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2  
3 LEON COUNTY ORDINANCE NO. 2020-

03

4 AN ORDINANCE OF THE BOARD OF COUNTY  
5 COMMISSIONERS OF LEON COUNTY, FLORIDA,  
6 AMENDING CHAPTER 16, ARTICLE V OF THE CODE OF  
7 LAWS OF LEON COUNTY, FLORIDA, RELATING TO  
8 COMMUNICATIONS FACILITIES AND UTILITY POLES  
9 WITHIN THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR  
10 CONFLICTS; PROVIDING FOR SEVERABILITY; AND  
11 PROVIDING AN EFFECTIVE DATE.

12  
13 RECITALS

14  
15 WHEREAS, this Ordinance promotes the public health, safety and general welfare by  
16 regulating the siting of communications facilities and utility poles within the public rights-of-way; and  
17

18 WHEREAS, Section 337.401, *Florida Statutes*, addresses *inter alia*, the authority of local  
19 governments to regulate the placement and maintenance of communications facilities in the public  
20 rights-of-way; and  
21

22 WHEREAS, on December 12, 2017, the Board of County Commissioners adopted Ordinance  
23 No. 2017-20, which created a new Article V of Chapter 16 of the Code of Laws of Leon County,  
24 entitled “Communications Facilities and Utility Poles within the Public Rights-of-Way”; and  
25

26 WHEREAS, on June 19, 2018, the Board of County Commissioners adopted Ordinance No.  
27 18-12 to amend Chapter 16, Article V, to comply with Chapter 2018-118, Laws of Florida (CS/HB  
28 7087); and  
29

30 WHEREAS, during the 2019 Legislative Session, the Legislature adopted Chapter 2019-131,  
31 Laws of Florida (CS/CS/CS SB1000), amending Section 334.401, Florida Statutes, in an extensive  
32 manner and providing further limitations and preemptions on local government regulation of  
33 communications facilities within public rights-of-ways; and  
34

35 WHEREAS, the County’s rights-of-way are essential for the travel of persons and the transport  
36 of goods throughout the County and are a unique and physically limited resource requiring proper  
37 management by the County in order to ensure public safety, maximize efficiency, minimize costs to  
38 County taxpayers for the foregoing uses, reasonably balance the potential inconvenience to and  
39 negative effects upon the public from the placement and maintenance of communications facilities in  
40 the rights-of-way against the substantial benefits that accrue from such placement and maintenance,  
41 and promote the public health, safety and general welfare; and  
42

43 WHEREAS, the Board of County Commissioners desires to enact an ordinance amending  
44 Chapter 16, Article V of the Leon County Code of Laws, relating to communications facilities and  
45 utility poles within the public rights-of-way, to satisfy the above objectives.  
46

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

3  
4 **Section 1. Amendments to Code.**

5  
6 Chapter 16, Article V of the Code of Laws of Leon County, Florida, is hereby amended to read  
7 as follows:

8  
9 **ARTICLE V. COMMUNICATIONS FACILITIES AND UTILITY POLES**  
10 **WITHIN THE PUBLIC RIGHTS-OF-WAY**

11  
12 **DIVISION 1. IN GENERAL**

13  
14 **Sec. 16-125. Intent, purpose and applicability.**

15  
16 (a) The county hereby declares as a legislative finding that the public rights-of-way within  
17 the county are a unique and physically limited resource that are critical to the travel and transport of  
18 persons and property within the county; that the public rights-of-way must be managed and controlled  
19 in a manner that enhances the health, safety and general welfare of the county and its citizens, and that  
20 the use and occupancy of the public rights-of-way by providers must be subject to regulation to ensure  
21 public safety, minimal inconvenience to the public, coordination of uses, maximization of available  
22 space, reduction of maintenance and costs to the public, and to facilitate entry of an optimal number of  
23 providers of cable, communications services, and other services in the public interest.

24  
25 (b) It is the intent of the county to promote the public health, safety and general welfare by  
26 providing for the placement or maintenance of communications facilities in the public rights-of-way;  
27 adopting and administering reasonable rules, regulations and general conditions not inconsistent with  
28 state and federal law, including F.S. § 337.401 as amended, and in accordance with the provisions of  
29 the Federal Telecommunications Act of 1996, as applicable, and other federal and state law;  
30 establishing reasonable rules, regulations and general conditions necessary to manage the placement  
31 and maintenance of communications facilities in the public rights-of-way by all providers; minimizing  
32 disruption to the public rights-of-way; and requiring the restoration of the public rights-of-way to the  
33 original condition.

34  
35 (c) This article shall apply to any person who seeks to transmit communications services or  
36 to construct, place, install, maintain or operate a communications facility or utility pole in the public  
37 rights-of-way, unless otherwise exempt by operation of applicable codes, ~~or state or federal laws or~~  
38 ~~regulations.~~

39  
40 (d) Persons seeking to place or maintain communications facilities on private property or  
41 other property to which the county, state, or federal government has a fee simple or leasehold interest  
42 in real property, outside of and exclusive of the public rights-of-way, located within the jurisdictional  
43 boundaries of the county, shall comply with the provisions of section 10-6.812 to the extent it applies.

44  
45 **Sec. 16-126. Authority to implement article.**

1  
2 The County Administrator is authorized to adopt, modify, and repeal rules and regulations to  
3 carry out the intent and purposes of this article. Any such rules and regulations must be in writing, and  
4 registrants must be provided no less than 60 days advance written notice of any changes to the rules  
5 and regulations. A rights-of-way manual shall be developed by the county to outline engineering  
6 requirements and procedures for the placement and maintenance of communications facilities and  
7 utility poles within the public rights-of-way. This rights-of-way manual shall be separately approved  
8 and adopted by resolution of the Board of County Commissioners.  
9

10 **Sec. 16-127. Definitions.**

11  
12 The following words, terms and phrases, when used in this article, shall have the meanings  
13 ascribed to them in this section, except where the context clearly indicates a different meaning:  
14

15 *Abandonment* or *abandoned* means the cessation of all uses of a communications facility or  
16 utility pole for a period of 180 or more consecutive days provided the term "abandonment" or  
17 "abandoned" does not include the cessation of all use of a communications facility within a physical  
18 structure where the physical structure continues to be used for some purpose or use accessory to the  
19 communications facility. By way of example, cessation of all use of a cable within a conduit, where  
20 the conduit continues to be used for some purpose or use accessory to the communications facility,  
21 shall not constitute abandonment of a communications facility. A wireless infrastructure provider's  
22 failure to have a wireless service provider provide service through a small wireless facility collocated  
23 on a utility pole within nine months after the application is approved in accordance with F.S. §  
24 337.401(7)(j) shall constitute abandonment. The terms "abandonment" or "abandoned" is not intended  
25 to include a service drop from a potential or existing customer in the event the provider reasonably  
26 anticipates future use of the service drop.  
27

28 *Abut*, when used in conjunction with a lot, parcel or public rights-of-way, means a lot, parcel  
29 or public rights-of-way that shares all or a part of a common lot line or boundary line with another lot,  
30 parcel or public rights-of-way.  
31

32 *Adjacent properties* or *properties adjacent* means those lots or parcels that abut another lot,  
33 parcel or public rights-of-way that is contiguous to a communications facility site or proposed site and  
34 the lots, parcels or public rights-of-way that would be contiguous to lots, parcels or public rights-of-  
35 way but for an intervening public rights-of-way.  
36

37 *Aerial wireline communications facility* means a communications facility that delivers, routes,  
38 receives, transmits, amplifies or distributes communications services through an aerial wire above  
39 ground.  
40

41 *Antenna* means communications equipment that transmits or receives electromagnetic radio  
42 frequency signals used in providing wireless services.  
43

44 *Applicable codes* means uniform building, fire, electrical, plumbing, or mechanical codes  
45 adopted by a recognized national code organization or local amendments to those codes enacted solely  
46 to address threats of destruction of property or injury to persons, and includes the National Electric

1 Safety Code and the 2017 edition of the Florida Department of Transportation Utility Accommodation  
2 Manual. ~~or local codes or ordinances adopted to implement F.S. § 337.401(7). The term “applicable~~  
3 ~~codes” includes objective design standards adopted by ordinance that may require a new utility pole~~  
4 ~~intended to support the collocation of a small wireless facility that replaces an existing pole to be of~~  
5 ~~substantially similar design, material and color or that may require reasonable spacing requirements~~  
6 ~~concerning the location of ground mounted equipment.—The term “applicable codes” includes~~  
7 applicable local laws and regulations and applicable state and federal laws and regulations. ~~objective~~  
8 ~~design standards adopted by ordinance that may require a small wireless facility to meet reasonable~~  
9 ~~location context, color, stealth, and concealment requirements.~~

10  
11 *Applicant* means any person who submits an application to the county for an effective  
12 registration or a permit to place or maintain a communications facility or utility pole within the public  
13 rights-of-way.  
14

15 *As-built plans* means a set of drawings in a format as specified by the county engineer submitted  
16 by the applicant upon completion of a project which drawings reflect all changes to original plans made  
17 during the construction process, and show the exact dimensions, geometry and location of all elements  
18 of the work completed under the permit.  
19

20 *At-grade facility* means a communications facility, the structure of which is affixed to the  
21 ground at-grade with a portion of the structure extending vertically above grade. At-grade facilities  
22 may also, but need not necessarily, extend vertically below grade. Utility poles and ground-mounted  
23 equipment installed as part of a small wireless facility shall not be considered at-grade facilities.  
24

25 *Authority utility pole* means a utility pole owned by the county which is located within the  
26 public rights-of-way. The term "authority utility pole" does not include a private utility pole.  
27

28 *Below-grade facility* means a communications facility, including manholes or access points,  
29 that are entirely contained below-grade within the public rights-of-way. A below-grade facility is a type  
30 of wireline facility.  
31

32  
33 *Canopy road tree protection zones* shall have the meaning ascribed to it in section 10-1.101.  
34

35 *Code enforcement board* shall mean the county code enforcement board created by chapter 6,  
36 article II.  
37

38 *Collocation* or *collocate* means to install, mount, maintain, modify, operate, or replace one or  
39 more wireless facilities on, under, within, or adjacent to a utility pole. The term "collocation" or  
40 "collocate" does not include the installation of a new utility pole in the public rights-of-way.  
41

42 *Communications facility* means any tangible thing located in the public rights-of-way that may  
43 be used to deliver, route, receive, transmit, amplify or distribute communications services. Multiple  
44 cables, conduits, strands, or fibers located within same conduit shall be considered one communications  
45 facility. The term "communications facility" includes wireless facilities and wireline facilities.  
46

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

- 11
- 12            (1) Information services;
  - 13            (2) Installation or maintenance of wiring or equipment on a customer's premises;
  - 14            (3) The sale or rental of tangible personal property;
  - 15            (4) The sale of advertising, including, but not limited to, directory advertising;
  - 16            (5) Bad check charges;
  - 17            (6) Late payment charges;
  - 18            (7) Billing and collection services; or
  - 19            (8) Internet access service, electronic mail service, electronic bulletin board service, or  
20 similar online computer services.
- 21

22            *Communications services provider* means any person providing communications services  
23 through the placement or maintenance of a communications facility in the public rights-of-way,  
24 including without limitation, wireline telecommunication providers and wireless service providers.  
25

26            *Communications services tax* means the local tax authorized to be levied and collected by  
27 counties and municipalities upon communications services providers for communications services,  
28 pursuant to F.S. § 202.19, as amended.  
29

30            *Consolidated permit application* means a single permit application that would otherwise require  
31 individual permit applications for the collocation of between two and 30 small wireless facilities on  
32 existing structures within the public rights-of-way.  
33

34            *Construct or construction* means to construct, install, place, or excavate utility poles,  
35 communications facilities, utilities, facilities, or other physical structures on, above, within or under  
36 any part of the public rights-of-way.  
37

38            *County Administrator* means the chief administrative officer of the county. The term "County  
39 Administrator" also includes designee.  
40

41            *County engineer* means the licensed engineer designated by the Board of County  
42 Commissioners to furnish engineering assistance for the administration of these regulations. For the  
43 purposes of this article, the term "county engineer" shall also include designee.  
44

45            *Development review committee* means the committee established in section 10-2.301.  
46

1            *Existing structure* means a utility pole within the public rights-of-way that exists at the time an  
2 application to place a communications facility on that utility pole is filed with the county. The term  
3 "existing structure" includes repurposed structures. The term "existing structure" does not include at-  
4 grade facilities, below-grade facilities, or wireline facilities. An existing structure is not transformed  
5 into a communications facility by the collocation of a wireless facility.  
6

7            *Florida Building Code* means the Florida Building Code promulgated under F.S. ch. 553 and  
8 includes the Leon County amendments thereto, as both may be amended.  
9

10           *Graffiti* means any inscriptions, words, figures, paintings or other defacement that is written,  
11 marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any  
12 communications facility whether or not authorized by the registrant of the communications facility. A  
13 wrap shall not be considered graffiti.  
14

15           *Homeowners' association (HOA)* means an incorporated entity in a subdivision, planned  
16 community or condominium development that makes rules for the properties within its jurisdiction and  
17 usually maintains and operates property owned by the HOA.  
18

19           *In the public rights-of-way* means across, above, within, on or under the public rights-of-way.  
20

21           *Lot* means a designated parcel of land established by plat, subdivision, or as otherwise permitted  
22 by law, to be used, developed, or built upon as a unit.  
23

24           *Micro wireless facility* means a small wireless facility having dimensions no larger than 24  
25 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer  
26 than 11 inches.  
27

28           *Parcel* means any piece of real property that has a single parcel identification number assigned  
29 to it by the county property appraiser.  
30

31           *Pass-through provider* means any person who places or maintains a communications facility in  
32 the public rights-of-way and who does not remit communications services tax. A person who does not  
33 remit communications services tax but pursuant to section 202.16(2) sells communications services for  
34 resale to a person who sells such services at retail or who integrates such services into communications  
35 services sold at retail is not a "pass-through provider."  
36

37           *Permit* means the public rights-of-way placement permit that must be obtained before a person  
38 may construct, place, install, or maintain communications facilities or utility poles in the public rights-  
39 of-way and shall include, but not be limited to, rights-of-way engineering and construction permits  
40 issued by the county engineer.  
41

42           *Person* means any natural person or corporation, business association or other business entity,  
43 including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or  
44 private agency of any kind, a utility, a successor or assign of any of the foregoing or any other legal  
45 entity and shall include the county to the extent the county acts as a communications services provider.  
46

1           *Place or maintain or placement or maintenance or placing or maintaining* means to erect,  
2 construct, install, extend, expand, remove, occupy, locate, relocate, or significantly alter the  
3 configuration of a communications facility or utility pole. A person who owns or exercises physical  
4 control to maintain and repair is placing or maintaining the communications facility or utility pole. A  
5 person providing service only through resale or only through use of a third person's communications  
6 facility is not placing or maintaining the communications facility through which such service is  
7 provided. The transmission and receipt of radio frequency signals through the airspace of the public  
8 rights-of-way does not constitute placing or maintaining a communications facility in the public rights-  
9 of-way.

