ORDINANCE NO. 2017-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 16, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, ENTITLED “STREETS, ROADS AND PUBLIC WAYS”; RENAMING ARTICLE IV OF CHAPTER 16 AS “UTILITY PLACEMENT WITHIN THE PUBLIC RIGHTS-OF-WAY,” AND AMENDING PROVISIONS THEREIN; ADDING A NEW ARTICLE V TO CHAPTER 16 TO BE ENTITLED “COMMUNICATIONS FACILITIES AND UTILITY POLES WITHIN THE PUBLIC RIGHTS-OF-WAY,” TO INCLUDE DIVISION 1 “IN GENERAL,” DIVISION 2 “AT-GRADE FACILITY, BELOW-GRADE FACILITY, WIRELINE FACILITY, AND UTILITY POLE STANDARDS,” AND DIVISION 3 “WIRELESS FACILITY STANDARDS”; AMENDING SECTION 10-6.812, ENTITLED “COMMUNICATION ANTENNAS AND COMMUNICATION ANTENNA SUPPORT STRUCTURES”; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, this Ordinance promotes the public health, safety and general welfare by regulating the siting of communications facilities and utility poles within the public rights-of-way; and

WHEREAS, this Ordinance accommodates the growing needs and demand for communications services; and

WHEREAS, this Ordinance seeks to expressly address new communications facilities technologies, while also protecting, preserving, and maintaining the aesthetic character of areas where such rights-of-way exist; and

WHEREAS, Section 337.401, Florida Statutes, addresses inter alia, the authority of local governments to regulate the placement and maintenance of communications facilities in the public rights-of-way; and

WHEREAS, rules and regulations imposed by a local government relating to communications service providers that desire to place or maintain communications facilities in its rights-of-way must be generally nondiscriminatory and competitively neutral; and

WHEREAS, Section 337.401(3)(g), Florida Statutes, provides that a local government may not use its authority over the placement of facilities in its rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or Federal Communications Commission, including, but not limited to, the operations, systems, qualifications, services, service quality, service territory, and prices of a provider of communications services; and
WHEREAS, Section 337.401(7), Florida Statutes, addresses inter alia, the authority of local governments to adopt by ordinance objective design standards requiring a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements, objective design standards requiring a new utility pole intended to support the collocation of small wireless facilities that replaces an existing facility to be of substantially similar design, material, and color, and reasonable spacing requirements concerning the location of ground-mounted equipment; and

WHEREAS, Section 337.401(7)(d)(12), Florida Statutes, provides that a local government may adopt by ordinance provisions for placement of communications facilities in the rights-of-way for insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, county liability, and county warranties provided such provisions are reasonable and nondiscriminatory; and

WHEREAS, it is the County's intent to exercise its authority over communications services providers, wireless infrastructure providers and pass-through providers' placement and maintenance of communications facilities in County rights-of-way; and

WHEREAS, it is the County's further intent to treat each such communications services provider in a reasonable, nondiscriminatory and competitively neutral manner in exercising such authority; and

WHEREAS, the County's rights-of-way are essential for the travel of persons and the transport of goods throughout the County and are a unique and physically limited resource requiring proper management by the County in order to ensure public safety, maximize efficiency, minimize costs to County taxpayers for the foregoing uses, reasonably balance the potential inconvenience to and negative effects upon the public from the placement and maintenance of communications facilities in the rights-of-way against the substantial benefits that accrue from such placement and maintenance, and promote the public health, safety and general welfare; and

WHEREAS, it is the County's intent to implement the Advanced Wireless Infrastructure Deployment Act as provided in Section 337.401(7), Florida Statutes; and

WHEREAS, it is the further intent of the County to exercise its authority to adopt reasonable and nondiscriminatory rules and regulations to the fullest extent allowed by Federal and State law; and

WHEREAS, the County adopted Resolution 01-14 thereby electing to increase the Communications Services Simplified Tax rate in lieu of collecting permit fees from providers of communications services; and

WHEREAS, the County has reviewed its Ordinances, and has received input from representatives of the communications service industry and other interested stakeholders, and as a result of the foregoing has concluded that the County Code must be updated, in conformance with Federal and State laws and rules, in order to adequately regulate the County's rights-of-way regarding placement and maintenance of utility infrastructure, and existing, new and expanded communications facilities in the County's rights-of-way; and
WHEREAS, adoption of the following Ordinance is necessary to satisfy the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

SECTION 1. Chapter 16, Article IV of the Code of Laws of Leon County, Florida, is hereby renamed "Utility Placement Within the Public Rights-of-way" and amended to read as follows:

ARTICLE IV. UTILITY PLACEMENT WITHIN THE PUBLIC RIGHTS-OF-WAY

Sec. 16-80. Intent, Purpose and Applicability.

The County hereby declares as a legislative finding that the public rights-of-way within the County are a unique and physically limited resource that are critical to the travel and transport of persons and property within the County; that the public rights-of-way must be managed and controlled in a manner that enhances the health, safety and general welfare of the County and its citizens; and that the use and occupancy of the public rights-of-way by providers of public utilities must be subject to regulation to ensure public safety, minimal inconvenience to the public, coordination of uses, maximization of available space, reduction of maintenance and costs to the public, and to facilitate entry of an optimal number of providers of public utilities, and other services in the public interest.

It is the intent of the County to promote the public health, safety and general welfare by: adopting and administering reasonable rules, regulations and general conditions not inconsistent with State and federal law, including Section 337.401, Florida Statutes, as amended, and other federal and State law; minimizing disruption to the Public Rights-of-way; and requiring the restoration of the Public Rights-of-way to the original condition.

This Article shall apply to any public or private entity who seeks to construct, maintain, repair, operate, and/or remove lines for the transmission of public utilities that are not providing communications services as defined in Section 202.11(1), F.S., under, on, over, across, or within the public rights-of-way, including but not limited to water, sewage, gas, power, and television, or as regulated by a franchise, as applicable. The transmission of communications services, as defined in Section 202.11(1), F.S., or the construction, placement, installation, maintenance or operation a communications facility or utility pole in the public rights-of-way, shall be governed by the provisions of Chapter 16, Article V.

Sec. 16-81. Permit Required.

In accordance with Section F.S. §-125.42, F.S., any person who desires to construct, maintain, repair, operate, or remove lines for the transmission of water, sewage, gas, power, telephone, other public utilities, and television under, on, over, across, or within the right-of-way limits of and along any eCounty highway or any public road or highway acquired by the eCounty or public by purchase, gift, devise, dedication, or prescription shall be required to obtain a license from the eCounty...
providing communications services to register with the county in accordance with the provisions of this article.

Sec. 16-82. Provisions of License.

Any such license granted by the county or registration filed with the county shall contain adequate provisions:

(1) To prevent the creation of any obstructions or conditions which are or may become dangerous to the traveling public;

(2) To require the licensee and/or registrant to repair any damage or injury to the road or highway created during the installation of a utility facility and to repair said road or highway promptly, restoring the same to a condition at least equal to that immediately prior to the infliction of such damage or injury;

(3) Whereby the licensee and/or registrant shall hold the Board of County Commissioners of Leon County, Florida, members and officers, agents, and employees thereof harmless from the payment of any compensation or damages resulting from the exercise of the privileges granted in any instrument creating such license and/or by being required to register with the county;

(4) As may be reasonably necessary for the protection of the county and the public.

Sec. 16-83. When bond may be required.

The Board of County Commissioners or designee may require the licensee and/or registrant-permittee to furnish performance bonds, maintenance bonds, and/or a security fund cash bond to ensure compliance with the provisions of this Article.

Sec. 16-84. Fees authorized.

The Board of County Commissioners may adopt by resolution a fee schedule relating to hereby authorized to charge reasonable fees for the issuance of licenses hereunder and utility placement permits, such fees to be established in accordance with section 16-87.

Sec. 16-85. Term of license.

A license under this Article may be granted in perpetuity or for a term of years, subject, however, to termination by the county. The renewal of any license granted hereunder may be authorized by the county Administrator, or his or her designee. A utility required to file a registration hereunder, shall be required to update said registration annually.
Sec. 16-86. Moving or removal of utility lines.

In the event of widening, repair, or reconstruction of any road, the licensee or registrant shall move or remove any water, gas, sewage, power, telephone, and other utility lines and video service lines, communications services, and television facilities at no cost to the County should they be found by the County to be interfering, except as provided in Section 337.403, F.S., as amended.

Sec. 16-87. Authority to implement article.

The Board of County Commissioners, County Administrator or designee is authorized to adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this Article to the extent allowed by law. A rights-of-way manual shall be developed by the County to outline engineering requirements and procedures for the placement and maintenance of utilities within the Leon County rights-of-way. This rights-of-way manual shall be separately approved and adopted by resolution of the Board of County Commissioners.

Sec. 16-88. Noncompliance unlawful.

It shall be unlawful for any person to construct, maintain, repair, operate, or remove lines for the transmission of water, sewage, gas, power, telephone, other public utilities, communications services, and television under, on, over, across, or within the right-of-way limits of and along any road described in Section 16-81 above without fully complying with this Article or the rules and regulations promulgated hereunder.

Sec. 16-89. Penalty.

Any person violating this Article or the rules and regulations promulgated hereunder shall be punished as provided in Section 1-9.

SECTION 2: Chapter 16 of the Code of Laws of Leon County, Florida, is hereby amended to create a new article to be numbered Article V and entitled "Communications Facilities and Utility Poles Within the Public Rights-of-way," which shall hereafter read as follows:

ARTICLE V. COMMUNICATIONS FACILITIES AND UTILITY POLES WITHIN THE PUBLIC RIGHTS-OF-WAY

Division 1. In General.

Sec. 16-100. Intent, purpose and applicability.

The County hereby declares as a legislative finding that the Public Rights-of-way within the County are a unique and physically limited resource that are critical to the travel and transport of persons and property within the County; that the Public Rights-of-way must be managed and controlled in a manner that enhances the health, safety and general welfare of the County and its citizens; and that the use and occupancy of the Public Rights-of-way by Providers must be subject to
regulation to ensure public safety, minimal inconvenience to the public, coordination of uses, maximization of available space, reduction of maintenance and costs to the public, and to facilitate entry of an optimal number of providers of cable, Communications Services, and other services in the public interest.

It is the intent of the County to promote the public health, safety and general welfare by: providing for the Placement or Maintenance of Communications Facilities in the Public Rights-of-way; adopting and administering reasonable rules, regulations and general conditions not inconsistent with State and federal law, including Section 337.401, Florida Statutes, as amended, and in accordance with the provisions of the Federal Telecommunications Act of 1996, as applicable, and other federal and State law; establishing reasonable rules, regulations and general conditions necessary to manage the Placement and Maintenance of Communications Facilities in the Public Rights-of-way by all Providers; minimizing disruption to the Public Rights-of-way; and requiring the restoration of the Public Rights-of-way to the original condition.

This Article shall apply to any Person who seeks to transmit Communications Services or to Construct, Place, install, Maintain or operate a Communications Facility or Utility Pole in the Public Rights-of-way, unless otherwise exempt by operation of Applicable Codes, or State or federal laws or regulations.

Persons seeking to Place or Maintain Communications Facilities on private property or other property to which the City, County, State, or Federal Government has a fee simple or leasehold interest in real property, outside of and exclusive of the Public Rights-of-way, located within the jurisdictional boundaries of the County, shall comply with the provisions of Section 10-6.812 to the extent it applies.

Sec. 16-101. Authority to implement Article.

The County Administrator is authorized to adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this Article. A rights-of-way manual shall be developed by the County to outline engineering requirements and procedures for the Placement and Maintenance of Communications Facilities and Utility Poles within the Public Rights-of-way. This Rights-of-way Manual shall be separately approved and adopted by resolution of the Board of County Commissioners.

Sec. 16-102. Definitions.

For purposes of this Article, the following terms, phrases, words and their derivations shall have the meanings given. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. Words not otherwise defined shall be construed to have their common and ordinary meaning.

Abandonment or Abandoned means the cessation of all uses of a Communications Facility or Utility Pole for a period of one hundred eighty (180) or more consecutive days provided this term...
shall not include the cessation of all use of a Communications Facility within a physical structure
where the physical structure continues to be used for some purpose or use accessory to the
Communications Facility. By way of example, cessation of all use of a cable within a conduit, where
the conduit continues to be used for some purpose or use accessory to the Communications Facility,
shall not constitute Abandonment of a Communications Facility. A Wireless Infrastructure Provider’s
failure to have a Wireless Service Provider provide service through a Small Wireless Facility
collocated on a Utility Pole within nine (9) months after the application is approved in accordance
with Section 337.401(7)(j), F.S., shall constitute Abandonment. The terms Abandonment or
Abandoned are not intended to include a Service Drop from a potential or existing customer in the
event the Provider reasonably anticipates future use of the Service Drop.

Abut, when used in conjunction with a Lot, Parcel or Public Rights-of-way, means a Lot,
Parcel or Public Rights-of-way that shares all or a part of a common lot line or boundary line with
another Lot, Parcel or Public Rights-of-way.

Adjacent Properties or Properties Adjacent means (i) those Lots or Parcels that Abut another
Lot, Parcel or Public Rights-of-way that is contiguous to a Communications Facility site or proposed
site and (ii) the Lots, Parcels or Public Rights-of-way that would be contiguous to Lots, Parcels or

Antenna means communications equipment that transmits or receives electromagnetic radio
frequency signals used in providing Wireless Services.

