, subject to the standards contained in <a href="#">§ 158.152(J)</a>. 10. Boat dock in excess of 500 square feet.</p>
<p>(MUC-1) Mixed Use Community - Bay Isles (3.26 D.U./A.)</p>	<p>The purpose of this district is to recognize an area of the town approved by the town commission for a development with a mix of uses.</p>	<p>1. Essential services. 2. Community residential homes with six or fewer residents plus staff.</p>	<p>1. Planned unit development overlays (see §§ <a href="#">158.065</a> through <a href="#">158.071</a>). 2. Government buildings and services. 3. Community residential homes. 4. Personal wireless service facility, <u>not including a freestanding facility, rooftop antennas, and building or structure-mounted antennas.</u> 5. Uses allowed in the MUC-1 district pursuant to <a href="#">§ 158.009(L)</a></p>	<p>1. Other accessory uses customarily incidental to a use permitted with the plan review or special exception use. 2. Private noncommercial dish antennas.</p>	<p>1. Windwalls. 2. Trellis, subject to the standards contained in <a href="#">§ 158.152(J)</a>. 3. Boat dock in excess of 500 square feet. 4. <u>Personal wireless service freestanding facility.</u></p>
<p>(MUC-2) Mixed Use Community - Islandside</p>	<p>The purpose of this district is to recognize an area of the town approved by the town</p>	<p>1. Essential services. 2. Community residential homes with</p>	<p>1. Planned unit development overlays (see §§ <a href="#">158.065</a> through <a href="#">158.071</a>). 2. Community</p>	<p>1. Other accessory uses customarily incidental to a use</p>	<p>1. Windwalls. 2. Trellis, subject to the standards contained in <a href="#">§ 158.152(J)</a>. 3. Boat dock in excess of 500 square feet.</p>

(5.05 D.U./A.)	commission for a development with a mix of uses.	six or fewer residents plus staff.	residential homes. 3. Personal wireless service facility, <u>not including a freestanding facility,</u> <del>rooftop antennas, and building or structure mounted antennas.</del> 4. Uses allowed in the MUC-2 district pursuant to <a href="#">§ 158.009(L)</a>	permitted with the plan review or special exception use. 2. Private noncommercial dish antennas.	<u>4. Personal wireless service freestanding facility,</u>
(MUC-3) Mixed Use Community - Promenade/Water Club (11.26 D.U./A.)	The purpose of this district is to recognize an area of the town approved by the town commission for a development with a mix of uses.	1. Essential services. 2. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see <a href="#">§§ 158.065 through 158.071</a> ). 2. Community residential homes. 3. Personal wireless service facility, <u>not including a freestanding facility,</u> <del>rooftop antennas, and building or structure mounted antennas.</del> 4. Uses allowed in the MUC-2 district pursuant to <a href="#">§ 158.009(L)</a>	1. Other accessory uses customarily incidental to a use permitted with the plan review or special exception use. 2. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in <a href="#">§ 158.152(J)</a> . 3. Boat dock in excess of 500 square feet. <u>4. Personal wireless service freestanding facility,</u>
(OI) Office-Institutional District	The purpose of this district is to delineate those areas, which, by their location, are suitable to accommodate offices and institutional causes but must be in harmony with residential development in close [proximity].	1. Essential services.	1. Business and professional offices. 2. Government buildings and services. 3. Public parks and recreation areas. 4. Banks and other financial institutions. 5. Personal wireless service facility, <u>not including a freestanding facility,</u> <del>rooftop antennas, and building or structure mounted antennas.</del>	1. Off-street parking and loading. 2. Other accessory uses customarily incidental to use permitted with site plan review use or special exception use. 3. Private noncommercial dish	1. Worship centers. 2. Medical and dental clinics. 3. Windwalls. 4. Trellis, subject to the standards contained in <a href="#">§ 158.152(J)</a> . 5. Boat dock in excess of 500 square feet. <u>6. Personal wireless service freestanding facility,</u>

				antennas.	
(C-1) Limited Commercial District	The purpose of this district is to delineate those areas suitable for neighborhood-serving commercial and related uses.	1. Essential services.	<ol style="list-style-type: none"> <li>1. Uses permitted with site plan review and special exception uses in OI districts.</li> <li>2. Neighborhood convenience store.</li> <li>3. Small limited-item shop and stores restricted to retail sales of convenience items and services including barber-beauty care and other personal services.</li> <li>4. Small-scale drugstores and specialty shops.</li> <li>5. Photography, art or music studios.</li> <li>6. Youth recreation centers.</li> <li>7. Florist shops.</li> <li>8. Personal wireless service facility, <u>not including a freestanding facility,</u> <del>rooftop antennas, and building or structure-mounted antennas.</del></li> </ol>	<ol style="list-style-type: none"> <li>1. Off-street parking and loading.</li> <li>2. Other accessory uses customarily incidental to use permitted with site plan review use or special exception use.</li> <li>3. Private noncommercial dish antennas.</li> </ol>	<ol style="list-style-type: none"> <li>1. Restaurants (but no drive-in restaurants) including restaurants with lounges or outdoor dining (subject to the standards contained in <u>§ 158.136</u>). (Ord. 95-19, passed 1-8-96)</li> <li>2. Grocery stores.</li> <li>3. Continuing education centers.</li> <li>4. Laundry and dry cleaning pickup stations.</li> <li>5. Private noncommercial dish antennas.</li> <li>6. Windwalls.</li> <li>7. Trellis, subject to the standards contained in <u>§ 158.152(J)</u>.</li> <li>8. Boat dock in excess of 500 square feet.</li> <li>9. <u>Personal wireless service freestanding facility,</u></li> </ol>
(C-2) General Commercial District	The purpose of this district is to delineate those areas suitable for general commercial and related uses.	1. Essential services.	<ol style="list-style-type: none"> <li>1. Uses permitted with site plan review and special exception uses in OI and CI districts.</li> <li>2. General retail sales and services such as grocery stores, restaurants, including restaurants with lounges, laundry and dry cleaning pickup stations, and small-scale, tourist-oriented facilities.</li> <li>3. Child-care services.</li> <li>4. Personal wireless service facility, <u>not including a freestanding facility,</u> <del>rooftop antennas, and</del></li> </ol>	<ol style="list-style-type: none"> <li>1. Off-street parking and loading.</li> <li>2. Other accessory uses customarily incidental to use permitted with site plan review use or special exception use.</li> <li>3. Private noncommercial dish antennas.</li> </ol>	<ol style="list-style-type: none"> <li>1. Government buildings and services.</li> <li>2. Lounges.</li> <li>3. Windwalls.</li> <li>4. Lawn and garden centers.</li> <li>5. Trellis, subject to the standards contained in <u>§ 158.152(J)</u>.</li> <li>6. Boat dock in excess of 500 square feet.</li> <li>7. <u>Personal wireless service freestanding facility,</u></li> </ol>

			<del>building or structure-mounted antennas.</del>		
(C-3) Highway Oriented Commercial District	The purpose of this district is to delineate those areas suitable for highway-oriented commercial and related uses.	1. Essential services.	1. Uses permitted with site plan review and special exception uses in OI, C-I and C-2 districts. 2. Service stations and other minor retail sales, services and repairs oriented to the motoring public, excluding body repair and finishing. 3. Personal wireless service facility, <u>not including a freestanding facility, rooftop antennas, and building or structure-mounted antennas.</u>	1. Off-street parking and loading. 2. Other accessory uses customarily incidental to use permitted with site plan review use or special exception use. 3. Private noncommercial dish antennas.	1. Hotel, motel accommodations, not exceeding three tourism units per acre. 2. Windwalls. 3. Trellis, subject to the standards contained in <u>§ 158.152(J)</u> . 4. Boat dock in excess of 500 square feet. 5. <u>Personal wireless service freestanding facility,</u>
(M-1) Marine Commercial Service District	The purpose of this district is to delineate those areas suitable for marine commercial services and related uses. Commercial passenger operations are excluded.	1. Essential services.	1. Uses permitted with site plan review and special exception uses in C-3 districts. 2. Marina facilities, including rental of wet storage, sale of marine fuels, boat or motor rental or maintenance, sale of bait and fishing equipment, and storage or dry-docking of boats. Boat construction is not a permitted use. 3. Other marine commercial services such as waterfront or marine-related specialty shops. 4. Charter fishing. 5. Personal wireless service facility, <u>not including a freestanding facility, rooftop antennas, and building or structure-</u>	1. Off-street parking and loading. 2. One dwelling unit or use by owner/employee or lessee, which shall be located on the same lot. 3. Other accessory uses customarily incidental to a use permitted with site plan review or special exception use. 4. Private noncommercial dish	1. Windwalls. 2. Trellis, subject to the standards contained in <u>§ 158.152(J)</u> . 3. Boat dock in excess of 500 square feet. 4. <u>Personal wireless service freestanding facility,</u>

			<del>mounted antennas.</del>	antennas.	
(T-3) Low-Medium Density Tourist Resort Commercial District (3 T.U. or D.U./A.)	The purpose of this district is to implement the comprehensive plan through delineation of those areas suitable for low-medium-density tourist resort oriented facilities and multifamily residential uses.	<ol style="list-style-type: none"> <li>1. Multifamily developments with less than 10 dwelling units.</li> <li>2. Essential services.</li> <li>3. Community residential homes with six or fewer residents plus staff.</li> </ol>	<ol style="list-style-type: none"> <li>1. Multifamily developments with 10 or more dwelling units.</li> <li>2. Hotels, motels, and</li> <li>3. Community resi-time-share tourism units.</li> <li>4. Community residential homes.</li> <li>5. Personal wireless service facility, <u>not including a freestanding facility,</u> <del>rooftop antennas, and building or structure-mounted antennas.</del></li> </ol>	<ol style="list-style-type: none"> <li>1. Private swimming pools or cabanas and related structures.</li> <li>2. Private recreational facilities designed for the exclusive use of occupants.</li> <li>3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only.</li> <li>4. Off-street parking.</li> <li>5. Other accessory uses customarily incidental to permitted use, use permitted with site plan review use or special exception use.</li> <li>6. Private noncommercial dish antennas.</li> </ol>	<ol style="list-style-type: none"> <li>1. Windwalls.</li> <li>2. Trellis, subject to the standards contained in <u>§ 158.152(J)</u>.</li> <li>3. Boat dock in excess of 500 square feet.</li> <li>4. <u>Personal wireless service freestanding facility.</u></li> </ol>
(T-6) High-Density Tourist Resort Commercial	The purpose of this district is to implement the comprehensive	<ol style="list-style-type: none"> <li>1. Multifamily developments with less than 10</li> </ol>	<ol style="list-style-type: none"> <li>1. Permitted uses with site plan review in T3 districts.</li> <li>2. Multifamily</li> </ol>	<ol style="list-style-type: none"> <li>1. Private swimming pools or cabanas</li> </ol>	<ol style="list-style-type: none"> <li>1. Windwalls.</li> <li>2. Trellis, subject to the standards contained in <u>§ 158.152(J)</u>.</li> </ol>

