ORDINANCE NO. 15- 11

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA; AMENDING CHAPTER 10, THE LAND DEVELOPMENT CODE, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; AMENDING SECTION 10-6.812, COMMUNICATION ANTENNAS AND COMMUNICATION ANTENNA SUPPORT STRUCTURES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the intent of the Communication Antennas and Communication Antenna Support Structure Ordinance is to promote the public health, safety and general welfare by regulating the siting of wireless communication facilities; and

WHEREAS, the Ordinance allows for the growing need and demand for wireless communication services; and

WHEREAS, the Ordinance provides for the appropriate location and development of wireless communication facilities within the county and recognizes that the provision of wireless services may be an essential service within such land use categories as may be provided for under the Comprehensive Plan, subject to the limitations of this Ordinance; and

WHEREAS, the Ordinance seeks to minimize the adverse visual effects of wireless communication facilities through careful design, siting, landscape screening and camouflaging techniques; and

WHEREAS, the County encourages the location and collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for additional communication antenna support structures; and

WHEREAS, the Ordinance will ensure compliance with federal standards while clarifying policies and procedures and eliminating redundancy within the Communication Antenna and Communication Antenna Support Structure Ordinance.

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

SECTION 1. Section 10-6.812 of Article VI of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "Communication antennas and communication antenna support structures" is hereby amended to include the following new definitions:

Section 10-6.812. Communication antennas and communication antenna support structures.

~~(a) Applicability; use of existing structures.~~

~~(1) All new communication antennas and communication antenna support structures in the unincorporated areas of the county shall be subject to these land development regulations and all other applicable building and construction codes. In the event of any conflict between other land development regulations and the regulations contained in this section, the provisions of this section shall override and supersede such other regulations unless otherwise specifically set forth herein.~~

(2) All communication antenna support structures existing on July 14, 2009 shall be allowed to continue to be used as they presently exist, provided that a notice of continuing use is submitted by the communication antenna support structure owner/operator to the department of development support and environmental management not later than July 30, 2010 and no later than every three years there after. A notice of continuing use shall certify that the structure continues to be used as a communication antenna support structure and that a security or performance bond has been posted in an amount to be determined by the county to cover the cost of removal plus a reasonable safety factor. The notice of continuing use shall specify the antenna support structure's use, number of collocated antennas and use, owner and contact information for the antenna support structure and all collocated antennas. Failure to file a notice of continuing use shall constitute abandonment in accordance with subsection (o). Routine maintenance or minor modifications to accommodate the collocation of an additional user or users shall be permitted on such existing communication antenna support structures subject to the criteria in [subsection] (b) below. New construction, other than routine maintenance and modifications to accommodate collocation on an existing communication antenna support structure, shall comply with the requirements of this section.

(3) For purposes of this section, a communication antenna support structure that has received final approval in the form of a building permit for an approved site and development plan or where substantial construction has been completed, shall be considered an existing communication antenna support structure so long as such approval is valid and unexpired as of the effective date of this section.

(4) No rezoning or zoning variance shall be required to locate a communication antenna on an existing nonresidential structure or multifamily residential structure 35 feet in height or greater; provided, however, that the communication antenna does not extend more than 20 feet above the existing structure. Such structures may include, but are not limited to, nonresidential buildings, water towers, existing communications antenna support structures, recreational light fixtures and essential service provider facilities.

(5) A communication antenna support structure may be rebuilt, reconstructed, or replaced, in any zoning district other than residential preservation, except for rebuilding, reconstructing, or replacing nonconforming communication antenna support structures which may be approved only through Type C site and development plan process, when done to accommodate collocation of additional users, subject to all review requirements in the land development regulations for Type A site plans, with a notice of pendency that a communication antenna support structure is proposed to be rebuilt, reconstructed, or replaced mailed to all affected property owners at least ten work days prior to the decision on the application as determined from the most recent tax rolls, of all property located within 500 feet of the boundary of the property upon which the communication antenna support structure is located, provided that any such collocation is accomplished in a manner consistent with the following:

a. A communication antenna support structure which is modified or reconstructed to accommodate the collocation of an additional communication antenna shall comply with all the provisions of this section, except subsections (b) and (c) and shall be of the same communication antenna support structure type as the existing communication antenna support structure, unless reconstructed as a monopole.

b. Height.

1. An existing communication antenna support structure may be modified or rebuilt to a taller height, not to exceed 30 feet or 20 percent of the height of

the communication antenna support structure, whichever is greater, over the communication antenna support structure's existing height, to accommodate the collocation of an additional communication antenna, but in no case shall the height of the communication antenna support structure and proposed extension be greater than the distance to an existing residential structure.

2. The height change referred to in subsection b.1. may only occur one time per communication antenna support structure.

c. On-site location.

1. A communication antenna support structure which is being rebuilt to accommodate the collocation of an additional communication antenna may be moved on-site within 50 feet of its existing location, subject to the setback requirements of this section.

2. After the communication antenna support structure is rebuilt to accommodate collocation, the existing communication antenna support structure must be dismantled and removed within 60 days after the rebuilding so only one communication antenna support structure may remain on the site.

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

(7) The provisions of this section shall not apply to communication antenna support structures or communication antennas located on property owned by the United States, State of Florida, Leon County, or the City of Tallahassee, provided those communication antenna support structures are owned by those public entities and are used for the provision of fire safety, law enforcement, emergency management, emergency medical services telecommunications, and/or a governmental purpose. Furthermore, the provisions of this section are not intended to apply to the siting of radio and television broadcast antenna support structures licensed by the FCC and used primarily for broadcast purposes.

(b) Location.

(1) A communication antenna support structure or communication antenna may be located in any zoning district so long as it meets the requirements of this section, except a communication antenna support structure or communication antenna shall not be located on or within 400 feet of property designed as historic preservation overlay. Any application for a communication antenna on or within 400 feet of property designated as historic preservation overlay shall request a certificate of appropriateness from the county's architectural review board pursuant to section 10-6.807 of the Zoning Code.