10  
11           *Pole attachment* means any attachment of a communications facility by a provider to an existing  
12 structure within a public rights-of-way. The term "pole attachment" includes aerial wireline  
13 attachments that serve as wireline facilities.

14  
15           *Private utility pole* means a utility pole owned by a municipal electric utility, a utility pole used  
16 to support municipally-owned or operated electric distribution facilities, or a by a person other than the  
17 county within the public rights-of-way.

18  
19           *Provider* means a communications services provider, wireless infrastructure provider, or pass-  
20 through provider.

21  
22           *Public rights-of-way or rights-of-way* means land in which the county owns the fee or has an  
23 easement devoted to or required for use as a transportation facility and may lawfully grant access  
24 pursuant to applicable law, and includes the surface, the air space over the surface and the area below  
25 the surface of such rights-of-way. For the purposes of this definition, the term "transportation facility"  
26 means any means for the transportation of people or property from place to place which is constructed,  
27 operated, or maintained in whole or in part from public funds. The term "public rights-of-way" or  
28 "rights-of-way" do not include:

- 29
- 30           (1) City, state, or federal rights-of-way unless the county has been properly delegated  
31 authority to issue permits for structures within those rights-of-way, unless prohibited by  
32 state or federal law;
  - 33
  - 34           (2) Platted utility easements that are not part of a dedicated public rights-of-way;
  - 35
  - 36           (3) Property owned by any person other than the county;
  - 37
  - 38           (4) Service entrances or driveways leading from the road or street onto adjacent property;  
39 or
  - 40
  - 41           (5) Any real or personal county property except as described above, and shall not include  
42 county buildings, fixtures, poles, conduits, facilities or other structures or  
43 improvements, regardless of whether they are situated in the public rights-of-way except  
44 as allowed by this article or applicable state or federal law.

45  
46           *Registrant* means any provider who has an effective registration with the county.

1  
2       *Registration* or *register* means the process described in this article whereby a provider provides  
3 certain information to the county by which it is determined whether the person will be eligible to place  
4 or maintain communications facilities in the public rights-of-way and to apply for permits, as required.  
5

6       *Repurposed structure* means an existing structure that has been renovated, reconfigured, or  
7 replaced with a similar structure so as to continue serving its primary existing purpose while also  
8 supporting the attachment of communications facilities that is approximately in the same location as  
9 the existing structure and in such a manner that does not result in a net increase in the number of utility  
10 poles located within the public rights-of-way and does not interfere with pedestrian or vehicular access,  
11 and is compliant with applicable codes. The term "repurposed structure" remains the property of the  
12 owner of the existing structure prior to the repurposing, unless ownership otherwise lawfully changes.  
13

14       *Residential block* means a lot or group of lots within land zoned R-1, R-2, R-3, R-4, R-5, RA,  
15 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  
16 used only for residential purposes, that abut or are adjacent or contiguous to a public rights-of-way.  
17

18       *Service drop* means the extension of a wireline facility from the public rights-of-way into a  
19 customer's private property for purposes of placing a service drop or extensions from the rights-of-way  
20 into a utility easement to provide service to a discrete identifiable customer or group of customers. ~~to~~  
21 ~~a lot or parcel located outside of the public rights-of-way.~~  
22

23       *Shroud* means a covering or enclosure of pole-mounted equipment associated with a small  
24 wireless facility.  
25

26       *Signage* means any display of characters, ornamentation, letters or other display, such as, but  
27 not limited to, a symbol, logo, picture, or other device used to attract attention, identify, advertise,  
28 announce, or to indicate directions, including the structure or frame used in the display. The term  
29 "signage" does not include identification of the owner and contact information of the communications  
30 facility or utility pole, or identification of wires, cables, etc. necessary to aid in safety or hazard work  
31 or maintenance or repair work of the communications facility.  
32  
33

34       *Small wireless facility* means a wireless facility that meets the following qualifications:  
35

- 36       (1) Each antenna associated with the facility is located inside an enclosure of no more than  
37 six cubic feet in volume or, in the case of antennas that have exposed elements, each  
38 antenna and all of its exposed elements could fit within an enclosure of no more than  
39 six cubic feet in volume; and  
40  
41       (2) All other wireless equipment associated with the facility is cumulatively no more than  
42 28 cubic feet in volume. The following types of associated ancillary equipment are not  
43 included in the calculation of equipment volume: electric meters; concealment elements;  
44 telecommunications demarcation boxes; ground-based enclosures; grounding  
45 equipment; power transfer switches; cutoff switches; vertical cable runs for the  
46 connection of power and other services, and utility poles or other support structures.



1  
2       *Surrounding neighborhood* means the area within a 500-foot radius of a communications  
3 facility site or proposed communications facility site.

4  
5       *Tree* shall have the meaning ascribed to it in section 10-1.101.

6  
7       *Tree removal* shall have the meaning ascribed to it in section 10-1.101.

8  
9       *Utility* means any person or entity that is a local exchange carrier or an electric, gas, water,  
10 steam or other public utility, and who owns or operates appurtenant facilities or equipment that are  
11 situated within the public rights-of-way for transmission of such utility's commodities or services.

12  
13       *Utility pole* means a pole or similar structure used in whole or in part to provide communications  
14 services or electric distribution, lighting, traffic control, Signage, or similar function. This term "utility  
15 pole" includes the vertical support structure for traffic lights, but does not include any horizontal  
16 structures upon which are attached signal lights or other traffic control devices and does not include  
17 any pole or similar structure 15 feet or less in height unless the county grants a waiver for such pole.

18  
19       *Wireless facility* means communications facility at a fixed location which enables wireless  
20 communications between user equipment and a communications network, including radio transceivers,  
21 antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup powers supplies, and  
22 comparable equipment, regardless of technological configuration, and equipment associated with  
23 wireless communication. The term "wireless facility" includes small wireless facilities. The term  
24 "wireless facility" does not include:

- 25  
26       (1)     The structure or improvements on, under, within, or adjacent to the structure on which  
27               the equipment is collocated;  
28  
29       (2)     Wireline backhaul facilities; or  
30  
31       (3)     Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is  
32               otherwise not immediately adjacent to or directly associated with a particular antenna.

33  
34       *Wireless infrastructure provider* means a person who has been certified under chapter 364, F.S.  
35 ~~by the governing federal or state agency~~ to provide communications services under chapter 610, F.S.  
36 to provide cable or video services in this state, or that person's affiliate, and who builds or installs  
37 wireless communication transmission equipment, wireless facilities, or wireless support structures but  
38 is not a wireless services provider.

39  
40       *Wireless services* means any services provided using licensed or unlicensed spectrum, whether  
41 at a fixed location or mobile, using wireless facilities.

42  
43       *Wireless services provider* means a person who provides wireless services. A wireless services  
44 provider is a type of communications services provider.

1            *Wireless support structure* means a freestanding structure, such as a monopole, a guyed or self-  
2 supporting tower, or another existing or proposed structure designed to support or capable of supporting  
3 wireless facilities. The term "wireless support structure" does not include a utility pole, pedestal, or  
4 other support structure for ground-based equipment not mounted on a utility pole and less than five feet  
5 in height.  
6

7            *Wireline facility* means an wireline aerial wireline facility or below-grade facility used to  
8 provide communications services. The term "wireline facility" includes wireline backhaul facilities  
9 associated with a wireless facility and coaxial or fiber-optic cable that is between wireless structures or  
10 utility poles or that is otherwise not immediately adjacent to or directly associated with a particular  
11 antenna of a wireless facility.  
12

13            *Wrap* means an aesthetic covering approved by the county depicting scenic imagery such as  
14 vegetation, which blends with the surrounding area. A wrap design may also be proposed by the  
15 applicant by requesting a waiver pursuant to section 16-204. Imagery in a wrap may not contain any  
16 signage.  
17

18 **Sec. 16-128. Registration.**  
19

20            (a) *Registration.* A provider that desires to place or maintain a communications facility,  
21 conduit, backhaul facility, or utility pole intended to support the collocation of a small wireless facility  
22 in the public rights-of-way shall register with the county public works department in accordance with  
23 this article.  
24

25            (b) *Content of registration.* Each applicant shall submit the following information and  
26 documentation:  
27

- 28            (1) The name of the applicant under which it will transact business in the county and, if  
29            different, in the state;
- 30            (2) The name, address, electronic mail address, and telephone number of the applicant's  
31            primary contact person and the person to contact in case of an emergency;
- 32            (3) A copy of the applicant's current certificate of authorization, public convenience and  
33            necessity, or other similar certification or license issued by the state public service  
34            commission, the state department of state, the Federal Communications Commission,  
35            or other federal authority; ~~and~~
- 36            (4) A statement of whether the applicant is a pass-through provider;
- 37            (5) The applicant's federal employer identification number; and
- 38            (6) Proof of the applicant's insurance coverage as required pursuant to section 16-136.

39            (c) *County engineer review and approval.* Within 30 days after receipt of the information  
40 submitted by the applicant, the county engineer shall determine whether the application for registration  
41  
42  
43  
44

1 contains all information and documentation required and shall advise the applicant, in writing, whether  
2 the registration is effective or if any areas of deficiency need to be addressed. The applicant shall re-  
3 submit any deficient information and documentation within 30 days of the date of the notice of  
4 deficiency; otherwise, the registration shall be denied. A notice of deficiency or denial of registration  
5 shall not preclude an applicant from filing subsequent applications for registration under the provisions  
6 of this section. A denial of registration or renewal of registration may be appealed in accordance with  
7 the procedures set forth in section 16-135.

8  
9 (d) *No property right arises from registration.* A registration shall not convey any title,  
10 equitable or legal, to the registrant in the public rights-of-way. Registration under this article governs  
11 only the ability to apply for a permit, if applicable, and the ability to construct, place or maintain  
12 communications facilities in the public rights-of-way. Registration does not excuse a provider from  
13 obtaining necessary access or pole attachment agreements before locating its communications facilities  
14 in the public rights-of-way. Registration does not excuse a provider from complying with all applicable  
15 codes, ~~and state and federal laws and regulations.~~

16  
17 (e) *Registration is non-exclusive.* Registration does not in and of itself establish a right to  
18 place or maintain, or establish priority for the placement or maintenance of a communications facility  
19 in the public rights-of-way, but shall establish for the registrant a right to place or maintain a  
20 communications facility in the public rights-of-way, if such proposed activity does not require a permit  
21 by the county, or apply for a permit to place or maintain a communications facility in the public rights-  
22 of-way, if such proposed activity requires a permit by the county. Registrations are expressly subject  
23 to any further amendment to or replacement of this article and further subject to any additional county  
24 ordinances or regulations, as well as any state or federal laws that may be enacted.

25  
26 (f) *Cancellation.* A registrant may cancel a registration upon written notice to the county  
27 stating that it will no longer place or maintain any communications facilities in the public rights-of-  
28 way. A registrant shall not cancel a registration if the registrant continues to place or maintain any  
29 communications facilities in the public rights-of-way.

30  
31 (g) *Registration updates.* Within ~~3~~90 days of any change in the information required to be  
32 submitted pursuant to subsection (b) of this section, a registrant shall provide updated information to  
33 the county.

34  
35 (h) *Registration renewal.* Each registrant shall renew its registration ~~by April 1 of years~~  
36 ~~ending in "0" or "5" (such as 2020, 2025, 2030, etc.)~~ every five years in accordance with the registration  
37 requirements of this article, as amended. Failure to renew a registration may result in the county  
38 restricting the issuance of additional permits until the provider has complied with the registration  
39 requirements of this article.

40  
41 (i) *Registration application fees.* No registration application fees shall be imposed for  
42 registration or renewal of registration under this article.

43  
44 (j) *Permits required of registrants.* In accordance with applicable codes, local laws and  
45 regulations, and state and federal laws and regulations, a permit shall be required of a provider that  
46 desires to place or maintain a communications facility in the public rights-of-way, unless otherwise

1 specifically exempted under this article. An effective registration shall be a condition precedent to or  
2 of obtaining a permit. Notwithstanding an effective registration, permitting requirements shall also  
3 apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all  
4 permitting requirements are met. If a permit is submitted without an effective registration, the permit  
5 application shall be denied.

6  
7 (k) *Compliance required.* A registrant shall at all times comply with and abide by all  
8 applicable codes, ~~local laws and regulations, and state and federal laws~~ in placing or maintaining a  
9 communications facility in the public rights-of-way. By submitting a registration, the applicant  
10 acknowledges that it has reviewed a copy of this article.

11  
12 **Sec. 16-129. Notice of transfer, sale or assignment of assets in the public rights-of-way.**

13  
14 (a) If a registrant transfers or assigns its registration incident to a sale or other transfer of the  
15 registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this  
16 article. Written notice of any transfer, sale or assignment shall be provided to the county within 30 days  
17 of the effective date of the transfer, sale or assignment. Further, any such person to whom such transfer,  
18 sale or assignment has been made, must register with the county in accordance with this article and  
19 shall provide proof of insurance coverage in accordance with section 16-135, ~~a security fund in~~  
20 ~~accordance with section 16-139,~~ and, if applicable, a performance construction bond in accordance  
21 with section 16-138.

22  
23 (b) If permit applications are pending in the registrant's name, the transferee, buyer or  
24 assignee shall notify the county engineer that the transferee, buyer or assignee is the new registrant.

25  
26 (c) A violation of the requirements of this section shall constitute a Code violation, and the  
27 registrant who is alleged to have violated any of the provisions of this section may be subject to the  
28 enforcement remedies set forth in sections 1-9 and 16-133.

29  
30 **Sec. 16-130. Involuntary termination of registration.**

31  
32 (a) *Involuntary termination.* The county engineer may terminate a registration if:

- 33  
34 (1) A federal or state authority suspends, denies, or revokes a registrant's certification or  
35 license required to provide communications services;  
36  
37 (2) The registrant's placement or maintenance of a communications facility in the public  
38 rights-of-way presents an extraordinary danger to the general public or other users of  
39 the public rights-of-way and the registrant fails to remedy the danger promptly after  
40 receipt of written notice; or  
41  
42 (3) The registrant performs substantive and material repetitive violations of any of the  
43 provisions of this article.

44  
45 (b) *Notice of intent to terminate.* Prior to termination, the registrant shall be notified by the  
46 county engineer with a written notice setting forth all matters pertinent to the proposed termination

1 action, including the reason therefor. The registrant shall have 30 days after receipt of such notice to  
2 address or eliminate the reason or to present a plan, satisfactory to the county engineer, to accomplish  
3 the same. If the plan is rejected by the county engineer, the county engineer shall provide written notice  
4 of such rejection to the registrant within 30 days of receipt of the plan to the registrant and shall make  
5 a final determination as to termination of the registration and the terms and conditions relative thereto.  
6 A final determination to terminate a registration may be appealed in accordance with the procedures  
7 set forth in section 16-135.