District (6 T.U. or D.U./A.)	plan through delineation of those areas suitable for high-density tourist resort oriented facilities and multifamily residential uses.	dwelling units. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	developments with 10 or more dwelling units. 3. Hotels, motels, and other tourism and time-share tourism units. 4. Community residential homes. 5. Personal wireless service facility, <u>not including a freestanding facility</u> , <del>rooftop antennas and building or structure mounted antennas.</del>	and related structures. 2. Private recreational facilities designed for the exclusive use of occupants. 3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only. 4. Off-street parking. 5. Other accessory uses customarily incident to permitted use, use permitted with site plan review use or special exception use. 6. Private noncommercial dish antennas.	3. Boat dock in excess of 500 square feet. <u>4. Personal wireless service freestanding facility,</u>
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SECTION 6. Chapter 158, Zoning Code, Section 158.200, *Personal wireless service facilities*, is amended as follows:

158.200 Personal wireless service facilities.

~~(A) Antennas:~~

~~(1) Personal wireless service facilities classified as an initial (rather than co-location) antenna, located on a rooftop or placed on the exterior of the building~~

~~or structure are permitted by site plan review, provided it meets the following minimum criteria:~~

- ~~(a) It is located on a rooftop, or on a rooftop antenna platform, the exterior of a building, or structure in the INS, R-3MX, R-4MX, R-6MX, MUC-1, MUC-2, MUC-3, OI, C-1, C-2, C-3, M-1, T-3, or T-6 zoning districts.~~
  - ~~(b) It is located on or in one of the following:
    - ~~1. A rooftop of a multistory building or structure in excess of 40 feet in height;~~
    - ~~2. A rooftop antenna platform located on a roof of a multistory building or structure in excess of 40 feet in height;~~
    - ~~3. The exterior of a multistory building or structure in excess of 40 feet in height; or~~
    - ~~4. The interior of a structure in excess of 40 feet in height.~~~~
  - ~~(c) The maximum height for an antenna located upon a rooftop shall be ten feet above the existing roofline, top of a parapet wall, or top of the rooftop mechanical room or area, whichever is higher. The maximum height for an antenna on any other structure shall be ten feet above the tallest portion of the structure.~~
  - ~~(d) An antenna shall be camouflaged and painted with a durable paint the same shade of color as the background portion of the building. Each antenna mounted on a rooftop or attached to an existing structure shall be deemed to be camouflaged from view if the antenna and any equipment necessary for its operation is concealed from view by way of enclosure or through a blending of the antenna and equipment with the architectural design and appearance, color and scale of the existing structure and materials.~~
- ~~(2) Personal wireless service facilities located inside an existing structure, where the personal wireless service facility is not visible from any surrounding properties or roadways, and no readily discernible modification to the existing structure is performed and/or required, are permitted by building permit review only.~~
- ~~(3) Personal wireless service facilities classified as co-locations, where the antenna is located on an existing tower, are permitted by building permit review only, provided it meets the following criteria:-~~
- ~~(a) The co-location does not increase the height of the tower to which the antennas are to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower;~~
  - ~~(b) The co-location does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities; and~~
  - ~~(c) The co-location facilities are of a design and configuration consistent with all applicable regulations, restrictions or conditions, if any, applied to the initial antennas placed on the tower and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the tower supporting the antennas. Such regulations may include the design and aesthetic requirements, but not procedural requirements, other than those authorized by this subsection of the town's land development regulations in effect at the time the initial antenna placement was approved.~~

- ~~(4) Personal wireless service facilities classified as co-locations, located on any nontower structure, are permitted with site plan review through the building permit process. Such co-location shall comply with the design, aesthetic and placement regulations of this section for initial antennas, and shall meet the following criteria:
  - ~~(a) The co-location does not increase the height of the existing structure to which the antennas are to be attached, measured to the highest point of any part of the structure or any existing antenna attached to the structure;~~
  - ~~(b) The co-location does not increase the ground space area, otherwise known as the compound, if any, approved in the site plan for equipment enclosures and ancillary facilities;~~
  - ~~(c) The co-location facilities are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure for initial antennas; and~~
  - ~~(d) The co-location facilities are of a design and configuration consistent with all applicable restrictions or conditions, if any, that were applied to the initial antennas placed on the structure and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the structure relative to its supporting of the antennas.~~~~
- ~~(5) If only a portion of an application for a personal wireless service facility classified as a co-location does not meet the requirements of subsections (3) or (4), where all other portions of the co-location meet the applicable requirements of subsections (3) or (4), the noncompliant portion of the co-location shall be reviewed as an initial antenna, under subsection (1) and the compliant remainder of the co-location shall be reviewed in accordance with subsections (3) or (4), as applicable. A co-location proposal that complies with subsections (3) or (4), except that it is proposing to increase the equipment ground compound approved in the original site plan for equipment enclosure and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the town's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing. This subsection shall not preclude a public hearing for an appeal of the decision in the co-location application.~~
- ~~(6) All other personal wireless facilities classified as co-locations that do not meet the criteria listed above, must be reviewed and approved by the planning and zoning board, as outlined in subsection (B) below.~~
- ~~(7) If the antenna is placed on the exterior of a building or structure, then the antenna shall not impede the view from any window of the building on which the antenna is mounted.~~
- ~~(8) All antennas must be at least 30 feet from ground level.~~
- ~~(9) The antenna and equipment must meet all applicable Longboat Key Building and Construction Code requirements.~~
- ~~(10) An antenna shall be designed to withstand sustained wind speeds as required by the Florida Building Code.~~
- ~~(11) The equipment shelter/cabinet must have a sign in close proximity to the antenna which is recognizable and visible from at least five feet, in~~

~~accordance with FCC regulations which notes the owner of the equipment and the name and telephone number of the person to contact to report an emergency or situation when notification is warranted.~~

~~(12) All additional requirements of state, federal and local law must be adhered to.~~

~~(13) All other personal wireless facilities that do not meet the criteria listed above, including, but not limited to towers, must meet the requirements of subsection (B) below and other provisions of this Code.~~

~~(B) Personal wireless service facilities that do not meet the provisions of subsection (A), including, but not limited to towers, may be permitted by site plan review and special exception granted by the planning and zoning board, and shall meet the following minimum criteria; but self-supporting lattice towers and guyed towers are not allowed under any circumstance:-~~

~~(1) Shall be located in an INS zoning district;~~

~~(2) The collapse zone, or in the alternative the setback from the adjoining residential property, must equal at least twice the height of the tower or 200 feet, whichever is greater;-~~

~~(3) The tower is a stealth tower such that it is camouflaged from view of public or private road or street. A tower shall be deemed to be camouflaged from view if the tower and any equipment necessary for its operation are concealed from view by way of enclosure within a facade which:~~

~~(a) Is enclosed within a naturalistic facade that is similar to or compatible with the appearance of native vegetation in color, size, bulk, height and mass; or~~

~~(b) Is enclosed within the facade of a structure that disguises the tower and its equipment such that they blend into the surrounding environment and which demonstrates that it meets the aesthetic nature and character of the area within which the tower is proposed as determined by land use, surrounding environment, building heights and designs and building/environment density;-~~

~~(c) Is enclosed within a facade or structure, such that the antennas and ancillary facilities are not visible from off-site, that presents as narrow of a view profile as is reasonably possible, and is of the lowest height reasonably possible to provide the personal wireless service provider's designed service and to provide reasonable co-location opportunities for other personal wireless service providers;~~

~~(d) Uncamouflaged towers are prohibited. A unipole (flag pole) without external antennae is a camouflaged tower for purposes of this section.-~~

~~(4) All lighting shall be consistent with all federal, state and local regulations;~~

~~(5) Any existing tower(s) or structure located within the search area of the proposed tower is physically unable to support co-location of one or more antennas on that existing tower, is not reasonably available for such use, or that the height of the existing tower or structure is insufficient;-~~

~~(6) All possible efforts have been made to utilize rooftop building or structure mounted antennas as an alternative to the erection of the proposed tower;-~~

~~(7) Is not located within a V-zone as determined by the Federal Emergency Management Agency's official Flood Insurance Rate Maps (FIRM);-~~

