

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

**DATE:** June 23, 2016

**TO:** Dave Bullock, Town Manager

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

**RE:** Ordinance 2016-12, Amending Chapter 158, Zoning Code, Personal Wireless Services

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As a result of the projects to underground utilities, the Town Commission adopted Chapter 58, Undergrounding of Utilities, at their April 4, 2016 Regular Meeting to establish regulations for the undergrounding of the utilities on the island. The adoption of this new Chapter necessitates minor revisions to the Personal Wireless Service Facility regulations contained in Chapter 158, in order to reflect new terminology. Specifically, the term "light fixtures" has been added to the Code, to allow Wi-Fi equipment to be located on light poles, bollards, and other structures used for lighting purposes.

At their April 19, 2016 Planning & Zoning Board Regular meeting, approval of Ordinance 2016-12, Personal Wireless Services, was recommended for approval as written. The Town Commission discussed the item at their May 16, 2016 Regular Workshop Meeting and forwarded it to their June 6, 2016 Regular Meeting for first reading. The Town Commission directed Staff to consider a minor revision to the definition of "Light fixture". Staff has included a proposed revision to the definition in the Ordinance.

The Town Commission held first reading and public hearing at their June 6, 2016 Regular Meeting. This item was forwarded to the July 5, 2016 Regular Meeting for second reading and public hearing.

## MEMORANDUM

**DATE:** April 27, 2016

**TO:** Honorable Mayor and Town Commission

**THROUGH:** Dave Bullock, Town Manager

**FROM:** Jim Brown, Chair  
Planning and Zoning Board

**SUBJECT:** Proposed Ordinance 2016-12, Personal Wireless Services

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During the public hearing held on April 19, 2016, the Planning and Zoning Board recommended APPROVAL of Ordinance 2016-12, which provides for minor revisions to the Personal Wireless Service Facility regulations in Chapter 158 as a result of the Town adopting Chapter 58, Undergrounding of Utilities. The specific motion from the April 19, 2016, meeting of the P&Z Board is as follows:

**MS. BISHOP MADE A MOTION THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-12, PERSONAL WIRELESS SERVICES, AS WRITTEN. MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; BROWN, AYE; GARNER, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, AYE.**

Enclosed, for your review and consideration, please find the following support documentation:

1. Ordinance 2016-12;
2. Staff Report, dated 4-11-2016, PZB Director to P&Z Board;
3. PowerPoint presentation; and
4. Draft minutes from the 4-19-2016 regular P&Z Board meeting on this issue.

If you should have any questions, or desire any additional information, please do not hesitate to contact me.

JB/dmc

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

**DATE:** April 11, 2016

**TO:** Planning and Zoning Board

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

**RE:** Ordinance 2016-12, Amending Chapter 158, Zoning Code, Section 158.006, Definitions, Section 158.200, Personal Wireless Service Facilities, and Section 158.201, Personal Wireless Service Facility Development Standards

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On November 3, 2015, the Town's electors voted to authorize the Town's borrowing of up to \$25,250,000 for undergrounding utilities (electric, telephone, cable and fiber optic) and feeder lines on Gulf of Mexico Drive. Subsequently, on March 15, 2016, the Town's electors also voted to authorize the Town's borrowing of up to \$23,850,000 for undergrounding utilities in all neighborhoods where overhead utilities exist, as well as installation of fiber optics in all neighborhoods. The resulting projects to underground utilities necessitated a new chapter to be added to the Town's Code of Ordinances to establish regulations for underground utilities on the island, which the Town Commission adopted as Chapter 58, Undergrounding of Utilities, on April 4, 2016.

The adoption of Chapter 58 necessitates minor revisions to the Personal Wireless Service Facility regulations contained in Chapter 158, in order to reflect new terminology. Specifically, the term "light fixtures" has been added to the Code, to allow Wi-Fi equipment to be located on light poles, bollards, and other structures used for lighting purposes.

If the Planning and Zoning Board recommends approval of Ordinance 2016-12, the Ordinance will be forwarded to the Town Commission for consideration.

Attachments: PowerPoint Presentation  
Ordinance 2016-12



# **Ordinance 2016-12**

## **Chapter 158:**

# **Personal Wireless Service Facilities**

Town Commission  
Regular Meeting  
July 5, 2016



# Background

- November 3, 2015: Funding for GMD Undergrounding Project approved by electorate
- March 15, 2016: Funding for Neighborhood Undergrounding Project approved by electorate
- April 4, 2016: Town Commission adopted Ordinance 2016-06, creating a new Chapter 58: Underground Utilities
- April 19, 2016: P&Z Board held a public hearing and recommended approval of Ordinance 2016-12
- May 16, 2016: Town Commission considered Ordinance 2016-12 at their Regular Workshop and forwarded it to their June 6<sup>th</sup> Regular Meeting
  - Requested Staff revise wording in the definition of “Light fixtures”
- June 6, 2016: Town Commission held first reading and public hearing and forwarded to their July 5, 2016 Regular Meeting for second reading and public hearing



## Chapter 158: Personal Wireless Service Facilities

- The adoption of Ordinance 2016-06 necessitates minor revisions to Chapter 158 to maintain consistency.
  - Establishes new definition:
    - “Light fixture” shall mean any above ground pole, bollard, ground-mounted pathway light, and other similar structure utilized ~~exclusively~~ primarily for lighting or signalization, but which may also include Wi-Fi node facilities. This definition does not include wiring for street lighting, which is required to be underground.
  - Allows Wi-Fi equipment to be located on light poles, bollards, and other structures used for lighting purposes.