(2) A communication antenna support structure may be located on a subparcel used for other principal uses on a parcel smaller than the minimum lot size required in the zoning district. This parcel shall be considered as the "communication antenna support structure site." The communication antenna support structure site, but not the entire lot, shall be subject to all of the requirements of this section, except as specifically provided herein.

~~(c) Minimum distance of communication antenna support structures from residential lots.~~

~~(1) a. If a communication antenna support structure is located on residential or multifamily residential structure of 35 feet in height or greater, the tower shall be at least 250 feet, but not less than the height of the proposed communication antenna support structure itself, from the nearest residential lot zoned for or constructed with single-family residences or multifamily residences of less than 35 feet in height.~~

~~b. All other communication antenna support structure shall be located at least 300 feet, but not less than the height of the proposed communication antenna support structure itself, from the nearest residential lot zoned for or constructed with single-family residences or multifamily residences of less than 35 feet in height.~~

~~c. Variances from these setback requirements may be granted consistent with the standards contained in subsection (v) of this section.~~

~~(2) Distances shall be measured from the center of the base of the communication antenna support structure to the residential lot line.~~

~~(3) Notwithstanding anything to the contrary in the land development regulations, no communication antenna support structure other than a monopole (freestanding) shall be located in any location adjacent to a residential lot.~~

~~(d) Communication antenna support structure permitting.~~

~~(1) Feasibility of collocation. shall be deemed to be feasible for purposes of this subsection where all of the following are met:~~

~~a. The owner or person who otherwise controls the communication antenna support structure or other structure under consideration for collocation will undertake to charge fair and reasonable market rent or other fair and reasonable market compensation for collocation.~~

~~b. The site on which collocation is being considered, taking into consideration reasonable or replacement of a facility, is able to provide sufficient structural support.~~

~~c. The collocation being considered is technologically reasonable, e.g. the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure and antennas.~~

~~d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the county administrator or designee, taking into consideration the several standards contained in this section.~~

~~(2) New communication antenna support structures.~~

~~a. A communication antenna support structure permit for the location and use of a communication antenna support structure shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.~~

~~b. The county shall maintain a list of all communication antenna support structures and shall make such list available to new communication antenna support structure applicants. No new communication tower shall be permitted unless the applicant demonstrates, in writing, that no existing communication antenna support structure or structure can accommodate the applicant's proposed antenna, consistent with the requirements of subsection (d)(4)f. of this section.~~

c. If a party who owns or otherwise controls a new or existing communication antenna support structure shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded, or extended in any respect.

(3) Applications for collocation of communication antennas or location of communication antennas on existing Leon County facilities shall be given expedited review.

(4) Communication antenna support structure application and provisions governing the issuance of permits.

a. In granting a permit, the county shall require the posting of a security or performance bond, in an amount to be determined by the county, not to exceed the cost of removal, to ensure removal of such communication antenna support structure(s) if it becomes abandoned as described in subsection (o) of this section.

b. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer, as otherwise required by law.

c. An applicant for a communication antenna support structure permit shall submit the information described in this section and a nonrefundable fee as established by the resolution of the county commissioners to reimburse the county for the costs of reviewing the application.

d. Information required. In addition to any information required by the land development regulations for Type B site plans, applicants for a communication antenna support structure permit shall submit the following information:

1. A scaled site plan clearly indicating the location, type, and height of the proposed communication antenna support structure, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable setback areas, adjacent roadways, proposed means of access, setbacks for property lines, elevation drawings of the proposed communication antenna support structure and any other structures, topography, parking, and other information deemed by the county to be necessary to assess compliance with this section.

2. Legal description of the parent tract and leased parcel (if applicable).

3. The setback distance between proposed communication antenna support structure and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

4. The location of all communication antenna support structure and communication antennas within a one mile radius of the location of the proposed structure.

5. A landscape plan showing specific landscape materials.

6. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

7. A description of compliance with the requirements of this section and all applicable federal, state, or local laws.

8. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

9. A description of the suitability of the use of existing communication antenna support structure(s) or other structures to provide the services to be provided through the use of the proposed new structure.

10. The location of the proposed communication antenna support structure in digital format compatible with the county's GIS system.

e. The county shall consider the following factors in determining whether to issue a permit, although the county may waive or reduce the burden on the applicant of one or more of these criteria if the county concludes that the goals of this section are better served thereby:

1. Height of the proposed communication antenna support structure;

2. Proximity of the communication antenna support structure to residential structures and residential district boundaries;

3. Nature of uses on adjacent and nearby properties, within 500 feet of the communication antenna support structure site property line;

4. Surrounding topography;

5. Surrounding tree coverage and foliage;

6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

7. Proposed ingress and egress; and

8. Availability of suitable existing communication antenna support structure or other structures.

f. No new communication antenna support structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the county that no existing communication antenna support structure or structure can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the county related to the availability of suitable existing communication antenna support structure(s) or other structures. Evidence submitted to demonstrate that no existing communication antenna support structure or other structure can accommodate the applicant's proposed communication antenna may consist of any of the following:

1. No existing communication antenna support structure or other structures are located within the geographic area which meet applicant's engineering requirements.

2. Existing communication antenna support structure(s) or other structures are not of sufficient height to meet applicant's engineering requirements.

3. Existing communication antenna support structures or other structures do not have sufficient structural strength to support applicant's proposed communication antenna and related equipment.

4. The applicant's proposed communication antenna would cause electromagnetic interference with the communication antenna on the existing communication antenna support structures or other structures, or the communication antenna on the existing communication antenna support

structures or other structures would cause interference with the applicant's proposed communication antenna.

5. The fees, costs, or contractual provisions required by the owner in order to share an existing communication antenna support structure or other structure or to adapt an existing communication antenna support structure or other structure for sharing renders collocation infeasible or unreasonable.

6. The applicant demonstrates that there are other limiting factors that render existing communication antenna support structure(s) or other structures unsuitable.

g. The applicant shall provide the county with a sealed statement that the proposed communication antenna support structure is required because the applicant has demonstrated compliance with all applicable collocation requirements of this section as outlined above, and that no existing communication antenna support structure or other structure can accommodate the applicant's proposed antenna.

