

ORDINANCE NO. 2015-008

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AMENDING ARTICLE 40, TELECOMMUNICATIONS TOWERS AND ANTENNAS, OF THE LAND DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, it is the intent of the Town of Southwest Ranches, Florida to exercise its authority to amend its previously enacted rules and regulations under Article 40 of the Land Development Code with respect to the siting of telecommunications towers and antennas within the town and ensure compliance with all applicable federal and State statutory requirements; and

WHEREAS, the Town believes that these amendments are necessary to maintain consistency with federal law, and that they are in the best interest of the health, safety, and welfare, of the community; and

WHEREAS, after notice duly published, a public hearing for First Reading was held before the Town Council on September 15, 2015 at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the Town Council was presented with a text amendment to the Land Development Code, and after due consideration and discussion, unanimously approved the amendment on First Reading; and

WHEREAS, it is the intent of the Town that this Ordinance shall amend the existing regulations codified under Article 40, entitled "Telecommunications Towers and Antennas" Section 040-010 *et seq.* of the Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, THAT:

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this section.

SECTION 2. Article 40, Section 040-010 *et seq.* of the Land Development Code of the Town of Southwest Ranches, Florida, entitled "Telecommunications Towers and Antennas," is hereby amended as follows¹:

¹ Language added is indicated by underline, and language deleted is indicated by ~~strikethrough~~.

Sec. 040-020. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means a use incidental to, subordinate to, and subservient to the main use of the property. As defined in this section, an accessory use is a secondary use.

Antenna means a transmitting and/or receiving device and/or relays used for wireless services that radiates or captures electromagnetic waves, including directional antennas, such as, but not limited to, panel and microwave dish antennas, Digital Antenna System ("DAS"), and omni-directional antennas, such as whips, excluding radar antennas, amateur radio antennas and satellite earth stations.

Antenna support structure means any building or structure, other than a tower, that can be used for the location of telecommunications facilities.

Antenna support structures for personal radio services means any poles, masts, towers and/or support structures for supporting antenna used in the operation of personal radio services.

Base Station means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:

- a. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).
- c. Any structure other than a tower that, at the time the relevant application is filed under this section, supports or houses equipment described in paragraphs (a) or (b) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

Base Station does not include any structure that, at the time the relevant application is filed under this section, does not support or house equipment described in (a) or (b) of this section.

Combined antenna means an antenna or an array of antennas designed and utilized to provide services for more than one (1) carrier.

Distributed Antenna System, or DAS, is a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure. DAS antenna elevations are generally at or below the clutter level and node installations are compact. A distributed antenna system may be deployed indoors (an iDAS) or outdoors (an oDAS).

Eligible Facilities Request means any request for modification of an existing tower or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §1455(a), that does not substantially change the physical dimensions of such tower or base station, involving:

- a. Collocation of new transmission equipment;
- b. Removal of transmission equipment; or
- c. Replacement of transmission equipment,

as such terms are defined by FCC regulations.

Equipment facilities means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply and related structure or enclosure that houses such equipment. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Extraordinary conditions occur subsequent to a hurricane, flood, or other natural hazard or subsequent to a defective finding on a previous inspection.

Guyed tower means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.

Master microcell facility means a telecommunications facility consisting of an antenna (as defined in this section) and related equipment which is located either on a telecommunications tower or affixed to a structure in some fashion for the provision of wireless services.

Microwave dish antenna means a dish-like antenna used to link wireless service sites together by wireless transmission of voice or data.

Monopole tower means a telecommunications tower consisting of a single pole or spire self-supported by a permanent foundation, constructed without guy wires and ground anchors.

Panel antenna means an array of antennas designed to concentrate a radio signal in a particular area.

Personal radio services include the following services as defined by the Federal Communications Commission (FCC) as amended: the General Mobile Radio Service, the Family Radio Service, the Radio Control Radio Service, the Citizens Band Radio Service,

the Low Power Radio Service, the Wireless Medical Telemetry Service, the Medical Device Radio Communications Service, the Multi-Use Radio Service, and the Dedicated Short-Range Communications Service On-Board Units. Personal Radio Services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other wireless services. The range of applications is wide, spanning from varied one- and two way voice communications systems to non-voice data transmission devices used for monitoring patients or operating equipment by radio control. Licensing and eligibility rules vary. Some personal radio services require a license grant from the FCC, while others require only the use of equipment that is properly authorized under the FCC's rules. The personal radio services are: Citizens Band (CB) Radio Service - 1-5 mile range two-way voice communication for use in personal and business activities. Family Radio Service (FRS) - 1 mile range Citizen Band service for family use in their neighborhood or during group outings. General Mobile Radio Service (GMRS) - 5-25 mile range Citizen Band service for family use in their neighborhood or during group outings. Low Power Radio Service (LPRS) - private, one-way communications providing auditory assistance for persons with disability, language translation, and in educational settings, health care, law, and AMTS coast stations. Medical Implant Communications Service (MICS) - for transmitting data in support of diagnostic or therapeutic functions associated with implanted medical devices. Multi-Use Radio Service (MURS) - private, two-way, short-distance voice or data communications service for personal or business activities of the general public. Personal Locator Beacons (PLB) - used by hikers, and people in remote locations to alert search and rescue personnel of a distress situation. Radio Control Radio Service (R/C) - one-way non-voice radio service for on/off operation of devices at places distant from the operator. Wireless Medical Telemetry Service (WMTS) - for remote monitoring of patients' health through radio technology and transporting the data via a radio link to a remote location, such as a nurses' station.

Roofline means the overall ridge line of the structure which does not include cupolas, elevator towers, clock towers or other features that are permitted to exceed the maximum height of the structure.

Self-support lattice tower means a tapered structure, broad at the base and more narrow at the top, consisting of cross-members and diagonal bracing and without guyed support.