TOWN OF LONGBOAT KEY  
PLANNING AND ZONING BOARD  
MINUTES OF REGULAR MEETING

\*\*\*APRIL 19, 2016\*\*\*

The regular meeting of the Planning and Zoning Board was called to order at 9:00 AM by Chair Jim Brown.

Members Present: Chair Jim Brown; Vice Chair BJ Bishop; Secretary Ken Schneier; Members Andrew Aitken, Leonard Garner, Stephen Madva, George Symanski

Also Present: Maggie Mooney-Portale, Town Attorney; Alaina Ray, Planning, Zoning & Building Director; Maika Arnold, Planner; Donna Chipman, Office Manager

AGENDA ITEM 1  
PUBLIC TO BE HEARD  
Opportunity for Public to Address Planning and Zoning Board

No one wished to address the board.

AGENDA ITEM 2  
CONSENT AGENDA

**MRS. BISHOP MOVED APPROVAL OF THE MINUTES OF THE MARCH 22, 2016, REGULAR MEETING AND SETTING THE FUTURE MEETING DATE FOR MAY 17, 2016, REGULAR MEETING. MR. GARNER SECONDED THE MOTION. MOTION WAS APPROVED UNANIMOUSLY.**

AGENDA ITEM 4  
ORDINANCE 2016-12, PERSONAL WIRELESS SERVICES

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, provided an overview of the ordinance noting:

- On November 3, 2015, funding for the Gulf of Mexico Drive Undergrounding Project was approved by the electorate
- On March 15, 2016, funding for the Neighborhood Undergrounding Project was also approved by the electorate

- On April 4, 2016, the Town Commission adopted Ordinance 2016-06, creating a new Chapter 58 – Underground Utilities
- The adoption of the underground ordinance required a ‘tweak’ to the Town’s Personal Wireless Service Facilities Ordinance
- Because the Town would be removing utility poles from the island, there was a need to add language that would accommodate above-ground wireless equipment, which typically were located on light poles or light fixtures
- Since the Town was planning on including a ‘lighting plan’ in conjunction with the undergrounding project, new light fixtures would go up along Gulf of Mexico Drive
- Some of those fixtures might be tall utility light fixtures, or some might be at ground or walking level
- The proposed ordinance included a definition for ‘light fixture’ to address any type of lighting that could be used and where Wi-Fi equipment could be located

Mr. Garner believed the language was contradictory with ‘Wi-Fi’ included; lighting was not exclusive. Ms. Ray responded staff wished to limit it so no other utilities could be affixed to the structure. Mr. Symanski questioned why it did not state, “*utilized exclusively for lighting, common signalization, or Wi-Fi.*”. Ms. Ray pointed out that if it stated “or Wi-Fi” it would no longer be a light fixture. She explained under the ordinance it allowed something that looked like a tree, but did not have lighting, but if it was a fixture that has lighting, that was the primary purpose. Maggie Mooney-Portale, Town Attorney, noted that within the Town Code were illustrative pictures of wireless facilities.

Chair Brown asked if the Town was protected against any utility coming in and saying they want to install a new pole and put up what they wanted within Federal guidelines. Attorney Mooney-Portale responded the precursor to this ordinance was another ordinance that was approved by the Town Commission, which basically states, “all utilities shall be underground from this point forward.” This language ensures the scenario suggested does not occur. The ordinance was to provide for typical ‘Wi-Fi’ nodes, and making it as unobtrusive as possible; it was contemplated that it would provide for that opportunity. Chair Brown discussed Distributive Antenna Systems (DAS) and asked if a provider would be able to install a pole. Ms. Ray reviewed the illustrative pictures contained in Section 158.201 of the Town Code. She pointed out that under the new underground ordinance, the Town did anticipate there might be some unknown technology that would want to be placed above-ground and not included in the list. The list that existed for utilities included cable, telecommunication, etc., but also states not limited to these things. Any service that was provided had to be underground.

Mr. Schneier commented that it seemed to be a narrow thing the Town was wanting to accomplish. He mentioned that at this time wireless nodes can be placed on utility poles, but since the Town would not have utility poles, they were allowing on the lighting poles. He asked why it did not state, “light fixtures shall mean any... or similar structure utilized for lighting.” Ms. Ray responded it might not be a light pole, but lighting affixed to a building, and staff was wishing to add a definition for ‘light fixture,’ and include that a wireless node can be attached on a light fixture. Chair Brown noted there was a need to define ‘light pole’ and then define what was allowed on the light pole.

Ms. Ray reviewed the zoning definition for 'Wi-Fi' and 'DAS.' The definitions themselves did not note every place they can be located, but only defined what they were. Ms. Bishop believed Mr. Schneier's point was to define 'light fixture.'

Discussion continued on:

- Whether the Town would have control over a utility company wanting to install a 'tree' pole; it would have to meet certain standards and was covered in the ordinance
- If there were state requirements that would supersede the Town; staff noted it would be required to be underground
- Once the Town embarked on the undergrounding path, the Town was within their rights in requiring that from this point forward, they would be required to place it underground
- there would be a trigger date where notices would be sent to residents pointing out that under the ordinance, from this date forward, they could not install overhead wires
- If someone was wishing to install a tree, or something else, would it be allowed in a right-of-way; this was covered in the existing code, but if within a right-of-way, they would need to obtain Florida Department of Transportation (FDOT) approval, which was not typically granted for those type structures in a right-of-way

No one else wished to be heard, and the hearing was closed.

**MS. BISHOP MADE A MOTION THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-12, PERSONAL WIRELESS SERVICES, AS WRITTEN. MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; BROWN, AYE; GARNER, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, AYE.**

The Board recessed from 9:20 am – 9:33 am.

## ORDINANCE 2016-12

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING WITHIN TITLE 15 LAND DEVELOPMENT CODE, CHAPTER 158, ZONING CODE; SECTION 158.006, DEFINITIONS; 158.200, PERSONAL WIRELESS SERVICE FACILITIES; SECTION 158.201, PERSONAL WIRELESS SERVICE FACILITY DEVELOPMENT STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING 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**, an Urban Land Institute study was performed for the Town in October 2013 which recommended streetscape enhancements to Gulf of Mexico Drive, to include landscape options that would necessitate removal of overhead wires, as part of a transformation of Gulf of Mexico Drive into a more pedestrian-friendly system; and

**WHEREAS**, the Town recognizes the benefits of improved reliability, safety, and aesthetics of eliminating overhead utility lines within the town's corporate limits; and

**WHEREAS**, the Town seeks to achieve these benefits by requiring the infrastructure for electrical power, telecommunications, video, cable, television, internet, broadband, and similar services be installed underground to the greatest extent possible; and

**WHEREAS**, the Town found it is necessary to revise its Code of Ordinances to incorporate uniform guidelines, standards, and procedures for these underground services; and

**WHEREAS**, those revisions prompted the need for modifications to the Code of Ordinances regulations regarding personal wireless services facilities, for the purpose of maintaining consistency regarding terminology; and

**WHEREAS**, after due public notice, the Town's Planning and Zoning Board held a public hearing on April 19, 2016, to consider the proposed Zoning Code amendments and provided recommendations to the Town Commission as the local governing body; and

**WHEREAS**, after due public notice, the Town Commission held a workshop on May 16, 2016, and considered the recommendations of the Town's Planning and Zoning Board; and

**WHEREAS**, on June 6, 2016, the Town Commission conducted a duly noticed initial public hearing on the proposed Zoning Code amendments; and

**WHEREAS**, on July 5, 2016, the Town Commission conducted a duly noticed second public hearing on the proposed Zoning Code amendments and the Town Commission approved the amendments.

**THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, AS FOLLOWS**

SECTION 1. The above recitals are true and correct and are hereby incorporated fully by reference.

SECTION 2. Chapter 158, Zoning Code, Sections 158.006, Definitions; 158.200, Personal Wireless Service Facilities; and 158.201, Personal Wireless Service Facility Development Standards; are hereby amended as follows:

**Chapter 158 Zoning Code**

**158.006 - Definitions.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Light fixture” shall mean any above ground pole, bollard, ground-mounted pathway light, and other similar structure utilized primarily for lighting or signalization, but which may also include Wi-Fi node facilities. This definition does not include wiring for street lighting, which is required to be underground.

**158.200 - Personal wireless service facilities.**

(B) *Hierarchy of personal wireless service facility preferences.* The town has established the hierarch set forth below for personal wireless service facilities, with (1) being the most preferred and (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 subsections 158.201(A)(2), (3) and (5)).
- (2) The co-location of an antenna on an existing freestanding facility (see subsection 158.201(A)(4)).
- (3) Facilities primarily mounted on existing utility poles and/or light fixtures, such as DAS or similar applications (see subsection 158.201(B)).
- (4) Freestanding facilities (see subsection 158.201(C)).

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

(B) *Personal wireless service facilities primarily mounted on existing utility poles and/or light fixtures.*

- (1) Personal wireless service facilities primarily mounted on existing utility poles and/or light fixtures, 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 and/or light fixture 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/or light fixture and painted the same color as the utility pole and/or light fixture; and
  - 2. Shall not exceed three feet in height, two foot in width, and one foot in depth.

(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~~ fixture or tree. Examples of acceptable and unacceptable freestanding facilities are provided in the following graphics:

SECTION 3. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

SECTION 4. Repeal of Ordinances in Conflict. All other ordinances of the Town of Longboat Key, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

SECTION 5. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption, as provided by law.

Passed on first reading and public hearing the 6<sup>th</sup> day of June, 2016.

Adopted on second reading and public hearing the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

ATTEST:

\_\_\_\_\_  
Jack G. Duncan, Mayor

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



**End of Agenda Item**