

**SYNOPSIS OF AMENDING THE CODE OF SOUTH BETHANY BY ADDING A
NEW CHAPTER TO BE ENTITLED “WIRELESS INFRASTRUCTURE
CONSTRUCTION” TO ESTABLISH UNIFORM POLICIES AND PROCEDURES
FOR THE DEPLOYMENT AND INSTALLATION OF SMALL WIRELESS
FACILITIES IN RIGHTS-OF-WAY WITHIN THE TOWN OF SOUTH
BETHANY’S JURISDICTION
ORDINANCE 196-19 (FIRST READING)
(Sponsored by Mayor Saxton)**

The purpose of this ordinance is to establish uniform policies and procedures for the deployment and installation of small wireless facilities in rights-of-way within the Town of South Bethany’s jurisdiction, in the interests of the public health, safety, welfare, integrity and interests of the Town of South Bethany and its residents, and in compliance with requirements under federal law governing wireless infrastructure.

ORDINANCE NO. 196-19

AN ORDINANCE TO AMEND the Code of the Town of South Bethany by adding a new chapter to be entitled “Wireless Infrastructure Construction” to establish uniform policies and procedures for the deployment and installation of small wireless facilities in rights-of-way within the Town of South Bethany’s jurisdiction, in the interests of the public health, safety, welfare, integrity and interests of the Town of South Bethany and its residents, and in compliance with requirements under federal law governing wireless infrastructure.

BE IT HEREBY ENACTED by the Council of the Town of South Bethany, Sussex County, a majority thereof concurring in Council duly met, that the following ordinance be and hereby is adopted, as follows:

**Chapter 143
Wireless Infrastructure Construction**

**ARTICLE I
Small Wireless Facilities**

- § 143-1 Authority.**
- § 143-2 Purpose.**
- § 143-3 Definitions**
- § 143-4 Permit Required**
- § 143-5 Application Contents.**
- § 143-6 Processing of Application and Time Frames**
- § 143-7 Fees.**
- § 143-8 Abandonment.**
- § 143-9 Collocation.**
- § 143-10 Exclusions and Non-applicability.**
- § 143-11 Repeal and Severability; Conformity with Federal Law.**

**Article I
Small Wireless Facilities**

§143-1. Authority. This chapter is authorized by § C-4B (29) of the Town Charter.

§ 143-2. Purpose

The purpose of this ordinance is to establish uniform policies and procedures for the deployment and installation of small wireless facilities in or on rights of way within the Town of South Bethany’s jurisdiction, in the interests of the public health, safety, welfare, integrity and interests of the Town of South Bethany and its residents, and in compliance with requirements under federal law governing wireless infrastructure.

§ 143-3. Definitions

The terms below, as used herein, shall have the following meanings:

ABANDONMENT or ABANDON(S)

Following the placement of DAS and/or small cell technologies facilities (and associated accessory equipment) or support structures in the Town pursuant to a permit issued to a provider or an applicant, the facility shall be considered abandoned if any of the following has occurred: (1) for any reason the facilities cease to be used to transmit signals, data or messages or otherwise be used for their intended purposes for a period of 90 days; (2) the Town revokes the permit for placement and use of those facilities due to nonpayment of applicable fees or other authorized reason; (3) the failure of the provider or applicant to comply with conditions in the permit or in this chapter; (4) or the provider or applicant fails to perform any of its responsibilities, obligations and requirements in this chapter or in a permit that relate to the installation, construction, maintenance, use or operation of the facilities, accessory equipment or support structures, and that breach remains uncured for a period of 60 days after the Town provides written notice of the breach to the provider or applicant.

ACCESSORY EQUIPMENT

Any equipment other than an antenna that is related to and used in conjunction with DAS and/or small cell technology facility arrangements. This equipment may be attached to or detached from a DAS and/or small cell technology wireless support structure, and includes, but, is not limited to, cabinets, optical converters, power amplifiers, radios, DWDM and CWDM multiplexers, microcells, radio units, fiber optic and coaxial cables, wires, meters, pedestals, power switches, and related equipment on a support structure. The term does not include the structure of improvements on, under, or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber optic cable this is between wireless support structure or utility poles or coaxial or fiber optic cable that is otherwise not immediately adjacent to, or directly associated, with an antenna.