Stealth/camouflaged monopole means a telecommunication tower consisting of a single pole or spire self-supported by a permanent foundation, constructed without guy wires and ground anchors and designed to blend into the surrounding environment. Examples of stealth/camouflaged monopole towers telecommunication and/or wireless services towers designed to look like light poles, flag poles, power poles or trees.

Stealth facility means any telecommunications facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof mounted antennas, antennas integrated into architectural elements, and

telecommunication and/or wireless services towers designed to look like light poles, flag poles, power poles, trees or other similar structures.

Telecommunication facility means a combination of equipment which is located either upon a telecommunication tower or a structure which includes some form of antenna for the purpose of transmitting and receiving wireless services.

Telecommunications tower or Tower means a stealth/camouflaged monopole, monopole, self-support/lattice, or guyed tower, constructed as a free-standing structure, containing one (1) or more antennas, used in the provision of wireless services, excluding radar towers, amateur radio support structures licensed by the FCC, private home use of satellite dishes and television antennas and satellite earth stations installed in accordance with applicable needs.

Whip antenna means a cylindrical antenna that transmits and/or receives signals in three hundred sixty (360) degrees.

Sec. 040-030. - Telecommunication tower siting in certain zoning districts.

- (a) Free-standing telecommunication towers shall be located in the following order of hierarchy:
 - (A) Town-owned property;
 - (B) M, manufacturing and industrial district;
 - (C) CB, community business district.
- (b) Town-owned property shall take preference over privately owned property. If the proposed site is other than town-owned property, the applicant shall provide an affidavit stating that there is a demonstrated need for the placement of the facility at that location and that there is not a technically suitable location available to accommodate the need.
 - (A) ~~Free-standing~~ Telecommunications towers shall be deemed a permitted use on any town-owned property in accordance with an executed lease agreement acceptable to the town. The town shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein. The town reserves the right to require a tenant to reimburse the town for reasonable costs incurred in connection with the lease of town property, including consultant and attorneys' fees.
 - (1) The town may, as appropriate, to protect its property and the public interest, establish additional requirements beyond the minimum requirements of a permit for town-owned property. Setback and distance requirements in the town Code may be modified to the extent necessary to provide for the public interest as determined by the town council. This provision further does not preclude the town from issuing a letter of interest for the purposes of leasing sites on designated town property for the construction and installation of telecommunications facilities. For designated town-owned property, the town will encourage the installation of telecommunications facilities which have a

minimal impact on the surrounding areas and are consistent with the development of the affected area.

- (B) Telecommunications towers shall be deemed a permitted use in the M district subject to the applicant showing that he has met the requirements of the minimum standards for the development of towers as specified in this article and subject to site plan review by the town administrator or a designee with final approval by the town council.
- (C) Telecommunications towers shall be deemed a conditional use within the CB District.
 - (1) Each conditional use pursuant to subsection (C) of this section shall be reviewed by the town administrator to determine if said conditional use is appropriate in the area where same is to be placed, based upon the criteria set forth herein, and approval is subject to review by the town administrator or a designee with final approval by the town council.
- (D) Telecommunications facilities may be permitted on existing utility poles as a conditional use pursuant to paragraph (c) in the Florida Power & Light Easement, Use for Major Electric Transmission. Nothing herein shall be deemed to authorize equipment facilities in such Florida Power & Light Easement. No free-standing towers constructed exclusively for wireless service shall be permitted other than as provided in subsections (A), (B) and (C) of this section. No additional rights other than provided herein shall be deemed created by this designation.
- (E) The location of a new telecommunications tower on a property other than those specified in subsection (A), (B), (C) or (D) of this section shall be prohibited.
- (F) Once a telecommunications tower is approved by the town, a building permit application shall be submitted within six (6) months.

Sec. 040-040. - Minimum standards for development of towers.

All telecommunications towers must meet the following minimum standards:

- (A) *Tower types.* To minimize adverse visual impacts, tower types shall be selected based upon the following hierarchy:
 - (1) Stealth/camouflaged monopole.
 - (2) Monopole.
 - (3) Self-support/lattice tower.

The applicant shall be required to demonstrate, in a technical manner acceptable to the town council why each choice in the hierarchy cannot be used for the particular application in order to justify the selection of a tower type lower in the hierarchy.

- (B) *Guyed towers.* Guyed towers shall not be permitted.

(C) *Site development plan required for permit.* Prior to the issuance of a building, electrical, engineering or construction permit, a site development plan shall be presented to the town council. If, however, the proposed tower is located on town property, since the lease agreement will be reviewed by the town council prior to the submittal of a site development plan application, prior to the issuance of a building, electrical, engineering or construction permit, a site development plan shall be presented to the town administrator. Each application for a proposed telecommunications tower shall include all requirements for site development plan approval as required in other sections of the town ULDC. To help ensure compatibility with surrounding land uses, each application for a proposed communication tower shall include the following information:

- (1) The exact location of the proposed tower location on a town official zoning map;
- (2) The maximum height of the tower;
- (3) The location of the proposed tower, placed upon an aerial photograph possessing a scale of not more than one (1) inch equals three hundred (300) feet, indicating all adjacent land uses within a radius of three thousand (3,000) feet from a property line of the proposed tower location site;
- (4) The names, addresses and telephone numbers of all owners of other towers or antenna support structures within the search area of the proposed new tower site, including town-owned property;
- (5) Written documentation that the applicant made diligent but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on all town-owned towers or antenna support structures located within the search area of the proposed tower site;
- (6) Written documentation that the applicant made diligent but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on all towers or antenna support structures owned by other persons located within the search area of the proposed tower site;
- (7) A delineation of the search area needed for the coverage or capacity;
- (8) A line of sight analysis which shall include the following information:
 - a. An identification of significant existing natural and manmade features adjacent to the proposed tower location, to indicate those features that will provide buffering for adjacent properties and public rights-of-way;
 - b. A statement as to the potential visual and aesthetic impacts of the proposed tower on all adjacent residential zoning districts;
 - c. An identification of specific points, measured two thousand (2,000) feet north of the proposed tower, two thousand (2,000) feet south of the

proposed tower, and two thousand (2,000) feet east and west of the proposed tower from which the line of sight analysis is presented or the closest accessible public property from each of the above delineated points;