- ~~(8) In accordance with the related FCC rule, the proposed telecommunication service shall not interfere with or obstruct public safety telecommunications facilities;~~
- ~~(9) Shall be designed, structurally, electrically, and in all other respects, to accommodate antennas for at least three users if the tower is 161 to 200 feet in height, or for two users if the tower is 101 to 160 feet in height, or for one user if the tower is 100 feet or less in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights;~~
- ~~(10) The grant of the special exception shall not preclude the granting of additional or other special exceptions for the subject property;~~
- ~~(11) The special exception application must be made in conjunction with the site plan review requirements set forth elsewhere in this Code;~~
- ~~(12) In addition to the submittal materials required for all special exceptions, sufficient materials shall be submitted by the applicant to demonstrate compliance with all of the applicable requirements in this section and shall list all buildings and structures in excess of 40 feet in height located within the search area for the proposed tower.~~
- ~~(C) Personal wireless service facilities properly permitted and existing as of October 1, 1997, are grandfathered and not required to apply for site plan review, site plan exemption, or special exception permit. The requirements of this chapter will, however, apply if such facility is relocated, rebuilt or modified, except the addition of a co-location meeting the requirements of subsection (A) above, in any manner.~~
- ~~(D) In evaluating the application for a special exception for a personal wireless service facility classified as a tower, in addition to the findings of subsection 158.126(A), the planning and zoning board shall consider and evaluate the following, with the intent of balancing the reasonable allowance of the placement of wireless communication service facilities to provide wireless services in the area with the protection of the aesthetics of the area from adverse visual impacts:
  - ~~(1) The proposed location of the tower;~~
  - ~~(2) The proposed height of the tower;~~
  - ~~(3) The zoning/land use designation of the proposed tower;~~
  - ~~(4) The number of towers and structures over 40 feet in height already existing within the search area of the proposed tower;~~
  - ~~(5) The proximity of the proposed tower to single-family residences;~~
  - ~~(6) The proposed aesthetics surrounding the tower, including proposed camouflage measures, and/or steps proposed to visually blend the proposed tower in with surrounding buildings and facilities (including landscaping, screening or berming) and/or steps to minimize adverse visual impacts;~~
  - ~~(7) The proposed lighting on and surrounding the tower, including, where applicable, whether the proposed lighting will meet the Federal Aviation Administration (FAA) requirements, and the lighting limitations imposed by the state, which is in recognition of sea turtle nests being located in a portion of the town;~~
  - ~~(8) The projected collapse zone of the proposed tower;~~~~

- ~~(9) The ability to support the co-location standards of this Code;~~
  - ~~(10) Any factors that are required to be evaluated and/or examined as a result of the Florida Building Code;~~
  - ~~(11) Any factors that are required to be evaluated and/or examined by the Town of Longboat Key Zoning Code;~~
  - ~~(12) Any other factors that are necessary to be evaluated in order to protect the health, safety and welfare of the residents of the town;~~
  - ~~(13) Whether the types of antenna to be located on the tower are narrow profile antenna arrays;~~
  - ~~(14) On-site and surrounding tree coverage and foliage, with preference being given to sites which can provide heavy vegetative screening of a tower; and~~
  - ~~(15) In addition to the factors listed above, the planning and zoning board may consider alternatives, if there are any, to granting and/or issuing a special exception permit for a tower in a different location within the town.~~
- ~~(E) Permits and licenses:~~
- ~~(1) Prior to the issuance of a building permit for any personal wireless service facility, the applicant shall provide certification by a registered engineer that it will withstand sustained wind speeds in compliance with the Florida Building Code.~~
  - ~~(2) Upon granting site plan approval and special exception permit for the construction of a personal wireless service facility tower, the town reserves the right to inspect placement, construction and modification of such facility upon its completion and as necessary thereafter. Any modification, relocation, rebuilding, repairing, in any way without the issuance of all applicable approvals and permits will be deemed a violation of the permit and subject the tower to removal.~~
  - ~~(3) In addition to the above, for health, safety and welfare reasons, the town may require, upon notice with a reasonable opportunity to cure, the immediate removal of personal wireless service facilities if:
    - ~~(a) It has been abandoned for a period in excess of six months;~~
    - ~~(b) It falls in such a state of disrepair that it creates a safety hazard for the citizens of the town; or~~
    - ~~(c) The special exception has been revoked.~~~~
  - ~~(4) The holder of the site plan approval and special exception shall secure and maintain for the duration of the special exception, public liability insurance, property damage insurance and umbrella coverage in at least the following amounts:
    - ~~(a) Public liability: \$1,000,000.00 per occurrence;~~
    - ~~(b) Property damage: \$1,000,000.00 per claim;~~
    - ~~(c) Umbrella liability: \$2,000,000.00.~~~~

~~The holder shall also secure coverage against such other hazards and in such amounts as the owner of the land, on which the personal wireless service facility classified as a tower is placed, may from time to time require.~~

~~All insurance required to be maintained shall be effected by valid and enforceable policies issued by insurers licensed to do business in the State of Florida, countersigned by an agent licensed to do business in Florida and of recognized responsibility satisfactory to the Town of Longboat Key. Prior to construction of the personal wireless service facility, the applicant shall promptly deliver to the town and the owner of the land where the facility is placed, copies of the policies as specified above, and if during the duration of the special exception, the premium of each such policy shall become due and payable, such premium shall be paid and the town and land owner shall be furnished with satisfactory evidence of such payment.~~

~~All policies of insurance required to be maintained shall name the Town of Longboat Key and the property owner, as the insured as their respective interests may appear. All such policies shall, to the extent obtainable, contain an agreement by the insured that such policies shall not be canceled without at least ten days prior written notice to the town and to any designated party to whom loss hereunder may be payable.~~

(A) Purpose and legislative intent. Federal and state laws recognize the town's authority to regulate the placement, construction, and modification of personal wireless service facilities. The town recognizes that personal wireless service facilities play an important and complex role in the community. The intent of this section is to ensure that the placement, construction or modification of personal wireless service facilities is consistent with the town's land use policies and balances the community needs. This section strives to establish a fair and efficient application process, mitigate impacts of personal wireless service facilities, provide a high quality of service that is technically viable and meets the current industry standards of service, and protect the health, safety and welfare of the residents and visitors of the town.

(B) Hierarchy of personal wireless service facility preferences. The town has established the hierarch set forth below for personal wireless service facilities, with one (1) being the most preferred and four (4) being the least preferred. More preferred facilities require fewer approvals and are subject to fewer restrictions.

- (1) An antenna located on or in an existing building , whether or not a co-location (see section 158.201(A)(2),(3) & (5)).
- (2) The co-location of an antenna on an existing freestanding facility (see section 158.201(A)(4)).
- (3) Facilities primarily mounted on existing utility poles, such as DAS or similar applications (see section 158.201(B)).
- (4) Freestanding facilities (see section 158.201(C)).

(C) Prohibited personal wireless service facilities. Self-supporting lattice towers, guyed towers, and all freestanding facilities not meeting the requirements of section 158.201(C) are prohibited.

(D) Priority determination. If the proposed personal wireless service facility is not one of the three (3) highest priorities listed, a detailed explanation and technical justification shall be provided as to why each of the higher priority facilities was not selected. This must include documentation that any existing personal wireless service facility (whether owned by the applicant or not) located within a two (2) mile radius of the proposed location is physically and/or technically unable to support collocation of additional personal wireless service equipment, that the existing facility is insufficient, or that the existing facility does not meet the engineering requirements of the applicant.

(E) Generally applicable review procedures and timeframes.

(1) The planning and zoning official shall notify the applicant for a personal wireless service facility within twenty (20) days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements of this Zoning Code. An application for personal wireless service facility is deemed properly completed and properly submitted when it is verified that the information contained within the application is true, accurate, and contains all applicable information needed to make a determination as to the merits of the request. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the town shall again have twenty (20) days to notify the applicant, in writing, of any remaining deficiencies that must be cured. If the applicant does not cure the deficiencies within thirty (30) days, the application shall be considered withdrawn and closed.

(2) An application is deemed submitted or resubmitted on the date the application is received by the town. If the town does not notify the applicant in writing that the application is not completed in compliance with this Zoning Code within twenty (20) days after the date the application is initially submitted or resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted.

(3) Applications for a co-location shall be processed within forty-five (45) days after an application has been properly completed and properly submitted. Applications for new personal wireless service facilities, including freestanding facilities, shall be processed within ninety (90) days after an application has been properly completed and properly submitted.

(4) The timeframes stated in this subsection may be extended or tolled by mutual agreement of the town and applicant.

(5) The final decision approving or denying an application shall be in writing and supported by "substantial evidence" pursuant to the Telecommunications Act, 47 U.S.C. §332(c)(7)(B)(iii).

(6) Applications must demonstrate that no portion of any abutting, adjoining, or nearby residentially zoned property will be exposed to radio frequency (RF) emissions exceeding the federal safety limits for RF emissions. Once installation has been completed for any personal wireless service facility, a post-construction RF energy testing study must be conducted and submitted to the Town demonstrating that the personal wireless service facility complies with this provision and all federal safety standards for RF energy exposure.

(F) Variances, waivers and departures. Variances, waivers, departures or other methods of relief from the provisions of the code shall not be granted for personal wireless service facilities.

(G) During a declared emergency within the Town, the town manager is authorized to allow the placement and operation of temporary personal wireless service facilities within any zoning district for a period not to exceed ninety (90) days. Placement and operation of temporary personal wireless service facilities beyond the ninety (90) day limit may be granted by the town commission if deemed necessary for the health, safety, and welfare of the public due to extended disruption in services after a declared emergency.

SECTION 7. Chapter 158, ZONING CODE, is amended to add Subsection 158.201 to provide Personal Wireless Service Facility Development Standards, and shall read as follows:

158.201 Personal wireless service facility development standards.

(A) Antennas.

- (1) An application for an antenna, whether or not a co-location, shall include the following information:
  - (a) The name of the applicant;
  - (b) Whether the applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;
  - (c) A complete, thorough and accurate description of the proposed antenna, including where necessary, an elevation drawing or model of the proposed antenna showing the view from north, east, west and south;
  - (d) The type of existing building on which the antenna is proposed to be located;
  - (e) Certification that the proposed antenna will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use;
  - (f) The proposed use of the antenna;
  - (g) The proposed location of the antenna with a map in sufficient detail to indicate the location with precision;
  - (h) The applicant shall provide proof that the property owner, if different from applicant, authorizes the installation of the facilities;
  - (i) The zoning/land use designation of the site for the proposed antenna;
  - (j) The height of the proposed antenna;
  - (k) Where applicable, a lighting plan, that is consistent with all federal, state and local requirements;
  - (l) Documentation that the proposed antenna and any appurtenances will withstand wind speeds as set forth in the Florida Building Code;
  - (m) A plan detailing the steps to visually blend the proposed antenna with surrounding buildings, facilities and features;
  - (n) The estimated completion date for constructing and/or locating the antenna, and any ancillary equipment.
- (2) An antenna classified as an initial (rather than co-location) antenna, located on a rooftop, a rooftop antenna platform, or the exterior of a building shall meet the following minimum criteria:

- (a) It is located in the INS, R-3MX, R-4MX, R-6MX, MUC-1, MUC-2, MUC-3, OI, C-1, C-2, C-3, M-1, T-3, or T-6 zoning districts;
- (b) It is located on or in one of the following:
1. A rooftop of an existing building in excess of forty (40) feet in height;
  2. A rooftop antenna platform located on a roof of an existing building in excess of forty (40) feet in height; or
  3. The exterior of an existing building in excess of forty (40) feet in height.
- (c) The height of the antenna shall not exceed fifteen (15) feet above the highest point of the building; and
- (d) The antenna shall be camouflaged. An antenna shall be deemed to be camouflaged if the antenna and any ancillary equipment are concealed from view by way of enclosure or through a blending of the antenna and ancillary equipment with the architectural design and appearance, color and scale of the building to which it is attached. An example is provided below:



Graphic A.