(e) Maximum height. Notwithstanding anything to the contrary in the land development regulations, the maximum height of communication towers shall be 150 feet except in rural, urban fringe, industrial, M-1 limited industrial and activity center districts or in planned unit developments, critical planning areas or target planning areas which include community services, light or heavy infrastructure, or light or heavy industrial uses, in which the maximum height shall be 250 feet. Measurements of communication tower height shall include the base pad, and other appurtenances and shall be measured from the finished grade at the tower base.

(f) Minimum yard requirements. There are no minimum yard requirements for communication antenna support structures.

(g) Illumination. Communication antenna support structures shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration (FAA).

(h) Finished color. Communication antenna support structures not requiring FAA painting/marking shall have either a galvanized finish or painted a dull blue, gray, or black finish.

(i) Structural design. Communication antenna support structures shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard, according to the EIA/TIA 222-E Standards, to adjoining properties. Communication antenna support structures shall be constructed to the EIA/TIA 222-E Standards, as published by the Electronic Industries Association, which may be amended from time to time, and all applicable county building codes. Further, any improvements and/or additions (i.e., antenna, satellite dishes, etc.) to existing communication antenna support structures shall require submission of site plans sealed and verified by a professional engineer, which demonstrate compliance with the EIA/TIA 222-E Standards in effect at the time of said improvement or addition. Said plans shall be submitted to and reviewed and approved by the department of development support and environmental management at the time building permits are requested.

(j) Fencing. A minimum eight feet finished masonry wall or an eight-foot fence with less than 85 percent opacity shall be required around all communication antenna support structure sites. Access to the tower shall be through a locked gate.

(k) No advertising. Neither the communication antenna support structure nor the communication antenna support structure site shall be used for advertising purposes and shall not contain any signs for the purpose of advertising.

(l) Landscaping. The visual impacts of residentially or commercially located communication antenna support structures shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures as follows:

(1) A 20-foot landscape buffer which meets the landscape requirements of section 10-7.522 of the zoning code shall be required around the perimeter of the communication antenna support structure and any accessory structures located outside the required wall or fence;

(2) All required landscaping shall be of the evergreen variety;

(3) All required landscaping shall be xeriscape tolerant or irrigated and properly maintained to ensure good health and vitality;

(4) Required landscaping shall be installed outside the fence or wall; and

(5) Existing vegetation shall be preserved to the maximum extent practicable and may be credited as appropriate toward meeting landscaping requirements.

(6) An applicant may request deviation to the standards in this section in accordance with section 10-1.106

(m) Leon County encourages the users of communication antenna support structures and communication antennas to submit a single application for approval of multiple communication antenna support structure and/or communication antenna sites, and to utilize existing public facilities owned by Leon County through lease situations as sites. Applications for approval of multiple sites or sites utilizing existing Leon County facilities shall be given priority in the review process.

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

(o) Abandonment. In the event the use of any communication antenna support structure has been discontinued for a period of 180 consecutive days, the communication antenna support structure shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the county administrator or designee, based upon documentation and/or affidavits from the communication antenna support structure owner/operator regarding the issue of usage. Upon the determination of such abandonment, the owner/operator of the communication antenna support structure shall have an additional 180 days within which to: (1) reactivate the use of the communication antenna support structure or transfer the structure to another owner/operator who makes actual use of the structure, or (2) dismantle and remove the structure. At the earlier of 180 days from the date of abandonment without reactivation or upon completion of dismantling and removal, any exception and/or variance approval for the communication antenna support structure shall automatically expire.

(p) Certification of compliance with Federal Communication Commission (FCC) NIER Standards. Prior to receiving final inspection, adequate proof shall be submitted to the community development department documenting that the communication antenna support structure complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER). The county administrator or designee shall indicate on the site plan approval that this certification has been received.

(q) Collocation. Communication antenna support structures shall be structurally designed to accommodate the collocation of communication antennas as follows:

(1) All communication antenna support structures, except camouflaged structures, over 80 feet and up to and including 125 feet in height shall be structurally designed to accommodate at least two service providers.

(2) All communication antenna support structures, except camouflaged structures, over 125 feet and up to and including 150 feet in height shall be structurally designed to accommodate at least three service providers.

(3) All communication antenna support structures, except camouflaged structures, exceeding 150 feet in height shall be structurally designed to accommodate at least four service providers.

(r) Camouflaged structures.

(1) Criteria to be considered in determining whether a communication antenna support structure qualifies as a camouflaged structure:

a. The communication antenna support structure: (i) resembles a natural object or a manmade structure; (an example of a natural object is a tree; examples of a manmade structure are bell and clock towers, church steeples, detached or attached sigh structures or a lookout station); or (ii) serves a purpose other than supporting communication antennas, for example, lighting of sports facilities, transmission of electrical and/or telephone lines; flag poles;

b. The communications antenna support structure is designed to be compatible with the architectural elements, such as bulk, massing, and scale of the surrounding properties or structures; and

c. The communication antenna support structure is designed to compliment or to blend with the principal on-site use or structure, if any.

(2) Upon receipt of a completed site and development plan application where a camouflaged structure is being proposed, the county administrator or designee shall make a determination based on a recommendation of the staff technical review committee whether the proposed communication antenna support structure qualifies as a camouflaged structure based on the criteria outlined in subsection (r)(1). The determination may be appealed pursuant to the formal proceedings under Division 7 of Article VII of Chapter 10.

(3) Proposed communication antenna support structures determined to be camouflaged structures pursuant to the provisions of this subsection shall be permitted in all zoning districts, provided, however, that no antenna support structure may be located on a residential property used as single-family attached, single-family detached, two-family (duplex) dwellings, or multifamily units containing four or less dwelling units. Furthermore, for camouflaged structures, the required setback from the nearest existing building and/or structure shall be equal to the height of the communication antenna support structure. Variances to the setback requirement may be granted pursuant to the provisions of subsection (v).

(4) All proposed camouflaged structures are subject to all site and development plan review requirements for communication antenna support structures as outlined in this section.

