ORDINANCE NO. 2001-79

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE VI SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 12. ANTENNAS AND TOWERS, SUBDIVISION IV WIRELESS COMMUNICATION TOWERS AND ANTENNAS, OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING HIALEAH, FLA., CODE § 98-2362 ENTITLED "PERMITS" TO PROVIDE A SWORN STATEMENT THAT THE APPLICANT OR PERMITTEE WILL NOT INTERFERE WITH THE CITY OF HIALEAH PUBLIC SAFETY COMMUNICATIONS SYSTEM AND PROVIDE SUCH OTHER INFORMATION AND CERTIFICATIONS AS REASONABLY REQUIRED BY THE CITY, AND PAYMENT OF A $300 PROCESSING AND APPROVAL FEE IN ADDITION TO THE BASIC PERMIT FEE; AND PROVIDE THAT THE INSTALLATION AND OPERATION OF SUCH COMMUNICATION TOWERS AND ANTENNAS WILL NOT INTERFERE WITH THE CITY PUBLIC SAFETY COMMUNICATIONS SYSTEM; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of September 12, 2001 recommended approval of this ordinance in substantial form; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific purpose and intent of this ordinance is to require wireless carriers who request and obtain permits for wireless communication towers to certify, and then operate, without interference with the City of Hialeah public safety communications system.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY

COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article VI. Supplementary District Regulations, Division 12 Antennas and Towers, Subdivision IV Wireless Communication Towers and Antennas, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising HIALEAH, FLA., CODE § 98-2362 entitled "Permits", to read as follows:

Chapter 98

ZONING

* * *

ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS

* * *

Division 12. Antennas and Towers

* * *

Subdivision IV. Wireless Communication Towers and Antennas

* * *

Sec. 98-2362. Permits.

(a) *Required.* Permits shall be required for the installation of communication towers by application submitted to the planning and development department.

(b) *Applications.* A building permit application shall be fully completed and accompanied by the following:

(1) Current survey of the property.

(2) Description of the telecommunications services currently provided and/or will be provided in the future by the applicant over its telecommunications facilities.

(3) Two copies of engineering plans and specifications of the facilities in sufficient detail to identify:

a. Location of the proposed facilities.

b. Location of all overhead and underground public utility, telecommunications, cable, water, sewer, drainage and other facilities.

c. Trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.

(4) Written approval or a statement of no objection from federal and state agencies that may regulate telecommunication tower siting, design and construction.

(5) A site/landscaping plan showing the specific placement of the communication tower on the site indicating the location of existing structures, trees and other significant site features, type and location of landscaping used to screen the tower; and the proposed color of the tower.

(6) A statement that the applicant shall notify all other telecommunication providers of the permit application at time the application is accepted by the planning and development department.

(7) A sworn statement that the proposed tower will not interfere with the city's public safety communications system and such other certifications or information that the city may reasonably require.

(8) Payment of the basic permit fee charged by the building division.

(9) Payment of a processing and approval fee by the fire department in the amount of $300.

(c) *Installation.* Installation shall conform to the following:

(1) The installation and modification of a communication tower and communication antenna shall be in accordance with the manufacturer's prescribed installation and safety procedures and shall meet the requirements of the South Florida Building Code, as amended.

(2) Foundations for communication towers and appurtenances thereto shall be constructed and installed so as to withstand the forces due to wind pressure as provided in the South Florida Building Code, as amended.

(3) All such installations shall conform to the South Florida Building Code, as amended; the National Electrical Code, as amended; and Federal Communications Commission regulations, as amended.

(4) The placement, construction and operation of such installations shall not interfere with the city's public safety communications system.

(45) Regardless of whether a permit is required for the installation of the communication tower, separate building permits for structural or electrical work, pouring concrete or other work may be required as provided in the South Florida Building Code, as amended.

Section 2: **Repeal of Ordinances in Conflict.**

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

Section 3: **Penalties.**

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such

violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 9th day of October, 2001.

Julio Robaina
Council President

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Attest:

Daniel F. DeLoach, City Clerk

Approved on this 12th day of October, 2001.

Mayor Raul L. Martinez

Approved as to form and legal sufficiency:
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William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

ORDINANCE was adopted by a unanimous vote with Councilmembers Bovo, Casas, Gonzalez, Ponce, Robaina, Yedra and Zuñiga voting "Yes".