ANTENNA

Communications equipment that transmits and receives electromagnetic radio signals, pursuant to FCC authorization, is attached to a DAS and/or small cell technology wireless support structure and is used to communicate wireless service. Each individual antenna shall be no more than 3 cubic feet in volume.

APPLICANT

Whether singular or plural, a personal wireless service provider, wireless infrastructure provider, or an entity (including one that is not a provider) that is authorized by a personal wireless service provider to apply for or receive a

permit to install, construct, manage, modify or maintain a DAS and/or small cell technology facility and related accessory equipment or support structure in the Town, or an entity certificated by the Delaware Public Service Commission to provide telecommunication service.

APPLICATION

A formal, written request submitted to the Town for a permit to install, deploy, construct, collocate, modify or maintain a DAS and/or small cell technology facility and related accessory equipment or support structure.

COLLOCATION

The placement or installation of antenna(s), a new DAS and/or small cell wireless technology facility or related accessory equipment on an existing pole or other support structure that is owned, controlled or leased by a utility, the Town, or other person or utility.

DAS and/or SMALL CELL TECHNOLOGY WIRELESS SUPPORT STRUCTURE or SUPPORT STRUCTURE

Whether singular or plural, a freestanding structure designed or used to support, or capable of supporting, DAS and/or small cell technology facilities, including, but not limited to, utility poles, street light poles, traffic signal structures, rooftops, attics, or other enclosed or open areas of a building or accessory structure, a sign, or a flag pole. Such structures shall be subject to the size limitations as described herein.

DAS or DISTRIBUTED ANTENNA SYSTEM

A network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure. Also, those facilities commonly referred to as “small cell” or “small wireless.” A DAS, small cell or small wireless facility means a wireless facility that meets both of the following qualifications:

- a. Each antenna is no more than 3 cubic feet in volume; and
- b. All associated wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume; and
- c. The facility(ies) shall be: mounted on structure(s) measuring 50 feet in height or less, including antennas, which structure(s) shall be no more than 10% taller than other adjacent structures; or
- d. Mounted on existing structure(s) where the addition of the facility(ies) does not extend the structure to a height of more than 50 feet or by more than 10%, whichever is greater.

The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

DISTRIBUTED ANTENNA SYSTEM FACILITIES and/or SMALL CELL TECHNOLOGY FACILITY or FACILITIES

Whether singular or plural, includes the following types of structures: antenna; and associated accessory equipment, used for the provision of personal wireless service.

DEPLOYMENT

Means placement, construction, or modification of a DAS, small cell or personal wireless service facility.

PERMIT

A written authorization required by, and/or granted by the Town to perform an action or initiate, continue or complete a project.

PERSONAL WIRELESS SERVICE PROVIDER or PROVIDER

An entity that provides personal wireless communication services to the public or citizens of the Town on a commercial basis and is authorized by the FCC to provide those services.

PRIVATE PROPERTY

Real property located in the Town that does not lie within the right-of-way.

RIGHT-OF-WAY

Whether singular or plural, the surface and space in, upon, above, along, across, over and below any public street, highways, roads, alleys, sidewalks, and bicycle lanes, including all public easements, as the same now or may hereafter exist that are within the Town's corporate boundaries and under the control and jurisdiction of the Town. This term shall not include state or federal rights-of-way or any property owned and controlled by any person or entity other than the Town.

TOWN

The Town of South Bethany, Delaware.

TOWN COUNCIL

The Town Council of the Town of South Bethany, Delaware.

WIRELESS INFRASTRUCTURE PROVIDER

Any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, facilities or support structures, but that is not a provider.

§143-4. Permit Required.