- d. A graphic illustration of the visual impact of the proposed tower, at a scale that does not exceed five (5) degrees of horizontal distance, presented from specific points identified within the line of sight analysis.
- (9) A report shall be submitted, prepared by a licensed professional engineer, which describes the tower height and design, including a cross section of the structure; through rational engineering analysis demonstrates the tower's compliance with applicable standards as set forth in the building code, latest Broward County edition; and describes the tower's capacity, including number and type of antennas and dishes it can accommodate;
 - (10) Proof of adequate insurance coverage acceptable by the town for any potential damage caused by the tower. Thirty (30) days' notice of cancellation of insurance to the town is required.
 - (11) Such other additional information as may be reasonably required by town staff to fully review and evaluate the potential impact of the proposed tower, including:
 - (i) The existing cell sites (latitude, longitude, power levels) to which this proposed site will be a handoff candidate;
 - (ii) An RF plot indicating the coverage of existing sites, and that of the proposed site;
 - (iii) Antenna heights and power levels of the proposed site;
 - (iv) A written affidavit stating that there are no existing alternative sites within the provided search area, and there are no alternative technologies available which could provide the proposed service enhancement without the tower.

Town staff may utilize the services of a registered professional engineer or a radio frequency engineer who has at least a four (4) year engineering degree to confirm the statements made as a requirement of subsection (11) of this section and may use the services of an outside consultant to assist the town in processing the application. The cost of same shall be borne by the applicant.

- (D) *Standards for new towers.* No new tower shall be built, constructed or erected in the town unless such tower is capable of accommodating, at a future date, additional telecommunications facilities owned by other persons and the tower owners agree to comply with section 040-140, "Existing towers." All new towers shall be designed and built to accommodate multiple users; at a minimum, stealth/camouflaged monopole and monopole towers shall be able to

accommodate three (3) users and at a minimum, self-support/lattice towers shall be able to accommodate four (4) users. As wireless technology advances, applicants may be required to construct facilities utilizing advancing technologies including, but not limited to, combined antennas when determined necessary for health, safety, welfare aesthetics, and compatible with providers technical, capacity and coverage requirements. The applicant shall state in any application for a permit that it will, as a condition of issuance of the permit, accommodate antenna facilities of other providers, on a nondiscriminatory basis on terms which are reasonable in the industry, unless the applicant can affirmatively demonstrate, based on verifiable objective data, why it cannot do so. Refusal to continually comply with this obligation shall be a violation of this article and shall be grounds for revoking the applicant's permit.

- (E) *Noninterference.* Each applicant to allow construction of a telecommunications tower shall include a certified statement, prepared by a radio frequency (RF) engineer who has at least a four (4) year engineering degree or a licensed professional engineer, that the construction and placement of the tower will not unnecessarily interfere with public safety communications and the usual customary transmission or reception of radio and television service enjoyed by adjacent residential and nonresidential properties. A statement shall be prepared by a radio frequency (RF) licensed professional engineer or a radio frequency engineer who has at least a four (4) year engineering degree, identifying any interference that may result from the proposed construction and placement.
- (F) *Access.* A parcel of land upon which a tower is located must provide access during normal business hours to at least one (1) paved vehicular parking space adjacent to each tower location.
- (G) *Towers to comply with FCC standards.* Each application for a telecommunications tower may be required to include a statement that there is no objection from other federal or state agencies that may regulate telecommunications tower siting, design and construction. All proposed telecommunication towers shall comply with current radio frequency emissions standards of the Federal Communications Commission, or other legally regulating body.
- (H) *Waiving requirements.* Requirements in this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town and in the best interest of telecommunication service to the community. Such waiver shall require four (4) affirmative votes of the town council.
- (I) *Notice of public notification.* Notice of an application for a telecommunications tower shall be set via certified mail to all property owners within a fifteen hundred (1,500) foot radius of the affected property. The applicant shall provide the notification mailing labels and shall pay the town's costs for the preparation of the notification letters and the mailing as well as the cost of the certified mailing.

(J) Timeframes for application.

- (1) The town may establish separate applications for the various administrative approvals needed by an applicant including, but not limited to, site plan, zoning compliance, public safety, and building permit reviews.
- (2) Notification of completeness. The town shall notify the applicant within twenty (20) business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed, containing sufficiently reliable information, and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed. If the application has been properly submitted, the application shall be scheduled for the next regularly scheduled public hearing of the Planning and Zoning Board, if such a hearing is required by applicable law.
- (3) Timeframe for decision. Each application for a new tower or antenna shall be approved or denied by the town within ninety (90) business days after the date that the properly completed application is submitted to the town, provided that such application complies with all applicable federal regulations, and applicable local zoning and/or land development regulations, including but not limited to any aesthetic requirements. If applicable law provides for a different time frame, the town shall comply with such law.
- (4) Each application for collocation of a second or subsequent antenna on a tower, building, or structure within the Town's jurisdiction shall be approved or denied by the town within forty-five (45) business days after the date the properly completed application is submitted to the Town, provided that such application complies with all applicable federal regulations, and applicable local zoning and/or land development regulations, including but not limited to any aesthetic requirements. If applicable law provides for a different time frame, the town shall comply with such law.
- (5) For an Eligible Facilities Request, within 60 days of the date on which an applicant submits an application seeking approval of an eligible facilities request, the town shall approve the application unless it determines that the application is not covered by such provision. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the town and the applicant, or in cases where town determines that the application is incomplete.
- (6) Extension and waiver. Unless prohibited by applicable law, where action by a town Board, Committee, or the Town Council is required on an application, the town may, by letter to the applicant, extend the timeframe for a decision until the next available regularly scheduled meeting of the town Board,

Committee, or Town Council. Notwithstanding the foregoing, the applicant may voluntarily agree to waive the timeframes set forth above.

