

ORDINANCE NO.1394

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REQUIRE ABOVE-GROUND CABLES LOCATED IN WHOLE OR IN PART WITHIN A RIGHT-OF-WAY TO BE REMOVED AND DISPOSED OF IMMEDIATELY WHEN CUT OR REPLACED AND TO BE REMOVED WITHIN 14 DAYS OF WHEN IT IS NO LONGER IN USE; REPEALING ORDINANCES TO THE EXTENT OF ANY CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach ("City") regulates Facilities in its Right-of-ways and defines Facility broadly to include items such as electric and communications cables or conduit, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, and hand holes; and

WHEREAS, the City has experienced problems with above-ground cables or conduit, ducts and fiber optic, particularly those related to communications services or facilities, being left in place after they have been cut or have been replaced, and

WHEREAS, this has resulted in visual clutter that negatively impacts the aesthetics of the City, creates potential safety hazards, and causes concern to citizens who do not know which cables are live or capable of carrying dangerous levels of voltage; and

WHEREAS, the City is entitled under its home rule authority to pass regulations related to health, safety and welfare except where prohibited by law; and

WHEREAS, Section 337.401, Florida Statutes, confirms that the City may adopt reasonable regulations generally applicable to all providers of communications services relating to the placement or maintenance of communications facilities in its roads or rights-of-way; and

WHEREAS, Section 337.401, Florida Statutes, requires that, in addition to any other notice requirements, a municipality must provide to the Secretary of State, at least ten days prior to consideration on first reading, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way; and

WHEREAS, the City has provided a copy of this ordinance to the Secretary of State for review at least ten days prior to consideration on first reading.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance Section 19-159 of the Code of Ordinances of the City of Panama City Beach, related to duties associated with right-of-way permits is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Sec. 19-159. - Abandoned facilities.

- A. Upon abandonment of a Facility owned by a Permittee in a Right-of-way, the Permittee shall notify the City within 90 days.
- B. The City may direct the Permittee by written notice to remove all or any portion of such abandoned Facility at Permittee's sole expense if the City determines that the Facility compromises safety for a Right-of-way user; prevents another from locating Facilities in that portion of Right-of-way when alternative locations not available; or creates a disruptive maintenance condition. If Permittee fails to remove all or any portion of an abandoned Facility as directed by the City within the reasonable time period required by the City under the circumstances, the City may perform such removal and charge the cost of the removal against the Permittee.
- C. In the event that the City does not direct the removal of the abandoned Facility, the Permittee, by its notice of abandonment to the City, shall be deemed to consent to the alteration or removal of all or any portion of the Facility by the City or another person at such third person's cost.
- D. **Notwithstanding the forgoing, the following more specific rules apply to all above-ground cables, conduits, ducts, fiber optics or poles located in whole or in part within a right-of-way:**
 - a. **Any communication cable, conduit, duct or fiber optic which is attached to a pole or tower and which has been cut shall be removed and disposed of immediately.**
 - b. **Any communication cable, conduit, duct or fiber optic shall be removed from a pole or tower and disposed of at the time a new or alternate cable has been attached for a similar purpose and the old cable is no longer in use.**
 - c. **In all other cases, a communication cable, conduit, duct, fiber optic or pole shall be removed and disposed of within 14 days following the date that it is no longer in use or has been disconnected from service.**
 - d. **The duty to remove unused facilities falls first to the owner of the unused or abandoned facilities, their successors or assigns, and if no such person or entity exists, to the entity owning or controlling the use of the pole or tower on which the unused or abandoned cable, conduit, duct or fiber optic is located.**

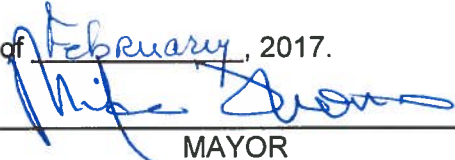
SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such

publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 9th day of February, 2017.


MAYOR

ATTEST:


CITY CLERK

EXAMINED AND APPROVED by me this 9th day of February, 2017.


MAYOR

Published in the Panama City News Herald on the 26th day of January, 2017.

Posted on pcbgov.com on the 13th day of February, 2017.