Applicable Codes means uniform building, fire, electrical, plumbing, or mechanical codes
adopted by a recognized national code organization or local amendments to those codes enacted
solely to address threats of destruction of property or injury to persons, or local codes or ordinances
adopted to implement Section 337.401(7), F.S. The term includes objective design standards adopted
by ordinance that may require a new Utility Pole intended to support the Collocation of a Small
Wireless Facility that replaces an existing pole to be of substantially similar design, material and
color or that may require reasonable spacing requirements concerning the location of ground-
mounted equipment. The term includes objective design standards adopted by ordinance that may
require a small wireless facility to meet reasonable location context, color, stealth, and concealment
requirements.

Applicant means any Person who submits an application to the County for an effective
Registration or a Permit to Place or Maintain a Communications Facility or Utility Pole within the
Public Rights-of-way.

As-built Plans means a set of drawings in a format as specified by the County Engineer
submitted by the Applicant upon completion of a project which drawings reflect all changes to
original plans made during the construction process, and show the exact dimensions, geometry and
location of all elements of the work completed under the Permit.

At-grade Facility means a Communications Facility, the structure of which is affixed to the
ground at-grade with a portion of the structure extending vertically above grade. At-grade Facilities
may also, but need not necessarily, extend vertically below grade. Utility Poles and ground-mounted
equipment installed as part of a Small Wireless Facility shall not be considered At-grade Facilities.

Authority Utility Pole means a Utility Pole owned by the County and is located within the Public Rights-of-way. This term does not include a Private Utility Pole.

Below-grade Facility means a Communications Facility, including manholes or access points, that are entirely contained below-grade within the Public Rights-of-way. A Below-grade Facility is a type of Wireline Facility.

Board or Board of County Commissioners means the Board of County Commissioners of Leon County, Florida.

Canopy Road Tree Protection Zones shall have the meaning ascribed to it in Section 10-1.101.

City means, as indicated by the context used, either Tallahassee, Florida, as a geographic location, or Tallahassee, Florida, a Florida municipal corporation, as a legal entity.

Code means the Code of Laws of Leon County, Florida.

Code Enforcement Board shall mean the Leon County Code Enforcement Board created by Article II of Chapter 6, Leon County Code of Laws.

Collocation or Collocate means to install, mount, Maintain, modify, operate, or replace one or more Wireless Facilities on, under, within, or adjacent to a Utility Pole. The term does not include the installation of a new Utility Pole in the Public Rights-of-way.

Communications Facility means any tangible thing located in the Public Rights-of-way that may be used to deliver, route, receive, transmit, amplify or distribute Communications Services. Multiple cables, conduits, strands, or fibers located within same conduit shall be considered one Communications Facility. This term includes Wireless Facilities and Wireline Facilities.

Communications Services means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence of hereafter devised, regardless of the protocol used for such transmission or conveyance. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to a voice-over-internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added. Notwithstanding the forgoing, the term does not include:

(a) Information services;
(b) Installation or maintenance of wiring or equipment on a customer’s premises;
(c) The sale or rental of tangible personal property;
(d) The sale of advertising, including, but no limited to, directory advertising;
(e) Bad check charges;
(f) Late payment charges;
(g) Billing and collection services; or
(h) Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.

Communications Services Provider means any Person providing Communications Services through the Placement or Maintenance of a Communications Facility in the Public Rights-of-way, including without limitation, wireline telecommunication providers and Wireless Service Providers.

Communications Services Tax means the local tax authorized to be levied and collected by counties and municipalities upon Communications Services Providers for Communications Services, pursuant to Section 202.19, F.S., as amended.

Consolidated Permit Application means a single Permit application that would otherwise require individual Permit applications for the Collocation of between two (2) and thirty (30) Small Wireless Facilities on Existing Structures within the Public Rights-of-way.

Construct or Construction means to construct, install, Place, or excavate Utility Poles, Communications Facilities, Utilities, facilities, or other physical structures on, above, within or under any part of the Public Rights-of-way.

County means, as indicated by the context used, either Leon County, Florida, as a geographic location, or Leon County, Florida, a charter county and political subdivision of the State of Florida, as a legal entity.

County Administrator means the chief administrative officer of the County. The term County Administrator also includes his or her designee.

County Engineer means the licensed engineer designated by the Board of County Commissioners to furnish engineering assistance for the administration of these regulations. For the purposes of this Article, the term County Engineer shall also include his or her designee.

Day(s) means, for purposes of computing any period of time expressed in day(s) in this Article, the day of the act, event or default from which the designated period of time begins to run shall not be included and the last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

Development Review Committee means the committee established in Section 10-2.301.

Existing Structure means a Utility Pole within the Public Rights-of-way that exists at the time an application to Place a Communications Facility on that Utility Pole is filed with the County. The term includes Repurposed Structures. The term does not include At-grade Facilities, Below-grade Facilities, or Wireline Facilities. An Existing Structure is not transformed into a Communications Facility by the Collocation of a Wireless Facility.
Florida Building Code means the Florida Building Code promulgated under Chapter 553, F.S., and includes the Leon County amendments thereto as both may be amended.

Graffiti means any inscriptions, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any Communications Facility whether or not authorized by the Registrant of the Communications Facility. A Wrap shall not be considered Graffiti.

Homeowners’ Association (HOA) means an incorporated entity in a subdivision, planned community or condominium development that makes rules for the properties within its jurisdiction and usually maintains and operates property owned by the HOA.

In the Public Rights-of-way means across, above, within, on or under the Public Rights-of-way.

Lot means a designated Parcel of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

Micro Wireless Facility means a Small Wireless Facility having dimensions no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and an exterior Antenna, if any, no longer than eleven (11) inches.

Parcel means any piece of real property that has a single parcel identification number assigned to it by the Leon County Property Appraiser.

Pass-through Provider means any Person who Places or Maintains a Communications Facility in the Public Rights-of-way and who does not remit Communications Services Tax.

Permit means the Public Rights-of-way permit that must be obtained before a Person may Construct, Place, install, or Maintain Communications Facilities or Utility Poles in the Public Rights-of-way and shall include, but not be limited to, Rights-of-way engineering and construction permits issued by the County Engineer.

Person means any natural person or corporation, business association or other business entity, including, but not limited to a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing or any other legal entity and shall include the County to the extent the County acts as a Communications Services Provider.

Place or Maintain or Placement or Maintenance or Placing or Maintaining means to erect, Construct, install, extend, expand, remove, occupy, locate, relocate, or significantly alter the configuration of a Communications Facility or Utility Pole. A Person who owns or exercises physical control to maintain and repair is Placing or Maintaining the Communications Facility or Utility Pole. A Person providing service only through resale or only through use of a third Person’s
Communications Facility is not Placing or Maintaining the Communications Facility through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the Public Rights-of-way does not constitute Placing or Maintaining a Communications Facility in the Public Rights-of-way.

Pole Attachment means any attachment of a Communications Facility by a Provider to an Existing Structure within a Public Rights-of-way. This term includes aerial wireline attachments that serve as Wireline Facilities.

Private Utility Pole means a Utility Pole owned by a municipal electric utility, a Utility Pole used to support municipally owned or operated electric distribution facilities, or a by a Person other than the County within the Public Rights-of-way.

Provider means a Communications Services Provider, Wireless Infrastructure Provider, or Pass-through Provider.

Public Rights-of-way or Rights-of-way means land in which the County owns the fee or has an easement devoted to or required for use as a Transportation Facility and may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface of such rights-of-way. For the purposes of this definition, Transportation Facility means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The terms Public Rights-of-way or Rights-of-way shall not include: (1) City, State, or federal rights-of-way unless the County has been properly delegated authority to issue Permits for structures within those rights-of-way, unless prohibited by State or federal law; (2) platted utility easements that are not part of a dedicated public rights-of-way; (3) property owned by any Person other than the County; (4) service entrances or driveways leading from the road or street onto Adjacent Property; or (5) any real or personal County property except as described above and shall not include County buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-way except as allowed by this Article or applicable State or federal law.

Registrant means any Provider who has an effective Registration with the County.

Registration or Register means the process described in this Article whereby a Provider provides certain information to the County by which it is determined whether the Person will be eligible to Place or Maintain Communications Facilities in the Public Rights-of-way and to apply for Permits, as required.

Repurposed Structure means an Existing Structure that has been renovated, reconfigured, or replaced with a similar structure so as to continue serving its primary existing purpose while also supporting the attachment of Communications Facilities that is approximately in the same location as the Existing Structure and in such a manner that does not result in a net increase in the number of Utility Poles located within the Public Rights-of-way and does not interfere with pedestrian or vehicular access, and is compliant with Applicable Codes. The Repurposed Structure remains the property of the owner of the Existing Structure prior to the repurposing, unless ownership otherwise lawfully changes.
Residential Block means a Lot or group of Lots within land zoned R-1, R-2, R-3, R-4, R-5, RA, MR-1, RP or MH, as well as that zoned R, RC, UF, LP, LT, LTUF, OR-1, OR-2, OR-3, or BOR when used only for residential purposes, that Abut or are Adjacent or contiguous to a Public Rights-of-way.

Service Drop means the extension of a Wireline Facility from the Public Rights-of-way to a Lot or Parcel located outside of the Public Rights-of-way.

Shroud means a covering or enclosure of pole-mounted equipment associated with a Small Wireless Facility.

Signage means any display of characters, ornamentation, letters or other display such as, but not limited to, a symbol, logo, picture, or other device used to attract attention, identify, advertise, announce, or to indicate directions, including the structure or frame used in the display. The term Signage shall not include identification of the owner and contact information of the Communications Facility or Utility Pole, or identification of wires, cables, etc. necessary to aid in safety or hazard work or maintenance or repair work of the Communications Facility.

Small Wireless Facility means a Wireless Facility that meets the following qualifications:

(a) Each Antenna associated with the facility is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of Antennas that have exposed elements, each Antenna and all of its exposed elements could fit within an enclosure of no more than six (6) cubic feet in volume; and

(b) All other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters; concealment elements; telecommunications demarcation boxes; ground-based enclosures; grounding equipment; power transfer switches; cutoff switches; vertical cable runs for the connection of power and other services, and Utility Poles or other support structures.

State means, as indicated by the context used, either Florida, as a geographic location, or the State of Florida, as a legal entity.

Surrounding Neighborhood means the area within a five hundred (500) foot radius of a Communications Facility site or proposed Communications Facility site.

Tree shall have the meaning ascribed to it in Section 10-1.101.

Tree Removal shall have the meaning ascribed to it in Section 10-1.101.

Utility means any Person or entity that is a local exchange carrier or an electric, gas, water, steam or other public utility, and who owns or operates appurtenant facilities or equipment that are situated within the Public Rights-of-way for transmission of such Utility’s commodities or services.
Utility Pole means a pole or similar structure used in whole or in part to provide Communications Services or electric distribution, lighting, traffic control, Signage, or similar function. This term includes the vertical support structure for traffic lights, but does not include any horizontal structures upon which are attached signal lights or other traffic control devices and does not include any pole or similar structure fifteen (15) feet or less in height unless the County grants a waiver for such pole.

Wireless Facility means Communications Facility at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, Antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup powers supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communication. This term includes Small Wireless Facilities. This term does not include:

(a) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is Collocated;
(b) Wireline backhaul facilities; or
(c) Coaxial or fiber-optic cable that is between wireless structures or Utility Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna.

Wireless Infrastructure Provider means a Person who has been certified by the governing federal or State agency to provide Communications Services in the State and who builds or installs wireless communication transmission equipment, Wireless Facilities, or Wireless Support Structures but is not a Wireless Services Provider.

Wireless Services means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using Wireless Facilities.

Wireless Services Provider means a Person who provides Wireless Services. A Wireless Services Provider is a type of Communications Services Provider.

Wireless Support Structure means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting Wireless Facilities. This term does not include a Utility Pole.

Wireline Facility means a wireline aerial facility or Below-grade Facility used to provide Communications Services. The term includes wireline backhaul facilities associated with a Wireless Facility and coaxial or fiber-optic cable that is between wireless structures or Utility Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna of a Wireless Facility.

Wrap means an aesthetic covering approved by the County depicting scenic imagery such as vegetation, which blends with the surrounding area. A Wrap design may also be proposed by the Applicant by requesting a waiver pursuant to Section 16-305. Imagery in a wrap may not contain any
Signage.

Sec. 16-103. Registration.

(a) Registration. A Provider that desires to Place or Maintain a Communications Facility, conduit, backhaul facility, or Utility Pole intended to support the Collocation of a Small Wireless Facility in the Public Rights-of-way shall register with the County Public Works Department in accordance with this Article.

(b) Content of Registration. Each Applicant shall submit the following information and documentation:

1. The name of the Applicant under which it will transact business in the County and, if different, in the State;
2. The name, address, electronic mail address, and telephone number of the Applicant’s primary contact person and the person to contact in case of an emergency;
3. A copy of the Applicant’s certificate of authorization, public convenience and necessity, or other similar certification or license(s) issued by the Florida Public Service Commission, the Florida Department of State, the Federal Communications Commission, or other federal authority; and
4. Proof of the Applicant’s insurance coverage as required pursuant to Section 16-111.

(c) County Engineer review and approval. Within thirty (30) days after receipt of the information submitted by the Applicant, the County Engineer shall determine whether the application for Registration contains all information and documentation required and shall advise the Applicant in writing whether the Registration is effective or if any areas of deficiency need to be addressed. The Applicant shall re-submit any deficient information and documentation within thirty (30) days of the date of the notice of deficiency, otherwise the Registration shall be denied. A notice of deficiency or denial of Registration shall not preclude an Applicant from filing subsequent applications for Registration under the provisions of this Section. A denial of Registration or renewal of Registration may be appealed in accordance with the procedures set forth in Section 16-110.

(d) No property right arises from Registration. A Registration shall not convey any title, equitable or legal, to the Registrant in the Public Rights-of-way. Registration under this Article governs only the ability to apply for a Permit, if applicable, and the ability to Construct, Place or Maintain Communications Facilities in the Public Rights-of-way. Registration does not excuse a Provider from obtaining necessary access or Pole Attachment agreements before locating its Communications Facilities in the Public Rights-of-way. Registration does not excuse a Provider from complying with all Applicable Codes, and State and federal laws and regulations.

(e) Registration is non-exclusive. Registration does not in and of itself establish a right to Place or Maintain, or establish priority for the Placement or Maintenance of a Communications Facility in the Public Rights-of-way, but shall establish for the Registrant a right to Place or Maintain a Communications Facility in the Public Rights-of-way, if such proposed activity does not require a Permit by the County, or apply for a Permit to Place or Maintain a Communications Facility in the Public Rights-of-way, if such proposed activity requires a Permit by the County. Registrations are
expressly subject to any further amendment to or replacement of this Article and further subject to
any additional County ordinances or regulations, as well as any State or federal laws that may be
enacted.

(f) **Cancellation.** A Registrant may cancel a Registration upon written notice to the County
stating that it will no longer Place or Maintain any Communications Facilities in the Public Rights-of-
way. A Registrant shall not cancel a Registration if the Registrant continues to Place or Maintain any
Communications Facilities in the Public Rights-of-way.

(g) **Registration updates.** Within thirty (30) days of any change in the information required to be
submitted pursuant to subsection (b), a Registrant shall provide updated information to the County.

(h) **Registration renewal.** Each Registrant shall renew its Registration by April 1 of years ending
in “0” or “5” (such as 2020, 2025, 2030, etc.) in accordance with the registration requirements of this
Article, as amended. Failure to renew a Registration may result in the County restricting the issuance
of additional Permits until the Provider has complied with the Registration requirements of this
Article.

(i) **Registration application fees.** No Registration application fees shall be imposed for
Registration or renewal of Registration under this Article.

(j) **Permits required of Registrants.** In accordance with Applicable Codes, local laws and
regulations, and State and federal laws and regulations, a Permit shall be required of a Provider that
desires to Place or Maintain a Communications Facility in the Public Rights-of-way, unless otherwise
specifically exempted under this Article. An effective Registration shall be a condition precedent to
or of obtaining a Permit. Notwithstanding an effective Registration, permitting requirements shall
also apply. A Permit may be obtained by or on behalf of a Registrant having an effective Registration
if all permitting requirements are met. If a Permit is submitted without an effective Registration, the
Permit application shall be denied.

(k) **Compliance required.** A Registrant shall at all times comply with and abide by all Applicable
Codes, local laws and regulations, and State and federal laws in Placing or Maintaining a
Communications Facility in the Public-Rights-of-way. By submitting a Registration, the Applicant
acknowledges that it has reviewed a copy of this Article.

Sec. 16-104. Notice of Transfer, Sale or Assignment of Assets in the Public Rights-of-Way.

(a) If a Registrant transfers or assigns its Registration incident to a sale or other transfer of the
Registrant’s assets, the transferee, buyer or assignee shall be obligated to comply with the terms of
this Article. Written notice of any transfer, sale or assignment shall be provided to the County within
thirty (30) days of the effective date of the transfer, sale or assignment. Further, any such Person to
whom such transfer, sale or assignment has been made, must register with the County in accordance
with this Article and shall provide proof of insurance coverage in accordance with Section 16-111, a
Security fund in accordance with Section 16-114, and, if applicable, a performance bond in
accordance with Section 16-113.
If Permit applications are pending in the Registrant's name, the transferee, buyer or assignee shall notify the County Engineer that the transferee, buyer or assignee is the new Registrant.

A violation of the requirements of this Section shall constitute a Code violation and the Registrant who is alleged to have violated any of the provisions of this Section may be subject to the enforcement remedies set forth in Sections 1-9 and 16-108.

Sec. 16-105. Involuntary Termination of Registration.

(a) Involuntary termination. The County Engineer may terminate a Registration if:

1. A federal or State authority suspends, denies, or revokes a Registrant's certification or license required to provide Communications Services;
2. The Registrant's Placement or Maintenance of a Communications Facility in the Public Rights-of-way presents an extraordinary danger to the general public or other users of the Public Rights-of-way and the Registrant fails to remedy the danger promptly after receipt of written notice; or
3. The Registrant performs substantive and material repetitive violations of any of the provisions of this Article.

(b) Notice of intent to terminate. Prior to termination, the Registrant shall be notified by the County Engineer with a written notice setting forth all matters pertinent to the proposed termination action, including the reason therefore. The Registrant shall have thirty (30) days after receipt of such notice to address or eliminate the reason or to present a plan, satisfactory to the County Engineer, to accomplish the same. If the plan is rejected by the County Engineer, the County Engineer shall provide written notice of such rejection to the Registrant within thirty (30) days of receipt of the plan to the Registrant and shall make a final determination as to termination of the Registration and the terms and conditions relative thereto. A final determination to terminate a Registration may be appealed in accordance with the procedures set forth in Section 16-110.

(c) Post termination action. In the event of termination, following any appeal period, the former Registrant shall: (1) in accordance with the provisions of this Article and as may otherwise be provided under State law, notify the County of the assumption or anticipated assumption by another Registrant of ownership of the Registrant's Communications Facilities in the Public Rights-of-way; or (2) provide the County with an acceptable plan for disposition of its Communications Facilities in the Public Rights-of-way. If a Registrant fails to comply with this subsection, the Communications Facilities are deemed to be Abandoned and the County may exercise any remedies or rights it has at law or in equity. In any event, a terminated Registrant shall take such steps as are necessary to render safe every portion of the Communications Facilities remaining in the Public Rights-of-way.

(d) When removal not authorized or required. In the event of the termination of a Registration, this Section does not authorize the County to cause the removal of Communications Facilities used to provide another service for which the Registrant or another Person who owns or exercises physical control over the Communications Facilities and holds a valid certification or license issued by the governing federal or State agency, if required, for the provision of such service, and is registered with
Sec. 16-106. Unregistered Providers.

To the extent that a Person with a Communication Facility in the Public Rights-of-way prior to or on the effective date of this Ordinance, is not registered as required in Section 16-103, said Person shall register with the County pursuant to Section 16-103 within ninety (90) days from the effective date of this Ordinance. After the ninety (90) day registration window, the County may not issue any new Permits to unregistered Persons and such Persons may be subject to the enforcement remedies set forth in Sections 1-9 and 16-108.

Sec. 16-107. General Permit Conditions.

All Providers shall comply with the following general permit conditions:

(a) Permit does not create a property right; areas where aboveground utilities are being placed underground. A Permit from the County constitutes authorization to undertake only certain activities in the Public Rights-of-way in accordance with this Article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the Public Rights-of-way, nor does it create a property right to Maintain Collocated Wireless Facilities on Utility Poles when such Utility Poles are being removed or relocated underground should the County adopt undergrounding requirements that prohibit above-ground structures in the Public Rights-of-way.

(b) Avoidance of physical interference, displacement, damage, destruction or prohibition of access to other facilities or Utilities, endangerment of life and property. A Registrant shall not physically interfere with, displace, damage, destroy or prohibit access to any facilities or Utilities, including but not limited to sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables or conduits of the County or any other Person's facilities or Utilities lawfully occupying the Public Rights-of-way and shall not endanger the life or property of other Persons.

(c) Coordination with other work in the Public Rights-of-way. Upon request of the County, and as notified by the County of other work, Construction, installation or repairs, a Registrant shall coordinate Placement or Maintenance activities under a Permit with any other work, Construction, installation or repairs that may be occurring or is scheduled to occur within a reasonable time in the subject Public Rights-of-way, and the Registrant may be required to reasonably alter its Construction schedule as necessary so as to minimize disruptions and disturbance in the Public Rights-of-way.

(d) Restoration of Public Rights-of-way. After the completion of any Placement or Maintenance work involving a Communications Facility in the Public Rights-of-way or each phase thereof, a Registrant shall, at its own expense, restore the Public Rights-of-way to its existing condition prior to such work. If the Registrant fails to make such restoration within thirty (30) days, or such longer period of time as may be reasonably required under the circumstances, following the completion of such Placement or Maintenance work, the County may perform restoration and charge the costs of the restoration against the Registrant's performance bond, security fund, or in accordance with Section 337.402, F.S., as amended. For one (1) year following the original completion of the work, the Registrant shall guarantee its restoration work and shall correct, at their sole expense, any restoration
work that does not satisfy the requirements of this Article.

(e) Maintenance in accordance with industry standards and Applicable Codes. A Registrant shall maintain its Communications Facilities in a manner consistent with accepted industry practice and Applicable Codes.

(f) Maintenance of facilities. Each Communications Facility within the Public Rights-of-way, including any appurtenant features incorporated therewith under this Article, shall be maintained in a neat and clean condition at all times. Specifically, but not without limiting the generality of the foregoing, each Communications Facility in the Public Rights-of-way shall be regularly maintained so that it is free of Graffiti and is reasonably free of dirt, grease, rust, corrosion, and chipped, faded, peeling or cracked paint, finishes, or Wraps which is visible from the Public Rights-of-way or Surrounding Neighborhood.


(h) Use of due caution. Registrants shall use and exercise due caution, care and skill in performing work in the Public Rights-of-way and shall take all reasonable steps to safeguard work site areas, including, but not limited to those safeguards set forth in Chapter 33 of the Florida Building Code.

(i) No warranties or representations regarding fitness, suitability or availability of Public Rights-of-way. The County makes no warranties or representations regarding the fitness, suitability, or availability of the Public Rights-of-way for the Registrant's Communications Facilities. Any performance of work, costs incurred or services provided by the Registrant shall be at the Registrant's sole risk. Nothing in this Article shall affect the County's authority to add, vacate or abandon its Public Rights-of-way, and the County makes no warranties or representations regarding the availability of any added, vacated or abandoned Public Rights-of-way for Communications Facilities.

(j) Right of inspection. The County shall have the right to make such inspections of Communications Facilities Placed or Maintained in its Public Rights-of-way as it finds necessary.

(k) As-built Plans and GPS coordinates. Upon completion of work authorized by a Permit, in the event that field work results in changes from the Permit plans, the Applicant shall furnish to the County As-built Plans, at no cost to the County. This requirement shall be in addition to, and not in lieu of, any filings the Registrant is required to make under the Underground Facility Damage Prevention and Safety Act set forth in Chapter 556, F.S., as amended. The fact that such As-built Plans are on file with the County shall in no way abrogate the duty of any Person to comply with the aforesaid Underground Facility Damage Prevention and Safety Act when performing work in the Public Rights-of-way. Upon completion of work authorized by a Permit for a Utility Pole or a Small Wireless Facility, in the event that field work results in changes from the Permit plans, the Applicant shall furnish to the County the exact GPS coordinates of the Utility Pole or Small Wireless Facility.

(l) Americans With Disabilities Act. The Placement and Maintenance of all Communications
Facilities shall comply with the Americans With Disabilities Act, 42 U.S.C. Sec. 12101, et. seq., as amended, and regulations promulgated thereunder.

(m) **Correction of harmful conditions.** If, at any time, the County reasonably determines that a Communications Facility is, or has caused a condition that is harmful to the health, safety or general welfare of any Person, then the Provider shall, at its own expense, correct or eliminate all such conditions after being provided reasonable notice. In an emergency, as determined by the County Engineer, when the Provider is not immediately available or is unable to provide the necessary immediate repairs to any Communications Facility that is a threat to public safety, then the County shall have the right to remove, make repairs to or eliminate same with the total cost being charged to and paid for by the Provider upon demand. The County may charge the cost to the security fund set forth in Section 16-114, if the Provider fails to remit payment within thirty (30) days of notification.

(n) **Remedy of hazardous conditions.** If, at any time, a condition exists that the County Engineer reasonably determines is an emergency that is potentially hazardous or life threatening to any Person or is a threat to the health or safety of the general public, and to remedy such condition the County reasonably determines that a Provider must temporarily relocate or temporarily shut off service or transmissions through a specific Communications Facility, then the County, as an appropriate exercise of its police powers, may order the Provider to immediately perform such temporary relocation or shut off until the condition has been remedied, and to do so at its own expense and without liability to or recourse against the County. In such an emergency, when the Provider is not immediately available or is unable to provide the necessary immediate relocation or shut off of the specific Communications Facility, then the County shall have the right to perform, or cause to be performed, such temporary relocation or shut off until the condition has been remedied with the total cost being charged to and paid for by the Provider upon demand. The County may charge the cost to the security fund set forth in Section 16-114, if the Provider fails to remit payment within thirty (30) days of notification.

(o) **Airport airspace protections.** A Registrant shall comply with Chapter 333, F.S., and all State and federal laws and regulations pertaining to airport airspace protections.

(p) **Permit errors.** The issuance of a Permit shall not prevent the County Engineer from thereafter requiring the correction of errors when in violation of this Article.

(q) **Public records.** Any proprietary confidential business information obtained from a Registrant in connection with a Permit application shall be held confidential by the County to the extent required by Section 202.195, F.S., as amended, provided the Registrant so notifies the County which information is confidential in accordance with Florida Law, including Chapter 119, F.S.

(r) **Historic preservation zoning regulations.** A Permit shall be denied for failure to comply with applicable historic preservation zoning regulations, including local, State and federal rules and regulations.

Sec. 16-108. General Enforcement Remedies.

(a) A Registrant's failure to comply with provisions of this Article or a Permit shall constitute a
violation of this Code and may subject the Registrant to termination of Registration in accordance
with the provisions of Section 16-105, suspension or revocation of a Permit under the provisions of
Section 16-109, and subject the Registrant to a civil penalty in accordance with the provisions of
Section 1-9 or injunctive relief or as otherwise provided by law.

(b) In addition to any other rights or remedies available at law or equity or as otherwise provided
in this Article, the Code Enforcement Board shall have enforcement jurisdiction, including the power
to conduct hearings and impose fines in the event a Provider violates any provision of this Article or a
Permit pursuant to the procedures provided in Chapter 6. Any fines imposed by the Code
Enforcement Board may be recoverable from the security fund at the option of the County. A final
administrative order of the Code Enforcement Board shall be appealed by writ of certiorari to the
circuit court within thirty (30) days following rendition of the order.

(c) Failure of the County to enforce any requirements of this Article shall not constitute a waiver
of the County's right to enforce a violation or subsequent violations of the same type or to seek
appropriate enforcement remedies.

Sec. 16-109. Enforcement of Permit Obligations; Suspension and Revocation of Permits.

(a) The County Engineer may order the suspension of Placement and Maintenance work under a
Permit and ultimately may revoke any Permit, in the event of a substantial breach of the terms and
conditions of any Applicable Codes, State or federal laws or regulations, or any condition of the
Permit. A substantial breach by the Permittee may include, but is not limited to:

(1) The violation of any material provision of the Permit or Applicable Codes;
(2) An evasion or attempt to evade any material provision of the Permit or the perpetration
or attempt to perpetrate any fraud or deceit upon the County;
(3) Any material misrepresentation of fact in the process of Permittee's request for a
Permit or Registration;
(4) The failure to maintain the required performance bond, security fund or insurance;
(5) The failure to properly restore the Public Rights-of-way;
(6) The failure to comply within the specified time with an order issued by the County
Engineer to correct a harmful condition or remedy a hazardous situation;
(7) The failure to comply with a stop work order issued by the County Engineer;
(8) The failure to Register, renew Registration, or provide notice of transfer in accordance
with Section 16-104;
(9) The failure to relocate or remove Facilities pursuant to this Article and Chapter 337,
F.S., as amended; or
(10) Conducting work in the Public Rights-of-Way without a Permit, if required.

(b) If the County Engineer determines that the Permittee has committed a substantial breach of a
term or condition of the Permit or this Article, the County Engineer shall make a written demand
upon the Permittee to remedy such violation. The demand shall state that the continued violation(s)
may be cause for suspension or revocation of the Permit. Further, the County Engineer, at his or her
discretion, may impose additional or revised permit conditions on the Permit following a substantial
breach.
(c) Within thirty (30) days of receiving notification of the breach, the Permittee shall contact the County Engineer with a plan, acceptable to the County Engineer, for its correction or shall submit a statement as to why a substantial breach has not occurred. The County shall provide additional time as reasonably necessary for a Permittee to establish a plan acceptable to the County Engineer taking into account the nature and scope of the alleged breach. The Permittee’s failure to contact the County Engineer, the Permittee’s failure to submit an acceptable plan, or the Permittee’s failure to reasonably implement the approved plan, shall be cause for suspension or revocation of the Permit. A final determination to suspend or revoke a Permit may be appealed in accordance with the procedures set forth in Section 16-110.

(d) If a Permit is revoked, the Permittee shall reimburse the County for the County’s reasonable costs, including restoration costs, administrative costs, attorney’s fees, and the cost of collection. The County may charge the costs and/or fees to the security fund set forth in Section 16-114, if the Provider fails to remit payment within thirty (30) days of notification.

(e) The County Engineer may cause an immediate stop work order where the Permittee’s Construction, Placement or Maintenance poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

Sec. 16-110. Appeals.

(a) The following final determinations by the County are subject to appeal as provided in this Section:

(1) Denial of an initial Registration or Registration renewal;
(2) Involuntarily termination of a Registration;
(3) Suspension or revocation of a Permit;
(4) The issuance of a notice of withdraw from the security fund;
(5) Denial of a Permit to Place or Maintain a Communications Facility or Utility Pole in the Public Rights-of-way; and
(6) Denial of a request for waiver.

(b) As used in this Section, the term Party or Parties means the County Engineer or County Administrator and the Applicant challenging a decision made by the County.

(c) A decision subject to appeal may be appealed by the Applicant within thirty (30) days of the date of the decision by timely filing a petition. Petitions shall be made in writing and directed to the Public Works Director, and shall include the decision which is the subject of the appeal and a description of the facts upon which the decision is challenged and any argument in support thereof. Failure to file a petition within thirty (30) days is jurisdictional and will result in a waiver of a hearing. If contested, all determinations on the timeliness of the filing of a petition shall be made by the special master or administrative law judge.

(d) The Board of County Commissioners shall appoint and retain a special master or shall contract with the Florida Division of Administrative Hearings for an administrative law judge to
conduct quasi-judicial proceedings regarding appeals. Each special master shall be a licensed attorney with the Florida Bar who has practiced law in Florida for at least five years. Any special master conducting quasi-judicial proceedings pursuant to this Section shall have the powers of special masters enumerated in Section 120.569(2)(f), F.S, as well as to issue other orders regarding the conduct of the proceedings.

(e) All hearings shall be commenced within ninety (90) days of the date the petition was filed. Requests for continuance by any Party may be granted for good cause shown. To the maximum extent practicable, the hearings shall be informal. The Parties shall have the opportunity to respond, to present evidence and argument on all issues which are the subject of the appeal, and to conduct cross-examination and submit rebuttal evidence. During cross examination of witnesses, questioning shall be confined as closely as possible to the scope of direct testimony. The special master or administrative law judge may call and question witnesses or request additional evidence as he or she deems necessary and appropriate. To that end, if during the hearing the special master or administrative law judge believes that any facts, claims, or allegations necessitate review and response by any Party, then the special master or administrative law judge may order the hearing continued until a date certain, but no longer than fifteen (15) days. The special master or administrative law judge shall decide all questions of procedure.

(f) Any Party may move for a summary final order when there is no genuine issue as to any material fact. A summary final order shall be rendered if the special master or administrative law judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order. A summary final order shall consist of written findings of fact, conclusions of law, and a recommendation to approve, approve with conditions, or deny the decision subject to appeal.

(g) Findings of fact shall be based upon a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

(h) The special master or administrative law judge shall render a recommended order on the application to the Board of County Commissioners within thirty (30) calendar days after the hearing concludes, unless the Parties waive the time requirement. The recommended order shall contain written findings of fact, conclusions of law, and a recommendation to approve, approve with conditions, or deny the decision subject to appeal. A copy of the recommended order shall be served on the Parties. Service of copies may be made by electronic communication. The Parties shall have ten (10) days from the date of the recommended order is served to file specific, written exceptions to the recommended order with the clerk of the Board of County Commissioners. Exceptions shall include appropriate references to the record before the special master or administrative law judge.

(i) Unless the Parties waive the time requirement, the hearing by the Board of County Commissioners will commence no later than sixty (60) days from the date of receipt of the recommended order and record of the decision being reviewed or the next regularly scheduled Board meeting, whichever is later. The record before the Board shall consist of the complete record of the proceedings before the special master or administrative law judge. The hearing before the Board of County Commissioners shall be limited to matters of record, and arguments based on the record.
new evidence shall be presented to the Board at the hearing. The Parties shall be limited to a total of twenty (20) minutes to present his or her argument. For good cause shown the chairman may grant additional time. The Board shall also receive public comment. At the conclusion of the hearing, the Board shall render a decision approving, approving with conditions, or denying the decision subject to appeal. The Board is bound by the special master's or administrative law judge's findings of fact unless the findings of fact are not supported by competent substantial evidence in the record before the special master or administrative law judge. The Board may modify the conclusions of law if it finds that the special master's or administrative law judge's application or interpretation of law is erroneous. The Board may make reasonable legal interpretations of its Code without regard to whether the special master's or administrative law judge's interpretation is labeled as a finding of fact or a conclusion of law. The Board's final decision must be reduced to writing, including the findings of fact and conclusions of law, and is not considered rendered or final until officially date-stamped by the clerk of the Board of County Commissioners.

(j) An Applicant may challenge the decision of the Board by filing a petition for writ of certiorari in circuit court no later than thirty (30) days following rendition of the Board's decision, or in any court having jurisdiction.

Sec. 16-111. Insurance.

(a) General. A Registrant shall provide, pay for and maintain satisfactory to the County the types of insurance described herein. All liability policies required under this Section shall be procured from responsible companies duly authorized to do business in the State of Florida and having an A.M. Best A-VII or better rating. All liability policies shall provide that the County is an additional insured as to the activities under this Article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the County annually. Thirty (30) days advance written notice by registered, certified or regular mail or electronic mail, as determined by the County, must be given to the County’s Risk Manager of any cancellation, intent not to renew or reduction in the policy coverages, with the exception of non-payment of premiums in which case notice shall be provided within thirty (30) days of such non-payment. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the County.

(b) Insurance coverage and limits of insurance coverage. The insurance coverage and limits of coverage of insurance required shall be not less than the following:

(1) Worker's compensation and employer's liability insurance. Florida statutory requirements.

(2) Comprehensive general liability. Commercial general liability occurrence form, including premises/operations, independent contractor’s contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars ($1,000,000) per occurrence, combined single limit and two million dollars ($2,000,000) in the aggregate.

(3) Commercial Automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article shall be maintained in accordance with Florida statutory requirements.
(4) **Commercial excess or umbrella liability.** Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.

(c) **Proof of insurance.** Upon applying for Registration, the Registrant shall submit to the County proof that it has obtained the insurance required under this Section, including a certificate of insurance signed by an authorized representative of the insurance company.

(d) **Authority to increase or decrease policy limits.** The County shall have the authority to reasonably increase or decrease the policy limits set forth above and shall provide each Registrant with at least thirty (30) days advance written notice of such change. Within thirty (30) days from receipt of a notice to increase its policy limits, the Registrant shall submit to the County proof of such increased coverage.

(e) **Duration.** The coverage provided herein shall be maintained at all times during the use or occupancy of the Public Rights-of-way, including any time during Placement or Maintenance of Communications Facilities.

(f) **Failure to maintain required coverage.** Failure to maintain all the required insurance coverage may subject the Applicant to the enforcement remedies set forth in Sections 1-9, 16-108 and 16-109.

Sec. 16-112. **Indemnification.**

(a) By reason of the acceptance of a Registration or the issuance of a Permit under this Article, the County does not assume any liability for injuries to persons, damage to property, or loss of service claims by parties other than the Applicant or the County or for claims or penalties of any sort resulting from the Construction, presence, Placement, installation, Maintenance, repair or operation of Communications Facilities or Utility Poles by Applicants or agents of Applicants.

(b) An Applicant shall defend, indemnify, and hold the County whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the Construction, presence, Placement, installation, Maintenance, repair or operation of its Communications Facilities or Utility Poles, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit, inspection of plans or work by the County, except to the extent that such claims are caused by the sole negligence of the County. This Section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Applicant or to the County; and the Applicant, in defending any action on behalf of the County, shall be entitled to assert in any action every defense or immunity that the County could assert in its own behalf. The provisions of this Section include, but are not limited to, the County’s reasonable attorneys’ fees incurred in defending against any such claim, suit or proceeding(s).

(c) The County agrees to notify the Applicant, in writing, within thirty (30) days of the County receiving notice, of any issue it determines may require indemnification.

(d) This indemnification obligation is not limited in any way by a limitation of the amount or
type of damages or compensation payable by or for the Applicant under workers' compensation, disability or other employee benefit acts, or the acceptance of insurance certificates required under this Article, or the terms, applicability or limitations of any insurance held by the Applicant.

(e) The Applicant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the County. The Applicant shall assume and defend not only itself but also the County in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the County and selection of counsel shall be subject to County approval. However, in the County’s sole discretion, the County shall retain the right to select counsel of its own choosing and at its own expense. The County shall not settle or compromise any matter for which an Applicant is obligated to indemnify without the prior written consent of the Applicant. Such consent shall not be unreasonably withheld.

(f) The County does not and shall not waive any rights against the Applicant which it may have by reason of this indemnification, or because of the acceptance by, or the Applicant’s deposit with the County of any of the insurance policies required by this Article for Registration.

(g) This indemnification by the Applicant shall apply to all damages and claims for damages of any kind suffered regardless of whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.

(h) Nothing contained in this Section shall be construed or interpreted as denying to either party any remedy or defense available to such party under the laws of the State of Florida or as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, F.S., as amended.

(i) The indemnification requirements under this Section and this Article shall survive and be in full force and effect after the termination, cancellation, or expiration of a Registration or Permit.

Sec. 16-113. Performance Bond.

(a) Prior to issuance of any Permit in accordance with this Article, the Registrant shall be required to obtain, pay for, and file with the County a performance bond. The performance bond shall serve to guarantee proper performance under the requirements of this Article and the Permit, the timeliness and quality of the Construction and restoration of the County’s Public Rights-of-way, and to secure, and enable the County to recover, all costs related to the restoration of the Public Rights-of-way in the event the Registrant fails to make such restoration to the County’s satisfaction or causes damage to the Public Rights-of-way during Construction. The performance bond must name the County as Obligee and be conditioned upon the full and faithful compliance by the Registrant with all requirements, duties, and obligations imposed by the Permit and provisions of this Article during and through completion of the Placement or Maintenance project. The performance bond shall be in a form acceptable to the County and must be issued by a surety having an A.M. Best A-VII rating or better and duly authorized to do business in the State of Florida.
1 (1) The performance bond shall be in the face amount of the total estimated costs of the
2 restoration of the Public Rights-of-way. No performance bond is required if the
3 estimated costs of the restoration of the Public Rights-of-way is less than two thousand
4 five hundred dollars ($2,500) provided the Registrant has a fully replenished security
5 fund with the County.
6
6 (b) The performance bond must be issued as non-cancelable and be for a term of not less than
7 ninety (90) days after the anticipated date of completion of Construction, restoration and County
8 inspection. In the event the term of any construction bond expires, or is reasonably expected to
9 expire, prior to ninety (90) days after the completion of Construction, restoration and County
10 inspection, the Provider shall immediately obtain, pay for, and file with the County a replacement
11 performance bond.
12
12 (c) In lieu of providing a performance bond for each Permit, the Registrant may provide the
13 County with a blanket performance bond of no less than fifty-thousand dollars ($50,000) to meet the
14 requirements of this Section, provided the total estimated costs of the restoration of the Public Rights-
15 of-way does not exceed fifty-thousand dollars ($50,000).
16
16 (d) The County’s right to recover under the performance bond shall be in addition to all other
17 rights of the County, whether reserved in this Article, or authorized by other law, and no action,
18 proceeding or exercise of a right with respect to the performance bond will affect or preclude any
19 other right the County may have. Any proceeds recovered under the performance bond may be used
20 to reimburse the County for such additional expenses as may be incurred by the County as a result of
21 the failure of the Registrant to comply with the responsibilities imposed by this Article, including, but
22 not limited to, attorney's fees and costs of any action or proceeding.

Sec. 16-114. Security Fund.

24 (a) Prior to occupying or using the Public Rights-of-way, the Registrant shall be required to file
25 with the County a security fund in the form of cash deposit or irrevocable letter of credit in the sum of
26 ten thousand dollars ($10,000) conditioned on the full and faithful performance by the Registrant of
27 all requirements, duties and obligations imposed upon the Registrant by the provisions of this Article,
28 including requirements to restore the Public Rights-of-way, to remove any Abandoned
29 Communications Facilities, and to avoid damage to other Utilities and facilities within the Public
30 Rights-of-way. Any cash deposit shall be held in a separate, non-interest bearing account. The letter
31 of credit shall be issued by a financial institution with a location in Leon County and shall be in a
32 form and issued by a financial institution acceptable to the County. A security fund may be submitted
33 to the County at the time of Registration.
34
35 (b) Prior to drawing from the security fund, the County shall notify the Registrant of the reason
36 for such withdraw and provide the Registrant no less than thirty (30) days to make payment or to
37 object to such withdraw. If the Registrant objects, the Registrant may appeal the County’s notice of
38 withdraw pursuant to Section 16-110.
39
40 (c) Should the County draw upon the security fund, it shall promptly notify Provider, and the
41 Provider shall promptly restore the cash deposit or letter of credit to the full amount. The security
fund shall be maintained until the later of: (a) the effective date of transfer, sale or assignment by the
Provider of all of its Communications Facilities in the Public Rights-of-way; (b) twelve (12) months
after the removal or Abandonment by the Provider of all of its Communications Facilities and/or
Utility Poles in the Public Rights-of-way; or (c) six (6) months after the termination of Registration,
including any appeals undertaken. Upon the later of these events the cash deposit will be returned
without interest or the letter of credit may be canceled.

(d) In the event a Provider fails to perform any requirement, duty or obligation imposed upon it
by the provisions of this Article, there shall be recoverable, jointly and severally from the security
fund, any damages or loss suffered by the County as a result, including the full amount of any
compensation, indemnification, or cost of removal, relocation or Abandonment of any
Communications Facilities in the Public Rights-of-Way, plus reasonable attorneys' fees, up to the full
amount of the security fund.

Sec. 16-115. Abandonment of a Communications Facility or Utility Pole.

(a) Upon determination by a Person that one or more of its Communications Facilities or Utility
Poles in the Public Rights-of-way is to be Abandoned, the Person shall notify the County no later
than one hundred eighty (180) days from such determination, or no later than thirty (30) days
following such Abandonment, whichever is sooner.

(b) The County shall provide written notice to a Person if, upon independent evaluation, the
County reasonably believes a Communications Facility or Utility Pole is Abandoned. The written
notice shall provide the Person no less than thirty (30) days to either verify that the Communications
Facility or Utility Pole is not Abandoned or to remove the Communications Facility or Utility Pole.
Failure of the Person to respond within the specified time shall constitute Abandonment of the
Communications Facility or Utility Pole.

(c) Abandonment of the Communications Facility or Utility Pole requires removal of the
Communications Facility or Utility Pole, except that, at the sole discretion of the County Engineer, a
Below-grade Facility may not require removal. If the Communications Facility is attached to an
Existing Structure that has an independent function, such as a light pole, traffic signal, pedestrian
signal, or the like, said Abandonment of the Communications Facility requires removal of the
Communications Facility only and does not require the removal of the Existing Structure.

(d) If the Person fails to remove all or any portion of an Abandoned Communications Facility or
Utility Pole as directed by the County within a reasonable time period as may be required by the
County, the County may perform such removal and charge the cost of the removal against the Person.
Any such costs of removal shall be recoverable from the security fund at the option of the County.

Sec. 16-116. Removal or Relocation; Conversion of Overhead Distribution Facilities to
Underground Distribution Facilities

(a) Removal or relocation. Removal or relocation, including conversion to underground, shall be
governed by the provisions of Chapter 337, F.S. as amended, applicable State or federal laws or
regulations, or the terms of any applicable Pole Attachment agreement.
(c) **Temporary raising and lowering of Communications Facilities as accommodation.** A Registrant shall, on the request of any Person holding a Permit issued by the County, temporarily raise or lower its aerial Wireline Facilities to permit the work authorized by the Permit within the Public Rights-of-way. With the exception of the County, the expense of such temporary raising or lowering of Wireline Facilities shall be paid by the Person requesting the same, and the Registrant shall have the authority to require such payment in advance, unless otherwise governed by State or federal law. The Registrant shall not require the County to submit any payment for temporarily raising or lowering Wireline Facilities. The Registrant shall be given no less than thirty (30) days advance written notice to arrange for such temporary relocation.

**Sec. 16-117. Force Majeure.**

In the event the County’s or a Person’s performance of or compliance with any of the provisions of this Article is prevented by a cause or event not within the County’s or a Person’s control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such Person uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For the purposes of this Section, cause or events not within the County’s or a Person’s control shall include, but not be limited to, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a Person’s control, and thus not falling within this Section shall include without limitation, a Person’s financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of Person’s directors, officers, employees, contractors or agents. Upon the issuance of a County or State Declaration of a State of Emergency, the timeframes outlined in Sections 16-201 and 16-302 are tolled until the State of Emergency is lifted.

**Sec. 16-118. Pass-through Provider fees and charges.**

(a) Pass-through Providers shall pay to the County on an annual basis an amount equal to five hundred dollars ($500.00) per linear mile or portion thereof of Communications Facilities Placed and/or Maintained in the Public Rights-of-way.

(b) The amounts charged pursuant to this Section shall be based on the linear miles of Public Rights-of-way where Communications Facilities are Placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.

(c) A County shall not impose a charge for any linear miles, or portions thereof, for Public Rights-of-way where a Communications Facility is Placed that extends through the City to which the Pass-through Provider remits Communications Services Tax.

(d) The County shall discontinue charging Pass-through Provider fees to a Person that has ceased being a Pass-through Provider. Any annual amounts charged shall be reduced for a prorated portion
of any 12-month period during which the Pass-through Provider remits Communications Services Tax.

(e) Annual payments shall be due and payable on April 1 of each year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the County shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the County may have for additional sums due and payable. All fee payments shall be subject to audit by the County, and assessment or refund if any payment is found to be in error. If such audit results in an assessment by and an additional payment to the County, such additional payment shall be subject to interest at the rate of one (1) percent per month from the date of the audit until the date payment is made.

(f) If the payments required by this Section are not made within ninety (90) days after the due date, the County Engineer may withhold the issuance of any Permits to the Registrant until the amount past due is paid in full. In addition to other remedies available at law or in equity, the any payments past due shall be recoverable from the security fund at the sole discretion of the County.

Sec. 16-119. Permit Fees.

No Permit fees shall be imposed for Permits for Communications Facilities or Utility Poles used to support the Collocation of Small Wireless Facilities under this Article. The Board may adopt by resolution a fee schedule relating to the issuance of Permits for Utility Poles not intended to support the Collocation of Small Wireless Facilities under this Article.

Sec. 16-120. Reservation of Rights and Remedies.

(a) The provisions of this Article shall be applicable to all Communications Facilities and Utility Poles Placed in the Public Rights-of-way on or after the effective date of this Ordinance and shall apply to all existing Communications Facilities and Utility Poles Placed in the Public Rights-of-way prior to the effective date of this Ordinance to the full extent permitted by federal and State law, except that any provision of Section 16-203 shall not apply to Communications Facilities or Utility Poles lawfully Placed within the Public Rights-of-way prior to the effective date of this Ordinance, to the extent that such Communications Facilities may be maintained, repaired, and replaced with a Communications Facility substantially similar in size and design.

(b) Nothing in this Article shall affect the remedies the County or the Provider has available under applicable law.

Sec. 16-121. No liability or warranty.

Nothing contained in this Article shall be construed to make or hold the County responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of a Person’s Communications Facilities or Utility Poles by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance
of any Permit or the approval or disapproval of any Placement or Maintenance of a Person’s
Communications Facilities or Utility Poles as authorized herein constitute any representation,
guarantee or warranty of any kind by, or create any liability upon the County or any official, agent or
employee thereof.

Division 2. At-grade Facility, Below-grade Facility, Wireline Facility, and Utility Pole
Standards

Sec. 16-200. Applicability

This Division shall apply to any Person who seeks to Construct, Place, install, Maintain or
operate an At-grade Facility, Below-grade Facility, Wireline Facility or Utility Pole in the Public
Rights-of-way, unless otherwise exempt by operation of Applicable Codes, or State or federal laws or
regulations. This Division shall not apply to At-grade Facilities, Below-grade Facilities or Wireline
Facilities owned by a Person, including the County, to the extent such facilities are only utilized on
an internal, non-commercial basis by said Person. This Division shall not apply to the ground-
mounted equipment of Small Wireless Facilities, as defined in Section 16-102 of this Article and as
regulated under Division 3 of this Article.

Sec. 16-201. Permit Requirements; Application; Review Timeframes.

(a) Permit required. A Person or Registrant shall not commence to Place or Maintain a Utility
Pole, At-grade Facility, Below-grade Facility, or Wireline Facility, including wireline backhaul
facilities and coaxial or fiber-optic cable that are between wireless structures or Utility Poles or that
are otherwise not immediately adjacent to or directly associated with a particular Antenna, in the
Public Rights-of-way until all applicable Permits have been issued by the County. As a condition of
granting Permits, the County may impose reasonable conditions governing the Placement or
Maintenance of an At-grade Facility, Below-grade Facility, Wireline Facility, or Utility Pole in the
Public Rights-of-way as set forth in Section 337.401, F.S., as amended. Permits shall apply only to
the areas of the Public Rights-of-way specifically identified in the Permit. As used in this Section, the
term Facility shall be used to collectively refer to At-grade Facilities, Below-grade Facilities, and
Wireline Facilities.

(b) Permit not required.

(1) A Person or Registrant shall be allowed to perform Emergency Maintenance within
the Public Rights-of-way without first obtaining a Permit. However, such Person or
Registrant shall provide prompt notice to the County of the Emergency Maintenance
and, within fifteen (15) days of completing the Emergency Maintenance, apply for a
Permit in accordance with subsection (c) herein if such activity required a Permit
under this Article. As used in this Section, the term Emergency Maintenance means
the repair or replacement of a Communications Facility as a result of a condition that
affects the public health, safety or welfare, which includes an unplanned out-of-service
condition of a pre-existing service.
A Person or Registrant shall be allowed to perform routine maintenance within the Public Rights-of-way if such proposed routine maintenance does not involve excavation or the closure of a vehicle lane, upon reasonable advance written notice to the County identifying the areas where such maintenance will occur, scope of maintenance, date(s) and duration of work to be performed. If routine maintenance requires the closure of a vehicle lane, a lane closure Permit shall be required.

A Person or Registrant shall be allowed to Place or Maintain a Service Drop within the Public Rights-of-way without first obtaining a permit if such proposed work does not involve excavation, or the closure of a vehicle lane. If such Placement or Maintenance of a Service Drop requires the closure of a vehicle lane, a lane closure Permit shall be required.

A Person or Registrant shall be allowed to replace or remove aerial Wireline Facilities within the Public Rights-of-way if such proposed removal does not involve excavation or the closure of a vehicle lane, upon reasonable advance written notice to the County identifying the areas where such replacement or removal will occur and the date(s) and duration of work to be performed. If the removal of an aerial Wireline Facility requires the closure of a vehicle lane, a lane closure Permit shall be required.

A Person or Registrant shall be allowed to remove Utility Poles within the Public Rights-of-way if such proposed removal does not involve excavation or the closure of a vehicle lane, upon reasonable advance written notice to the County identifying the areas where such removal will occur and the date(s) and duration of work to be performed. If the removal of a Utility Pole requires the closure of a vehicle lane, a lane closure Permit shall be required.

The County Engineer may issue an immediate stop work order where any work poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

A Permit is not required if the proposed work is otherwise authorized to be performed without County approval by applicable State or federal laws or regulations or this Article.

(c) Permit Application. As part of any Permit application to Place or Maintain an At-grade Facility, Below-grade Facility, Wireline Facility, or Utility Pole, in the Public Rights-of-way, the Person or Registrant shall provide a Permit application that sets forth, at a minimum, the following:

(1) Engineering plan. An engineering plan that includes:

a. The type of proposed Facility, location of the proposed Facility or Utility Pole, and the dimensions, height, footprint, stealth design, and concealment features of the proposed Facility or Utility Pole;

b. The distance between the proposed Facility or Utility Pole and nearby pavement, sidewalks, driveways, ramps, trees, underground Utilities and other
(2) Description of installation or Construction. The Applicant shall provide a description of the manner in which the Facility or Utility Pole will be installed and/or modified (i.e. anticipated Construction methods or techniques).

(3) Temporary sidewalk closure plan. The Applicant shall provide a temporary sidewalk closure plan, if applicable, to accommodate Placement or Maintenance of the Facility or Utility Pole.

(4) Temporary maintenance of traffic (MOT) plan. The Applicant shall provide a temporary traffic lane closure and maintenance of traffic (MOT) plan, if applicable, to accommodate Placement or Maintenance of the Facility or Utility Pole.

(5) Restoration plan and estimated cost of restoration of the Public Rights-of-way. A restoration plan and a good faith estimate of the cost of restoration of the Public Rights-of-way to the condition prior to commencing work in the Public Rights-of-way. Such good faith estimate shall be accepted by the County unless the County determines such estimated costs are not representative of the actual costs of the restoration of the Public Rights-of-way. Estimates of the cost to restore the Public Rights-of-way shall include all costs necessary to restore the Public Rights-of-way to its original condition. Such good faith estimate may include, but shall not be limited to, costs to restore the paving, curbs/gutters, sidewalks, multi-purpose trails, and
landscaping. All planted or naturally occurring shrubbery or vegetation, including sod, damaged or destroyed during work in the Public Rights-of-way shall be replaced. Tree removal shown on the Permit shall not be considered damage or impairment to be restored to the original condition provided the Person complies with the approved mitigation plan, if any.

(6) **Timetable for Construction or installation.** The timetable for Construction, Placement or Maintenance of the proposed Facility or Utility Pole or each phase thereof.

(7) **Indemnification.** A statement shall be included within the Permit application that by execution of the application, the Applicant shall be bound to the County with respect to the indemnification provisions set forth in Section 16-112.

(8) **Attestation.** For Utility Poles that are intended to support the Collocation of Small Wireless Facilities, the Applicant shall provide an attestation by an officer of the Registrant that a Small Wireless Communications Facility will be Collocated on the Utility Pole and will be used by a Wireless Services Provider to provide service within nine (9) months after the date the application is approved.

(9) **Information regarding height limitations.** For Utility Poles intended to support the Collocation of Small Wireless Facilities, the Applicant shall provide information regarding the heights of other Utility Poles located in the same Public Rights-of-way, measured from grade in place within five hundred (500) feet of the proposed location of the Utility Pole. If there is no Utility Pole within five hundred (500) feet of the proposed location of the Utility Pole intended to support the Collocation of Small Wireless Facilities, the Applicant shall certify such.

(10) **Additional information as reasonably required for review of Permit application.** Such additional information as the County Engineer finds reasonably necessary to demonstrate the Applicant’s Compliance with Applicable Codes, local laws and regulations, and State and federal laws with respect to the Placement or Maintenance of the proposed Facility or Utility Pole that is the subject of the Permit application.

(d) **Application review timeframes.** An application for a Permit for an At-grade Facility, Below-grade Facility, Wireline Facility or Utility Pole not intended to support the Collocation of Small Wireless Facilities in the Public Rights-of-way shall be reviewed by the County as follows:

(1) **Notice of application deficiency.** Within thirty (30) days after the date of filing an application, the County Engineer shall determine whether the application is complete. If an application is deemed incomplete, the County Engineer shall notify the Applicant by electronic mail and specifically identify the missing information.

(2) **Application review period.** Within sixty (60) days after the date of filing an application, the County Engineer shall approve or deny the application.

(3) **Notice of denial; resubmission.** Should the application be denied, the County Engineer
shall notify the Applicant by electronic mail and specify the basis for denial, including
the specific code provisions on which the denial is based. The Applicant may cure the
deficiencies identified by the County Engineer and resubmit the application within
thirty (30) days after the notice of denial is sent. The County Engineer shall approve or
deny the revised application within thirty (30) days after the date of filing the revised
application. A denial of a Permit may be appealed pursuant to Section 16-110.

(4) **Repurposed Structures and Utility Poles intended to support the Collocation of Small
Wireless Facilities.** An application for a Repurposed Structure or Utility Pole intended
to support the Collocation of Small Wireless Facilities shall be reviewed by the
County pursuant to the application review timeframes set forth in Section 16-302(e).

(e) A Permit application for a Repurposed Structure or a Utility Pole intended to support the
Collocation of Small Wireless Facilities shall be submitted prior to or contemporaneously with a
Permit application for a Small Wireless Facility.

**Sec. 16-202. At-grade Facility, Below-Grade Facility, Wireline Facility, and Utility Pole Permit
Conditions.**

(a) At-grade Facilities, Below-grade Facilities, Wireline Facilities, and Utility Poles, may be
Placed and Maintained within the Public Rights-of-way subject to the County's consideration of the
following standards and minimum requirements:

(1) **Sufficiency of space to accommodate present and pending applications for use of the
Public Rights-of-way.** The sufficiency of space to accommodate all of the present and
pending applications to place other Communications Facilities, Utility Poles, Utilities,
and other structures within the subject area of the Public Rights-of-way;

(2) **Sufficiency of space to accommodate the need for projected public improvements.** The
sufficiency of space to accommodate budgeted County plans for public improvements
or projects adopted as part of the Leon County Capital Improvements Schedule or
other approved capital improvements lists as part of the Tallahassee-Leon County
Comprehensive Plan;

(3) **Impact on traffic and traffic and pedestrian safety.** The impact on traffic and traffic
and pedestrian safety. Such impact evaluation will include, without limitation,
potential traffic and pedestrian interference, interference with the efficient movement
of people and property, interference with sight lines or clear zones for transportation,
pedestrians or public safety purposes; and

(4) **Applicable Codes.** Applicable Codes and State and federal laws and regulations,
including the General Permit Conditions in Section 16-107 and the Objective Design
Standards in Section 16-203.

(b) A Permit for a proposed At-grade Facility, Below-grade Facility, Wireline Facility, or Utility
Pole shall remain effective for and Construction must be completed within sixty (60) days. The
County Engineer may extend the expiration date of the Permit for good cause.

(c) A Permit for a proposed Repurposed Structure or Utility Pole intended to support the Collocation of Small Wireless Facilities shall remain effective for and Construction must be completed within one (1) year. The County Engineer may extend the expiration date of the Permit for good cause.

(d) A Utility Pole intended to support the Collocation of Small Wireless Facilities may only contain Small Wireless Facilities. Unless otherwise exempted by State or federal law or this Article, Antennas, wires, or other facilities may not be mounted on the Utility Pole intended to support the Collocation of Small Wireless Facilities without a Permit or authorization from the County.

Sec. 16-203. Objective Design Standards

(a) Intent and purpose. At-grade Facilities, Below-grade Facilities, Wireline Facilities, and Utility Poles shall be designed in such a manner to ensure such Facilities and Utility Poles are Placed in a safe location that do not interfere with the traveling public, and shall be designed to maximize compatibility with the Surrounding Neighborhood and to minimize any negative visual impact on the Surrounding Neighborhood. As used in this Section, the term Facility shall be used to collectively refer to At-grade Facilities, Below-grade Facilities, and Wireline Facilities. The following design standards shall apply, unless waived pursuant to Section 16-204.

(b) Stealth design. Utility Poles shall be made of substantially the same material, color, and design, including diameter, as other Utility Poles within the same Public Rights-of-way, however, a Utility Pole made of a steel, concrete, or fiberglass, and black or gray in color, shall not require a waiver if the Utility Poles within the same Public Rights-of-way are wood. A Repurposed Structure shall be of substantially similar design, including diameter, material, and color of the Existing Structure being replaced by the Repurposed Structure. The Repurposed Structure shall be located in approximately the same location as the Existing Structure. The Repurposed Structure shall continue to serve its primary function. If the County has a planned project to replace Utility Poles in the same Public Rights-of-way, the Repurposed Structure shall conform to the County’s updated design, material, and color.

(c) Concealment. The following concealment standards shall apply to proposed Facilities and Utility Poles.

1. Signage shall not be Placed or Maintained on any Facility or Utility Pole within the Public Rights-of-way, unless otherwise required by State or federal laws or regulations, or as permitted by the County, provided however, that Existing Structures that lawfully supported Signage prior to being repurposed may continue to support Signage as otherwise permitted by law.

2. A Facility or Utility Pole shall not have any type of lighted signal, lights, or illuminations unless required by applicable State or federal laws or regulations, or as permitted by the County.
(3) At-grade Facilities shall be located in areas with existing foliage or other aesthetic features to obscure the view of the At-grade Facility or shall be designed to appear similar to other At-grade Facilities in the same Public Rights-of-way. Any additional plantings proposed pursuant to this subsection shall be approved by the County. An Applicant may also utilize a Wrap for At-grade Facilities. An Applicant may propose a Wrap design not previously approved by the County by applying for and obtaining a waiver pursuant to Section 16-204. Wraps shall be maintained by the Applicant such that the Wrap does not peel or significantly fade.

(d) Maximum height restrictions. The height of a Utility Pole intended to support the Collocation of Small Wireless Facilities is limited to the tallest existing Utility Pole as of July 1, 2017, located in the same County Public Rights-of-way, other than a Utility Pole for which a waiver has previously been granted, measured from grade in place within five hundred (500) feet of the proposed location of the Utility Pole intended to support the Collocation of Small Wireless Facilities. If there is no Utility Pole within five hundred (500) feet, the Utility Pole intended to support the Collocation of Small Wireless Facilities shall be limited to fifty (50) feet.

(e) Location context. The following location context standards shall apply to proposed Facilities and Utility Poles.

1. **Installation at outermost boundary of Public Rights-of-way.** At-grade Facilities and Utility Poles shall be placed at the farthest distance practicable from the edge of pavement unless there is a designated corridor within the Public Rights-of-way.

2. **Equidistant requirement.** Utility Poles are strongly encouraged to be placed equidistant between existing Utility Poles, if any, within the Public Rights-of-way.

3. **Common property line.** For placement within Residential Blocks, Utility Poles are strongly encouraged to be placed at the common property line of the Parcels that Abut the Public Rights-of-way.

4. **Prohibition against Placement that significantly impairs view from principal structures within Residential Blocks.** At-grade Facilities and Utility Poles shall be placed such that views from principal structures within Residential Blocks are not significantly impaired.

5. **Prohibition against Placement in location where facilities are placed underground.** At-grade Facilities, aerial Wireline Facilities, and Utility Poles in the Public Rights-of-way shall comply with undergrounding requirements of the County that prohibit aboveground structures in the Public Rights-of-way.

6. **Tree Removal.** The Placement or Maintenance of a Communications Facility or Utility Pole that results in the Tree Removal of a Protected Tree within the Canopy Road Tree Protection Zones shall comply with the conditions outlined in Section 10-4.206(b)(5), as determined by the Development Review Committee, and abide by the tree replanting requirements in Section 10-4.364(b). The Placement or Maintenance of a
Communications Facility or Utility Pole that results in the Tree Removal of a Protected Tree that is not within the Canopy Road Tree Protection Zones shall comply with the conditions outlined in Section 10-4.364(a) and abide by the tree replanting requirements in Section 10-4.364(b). Notwithstanding any other Code, the County Engineer shall determine if the proposed Tree Removal meets the conditions of Section 10-4.364(a) and the tree replanting requirements in 10-4.364(b).

(7) **Prohibition against Placement in violation of OSHA or NESC rules and regulations.** At-grade Facilities, Below-grade Facilities, Wireline Facilities, and Utility Poles shall not be Placed in a location which violates rules and regulations set by the Occupational Safety and Health Administration or the National Electric Safety Code.

### Sec. 16-204. Waiver of the Objective Design Standards for At-grade Facilities, Below-grade Facilities, Wireline Facilities, and Utility Poles.

(a) The waiver provisions listed in this subsection apply in those circumstances where a Provider's use of the Public Rights-of-way is impaired by strict application of the requirements of this Article. Objective design standards provided in Section 16-107 and Section 16-203 may be waived by the County Engineer.

(b) A request for a waiver shall be filed contemporaneously with the Permit application. The request for waiver shall state each Section or subsection for which a waiver is being sought. A request for a waiver shall include the following information:

1. A detailed explanation, with supporting engineering or other data, as to why a waiver from the requirements of this Article is required, including a detailed explanation addressing the relevant criteria to be considered by the County Engineer as provided in subsection (c);

2. Design of the proposed At-grade Facility or Utility Pole, with particular reference to achieving compatibility with the Surrounding Neighborhood and eliminating adverse visual impacts on the Surrounding Neighborhood; and

3. Any other information the County Engineer may reasonably require to process the request for waiver.

(c) The County Engineer shall consider the following criteria when determining whether to grant or deny a request for a waiver:

1. Any special conditions and circumstances affecting the proposed site which prevent compliance with the Section or subsection for which a waiver is being sought;

2. The compatibility of the proposed Communications Facility or Utility Pole with Adjacent Properties and the Surrounding Neighborhood;

3. If there is an excessive expense associated with compliance with the Section or
subsection for which a waiver is being sought; or

(4) If the proposed waiver preserves to the County flexibility in its management of the Public Rights-of-way.

(d) In granting any waiver, the County Engineer may impose conditions to the extent the County Engineer concludes such conditions are necessary to minimize any adverse effects of the proposed Communications Facility or Utility Pole on the Surrounding Neighborhood, or to protect the health, safety and welfare of the public.

(e) The County Engineer shall grant or deny a request for a waiver within forty-five (45) days after receiving the request for waiver. Should a request for waiver, and ultimately a Permit, be denied by the County Engineer, the denial of the waiver may be appealed in conjunction with an appeal of the Permit denial in accordance with Section 16-110.

Division 3. Wireless Facility Standards

Sec. 16-300. Applicability.

This Division shall apply to any Person who seeks to Construct, Place, install, Maintain or operate a Wireless Facility in the Public Rights-of-way, unless otherwise exempt by operation of Applicable Codes or State or Federal laws or regulations. This Division shall not apply to Wireless Communications Facilities owned by a Person, including the County or electric cooperative, to the extent such facilities are utilized only on an internal, non-commercial basis by said Person.

This Article is intended to implement the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), F.S. In the event the Advanced Wireless Infrastructure Deployment Act, Section 337.401(7), F.S., is repealed, amended, or overturned by a court of competent jurisdiction, in whole or in part, provisions of this Article may no longer apply, in which case pending and future applications for Wireless Facilities and Utility Poles intended to support the Collocation of Small Wireless Facilities in the Public Rights-of-way, will be governed by applicable law.

Sec. 16-301. Wireless Facilities Allowed in the Public Rights-of-way.

(a) Subject to the requirements of this Article, only the following Wireless Facilities may be Placed or Maintained within the Public Rights-of-way:

(1) Small Wireless Facilities Collocated on Existing Structures or Collocated on new Utility Poles intended to support the Collocation of Small Wireless Facilities; and

(2) Micro Wireless Facilities suspended on cable strung between Existing Structures.

(b) Wireless Support Structures are not permitted within the Public Rights-of-way. Wireless Support Structures shall comply with Section 10-6.812, as applicable.

(c) Wireless Facilities shall not be permitted in the Public Rights-of-way except as permitted in
this Article, unless otherwise permitted by applicable State or federal laws or regulation.

(d) The approval of the installation, Construction, Placement, Maintenance, or operation of a Small Wireless Facility pursuant to this Article does not authorize the provision of any voice, data, or video communications services or the installation, Placement, Maintenance, or operation of any Communications Facilities other than Small Wireless Facilities in the Public Rights-of-way.

Sec. 16-302. Permit Requirements; Application; Review Timeframes.

(a) Permit Required. A Registrant shall not commence to Place or Maintain a Wireless Facility in the Public Rights-of-way until all applicable Permits have been issued by the County, except for Limited Work as provided in subsection (b), unless otherwise authorized by Applicable Codes or State or federal laws or regulations. A Registrant may submit a Consolidated Permit Application and receive a single Permit for the Collocation of up to thirty (30) Small Wireless Facilities. The Registrant acknowledges that as a condition of granting Permits, the County may impose reasonable conditions governing the Placement or Maintenance of a Wireless Facility in the Public Rights-of-way as set forth in Section 337.401, F.S., as amended. Permits shall apply only to the areas of the Public Rights-of-way specifically identified in the Permit.

(b) Permit Not Required.

(1) A Registrant shall be allowed to perform Limited Work within the Public Rights-of-way without first obtaining a Permit if such proposed Limited Work does not involve excavation or the closure of a vehicle lane. As used in this section, the term Limited Work shall mean:

a. Routine maintenance;

b. Replacement of an existing Wireless Facility with a Wireless Facility that is substantially similar or of the same or smaller size; or

c. Installation, Placement, Maintenance, or replacement of a Micro Wireless Facility that is suspended on cable strung between Existing Structures in compliance with Applicable Codes by or for a Communications Services Provider authorized to occupy the Public Rights-of-way and who is remitting Communications Services Tax.

(2) Prior to performing any Limited Work, a Registrant shall provide reasonable advance written notice to the County identifying the areas where such maintenance will occur, scope of maintenance, date(s) and duration of work to be performed. If any Limited Work requires the closure of a vehicle lane, a lane closure Permit shall be required.

(3) A Registrant shall be allowed to perform Emergency Maintenance within the Public Rights-of-way without first obtaining a Permit. However, a Registrant shall provide prompt notice to the County of the Emergency Maintenance and, within fifteen (15) days of completing the Emergency Maintenance, apply for a Permit in accordance with subsection (d) herein if such activity required a Permit under this Article. As used
in this Section, the term *Emergency Maintenance* means the repair or replacement of a Wireless Facility as a result of a condition that affects the public health, safety or welfare, which includes an unplanned out-of-service condition of a preexisting service.

(4) The County Engineer may issue an immediate stop work order where any Limited Work poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

(c) *Presubmittal conference.* Prior to submitting a Permit application, the Applicant is strongly encouraged to schedule a presubmittal conference with the County. A pre-submittal conference is not required prior to submitting a Permit application.

(d) *Permit Application.* As part of any Permit application to Place or Maintain a Small Wireless Facility or in the Public Rights-of-way, the Registrant shall provide a Permit application or Consolidated Permit Application that sets forth, at a minimum, the following:

(1) **Engineering plan.** An engineering plan signed and sealed by a Florida licensed professional engineer, that includes:

a. The type of proposed Wireless Facility including the dimensions, volume, height, footprint, and stealth design and concealment features of the proposed Small Wireless Facility, and location of the proposed Small Wireless Facility, including whether the proposed Small Wireless Facility is proposed within a location subject to restrictions pursuant to Section 16-304(e)(1);

b. The type of structure intended to support the Small Wireless Facility, such as an Existing Structure, Repurposed Structure, or new Utility Pole intended to support the Collocation of the Small Wireless Facility, including supporting documentation that the structure can support the additional load of the proposed Small Wireless Facility, if applicable;

c. The distance of the proposed Small Wireless Facility, including ground-mounted equipment, and nearby pavement, sidewalks, driveways, ramps, trees, underground Utilities and other above-grade and below-grade structures and Utilities located nearby within the Public Rights-of-way;

d. The Global Positioning System (GPS) coordinates of the proposed Small Wireless Facility. The GPS coordinates shall be based on the reading from a handheld mobile GPS unit set to Datum NAD 83 or WGS84. GPS coordinates based on Google Earth or similar application may be used where areas of shading occur due to overhead canopy. GPS Coordinates shall be provided in decimal degrees at a six (6) decimal point precision;

e. Sufficient specificity demonstrating compliance with the Florida Building Code and other Applicable Codes, including but not limited to sight lines or clear zone standards and specifications for transportation, pedestrians, and public safety as provided in the Florida Department of Transportation Plans Preparation Manual, Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the Florida Greenbook), and the Florida Department of
Transportation Design Standards, as amended, and the National Electric Safety Code;

f. Trees and landscaping to be removed or impacted upon the Placement or Maintenance of the proposed Small Wireless Facility. The Placement or Maintenance of a Small Wireless Facility that results in the Tree Removal of a Protected Tree within the Canopy Road Tree Protection Zones shall provide additional information and documentation in accordance with Sections 10-4.206(b)(2) and 10-4.206(c)(1). The Placement or Maintenance of a Small Wireless Facility that results in the Tree Removal of a Protected Tree outside of the Canopy Road Tree Protection Zone shall provide additional information and documentation in accordance with Section 10-4.206(c)(1).

(2) Description of installation or Construction. The Applicant shall provide a description of the manner in which the Small Wireless Facility will be Placed or Maintained (i.e. anticipated Construction methods or techniques).

(3) Pole attachment agreement. For Collocations on Private Utility Poles, the Applicant shall provide a copy of a valid pole attachment agreement for the Collocation of the proposed Small Wireless Facility. In lieu of providing the complete pole attachment agreement between the owner of the Private Utility Pole and Applicant, the Applicant may provide the first page of such agreement and the signature page or a notarized letter of authorization from the owner of the Private Utility Pole, providing adequate identifying information, acceptable to the County, and indicating the Applicant is authorized to Collocate on the identified Private Utility Pole.

(4) Stealth design. The Applicant shall provide a description of stealth design to be utilized pursuant to Section 16-304(b).

(5) Temporary sidewalk closure plan. The Applicant shall provide a temporary sidewalk closure plan, if applicable, to accommodate Placement or Maintenance of the Small Wireless Facility.

(6) Temporary maintenance of traffic (MOT) plan. The Applicant shall provide a temporary traffic lane closure and maintenance of traffic (MOT) plan, if applicable, to accommodate Placement or Maintenance of the Small Wireless Facility.

(7) Restoration plan and estimate cost of restoration of the Public Rights-of-way. If applicable, a restoration plan and a good faith estimate of the cost of restoration of the Public Rights-of-way. Such good faith estimate shall be accepted by the County unless the County Engineer determines such estimated costs are not representative of the actual costs of the restoration of the Public Rights-of-way. Estimates of the cost to restore the Public Rights-of-way shall include all costs necessary to restore the Public Rights-of-way to its original condition. Such good faith estimate shall include, but is not limited to, costs to restore the paving, curbs/gutters, sidewalks, multi-purpose trails, and landscaping. All planted or naturally occurring shrubbery or vegetation, including sod, damaged or destroyed during work in the Public Rights-of-way shall be
replaced, except Tree Removals as allowed by the Permit.

(8) **Timetable for Construction or installation.** The timetable for Placement or Maintenance of the proposed Small Wireless Facility or each phase of the Placement or Maintenance thereof.

(9) **Indemnification.** A statement shall be included within the Permit application that by execution of the application, the Registrant shall be bound to the County with respect to the indemnification provisions set forth in Section 16-112.

(e) **Application review timeframes.** An application for a Permit for a Small Wireless Facility, Repurposed Structure, and Utility Pole intended to support the Collocation of Small Wireless Facilities within the Public Rights-of-way shall be reviewed by the County as follows:

(1) **Notice of application deficiency.** Within fourteen (14) days after the date of filing an application, unless the timeframe is mutually extended, for the Collocation of a Small Wireless Facility, Repurposed Structure, or Utility Pole intended to support the Collocation of Small Wireless Facilities the County Engineer shall determine whether the application is complete. If an application is deemed incomplete, the County Engineer shall notify the Applicant by electronic mail and specifically identify the missing information. An application shall be deemed complete if the County Engineer fails to notify the Applicant otherwise within fourteen (14) days after the date of filing the application.

(2) **Request for alternative location.** Within fourteen (14) days after the date of filing the application for Collocation of a Small Wireless Facility, the County Engineer may request that the proposed location of the Small Wireless Facility be moved to another location and be placed on another Existing Structure or by placing a new Utility Pole intended to support the Collocation of Small Wireless Facilities. The County and Applicant may negotiate the alternative location, including objective design standards and reasonable spacing requirements for ground-mounted equipment for thirty (30) days after the County submits the request. The Applicant shall notify the County of its acceptance or rejection within this thirty (30) day negotiating period. If the Applicant accepts the alternative location, the application shall be deemed granted for the agreed-upon alternative location and all other locations in the application. If the requested alternative location is rejected by the Applicant, the County Engineer shall approve or deny the original application within ninety (90) days after the date the application was filed.

(3) **Application review period.** Within sixty (60) days after the date of filing an application for the Collocation of a Small Wireless Facility, the County Engineer shall approve or deny the application. If the County Engineer does not submit a request for an alternate location as provided in subsection (2), the County Engineer and the Applicant may mutually agree to extend the sixty (60) day application review period.

(4) **Notice of denial; resubmission.** Should the application be denied, the County Engineer
shall notify the Applicant by electronic mail on the day the application is denied and specify in writing the basis for denial, including the specific Code provisions on which the denial is based. The Applicant may cure the deficiencies identified by the County Engineer and resubmit the application within thirty (30) days after the notice of denial is sent. The County Engineer shall approve or deny the revised application within thirty (30) days after the date of filing the application. Any subsequent review shall be limited to the deficiencies cited in the notice of denial. A denial of a Permit may be appealed pursuant to Section 16-110.

(5) Consolidated Permit Applications. The County may separately address each proposed Collocated Small Wireless Facility for which incomplete information has been received or which are denied.

(6) Deemed approved. Prior to commencing Construction, a Person with a deemed approved Permit must be registered pursuant to Section 16-103, and must file a performance bond and security fund with the County pursuant to this Article.

Sec. 16-303. Small Wireless Facility Collocation Permit Conditions.

(a) The County Engineer may deny a proposed Collocation of a Small Wireless Facility in the Public Rights-of-way if the proposed Collocation:

(1) Materially interferes with the safe operation of traffic control equipment;

(2) Materially interferes with sight lines or clear zone standards and specifications for transportation, pedestrians, or public safety purposes as provided in the Florida Department of Transportation Plans Preparation Manual, Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the Florida Greenbook), and/or the Florida Department of Transportation Design Standards, as amended;

(3) Materially interferes with compliance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101, et seq, or similar federal or State standards regarding pedestrian access or movement;

(4) Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual; or

(5) Fails to comply with Applicable Codes governing Placement or Maintenance of Small Wireless Facilities within the Public Rights-of-way, including the General Permit Conditions in Section 16-107 and the Objective Design Standards in Section 16-304.

(b) A Permit for the Collocation of a Small Wireless Facility shall remain effective for and Construction must be completed within one (1) year. The County Engineer may extend the expiration date of the Permit for good cause.
(c) A Permit application for a Repurposed Structure or a Utility Pole intended to support the Collocation of Small Wireless Facilities shall be submitted prior to or contemporaneously with a Permit application for a Small Wireless Facility.

Sec. 16-304. Objective Design Standards

(a) **Purpose and intent.** Small Wireless Facilities shall be designed in such a manner that the Small Wireless Facilities are placed in a safe location that do not interfere with the traveling public, and shall be designed to maximize compatibility with the Surrounding Neighborhood and to minimize any negative visual impact on the Surrounding Neighborhood. The following objective design standards regulating the location context, color, stealth design, and concealment of the proposed Small Wireless Facility shall apply, unless waived pursuant to Section 16-305.

(b) **Stealth design.** All proposed Small Wireless Facilities shall meet any one of the three (3) following stealth design standards or combination thereof.

1. Preferred stealth design option 1: Wires, cables, and equipment to be placed on a Utility Pole shall be within the Utility Pole or covered with a Shroud or conduit that is similar to the Utility Pole color; the use of a slim design wherein the top mounted Antenna does not exceed the diameter of the supporting Utility Pole by more than six (6) inches on any side at the level of the Antenna attachment and side-mounted enclosures, if any, do not extend more than thirty (30) inches beyond the exterior dimensions of the supporting Utility Pole measured from the edge of the Utility Pole to the outermost surface of the side-mounted enclosure.

2. Preferred stealth design option 2: Wires, cables, and equipment to be Collocated on a Utility Pole shall be within the Utility Pole or covered with a Shroud or conduit that is similar to the Utility Pole color; and the use of a street light fixture to camouflage the Small Wireless Facility. All street light fixtures shall be maintained in good working order by the Applicant or pole owner unless the County accepts maintenance responsibility in writing. If the County accepts the maintenance responsibility of a street light fixture on an Authority Utility Pole, the ownership of the street light fixture shall transfer to the County. All street light fixtures shall be of similar style and of similar lighting technology as nearby lighting fixtures (halogen, LED, etc.) and shall utilize dark-sky friendly lighting.

3. Preferred stealth design option 3: Wires, cables, and equipment to be Collocated on a Utility Pole shall be within the Utility Pole or covered with a Shroud or conduit that is similar to the Utility Pole color; and the use of Wraps on the supporting structure, side mounted enclosures, and/or ground-mounted equipment. An Applicant may propose a Wrap design not previously approved by the County by applying for and obtaining a waiver pursuant to Section 16-305. Wraps shall be maintained by the Applicant such that the Wrap does not peel or significantly fade.

(c) **Concealment.** The following concealment standards shall apply to proposed Small Wireless Facilities.
(1) Applicants shall not Place or Maintain Signage on Communications Facilities in the Public Rights-of-way, unless otherwise required by applicable State or federal laws or regulations, or as permitted by the County.

(2) A Small Wireless Facility shall not have any type of lighted signal, lights, or illuminations unless required by applicable State or federal laws or regulations or as permitted by the County.

(3) Ground-mounted equipment for Small Wireless Facilities shall be located within a ten (10) foot radius of the supporting structure for the Small Wireless Facility and, if possible, in areas with existing foliage or other aesthetic features to obscure the view of the ground-mounted equipment. The ground-mounted equipment shall be designed to appear similar to other at-grade facilities in the same Public Rights-of-way and may be further concealed with additional plantings. Any additional plantings proposed pursuant to this subsection shall be approved by the County. An Applicant may also utilize a Wrap for At-grade Facilities. An Applicant may propose a Wrap design not previously approved by the County by applying for and obtaining a waiver pursuant to Section 16-204. Wraps shall be maintained by the Applicant such that the Wrap does not peel or significantly fade.

(d) Maximum height restrictions. A Small Wireless Facility, including any attached Antennas, shall not exceed ten (10) feet above the Existing Structure, Repurposed Structure or Utility Pole upon which the Small Wireless Facility is to be Collocated.

(e) Location context. The following location context standards shall apply to proposed Small Wireless Facilities.

(1) Prohibition against Placement within a location subject to Homeowners’ Association restrictions. Small Wireless Facilities shall not be Collocated in a location subject to covenants, restrictions, articles of incorporation, or bylaws of a Homeowners’ Association unless specifically authorized by the Homeowners’ Association. This subsection shall not limit the installation, Placement, Maintenance, or replacement of Micro Wireless Facilities on any existing and duly authorized aerial Wireline Facility.

(2) Prohibition against Placement in location where facilities are placed underground. Small Wireless Facilities shall comply with nondiscriminatory undergrounding requirements of the County that prohibit aboveground structures in the Public Rights-of-way. Any such requirements may be waived by the County pursuant to Section 16-305.

(3) Tree Removal. The Placement or Maintenance of a Small Wireless Facility that results in the Tree Removal of a Protected Tree within the Canopy Road Tree Protection Zones shall comply with the conditions outlined in Section 10-4.206(b)(5), as determined by the Development Review Committee, and abide by the tree replanting requirements in Section 10-4.364(b). The Placement or Maintenance of a Small
Wireless Facility that results in the Tree Removal of a Protected Tree that is not within the Canopy Road Tree Protection Zones shall comply with the conditions outlined in Section 10-4.364(a) and abide by the tree replanting requirements in Section 10-4.364(b). Notwithstanding any other Code, the County Engineer shall determine if the proposed Tree Removal meets the conditions of Section 10-4.364(a) and the tree replanting requirements in 10-4.364(b). Tree Removal is not permitted within the Public Rights-of-way to increase signal strength or provide a line-of-sight.

(4) Prohibition against Placement in violation of OSHA or NESC rules and regulations. Small Wireless Facilities shall not be placed in a location which violates rules and regulations set by the Occupational Safety and Health Administration or the National Electric Safety Code.

Sec. 16-305. Waiver of Objective Design Standards for Small Wireless Facilities.

(a) Objective design standards provided in Section 16-107 and Section 16-304 may be waived by the County Engineer upon a showing that the objective design standards are not reasonably compatible for the particular location of a Small Wireless Facility or that the objective design standards impose an excessive expense.

(b) A request for a waiver shall be filed contemporaneously with the Permit application. The request for waiver shall state each Section or subsection for which a waiver is being sought. A request for waiver shall include a detailed explanation, with supporting engineering or other data, as to why a waiver from the requirements of this Article is required.

(c) In granting any waiver, the County Engineer may impose conditions to the extent the County Engineer concludes such conditions are necessary to minimize any adverse effects of the proposed Small Wireless Facility on the Surrounding Neighborhood or to protect the health, safety and welfare of the public.

(d) The County Engineer shall grant or deny a request for a waiver within forty-five (45) days after receiving the request for waiver. Should a request for waiver, and ultimately a Permit, be denied by the County Engineer, the denial of the waiver may be appealed in conjunction with an appeal of the Permit denial in accordance with Section 16-110.

Sec. 16-306. Make-Ready Work.

(a) For an Authority Utility Pole that supports aerial Wireline Facility used to provide Communications Services or electric service, the County, Communications Services Provider, Wireless Infrastructure Provider, and Pass-through Provider shall comply with the process for make-ready work under 47 U.S.C. § 224, as amended, and implementing regulations. The good faith estimate of the Person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested Collocation must include pole replacement if necessary.

(b) For an Authority Utility Pole that does not support aerial Wireline Facility used to provide Communications Services or electric service, the County shall provide a good faith estimate for any
make-ready work necessary to enable the pole to support the requested Collocation, including
necessary pole replacement, within sixty (60) days after receipt of a complete application. Make-
ready work, including any pole replacement, must be completed within sixty (60) days after the
written acceptance of the good faith estimate by the Applicant. Alternatively, the County may require
the Applicant seeking to Collocate a Small Wireless Facility to provide a make-ready estimate at the
Applicant’s expense for the work necessary to support the Small Wireless Facility, including pole
replacement, and perform the make-ready work.

(c) If pole replacement if required, the scope of the make-ready estimate is limited to the design,
fabrication, and installation of a Utility Pole that is substantially similar in color and composition.
The County may not condition or restrict the manner in which the Applicant obtains, develops, or
provides the estimate or conducts make-ready work subject to the usual construction restoration
standards for work in the Public Rights-of-way. The replaced or altered Utility Pole shall remain the
property of the County.

Section 16-307. Collocation Fees.

The rate to Collocate a Small Wireless Facility on an Authority Utility Pole shall be $150 per pole
annually. Annual payments shall be due and payable on April 1 of each year. If the payments
required by this Section are not made within ninety (90) days after the due date, the County Engineer
may withhold the issuance of any Permits to the Registrant until the amount past due is paid in full.

SECTION 4. Section 10-6.812 of the Code of Laws of Leon County, Florida, entitled
“Communication Antennas and Communication Antenna Support Structures” is amended to read as
follows:

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(c) Applicability. This section is applicable to communication antennas and communication
antenna support structures within the unincorporated area of the county and sited or proposed to be
sited on property that is located outside of the public rights-of-way. Communication antennas and
communication antenna support structures sited or proposed to be sited within the public rights-of-
way must comply with the requirements of Chapter 16, Article V of the Leon County Code of Laws.
All communication antennas and communication antenna support structures in the unincorporated
areas of the county and sited or proposed to be sited outside of the public rights-of-way shall be
subject to these land development regulations and all other applicable building and construction
codes. In the event of any conflict between other land development regulations and the regulations
contained in this section, the provisions of this section shall override and supersede such other
regulations unless otherwise specifically set forth herein.

(1) Nonconforming uses and structures. To the extent set forth herein, the restrictions on
nonconforming uses and structures contained in Division 3 of Article VI of the Leon
County Code of Laws are modified and supplemented by this section. Bona fide
nonconforming communication antenna support structures or communication antennas
that are damaged or destroyed may be rebuilt and all such communication antenna
support structures or communication antennas may be modified, reconstructed or
replaced without meeting the minimum setback requirements specified in subsection
(e)(2)(c) hereinafter. The type, height, and location of the communication antenna
support structure on the site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the communication antenna support structure shall comply with the applicable county codes and shall be obtained within 180 days from the date the communication antenna support structure is damaged or destroyed. If no permit is applied for or obtained, or if said permit expires, the communication antenna support structure shall be deemed abandoned as specified in subsection (h) hereinafter.

(2) Airport regulations. All communication antenna support structure or communication antennas proposed in the unincorporated areas of the county shall comply with the requirements of section 10-6.808, "airport regulation," of the zoning code. If there is any conflict between the requirements of this section and section 10-6.808, the requirements in section 10-6.808 shall control. Furthermore, no new communication antenna support structure shall be permitted within 1,000 feet of the landing area of a private airport that has been approved by the county pursuant to the provisions of section 10-6.803(g) of the zoning code.

(3) Exemption for government-owned property. The provisions of this section shall not apply to communication antenna support structures or communication antennas located on property, rights-of-way or easements owned by the United States, State of Florida, Leon County, or the City of Tallahassee, provided those communication antenna support structures are owned by those public entities and are used for the provision of fire safety, law enforcement, emergency management, emergency medical services telecommunications, and/or a governmental purpose.

(4) Broadcast antennas. The provisions of this section are not intended to apply to the siting of radio and television broadcast antenna support structures licensed by the FCC and used primarily for broadcast purposes which are regulated under section 10-6.813 of the zoning code.

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SECTION 5. Severability. If any provisions or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

SECTION 6. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

SECTION 7. Effective Date. This ordinance shall be effective according to law.
DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida, this 12th day of December, 2017.

LEON COUNTY, FLORIDA

By: 

Nick Maddox, Chairman
Board of County Commissioners

ATTESTED BY:
Gwendolyn Marshall, Clerk of Court & Comptroller
Leon County, Florida

By:

APPROVED AS TO FORM:
Leon County Attorney’s Office

By:

Herbert W. A. Thiele, Esq.
County Attorney