- (3) An antenna located inside a building is permitted provided it is not visible from any surrounding properties or roadways and no portion of the antennae is recognizable or discernible from the exterior of the building. Architectural features concealing the antennae must be consistent with the architecture of the building to which they are attached. The architectural features shall not exceed the height restrictions for the zoning district in which they are located, except as allowed by this code. The setback for any architectural features concealing an antenna from any residentially zoned property must be at least one (1) foot for every foot in height of the architectural features (dwellings located on the same parcel as the antenna are excluded). An example of an acceptable architectural feature concealing an antennae located inside a building is provided below:



Graphic B

- (4) An antenna classified as a co-location located on an existing freestanding facility shall meet the following minimum criteria:
  - (a) The antenna does not increase the height of the freestanding facility to which it is to be attached, except as allowed in Section 158.201(C), as measured to the highest point of any part of the freestanding facility or any existing antenna attached to the freestanding facility;
  - (b) The ground space area, if any, previously approved for equipment enclosures and ancillary facilities is not increased; and
  - (c) The antenna and its ancillary facilities meet all requirements as established in Section 158.201(C).
- (5) An antenna classified as a co-location located on an existing building shall meet the following minimum criteria:
  - (a) The height of the antenna does not exceed fifteen (15) feet above the highest point of the building;
  - (b) The ground space area, otherwise known as the compound, if any, previously approved for equipment enclosures and ancillary facilities is not increased;
  - (c) The antenna and its ancillary facilities are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the building for initial antennas;
- (6) If only a portion of an application for a personal wireless service facility classified as a co-location does not meet the requirements of subsections (4) or (5), the noncompliant portion of the co-location application shall be reviewed as an initial antenna, under subsection (2) and the compliant remainder of the co-location application shall be reviewed in accordance with subsections (4) or (5), as applicable. A co-location application that complies with subsections (4) or (5), except that it is proposing to increase the equipment ground compound approved in the original site plan for equipment enclosure and ancillary facilities by no more than a cumulative amount of 400 square feet or fifty (50) percent of the original ground equipment enclosure size, whichever is greater, may continue to be reviewed as a co-location.
- (7) Standards applicable to all antennas.
  - (a) All antennas must be at least thirty (30) feet from ground level.

- (b) An antenna and its ancillary facilities must meet all applicable requirements of the Florida Building Code.
- (c) The antenna equipment shelter/cabinet must have a sign in close proximity which is readable from a distance of at least five (5) feet, in accordance with FCC regulations, which notes the owner of the equipment and the name and telephone number of the person to contact to report an emergency or situation when notification is warranted.
- (d) All additional requirements of state, federal and local law must be adhered to.
- (8) The review and approval of an application for an antenna under this subsection is by site plan exemption pursuant to section 158.100 and building permit review, except as an initial installation where existing buildings are proposed to be architecturally modified to conceal an antennae. Existing buildings that are proposed to be architecturally modified to conceal antennae must follow the site plan approval process pursuant to section 158.095.
- (B) Personal wireless service facilities primarily mounted on existing utility poles.
  - (1) Personal wireless service facilities primarily mounted on existing utility poles, including but not limited to DAS and/or small cell applications, are permissible in all zoning districts provided the following criteria are met:
    - (a) The applicant shall provide proof that the owner of the utility pole authorizes the installation of the facilities.
    - (b) The applicant shall provide proof that the property owner, if different from applicant, authorizes the installation of the facilities.
    - (c) Any ancillary equipment located in a right-of-way:
      - 1. Shall be attached to a utility pole and painted the same color as the utility pole; and
      - 2. Shall not exceed three (3) feet in height, two (2) foot in width, and one (1) foot in depth.
    - (d) Any ancillary equipment not located in a right-of-way is permissible by site plan exemption and must meet the following criteria:
      - 1. Shall be no wider than seven (7) feet;
      - 2. Shall be no longer than thirteen (13) feet;
      - 3. Shall not exceed the height limitations for mechanical equipment as provided by this Zoning Code;
      - 4. May be located within a required side or required rear yard, provided, that it shall be no closer than ten (10) feet to any lot line;
      - 5. Shall be included in lot coverage and non-open space calculations for the site, including the pad;
      - 6. Shall be located on a concrete pad, unless required to be elevated due to FEMA requirements;
      - 7. Shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the ancillary equipment on all sides and shall be maintained in good order. Failure to maintain fences, walls or landscaping shall constitute a violation of this chapter;
      - 8. Shall meet the requirements of section 158.148 "Intersection visibility":  
and

9. Shall be set back from any existing residential dwelling at least one (1) foot for every foot in height of the facility (dwellings located on the same parcel as the structure are excluded).
- (e) The top of any associated equipment shall not exceed fifty (50) feet in height.
- (2) The review and approval of an application for an antenna under this subsection is by site plan exemption pursuant to section 158.100 and building permit review.

(C) Freestanding facilities

- (1) Freestanding facilities and their ancillary equipment shall be permissible by site plan review and special exception granted by the Planning and Zoning Board in all zoning districts except in Island Preserve (R-1IP), Open Space – Passive (OS-P), Open Space – Conservation (OS-C), and Single-Family (R-1SF, R-2SF, R-3SF, R-4SF, R-6SF) districts, provided the following criteria are met:

- (a) The freestanding facility shall be designed so as to mimic a structure or natural feature that could reasonably be found and/or blend with the surrounding area, such as a light pole or tree. Examples of acceptable and unacceptable freestanding facilities are provided in the following graphics.

1. Examples of acceptable freestanding facilities:



Graphic C.



Graphic D.



Graphic E.

2. Examples of unacceptable freestanding facilities:



Graphic F.



Graphic G.

- (b) Ancillary equipment must meet the following criteria:
1. Shall be no wider than seven (7) feet;
  2. Shall be no longer than thirteen (13) feet;
  3. Shall not exceed the height limitations for mechanical equipment as provided by this Zoning Code;
  4. May be located within a required side or required rear yard, provided, that it shall be no closer than ten feet to any lot line;
  5. Shall be included in lot coverage and non-open space calculations for the site, including the pad;
  6. Shall be located on a concrete pad, unless required to be elevated due to FEMA regulations;
  7. Shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the ancillary equipment on all sides and shall be maintained in good order.
  8. Shall meet the requirements of section 158.148 "Intersection visibility"; and
  9. Shall be set back from any existing residential dwelling at least one (1) foot for every foot in height of the facility (dwellings located on the same parcel as the structure are excluded).
- (c) The top of any freestanding facility and ancillary equipment shall not exceed the maximum height established for the zoning district in which the facility is located, as measured from base flood elevation, but in no case shall the height exceed fifty (50) feet.
- (d) For any freestanding facility that utilizes lighting, the lights must meet all applicable federal, state, and local regulations regarding shielding of lighting to protect sea turtles.
- (e) The freestanding facility, its components, ancillary equipment, and screening must be maintained in good order. Failure to maintain the freestanding facility, its components, ancillary equipment, and screening shall constitute a violation of this chapter.

- (2) The special exception application must be made in conjunction with the site plan review requirements set forth in this Zoning Code. An application shall include the following information:
- (a) The name of the applicant(s) and whether each applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;
  - (b) A complete and accurate description of the proposed freestanding facility, including where necessary, a scale drawing or model of the proposed freestanding facility;
  - (c) If applicable, documentation of any contract, license, lease, letter of understanding, agreement in principle, or other type of agreement with a personal wireless service provider for use of the freestanding facility and a summary of the agreement or arrangement;
  - (d) The proposed location of the freestanding facility together with both a legal description of the location, and a map in sufficient detail to indicate the location with precision;
  - (e) Proof that the property owner, if different from applicant, authorizes the installation of the facilities.
  - (f) The zoning/land use designation for the proposed freestanding facility;
  - (g) The height of the proposed freestanding facility;
  - (h) The projected collapse zone certification that in the event of fall or collapse of the freestanding facility, said freestanding facility would not damage or negatively impact the real or personal property of the surrounding property owners;
  - (i) Documentation demonstrating compliance with the provisions of 158.201(C)(1);
  - (j) A detailed plan for landscaping any ancillary ground equipment, in such a manner that the landscaping will shield the equipment from the view of adjoining parcels and/or public rights-of-way, noting that the landscaping shall be native, xeriscape plants only;
  - (k) A detailed preventive maintenance program that meets minimum maintenance program standards for which the applicant is to remain solely responsible. The town will not be responsible for monitoring the maintenance program;
  - (l) Certification that the proposed equipment will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use;
  - (m) The estimated completion date for the location and/or construction or modification of each of the freestanding facilities and any ancillary equipment;
  - (n) The identity and location of any land-line backhaul network to each freestanding facility location, if applicable;
  - (o) Whether the applicant, within a two-mile radius of the proposed location, has ever had any permit (or similar or equivalent authorization) revoked, rescinded, canceled or terminated which authorized the placement,