8  
9 (c) *Post termination action.* In the event of termination, following any appeal period, the  
10 former registrant shall:

- 11  
12 (1) In accordance with the provisions of this article and as may otherwise be provided under  
13 state law, notify the county of the assumption or anticipated assumption by another  
14 registrant of ownership of the registrant's communications facilities in the public rights-  
15 of-way; or  
16  
17 (2) Provide the county with an acceptable plan for disposition of its communications  
18 facilities in the public rights-of-way. If a registrant fails to comply with this subsection,  
19 the communications facilities are deemed to be abandoned and the county may exercise  
20 any remedies or rights it has at law or in equity. In any event, a terminated registrant  
21 shall take such steps as are necessary to render safe every portion of the communications  
22 facilities remaining in the public rights-of-way.

23  
24 (d) *When removal not authorized or required.* In the event of the termination of a registration,  
25 this section does not authorize the county to cause the removal of communications facilities used to  
26 provide another service for which the registrant or another person who owns or exercises physical  
27 control over the communications facilities and holds a valid certification or license issued by the  
28 governing federal or state agency, if required, for the provision of such service, and is registered with  
29 the county, if required.

30  
31 **Sec. 16-131. Unregistered providers.**

32  
33 To the extent that a person with a communication facility in the public rights-of-way prior to or  
34 on the effective date of the ordinance from which this article is derived, is not registered as required in  
35 section 16-128, said person shall register with the county pursuant to section 16-128 within 90 days  
36 from the effective date of the ordinance from which this article is derived. After the 90 day registration  
37 window, the county may not issue any new permits to unregistered persons and such persons may be  
38 subject to the enforcement remedies set forth in sections 1-9 and 16-133.

39  
40 **Sec. 16-132. General permit conditions.**

41  
42 All providers shall comply with the following general permit conditions:

- 43  
44 (1) *Permit does not create a property right; areas where aboveground utilities are being*  
45 *placed underground.* A permit from the county constitutes authorization to undertake  
46 only certain activities in the public rights-of-way in accordance with this article, and

1 does not create a property right or grant authority to impinge upon the rights of others  
2 who may have an interest in the public rights-of-way, nor does it create a property right  
3 to maintain collocated wireless facilities on utility poles when such utility poles are  
4 being removed or relocated underground should the county adopt undergrounding  
5 requirements that prohibit above-ground structures in the public rights-of-way.  
6

7 (2) *Avoidance of physical interference, displacement, damage, destruction or prohibition*  
8 *of access to other facilities or utilities, endangerment of life and property.* A registrant  
9 shall not physically interfere with, displace, damage, destroy or prohibit access to any  
10 facilities or utilities, including, but not limited to, sewers, gas or water mains, storm  
11 drains, storm drainage lines, pipes, cables or conduits of the county or any other person's  
12 facilities or utilities lawfully occupying the public rights-of-way and shall not endanger  
13 the life or property of other persons.  
14

15 (3) *Coordination with other work in the public rights-of-way.* Upon request of the county,  
16 and as notified by the county of other work, construction, installation or repairs, a  
17 registrant shall coordinate placement or maintenance activities under a permit with any  
18 other work, construction, installation or repairs that may be occurring or is scheduled to  
19 occur within a reasonable time in the subject public rights-of-way, and the registrant  
20 may be required to reasonably alter its construction schedule as necessary so as to  
21 minimize disruptions and disturbance in the public rights-of-way.  
22

23 (4) *Restoration of public rights-of-way.* After the completion of any placement or  
24 maintenance work involving a communications facility in the public rights-of-way or  
25 each phase thereof, a registrant shall, at its own expense, restore the public rights-of-  
26 way to its existing condition prior to such work. If the registrant fails to make such  
27 restoration within 30 days, or such longer period of time as may be reasonably required  
28 under the circumstances, following the completion of such placement or maintenance  
29 work, the county may perform restoration and charge the costs of the restoration against  
30 the registrant's ~~performance~~ construction bond, ~~security fund~~, or in accordance with F.S.  
31 § 337.402, as amended. For one year following the original completion of the work, the  
32 registrant shall guarantee its restoration work and shall correct, at their sole expense,  
33 any restoration work that does not satisfy the requirements of this article.  
34

35 (5) *Maintenance in accordance with industry standards and applicable codes.* A registrant  
36 shall maintain its communications facilities in a manner consistent with accepted  
37 industry practice and applicable codes.  
38

39 (6) *Maintenance of facilities.* Each communications facility within the public rights-of-way,  
40 including any appurtenant features incorporated therewith under this article, shall be  
41 maintained in a neat and clean condition at all times. Specifically, but not without  
42 limiting the generality of the foregoing, each communications facility in the public  
43 rights-of-way shall be regularly maintained so that it is free of graffiti and is reasonably  
44 free of dirt, grease, rust, corrosion, and chipped, faded, peeling or cracked paint,  
45 finishes, or wraps which is visible from the public rights-of-way or surrounding  
46 neighborhood.

- 1  
2 (7) *Underground facility damage prevention and safety act.* In connection with excavation  
3 in the public rights-of-way, a registrant shall, where applicable, comply with the  
4 Underground Facility Damage Prevention and Safety Act set forth in F.S. ch. 556, as  
5 amended.  
6  
7 (8) *Use of due caution.* Registrants shall use and exercise due caution, care and skill in  
8 performing work in the public rights-of-way and shall take all reasonable steps to  
9 safeguard work site areas, including, but not limited to, those safeguards set forth in  
10 chapter 33 of the Florida Building Code.  
11  
12 (9) *No warranties or representations regarding fitness, suitability or availability of public*  
13 *rights-of-way.* The county makes no warranties or representations regarding the fitness,  
14 suitability, or availability of the public rights-of-way for the registrant's communications  
15 facilities. Any performance of work, costs incurred or services provided by the registrant  
16 shall be at the registrant's sole risk. Nothing in this article shall affect the county's  
17 authority to add, vacate or abandon its public rights-of-way, and the county makes no  
18 warranties or representations regarding the availability of any added, vacated or  
19 abandoned public rights-of-way for communications facilities.  
20  
21 (10) *Right of inspection.* The county shall have the right to make such inspections of  
22 communications facilities placed or maintained in its public rights-of-way as it finds  
23 necessary.  
24  
25 (11) *As-built plans and GPS coordinates.* Upon completion of work authorized by a permit,  
26 in the event that field work results in changes from the permit plans, the applicant shall  
27 furnish to the county as-built plans, at no cost to the county. This requirement shall be  
28 in addition to, and not in lieu of, any filings the registrant is required to make under the  
29 Underground Facility Damage Prevention and Safety Act set forth in F.S. ch. 556, as  
30 amended. The fact that such as-built plans are on file with the county shall in no way  
31 abrogate the duty of any person to comply with the aforesaid Underground Facility  
32 Damage Prevention and Safety Act when performing work in the public rights-of-way.  
33 Upon completion of work authorized by a permit for a utility pole or a small wireless  
34 facility, in the event that field work results in changes from the permit plans, the  
35 applicant shall furnish to the county the exact GPS coordinates of the utility pole or  
36 small wireless facility.  
37  
38 (12) *Americans With Disabilities Act.* The placement and maintenance of all  
39 communications facilities shall comply with the Americans With Disabilities Act, 42  
40 USC 12101 et seq., as amended, and regulations promulgated thereunder.  
41  
42 (13) *Correction of harmful conditions.* If, at any time, the county reasonably determines that  
43 a communications facility is, or has caused a condition that is harmful to the health,  
44 safety or general welfare of any person, then the provider shall, at its own expense,  
45 correct or eliminate all such conditions after being provided reasonable notice. In an  
46 emergency, as determined by the county engineer, when the provider is not immediately

1 available or is unable to provide the necessary immediate repairs to any communications  
2 facility that is a threat to public safety, then the county shall have the right to remove,  
3 make repairs to or eliminate same with the total cost being charged to and paid for by  
4 the provider upon demand. ~~The county may charge the cost to the security fund set forth  
5 in section 16-139, if the provider fails to remit payment within 30 days of notification.~~  
6

7 (14) *Remedy of hazardous conditions.* If, at any time, a condition exists that the county  
8 engineer reasonably determines is an emergency that is potentially hazardous or life  
9 threatening to any person or is a threat to the health or safety of the general public, and  
10 to remedy such condition the county reasonably determines that a provider must  
11 temporarily relocate or temporarily shut off service or transmissions through a specific  
12 communications facility, then the county, as an appropriate exercise of its police powers,  
13 may order the provider to immediately perform such temporary relocation or shut off  
14 until the condition has been remedied, and to do so at its own expense and without  
15 liability to or recourse against the county. In such an emergency, when the provider is  
16 not immediately available or is unable to provide the necessary immediate relocation or  
17 shut off of the specific communications facility, then the county shall have the right to  
18 perform, or cause to be performed, such temporary relocation or shut off until the  
19 condition has been remedied with the total cost being charged to and paid for by the  
20 provider upon demand. ~~The county may charge the cost to the security fund set forth in  
21 section 16-139, if the provider fails to remit payment within 30 days of notification.~~  
22

23 (15) *Airport airspace protections.* A registrant shall comply with F.S. ch. 113, and all state  
24 and federal laws and regulations pertaining to airport airspace protections.  
25

26 (16) *Permit errors.* The issuance of a permit shall not prevent the county engineer from  
27 thereafter requiring the correction of errors when in violation of this article.  
28

29 (17) *Public records.* Any proprietary confidential business information obtained from a  
30 registrant in connection with a permit application shall be held confidential by the  
31 county to the extent required by F.S. § 202.195, as amended, provided the registrant so  
32 notifies the county which information is confidential in accordance with state law,  
33 including F.S. ch. 119.  
34

35 (18) *Historic preservation zoning regulations.* A permit shall be denied for failure to comply  
36 with applicable historic preservation zoning regulations, including local, state and  
37 federal rules and regulations.  
38

39 **Sec. 16-133. General enforcement remedies.**  
40

41 (a) A registrant's failure to comply with provisions of this article or a permit shall constitute  
42 a violation of this Code and may subject the registrant to termination of registration in accordance with  
43 the provisions of section 16-130, suspension or revocation of a permit under the provisions of section  
44 16-134, and subject the registrant to a civil penalty in accordance with the provisions of section 1-9 or  
45 injunctive relief or as otherwise provided by law.  
46



1 (b) In addition to any other rights or remedies available at law or equity or as otherwise  
2 provided in this article, the code enforcement board shall have enforcement jurisdiction, including the  
3 power to conduct hearings and impose fines in the event a provider violates any provision of this article  
4 or a permit pursuant to the procedures provided in chapter 6. ~~Any fines imposed by the code~~  
5 ~~enforcement board may be recoverable from the security fund at the option of the county.~~ A final  
6 administrative order of the code enforcement board shall be appealed by writ of certiorari to the circuit  
7 court within 30 days following rendition of the order.

8  
9 (c) Failure of the county to enforce any requirements of this article shall not constitute a  
10 waiver of the county's right to enforce a violation or subsequent violations of the same type or to seek  
11 appropriate enforcement remedies.

12  
13 **Sec. 16-134. Enforcement of permit obligations; suspension and revocation of permits.**

14  
15 (a) The county engineer may order the suspension of placement and maintenance work under  
16 a permit and ultimately may revoke any permit, in the event of a substantial breach of the terms and  
17 conditions of any applicable codes, ~~state or federal laws or regulations~~, or any condition of the permit.  
18 A substantial breach by the permittee may include, but is not limited to:

- 19  
20 (1) The violation of any material provision of the permit or applicable codes;  
21  
22 (2) An evasion or attempt to evade any material provision of the permit or the perpetration  
23 or attempt to perpetrate any fraud or deceit upon the county;  
24  
25 (3) Any material misrepresentation of fact in the process of permittee's request for a permit  
26 or registration;  
27  
28 (4) The failure to maintain the required ~~performance~~ construction bond, ~~security fund~~ or  
29 insurance;  
30  
31 (5) The failure to properly restore the public rights-of-way;  
32  
33 (6) The failure to comply within the specified time with an order issued by the county  
34 engineer to correct a harmful condition or remedy a hazardous situation;  
35  
36 (7) The failure to comply with a stop work order issued by the county engineer;  
37  
38 (8) The failure to register, renew registration, or provide notice of transfer in accordance  
39 with section 16-129;  
40  
41 (9) The failure to relocate or remove facilities pursuant to this article and F.S. ch 337, as  
42 amended; or  
43  
44 (10) Conducting work in the public rights-of-way without a permit, if required.  
45

1 (b) If the county engineer determines that the permittee has committed a substantial breach  
2 of a term or condition of the permit or this article, the county engineer shall make a written demand  
3 upon the permittee to remedy such violation. The demand shall state that the continued violation may  
4 be cause for suspension or revocation of the permit. Further, the county engineer, at his discretion, may  
5 impose additional or revised permit conditions on the permit following a substantial breach.  
6

7 (c) Within 30 days of receiving notification of the breach, the permittee shall contact the  
8 county engineer with a plan, acceptable to the county engineer, for its correction or shall submit a  
9 statement as to why a substantial breach has not occurred. The county shall provide additional time as  
10 reasonably necessary for a permittee to establish a plan acceptable to the county engineer taking into  
11 account the nature and scope of the alleged breach. The permittee's failure to contact the county  
12 engineer, the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably  
13 implement the approved plan, shall be cause for suspension or revocation of the permit. A final  
14 determination to suspend or revoke a permit may be appealed in accordance with the procedures set  
15 forth in section 16-135.  
16

17 (d) If a permit is revoked, the permittee shall reimburse the county for the county's reasonable  
18 costs, including restoration costs, administrative costs, attorney's fees, and the cost of collection. ~~The~~  
19 ~~county may charge the costs and/or fees to the security fund set forth in section 16-139, if the provider~~  
20 ~~fails to remit payment within 30 days of notification.~~  
21

22 (e) The county engineer may cause an immediate stop work order where the permittee's  
23 construction, placement or maintenance poses a serious threat to the health, safety or welfare of the  
24 public until such time as such serious threat has been abated.  
25

## 26 **Sec. 16-135. Appeals.**

27  
28 (a) An applicant may appeal the denial of a permit to place or maintain a communications  
29 facility or utility pole used to support a small wireless facility in a court of competent jurisdiction. At  
30 the option of the applicant, the applicant may file an administrative appeal as provided in subsection  
31 (d).  
32

33 (ab) The following final determinations by the county are subject to appeal as provided in  
34 ~~this subsection (d):~~  
35

36 (1) Denial of an initial registration or registration renewal;  
37

38 (2) Involuntarily termination of a registration;  
39

40 (3) Suspension or revocation of a permit; and  
41

42 ~~(4) The issuance of a notice of withdraw from the security fund;~~  
43

44 ~~(5) Denial of a permit to place or maintain a communications facility or utility pole in the~~  
45 ~~public rights of way; and~~  
46

1           (64) Denial of a request for waiver.

2  
3           (b~~c~~) As used in this section, the term "party" or "parties" means the county engineer or County  
4 Administrator and the applicant challenging a decision made by the county.

5  
6           (e~~d~~) Administrative hearing. A decision subject to appeal may be appealed by the applicant  
7 within 30 days of the date of the decision by timely filing a petition. Petitions shall be made, in writing,  
8 and directed to the public works director, and shall include the decision which is the subject of the  
9 appeal and a description of the facts upon which the decision is challenged and any argument in support  
10 thereof. Failure to file a petition within 30 days is jurisdictional and will result in a waiver of an  
11 administrative hearing. If contested, all determinations on the timeliness of the filing of a petition shall  
12 be made by the special master or administrative law judge.

13  
14           (d~~1~~) The Board of County Commissioners shall appoint and retain a special master or shall  
15 contract with the state division of administrative hearings for an administrative law  
16 judge to conduct quasi-judicial proceedings regarding appeals. Each special master shall  
17 be a licensed attorney with the state bar who has practiced law in Florida for at least five  
18 years. Any special master conducting quasi-judicial proceedings pursuant to this section  
19 shall have the powers of special masters enumerated in F.S. § 120.569(2)(f), as well as  
20 to issue other orders regarding the conduct of the proceedings.

21  
22           (e~~2~~) All administrative hearings shall be commenced within 90 days of the date the petition  
23 was filed. Requests for continuance by any party may be granted for good cause shown.  
24 To the maximum extent practicable, the hearings shall be informal. The parties shall  
25 have the opportunity to respond, to present evidence and argument on all issues which  
26 are the subject of the appeal, and to conduct cross-examination and submit rebuttal  
27 evidence. During cross examination of witnesses, questioning shall be confined as  
28 closely as possible to the scope of direct testimony. The special master or administrative  
29 law judge may call and question witnesses or request additional evidence as he deems  
30 necessary and appropriate. To that end, if during the hearing the special master or  
31 administrative law judge believes that any facts, claims, or allegations necessitate  
32 review and response by any party, then the special master or administrative law judge  
33 may order the hearing continued until a date certain, but no longer than 15 days. The  
34 special master or administrative law judge shall decide all questions of procedure.

35  
36           (f~~3~~) Any party may move for a summary final order when there is no genuine issue as to any  
37 material fact. A summary final order shall be rendered if the special master or  
38 administrative law judge determines from the pleadings, depositions, answers to  
39 interrogatories, and admissions on file, together with affidavits, if any, that no genuine  
40 issue as to any material fact exists and that the moving party is entitled as a matter of  
41 law to the entry of a final order. A summary final order shall consist of written findings  
42 of fact, conclusions of law, and a recommendation to approve, approve with conditions,  
43 or deny the decision subject to appeal.

44  
45           (g~~4~~) Findings of fact shall be based upon a preponderance of the evidence and shall be based  
46 exclusively on the evidence of record and on matters officially recognized.

1  
2 (h5) The special master or administrative law judge shall render a recommended order on the  
3 application to the Board of County Commissioners within 30 calendar days after the  
4 hearing concludes, unless the parties waive the time requirement. The recommended  
5 order shall contain written findings of fact, conclusions of law, and a recommendation  
6 to approve, approve with conditions, or deny the decision subject to appeal. A copy of  
7 the recommended order shall be served on the parties. Service of copies may be made  
8 by electronic communication. The parties shall have ten days from the date of the  
9 recommended order is served to file specific, written exceptions to the recommended  
10 order with the clerk of the Board of County Commissioners. Exceptions shall include  
11 appropriate references to the record before the special master or administrative law  
12 judge.

13  
14 (i6) Unless the parties waive the time requirement, the hearing by the Board of County  
15 Commissioners will commence no later than 60 days from the date of receipt of the  
16 recommended order and record of the decision being reviewed or the next regularly  
17 scheduled board meeting, whichever is later. The record before the board shall consist  
18 of the complete record of the proceedings before the special master or administrative  
19 law judge. The hearing before the Board of County Commissioners shall be limited to  
20 matters of record, and arguments based on the record. No new evidence shall be  
21 presented to the board at the hearing. The parties shall be limited to a total of 20 minutes  
22 to present his argument. For good cause shown the chairman may grant additional time.  
23 The board shall also receive public comment. At the conclusion of the hearing, the board  
24 shall render a decision approving, approving with conditions, or denying the decision  
25 subject to appeal. The board is bound by the special master's or administrative law  
26 judge's findings of fact unless the findings of fact are not supported by competent  
27 substantial evidence in the record before the special master or administrative law judge.  
28 The board may modify the conclusions of law if it finds that the special master's or  
29 administrative law judge's application or interpretation of law is erroneous. The board  
30 may make reasonable legal interpretations of this Code without regard to whether the  
31 special master's or administrative law judge's interpretation is labeled as a finding of  
32 fact or a conclusion of law. The board's final decision must be reduced to writing,  
33 including the findings of fact and conclusions of law, and is not considered rendered or  
34 final until officially date-stamped by the clerk of the Board of County Commissioners.

35  
36 (j7) An applicant may challenge the decision of the board by filing a petition for writ of  
37 certiorari in circuit court no later than 30 days following rendition of the board's  
38 decision, or in any court having jurisdiction.

39  
40 **Sec. 16-136. Insurance.**

41  
42 (a) *General.* A registrant shall provide, pay for and maintain satisfactory to the county the  
43 types of insurance described herein. All liability policies required under this section shall be procured  
44 from responsible companies duly authorized to do business in the state and having an A.M. Best A-VII  
45 or better rating. All liability policies shall provide that the county is an additional insured as to the  
46 activities under this article. The required coverages must be evidenced by properly executed certificates

1 of insurance forms. The certificates must be signed by the authorized representative of the insurance  
2 company and shall be filed and maintained with the county annually. Thirty days advance written notice  
3 by registered, certified or regular mail or electronic mail, as determined by the county, must be given  
4 to the county's risk manager of any cancellation, intent not to renew or reduction in the policy  
5 coverages, with the exception of non-payment of premiums in which case notice shall be provided  
6 within 30 days of such non-payment. The insurance requirements may be satisfied by evidence of self-  
7 insurance or other types of insurance acceptable to the county.

8  
9 (b) *Insurance coverage and limits of insurance coverage.* The insurance coverage and limits  
10 of coverage of insurance required shall be not less than the following:

- 11  
12 (1) *Worker's compensation and employer's liability insurance.* State statutory requirements.  
13  
14 (2) *Comprehensive general liability.* Commercial general liability occurrence form,  
15 including premises/operations, independent contractor's contractual liability,  
16 product/completed operations; X, C, U coverage; and personal injury coverage for limits  
17 of no less than \$1,000,000.00 per occurrence, combined single limit and \$2,000,000.00  
18 in the aggregate.  
19  
20 (3) *Commercial automobile liability.* Commercial automobile liability coverage for all  
21 owned, non-owned and hired vehicles involved in operations under this article shall be  
22 maintained in accordance with Florida statutory requirements.  
23  
24 (4) *Commercial excess or umbrella liability.* Commercial excess or umbrella liability  
25 coverage may be used in combination with primary coverage to achieve the required  
26 limits of liability.  
27

28 (c) *Proof of insurance.* Upon applying for registration, the registrant shall submit to the  
29 county proof that it has obtained the insurance required under this section, including a certificate of  
30 insurance signed by an authorized representative of the insurance company.

31  
32 (d) *Authority to increase or decrease policy limits.* The county shall have the authority to  
33 reasonably increase or decrease the policy limits set forth above and shall provide each registrant with  
34 at least 30 days advance written notice of such change. Within 30 days from receipt of a notice to  
35 increase its policy limits, the registrant shall submit to the county proof of such increased coverage.  
36

37 (e) *Duration.* The coverage provided herein shall be maintained at all times during the use or  
38 occupancy of the public rights-of-way, including any time during placement or maintenance of  
39 communications facilities.  
40

41 (f) *Failure to maintain required coverage.* Failure to maintain all the required insurance  
42 coverage may subject the applicant to the enforcement remedies set forth in sections 1-9, 16-133 and  
43 16-134.  
44

45 **Sec. 16-137. Indemnification.**  
46

1 (a) By reason of the acceptance of a registration or the issuance of a permit under this article,  
2 the county does not assume any liability for injuries to persons, damage to property, or loss of service  
3 claims by parties other than the applicant or the county or for claims or penalties of any sort resulting  
4 from the construction, presence, placement, installation, maintenance, repair or operation of  
5 communications facilities or utility poles by applicants or agents of applicants.  
6

7 (b) An applicant shall defend, indemnify, and hold the county whole and harmless from all  
8 costs, liabilities, and claims for damages of any kind caused by the applicant arising out of the  
9 construction, presence, placement, installation, maintenance, repair or operation of its communications  
10 facilities or utility poles, whether any act or omission complained of is authorized, allowed, or  
11 prohibited by a permit, inspection of plans or work by the county, ~~except to the extent that such claims~~  
12 ~~are caused by the sole negligence of the county~~. This section is not, as to third parties, a waiver of any  
13 defense or immunity otherwise available to the applicant or to the county; and the applicant, in  
14 defending any action on behalf of the county, shall be entitled to assert in any action every defense or  
15 immunity that the county could assert in its own behalf. The provisions of this section include, but are  
16 not limited to, the county's reasonable attorney's fees incurred in defending against any such claim, suit  
17 or proceeding.  
18

19 (c) The county agrees to notify the applicant, in writing, within 30 days of the county  
20 receiving notice, of any issue it determines may require indemnification.  
21

22 (d) This indemnification obligation is not limited in any way by a limitation of the amount  
23 or type of damages or compensation payable by or for the applicant under workers' compensation,  
24 disability or other employee benefit acts, or the acceptance of insurance certificates required under this  
25 article, or the terms, applicability or limitations of any insurance held by the applicant.  
26

27 (e) The applicant shall investigate, handle, respond to, provide defense for, and defend any  
28 such claims at its sole expense and shall bear all other costs and expenses related thereto even if the  
29 claim is groundless, false or fraudulent and if called upon by the county. The applicant shall assume  
30 and defend not only itself but also the county in connection with any such claims and any such defenses  
31 shall be at no cost or expense whatsoever to the county and selection of counsel shall be subject to  
32 county approval. However, in the county's sole discretion, the county shall retain the right to select  
33 counsel of its own choosing and at its own expense. The county shall not settle or compromise any  
34 matter for which an applicant is obligated to indemnify without the prior written consent of the  
35 applicant. Such consent shall not be unreasonably withheld.  
36

37 (f) The county does not and shall not waive any rights against the applicant which it may  
38 have by reason of this indemnification, or because of the acceptance by, or the applicant's deposit with  
39 the county of any of the insurance policies required by this article for registration.  
40

41 (g) This indemnification by the applicant shall apply to all damages and claims for damages  
42 of any kind suffered regardless of whether such insurance policies shall have been determined to be  
43 applicable to any such damages or claims for damages.  
44

1 (h) Nothing contained in this section shall be construed or interpreted as denying to either  
2 party any remedy or defense available to such party under the laws of the state or as a waiver of  
3 sovereign immunity beyond the waiver provided in F.S. § 768.28, as amended.  
4

5 (i) The indemnification requirements under this section and this article shall survive and be  
6 in full force and effect after the termination, cancellation, or expiration of a registration or permit.  
7

8 **Sec. 16-138. Performance Construction bond.**  
9

10 (a) Prior to issuance of any permit in accordance with this article, the registrant shall be  
11 required to obtain, pay for, and file with the county a ~~performance~~ construction bond. The ~~performance~~  
12 construction bond shall serve to guarantee ~~proper performance under the requirements of this article~~  
13 ~~and the permit, the timeliness and quality of the construction and~~ the restoration of the county's public  
14 rights-of-way to the preconstruction condition, and to secure, and enable the county to recover, all costs  
15 related to the restoration of the public rights-of-way in the event the registrant fails to make such  
16 restoration to the county's satisfaction or causes damage to the public rights-of-way during  
17 construction. The ~~performance~~ construction bond must name the county as obligee and be conditioned  
18 upon the full ~~and faithful compliance by the registrant with all requirements, duties, and obligations~~  
19 ~~imposed by the permit and provisions of this article during and through completion of the placement~~  
20 ~~or maintenance project~~ restoration of the public rights-of-way to the preconstruction condition. The  
21 ~~performance~~ construction bond shall be in a form ~~acceptable to the county of a letter of credit or similar~~  
22 financial instrument and must be issued by a ~~surety having an A.M. Best A VII rating or better and~~  
23 ~~duly~~ financial institution authorized to do business in the ~~state~~United States, provided the financial  
24 institution accepts claims made by electronic means, including facsimile. The ~~performance~~ construction  
25 bond shall be in the face amount of the total estimated costs of the restoration of the public rights-of-  
26 way. ~~No performance bond is required if the estimated costs of the restoration of the public rights of~~  
27 ~~way is less than \$2,500.00 provided the registrant has a fully replenished security fund with the county,~~  
28 ~~if required pursuant to section 16-139.~~  
29

30 (b) The ~~performance~~ construction bond must be issued as non-cancelable and be for a term  
31 of not less than ~~90 days~~ one year after the anticipated date of completion of construction, restoration  
32 and county inspection. In the event the term of any construction bond expires, or is reasonably expected  
33 to expire, prior to ~~90 days~~ one year after the completion of construction, restoration and county  
34 inspection, the provider shall immediately obtain, pay for, and file with the county a replacement  
35 ~~performance~~ construction bond.  
36

37 (c) A registrant may add the county to any existing bond, insurance policy, or other relevant  
38 financial instrument provided that such financial institution or insurance company consents to venue in  
39 Leon County, Florida.  
40

41 (ed) In lieu of providing a ~~performance~~ construction bond for each permit, the registrant may  
42 provide the county with a blanket ~~performance~~ construction bond of no less than \$50,000.00 to meet  
43 the requirements of this section, provided the total estimated costs of the restoration of the public rights-  
44 of-way does not exceed \$50,000.00. If a blanket performance bond was provided by a registrant to the  
45 County prior to the effective date of this ordinance, the County shall consider it a blanket construction  
46 bond for the purposes of complying with this article. At the registrant's option, the registrant may

1 cancel its existing blanket performance bond and submit a blanket construction bond consistent with  
2 this section.

3  
4 (de) The county's right to recover under the ~~performance~~ construction bond shall be in  
5 addition to all other rights of the county, whether reserved in this article, or authorized by other law,  
6 and no action, proceeding or exercise of a right with respect to the ~~performance~~ construction bond will  
7 affect or preclude any other right the county may have. Any proceeds recovered under the ~~performance~~  
8 construction bond may be used to reimburse the county for such additional expenses as may be incurred  
9 by the county as a result of the failure of the registrant to comply with the responsibilities imposed by  
10 this article, including, but not limited to, attorney's fees and costs of any action or proceeding.

11  
12 **Sec. 16-139. Security fund. Reserved.**

13  
14 (a) ~~Prior to occupying or using the public rights of way, the registrant shall be required to~~  
15 ~~file with the county a security fund in the form of cash deposit or irrevocable letter of credit in the sum~~  
16 ~~of \$10,000.00 conditioned on the full and faithful performance by the registrant of all requirements,~~  
17 ~~duties and obligations imposed upon the registrant by the provisions of this article, including~~  
18 ~~requirements to restore the public rights of way, to remove any abandoned communications facilities,~~  
19 ~~and to avoid damage to other utilities and facilities within the public rights of way. Any cash deposit~~  
20 ~~shall be held in a separate, non-interest bearing account. The letter of credit shall be issued a form and~~  
21 ~~issued by a financial institution acceptable to the county. A security fund may be submitted to the~~  
22 ~~county at the time of registration.~~

23  
24 (b) ~~Prior to drawing from the security fund, the county shall notify the registrant of the reason~~  
25 ~~for such withdraw and provide the registrant no less than 30 days to make payment or to object to such~~  
26 ~~withdraw. If the registrant objects, the registrant may appeal the county's notice of withdraw pursuant~~  
27 ~~to section 16-135.~~

28  
29 (c) ~~Should the county draw upon the security fund, it shall promptly notify provider, and the~~  
30 ~~provider shall promptly restore the cash deposit or letter of credit to the full amount. The security fund~~  
31 ~~shall be maintained until the later of:~~

32  
33 (1) ~~The effective date of transfer, sale or assignment by the provider of all of its~~  
34 ~~communications facilities in the public rights of way;~~

35  
36 (2) ~~Twelve months after the removal or abandonment by the provider of all of its~~  
37 ~~communications facilities and/or utility poles in the public rights of way; or~~

38  
39 (3) ~~Six months after the termination of registration, including any appeals undertaken. Upon~~  
40 ~~the later of these events, the cash deposit will be returned without interest or the letter~~  
41 ~~of credit may be canceled.~~

42  
43 (d) ~~In the event a provider fails to perform any requirement, duty or obligation imposed upon~~  
44 ~~it by the provisions of this article, there shall be recoverable, jointly and severally from the security~~  
45 ~~fund, any damages or loss suffered by the county as a result, including the full amount of any~~  
46 ~~compensation, indemnification, or cost of removal, relocation or abandonment of any communications~~



1 facilities in the public rights of way, plus reasonable attorney's fees, up to the full amount of the  
2 security fund.

3  
4 ~~(e) This section shall not apply to dealers of communications services, as defined in F.S. ch.~~  
5 ~~202.~~

6  
7 **Sec. 16-140. Abandonment of a communications facility or utility pole.**

8  
9 (a) Upon determination by a person that one or more of its communications facilities or utility  
10 poles in the public rights-of-way is to be abandoned, the person shall notify the county no later than  
11 180 days from such determination, or no later than 30 days following such abandonment, whichever is  
12 sooner.

13  
14 (b) The county shall provide written notice to a person if, upon independent evaluation, the  
15 county reasonably believes a communications facility or utility pole is abandoned. The written notice  
16 shall provide the person no less than 30 days to either verify that the communications facility or utility  
17 pole is not abandoned or to remove the communications facility or utility pole. Failure of the person to  
18 respond within the specified time shall constitute abandonment of the communications facility or utility  
19 pole.

20  
21 (c) Abandonment of the communications facility or utility pole requires removal of the  
22 communications facility or utility pole, except that, at the sole discretion of the county engineer, a  
23 below-grade facility may not require removal. If the communications facility is attached to an existing  
24 structure that has an independent function, such as a light pole, traffic signal, pedestrian signal, or the  
25 like, said abandonment of the communications facility requires removal of the communications facility  
26 only and does not require the removal of the existing structure.

27  
28 (d) If the person fails to remove all or any portion of an abandoned communications facility  
29 or utility pole as directed by the county within a reasonable time period as may be required by the  
30 county, the county may perform such removal and charge the cost of the removal against the person.  
31 ~~Any such costs of removal shall be recoverable from the security fund at the option of the county.~~

32  
33 **Sec. 16-141. Removal or relocation; conversion of overhead distribution facilities to**  
34 **underground distribution facilities.**

35  
36 (a) *Removal or relocation.* Removal or relocation, including conversion to underground, shall  
37 be governed by the provisions of F.S. ch. 337, as amended, applicable state or federal laws or  
38 regulations, or the terms of any applicable pole attachment agreement.

39  
40 (b) *Temporary raising and lowering of communications facilities as accommodation.* A  
41 registrant shall, on the request of any person holding a permit issued by the county, temporarily raise  
42 or lower its aerial wireline facilities to permit the work authorized by the permit within the public  
43 rights-of-way. With the exception of the county, the expense of such temporary raising or lowering of  
44 wireline facilities shall be paid by the person requesting the same, and the registrant shall have the  
45 authority to require such payment in advance, unless otherwise governed by state or federal law. The  
46 registrant shall not require the county to submit any payment for temporarily raising or lowering

1 wireline facilities. The registrant shall be given no less than 30 days' advanced written notice to arrange  
2 for such temporary relocation.

3  
4 **Sec. 16-142. Force majeure.**

5  
6 In the event the county's or a person's performance of or compliance with any of the provisions  
7 of this article is prevented by a cause or event not within the county's or a person's control, such inability  
8 to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a  
9 result; provided, however, that such person uses all practicable means to expeditiously cure or correct  
10 any such inability to perform or comply. For the purposes of this section, cause or events not within  
11 the county's or a person's control shall include, but not be limited to, acts of God, floods, earthquakes,  
12 landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil  
13 disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court.  
14 Causes or events within a person's control, and thus not falling within this section shall include, without  
15 limitation, a person's financial inability to perform or comply, economic hardship, and misfeasance,  
16 malfeasance or nonfeasance by any of person's directors, officers, employees, contractors or agents.  
17 Upon the issuance of a county or state declaration of a state of emergency, the timeframes outlined in  
18 sections 16-177 and 16-201 are tolled until the state of emergency is lifted.

19  
20 **Sec. 16-143. Pass-through provider fees and charges.**

21  
22 (a) Pass-through providers shall pay to the county on an annual basis an amount equal to  
23 \$500.00 per linear mile or portion thereof of communications facilities placed and/or maintained in the  
24 public rights-of-way.

25  
26 (b) The amounts charged pursuant to this section shall be based on the linear miles of public  
27 rights-of-way where communications facilities are placed, not based on a summation of the lengths of  
28 individual cables, conduits, strands or fibers.

29  
30 (c) Pass-through providers shall provide an annual notarized statement by February 1st of  
31 each year identifying the total number of linear miles of pass-through facilities in the public rights-  
32 of-way. Upon a request consistent with the requirements of section 337.401(6)(d), pass-through  
33 providers shall provide the County with reasonable access to maps of pass-through facilities located  
34 within the public rights-of-way.

35  
36 (ed) A county shall not impose a charge for any linear miles, or portions thereof, for public  
37 rights-of-way where a communications facility is placed that extends through the City of Tallahassee  
38 to which the pass-through provider remits communications services tax.

39  
40 (de) The county shall discontinue charging pass-through provider fees to a person that has  
41 ceased being a pass-through provider. Any annual amounts charged shall be reduced for a prorated  
42 portion of any 12-month period during which the pass-through provider remits communications  
43 services tax.

44  
45 (ef) Annual payments shall be due and payable on April 1 of each year. Fees not paid within  
46 ten days after the due date shall bear interest at the rate of one percent per month from the date due

1 until paid. The acceptance of any payment required hereunder by the county shall not be construed as  
2 an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of  
3 payment be construed as a release of any claim which the county may have for additional sums due  
4 and payable. All fee payments shall be subject to audit by the county, and assessment or refund if any  
5 payment is found to be in error. If such audit results in an assessment by and an additional payment to  
6 the county, such additional payment shall be subject to interest at the rate of one percent per month  
7 from the date of the audit until the date payment is made.

8  
9 (fg) If the payments required by this section are not made within 90 days after the due date,  
10 the county engineer may withhold the issuance of any permits to the registrant until the amount past  
11 due is paid in full. ~~In addition to other remedies available at law or in equity, any payments past due~~  
12 ~~shall be recoverable from the security fund at the sole discretion of the county.~~

13  
14 **Sec. 16-144. Permit fees.**

15  
16 No permit fees shall be imposed for permits for communications facilities or utility poles used  
17 to support the collocation of small wireless facilities under this article. The board may adopt, by  
18 resolution, a fee schedule relating to the issuance of permits for utility poles not intended to support the  
19 collocation of small wireless facilities under this article.

20  
21 **Sec. 16-145. Reservation of rights and remedies.**

22  
23 (a) The provisions of this article shall be applicable to all communications facilities and  
24 utility poles placed in the public rights-of-way on or after the effective date of the ordinance from which  
25 this article is derived and shall apply to all existing communications facilities and utility poles placed  
26 in the public rights-of-way prior to the effective date of the ordinance from which this article is derived  
27 to the full extent permitted by federal and state law, except that any provision of section 16-179 shall  
28 not apply to communications facilities or utility poles lawfully placed within the public rights-of-way  
29 prior to the effective date of the ordinance from which this article is derived, to the extent that such  
30 communications facilities may be maintained, repaired, and replaced with a communications facility  
31 substantially similar in size and design.

32  
33 (b) Nothing in this article shall affect the remedies the county or the provider has available  
34 under applicable law.

35  
36 **Sec. 16-146. No liability or warranty.**

37  
38 Nothing contained in this article shall be construed to make or hold the county responsible or  
39 liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from  
40 the use, operation or condition of a person's communications facilities or utility poles by reason of any  
41 inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance  
42 of any permit or the approval or disapproval of any placement or maintenance of a person's  
43 communications facilities or utility poles as authorized herein constitute any representation, guarantee  
44 or warranty of any kind by, or create any liability upon the county or any official, agent or employee  
45 thereof.

1 DIVISION 2. AT-GRADE FACILITY, BELOW-GRADE FACILITY,  
2 WIRELINE FACILITY, AND UTILITY POLE STANDARDS  
3

4 **Sec. 16-176. Applicability.**  
5

6 This division shall apply to any person who seeks to construct, place, install, maintain or operate  
7 an at-grade facility, below-grade facility, wireline facility or utility pole not used for the collocation of  
8 small wireless facilities in the public rights-of-way, unless otherwise exempt by operation of applicable  
9 codes, ~~or state or federal laws or regulations~~. This division shall not apply to at-grade facilities, below-  
10 grade facilities or wireline facilities owned by a person, including the county, to the extent such  
11 facilities are only utilized on an internal, non-commercial basis by said person. This division shall not  
12 apply to the ground-mounted equipment of small wireless facilities, as defined in section 16-127 and  
13 as regulated under division 3 of this article.  
14

15 **Sec. 16-177. Permit requirements; application; review timeframes.**  
16

17 (a) *Permit required.* A person or registrant shall not commence to place or maintain a utility  
18 pole not used for the collocation of small wireless facilities, at-grade facility, below-grade facility, or  
19 wireline facility, including wireline backhaul facilities and coaxial or fiber-optic cable that are between  
20 wireless structures or utility poles or that are otherwise not immediately adjacent to or directly  
21 associated with a particular antenna, in the public rights-of-way until all applicable permits have been  
22 issued by the county. As a condition of granting permits, the county may impose reasonable conditions  
23 governing the placement or maintenance of an at-grade facility, below-grade facility, wireline facility,  
24 or utility pole in the public rights-of-way as set forth in F.S. § 337.401, as amended. Permits shall apply  
25 only to the areas of the public rights-of-way specifically identified in the permit. As used in this section,  
26 the term "facility" collectively refers to at-grade facilities, below-grade facilities, and wireline facilities.  
27

28 (b) *Permit not required.*  
29

30 (1) A person or registrant shall be allowed to perform emergency maintenance within the  
31 public rights-of-way without first obtaining a permit provided such work is performed  
32 consistent with the 2017 edition of the Florida Department of Transportation Utility  
33 Accommodation Manual and all applicable codes. However, such person or registrant  
34 shall provide prompt notice to the county of the emergency maintenance and, within  
35 ~~15~~30 days of completing the emergency maintenance, apply for an after-the-fact permit  
36 in accordance with subsection (c) of this section if such activity required a permit under  
37 this article. As used in this section, the term "emergency maintenance" means the repair  
38 or replacement of a communications facility as a result of a condition that affects the  
39 public health, safety or welfare, ~~which includes an unplanned out-of-service condition~~  
40 ~~of a preexisting service~~.  
41

42 (2) A person or registrant shall be allowed to perform service restoration to existing aerial  
43 wireline communications facilities within the public rights-of-way without first  
44 obtaining a permit provided such work is performed consistent with the 2017 edition of  
45 the Florida Department of Transportation Utility Accommodation Manual. However,  
46 such person or registrant shall provide prompt notice to the county of the service

1 restoration to existing facilities and, within 30 days of completing the service restoration  
2 work, apply for an after-the-fact permit in accordance with subsection (c) of this section  
3 if such activity required a permit under this article. An application for a right-of-way  
4 placement permit for work that involves excavation shall be processed and acted upon  
5 consistent with the timeframes referenced in Section 16-201(e). An application for a  
6 lane closure permit shall be processed and acted upon consistent with the timeframes  
7 referenced in Section 16-201(e).

8  
9 (23) A person or registrant shall be allowed to perform routine maintenance within the public  
10 rights-of-way without first obtaining a permit if such proposed routine maintenance does  
11 not involve excavation or the closure of a sidewalk, parking lane, or vehicle lane, upon  
12 reasonable advance written notice to the county identifying the areas where such  
13 maintenance will occur, scope of maintenance, date and duration of work to be  
14 performed. If routine maintenance requires the closure of a sidewalk, parking lane, or  
15 vehicle lane, a lane closure permit shall be required.

16  
17 (34) A person or registrant shall be allowed to place or maintain a service drop within the  
18 public rights-of-way without first obtaining a permit if such proposed work does not  
19 involve excavation, or the closure of a sidewalk, parking lane, or vehicle lane. If such  
20 placement or maintenance of a service drop requires the closure of a sidewalk, parking  
21 lane, or vehicle lane, a lane closure permit shall be required.

22  
23 (45) A person or registrant shall be allowed to ~~replace~~ maintain, repair, replace, extend,  
24 upgrade, or remove existing aerial wireline communications facilities within the public  
25 rights-of-way on utility poles or aerial wireline communications facilities between  
26 existing wireline communications facility attachments on utility poles by a  
27 communications services provider, if provided such proposed removal does not involve  
28 excavation or the closure of a sidewalk, parking lane or vehicle lane, upon reasonable  
29 advance written notice to the county identifying the areas where such replacement or  
30 removal will occur and the date and duration of work to be performed. If ~~the removal of~~  
31 ~~an aerial wireline facility~~ such work requires the closure of a sidewalk, parking lane, or  
32 vehicle lane, a lane closure permit shall be required. An application for a right-of-way  
33 placement permit for work that involves excavation shall be processed and acted upon  
34 consistent with the timeframes referenced in Section 16-201(e). An application for a  
35 lane closure permit shall be processed and acted upon consistent with the timeframes  
36 referenced in Section 16-201(e).

37  
38 (56) A person or registrant shall be allowed to remove utility poles within the public rights-  
39 of-way if such proposed removal does not involve excavation or the closure of a  
40 sidewalk, parking lane, or vehicle lane, upon reasonable advance written notice to the  
41 county identifying the areas where such removal will occur and the date and duration of  
42 work to be performed. If the removal of a utility pole requires the closure of a sidewalk,  
43 parking lane, or vehicle lane, a lane closure permit shall be required.

1 (67) The county engineer may issue an immediate stop work order where any work poses a  
2 serious threat to the health, safety or welfare of the public until such time as such serious  
3 threat has been abated.  
4

5 (78) A permit is not required if the proposed work is otherwise authorized to be performed  
6 without county approval by applicable state or federal laws or regulations or this article.  
7

8 (c) *Permit application.* As part of any permit application to place or maintain an at-grade  
9 facility, below-grade facility, wireline facility, or utility pole, in the public rights-of-way, the person or  
10 registrant shall provide a permit application that sets forth, at a minimum, the following:  
11

12 (1) *Engineering plan.* An engineering plan that includes:  
13

14 a. The type of proposed facility, location of the proposed facility or utility pole, and the  
15 dimensions, height, footprint, stealth design, and concealment features of the proposed  
16 facility or utility pole;  
17

18 b. The distance between the proposed facility or utility pole and nearby pavement,  
19 sidewalks, driveways, ramps, trees, underground utilities and other above-grade and  
20 below-grade structures and utilities located nearby within the public rights-of-way;  
21

22 c. Sufficient specificity demonstrating compliance with the Florida Building Code, the  
23 state department of transportation's Manual of Minimum Standards, the Utility  
24 Accommodation Guide, and the National Electric Safety Code, as amended and as  
25 applicable;  
26

27 d. For utility poles, the global positioning system (GPS) coordinates of the proposed utility  
28 pole. The GPS coordinates shall be based on the reading from a handheld mobile GPS  
29 unit set to Datum NAD 83 or WGS84. GPS coordinates based on Google Earth or  
30 similar application may be used where areas of shading occur due to overhead canopy.  
31 GPS Coordinates shall be provided in decimal degrees at a six decimal point precision;  
32

33 e. Attestation that the proposed facility or utility pole is to be located within the public  
34 rights-of-way, except that if the county engineer reasonably disagrees the applicant shall  
35 submit a survey; and  
36

37 f. Trees or landscaping to be removed or impacted upon the placement or maintenance of  
38 the proposed facility or utility pole. The placement or maintenance of a facility or utility  
39 pole that results in the tree removal of a protected tree within the Canopy Road Tree  
40 Protection Zones shall provide additional information and documentation in accordance  
41 with section 10-346. The placement or maintenance of a facility or utility pole that  
42 results in the tree removal of a protected tree outside of the Canopy Road Tree Protection  
43 Zone shall provide additional information and documentation in accordance with  
44 section 10-346.  
45

- 1 (2) *Description of installation or construction.* The applicant shall provide a description of  
2 the manner in which the facility or utility pole will be installed and/or modified (i.e.  
3 anticipated construction methods or techniques).  
4
- 5 (3) *Temporary sidewalk closure plan.* The applicant shall provide a temporary sidewalk  
6 closure plan, if applicable, to accommodate placement or maintenance of the facility or  
7 utility pole.  
8
- 9 (4) *Temporary maintenance of traffic (MOT) plan.* The applicant shall provide a temporary  
10 traffic lane closure and MOT plan, if applicable, to accommodate placement or  
11 maintenance of the facility or utility pole.  
12
- 13 (5) *Restoration plan and estimated cost of restoration of the public rights-of-way.* A  
14 restoration plan and a good faith estimate of the cost of restoration of the public rights-  
15 of-way to the condition prior to commencing work in the public rights-of-way. Such  
16 good faith estimate shall be accepted by the county unless the county determines such  
17 estimated costs are not representative of the actual costs of the restoration of the public  
18 rights-of-way. Estimates of the cost to restore the public rights-of-way shall include all  
19 costs necessary to restore the public rights-of-way to its original condition. Such good  
20 faith estimate may include, but shall not be limited to, costs to restore the paving,  
21 curbs/gutters, sidewalks, multi-purpose trails, and landscaping. All planted or naturally-  
22 occurring shrubbery or vegetation, including sod, damaged or destroyed during work in  
23 the public rights-of-way shall be replaced. Tree removal shown on the permit shall not  
24 be considered damage or impairment to be restored to the original condition provided  
25 the person complies with the approved mitigation plan, if any.  
26
- 27 (6) *Timetable for construction or installation.* The timetable for construction, placement or  
28 maintenance of the proposed facility or utility pole or each phase thereof.  
29
- 30 (7) *Indemnification.* A statement shall be included within the permit application that by  
31 execution of the application, the applicant shall be bound to the county with respect to  
32 the indemnification provisions set forth in section 16-137.  
33
- 34 (8) *Attestation.* For utility poles that are intended to support the collocation of small wireless  
35 facilities, the applicant shall provide an attestation by an officer of the registrant that a  
36 small wireless communications facility will be collocated on the utility pole and will be  
37 used by a wireless services provider to provide service within nine months after the date  
38 the application is approved.  
39
- 40 ~~(9) *Information regarding height limitations.* For utility poles intended to support the~~  
41 ~~collocation of small wireless facilities, the applicant shall provide information regarding~~  
42 ~~the heights of other utility poles located in the same public rights of way, measured from~~  
43 ~~grade in place within 500 feet of the proposed location of the utility pole. If there is no~~  
44 ~~utility pole within 500 feet of the proposed location of the utility pole intended to support~~  
45 ~~the collocation of small wireless facilities, the applicant shall certify such.~~  
46

1 (109) *Additional information as reasonably required for review of permit application.* Such  
2 additional information as the county engineer finds reasonably necessary to demonstrate  
3 the applicant's compliance with applicable codes, local laws and regulations, and state  
4 and federal laws with respect to the placement or maintenance of the proposed facility  
5 or utility pole that is the subject of the permit application.  
6

7 (d) *Application review timeframes.* An application for a permit for an at-grade facility, below-  
8 grade facility, wireline facility or utility pole not intended to support the collocation of small wireless  
9 facilities in the public rights-of-way shall be reviewed by the county as follows:  
10

11 (1) *Notice of application deficiency.* Within ~~30~~ 14 days after the date of filing an  
12 application, the county engineer shall determine whether the application is complete. If  
13 an application is deemed incomplete, the county engineer shall notify the applicant by  
14 electronic mail and specifically identify the missing information. An application shall  
15 be deemed complete if the county engineer fails to notify the applicant otherwise within  
16 14 days after the date of filing the application.  
17

18 (2) *Application review period.* Within 60 days after the date of filing an application, the  
19 county engineer shall approve or deny the application.  
20

21 (3) *Notice of denial; resubmission.* Should the application be denied, the county engineer  
22 shall notify the applicant by electronic mail and specify the basis for denial, including  
23 the specific code provisions on which the denial is based. The applicant may cure the  
24 deficiencies identified by the county engineer and resubmit the application within 30  
25 days after the notice of denial is sent. The county engineer shall approve or deny the  
26 revised application within 30 days after the date of filing the revised application. Any  
27 subsequent review shall be limited to the deficiencies cited in the notice of denial. A  
28 denial of a permit may be appealed pursuant to section 16-135.  
29

30 (4) *Deemed approved.* A complete application is deemed approved if the County fails to  
31 approve or deny an application within 60 days after receipt of the application. Prior to  
32 commencing construction, a person with a deemed approved permit must be registered  
33 pursuant to section 16-128, and must file a construction performance bond and security  
34 fund with the county pursuant to this article.  
35

36 ~~(4) *Repurposed structures and utility poles intended to support the collocation of small*~~  
37 ~~*wireless facilities.* An application for a repurposed structure or utility pole intended to~~  
38 ~~support the collocation of small wireless facilities shall be reviewed by the county~~  
39 ~~pursuant to the application review timeframes set forth in section 16-201(e).~~  
40

41 ~~(e) *Permit application for repurposed structure or utility pole.* A permit application for a~~  
42 ~~repurposed structure or a utility pole intended to support the collocation of small wireless facilities shall~~  
43 ~~be submitted prior to or contemporaneously with a permit application for a small wireless facility.~~  
44

45 **Sec. 16-178. At-grade facility, below-grade facility, wireline facility, and utility pole permit**  
46 **conditions.**



1 (a) At-grade facilities, below-grade facilities, wireline facilities, and utility poles may be  
2 placed and maintained within the public rights-of-way subject to the county's consideration of the  
3 following standards and minimum requirements:  
4

5 (1) *Sufficiency of space to accommodate present and pending applications for use of the*  
6 *public rights-of-way.* The sufficiency of space to accommodate all of the present and  
7 pending applications to place other communications facilities, utility poles, utilities, and  
8 other structures within the subject area of the public rights-of-way.  
9

10 (2) *Sufficiency of space to accommodate the need for projected public improvements.* The  
11 sufficiency of space to accommodate budgeted county plans for public improvements  
12 or projects adopted as part of the county capital improvements schedule or other  
13 approved capital improvements lists as part of the Tallahassee-Leon County  
14 Comprehensive Plan.  
15

16 (3) *Impact on traffic and traffic and pedestrian safety.* The impact on traffic and traffic and  
17 pedestrian safety. Such impact evaluation will include, without limitation, potential  
18 traffic and pedestrian interference, interference with the efficient movement of people  
19 and property, interference with sightlines or clear zones for transportation, pedestrians  
20 or public safety purposes.  
21

22 (4) *Applicable codes.* Applicable codes and state and federal laws and regulations, including  
23 the general permit conditions in section 16-132 and the objective design standards in  
24 section 16-179.  
25

26 (b) A permit for a proposed at-grade facility, below-grade facility, wireline facility, or utility  
27 pole shall remain effective for and construction must be completed within 90 days. The county engineer  
28 may extend the expiration date of the permit for good cause.  
29

30 ~~—— (c) A permit for a proposed repurposed structure or utility pole intended to support the~~  
31 ~~collocation of small wireless facilities shall remain effective for and construction must be completed~~  
32 ~~within one year. The county engineer may extend the expiration date of the permit for good cause.~~  
33

34 ~~—— (d) A utility pole intended to support the collocation of small wireless facilities may only~~  
35 ~~contain small wireless facilities. Unless otherwise exempted by state or federal law or this article,~~  
36 ~~antennas, wires, or other facilities may not be mounted on the utility pole intended to support the~~  
37 ~~collocation of small wireless facilities without a permit or authorization from the county.~~  
38

39 **Sec. 16-179. Objective design standards.**  
40

41 (a) *Intent and purpose.* At-grade facilities, below-grade facilities, wireline facilities, and  
42 utility poles shall be designed in such a manner to ensure such facilities and utility poles are placed in  
43 a safe location that do not interfere with the traveling public, and shall be designed to maximize  
44 compatibility with the surrounding neighborhood and to minimize any negative visual impact on the  
45 surrounding neighborhood. As used in this section, the term "facility" collectively refer, to at-grade

1 facilities, below-grade facilities, and wireline facilities. The following design standards shall apply,  
2 unless waived pursuant to section 16-180.

3  
4 (b) *Stealth design.* Utility poles shall be made of substantially the same material, color, and  
5 design, including diameter, as other utility poles within the same public rights-of-way, however, a  
6 utility pole made of steel, concrete, or fiberglass, and black or gray in color, shall not require a waiver  
7 if the utility poles within the same public rights-of-way are wood. A repurposed structure shall be of  
8 substantially similar design, including diameter, material, and color of the existing structure being  
9 replaced by the repurposed structure. The repurposed structure shall be located in approximately the  
10 same location as the existing structure. The repurposed structure shall continue to serve its primary  
11 function. If the county has a planned project to replace utility poles in the same public rights-of-way,  
12 the repurposed structure shall conform to the county's updated design, material, and color.

13  
14 (c) *Concealment.* The following concealment standards shall apply to proposed facilities and  
15 utility poles.

16  
17 (1) Signage shall not be placed or maintained on any facility or utility pole within the public  
18 rights-of-way, unless otherwise required by state or federal laws or regulations, or as  
19 permitted by the county, provided however, that existing structures that lawfully  
20 supported signage prior to being repurposed may continue to support Signage as  
21 otherwise permitted by law.

22  
23 (2) A facility or utility pole shall not have any type of lighted signal, lights, or illuminations  
24 unless required by applicable state or federal laws or regulations, or as permitted by the  
25 county.

26  
27 (3) At-grade facilities shall be located in areas with existing foliage or other aesthetic  
28 features to obscure the view of the at-grade facility or shall be designed to appear similar  
29 to other at-grade facilities in the same public rights-of-way. Any additional plantings  
30 proposed pursuant to this subsection shall be approved by the county. An applicant may  
31 also utilize a wrap for at-grade facilities. An applicant may propose a wrap design not  
32 previously approved by the county by applying for and obtaining a waiver pursuant to  
33 section 16-180. Wraps shall be maintained by the applicant such that the wrap does not  
34 peel or significantly fade.

35  
36 (d) *Maximum height restrictions.* The height of a utility pole intended to support the  
37 collocation of small wireless facilities is limited to the tallest existing utility pole as of July 1, 2017,  
38 located in the same county public rights-of-way, other than a utility pole for which a waiver has  
39 previously been granted, measured from grade in place within 500 feet of the proposed location of the  
40 utility pole intended to support the collocation of small wireless facilities. If there is no utility pole  
41 within 500 feet, the utility pole intended to support the collocation of small wireless facilities shall be  
42 limited to 50 feet.

43  
44 (e) *Location context.* The following location context standards shall apply to proposed  
45 facilities and utility poles.

- 1 (1) *Installation at outermost boundary of public rights-of-way.* At-grade facilities and  
2 utility poles shall be placed at the farthest distance practicable from the edge of  
3 pavement unless there is a designated corridor within the public rights-of-way.  
4
- 5 (2) *Equidistant requirement.* Utility poles are strongly encouraged to be placed equidistant  
6 between existing utility poles, if any, within the public rights-of-way.  
7
- 8 (3) *Common property line.* For placement within residential blocks, utility poles are  
9 strongly encouraged to be placed at the common property line of the parcels that abut  
10 the public rights-of-way.  
11
- 12 (4) *Prohibition against placement that significantly impairs view from principal structures*  
13 *within residential blocks.* At-grade facilities and utility poles shall be placed such that  
14 views from principal structures within residential blocks are not significantly impaired.  
15
- 16 (5) *Prohibition against placement in location where facilities are placed underground.* At-  
17 grade facilities, aerial wireline facilities, and utility poles in the public rights-of-way  
18 shall comply with undergrounding requirements of the county that prohibit aboveground  
19 structures in the public rights-of-way.  
20
- 21 (6) *Tree removal.* The placement or maintenance of a communications facility or utility  
22 pole that results in the tree removal of a protected tree within the Canopy Road Tree  
23 Protection Zones shall comply with the conditions outlined in section 10-4.206(b)(5),  
24 as determined by the development review committee, and abide by the tree replanting  
25 requirements in section 10-4.362(b). The placement or maintenance of a  
26 communications facility or utility pole that results in the tree removal of a protected tree  
27 that is not within the Canopy Road Tree Protection Zones shall comply with the  
28 conditions outlined in section 10-4.362(a) and abide by the tree replanting requirements  
29 in section 10-4.362(b). Notwithstanding any other code, the county engineer shall  
30 determine if the proposed tree removal meets the conditions of section 10-4.362(a) and  
31 the tree replanting requirements in section 10-4.362(b).  
32
- 33 (7) *Prohibition against placement in violation of OSHA or NESC rules and regulations.* At-  
34 grade facilities, below-grade facilities, wireline facilities, and utility poles shall not be  
35 placed in a location which violates rules and regulations set by the Occupational Safety  
36 and Health Administration or the National Electrical Safety Code.  
37

38 **Sec. 16-180. Waiver of the objective design standards for at-grade facilities, below-grade**  
39 **facilities, wireline facilities, and utility poles.**  
40

41 (a) The waiver provisions listed in this subsection apply in those circumstances where a  
42 provider's use of the public rights-of-way is impaired by strict application of the requirements of this  
43 article. Objective design standards provided in sections 16-132 and 16-179 may be waived by the  
44 county engineer.  
45

1 (b) A request for a waiver shall be filed contemporaneously with the permit application. The  
2 request for waiver shall state each section or subsection for which a waiver is being sought. A request  
3 for a waiver shall include the following information:  
4

- 5 (1) A detailed explanation, with supporting engineering or other data, as to why a waiver  
6 from the requirements of this article is required, including a detailed explanation  
7 addressing the relevant criteria to be considered by the county engineer as provided in  
8 subsection (c) of this section;  
9
- 10 (2) Design of the proposed at-grade facility or utility pole, with particular reference to  
11 achieving compatibility with the surrounding neighborhood and eliminating adverse  
12 visual impacts on the surrounding neighborhood; and  
13
- 14 (3) Any other information the county engineer may reasonably require to process the  
15 request for waiver.  
16

17 (c) The county engineer shall consider the following criteria when determining whether to  
18 grant or deny a request for a waiver:  
19

- 20 (1) Any special conditions and circumstances affecting the proposed site which prevent  
21 compliance with the section or subsection for which a waiver is being sought;  
22
- 23 (2) The compatibility of the proposed communications facility or utility pole with adjacent  
24 properties and the surrounding neighborhood;  
25
- 26 (3) If there is an excessive expense associated with compliance with the section or  
27 subsection for which a waiver is being sought; or  
28
- 29 (4) If the proposed waiver preserves to the county flexibility in its management of the public  
30 rights-of-way.  
31

32 (d) In granting any waiver, the county engineer may impose conditions to the extent the  
33 county engineer concludes such conditions are necessary to minimize any adverse effects of the  
34 proposed communications facility or utility pole on the surrounding neighborhood, or to protect the  
35 health, safety and welfare of the public.  
36

37 (e) The county engineer shall grant or deny a request for a waiver within 45 days after  
38 receiving the request for waiver. Should a request for waiver, and ultimately a permit, be denied by the  
39 county engineer, the denial of the waiver may be appealed in conjunction with an appeal of the permit  
40 denial in accordance with section 16-135.  
41

### 42 DIVISION 3. WIRELESS FACILITY STANDARDS.

#### 43 **Sec. 16-199. Applicability.** 44 45

1 (a) This division shall apply to any person who seeks to construct, place, install, maintain, ~~or~~  
2 operate, or replace a wireless facility in the public rights-of-way or a utility pole used for the collocation  
3 of small wireless facilities in the public rights-of-way, unless otherwise exempt by operation of  
4 applicable codes ~~or state or federal laws or regulations~~. This division shall not apply to wireless  
5 communications facilities owned by a person, including the county or electric cooperative, to the extent  
6 such facilities are utilized only on an internal, non-commercial basis by said person.  
7

8 (b) This article is intended to implement the Advanced Wireless Infrastructure Deployment  
9 Act, F.S. § 337.401(7). In the event the Advanced Wireless Infrastructure Deployment Act, F.S. §  
10 337.401(7), is repealed, amended, or overturned by a court of competent jurisdiction, in whole or in  
11 part, provisions of this article may no longer apply, in which case, pending and future applications for  
12 wireless facilities and utility poles intended to support the collocation of small wireless facilities in the  
13 public rights-of-way, will be governed by applicable law.  
14

15 **Sec. 16-200. Wireless facilities allowed in the public rights-of-way.**

16  
17 (a) Subject to the requirements of this article, only the following wireless facilities may be  
18 placed or maintained within the public rights-of-way:  
19

20 (1) Small wireless facilities collocated on existing structures or collocated on new utility  
21 poles intended to support the collocation of small wireless facilities; and  
22

23 (2) Micro wireless facilities suspended on cable strung between existing structures.  
24

25 (b) Wireless support structures are not permitted within the public rights-of-way. Wireless  
26 support structures shall comply with section 10-6.812, as applicable.  
27

28 (c) Wireless facilities shall not be permitted in the public rights-of-way except as permitted  
29 in this division, unless otherwise permitted by applicable state or federal laws or regulation.  
30

31 (d) The approval of the installation, construction, placement, maintenance, ~~or~~ operation, or  
32 replacement of a small wireless facility pursuant to this division does not authorize the provision of  
33 any voice, data, or video communications services or the installation, placement, maintenance, ~~or~~  
34 operation, or replacement of any communications facilities other than small wireless facilities in the  
35 public rights-of-way.  
36

37 **Sec. 16-201. Permit requirements; application; review timeframes.**

38  
39 (a) *Permit required.* A registrant shall not commence to place or maintain a small wireless  
40 facility in the public rights-of-way or a utility pole intended used for the collocation of small wireless  
41 facilities until all applicable permits have been issued by the county, except for limited work as  
42 provided in subsection (b) of this section, unless otherwise authorized by applicable codes ~~or state or~~  
43 ~~federal laws or regulations~~. A registrant may submit a consolidated permit application and receive a  
44 single permit for the collocation of up to 30 small wireless facilities. The registrant acknowledges that  
45 as a condition of granting permits, the county may impose reasonable conditions governing the  
46 placement or maintenance of a wireless facility in the public rights-of-way as set forth in F.S. § 337.401,  
37

1 as amended. Permits shall apply only to the areas of the public rights-of-way specifically identified in  
2 the permit.

3  
4 (b) *Permit not required.*

5  
6 (1) A registrant shall be allowed to perform limited work within the public rights-of-way  
7 without first obtaining a permit if such proposed limited work does not involve  
8 excavation or the closure of a sidewalk, parking lane, or vehicle lane. As used in this  
9 section, the term "limited work" means:

10  
11 a. Routine maintenance;

12  
13 b. The performance of service restoration work on existing facilities;

14  
15 c. Emergency repairs of existing facilities;

16  
17 d. Service drops to customers;

18  
19 be. Replacement of an existing wireless facility with a wireless facility that is  
20 substantially similar or of the same or smaller size; or

21  
22 ef. Installation, placement, maintenance, or replacement of a micro wireless facility  
23 that is suspended on cable strung between existing structures in compliance with  
24 applicable codes by or for a communications services provider authorized to  
25 occupy the public rights-of-way and who is remitting communications services  
26 tax, provided the registrant provide a letter attesting that the dimensions of any  
27 newly deployed micro wireless facility comply with the limits in this article.

28  
29 (2) Prior to performing any limited work, a registrant shall provide reasonable advance  
30 written notice to the county identifying the areas where such maintenance will occur,  
31 scope of maintenance, date and duration of work to be performed. If any limited work  
32 requires the closure of a vehicle lane, a lane closure permit shall be required.

33  
34 (3) A registrant shall be allowed to perform emergency maintenance within the public  
35 rights-of-way without first obtaining a permit provided the work is performed in  
36 compliance with the 2017 edition of the Florida Department of Transportation Utility  
37 Accommodation Manual. However, a registrant shall provide prompt notice to the  
38 county of the emergency maintenance and, within 30 45 days of completing the  
39 emergency maintenance, apply for a permit in accordance with subsection (d) of this  
40 section if such activity required a permit under this article. As used in this section, the  
41 term "emergency maintenance" means the repair or replacement of a wireless facility as  
42 a result of a condition that affects the public health, safety or welfare, which includes an  
43 unplanned out-of-service condition of a preexisting service.

1 (4) The county engineer may issue an immediate stop work order where any limited work  
2 poses a serious threat to the health, safety or welfare of the public until such time as  
3 such serious threat has been abated.  
4

5 (c) *Presubmittal conference.* Prior to submitting a permit application, the applicant is strongly  
6 encouraged to schedule a presubmittal conference with the county. A pre-submittal conference is not  
7 required prior to submitting a permit application.  
8

9 (d) *Permit application.* As part of any permit application to place or maintain a small wireless  
10 facility in the public rights-of-way, the registrant shall provide a permit application or consolidated  
11 permit application that sets forth, at a minimum, the following:  
12

13 (1) *Engineering plan.* An engineering plan signed and sealed by a state-licensed  
14 professional engineer, that includes:  
15

16 a. The type of proposed wireless facility including the dimensions, volume, height,  
17 footprint, and stealth design and concealment features of the proposed small  
18 wireless facility, and location of the proposed small wireless facility, including  
19 whether the proposed small wireless facility is proposed within a location subject  
20 to restrictions pursuant to section 16-203(e)(1);  
21

22 b. The type of structure intended to support the small wireless facility, such as an  
23 existing structure, repurposed structure, or new utility pole intended to support  
24 the collocation of the small wireless facility, including supporting  
25 documentation that the structure can support the additional load of the proposed  
26 small wireless facility, if applicable;  
27

28 c. The distance of the proposed small wireless facility, including ground-mounted  
29 equipment, and nearby pavement, sidewalks, driveways, ramps, trees,  
30 underground utilities and other above-grade and below grade structures and  
31 utilities located ~~nearby within the public rights-of-way~~ within a 50 foot diameter  
32 of the proposed location;  
33

34 d. The global positioning system (GPS) coordinates of the proposed small wireless  
35 facility. The GPS coordinates shall be based on the reading from a handheld  
36 mobile GPS unit set to Datum NAD 83 or WGS84. GPS coordinates based on  
37 Google Earth or similar application may be used where areas of shading occur  
38 due to overhead canopy. GPS coordinates shall be provided in decimal degrees  
39 at a six decimal point precision;  
40

41 e. Sufficient specificity demonstrating compliance with the Florida Building Code  
42 and other applicable codes, including, but not limited to, sightlines or clear zone  
43 standards and specifications for transportation, pedestrians, and public safety as  
44 provided in the state department of transportation Plans Preparation Manual,  
45 state department of transportation Manual of Uniform Minimum Standards for  
46 Design, Construction and Maintenance for Streets and Highways (the Florida

Greenbook), and the state 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 10-4.346(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); and
- g. Attestation that the proposed small wireless facility is to be located within the public rights-of-way, except that if the county engineer reasonably disagrees the applicant shall submit a survey.

(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 16-203(b).

(5) *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 500 feet of the proposed location of the utility pole. If there is no utility pole within 500 feet of the proposed location of the utility pole intended to support the collocation of small wireless facilities, the applicant shall certify such.

(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.



1 (67) *Temporary maintenance of traffic (MOT) plan.* The applicant shall provide a temporary  
2 traffic lane closure and MOT plan, if applicable, to accommodate placement or  
3 maintenance of the small wireless facility.  
4

5 (78) *Restoration plan and estimate cost of restoration of the public rights-of-way.* If  
6 applicable, a restoration plan and a good faith estimate of the cost of restoration of the  
7 public rights-of-way. Such good faith estimate shall be accepted by the county unless  
8 the county engineer determines such estimated costs are not representative of the actual  
9 costs of the restoration of the public rights-of-way. Estimates of the cost to restore the  
10 public rights-of-way shall include all costs necessary to restore the public rights-of-way  
11 to its original condition. Such good faith estimate shall include, but is not limited to,  
12 costs to restore the paving, curbs/gutters, sidewalks, multi-purpose trails, and  
13 landscaping. All planted or naturally occurring shrubbery or vegetation, including sod,  
14 damaged or destroyed during work in the public rights-of-way shall be replaced, except  
15 tree removals as allowed by the permit.  
16

17 (89) *Timetable for construction or installation.* The timetable for placement or maintenance  
18 of the proposed small wireless facility or each phase of the placement or maintenance  
19 thereof.  
20

21 (910) *Indemnification.* A statement shall be included within the permit application that by  
22 execution of the application, the registrant shall be bound to the county with respect to  
23 the indemnification provisions set forth in section 16-137.  
24

25 (e) *Application review timeframes.* An application for a permit for a small wireless facility,  
26 repurposed structure, and utility pole intended to support the collocation of small wireless facilities  
27 within the public rights-of-way shall be reviewed by the county as follows:  
28

29 (1) *Notice of application deficiency.* Within 14 days after the date of filing an application,  
30 unless the timeframe is mutually extended, for the collocation of a small wireless  
31 facility, repurposed structure, or utility pole intended to support the collocation of small  
32 wireless facilities, the county engineer shall determine whether the application is  
33 complete. If an application is deemed incomplete, the county engineer shall notify the  
34 applicant by electronic mail and specifically identify the missing information. An  
35 application shall be deemed complete if the county engineer fails to notify the applicant  
36 otherwise within 14 days after the date of filing the application.  
37

38 (2) *Request for alternative location.* Within 14 days after the date of filing the application  
39 for collocation of a small wireless facility, the county engineer may request that the  
40 proposed location of the small wireless facility be moved to another location and be  
41 placed on another existing structure or by placing a new utility pole intended to support  
42 the collocation of small wireless facilities. The county and applicant may negotiate the  
43 alternative location, including objective design standards and reasonable spacing  
44 requirements for ground-mounted equipment for 30 days after the county submits the  
45 request. The applicant shall notify the county of its acceptance or rejection within this  
46 30-day negotiating period. If the applicant accepts the alternative location, the

1 application shall be deemed granted for the agreed-upon alternative location and all  
2 other locations in the application. If the requested alternative location is rejected by the  
3 applicant, the county engineer shall approve or deny the original application within 90  
4 days after the date the complete application was filed.

5  
6 (3) *Application review period.* Within 60 days after the date of filing a complete application  
7 for the collocation of a small wireless facility, the county engineer shall approve or deny  
8 the application. If the county engineer does not submit a request for an alternate location  
9 as provided in subsection (2) of this section, the county engineer and the applicant may  
10 mutually agree to extend the 60-day application review period.

11  
12 (4) *Notice of denial; resubmission.* Should the application be denied, the county engineer  
13 shall notify the applicant by electronic mail on the day the application is denied and  
14 specify, in writing, the basis for denial, including the specific Code provisions on which  
15 the denial is based. The applicant may cure the deficiencies identified by the county  
16 engineer and resubmit the application within 30 days after the notice of denial is sent.  
17 The county engineer shall approve or deny the revised application within 30 days after  
18 the date of filing the revised application. Any subsequent review shall be limited to the  
19 deficiencies cited in the notice of denial. A denial of a permit may be appealed pursuant  
20 to section 16-135.

21  
22 (5) *Consolidated permit applications.* The county may separately address each proposed  
23 collocated small wireless facility for which incomplete information has been received  
24 or which are denied.

25  
26 (6) *Deemed approved.* A complete application is deemed approved if the County fails to  
27 approve or deny an application within 60 days after receipt of the application. Prior to  
28 commencing construction, a person with a deemed approved permit must be registered  
29 pursuant to section 16-128, and must file a construction performance bond and security  
30 fund with the county pursuant to this article.

31  
32 (f) Permit application for repurposed structure or utility pole. A permit application for a  
33 repurposed structure or a utility pole intended to support the collocation of small wireless facilities shall  
34 be submitted prior to or contemporaneously with a permit application for a small wireless facility.

35  
36 **Sec. 16-202. Small wireless facility collocation permit eConditions for the collocation of small**  
37 **wireless facilities and utility poles used to support a small wireless facility.**

38  
39 (a) The county engineer may deny a proposed collocation of a small wireless facility in the  
40 public rights-of-way if the proposed collocation:

41  
42 (1) Materially interferes with the safe operation of traffic control equipment;

43  
44 (2) Materially interferes with sightlines or clear zone standards and specifications for  
45 transportation, pedestrians, or public safety purposes as provided in the state department  
46 of transportation Plans Preparation Manual, state department of transportation Manual

1 of Uniform Minimum Standards for Design, Construction and Maintenance for Streets  
2 and Highways (the Florida Greenbook), and/or the state department of transportation  
3 design standards, as amended;  
4

- 5 (3) Materially interferes with compliance with the Americans with Disabilities Act, 42 USC  
6 12101 et seq., or similar federal or state standards regarding pedestrian access or  
7 movement;  
8
- 9 (4) Materially fails to comply with the 2017~~0~~ edition of the state department of  
10 transportation Utility Accommodation Manual; or  
11
- 12 (5) Fails to comply with applicable codes governing placement or maintenance of small  
13 wireless facilities within the public rights-of-way, including the general permit  
14 conditions in section 16-132 and the Objective Design Standards in section 16-203.  
15

16 (b) A permit for the collocation of a small wireless facility shall remain effective for and  
17 construction must be completed within one year. The county engineer may extend the expiration date  
18 of the permit for good cause.  
19

20 (c) A permit application for a repurposed structure or a utility pole intended to support the  
21 collocation  
22 of small wireless facilities shall be submitted prior to or contemporaneously with a permit application  
23 for a small wireless facility.  
24

25 (d) A permit for a proposed repurposed structure or utility pole intended to support the  
26 collocation of small wireless facilities shall remain effective for and construction must be completed  
27 within one year. The county engineer may extend the expiration date of the permit for good cause.  
28

29 (e) A utility pole intended to support the collocation of small wireless facilities may only  
30 contain small wireless facilities. Unless otherwise exempted by applicable codes, antennas, wires, or  
31 other facilities may not be mounted on the utility pole intended to support the collocation of small  
32 wireless facilities without a permit or authorization from the county.  
33

34 **Sec. 16-203. Objective design standards.**  
35

36 (a) *Purpose and intent.* Small wireless facilities shall be designed in such a manner that the  
37 small wireless facilities are placed in a safe location that do not interfere with the traveling public, and  
38 shall be designed to maximize compatibility with the surrounding neighborhood and to minimize any  
39 negative visual impact on the surrounding neighborhood. The following objective design standards  
40 regulating the location context, color, stealth design, and concealment of the proposed small wireless  
41 facility shall apply, unless waived pursuant to section 16-204.  
42

43 (b) *Stealth design.* All proposed small wireless facilities shall meet any one of the three  
44 following stealth design standards or combination thereof:  
45

1 (1) *Preferred stealth design option 1.* Wires, cables, and equipment to be placed on a utility  
2 pole shall be within the utility pole or covered with a Shroud or conduit that is similar  
3 to the utility pole color; the use of a slim design wherein the top mounted antenna does  
4 not exceed the diameter of the supporting utility pole by more than six inches on any  
5 side at the level of the antenna attachment and side-mounted enclosures, if any, do not  
6 extend more than 30 inches beyond the exterior dimensions of the supporting utility pole  
7 measured from the edge of the utility pole to the outermost surface of the side-mounted  
8 enclosure.  
9

10 (2) *Preferred stealth design option 2.* Wires, cables, and equipment to be collocated on a  
11 utility pole shall be within the utility pole or covered with a shroud or conduit that is  
12 similar to the utility pole color; and the use of a street light fixture to camouflage the  
13 small wireless facility. All street light fixtures shall be maintained in good working order  
14 by the applicant or pole owner unless the county accepts maintenance responsibility in  
15 writing. If the county accepts the maintenance responsibility of a street light fixture on  
16 an authority utility pole, the ownership of the street light fixture shall transfer to the  
17 county. All street light fixtures shall be of similar style and of similar lighting  
18 technology as nearby lighting fixtures (halogen, LED, etc.) and shall utilize dark-sky  
19 friendly lighting.  
20

21 (3) *Preferred stealth design option 3.* Wires, cables, and equipment to be collocated on a  
22 utility pole shall be within the utility pole or covered with a shroud or conduit that is  
23 similar to the utility pole color; and the use of wraps on the supporting structure, side  
24 mounted enclosures, and/or ground-mounted equipment. An applicant may propose a  
25 wrap design not previously approved by the county by applying for and obtaining a  
26 waiver pursuant to section 16-204. Wraps shall be maintained by the applicant such that  
27 the wrap does not peel or significantly fade.  
28

29 (c) *Concealment.* The following concealment standards shall apply to proposed small  
30 wireless facilities:  
31

32 (1) Applicants shall not place or maintain signage on communications facilities in the public  
33 rights-of-way, unless otherwise required by applicable state or federal laws or  
34 regulations, or as permitted by the county.  
35

36 (2) A small wireless facility shall not have any type of lighted signal, lights, or illuminations  
37 unless required by applicable state or federal laws or regulations or as permitted by the  
38 county.  
39

40 (3) Ground-mounted equipment for small wireless facilities shall be located within a ten-  
41 foot radius of the supporting structure for the small wireless facility and, if possible, in  
42 areas with existing foliage or other aesthetic features to obscure the view of the ground-  
43 mounted equipment. The ground-mounted equipment shall be designed to appear  
44 similar to other at-grade facilities in the same public rights-of-way and may be further  
45 concealed with additional plantings. Any additional plantings proposed pursuant to this  
46 subsection shall be approved by the county. An applicant may also utilize a wrap for at-

1 grade facilities. An applicant may propose a wrap design not previously approved by  
2 the county by applying for and obtaining a waiver pursuant to section 16-180. Wraps  
3 shall be maintained by the applicant such that the wrap does not peel or significantly  
4 fade.

5  
6 (d) *Maximum height restrictions.* A small wireless facility, including any attached antennas,  
7 shall not exceed ten feet above the existing structure, repurposed structure or utility pole upon which  
8 the small wireless facility is to be collocated.

9  
10 (e) *Location context.* The following location context standards shall apply to proposed small  
11 wireless facilities:

12  
13 (1) *Prohibition against placement within a location subject to homeowners' association*  
14 *restrictions.* Small wireless facilities shall not be collocated in a location subject to  
15 covenants, restrictions, articles of incorporation, or bylaws of a homeowners'  
16 association unless specifically authorized by the homeowners' association. This  
17 subsection shall not limit the installation, placement, maintenance, or replacement of  
18 micro wireless facilities on any existing and duly authorized aerial wireline facility.

19  
20 (2) *Prohibition against placement in location where facilities are placed underground.*  
21 Small wireless facilities shall comply with nondiscriminatory undergrounding  
22 requirements of the county that prohibit aboveground structures in the public rights-of-  
23 way. Any such requirements may be waived by the county pursuant to section 16-204.

24  
25 (3) *Tree removal.* The placement or maintenance of a small wireless facility that results in  
26 the tree removal of a protected tree within the Canopy Road Tree Protection Zones shall  
27 comply with the conditions outlined in section 10-4.206(b)(5), as determined by the  
28 development review committee, and abide by the tree replanting requirements in section  
29 10-4.346(b). The placement or maintenance of a small wireless facility that results in  
30 the tree removal of a protected tree that is not within the Canopy Road Tree Protection  
31 Zones shall comply with the conditions outlined in section 10-4.206(a) and abide by the  
32 tree replanting requirements in section 10-4.346(b). Notwithstanding any other Code,  
33 the county engineer shall determine if the proposed Tree Removal meets the conditions  
34 of section 10-4.206(a) and the tree replanting requirements in section 10-4.346(b). Tree  
35 Removal is not permitted within the public rights-of-way to increase signal strength or  
36 provide a line-of-sight.

37  
38 (4) *Prohibition against placement in violation of OSHA or NESC rules and regulations.*  
39 Small wireless facilities shall not be placed in a location which violates rules and  
40 regulations set by the Occupational Safety and Health Administration or the National  
41 Electrical Safety Code.

42  
43 **Sec. 16-204. Waiver of objective design standards for small wireless facilities.**

44  
45 (a) Objective design standards provided in sections 16-132 and 16-203 may be waived by the  
46 county engineer upon a showing that the objective design standards are not reasonably compatible for

1 the particular location of a small wireless facility or that the objective design standards impose an  
2 excessive expense.

3  
4 (b) A request for a waiver shall be filed contemporaneously with the permit application. The  
5 request for waiver shall state each section or subsection for which a waiver is being sought. A request  
6 for a waiver shall include a detailed explanation, with supporting engineering or other data, as to why  
7 a waiver from the requirements of this article is required.

8  
9 (c) In granting any waiver, the county engineer may impose conditions to the extent the  
10 county engineer concludes such conditions are necessary to minimize any adverse effects of the  
11 proposed small wireless facility on the surrounding neighborhood or to protect the health, safety and  
12 welfare of the public.

13  
14 (d) The county engineer shall grant or deny a request for a waiver within 45 days after  
15 receiving the request for waiver. Should a request for waiver, and ultimately a permit, be denied by the  
16 county engineer, the denial of the waiver may be appealed in conjunction with an appeal of the permit  
17 denial in accordance with section 16-135.

18  
19 **Sec. 16-205. Make-ready work.**

20  
21 (a) For an authority utility pole that supports aerial wireline facility used to provide  
22 communications services or electric service, the county, communications services provider, wireless  
23 infrastructure provider, and pass-through provider shall comply with the process for make-ready work  
24 under 47 USC 224, as amended, and implementing regulations. The good faith estimate of the person  
25 owning or controlling the pole for any make-ready work necessary to enable the pole to support the  
26 requested collocation must include pole replacement if necessary.

27  
28 (b) For an authority utility pole that does not support aerial wireline facility used to provide  
29 communications services or electric service, the county shall provide a good faith estimate for any  
30 make-ready work necessary to enable the pole to support the requested collocation, including necessary  
31 pole replacement, within 60 days after receipt of a complete application. Make-ready work, including  
32 any pole replacement, must be completed within 60 days after the written acceptance of the good faith  
33 estimate by the applicant. Alternatively, the county may require the applicant seeking to collocate a  
34 small wireless facility to provide a make-ready estimate at the applicant's expense for the work  
35 necessary to support the small wireless facility, including pole replacement, and perform the make-  
36 ready work.

37  
38 (c) If pole replacement is required, the scope of the make-ready estimate is limited to the  
39 design, fabrication, and installation of a utility pole that is substantially similar in color and  
40 composition. The county may not condition or restrict the manner in which the applicant obtains,  
41 develops, or provides the estimate or conducts make-ready work subject to the usual construction  
42 restoration standards for work in the public rights-of-way. The replaced or altered utility pole shall  
43 remain the property of the county.

44  
45 **Sec. 16-206. Collocation fees.**

1 The rate to collocate a small wireless facility on an authority utility pole shall be \$150.00 per  
2 pole annually. Annual payments shall be due and payable on April 1 of each year. If the payments  
3 required by this section are not made within 90 days after the due date, the county engineer may  
4 withhold the issuance of any permits to the registrant until the amount past due is paid in full.  
5

6 **Section 2. Conflicts.**  
7

8 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby  
9 repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon  
10 County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this  
11 ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.  
12

13 **Section 3. Severability.**  
14

15 If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of  
16 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and  
17 portions of this Ordinance shall remain in full force and effect.  
18

19 **Section 4. Effective Date.**  
20

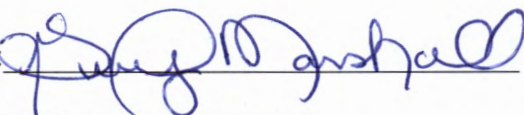
21 This ordinance shall be filed with the Department of State according to law and shall have effect  
22 sixty-five (65) days after adoption.  
23

24 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County,  
25 Florida, this 28<sup>th</sup> day of January, 2020.  
26

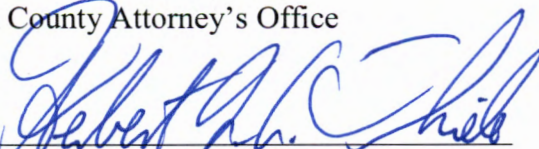
LEON COUNTY, FLORIDA

27  
28  
29 By:   
30 Bryan Desloge  
31 Board of County Commissioners

32 ATTESTED BY:  
33 Gwendolyn Marshall, Clerk of Court  
34 & Comptroller, Leon County, Florida  
35

36  
37 By:   
38

39 APPROVED AS TO FORM:  
40 Leon County Attorney's Office  
41

42  
43 By:   
44 Herbert W. A. Thiele, Esq.  
45 County Attorney