- A. A Permit shall be required to place DAS and/or small cell technology facilities in rights-of-way or on Town-owned property under the following conditions:
- (1) A provider or applicant must obtain an infrastructure permit from the Town before placing, installing, constructing, or operating any DAS and/or small cell technology facility (and associated accessory equipment) on any support structure that is located on the right-of-way, or substantially modifying the position or characteristics of any such existing facility thereon.
 - (2) The Town Manager (or his/her designee) will review and administratively process any request for a permit to determine, in the exercise of the Town Manager's (or his/her designee's) reasonable discretion, if a permit should be issued for the location and in the manner requested by the applicant. In this process, the provider or applicant must demonstrate that the placement of the proposed DAS and/or small cell technology facility and associated accessory equipment or support structure on the right-of-way is a reasonable physical installation, in compliance with all applicable laws and regulations, which will achieve the goal of enhancing the provision of personal wireless services when considering all pertinent factors discussed in the provision immediately below. Except as set forth in this section, this permitting process will be administrative and not require the approval of any Town Council member or Town official other than the Town Manager (or his/her designee). In the event the Town Manager is unable or unavailable to perform his/her duties or identify a designee in accordance with this paragraph, the Mayor shall be the Town Manager's designee for purposes of this paragraph.
 - (3) The grant of a small wireless infrastructure permit shall not constitute a grant of, or excuse application for, any other permit (e.g. building or excavation permit) which may be required by the Town or other authority for installation of facilities, support structures or associated equipment.
- B. In addition to the contents of the Application, the following factors, requirements and guidelines may be considered and applied by the Town Manager (or his/her designee) when

determining whether to issue a permit for placement of DAS and/or small cell technology facilities and associated structures on the right-of-way include, but are not limited to, the

- (1) The character of the area in which the structures are requested, including surrounding buildings, properties and uses;
- (2) Whether the structures are consistent with the historic nature and characteristics of the requested location, where applicable in a historic district;
- (3) The availability of alternative sites for providing personal wireless communications services in the subject area;
- (4) Balancing the accommodation of wireless facilities as needed to facilitate communications services with the need to avoid overcrowding of, or impairment of uses on, the existing right-of-way.
- (5) Collocation. To the extent practical, all facilities and associated accessory equipment that are placed in the Town should presumptively be attached to a preexisting support structure or an in-place replacement support structure that increases the height above grade of the preexisting support structure no more than 10 feet, unless a greater height is approved by the Town Council, and that is owned, controlled or leased by a utility, franchisee, the Town or other entity. If the applicant submits evidence that collocation is unsuitable for a particular application, or that no collocation opportunities exist in the area where a documented need for a facility exists, the applicant may request that a new pole of other support structure be installed in that area for the purposes of constructing the facilities.

C. Before a permit is issued for erection of any new support structure, each of the following must be established:

- (1) The applicant must have provided the Town written certification that no practical collocation opportunity exists. This evidence shall include, but not be limited to, affidavits, correspondence, or other written information that demonstrates that the applicant has taken commercially reasonable actions to achieve collocation in the required location or area, that the applicant has pursued but been

denied access to all potential collocation sites in the subject area [and the reasons for any such denial(s)], and otherwise show that the applicant is unable to co-locate on an existing support structure;

- (2) If a facility is attached to a utility pole or other support structure in the right-of-way, no antenna or other part of the facility shall extend more than 10 feet above the height of such support structure, or 50 feet in total height, whichever is greater;
 - (3) Any accessory equipment shall, if reasonably possible, be placed at least 10 feet above the ground;
 - (4) The color of antenna and accessory equipment shall be compatible with that of the support structure;
 - (5) The facility (including accessory equipment) shall not be illuminated;
 - (6) The facility shall not interfere with public safety communications;
 - (7) Determination of whether the proposed installation may interfere with vehicular traffic or sight lines, cause damage to root systems or canopy of trees, or interfere with passage of pedestrians; maintenance of the right-of-way, or other use of the right-of-way by the public; and
 - (8) If the proposed installation will disturb conditions on the right-of-way, whether the applicant agrees to, and can demonstrate its ability and financial resources to, restore the subject area to its preexisting condition following installation.
 - (9) The Town Manager must recommend the placement of the new support structure in the right-of-way; and
 - (10) Town Council must approve the placement of the new support structure in the right-of-way.
- D. Denial of Application. If an Application is denied, the denial shall be issued in writing with reasons provided for the denial.

§ 143-5. Application contents.

- A. Each application for a permit shall contain all of the following:
- (1) Engineering drawings, engineering or similarly detailed drawings depicting the type, description and size of facilities, support structure, and means and points at which such facilities and associated accessory equipment will be attached to a support structure;
 - (2) Copies of permits or documents evidencing compliance of all facilities and accessory equipment with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC (including radio frequency emissions), pertaining to such facilities, upon request by the Town.
 - (3) Map(s) designating with specificity the location(s) of the requested facilities;
 - (4) The geographic coordinates of all antenna and other proposed facilities;
 - (5) If the facilities will be located on a support structure on the right-of-way that is owned by any entity other than the Town or the applicant, a copy of any license, lease, agreement or other written documentation, which may be redacted to remove protected information of a commercially sensitive or proprietary nature, evidencing that the owner of that support structure authorizes the facilities to be attached thereto.
 - (6) If the applicant requests permission to place facilities on a new support structure, the criteria set forth at § _____ of this chapter shall apply.
- B. Additional requirements and maintenance of facilities.
- (1) Any provider or applicant to whom a permit is issued, and that places facilities and associated support structures on the right-of-way, shall also comply with the following requirements so long as those facilities and support structures are on or under the right-of-way:
 - (2) Prior to installing the facilities or support structures, the applicant shall provide the Town a certificate(s) of

insurance evidencing that it has obtained and will maintain the following types of insurance in connection with its operations on or use of the right-of-way: general liability coverage insuring the risk of claims for damages to persons or property arising from or related to the installation, construction, maintenance, operation or any use of facility of support structure placed on or along the right-of-way by the applicant (or any of their contractors) with minimum limits of \$1,000,000.00 per occurrence; and workmen's compensation insurance as required by statute. The general liability coverage shall list the Town as an additional insured, and may be provided through a combination of a primary and umbrella policies. All insurance policies shall be furnished by insurers who are authorized to transact business in the State of Delaware. On an annual basis following initial installation, the applicant also shall furnish the Town a certificate indicating that the above-noted coverage remains and will remain in effect. In lieu of the insurance requirements above, an applicant may provide a certificate of self-insurance sufficient to satisfy the above amounts.

- (3) All facilities and associated support structures shall be installed, erected, maintained and operated in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC.
- (4) The Town Manager or his/her designee shall at all times have the right to request inspection of any facility in the public right-of-way to ensure compliance with health and safety standards. Owner, applicants and/or providers shall reasonably cooperate with such inspections and provide any information needed or requested.
- (5) Owner, applicant and/or provider may be required to complete an annual report regarding the status of its system(s) and other information that the Town may require.
- (6) The facilities and associated support structures must at all times be maintained in good and safe condition. On no more frequent than a triennial basis, the Town Manager (or his/her designee) may request that the provider or applicant, at either of their expense, furnish certification from a professional engineer who is licensed in the State of Delaware that the facilities and support structures are in sound condition. Should that engineer deem those

structures unsound, the provider or applicant shall furnish to the Town Manager (or his/her designee) a plan to remedy any unsafe conditions or structural defect(s) and take that remedial action at the provider or applicant's expense.

- (7) Upon reasonable request and for good cause, following the installation of any facilities and associated support structures, the Town Manager (or his/her designee) may require the provider or applicant to submit a written certification from a licensed professional engineer in the State of Delaware stating that those structures have been inspected and are being maintained, operated and used in compliance with all applicable laws and regulations, including those of the FCC that pertain to the transmission of wireless communication signals. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the facilities and associated support structures may have been damaged, are not functioning in compliance with applicable laws and regulations, or otherwise may pose a hazard to the public. If those support structures should fail at any time to comply with applicable laws and regulations, the provider or applicant, at either of their expense, shall cause those structures to be brought into compliance with said laws and regulations within 20 days of the date of any written notice to them from the Town Manager (or his/her designee) of noncompliance, and/or cease all personal wireless service operations related to those structures until the applicant or provider comes into full compliance with said laws and regulations.
- (8) Each applicant or provider that applies for a permit to place facilities (including accessory equipment) and support structures on the right-of-way and installs and utilizes those structures shall defend, indemnify and hold the Town, and its employees, officials and agents harmless from all damages, losses, expenses (including attorney's fees and court costs), demands or claims for personal injury, death or property damage, judgments or liabilities or any type that may be asserted or claimed against the Town (or its employees, agents and officials) by any third person, firm or entity, where such liabilities arise out of or relate in any manner to the following: the installation, construction, maintenance, use or operation of the permitted facilities, accessory equipment or any support structure on or about the right-of-way; and/or the failure of the provider or

applicant (or their agents or representatives) to perform any of their respective responsibilities, obligations and permit requirements in this chapter. Notwithstanding the foregoing, the provider or applicant shall not be obligated to indemnify the Town for claims or losses resulting from the sole negligence or willful acts of the Town (or its representatives).