- construction, and/or modification of personal wireless service facilities, and, if so, what were the reasons surrounding such revocation; and
- (p) The proposed equipment shall not interfere with or obstruct public safety telecommunications facilities in accordance with the applicable rules of the Federal Communications Commission; and
  - (q) All applicable provisions of this Zoning Code and the Florida Building Code shall be met.
- (3) In evaluating the application for a special exception for a freestanding facility, in addition to the findings of subsection 158.126(A), the Planning and Zoning Board shall consider and evaluate the above application criteria and the following, with the intent of balancing the reasonable allowance of a freestanding facility to provide personal wireless service in the area with the protection of the aesthetics of the area from adverse visual impacts:
- (a) The proposed location of the freestanding facility, including the zoning/land use designation of the site and abutting properties;
  - (b) The proposed height of the freestanding facility;
  - (c) The number and location of freestanding facilities and structures over forty (40) feet in height already existing within a 500 foot radius of the proposed freestanding facility;
  - (d) The distance of the proposed freestanding facility to the nearest single-family residence measured from the freestanding facility to the boundary of the nearest single family residence;
  - (e) The proposed aesthetics of the freestanding facility and whether it visually blends in with surrounding buildings, structures and existing vegetation.
  - (f) The potential impacts on property values of nearby or surrounding single family properties.
- (4) Upon granting site plan approval and special exception permit for the construction of a freestanding facility, the town reserves the right to inspect placement, construction and modification of such freestanding facility and ancillary equipment for the life of the facility. Any modification, relocation, rebuilding, repairing, in any way without the issuance of all applicable approvals and permits will be deemed a violation of the permit and result in the removal of the freestanding facility and ancillary equipment.
- (5) Removal of freestanding facility and ancillary equipment. The town may require, upon notice with a reasonable opportunity to cure, the immediate removal of a freestanding facility and ancillary equipment if:
- (a) It has been abandoned for a period in excess of six (6) months;
  - (b) It falls into such a state of disrepair that it becomes an unsafe structure or becomes a public nuisance;
  - (c) It is modified, relocated, or rebuilt without the issuance of all applicable approvals and permits;
  - (d) The special exception has been revoked.

(D) Insurance and security requirements.

- (1) Insurance for freestanding facilities located on Town owned property or public rights-of-way.
- (a) A freestanding facility owner or operator shall not commence construction or operation of the facility without obtaining all insurance required hereunder and approval of such insurance by the town manager, nor shall

a owner or operator allow any contractor or subcontractor to commence work on its contract or sub-contract until all such insurance has been obtained and approved. The required insurance must be obtained and maintained for the entire period the freestanding facility is in existence. If the owner or operator, its contractors or subcontractors do not have the required insurance, the town may order such entities to stop operations until the insurance is obtained and approved. The following coverage, at a minimum, shall be maintained:

- (i) Public liability: \$1,000,000.00 per occurrence;
- (ii) Property damage: \$1,000,000.00 per claim; and
- (iii) Umbrella liability: \$2,000,000.00.

(b) The policies shall be written on forms acceptable to the town, placed with an insurance carrier approved and licensed by the State of Florida Office. Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the town prior to issuance of a building permit.

(c) All policies of insurance required to be maintained shall name the Town of Longboat Key as an additional insured. All policies shall contain a provision that coverage afforded under the policy will not be canceled without at least thirty (30) days prior written notice to the town.

(2) Security Fund. A bond, cash security fund or irrevocable letter of credit in a form acceptable to the town, shall be provided to the town by the owner or operator to secure the cost of removing any personal wireless service facility permitted under this section should the owner or operator fail to remove the personal wireless service facility as required by this Zoning Code. The amount of the bond, cash security fund, or letter of credit to be provided shall be \$5,000 for each freestanding facility.

Section 8. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 9. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 10. This Ordinance shall take effect upon second reading and public hearing in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading and public hearing the 16<sup>th</sup> day of June, 2014.

Adopted on the second reading and public hearing the      day of           , 2014.

\_\_\_\_\_  
James L. Brown, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk





# Ordinance 2013-18 Personal Wireless Services

Town Commission  
Special Meeting  
June 30, 2014



## BACKGROUND

- During the Town Commission Workshop on November 13, 2013, Ordinance 2013-18, as recommended by the Planning and Zoning Board, was presented to the Town Commission at their Regular Workshop.
- At the Workshop, the Town Commission provided new direction to Staff regarding Ordinance 2013-18.



- Based on the Town Commission's direction, Staff drafted revisions to Ordinance 2013-18 and forwarded the ordinance to the Town Commission for First Reading and Public Hearing.
- At the Special Meeting on June 16, 2014, the Town Commission requested that antenna height be limited to 15 feet above a building rooftop. The Ordinance has been revised to reflect that change.



## MAJOR REVISIONS

- Relocates regulations relating to personal wireless service facilities into one location within the Land Development Code
- Establishes approval timeframes as required by Federal Law
- Establishes Town Manager authority to approve placement and operation of temporary personal wireless service facilities in the event of a declared emergency; provides a definition of such “temporary” facilities.
- Eliminates the use of “Tower” from the ordinance



## MAJOR REVISIONS (CONT.)

- Establishes the following hierarchy:
  - (1) An antenna located on or in an existing building , whether or not a co-location (see section 158.201(A)(2),(3) & (5)).
  - (2) The co-location of an antenna on an existing freestanding facility (see section 158.201(A)(4)).
  - (3) Facilities primarily mounted on existing utility poles, such as DAS or similar applications (see section 158.201(B)).
  - (4) Freestanding facilities (see section 158.201(C)).



## MAJOR REVISIONS (CONT.)

- Introduces “Freestanding Facilities”
  - Subject to the height restrictions in each Zoning District and the Comprehensive Plan, with a maximum height of 50 feet.
  - Specific aesthetic provisions; must mimic a natural or built feature that blends with the surroundings; graphics provided in Code
  - Allowed in all Zoning Districts except: Island Preserve (R-1IP), Open Space – Passive (OS-P), Open Space – Conservation (OS-C), and all Single Family (R-1SF, R-2SF, R-3SF, R-4SF, R-6SF)



## MAJOR REVISIONS (CONT.)

- Antennas mounted on or within existing buildings could be approved by Site Plan Exemption at the Staff level.
- Personal wireless services that are mounted on existing utility poles (DAS, small cell, etc.) could be approved by Site Plan Exemption at the Staff level.
- Freestanding Facilities could be approved by Special Exception and Site Plan by the Planning and Zoning Board.



## MAJOR REVISIONS (CONT.)

- Requires a post-construction radio frequency (RF) energy testing study. Prohibits any portion of abutting, adjoining or nearby residential property from being exposed to RF emissions exceeding federal safety limits.
- Variances, departures, waivers, or any other form of relief to the Personal Wireless Service Facilities regulations are **prohibited**.



## RECOMMENDATION

Staff recommends APPROVAL of  
Ordinance 2013-18

**ORDINANCE 2013-18**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 57, *RIGHTS-OF-WAY USE*, SECTION 57.06(E), EXEMPTIONS, OF THE TOWN CODE OF ORDINANCES; AMENDING CHAPTER 158, *ZONING CODE*, SECTION 158.006, *DEFINITIONS*, SECTION 158.097(W), *APPLICATION FOR SITE PLAN APPROVAL*, SECTION 158.125 *SCHEDULE OF USE REGULATIONS*, SECTION 158.157(F), *MECHANICAL EQUIPMENT*, SECTION 158.200, *PERSONAL WIRELESS SERVICE FACILITIES*; AND ADDING NEW SECTION 158.201, *PERSONAL WIRELESS SERVICE FACILITIES DEVELOPMENT STANDARDS*; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission wishes to modify the Zoning Code with respect to streamlining the procedures for identifying preferred personal wireless service facilities; and

**WHEREAS**, the Town Commission wishes to further clarify it's Zoning Code with respect to preferred location and development standards for towers; and

**WHEREAS**, the Town Commission of the Town of Longboat Key adopted a Comprehensive Plan amendment to amend the Future Land Use Element to specifically exempt personal wireless service facilities from the height limitations established therein, choosing instead to limit the height through the Town of Longboat Key's Land Development Regulations; and

**WHEREAS**, at a duly noticed public hearing on September 17, 2013, the Planning and Zoning Board found the subject Zoning Code amendments to be consistent with the Town's Comprehensive Plan and recommended that the Town Commission approve the Zoning Code amendments; and

**WHEREAS**, the Town Commission of the Town of Longboat Key, at duly noticed public hearings on \_\_\_\_\_, and on \_\_\_\_\_, considered the proposed Zoning Code amendments as recommended by the Planning and Zoning Board; and

**WHEREAS**, the Town has received and considered comments from the public; and

**WHEREAS**, the Town Commission of the Town of Longboat Key, after review of the recommendations of the Planning and Zoning Board, comments made at public hearings, and careful consideration of the issues, finds that the proposed Zoning Code

amendments are consistent with the Comprehensive Plan and are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 57, RIGHTS-OF-WAY USE, Section 57.06, EXEMPTIONS, is hereby amended as follows

~~**57.06(E)** Personal wireless service facilities primarily mounted on utility poles that meet the requirements of section 158.201(B). Telecommunication antennae located on existing or replacement utility poles (the applicant shall provide proof that the owner of the system authorizes the installation of the antennae). Said antennae shall not extend more than ten feet from the top of the pole. Equipment and cabinet structures required in rights-of-way shall not exceed three feet in height, one foot in width and one foot in depth, shall be located attached to the utility pole and shall be painted the same color as the utility pole. Larger equipment cabinets shall not be located within the rights-of-way.~~

SECTION 3. Chapter 158, ZONING CODE, SECTION 158.097, APPLICATION FOR SITE PLAN APPROVAL, Subsection 158.097(W), is deleted in its entirety.

SECTION 4. Chapter 158, ZONING CODE, SECTION 158.157, MECHANICAL EQUIPMENT, Subsection 158.157(F), is deleted in its entirety.