- (7) Emergency extension. In addition to the extensions referenced in subsection C(6), the town shall also have the discretion to declare a one (1) time waiver of the time frames set forth herein in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities in the town.

Sec. 040-050. - Height/setbacks and related location requirements.

- (A) The height of a telecommunication tower shall not exceed one hundred fifty (150) feet, not including nonstructural lightning rods and required safety lightning rods. Tower height shall be measured from the crown of the road of the nearest public street.
- (B) Telecommunication towers shall, at a minimum, conform with the setback established for the underlying zoning district.
- (C) Stealth/camouflaged monopole, monopole, or self-support/lattice telecommunication towers shall not be permitted in proximity to any residential zoned parcel that is within four (4) times the height of the tower. By way of illustration, if the tower is one hundred fifty (150) feet, it must be at least six hundred (600) feet from any residential plot.
- (D) All buildings and other structures to be located on the same property as a telecommunications tower shall conform with the setbacks established for the underlying zoning district.
- (E) The provision in subsection (D) of this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town or compliance with other regulations, and in the best interest of telecommunication service to the community. Any waiver shall require four affirmative votes of the town council.

Sec. 040-060. - Buffering.

- (A) An eight (8) foot high fence or wall, as measured from the finished grade of the site, shall be required around the tower and any accessory buildings or structures. In no case will barbed wire or razor wire fencing be permitted. Access to the tower shall be through a locked gate.
- (B) Landscaping, consistent with the requirements of section 075-070, "Nonresidential perimeter and vehicular use area landscape requirements" shall be installed around the entire outside perimeter of any fence or wall. Additional landscaping may be required around the perimeter of a fence or wall and around any or all anchors or

supports if deemed necessary to buffer in order to enhance compatibility with adjacent residential and nonresidential land uses.

- (C) Landscaping consistent with section 075-070 shall be installed around any accessory buildings or structures.

Sec. 040-070. - High voltage, "No Trespassing" and other warning signs.

- (A) If high voltage is necessary for the operation of the telecommunications tower or any accessory structures, "High Voltage-Danger" warning signs shall be permanently attached to the fence or wall and shall be placed no more than forty (40) feet apart.
- (B) "No Trespassing" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than forty (40) feet apart.
- (C) The letter for the "High Voltage-Danger" and "No Trespassing" warning signs shall be at least six (6) inches in height. The two (2) warning signs may be combined into one (1) sign. The warning signs shall be installed at least five (5) feet above the finished grade of the fence.
- (D) The warning signs may be attached to free-standing poles if the content of the signs may be obstructed by landscaping.
- (E) Signs noting federal registration (if required) shall be attached to the tower structure in compliance with federal regulation.
- (F) The use of any portion of a tower for signs or advertising purposes, including, but not limited to, a company name, banners, streamers, religious icons, etc., shall be strictly prohibited.

Sec. 040-080. Equipment storage facilities.

~~Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility, unless repairs to the facility are being made. Portable emergency generators may be temporarily located at a telecommunications facility in the event of a power outage but must be removed upon resumption of power. Portable "crank up" or otherwise mobile telecommunications facilities may not be located at a telecommunications facility. Nothing in this section shall preclude the placement of a permanent generator onsite; provided that the generator meets the criteria set forth in the town Code and is in compliance with the building code, latest Broward County edition.~~

- (A) Equipment facilities for a telecommunications tower or antennas mounted on a tower shall not occupy more square feet or be of greater height than reasonably necessary and in no event shall exceed one thousand (1,000) square feet of gross floor area not including the surrounding concrete pad, or be more than ten (10) feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.

(B) Equipment facilities used in association with antennas mounted on structures or rooftops shall comply with the following:

1. All equipment facilities for an array on a structure or rooftop shall not exceed six hundred (600) square feet of gross floor area or be more than ten (10) feet in height or as otherwise allowed by the town. This ten (10) foot height limitation shall be measured from the top of the structure or roofline to the highest point of the equipment facility. The base pad shall be considered part of the facility for purposes of measuring the height. In addition, for structures which are less than four (4) stories in height, the related unmanned equipment facility, if over one hundred (100) square feet of gross floor area or six (6) feet in height, including base pad, shall be located on the ground or inside the structure and shall not be located on the top of the structure or rooftop unless the structure is completely screened from site.

2. Providers shall place equipment facilities inside the building or structure where technically feasible. If the equipment facility is located on the roof of a building, the area of the equipment facility and all other equipment and structures shall not occupy more than fifty (50%) percent of the roof area. Once fifty (50%) percent of the roof area has been occupied by telecommunications equipment and all other equipment and structures, no additional antennas or equipment may be placed on that rooftop. The town may grant an exception to this provision allowing for additional equipment on a particular rooftop, if the applicant first, at its own cost, conducts an examination of the structural integrity of the roof to determine whether the roof can accept the placement of additional equipment. The town shall balance this report with the aesthetic issues related thereto in considering whether to allow for additional equipment.

3. The town may require that equipment facilities installed on a building shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting building and shall be screened as required by the town so as to make the equipment facility as visually unobtrusive as possible. The town shall have the discretion to require that any aesthetic screening exceed the height of the equipment associated with the antenna by a minimum of one (1) foot.

(C) Equipment facilities shall comply with all applicable zoning and building codes, including minimum setback requirements as provided herein.

(D) Mobile or immobile equipment not used in direct support of a telecommunications tower shall not be stored or parked on the site of the telecommunication tower, except while repairs or inspections of the telecommunications tower are being made.

(E) All buildings and equipment cabinets shall be unoccupied at all times except for routine maintenance.

(F) Equipment facilities associated with towers or antennas shall not be located in public rights-of-ways unless located underground, on existing utility poles or an existing tower, or in existing buildings adjacent to the public rights-of-ways. All lines and cabling to and from such equipment facilities shall be located underground. Design and size of such equipment facilities shall be subject to regulation of the town.

(G) Portable emergency generators may be temporarily located at a telecommunications facility in the event of a power outage but must be removed upon resumption of power. Nothing in this section shall preclude the placement of a permanent generator onsite; provided that the generator meets the criteria set forth in the town Code and is in compliance with the building code, latest Broward County. Portable emergency generators and permanent generators are required to obtain a permit from the town prior to installation.

(H) All accessory buildings or structures shall meet all building design standards as listed in the town Code and in accordance with the provisions of the building code, latest Broward County edition. All accessory buildings or structures shall require a building permit.

(I) Accessory structures shall be designed to resemble the basic design of the principal use or be designed to resemble the neighborhood's basic building design. In no case will metal exteriors be allowed for accessory buildings or structures.

Sec. 040-090. - Removal of abandoned or unused facilities.

All abandoned or unused telecommunications tower facilities shall be removed by the tower owner/operator within ninety (90) days of the cessation of use. A tower shall be considered abandoned if use has been discontinued for one hundred eighty (180) consecutive days. Telecommunications towers being utilized for other purposes, including, but not limited to, light standards and power poles, may be exempt from this provision where superseded by the requirements of other county, state or federal regulatory agencies. The town may require a bond when issuing a permit to ensure the removal of towers pursuant to this Section.

Sec. 040-100. Signs and advertisingPublic safety and Town communications.

~~The use of any portion of a tower for signs or advertising purposes, including, but not limited to, a company name, banners, streamers, religious icons, etc., shall be strictly prohibited.~~ (A) Town telecommunications facilities and wireless services. The town may reasonably require appropriate space on towers and structures for location of town communications facilities as necessary for the town internal communications, public safety, or public purposes as determined by the town for the health, safety and welfare of the town's residents.

1. The town reserves the right to negotiate with an applicant for a telecommunications tower for space on the proposed telecommunications tower as may be determined by the town and the applicant. If such negotiations do not result in an agreement, the parties shall submit such dispute to mediation under terms to which the parties shall agree.

2. The town may reasonably require a developer or property owner seeking approvals from the town to permit the town without charge to the town to locate town communications facilities on or in their building, on another structure, or on their property to allow for the provision of town public safety or internal communications.

3. All developers or property owners allowing wireless facilities on their buildings, on other structures, or on their property that requires the town's approval shall reserve on their structure or property sufficient space as reasonably specified and required by the town to accommodate town telecommunications facilities.

4. The town may reasonably require a developer or property owner seeking approvals from the town to permit service providers to locate telecommunications facilities on their buildings, on another structure, or on their property with reasonable compensation to allow for the provision of personal wireless services within the town limits.

(B) Interference with town telecommunications facilities. To the extent not inconsistent with applicable law, all service providers of and owners of telecommunications facilities, buildings, or property within the town shall comply with the following:

1. No telecommunications facility, building, or structure shall interfere with any public frequency or town telecommunications facilities. Any service provider that causes interference with any public frequency or the operations of town telecommunications facilities, shall, after receiving notice, rectify the interference immediately.

2. The town shall not issue a building permit for any proposed building that will interfere with town telecommunications facility or public frequency unless such building complies with this Division.

Sec. 040-110. Accessory buildings or structures. Personal radio antenna support structures.

~~(A) All accessory buildings or structures shall meet all building design standards as listed in the town Code and in accordance with the provisions of the building code, latest Broward County edition. All accessory buildings or structures shall require a building permit.~~

~~(B) Accessory structures shall be designed to resemble the basic design of the principal use or be designed to resemble the neighborhood's basic building design. In no case will metal exteriors be allowed for accessory buildings or structures~~

Antenna Support Structures used in the operation of Personal Radio Services shall be exempted from the provisions contained within this Article except as noted within this Section. Personal radio services' Antenna Support Structures shall be governed by the following:

(A) Application requirements and fees. An application shall comply with the requirements of Sections 040-040 (C)(1), (3), (4) and (8). The town may establish a filing fee for such application. The timeframes for review contained within Section 040-040 (J) shall not apply to such application. Other application requirements may be requested as determined by the Department completing the review.

(B) Required reviews and permits.

1. By right review. Applications for Antenna Support Structures less than fifty (50) feet in height shall be submitted to the Building and Zoning Department for review and permit issuance.
2. Conditional use review. Antennas Support Structures greater than fifty (50) feet in height require conditional use review pursuant to the Conditional Use provisions of the Zoning Code. Conditional use review applications shall be submitted to the Planning Department for review. The Department shall provide a recommendation which shall be forwarded for public hearing review by the town Council at which all interested persons shall be afforded an opportunity to be heard.
3. Permits shall be required for installation of all Antenna Support Structures.
4. If approval is recommended and/or granted, town staff and town council may proscribe conditions and safeguards to such approval.

(C) Requirements.