(5) All proposed camouflaged structures are subject to the applicable building codes.

(s) A permitted use verification, pursuant to Section 10-7.402, 1. of the Land Development Regulations shall be required for siting all communication antenna support structures and communication antennas.

(t) Site plan review. All site plan applications requests for communication antenna support structures and communication antennas shall be subject to a Type B site plan review and shall be subject to all review requirements in the land development regulations for Type B site plans.

(u) Judicial review. For purposes of seeking judicial review, county action on a permit application shall not be final until the applicant has exhausted its right to formal proceedings under Division 7 of Article VII of Chapter 10. Any person adversely affected by any final action or failure to act on a permit application may, within 30 days after final action or failure to act by the county, file a petition for writ of certiorari in the Leon County Circuit Court.

(v) Variances. Applications for variances under this section shall be submitted to and reviewed by the board of adjustment and appeals. Applications for variances must meet the requirements of this section. No variances to height, setbacks, fencing, or buffer requirements shall be granted for communication antenna support structures and communication antennas located in any residential preservation future land use category, except for proposed antenna support structures that have been determined to be in compliance with subsection (r), camouflaged structures. Variance requests for proposed antenna support structures that have been determined to be in compliance with subsection (r) shall be reviewed and approved as appropriate by the entity with the authority to approved the proposed project, and shall not be required to complete the board of adjustment and appeals variance process as established by this section.

(w) Supplemental information required for applications for variances. The following information shall be included with all applications for variances. The applicant may use any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:

(1) A scaled site plan clearly indicating the communication antenna support structure site, type and height of the proposed tower, the location of the accessory building, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, distances from property lines, elevation drawings of the proposed communication antenna support structure, and any other proposed structures;

(2) A current zoning or tax map or aerial, as maintained by the Leon County Property Appraiser's Office, showing the location of the proposed communication antenna support structure;

(3) A legal description of the parent tract and communication antenna support structure site (if applicable);

(4) If the proposed communication antenna support structure site meets the required minimum distance from residential lot lines, approximate distance between the proposed antenna support structure and the nearest residential lot line, platted residential properties, or unplatted residential properties. If the proposed communication antenna support structure site does not meet the minimum distance

~~requirements, then exact distances, locations and identifications of said properties shall be shown on an updated zoning or tax map;~~

~~(5) A landscape plan showing specific landscape materials;~~

~~(6) The method of fencing, finished color and, if applicable, the method of aesthetic mitigation and illumination;~~

~~(7) If the applicant is not co-locating (sharing space) on the proposed or existing communication antenna support structure of another communications provider, evidence that it has made diligent but unsuccessful efforts to co-locate its antenna and associated equipment on an existing structure;~~

~~(8) Evidence that the applicant has made diligent but unsuccessful efforts to locate the proposed communication antenna support structure on suitable government-owned property;~~

~~(9) The written consent by the applicant that any such exception or variance shall be conditioned upon requiring the applicant to (a) construct the proposed communication antenna support structure so as to provide sufficient excess capacity over the initial loading and (b) permit at least one other comparable communication provider to use the proposed structure.~~

~~(10) Certification by the applicant that the proposed communication antenna support structure is reasonably necessary to serve an adjacent or nearby residential area or areas.~~

~~(x) Variance standards and criteria for communication antenna support structure. In addition to the variance criteria in the land development regulations, with respect to action upon applications for zoning variances, the board of adjustment and appeals shall grant a variance only if it finds from a preponderance of the evidence that the variance meets the following standards and criteria:~~

~~(1) The deviation will not be detrimental to the public good or to the surrounding properties;~~

~~(2) The location of existing uses, structures or other features on or adjacent to the property create a need for the variance;~~

~~(3) The variance sought is the minimum necessary to address the need for the variance, subsequent to exploring all reasonable siting alternatives;~~

~~(4) The location of the proposed communication antenna support structure in relation to existing structures, trees, and other visual buffers shall minimize, to the greatest extent reasonably practicable under the circumstances, any impacts on an affected residential lot;~~

~~(5) The location of the communication antenna support structure will not have a significant detrimental impact on adjacent property values;~~

~~(6) The communication antenna support structure will be compatible with the existing contiguous uses or zoning and compatible with the general character and aesthetics of the neighborhood or the area, considering the design and height of the communication antenna support structure, the mitigating effect of any existing or proposed landscaping, fencing or other structures in the area, the proximity of the communications antenna support structure to existing or proposed buildings or structures, and similar factors; and~~

(7) The strict application of the requirements of this section will constitute a substantial hardship to the applicant, which hardship is not self-created or self-imposed; and,

(8) The granting of the deviation is consistent with the intent and purpose of this section, the zoning code, and the Comprehensive Plan.

(y) Ownership marking. All communication antenna support structures shall be marked with proper indicia of ownership, located at the entry gate.

(z) Definitions. [Unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this section its most effective application:]

Communication antenna means an antenna, appurtenant to a structure, designed to transmit and/or receive communications authorized by the Federal Communications Commission (FCC). The term, "communication antenna," shall not include antennas utilized by amateur radio operators licensed by the FCC.

Communication antenna support structure means a principal structure which is intended to support communication equipment for telephone, radio and similar communication purposes. The term is not intended to apply to radio and television broadcast antenna support structures that are licensed by the Federal Communications Commission (FCC) and used primarily for broadcast purposes. Also, the term, "communication antenna support structure" shall not include structures utilized by amateur radio operators licensed by the FCC or towers not exceeding 75 feet in height utilized by essential service providers on a site containing an essential service facility, such as but not limited to fire stations, law enforcement facilities including jails, electrical substations, wastewater treatment plants, sewer lift stations, overhead water storage tanks, water wells and utility operation or service centers, for the provision of telemetry data only. Communication antenna support structures are generally described as either monopole (freestanding), lattice (self-supporting), or guyed (anchored with guy wires or cables).

Communication antenna support structure site means a parcel of land smaller than the minimum lot size required in the zoning district completely contained within a lot meeting the requirements of the zoning district for the purposes of locating a communication antenna support structure.