- (9) A wireless infrastructure provider seeking to install support structures must demonstrate it has a bona fide contract with a wireless service provider to install, construct, modify, maintain or operate wireless communications facilities in the right-of-way in which such installation, construction, modification, maintenance or operation is to occur within one year of approval by the Town of permit(s) for such installations and, in all cases, before installation or construction actually begins.
- (10) By placing facilities and support structures in the right-of-way, owner, applicant and/or provider agrees to allow reasonable placement of public-service, government-related equipment (e.g. cameras, street lights) upon their support structures, provided said government equipment will not interfere with provider's system. Responsibility for maintenance of structures shared between provider and any other public and/or private user shall be by separate agreement between the users of the structure.

§ 143-6. Processing of Applications and Time Frames.

- A. The Town shall act upon applications seeking authorization for deployments in the categories set forth below, within the following presumptive time frames:
 - (1) Review of an application to deploy/collocate a Small Wireless Facility using an existing structure: 60 days.
 - (2) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.
 - (3) These time frames may be extended or amended upon written agreement between the applicant and the siting authority.
 - (4) Dates under this Chapter are to be determined by counting forward, beginning on the day after the date when the

application was submitted, the applicable number of calendar days, provided, that if a date calculated in this manner falls upon a Saturday, Sunday or legal State or Federal holiday, the applicable date shall be the next business day after such date.

B. Batching.

- (1) If a single application seeks authorization for multiple deployments, all of which fall within category (A)(1) or (A)(2) above, then the presumptively reasonable period of time for acting upon the application as a whole is equal to that for a single deployment within that category.
- (2) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (A)(1) and deployments that fall within paragraph (A)(2) of this section, then the presumptively reasonable period of time for acting upon the application as a whole is 90 days.

C. Incomplete Applications. An application shall not be deemed complete until the applicant has submitted all documents, information and forms specifically enumerated in this chapter that pertain to the location, construction or configuration of the facilities or support structures at the requested location(s).

- (1) Within 10 days after an initial application for permit is submitted, the Town shall notify the applicant in writing if any additional information is needed to complete that application or supplemental information is required to process the request.
- (2) Upon timely notification of an incomplete application, the 30-day time period set forth at §_____ herein, shall begin again at zero days on the day the applicant provides all of the requested information to make the application complete.
- (3) If the Town notifies the applicant of an incomplete application between days 11 and 29 after submission, the 30-day time period shall be tolled where it stands until the applicant resubmits.

- (4) If the Town does not notify the applicant in writing that the application is incomplete within 30 days following its receipt, the application shall be deemed complete.
- (5) If any resubmission is incomplete, the ensuing 30-day time period shall again be tolled, provided that the applicant is notified within 10 days of the resubmission date.
- (6) For any incomplete application or resubmission, the Town shall identify the missing documents or information required and the specific law, rule or regulation which requires the missing documents or information.
- (7) The time frames and tolling provisions above may be extended or modified by written agreement between the applicant and the Town.

§143-7 Fees.

- A. Permit and administrative fees. The applicant for a permit to place facilities and/or associated support structures on the right-of-way shall pay the following types of fees upon submission of any application:
 - (1) An initial application fee of \$500 shall be assessed to each applicant, upon its initial application to the Town for small wireless placement facility permits. Such initial application may include permit requests for up to five (5) small wireless facilities (each facility to be situated on an existing approved support structure on the right-of-way). Any subsequent applications by the same applicant, or an initial application for placement of more than 5 small wireless facilities, shall be assessed a fee for each small wireless facility (each situated on an existing approved support structure on the right-of-way), in the amount of \$100 per facility, or such other amount as may subsequently be established by the Town Council; and
 - (2) An application fee of \$1000 shall be assessed to any applicant for each installation of a new pole (support structure), not a collocation, intended to support one or more small wireless facilities. Said fee shall be in addition to any applicable small wireless permit fee(s) referenced at subsection (A)(1).

B. Annual administrative fees.

- (1) To compensate the Town for right-of-way access; Town's cost to review and inspect each installation and/or otherwise to administer this chapter, the provider or applicant shall pay an annual administrative fee to the Town in the amount of \$270 per small cell technology facility or such other amount as may be established by the Town Council. The annual administrative fee shall be paid each year a permit is in effect.
- (2) The first annual administrative fee to be paid by a provider or applicant shall be due and payable within 45 days of issuance of a permit and shall be prorated for the calendar year during which the permit is initially issued. Annual administrative fees for each permit year thereafter shall be due and payable, in advance, on or before the first business day of each calendar year. Annual administrative fees not paid in a timely manner and as required by this paragraph shall be assessed interest at the rate of 1% per month, commencing on the first day after the due date.

§143-8. Abandonment.

- A. Abandonment of facilities on right-of-way. If a provider or applicant abandons any facility (including but not limited to the accessory equipment) or an associated support structure (collectively "facilities" for purposes of this chapter) that is located on the right-of-way, the following rights and obligations shall exist. The Town may require the provider or applicant, at their expense, to remove and reclaim the abandoned facilities within 60 days from the date of written notice of abandonment issued by the Town, and to reasonably restore the condition of the property at which the facilities are located to that existing before they were installed.
- B. If the provider or applicant fails to remove and reclaim its abandoned facilities within such 60 day period and the facilities are located on the right-of-way, the Town shall have the right to remove them and charge expenses of any such removal operation to the provider or applicant; to purchase all abandoned facilities at the subject location from the provider or applicant in consideration of \$1, and at the Town's discretion, either resell the abandoned facilities to a third party or dispose and salvage them. Additionally, the Town shall have the right to charge to the Applicant any expense incurred by the Town in

removing, storing or disposing of facilities and in restoring the right-of-way to its pre-installation condition.

§143-9. Collocation.

To promote the public interest that is served by co-locating facilities and associated accessory equipment on existing support structures and thereby mitigating the installation of additional support structures throughout the Town, no person or entity (including any provider, applicant, utility, or franchisee) that utilizes an existing support structure that is located on the right-of-way or access an existing support structure for purposes of attached facilities permitted by this chapter without sound operational, technological or other good reason.

§143-10. Exclusions and Non-applicability.

- A. Franchise agreements for other uses of right-of-way. This chapter regulates the placement of antennas, DAS and/or small cell technology facilities (and associated accessory equipment) on or in the immediate vicinity of support structures that are located or proposed to be locating in the right-of-way. No provision in this chapter or elsewhere in this chapter is intended to permit, regulate or authorize the placement by a provider or applicant of fiber optic lines, coaxial cable, switches, pedestals or networking equipment of any type that is used to transport telecommunication signals, data or messages between support structures or between any other points in the right-of-way. Any agreements for the placement of such equipment or similar shall be as permitted by law, and by separate written agreement with the Town as to areas along the right-of-way at points not regulated by this chapter.
- B. Commercial cell phone communication facilities, including but not limited to, DAS support structures and other structures, are prohibited on private properties in the Commercial and Residential Zones unless approved by the Town Council upon a showing that such prohibition will violate the provision of personal wireless service under federal law.
- C. Non-applicability. The placement of an antenna(s), facilities or equipment related to the following types of wireless communication services are exempt from regulation under this Chapter: amateur radio service that is licensed by the FCC if the facilities related thereto are not used or licensed for any commercial purpose; and facilities used by any federal, state or local government or agency to provide safety or emergency services. Further, the provisions in this Chapter are

supplemental to, and not intended to alter, affect or modify other provisions in the Town of South Bethany Code that may be applicable to the placement or use of macro telecommunications towers. Nor is this Chapter intended to revoke or modify any contracts which may previously have been entered into, unless preempted by federal law.

§143-11. Repeal and Severability; Conformity with Federal law.

- A. All ordinances or parts of ordinances heretofore adopted by the Town Council of the Town of South Bethany, Delaware, that are inconsistent with the provisions of this Chapter are hereby expressly repealed.
- B. If any part, section or subdivision of this chapter shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this chapter, which shall continue in full force and effect notwithstanding such holding.
- C. This Chapter is intended to comply with, and shall automatically be deemed amended as necessary to comply with and conform to, any mandatory and duly enacted regulations, requirements or limitations which may be established by an authorized federal agency regulating the subject matter.

Effective date: This chapter shall become effective immediately upon adoption and publication as provided by law.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BETHANY, SUSSEX COUNTY, DELAWARE, ON THE ____ OF _____ 2019.

SEAL:

Tim Saxton, Mayor

Carol Stevenson, Council Secretary

ATTEST:_____

1st Reading: 10/11/19
2nd Reading:

Sponsored by Mayor Saxton
TS:phs:Ordinance 196-19
First Reading