~~**158.097(W)** — STRIKE ALL EXISTING~~

~~**158.157(F)** — STRIKE ALL EXISTING~~

SECTION 5. Chapter 158, ZONING CODE, SECTION 158.006, DEFINITIONS, is amended as follows:

**158.006 Definitions.**

~~"Adverse visual impact." As it relates to personal wireless service facilities, the negative visual effect of a personal wireless service facility on its surroundings. Being able to merely see a personal wireless service facility does not necessarily equate to a negative visual effect. Whether the visual effect of a personal wireless service facility is adverse is based on the existence of relevant negative factors for that facility, the number of those negative factors, and the degree that the facility evidences those negative factors.~~

~~Relevant negative factors may include: A large amount of the personal wireless service facility is visible; the personal wireless service facility is of a design, material, location, or size that readily catches and holds a viewer's eye; the personal wireless service facility is in the reasonable view of a person in a moving vehicle for more than a short period of time; the personal wireless service facility is to be lighted and in an area with few or no other lights; the personal wireless service facility is readily identifiable as a personal wireless service facility by the average viewer; the personal wireless service facility, when viewed from regular views, appears out of place in the area; there is an absence of existing visual impact from other uses in the area surrounding the personal wireless service facility; there is an absence of vegetation, structures or other screening between the personal wireless service facility and reasonable views; the scale (height and bulk) of the personal wireless service facility is significantly greater than other uses existing or allowed in the surrounding area; the facility is proposed in an area visually protected by adopted view protection corridors or generally applicable aesthetic regulations that heighten the protection of the overall aesthetics of the area; and, a large amount of the available view is occupied by the personal wireless service facility, relative to all available views.~~

~~*"Alternative Tower Structure."* Man-made trees, clock towers, bell steeples, light poles and similar alternative-design structures that camouflage or conceal the presence of an antenna or tower.~~

~~*"Antenna."* Any device used to transmit or receive electromagnetic waves or frequency signals. The term "antenna" includes frequency signals for radio, television, paging, personal communications services, cellular communications services, analog communications services, digital communications services, and microwave communications. The term "antenna" does not include a television antenna, satellite dish, or other type of satellite or video receiving device that is mounted on a single-family residence for use exclusively of the occupants of that single-family home, or that is in compliance with subsection 158.127(F) and section 158.153 of this Zoning Code.~~

~~*"Backhaul network."* The lines that connect a provider's tower to one or more cellular telephone switching offices, and/or long distance services to the public switched telephone network.~~

~~*"Collapse zone."* The area surrounding a tower, which, in the event of a structural failure of all, or part, of the tower, would result in the tower falling or collapsing within the boundaries of the property on which the tower is placed. The collapse zone must equal at least 100 percent of the tower height, but in no event be less than 100 feet.~~

~~*"Co-location."* As used in section 158.200, ~~†~~The situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennas. The term includes the ground, platform, or roof installation of~~

equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennas.

~~“Designed service.” The configuration and manner of deployment of personal wireless the personal wireless service provider has designed for an area as part of its network.~~

“Distributed Antenna System (DAS).” A network of spatially separated antenna nodes connected to a common source via a transport medium that provides personal wireless service within a geographic area or structure.

“Height.” In relation to a personal wireless service facility, shall be measured from the ground or base level of the personal wireless facility to the highest point of the personal wireless facility, including, but not limited, the highest point of the antenna or other telecommunications attachment.

“High Quality of Service” Service that is technically viable and meets current industry standards for service as may be amended.

*“Personal wireless services.”* Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access facilities and those defined by the Federal Telecommunications Act of 1996.

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~~“Monopole.” A tower consisting of a single pole to support external antennas and connecting appurtenances.~~

“Personal wireless service facility” or “Personal wireless service facilities.” Facilities used for the provision of personal wireless services including any tower or antenna used for the provision of personal wireless services.

~~“Personal wireless service facilities, height.” The height of personal wireless service facilities shall be measured from the ground or base level of the personal wireless facility to the highest point of the personal wireless facility, including, but not limited, the highest point of the antenna or other telecommunications attachment.~~

*“Personal wireless service provider.”* A company licensed by the Federal Communications Commission (FCC) that provides personal wireless services. A tower builder or owner is not a personal wireless service provider unless licensed to provide personal wireless services.

*“Planning and zoning official.”* The official designated by the town manager as the individual responsible for the administration and enforcement of these regulations.

~~“Stealth structure.” Architectural treatment of a tower to conceal or screen the presence of antennas, related supports and associated antenna facilities from public view by designing the tower to unobtrusively blend in aesthetically with the surrounding environment pursuant to the requirements of the Town Code.~~

“Tower.” Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

“Unlicensed wireless service.” The offering of telecommunications services using authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

**SECTION 6 Chapter 158.125 SCHEDULE OF USE REGULATIONS, is amended as follows:**

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(C-1) Limited Commercial District	The purpose of this district is to delineate those areas suitable for neighborhood-serving commercial and related uses.	1. Essential services.	1. Uses permitted with site plan review and special exception uses in OI districts. 2. Neighborhood convenience store. 3. Small limited-item shop and stores restricted to retail sales of convenience items and services including barber-beauty care and other personal services. 4. Small-scale drugstores and specialty shops. 5. Photography, art or music studios. 6. Youth recreation centers. 7. Florist shops.	1. Off-street parking and loading. 2. Other accessory uses customarily incidental to use permitted with site plan review use or special exception use. 3. Private noncommercial dish antennas.	1. Restaurants (but no drive-in restaurants) including restaurants with lounges or outdoor dining (subject to the standards contained in <u>§ 158.136</u> ). (Ord. 95-19, passed 1-8-96) 2. Grocery stores. 3. Continuing education centers. 4. Laundry and dry cleaning pickup stations. 5. Private noncommercial dish antennas. 6. Windwalls. 7. Trellis, subject to the standards contained in <u>§ 158.152(J)</u> . 8. Boat dock in

			8. Personal wireless services, rooftop antennas, and building or structure mounted antennas.		excess of 500 square feet. 9. A tower located on town-owned land (see section 158.201(C)). Also requires site plan review.
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SECTION 6, Chapter 158, ZONING CODE, SECTION 158.200, *PERSONAL WIRELESS SERVICE FACILITIES*, is amended as follows:

**158.200 Personal wireless service facilities.** – STRIKE ALL EXISTING AND REPLACE WITH

(A) Purpose and legislative intent. Federal and state laws recognize the town's authority to regulate the placement, construction, and modification of personal wireless service facilities. The town recognizes that personal wireless service facilities play an important and complex role in the community. The intent of this section is to ensure that the placement, construction or modification of personal wireless service facilities is consistent with the town's land use policies and balances the community needs. This section strives to establish a fair and efficient application process, mitigate impacts of personal wireless service facilities, ~~provide a high quality of service,~~ and protect the health, safety and welfare of the residents and visitors of the town.

(B) Hierarchy of personal wireless service facility preferences. The town has established the hierarch set forth below for personal wireless service facilities, with one (1) being the most preferred and five (5) being the least preferred. More preferred facilities require fewer approvals and are subject to fewer restrictions.

- (1) An antenna located on or in an existing building (see section 158.201(A)(2),(3) & (5)).
- (2) The co-location of an antenna on an existing non-building structure or facility (see section 158.201(A)(4)).
- (3) Facilities primarily mounted on utility poles, such as DAS or similar applications (see section 158.201(B)).
- (4) A camouflaged tower located on town-owned land (see section 158.201(C)).
- (5) A camouflaged tower on other than town-owned land (see section 158.201(C)).

(C) Prohibited personal wireless service facilities. Self-supporting lattice towers, guyed towers, and all un-camouflaged towers are prohibited.

(D) *Priority determination.* If the proposed personal wireless service facility is not one of the three highest priorities listed, a detailed explanation and technical justification shall be provided as to why each of the higher priority facilities was not selected.

(E) *Generally applicable review procedures and timeframes.*

(1) The planning and zoning official shall notify the applicant for a personal wireless service facility within twenty (20) days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements of this Zoning Code. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the town shall again have twenty (20) days to notify the applicant, in writing, of any remaining deficiencies that must be cured. If the applicant does not cure the deficiencies within thirty (30) days, the application shall be considered withdrawn and closed.

(2) An application is deemed submitted or resubmitted on the date the application is received by the town. If the town does not notify the applicant in writing that the application is not completed in compliance with this Zoning Code within twenty (20) days after the date the application is initially submitted or resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted.

(3) Applications for a co-location shall be processed within forty-five (45) days after an application has been properly completed and properly submitted. Applications for new personal wireless service facilities, including towers, shall be processed within ninety (90) days after an application has been properly completed and properly submitted.

(4) The timeframes stated in this subsection may be extended or tolled by mutual agreement of the town and applicant.

(5) The final decision approving or denying an application shall be in writing and supported by "substantial evidence" pursuant to the Telecommunications Act, 47 U.S.C. §332(c)(7)(B)(iii).

SECTION 7. Chapter 158, ZONING CODE, is amended to add Subsection 158.201 to provide Personal Wireless Service Facility Development standards, and shall read as follows:

**158.201 Personal wireless service facility development standards.**

**(A) Antennas.**

(1) An application for an antenna, whether or not a co-location, shall include the following information:

- (a) The name of the applicant;
- (b) Whether the applicant is an individual, partnership, limited partnership, limited liability corporation, professional

- corporation, professional association, governmental entity, or some other type of legal group or association;
- (c) A complete, thorough and accurate description of the proposed antenna, including where necessary, an elevation drawing or model of the proposed antenna showing the view from north, east, west and south;
- (d) The type of structure on which the antenna is proposed to be located;
- (e) Certification that the proposed antenna will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use;
- (f) The proposed use of the antenna;
- (g) The proposed location of the antenna with a map in sufficient detail to indicate the location with precision;
- (h) The applicant shall provide proof that the property owner, if different from applicant, authorizes the installation of the facilities.
- (i) The zoning/land use designation of the site for the proposed antenna;
- (j) The height of the proposed antenna;
- (k) Where applicable, a lighting plan, that is consistent with all federal, state and local requirements;
- (l) Documentation that the proposed antenna and any appurtenances will withstand wind speeds as set forth in the Florida Building Code;
- (m) A plan detailing the steps to visually blend the proposed antenna with surrounding structures and facilities;
- (n) The estimated completion date for constructing and/or locating the antenna, and any structures necessary for the backhaul network.

(2) An antenna classified as an initial (rather than co-location) antenna, located on a rooftop, a rooftop antenna platform or placed on the exterior of a structure shall meet the following minimum criteria:

- (a) It is located in the INS, R-3MX, R-4MX, R-6MX, MUC-1, MUC-2, MUC-3, OI, C-1, C-2, C-3, M-1, T-3, or T-6 zoning districts;
- (b) It is located on or in one of the following:
  1. A rooftop of a structure in excess of 40 feet in height;
  2. A rooftop antenna platform located on a roof of a structure in excess of 40 feet in height; or
  3. The exterior of a structure in excess of 40 feet in height.

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- (c) The height of the antenna shall not exceed 30 feet above the highest point of the structure; and
- (d) The antenna shall be camouflaged. An antenna shall be deemed to be camouflaged if the antenna and any equipment necessary for its operation are concealed from view by way of enclosure or through a blending of the antenna and equipment with the architectural design and appearance, color and scale of the structure to which it is attached.

(3) An antenna located inside an existing structure is permitted provided it is not visible from any surrounding properties or roadways and no readily discernible modification to the existing structure is performed and/or required.

(4) An antenna classified as a co-location located on an existing tower shall meet the following minimum criteria:

- (a) The antenna does not increase the height of the tower to which it is to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower;
- (b) The ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities is not increased; and
- (c) The antenna and its ancillary facilities are of a design and configuration consistent with all applicable regulations, restrictions or conditions, if any, applied to the initial antennas placed on the tower, its accompanying equipment enclosures and ancillary facilities and, if applicable, the tower supporting the antennas. Such regulations may include the design and aesthetic requirements, but not procedural requirements, other than those authorized by this section in effect at the time the initial antenna placement was approved.

(5) An antenna classified as a co-location located on a non-tower structure shall meet the following minimum criteria:

- (a) The height of the antenna does not exceed 30 feet above the highest point of the structure;
- (b) The ground space area, otherwise known as the compound, if any, previously approved for equipment enclosures and ancillary facilities is not increased;
- (c) The antenna and its ancillary facilities are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure for initial antennas;

(6) If only a portion of an application for a personal wireless service facility classified as a co-location does not meet the requirements of subsections (4) or (5), the noncompliant portion of the co-location application shall be reviewed as an initial antenna, under subsection (2) and the compliant remainder of the co-location

application shall be reviewed in accordance with subsections (4) or (5), as applicable. A co-location application that complies with subsections (4) or (5), except that it is proposing to increase the equipment ground compound approved in the original site plan for equipment enclosure and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, may continue to be reviewed as a co-location.

(7) Standards applicable to all antennas.

- (a) All antennas must be at least 30 feet from ground level.
- (b) An antenna and its ancillary facilities must meet all applicable requirements of the Florida Building Code.
- (c) The antenna equipment shelter/cabinet must have a sign in close proximity which is readable from at least five feet, in accordance with FCC regulations, which notes the owner of the equipment and the name and telephone number of the person to contact to report an emergency or situation when notification is warranted.
- (d) All additional requirements of state, federal and local law must be adhered to.

(8) The review and approval of an application for an antenna under this subsection is by site plan exemption pursuant to section 158.100 and building permit review.

**(B) Personal wireless service facilities primarily mounted on utility poles.**

(1) Personal wireless service facilities primarily mounted on utility poles, including but not limited to DAS or similar applications, are permissible in all zoning districts provided the following criteria are met:

- (a) The applicant shall provide proof that the owner of the utility pole authorizes the installation of the facilities.
- (b) The applicant shall provide proof that the property owner, if different from applicant, authorizes the installation of the facilities.
- (c) Any associated equipment and cabinet structures located in a right-of-way:
  - 1. Shall be attached to a utility pole and painted the same color as the utility pole; and
  - 2. Shall not exceed three (3) feet in height, two (2) foot in width, and one (1) foot in depth.
- (d) Any associated equipment and cabinet structures not located in a right-of-way is permissible by site plan exemption and must meet the following criteria:
  - 1. Shall be no wider than seven (7) feet;
  - 2. Shall be no longer than thirteen (13) feet;
  - 3. Shall not exceed the height limitations for mechanical equipment as provided by this Zoning Code;

4. May be located within a required side or required rear yard, provided, that it shall be no closer than ten feet to any lot line;
  5. Shall be included in lot coverage and non-open space calculations for the site, including the pad;
  6. Shall be located on a concrete pad;
  7. Shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the associated equipment and cabinet structures on all sides and shall be maintained in good order. Failure to maintain fences, walls or landscaping shall constitute a violation of this chapter;
  8. Shall meet the requirements of section 158.148 "Intersection visibility"; and
  9. Shall be set back from any existing residential dwelling at least one (1) foot for every foot in height of the facility (dwellings located on the same parcel as the structure are excluded).
- (e) The top of any associated antennae shall not exceed fifty (50) feet in height.

**(C) Towers**

- (1) Towers shall be permissible by site plan review and special exception granted by the Planning and Zoning Board. The special exception application must be made in conjunction with the site plan review requirements set forth in this Zoning Code. An application shall include the following information:
  - (a) The name of the applicant(s);
  - (b) Whether each applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;
  - (c) A complete and accurate description of the proposed tower, including where necessary, a scale drawing or model of the proposed tower;
  - (d) The proposed use of the proposed tower;
  - (e) If applicable, documentation of any contract, license, lease, letter of understanding, agreement in principle, or other type of agreement with a service provider for use of an antenna or antennas on the tower and a summary of the agreement or arrangement;

- (f) The proposed location of the tower together with both a legal description of the location, and a map in sufficient detail to indicate the location with precision;
- (g) Proof that the property owner, if different from applicant, authorizes the installation of the facilities.
- (h) The zoning/land use designation for the proposed tower;
- (i) The proposed type of tower or structure;
- (j) The height of the proposed tower;
- (k) The projected collapse zone along with an engineering analysis and/or other data and/or documents that certify that in the event of catastrophic failure, fall or collapse of the tower, said tower would fall or collapse within the collapse zone and would not damage or negatively impact the real or personal property of the surrounding property owners;
- (l) Documentation that any existing tower or structure (whether owned by the applicant or not) located within a two-mile radius of the proposed location is physically unable to support co-location of one or more antennas on the existing tower, the height of the existing tower is insufficient or that the existing tower does not meet the engineering requirements of the applicant;
- (m) Documentation that the proposed tower will be constructed in a manner to withstand wind speeds as set forth in the Florida Building Code;
- (n) A copy of the construction plans to be used in constructing and/or modifying a tower;
- (o) A description of the proposed steps to be taken to ensure that the aesthetic requirements are met and/or exceeded;
- (p) A detailed plan for camouflaging or minimizing the visual obtrusion of the tower, which shall include the following documentation:
  - (i) An accurate colorized pictorial representation, artist's rendering, three-dimensional rendering, or digitized (super-imposed) to scale or the like, of the tower;
  - (ii) Design specifications which include total height, diameter and colorations;
  - (iii) A corresponding statement and pictures that explains the nature and character of the area within which the camouflaged tower is proposed with respect to land use, surrounding environment, building heights and designs; and building/environment density;
  - (iv) A corresponding statement that explains how the tower will blend and/or harmonize with the nature and character of the area.

- (q) A detailed plan for landscaping the perimeter of the tower, and/or equipment and surrounding leased area noting that the landscaping shall be native, xeriscape plants only;
- (r) A detailed plan for landscaping the perimeter of any mechanical/electronic equipment buildings that adjoin or are attached to the base of the tower, in such a manner that the landscaping shall shield the buildings or structures from the view of adjoining parcels, noting that the landscaping described shall be native, xeriscape plants only;
- (s) A detailed plan for sufficient, unobtrusive lighting, which is consistent with all federal, state and local requirements;
- (t) A detailed plan outlining the proposed security measures, including the proposed means to limit access to the tower, in order to reduce the likelihood of trespass, damage, and/or injury to children and others. There are to be no climbing pegs on towers, except during maintenance and/or installation of equipment;
- (u) A detailed plan for ingress and egress, including where needed, special ingress and egress routes for emergency vehicles such as emergency medical transport, fire, police and other law enforcement vehicles and ambulances;
- (v) A detailed preventive maintenance program that meets minimum maintenance program standards for which the applicant is to remain solely responsible. The town will not be responsible for monitoring the maintenance program;
- (w) Documentation of having conducted a balloon test, together with a visual impact analysis of such test, which test consists of a balloon, red or orange in color, no less than four feet in diameter, anchored to the ground, and flown at a height which is the same height as the proposed tower. The balloon shall be flown continuously for at least ten hours per day (between 8:00 a.m. and 6:00 p.m.) on three consecutive days. The applicant shall document the balloon test with photographic evidence depicting the balloon in its relationship and proximity to the neighboring property, land and uses;
- (x) Certification by a professional engineer, with qualifications as a soil engineer that a topographical survey has been conducted, and that the subsurface, substrata, and the proposed drainage are adequate to assure stability to the tower;
- (y) Certification that the proposed antenna will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other

- evidence of Federal Communications Commission authorized spectrum use;
- (z) Certification by a professional engineer that the proposed design of the antennas and tower demonstrates compliance with applicable Telecommunications Industry Association/Electronic Industries Association 222 standards in effect at the time of the application;
- (aa) The estimated completion date for the location and/or construction or modification of the tower, and any structures necessary for the backhaul network;
- (bb) The identity and location of any land-line backhaul connections to each tower location;
- (cc) A map noting all personal wireless service facilities within a two-mile radius of the proposed location, and supporting documentation that lists or notes the identification of the classification of personal wireless service facility (antenna, tower, structure, or other type), its height, location, address, current location and current use;
- (dd) A listing, if applicable, of municipalities or local governments within Manatee County and Sarasota County (including the counties) where the applicant, within one year preceding the current application, sought any permit (or similar or equivalent authorization) to locate, construct, and/or modify a tower or antenna, and, if so, what was the ultimate disposition of the application;
- (ee) Whether the applicant, within a two-mile radius of the proposed location, has ever had any permit (or similar or equivalent authorization) revoked, rescinded, canceled or terminated which authorized the placement, construction, and/or modification of the tower or antenna, and, if so, what were the reasons surrounding such revocation; and
- (ff) An acknowledgment that the applicant has read understands and intends to comply with the applicable rules and regulations governing the issuance and enforcement of special exception permits for personal wireless service facilities. (2) Siting.
- (a) Towers are allowable in the Community Facility Institutional zoning district and in any other zoning district if in conjunction with town-owned public safety facilities.
- (b) In determining whether to approve the location of a proposed tower, the town shall consider:
- (i) Whether the location is in the best interests of the health, safety and welfare of the town and its inhabitants; and
- (ii) Whether another location would result in a less intrusive facility, so long as it would not prohibit or serve to prohibit the provision of

personal wireless services. (3) General criteria. Towers shall meet the following minimum criteria:

- (a) A clear and present need for the tower must be demonstrated at the time of application, including the provision of evidence that any existing tower(s) or facilities located within the search area for the proposed tower are physically unable to support co-location of one or more antennas, are not reasonably available for such use or are of insufficient height;
- (b) Shall be the minimum height necessary to accommodate antennas for at least three users. However, a tower may not exceed a maximum height of 120 feet unless the Town Commission grants a waiver based on technical analysis provided by the applicant and verified by the Town's consultant that additional height is required to provide technically viable service for three providers. All towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- (c) Shall have a projected collapse zone from any adjoining residential property at least 100 percent of the tower height, but in no event less than 100 feet;
- (d) The placement and location of the proposed tower shall not create an unacceptable safety risk, or the reasonable probability of such, to residents, the public, employees and agents of the town, or employees of the service provider or other service providers;
- (e) Shall not conflict, compromise or change the historic nature or historic character of the area where the tower is to be located;
- (f) Shall be camouflaged from view from all public or private roads or streets. A tower shall be deemed to be camouflaged from view if the tower and its ancillary facilities are concealed from view as follows:
  - (i) Within a naturalistic facade that is similar to or compatible with the appearance of native vegetation in color, size, bulk, height and mass; or
  - (ii) Within the facade of a structure that disguises the tower and its equipment such that they blend into the surrounding environment and which demonstrates that it meets the aesthetic nature and character of the area within which the tower is proposed as determined by land use, surrounding environment, building heights and designs and building/environment density; or

- (iii) Within a facade or structure, such that the antennas and ancillary facilities are not visible from off-site and that presents as narrow of a view profile as is reasonably possible; or
- (iv) Is an alternative tower structure.
- (g) All lighting shall be consistent with all federal, state and local regulations;
- (h) The proposed tower shall not be located within a V-zone as determined by the Federal Emergency Management Agency's official Flood Insurance Rate Maps (FIRM);
- (i) The proposed tower shall not interfere with or obstruct public safety telecommunications facilities in accordance with the applicable rules of the Federal Communications Commission; and
- (j) All applicable provisions of this Zoning Code and the Florida Building Code shall be met, including certification by a registered engineer that the tower will withstand sustained wind speeds in compliance with the Florida Building Code.

(4) In evaluating the application for a special exception for a tower, in addition to the findings of subsection 158.126(A), the Planning and Zoning Board shall consider and evaluate the following, with the intent of balancing the reasonable allowance of a tower to provide personal wireless services in the area with the protection of the aesthetics of the area from adverse visual impacts:

- (a) The proposed location of the tower, including the zoning/land use designation of the site and adjacent properties;
- (b) The proposed height of the tower;
- (c) The number and location of towers and structures over forty (40) feet in height already existing within the search area of the proposed tower;
- (d) The distance of the proposed tower to the nearest single-family residence measured from the boundary of the tower parcel to the boundary of the nearest single family residence.;
- (e) The proposed aesthetics, including proposed camouflage measures, and/or steps proposed to visually blend the proposed tower in with surrounding buildings and facilities (including landscaping, screening or berming) with preference being given to sites which can provide heavy vegetative screening of a tower;
- (f) The projected collapse zone of the proposed tower;
- (g) The ability to support co-locations; and
- (h) The types of antenna to be located on the tower.

(5) Upon granting site plan approval and special exception permit for the construction of a tower, the town reserves the right to inspect placement,

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construction and modification of such tower for the life of the tower. Any modification, relocation, rebuilding, repairing, in any way without the issuance of all applicable approvals and permits will be deemed a violation of the permit and subject the tower to removal.

(6) Removal of tower. The town may require, upon notice with a reasonable opportunity to cure, the immediate removal of a tower if:

- (a) It has been abandoned for a period in excess of six (6) months;
- (b) It falls into such a state of disrepair that it creates a safety hazard for the citizens of the town;
- (c) It is modified, relocated, or rebuilt without the issuance of all applicable approvals and permits;
- (d) The insurance required in subsection (D) below has not been maintained; or
- (e) The special exception has been revoked.

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**(D) Insurance and security requirements.**

(1) Insurance for towers.

- (a) A tower owner shall not commence construction or operation of the facility without obtaining all insurance required hereunder and approval of such insurance by the town manager, nor shall a personal wireless service provider allow any contractor or subcontractor to commence work on its contract or sub-contract until all such insurance has been obtained and approved. The required insurance must be obtained and maintained for the entire period the tower is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the town may order such entities to stop operations until the insurance is obtained and approved. The following coverage, at a minimum, shall be maintained:
 
  - (i) Public liability: \$1,000,000.00 per occurrence;
  - (ii) Property damage: \$1,000,000.00 per claim; and
  - (iii) Umbrella liability: \$2,000,000.00.
- (b) The policies shall be written on forms acceptable to the town, placed with an insurance carrier approved and licensed by the State of Florida Office. Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the town prior to issuance of a building permit.
- (c) All policies of insurance required to be maintained shall name the Town of Longboat Key as an additional insured. All policies shall contain a provision that coverage afforded under the policy will not be canceled without at least thirty (30) days prior written notice to the town.

(2) Security Fund. A bond, cash security fund or irrevocable letter of credit in a form acceptable to the town, shall be provided to the town by the personal wireless service provider to secure the cost of removing any personal wireless service facility permitted under this section should the provider fail to remove the personal wireless service facility as required by this Zoning Code. The amount of the bond, cash security fund, or letter of credit to be provided is as follows:

<u>For each commercial telecommunication tower and the initial set of antenna or antenna array</u>	<u>\$25,000</u>
<u>For each co-located telecommunication providers antenna or antenna array</u>	<u>\$5,000</u>

**(E) Consultant fees.**

(1) The town may hire any consultant and/or expert necessary to assist the town in reviewing and evaluating the application, including but not limited to:

- (a) determining the completeness of the application;
- (b) analyzing any requests for waiver, relief or exemption;
- (c) assisting with any lease negotiations and any pre-submittal review requested by the applicant, all of which are deemed part of the pre-approval evaluation; and
- (d) reviewing the construction and/or modification of the personal wireless service facility.

(2) To prevent the taxpayers from bearing the cost of regulating personal wireless service facilities, the applicant shall deposit with the town sufficient funds to reimburse the town for all reasonable consultant and expert costs. The initial deposit shall be based on the anticipated needs in light of the specifics of the application, but in no event shall be less than \$8,500.00 or as set forth in the town's schedule of fees. The placement of the deposit with the town shall precede any site visit or pre-application meeting or review, but in no event be provided later than the submittal of the application to the town.

(3) The town shall account for all funds received. The town's consultants/experts shall invoice the town for its services and such are to be paid out of the applicant's deposit.

(4) If at any time the amount of funds remaining is less than \$2,500.00, the applicant shall, upon notification by the town, provide an additional deposit within three (3) business days so that a balance of at least \$5,000.00 is obtained. No further action or consideration of the application shall occur until the additional deposit is received. In the event that a portion of the funds remains at the time the certificate of completion is issued, the remaining amount shall be promptly refunded to the applicant.

(5) For any single application there shall be a cap of \$20,000.00 for consultant/expert costs to be charged to an applicant. However, the town is not prohibited from imposing additional fees for costs incurred as a result of an applicant amending or changing the application. Nor shall the cap apply to any costs which the town determines are attributable to the dilatory or otherwise bad faith actions of the

applicant in providing a complete, accurate and truthful application or in proceeding with a public hearing.

(6) Records of all consultant/expert costs associated with the review and approval of an application shall be maintained and available for public inspection, in compliance with applicable law.

Section 8. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 9. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 10. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

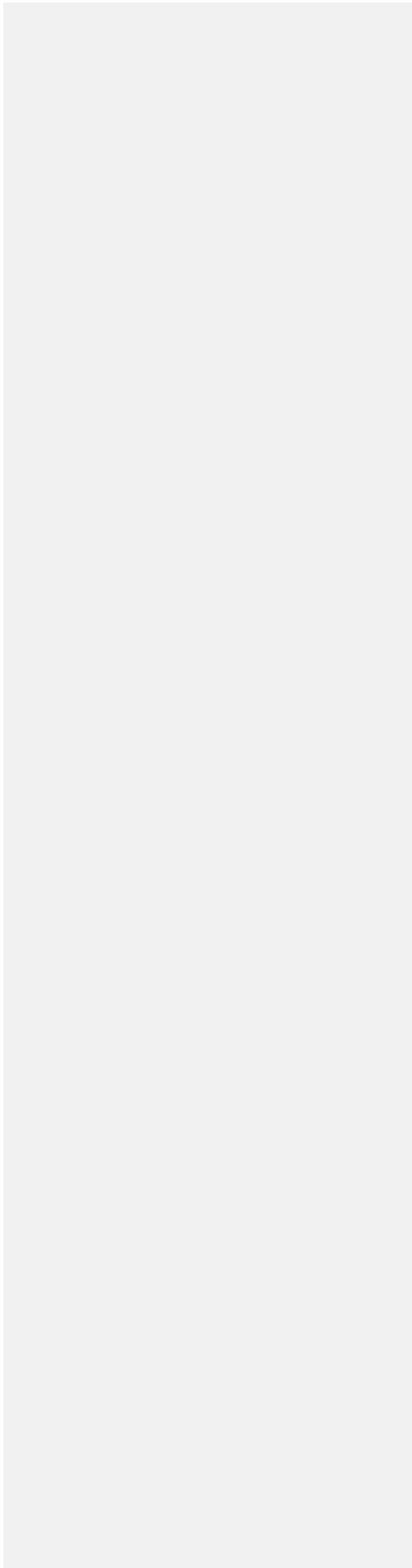
Passed on the first reading this \_\_\_\_ day of \_\_\_\_\_, 2013.

Adopted on the second reading and Public Hearing this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James P. Brown, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk





**End of Agenda Item**