Essential service means the provision, by a public utility, of communication services to the public related to fire safety; law enforcement; weather; provision of electric, natural gas, water, or sanitary sewer service; or other circumstances affecting the health, safety, or welfare of the public.

Public utility means a utility owned or operated by the United States, the State of Florida, Leon County or the City of Tallahassee.

Residential lot means any parcel of land upon which one or more dwelling units are located; which is designated on the county's official zoning map as a zoning district that allows residential development; upon which a residential subdivision plat (preliminary or final) has been approved; or which has been designated for residential uses by any other unexpired development order (i.e., Planned Unit Development Area, Critical Planning Area, Target Planning Area, Chapter 163 Development agreement, with a residential component).

~~*Sub-parcel* means a portion of a larger parcel that is used to support the development of a communication antenna support structure. A sub-parcel shall only be created and used for the sole purpose of developing a communication antenna support structure. A sub-parcel is not required to be consistent with the minimum lot size of the zoning district within which it is located. A sub-parcel shall only be created with approval by the county though the appropriate development review and approval process as established by code.~~

(a) Purpose and Intent. The regulations and requirements of this section are intended to:

(1) Promote the public health, safety and general welfare by regulating the siting of wireless communication facilities;
(2) Accommodate the growing need and demand for wireless communication services;
(3) Provide for the appropriate location and development of wireless communication facilities within the county and recognize that the provision of wireless services may be an essential service within such land use categories as may be provided for under the Comprehensive Plan, subject to the limitations of this section;
(4) Minimize adverse visual effects of wireless communication antenna support structures through careful design, siting, landscape screening and innovative camouflaging techniques;
(5) Encourage the location and collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for additional communication antenna support structures; and
(6) Further the balance between the need to provide for certainty to the communications industry in the placement of wireless communication facilities and the need to provide certainty to the residents and citizens that the aesthetic integrity of the county will be protected from the proliferation of unnecessary communication antenna support structures.

(b) Definitions. Unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this section its most effective application.

Collocation shall mean the mounting or installation of an antenna and associated equipment on an existing communication antenna support structure, building or other structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

Communication antenna shall mean an antenna, appurtenant to a structure, designed to transmit and/or receive communications authorized by the Federal Communications Commission (FCC). The term, "communication antenna," shall not include antennas utilized by amateur radio operators licensed by the FCC.

Communication antenna support structure shall mean a support structure and/or support equipment at a fixed location or base station that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This term includes antenna support structures, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell

networks). Communication antenna support structures are generally described as either monopole (freestanding), lattice (self-supporting), or guyed (anchored with guy wires or cables).

The term is not intended to include or apply to:

(1) radio and television broadcast antenna support structures that are licensed by the FCC and used primarily for broadcast purposes. Broadcast antennas and broadcast antenna support structures shall comply with the requirements of Section 10-6.813 of the zoning code.

(2) structures utilized by amateur radio operators licensed by the FCC or communication antenna support structures not exceeding 100 feet in height utilized by essential service providers on a site containing an essential service facility, such as but not limited to, fire stations, law enforcement facilities, including jails, electrical substations, wastewater treatment plants, sewer lift stations, overhead water storage tanks, water wells and utility operation or service centers, for the provision of telemetry data only.

Communication antenna support structure site shall mean a parcel of land smaller than the minimum lot size required in the zoning district completely contained within a lot, but meeting the requirements of the zoning district for the purposes of locating a communication antenna support structure. Also, see the definition of sub-parcel below.

Essential service shall mean the provision, by a public utility, of communication services to the public related to fire safety; law enforcement; weather; provision of electric, natural gas, water, or sanitary sewer service; or other circumstances affecting the health, safety, or welfare of the public.

Existing shall mean, for purposes of this section, a communication antenna support structure that has received final approval in the form of a building permit for an approved site and development plan or where substantial construction has been completed, and shall be considered an existing communication antenna support structure so long as such approval is valid and unexpired as of the effective date of this section.

Feasible collocation shall mean the collocation of antennas where technically and economically feasible, in order to reduce the need for new communication antenna support structure construction. Collocation shall be deemed to be feasible for purposes of this section where all of the following are met:

(1) The owner or person who otherwise controls the communication antenna support structure or other structure under consideration for collocation will undertake to charge fair and reasonable market rent or other fair and reasonable market compensation for collocation.

(2) The site on which collocation is being considered, taking into consideration the reasonable replacement of a facility, is able to provide sufficient structural strength to support the proposed communication antenna or related equipment.

(3) The collocation being considered is technologically reasonable and will not result in unreasonable electromagnetic interference, given appropriate physical adjustments in relation to the structure and antennas.

(4) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the county administrator or designee, taking into consideration the standards contained in this section.

Privately-owned electric utility shall mean a business that provides the infrastructure necessary to deliver electricity and/or water services to the public at large.
Public utility shall mean a utility owned or operated by the United States, the State of Florida, Leon County, or the City of Tallahassee.

Residential lot shall mean any parcel of land upon which one or more dwelling units are located, which is designated on the county's official zoning map as a zoning district that allows residential development, upon which a residential subdivision plat (preliminary or final) has been approved, or which has been designated for residential uses by any other unexpired development order (i.e., Planned Unit Development Area, Critical Planning Area, Target Planning Area, or Chapter 163 Development Agreement, with a residential component).

Sub-parcel shall mean a portion of a larger parcel that is used to support the development of a communication antenna support structure. A sub-parcel shall only be created and used for the sole purpose of developing a communication antenna support structure. A sub-parcel is not required to be consistent with the minimum lot size of the zoning district within which it is located. A sub-parcel shall only be created with approval by the county through the appropriate development review and approval process as established by code.

Substantial change shall mean a modification that substantially changes the physical dimensions of a communication antenna, communication antenna support structure or communication antenna support structure site by meeting any of the following criteria:

(1) increasing the height of the communication antenna support structure by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
(2) installing equipment to the body of the communication antenna support structure that would protrude from the edge of the structure more than 20 feet, or more than the width of the structure at the level of the equipment, whichever is greater; or
(3) installing more than the standard number of new equipment cabinets required for the technology involved, but not to exceed four cabinets; or
(4) installing equipment or ground cabinets to an existing communication antenna support structure site that would entail any excavation or placement outside the current footprint and/or site, thereby increasing the overall impervious surface area; or
(5) installing equipment that would defeat the concealment elements or camouflage of the communication antenna or communication antenna support structure; or
(6) does not comply with conditions associated with the prior approval of the communication antenna support structure or communication antenna support structure site, unless noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds.