1. Such Antenna Support Structures as a minimum shall be subject to the following standards.
 - a. Measurement of height. In computing the height of the installation, the top section of the pole, mast or tower, including antennae array, when fully extended, shall be considered the top for the purpose of these provisions.
 - b. Permitted locations and number permitted. A maximum of one (1) Antenna Support Structure shall be permitted on each building site with a A-1, A-2, RE and RU zoning districts.
 - c. Building site location. Antenna Support Structures shall be located behind the required primary/principle building within the rear and interior side yard of the property. Antenna Support Structures are prohibited within the front and side street yard areas.
 - d. Setbacks. Antenna Support Structures shall maintain the same rear and side setbacks as required for the principal building of the building site. All of the above shall also be a minimum of eight (8) feet from any overhead utility line(s) and power line(s). Where such Antenna Support Structure is located on a building site which is fronting upon two or more streets and/or alleys, the Antenna Support Structure shall maintain the same primary/principle building setback as required for each such street or alley.

- e. Dismantling/tilting provisions for Antenna Support Structures exceeding fifty (50) feet in height. An Antenna Support Structure exceeding fifty (50) feet in height shall have the capability of being cranked up and down or being tilted over. Tilted Antenna Support Structures shall comply with all setbacks contained herein. In case of an impending hurricane or other natural disasters, the Antenna Support Structure shall be cranked down to its nested position or tilted over and antenna shall be removed. Antennae engaged in emergency communications shall be exempted from the dismantling provisions.

- f. Installation. The installation or modification of an Antenna Support Structure and foundation shall be in accordance with the manufacturer's prescribed installation and safety procedures and shall meet all applicable town, State and Federal requirements, as amended including but not limited to following: Florida Building Code, town Code, Zoning Code, National Electric Code and F.C.C. regulations.

(D) Violations. Violations of any conditions and safeguards, when made part of the terms under which the application is approved, shall be deemed grounds for revocation of the permit and punishable as a violation of the Zoning Code.

Sec. 040-120. - Colors.

Except where superseded by the requirements of other county, state, or federal regulatory agencies possessing jurisdiction over telecommunications towers, telecommunications towers shall be painted or constructed in neutral colors, designed to blend into the surrounding environment such as noncontrasting gray.

Sec. 040-130. - Inspection report required.

- (A) Telecommunication tower owners shall submit a report to the town administrator certifying structural and electrical integrity on the following schedule:
 - (1) Stealth/camouflaged monopole towers: once every two (2) years;
 - (2) Monopole towers: once every two (2) years;
 - (3) Self-support/lattice towers: once every two (2) years.

- (B) Inspections shall be conducted by an engineer licensed to practice in the state. The results of such inspections shall be provided to the town administrator. Based upon the results of an inspection, the town administrator may require repair or removal of a telecommunication tower.

- (C) The town may conduct periodic inspections with the cost of such inspection paid by the tower owner of the telecommunications tower to ensure structural and electrical

integrity. The owner of the telecommunication tower may be required by the town to have more frequent inspections if there is evidence that the tower has a safety problem or is exposed to extraordinary conditions.

Sec. 040-140. - Existing towers.

- (A) All telecommunications towers existing ~~on May 10, 2001, (as of~~ the effective date of this ordinance,) which do not meet the requirements of this article shall be considered legally nonconforming under this section and allowed to continue their legal usage as they presently exist, provided that they comply with applicable federal and state regulations of the with the exception of federal regulations relating to the health and safety of exposure levels as defined by the Occupational Safety and Health Act as amended and radio frequency (RF) exposure levels as defined by Federal Communications Commission regulations. Any modification of a legal nonconforming tower must be submitted for review as required herein for modifications, ~~however, approval shall may be granted by the town council.~~ New construction, other than routine maintenance on an existing telecommunications tower, shall comply with the requirements of this section.
- ~~(B) Notwithstanding the provisions of subsection (A) of this section, telecommunications antennas may be placed on existing towers with sufficient loading capacity after approval by the town administrator. The capacity shall be certified by an engineer licensed to practice in the state.~~
- ~~(C) Any owner of land upon whose parcel of land a tower is located, which contains additional capacity for installation or collocation of telecommunications facilities, shall allow other persons to install or collocate telecommunications facilities on such a tower subject to reasonable terms and conditions negotiated between the parties and subject to the terms of the original tower agreement.~~
- ~~(B)~~ (D) An existing tower may be modified to accommodate collocation of additional telecommunications facilities as follows:
- (1) Application for a development permit shall be made to the town administrator who shall have the authority to issue a development permit without further approval by the town council.
 - (2) The total height of the modified tower and telecommunications facilities attached thereto shall not exceed the pre-modification height approved for that location. If no height restriction was specified for such tower, the collocation may increase the height pursuant to applicable federal law.
 - (3) A tower that is being rebuilt to accommodate the collocation of additional telecommunications facilities may be moved on site subject to the setback requirements of the zoning district where the tower is located.

(4) A request to collocate or an eligible facilities request for Additional antennas, communication dishes and similar receiving or transmission devices proposed for attachment to an existing telecommunications tower, shall require review of the town council administrator. The application for approval to install additional antennas shall include certification from an engineer registered in the state indicating that the additional device installed will not adversely affect the structural integrity of the tower, providing an explanation that it complies with the requirements of an eligible facilities request under federal law regulations, and complies with all requirements on the tower when approved. A visual impact analysis shall be included as part of the application for approval to install one (1) or more additional devices to an existing tower. However, a request to add equipment on an existing tower that does not satisfy the requirements for an eligible facilities request under federal law or collocation under state law shall require the review and approval addition of up to two (2) antennas per sector, ~~of similar profile to those existing on an existing antenna sectorized "platform," shall not require review of the town council.~~ Applicants must still demonstrate the structural integrity of the tower with the additional antennas to the town prior to construction.

Sec. 040-150. - Permit fees, application and inspection fees required.

(A) *Permit required.* Construction without a town permit is prohibited. No construction shall be started until a permit to construct has been granted by the town administrator. At the time of filing the construction drawings and documents referred to herein, the developer or owner or applicant as the case may be shall provide a detailed cost analysis of the cost of construction of the telecommunications facilities covered by this section. The applicant, developer, or owner, as the case may be, shall pay the town permit fees in accordance with the schedule of permit fees of the town Code.