(c) *Applicability.* All communication antennas and communication antenna support structures in the unincorporated areas of the county shall be subject to these land development regulations and all other applicable building and construction codes. In the event of any conflict between other land development regulations and the regulations contained in this section, the provisions of this section shall override and supersede such other regulations unless otherwise specifically set forth herein.

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

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

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

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

(d) *Existing structures.* All existing communication antenna support structures shall be allowed to continue to be used as they presently exist, provided that a notice of continuing use is submitted by the communication antenna support structure owner/operator to the Department of Development Support and Environmental Management once every three years. A notice of continuing use shall certify that the structure continues to be used as a communication antenna support structure and that a security or performance bond has been

posted in an amount to be determined by the county to cover the cost of removal plus a reasonable safety factor. Failure to file a notice of continuing use shall constitute abandonment in accordance with subsection (h). Routine maintenance shall be permitted on such existing communication antenna support structures.

(1) No rezoning or zoning variance shall be required to locate a communication antenna on an existing nonresidential structure or multifamily residential structure 35 feet in height or greater; provided, however, that the communication antenna does not extend more than 20 feet above the existing structure. Such structures may include, but are not limited to, nonresidential buildings, water towers, existing communications antenna support structures, recreational light fixtures and essential service provider facilities.

(2) A communication antenna support structure may be rebuilt, reconstructed, or replaced in any zoning district, other than Residential Preservation, provided that it is accomplished in a manner consistent with the following:

a. *Type.* A communication antenna support structure which is modified or reconstructed to accommodate the collocation of an additional communication antenna shall comply with all the provisions of this section, except subsections (e)(3)(a) - *Location* and (e)(3)(c) – *Setbacks.* The communication antenna support structure shall be of the same type as the existing communication antenna support structure, unless reconstructed as a monopole. Furthermore, camouflaged communication antenna support structures may only be replaced with camouflaged structures of like design.

b. *Height and distance requirements.* An existing communication antenna support structure may be modified or rebuilt to a taller height, not to exceed 30 feet or 20 percent of the height of the communication antenna support structure, whichever is greater, over the communication antenna support structure's existing height, to accommodate the collocation of an additional communication antenna, but in no case shall the height of the communication antenna support structure and proposed extension be greater than the distance to an existing residential structure. An increase in height to accommodate collocation shall only occur one time per communication antenna support structure.

c. *On-site location.* A communication antenna support structure which is being rebuilt to accommodate the collocation of an additional communication antenna may be moved on-site within 50 feet of its existing location, subject to the minimum distance requirements of this section. After the communication antenna support structure is rebuilt to accommodate collocation, the existing communication antenna support structure must be dismantled and removed within 60 days after the rebuilding so only one communication antenna support structure may remain on the site.

d. *Development Review Process.*

1. *Existing, conforming structures.*

i. The modification of communication antenna support structures to accommodate the collocation of additional users, not resulting in substantial changes as defined in this section, shall complete a permitted use verification, pursuant to Section 10-7.402(1), in support of the proposed

project and shall be subject to a project status determination, pursuant to Section 10-7.402(2) .

ii. The rebuilding, reconstructing, or replacing of existing communication antenna support structures to accommodate collocation of additional users, resulting in substantial changes, shall be approved through the Type A site and development plan process, as defined in Section 10-7.403.

2. *Existing, non-conforming structures.* The rebuilding, reconstructing, replacing or modification of nonconforming communication antenna support structures to accommodate collocation of additional users may only be approved through the Type C site and development plan process, as defined in Section 10-7.405.

(e) *New communication antenna support structures.*

(1) *Feasibility of collocation.* A permit for a new communication antenna support structure shall not be granted unless and until the applicant demonstrates that a feasible collocation, as defined in this section, is not available for the coverage area and capacity needs. The applicant must demonstrate, to the reasonable satisfaction of the county, the limiting factors that render existing communication antenna support structures or other structures unsuitable. The county shall maintain a list of all communication antenna support structures and shall make such list available to new communication antenna support structure applicants. If a party who owns or otherwise controls a new or existing communication antenna support structure shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use and shall be subject to the review process set forth in subsection (d)(2)d above.

(2) *Use of Existing Public Facilities.* Leon County encourages the use of existing public facilities owned by the county, through lease situations, as sites for communication antenna and communication antenna support structures.

(3) *Location and setback requirements.*

a. *Zoning districts.* A communication antenna support structure or communication antenna may be located in any zoning district so long as it meets the requirements of this section, except a communication antenna support structure or communication antenna shall not be located in Residential Preservation, on or within 400 feet of property designed as Historic Preservation overlay, or in a Planned Unit Development unless it is specifically listed as a principal permitted use. Any application for a communication antenna on or within 400 feet of property designated as Historic Preservation Overlay shall request a certificate of appropriateness from the county's architectural review board pursuant to Section 10-2.361 of the Land Development Regulations.

b. *Subparcels.* A communication antenna support structure may be located on a subparcel, as defined in this section, used for other principal uses on a parcel smaller than the minimum lot size required in the zoning district. This parcel shall be considered as the "communication antenna support structure site." The

communication antenna support structure site, but not the entire lot, shall be subject to all of the requirements of this section, except as specifically provided herein. The subdivision of land to create a subparcel shall be reviewed as part of the communication antenna support structure site plan process outlined in subsection (e)(13).

c. *Setbacks from residential lots.*

1. If a communication antenna support structure is located on a residential or multifamily residential structure of 35 feet in height or greater, the communication antenna support structure shall be at least 250 feet, but not less than the height of the proposed communication antenna support structure itself, from the nearest residential lot zoned for or constructed with single-family residences or multifamily residences of less than 35 feet in height.
2. All other communication antenna support structures shall be located at least 300 feet, but not less than the height of the proposed communication antenna support structure itself, from the nearest residential lot zoned for or constructed with single-family residences or multifamily residences of less than 35 feet in height.
   i. Distances shall be measured from the center of the base of the communication antenna support structure to the residential lot line.
   ii. Notwithstanding anything to the contrary in the Land Development Regulations, no communication antenna support structure other than a monopole (freestanding) shall be located in any location adjacent to a residential lot.
   iii. There are no minimum yard requirements for communication antenna support structures.
   iv. Variances from these setback requirements may be granted consistent with the standards contained in subsection (j) of this section.

(4) *Maximum height.* Notwithstanding anything to the contrary in the land development regulations, the maximum height of communication antenna support structures shall be 150 feet, except in Rural (R), Urban Fringe (UF), Industrial (I), Light Industrial (M-1) and Activity Center (AC) districts or in Planned Unit Developments (PUD), Critical Planning Areas (CPA) or Target Planning Areas (TPA) which include community services, light or heavy infrastructure, or light or heavy industrial uses, in which the maximum height shall be 250 feet. Measurements of communication antenna support structure height shall include the base pad and other appurtenances, and shall be measured from the finished grade at the communication antenna support structure base.

(5) *Illumination.* Communication antenna support structures shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration (FAA).

(6) *Structural design.*

a. *Collocation requirements.* All new communication antenna support structures shall be structurally designed to accommodate the collocation of communication antennas as follows:

1. All communication antenna support structures, except camouflaged structures, over 80 feet and up to and including 125 feet in height shall be structurally designed to accommodate at least two service providers.
2. All communication antenna support structures, except camouflaged structures, over 125 feet and up to and including 150 feet in height shall be structurally designed to accommodate at least three service providers.
3. All communication antenna support structures, except camouflaged structures, exceeding 150 feet in height shall be structurally designed to accommodate at least four service providers.

b. *Structural integrity.* Communication antenna support structures shall be designed and constructed to ensure that the structural failure or collapse of the communication antenna support structure will not create a safety hazard to adjoining properties. Communication antenna support structures shall be constructed to the TIA 222-G Standards, as published by the Telecommunications Industry Association (TIA), which may be amended from time to time, and all applicable county building codes. Further, any improvements and/or additions (i.e., antenna, satellite dishes, etc.) to existing communication antenna support structures shall require submission of site plans sealed and verified by a professional engineer, which demonstrate compliance with the TIA 222-G Standards in effect at the time of said improvement or addition. Said plans shall be submitted to and reviewed and approved by the Department of Development Support and Environmental Management at the time building permits are requested.

(7) *Fencing.* A minimum eight-foot finished masonry wall or fence with no less than 85 percent opacity shall be required around all communication antenna support structure sites. Access to the communication antenna support structure shall be through a locked gate.

(8) *Ownership marking.* All communication antenna support structures shall be marked at the entry gate with the proper indicia of ownership, including emergency contact information.

(9) *No advertising.* Neither the communication antenna support structure nor the communication antenna support structure site shall be used for advertising purposes and shall not contain any signs for the purpose of advertising.

(10) *Landscaping.* The visual impacts of residentially or commercially located communication antenna support structures shall be mitigated through landscaping or other screening materials at the base of the communication antenna support structure and ancillary structures as follows:

a. A 15-foot, Type B landscape buffer which meets the landscape requirements of Section 10-7.522 of the zoning code shall be required around the perimeter of the communication antenna support structure and any accessory structures located outside the required wall or fence;

b. All required landscaping shall be of the evergreen variety;
c. All required landscaping shall be xeriscape tolerant or irrigated and properly maintained to ensure good health and vitality;
d. Required landscaping shall be installed outside the fence or wall; and
e. Existing vegetation shall be preserved to the maximum extent practicable and may be credited as appropriate toward meeting landscaping requirements.
f. An applicant may request a deviation to the development standards in this section in accordance with Section 10-1.106.

(11) *Finished color.* Communication antenna support structures not requiring FAA painting/marking shall have either a galvanized finish or painted a dull blue, gray, or black finish.

(12) *Camouflaged structures.* Upon receipt of a completed site and development plan application where a camouflaged structure is being proposed, the county administrator or designee shall make a determination, based on a recommendation of technical review committee staff, whether the proposed communication antenna support structure qualifies as a camouflaged structure. The determination may be appealed pursuant to the formal proceedings under Division 7 of Article VII of Chapter 10 (Planning Commission).

a. Criteria to be considered in determining whether a communication antenna support structure qualifies as a camouflaged structure:
   1. The communication antenna support structure resembles a natural object or a manmade structure (an example of a natural object is a tree; examples of a manmade structure are bell and clock communication antenna support structures, church steeples, detached or attached sign structures or a lookout station); or
   2. The communication antenna support structure serves a purpose other than supporting communication antennas (for example, lighting of sports facilities, transmission of electrical and/or telephone lines, flag poles); or
   3. The communications antenna support structure is designed to be compatible with the architectural elements, such as bulk, massing, and scale of the surrounding properties or structures; or
   4. The communication antenna support structure is designed to complement or to blend with the principal on-site use or structure, if any.
b. Camouflaged structures, pursuant to the provisions of this subsection, shall be permitted in all zoning districts. However, no antenna support structure may be located on a residential property used as single-family attached, single-family detached, two-family (duplex) dwellings, or multifamily units containing four or less dwelling units.
c. Camouflaged structures, pursuant to the provisions of this subsection, shall be setback a distance equal to the height of the communication antenna support structure from the nearest existing building and/or structure.

d. Variance requests for camouflaged structures shall be reviewed and approved as appropriate by the entity with the authority to approve the proposed project, and shall not be required to complete the Board of Adjustment and Appeals variance process as established by subsection (j).