(B) *Application fee required.* A filing fee in an amount necessary to cover the costs for the processing of the application shall be submitted for site development approval. In addition, a biennial inspection fee in the amount necessary to cover the costs of the inspection process is due to the town at the time of inspection. In addition to application fees, the town reserves the right to charge applicants reasonable costs and fees for experts and consultants used for a particular application.

Sec. 040-160. - Maintenance.

(A) Providers shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(B) Providers shall install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in substantial compliance with the requirements of the National Electrical Safety Code and all FCC, state and local regulations, and in such a manner that will not interfere with the use of other property.

(C) All towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(D) All maintenance or construction on a tower, telecommunications facilities or antenna support structure shall be performed as provided by law.

(E) All antennas and towers shall maintain compliance with current radio frequency emissions standards of the FCC.

(F) In the event any portion of the use of the tower is discontinued by any provider, that tower owner ~~provider~~ shall provide written notice to the town of its intent to discontinue use and the date when the use shall be discontinued. The tower owner shall obtain a permit from the town to remove the tower.

Sec. 040-170. - Antennas not located on telecommunications towers.

(A) *Districts where permitted.* Stealth and nonstealth rooftop or building-mounted antennas not exceeding twenty (20) feet above the roofline and not exceeding ten (10) feet above maximum height of the applicable zoning district shall be permitted as a conditional use in the following districts:

- (1) Town-owned property.
- (2) M, manufacturing and industrial district.
- (3) CB, community business district.

(B) *Approval subject to site plan review.* The approval of any antenna not located on telecommunications towers shall be subject to site plan review by the town administrator or a designee with a showing that the minimum standards as specified in this ULDC have been met with a final approval by the town council.

(C) *Preference for town-owned property.* Town-owned property shall take preference over privately owned property. If the proposed site is other than town-owned property, the applicant shall provide an affidavit stating that there is a demonstrated need for the placement of the facility at that location and that there is not a technically suitable location available to accommodate the need.

- (1) Stealth and nonstealth rooftop or building-mounted antennas shall be deemed a permitted use on any town-owned property in accordance with an executed lease agreement acceptable to the town. The town shall have no obligation whatsoever to execute such lease even if the applicant can meet the criteria set forth herein. The town may, as appropriate, to protect its property and the public interest establish additional requirements beyond the minimum requirements of a permit for town-owned property. Setback and distance requirements in the town ULDC may be modified to the extent necessary to provide for the public interest as determined by the town council. This provision further does not preclude the town from issuing a letter of interest for the purposes of leasing sites on designated town property for the construction and installation of telecommunications facilities. For designated town-owned property, the town will encourage the installation of telecommunications

facilities which have a minimal impact on the surrounding areas and are consistent with the development of the affected area.

(D) *Minimum standards.* Buildings or rooftop antennas shall be subject to the following standards:

- (1) No commercial advertising or religious icons shall be allowed on an antenna;
- (2) No signals, lights, or illumination shall be permitted on an antenna, unless required by the Federal Communications Commission or the Federal Aviation Administration;
- (3) Any related unmanned equipment building shall not contain more than seven hundred fifty (750) square feet of gross floor area or be more than twelve (12) feet in height;
- (4) If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than twenty-five (25) percent of the roof area;
- (5) Each application shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices. This shall be subject to administrative approval for consistency with the definition of stealth facility;
- (6) Antennas shall only be permitted on buildings which are at least two (2) stories in height;
- (7) Antennas may not exceed more than ten (10) feet above the highest point of a roof. Stealth antennas attached to, but not above rooftop structures shall be exempt from this provision;
- (8) Antennas and related equipment buildings shall be located or screened to minimize the visual impact of the antenna upon adjacent properties and shall be of the material or color which matches the exterior of the building or structure upon which it is situated;
- (9) When located on a building facade, building mounted antennas shall be painted and texturized to match the existing building.

Requirements in this section may be waived where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town and in the best interest of telecommunication service to the community.

(E) *Antenna types.* To minimize adverse visual impacts, antenna types shall be selected based upon the following hierarchy:

- (1) Panel.
- (2) Dish.
- (3) Whip.

If a nonstealth antenna is proposed, the applicant shall be required to demonstrate, in a technical manner acceptable to the town, why each choice in the hierarchy cannot be used for the particular application in order to justify the selection of an antenna type

lower in the hierarchy. This does not preclude a combination of the various types of antennas.

(F) *Antenna dimensions.* A statement shall be submitted, prepared by a professional registered engineer licensed to practice in the state, or a radio frequency engineer who has at least a four (4) year engineering degree, who is competent to evaluate the suitability of antenna types, to certify the need for required dimensions.

(G) *Aircraft hazard.* Prior to the issuance of a building permit, the application shall provide evidence that the telecommunications towers or antennas are in compliance with Federal Aviation Administration (FAA) regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is mounted, such evidence shall not be required.

Sec. 040-180. - Shared use of communication towers.

(A) Notwithstanding any other provision of this article, to minimize adverse visual impacts associated with the proliferation and clustering of telecommunication towers, collocation of facilities on existing or new towers shall be encouraged by:

- (1) Only issuing permits to approved shared facilities at locations where it appears there may be more demand for towers than the property can reasonably accommodate; or
- (2) Giving preference to approved shared facilities over other facilities in authorizing use at particular locations.

~~(B) No development approval to develop, build, construct, or erect a tower pursuant to this section shall be granted to any person on the basis that it is economically unfeasible for such person to collocate or install its telecommunications facilities on a tower or antenna support structure owned by another person.~~

(BE) Collocation of communication antennas by more than one (1) provider on existing or new telecommunications tower shall take precedence over the construction of a new single-use telecommunications tower. Accordingly, each application for a telecommunications tower shall include the following:

- (1) A written evaluation of the feasibility of sharing a telecommunication tower, if appropriate telecommunications towers are available. The evaluation shall analyze one (1) or more of the following factors:
 - a. Structural capacity of the towers;
 - b. Radio frequency interference;
 - c. Geographical search area requirements;
 - d. Mechanical or electrical incompatibility;
 - e. Inability or ability to locate equipment on the tower;
 - f. Availability of towers for collocation;
 - g. Any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower;

h. Additional information requested by the town.

(2) The town may deny an application if an available collocation is feasible and the application is not for such collocation.

(3) For any telecommunications tower approved for shared use, the owner of the tower shall provide ~~notice, via certified mail, upon request,~~ of the location of the telecommunications tower and sharing capabilities ~~to all other wireless tower users in the county.~~

(4) The owner of any telecommunications tower approved for shared use shall cooperate and negotiate fairly with all other possible tower users regarding collocation ~~leases.~~

(5) Requirements in this section may be waived where it is determined that based upon site, location, or facility, such waiver is in the best interest of the health, safety, welfare, or aesthetics of the town and in the best interest of telecommunication service to the community. Any waiver shall require four affirmative votes of the town council.

(D) A filing fee in the amount necessary to process the collocation application shall be submitted upon the application for collocation approval.

Sec. 040-190. - Satellite receiving antenna (SRA).

(A) *Defined.* As used in this section, the term "satellite receiving antenna" means a round dish-like antenna larger than one (1) meter (39.37 inches) in diameter, intended to receive signals from orbiting or geo-stationary satellites and other sources, or to link wireless service sites together by wireless transmission of voice or data.

(B) *Single- and two-family residential standards.*

(1) Any SRA located on residential property shall be restricted to residential use.

(C) *Nonresidential and multifamily standards.*

(1) All SRAs shall be ground-mounted and located in the rear yard so as not to be visible from any public right-of-way.

(2) A SRA may not be located in the rear yard if the rear lot lines abut a public right-of-way or lands zoned residential.

(3) Landscaping, including shrubs a minimum of thirty-six (36) inches on all sides, an opaque screen (e.g., wood fence, translucent mesh, etc.), or both, shall be incorporated on any dish located in a rear yard.

(4) No SRA shall exceed twenty (20) feet in height measured from grade. No dish shall exceed fifteen (15) feet in diameter.

(5) Nonresidential SRAs may be considered for roof installation, provided that application is made to the development review committee as a conditional use and the same shall be granted or denied by the town council. Roof-mounted SRAs must be screened by parapets that appear to be an integral part of the building so that not more than twenty-five (25) percent of the antenna height is visible from the grade level of adjacent property and adjacent public or private rights-of-way.

(6)All SRAs shall not be light reflective. Dish antennas shall not have any sign copy on them nor shall they be illuminated.

(7)Each person wishing to place SRAs in nonresidential and multifamily zoned property shall make application to development review committee as a conditional use and the same shall be granted or denied by the town council.

(8)There shall be no more than one (1) antenna as described in subsection (A) of this section on any plot. However, where business is licensed by the town as a dealer of electronic equipment, such business may have two (2) antennas as described in subsection (A) of this section for their plot.

Sec. 040-200. - Payment to the town for telecommunication towers and antennas.

All monies received for the leasing of town property for telecommunication towers and antennas shall be deposited in the town's general fund.

Sec. 040-210. - Waiver.

Any provision of this article may be waived by the town council where it is determined that based upon site, location or facility, such waiver is in the best interest of the health, safety, welfare or aesthetics of the town or compliance with other regulations, and in the best interest of telecommunication service to the community. Any waiver shall require four (4) affirmative votes of the town council.

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Town's Land Development Code, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order to accomplish such intention.

SECTION 6. This Ordinance shall become effective upon the date of its adoption herein.

PASSED ON FIRST READING this 15th day of September, 2015 on a motion made by Council Member McKay and seconded by Council Member Breitreuz.

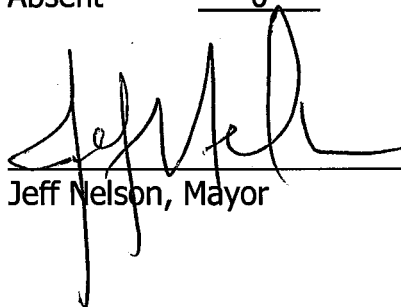
PASSED AND ADOPTED ON SECOND READING this 29th day of

September, 2015, on a motion made by Council Member Breitkreuz and

seconded by Council Member McKay.

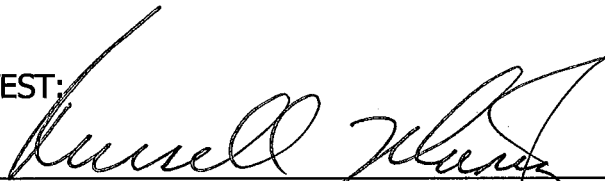
Nelson	<u>Yes</u>
Fisikelli	<u>Yes</u>
Breitkreuz	<u>Yes</u>
Jablonski	<u>Yes</u>
McKay	<u>Yes</u>

Ayes	<u>5</u>
Nays	<u>0</u>
Absent	<u>0</u>



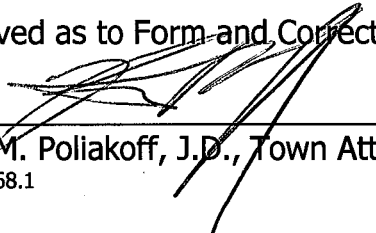
Jeff Nelson, Mayor

ATTEST:



Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:



Keith M. Poliakoff, J.D., Town Attorney
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