(13) *Development Review Process.* The development review and approval system for new communication antenna support structures and communication antenna support structure sites shall consist of the following elements:

a. A permitted use verification, pursuant to Section 10-7.402(1), shall be required for siting all communication antenna support structures and communication antennas.

b. All communication antenna support structures and communication antennas shall be approved through the Type B site and development plan process, as defined in Section 10-7.404. In addition to the requirements of a Type B application, the applicant shall also submit the following information:

1. A narrative which details the scope of the project and the specific need for a new communication antenna support structure and whether the proposal includes a request to be qualified as a camouflaged structure.
2. A notarized statement by the applicant stating why feasible collocation on an existing communication antenna support structure cannot be achieved. Supporting evidence that demonstrates feasible collocation cannot be achieved shall accompany the applicant's notarized statement. The statement should also include information regarding the number of additional service providers that the proposed communication antenna support structure has been structurally designed to accommodate, as required by this section.
3. The location of all communication antenna support structure and communication antennas within a one mile radius of the location of the proposed structure showing any gaps in coverage area and/or capacity that are proposed to be met by the proposed project.
4. The location and coordinates of the proposed communication antenna support structure in digital format compatible with the county's GIS system.
5. Legal description of the parent tract and subparcel or leased area (if applicable).
6. A scaled site plan that clearly indicates:
   i. the location, type, and height of the proposed communication antenna support structure;
   ii. on-site land uses and zoning;
   iii. nature of uses on adjacent and nearby properties within 500 feet of the communication antenna support structure site property line (including when adjacent to other municipalities);
   iv. zoning classification of the site and all properties within the applicable setback areas;
   v. adjacent roadways and all existing and proposed easements, including proposed method of ingress and egress and access for emergency service vehicles;
   vi. setbacks from the property lines and setback distance between proposed communication antenna support structure and the nearest residential unit,

platted residentially zoned properties, and unplatted residentially zoned properties;

vii. elevation drawings of the proposed communication antenna support structure and any other structures proposed, including but not limited to, equipment cabinets and sheds;

viii. design of the communication antenna support structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness, including camouflaging;

ix. surrounding topography, tree coverage and foliage;

x. a landscape plan showing specific landscape materials;

xi. fencing details that include the method of meeting opacity requirements and information regarding required ownership marking on entrance gates; and,

xii. finished color and, if applicable, the method of camouflage and illumination.

7. Any other information deemed necessary by the county to assess compliance with this section and all applicable federal, state, or local laws.

c. In granting a permit, the county shall require the posting of a security or performance bond, in an amount to be determined by the county, not to exceed the cost of removal plus a reasonable safety factor, to ensure removal of such communication antenna support structure(s) if it becomes abandoned as described in subsection (h) of this section. Those entities defined herein as a public utility or a privately-owned electric utility shall be exempt from this requirement.

d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer, as otherwise required by law.

e. Any decision to deny an application for siting a communication antenna support structure or communication antenna shall be in writing and supported by substantial evidence contained in a written record. No location for placement, construction or modification of a communication antenna support structure or communication antenna shall be regulated on the basis of the environmental effects of radio frequency emissions to the extent that the communication antenna support structure and communication antennas comply with the FCC regulations concerning such emissions.

(f) *Deviations.* The county shall consider the following factors in determining whether to issue a permit, although the county may waive or reduce the burden on the applicant of one or more of these criteria if the county concludes that the goals of this section are better served thereby:

(1) Height of the proposed communication antenna support structure;

(2) Proximity of the communication antenna support structure to residential structures and residential district boundaries;

(3) Nature of uses on adjacent and nearby properties within 500 feet of the communication antenna support structure site property line;

(4) Surrounding topography;

(5) Surrounding tree coverage and foliage;

(6) Design of the communication antenna support structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
(7) Proposed ingress and egress; and
(8) Availability of suitable existing communication antenna support structures or other structures.

(g) *Certification of compliance with FCC NIER Standards.* Prior to receiving final inspection, adequate proof shall be submitted to the county documenting that the communication antenna support structure complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER). The county administrator or designee shall indicate on the site plan approval that this certification has been received.

(h) *Abandonment.* In the event the use of any communication antenna support structure has been discontinued for a period of 180 consecutive days, the communication antenna support structure shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the county administrator or designee, based upon documentation and/or affidavits from the communication antenna support structure owner/operator regarding the issue of usage. Upon the determination of such abandonment, the owner/operator of the communication antenna support structure shall have an additional 180 days within which to: (1) reactivate the use of the communication antenna support structure or transfer the structure to another owner/operator who makes actual use of the structure, or (2) dismantle and remove the structure. At the earlier of 180 days from the date of abandonment without reactivation or upon completion of dismantling and removal, any exception and/or variance approval for the communication antenna support structure shall automatically expire.

(i) *Judicial review.* For purposes of seeking judicial review, county action on a permit application shall not be final until the applicant has exhausted its right to formal proceedings under Division 7 of Article VII of Chapter 10. Any person adversely affected by any final action or failure to act on a permit application may, within 30 days after final action or failure to act by the county, file a petition for writ of certiorari in the Leon County Circuit Court.

(j) *Variances.* Applications for variances under this section shall be submitted to and reviewed by the Board of Adjustment and Appeals, in accordance with the procedures and hardship criteria outlined in Division I, Subdivision III (*Board of Adjustments and Appeals*) of Article II of Chapter 10. A variance application must include all the information required for submission of a site and development plan review as outlined in this section. No variances to height, setbacks, fencing, or buffer requirements shall be granted for communication antenna support structures and communication antennas located in any Residential Preservation future land use category, except for camouflaged structures determined in compliance with subsection (e)(12). Variance requests for camouflaged structures determined to be in compliance with subsection (e)(12) shall be reviewed and approved as appropriate by the entity with the authority to approve the proposed project, and shall not be

required to complete the Board of Adjustment and Appeals variance process as established by this section.

SECTION 2. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, as of the effective date of this Ordinance, except to the extent of any conflicts with the Tallahassee-Leon County Comprehensive Plan, as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the Comprehensive Plan.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. Effective date. This ordinance shall be effective according to law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 15th day of September, 2015.

LEON COUNTY, FLORIDA

BY: _____
MARY ANN LINDLEY, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
AND COMPTROLLER
LEON COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY