

ORDINANCE NO. 2017- 20

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

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

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

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

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

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

WHEREAS, Section 337.401(3)(g), *Florida Statutes*, provides that a local government may not use its authority over the placement of facilities in its rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or Federal Communications Commission, including, but not limited to, the operations, systems, qualifications, services, service quality, service territory, and prices of a provider of communications services; and

1 WHEREAS, Section 337.401(7), *Florida Statutes*, addresses *inter alia*, the authority of local  
2 governments to adopt by ordinance objective design standards requiring a small wireless facility to  
3 meet reasonable location context, color, stealth, and concealment requirements, objective design  
4 standards requiring a new utility pole intended to support the collocation of small wireless facilities  
5 that replaces an existing facility to be of substantially similar design, material, and color, and  
6 reasonable spacing requirements concerning the location of ground-mounted equipment; and  
7

8 WHEREAS, Section 337.401(7)(d)(12), *Florida Statutes*, provides that a local government  
9 may adopt by ordinance provisions for placement of communications facilities in the rights-of-way  
10 for insurance coverage, indemnification, performance bonds, security funds, force majeure,  
11 abandonment, county liability, and county warranties provided such provisions are reasonable and  
12 nondiscriminatory; and  
13

14 WHEREAS, it is the County's intent to exercise its authority over communications services  
15 providers, wireless infrastructure providers and pass-through providers' placement and maintenance  
16 of communications facilities in County rights-of-way; and  
17

18 WHEREAS, it is the County's further intent to treat each such communications services  
19 provider in a reasonable, nondiscriminatory and competitively neutral manner in exercising such  
20 authority; and  
21

22 WHEREAS, the County's rights-of-way are essential for the travel of persons and the  
23 transport of goods throughout the County and are a unique and physically limited resource requiring  
24 proper management by the County in order to ensure public safety, maximize efficiency, minimize  
25 costs to County taxpayers for the foregoing uses, reasonably balance the potential inconvenience to  
26 and negative effects upon the public from the placement and maintenance of communications  
27 facilities in the rights-of-way against the substantial benefits that accrue from such placement and  
28 maintenance, and promote the public health, safety and general welfare; and  
29

30 WHEREAS, it is the County's intent to implement the Advanced Wireless Infrastructure  
31 Deployment Act as provided in Section 337.401(7), *Florida Statutes*; and  
32

33 WHEREAS, it is the further intent of the County to exercise its authority to adopt reasonable  
34 and nondiscriminatory rules and regulations to the fullest extent allowed by Federal and State law;  
35 and  
36

37 WHEREAS, the County adopted Resolution 01-14 thereby electing to increase the  
38 Communications Services Simplified Tax rate in lieu of collecting permit fees from providers of  
39 communications services; and  
40

41 WHEREAS, the County has reviewed its Ordinances, and has received input from  
42 representatives of the communications service industry and other interested stakeholders, and as a  
43 result of the foregoing has concluded that the County Code must be updated, in conformance with  
44 Federal and State laws and rules, in order to adequately regulate the County's rights-of-way  
45 regarding placement and maintenance of utility infrastructure, and existing, new and expanded  
46 communications facilities in the County's rights-of-way; and

1  
2 WHEREAS, adoption of the following Ordinance is necessary to satisfy the above objectives.  
3  
4

5 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
6 COMMISSIONERS OF LEON COUNTY, FLORIDA, that:  
7

8 **SECTION 1.** Chapter 16, Article IV of the Code of Laws of Leon County, Florida, is hereby  
9 renamed "Utility Placement Within the Public Rights-of-way" and amended to read as follows:  
10

11 **ARTICLE IV. UTILITY PLACEMENT WITHIN THE PUBLIC RIGHTS-OF-WAY**  
12

13 **Sec. 16-80. Intent, Purpose and Applicability.**  
14

15 The County hereby declares as a legislative finding that the public rights-of-way within the  
16 County are a unique and physically limited resource that are critical to the travel and transport of  
17 persons and property within the County; that the public rights-of-way must be managed and  
18 controlled in a manner that enhances the health, safety and general welfare of the County and its  
19 citizens; and that the use and occupancy of the public rights-of-way by providers of public utilities  
20 must be subject to regulation to ensure public safety, minimal inconvenience to the public,  
21 coordination of uses, maximization of available space, reduction of maintenance and costs to the  
22 public, and to facilitate entry of an optimal number of providers of public utilities, and other services  
23 in the public interest.  
24

25 It is the intent of the County to promote the public health, safety and general welfare by:  
26 adopting and administering reasonable rules, regulations and general conditions not inconsistent with  
27 State and federal law, including Section 337.401, Florida Statutes, as amended, and other federal and  
28 State law; minimizing disruption to the Public Rights-of-way; and requiring the restoration of the  
29 Public Rights-of-way to the original condition.  
30

31 This Article shall apply to any public or private entity who seeks to construct, maintain,  
32 repair, operate, and/or remove lines for the transmission of public utilities that are not providing  
33 communications services as defined in Section 202.11(1), F.S., under, on, over, across, or within the  
34 public rights-of-way, including but not limited to water, sewage, gas, power, and television, or as  
35 regulated by a franchise, as applicable. The transmission of communications services, as defined in  
36 Section 202.11(1), F.S., or the construction, placement, installation, maintenance or operation a  
37 communications facility or utility pole in the public rights-of-way, shall be governed by the  
38 provisions of Chapter 16, Article V.  
39

40 **Sec. 16-81. Permit Required.**  
41

42 In accordance with Section F.S. §-125.42, F.S., any person who desires to construct, maintain,  
43 repair, operate, or remove lines for the transmission of water, sewage, gas, power, ~~telephone~~, other  
44 public utilities, and television under, on, over, across, or within the right-of-way limits of and along  
45 any eCounty highway or any public road or highway acquired by the eCounty or public by purchase,  
46 gift, devise, dedication, or prescription shall be required to obtain a license from the eCounty, or if

1 ~~providing communications services to register with the county in accordance with the provisions of~~  
2 ~~this article.~~

3  
4 **Sec. 16-82. Provisions of License.**

5  
6 Any such license granted by the eCounty ~~or registration filed with the county~~ shall contain  
7 adequate provisions:

- 8  
9 (1) To prevent the creation of any obstructions or conditions which are or may become  
10 dangerous to the traveling public;  
11  
12 (2) To require the licensee ~~and/or registrant~~ to repair any damage or injury to the road or  
13 highway created during the installation of a utility facility and to repair said road or highway  
14 promptly, restoring ~~the same~~ it to a condition at least equal to that immediately prior to the  
15 infliction of such damage or injury;  
16  
17 (3) Whereby the licensee ~~and/or registrant~~ shall hold the Board of County Commissioners of  
18 Leon County, Florida, members and officers, agents, and employees thereof harmless from  
19 the payment of any compensation or damages resulting from the exercise of the privileges  
20 granted in any instrument creating such license ~~and/or by being required to register with the~~  
21 county; and  
22  
23 (4) As may be reasonably necessary for the protection of the eCounty and the public.  
24

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

26  
27 ~~The Board of County Commissioners~~ County Administrator or designee may require the licensee  
28 ~~and/or registrant~~ permitee to furnish performance bonds, maintenance bonds, and/or a security fund  
29 ~~cash bonds~~ to ensure compliance with the provisions of this aArticle.  
30

31 **Sec. 16-84. Fees authorized.**

32  
33 The Board of County Commissioners may adopt by resolution a fee schedule relating to is  
34 ~~hereby authorized to charge reasonable fees for~~ the issuance of licenses hereunder and utility  
35 placement permits, ~~such fees to be established in accordance with section 16-87.~~  
36

37 **Sec. 16-85. Term of license.**

38  
39 A license under this aArticle may be granted in perpetuity or for a term of years, subject,  
40 however, to termination by the eCounty. The renewal of any license granted hereunder may be by  
41 authorized by the eCounty aAdministrator, or his or her designee. ~~A utility required to file a~~  
42 ~~registration hereunder, shall be required to update said registration annually.~~  
43  
44  
45

1 **Sec. 16-86. Moving or removal of utility lines.**

2  
3 In the event of widening, or repair, or reconstruction of any road, the licensee or registrant shall  
4 move or remove any water, gas, sewage, power, ~~telephone~~, and other utility lines and video service  
5 lines, communications services, and television facilities at no cost to the eCounty should they be  
6 found by the County to be interfering, except as provided in Section 337.403, F.S., as amended.  
7

8 **Sec. 16-87. Authority to implement article.**

9  
10 The ~~Board of County Commissioners~~ County Administrator or designee is authorized to  
11 adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this aArticle to  
12 the extent allowed by law. A rights-of-way manual shall be developed by the County to outline  
13 engineering requirements and procedures for the placement and maintenance of utilities within the  
14 Leon County rights-of-way. This rights-of-way manual shall be separately approved and adopted by  
15 resolution of the Board of County Commissioners.  
16

17 **Sec. 16-88. Noncompliance unlawful.**

18  
19 It shall be unlawful for any person to construct, maintain, repair, operate, or remove lines for the  
20 transmission of water, sewage, gas, power, ~~telephone~~, other public utilities, communications services,  
21 and television under, on, over, across, or within the right-of-way limits of and along any road  
22 described in Ssection 16-81 above without fully complying with this aArticle or the rules and  
23 regulations promulgated hereunder.  
24

25 **Sec. 16-89. Penalty.**

26  
27 Any person violating this aArticle or the rules and regulations promulgated hereunder shall  
28 be punished as provided in Ssection 1-9.  
29

30 **SECTION 2.** Chapter 16 of the Code of Laws of Leon County, Florida, is hereby amended to create  
31 a new article to be numbered Article V and entitled "Communications Facilities and Utility Poles  
32 Within the Public Rights-of-way," which shall hereafter read as follows:  
33

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

36  
37 **Division 1. In General.**  
38

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

40  
41 The County hereby declares as a legislative finding that the Public Rights-of-way within the  
42 County are a unique and physically limited resource that are critical to the travel and transport of  
43 persons and property within the County; that the Public Rights-of-way must be managed and  
44 controlled in a manner that enhances the health, safety and general welfare of the County and its  
45 citizens; and that the use and occupancy of the Public Rights-of-way by Providers must be subject to

1 regulation to ensure public safety, minimal inconvenience to the public, coordination of uses,  
2 maximization of available space, reduction of maintenance and costs to the public, and to facilitate  
3 entry of an optimal number of providers of cable, Communications Services, and other services in the  
4 public interest.

5  
6 It is the intent of the County to promote the public health, safety and general welfare by:  
7 providing for the Placement or Maintenance of Communications Facilities in the Public Rights-of-  
8 way; adopting and administering reasonable rules, regulations and general conditions not inconsistent  
9 with State and federal law, including Section 337.401, Florida Statutes, as amended, and in  
10 accordance with the provisions of the Federal Telecommunications Act of 1996, as applicable, and  
11 other federal and State law; establishing reasonable rules, regulations and general conditions  
12 necessary to manage the Placement and Maintenance of Communications Facilities in the Public  
13 Rights-of-way by all Providers; minimizing disruption to the Public Rights-of-way; and requiring the  
14 restoration of the Public Rights-of-way to the original condition.

15  
16 This Article shall apply to any Person who seeks to transmit Communications Services or to  
17 Construct, Place, install, Maintain or operate a Communications Facility or Utility Pole in the Public  
18 Rights-of-way, unless otherwise exempt by operation of Applicable Codes, or State or federal laws or  
19 regulations.

20  
21 Persons seeking to Place or Maintain Communications Facilities on private property or other  
22 property to which the City, County, State, or Federal Government has a fee simple or leasehold  
23 interest in real property, outside of and exclusive of the Public Rights-of-way, located within the  
24 jurisdictional boundaries of the County, shall comply with the provisions of Section 10-6.812 to the  
25 extent it applies.

26  
27 **Sec. 16-101. Authority to implement Article.**

28  
29 The County Administrator is authorized to adopt, modify, and repeal rules and regulations to  
30 carry out the intent and purposes of this Article. A rights-of-way manual shall be developed by the  
31 County to outline engineering requirements and procedures for the Placement and Maintenance of  
32 Communications Facilities and Utility Poles within the Public Rights-of-way. This Rights-of-way  
33 Manual shall be separately approved and adopted by resolution of the Board of County  
34 Commissioners.

35  
36 **Sec. 16-102. Definitions.**

37  
38 For purposes of this Article, the following terms, phrases, words and their derivations shall  
39 have the meanings given. Where not inconsistent with the context, words used in the present tense  
40 include the future tense, words in the plural number include the singular number, and words in the  
41 singular number include the plural number. Words not otherwise defined shall be construed to have  
42 their common and ordinary meaning.

43  
44 *Abandonment or Abandoned* means the cessation of all uses of a Communications Facility or  
45 Utility Pole for a period of one hundred eighty (180) or more consecutive days provided this term

1 shall not include the cessation of all use of a Communications Facility within a physical structure  
2 where the physical structure continues to be used for some purpose or use accessory to the  
3 Communications Facility. By way of example, cessation of all use of a cable within a conduit, where  
4 the conduit continues to be used for some purpose or use accessory to the Communications Facility,  
5 shall not constitute *Abandonment* of a Communications Facility. A Wireless Infrastructure Provider's  
6 failure to have a Wireless Service Provider provide service through a Small Wireless Facility  
7 collocated on a Utility Pole within nine (9) months after the application is approved in accordance  
8 with Section 337.401(7)(j), F.S., shall constitute Abandonment. The terms *Abandonment* or  
9 *Abandoned* are not intended to include a Service Drop from a potential or existing customer in the  
10 event the Provider reasonably anticipates future use of the Service Drop.  
11

12 *Abut*, when used in conjunction with a Lot, Parcel or Public Rights-of-way, means a Lot,  
13 Parcel or Public Rights-of-way that shares all or a part of a common lot line or boundary line with  
14 another Lot, Parcel or Public Rights-of-way.  
15

16 *Adjacent Properties* or *Properties Adjacent* means (i) those Lots or Parcels that Abut another  
17 Lot, Parcel or Public Rights-of-way that is contiguous to a Communications Facility site or proposed  
18 site and (ii) the Lots, Parcels or Public Rights-of-way that would be contiguous to Lots, Parcels or  
19 Public Rights-of-way but for an intervening Public Rights-of-way.  
20

21 *Antenna* means communications equipment that transmits or receives electromagnetic radio  
22 frequency signals used in providing Wireless Services.  
23

24 *Applicable Codes* means uniform building, fire, electrical, plumbing, or mechanical codes  
25 adopted by a recognized national code organization or local amendments to those codes enacted  
26 solely to address threats of destruction of property or injury to persons, or local codes or ordinances  
27 adopted to implement Section 337.401(7), F.S. The term includes objective design standards adopted  
28 by ordinance that may require a new Utility Pole intended to support the Collocation of a Small  
29 Wireless Facility that replaces an existing pole to be of substantially similar design, material and  
30 color or that may require reasonable spacing requirements concerning the location of ground-  
31 mounted equipment. The term includes objective design standards adopted by ordinance that may  
32 require a small wireless facility to meet reasonable location context, color, stealth, and concealment  
33 requirements.  
34

35 *Applicant* means any Person who submits an application to the County for an effective  
36 Registration or a Permit to Place or Maintain a Communications Facility or Utility Pole within the  
37 Public Rights-of-way.  
38

39 *As-built Plans* means a set of drawings in a format as specified by the County Engineer  
40 submitted by the Applicant upon completion of a project which drawings reflect all changes to  
41 original plans made during the construction process, and show the exact dimensions, geometry and  
42 location of all elements of the work completed under the Permit.  
43

44 *At-grade Facility* means a Communications Facility, the structure of which is affixed to the  
45 ground at-grade with a portion of the structure extending vertically above grade. At-grade Facilities  
46 may also, but need not necessarily, extend vertically below grade. Utility Poles and ground-mounted

equipment installed as part of a Small Wireless Facility shall not be considered At-grade Facilities.

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

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

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

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

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

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

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

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

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

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

- (a) Information services;
- (b) Installation or maintenance of wiring or equipment on a customer's premises;
- (c) The sale or rental of tangible personal property;
- (d) The sale of advertising, including, but no limited to, directory advertising;



- 1 (e) Bad check charges;  
2 (f) Late payment charges;  
3 (g) Billing and collection services; or  
4 (h) Internet access service, electronic mail service, electronic bulletin board service, or  
5 similar online computer services.  
6

7 *Communications Services Provider* means any Person providing Communications Services  
8 through the Placement or Maintenance of a Communications Facility in the Public Rights-of-way,  
9 including without limitation, wireline telecommunication providers and Wireless Service Providers.  
10

11 *Communications Services Tax* means the local tax authorized to be levied and collected by  
12 counties and municipalities upon Communications Services Providers for Communications Services,  
13 pursuant to Section 202.19, F.S., as amended.  
14

15 *Consolidated Permit Application* means a single Permit application that would otherwise  
16 require individual Permit applications for the Collocation of between two (2) and thirty (30) Small  
17 Wireless Facilities on Existing Structures within the Public Rights-of-way.  
18

19 *Construct* or *Construction* means to construct, install, Place, or excavate Utility Poles,  
20 Communications Facilities, Utilities, facilities, or other physical structures on, above, within or under  
21 any part of the Public Rights-of-way.  
22

23 *County* means, as indicated by the context used, either Leon County, Florida, as a geographic  
24 location, or Leon County, Florida, a charter county and political subdivision of the State of Florida, as  
25 a legal entity.  
26

27 *County Administrator* means the chief administrative officer of the County. The term *County*  
28 *Administrator* also includes his or her designee.  
29

30 *County Engineer* means the licensed engineer designated by the Board of County  
31 Commissioners to furnish engineering assistance for the administration of these regulations. For the  
32 purposes of this Article, the term County Engineer shall also include his or her designee.  
33

34 *Day(s)* means, for purposes of computing any period of time expressed in day(s) in this  
35 Article, the day of the act, event or default from which the designated period of time begins to run  
36 shall not be included and the last day of the period so computed shall be included unless it is a  
37 Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day  
38 which is neither a Saturday, Sunday, or legal holiday.  
39

40 *Development Review Committee* means the committee established in Section 10-2.301.  
41

42 *Existing Structure* means a Utility Pole within the Public Rights-of-way that exists at the time  
43 an application to Place a Communications Facility on that Utility Pole is filed with the County. The  
44 term includes Repurposed Structures. The term does not include At-grade Facilities, Below-grade  
45 Facilities, or Wireline Facilities. An Existing Structure is not transformed into a Communications  
46 Facility by the Collocation of a Wireless Facility.

1  
2       *Florida Building Code* means the Florida Building Code promulgated under Chapter 553,  
3 F.S., and includes the Leon County amendments thereto as both may be amended.  
4

5       *Graffiti* means any inscriptions, word, figure, painting or other defacement that is written,  
6 marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any  
7 Communications Facility whether or not authorized by the Registrant of the Communications  
8 Facility. A Wrap shall not be considered Graffiti.  
9

10       *Homeowners' Association (HOA)* means an incorporated entity in a subdivision, planned  
11 community or condominium development that makes rules for the properties within its jurisdiction  
12 and usually maintains and operates property owned by the HOA.  
13

14       *In the Public Rights-of-way* means across, above, within, on or under the Public Rights-of-  
15 way.  
16

17       *Lot* means a designated Parcel of land established by plat, subdivision, or as otherwise  
18 permitted by law, to be used, developed, or built upon as a unit.  
19

20       *Micro Wireless Facility* means a Small Wireless Facility having dimensions no larger than  
21 twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and  
22 an exterior Antenna, if any, no longer than eleven (11) inches.  
23

24       *Parcel* means any piece of real property that has a single parcel identification number  
25 assigned to it by the Leon County Property Appraiser.  
26

27       *Pass-through Provider* means any Person who Places or Maintains a Communications  
28 Facility in the Public Rights-of-way and who does not remit Communications Services Tax.  
29

30       *Permit* means the Public Rights-of-way permit that must be obtained before a Person may  
31 Construct, Place, install, or Maintain Communications Facilities or Utility Poles in the Public Rights-  
32 of-way and shall include, but not be limited to, Rights-of-way engineering and construction permits  
33 issued by the County Engineer.  
34

35       *Person* means any natural person or corporation, business association or other business entity,  
36 including, but not limited to a partnership, a sole proprietorship, a political subdivision, a public or  
37 private agency of any kind, a utility, a successor or assign of any of the foregoing or any other legal  
38 entity and shall include the County to the extent the County acts as a Communications Services  
39 Provider.  
40

41       *Place or Maintain or Placement or Maintenance or Placing or Maintaining* means to erect,  
42 Construct, install, extend, expand, remove, occupy, locate, relocate, or significantly alter the  
43 configuration of a Communications Facility or Utility Pole. A Person who owns or exercises physical  
44 control to maintain and repair is *Placing or Maintaining* the Communications Facility or Utility Pole.  
45 A Person providing service only through resale or only through use of a third Person's

1 Communications Facility is not *Placing* or *Maintaining* the Communications Facility through which  
2 such service is provided. The transmission and receipt of radio frequency signals through the airspace  
3 of the Public Rights-of-way does not constitute *Placing* or *Maintaining* a Communications Facility in  
4 the Public Rights-of-way.

5  
6 *Pole Attachment* means any attachment of a Communications Facility by a Provider to an  
7 Existing Structure within a Public Rights-of-way. This term includes aerial wireline attachments that  
8 serve as Wireline Facilities.

9  
10 *Private Utility Pole* means a Utility Pole owned by a municipal electric utility, a Utility Pole  
11 used to support municipally owned or operated electric distribution facilities, or a by a Person other  
12 than the County within the Public Rights-of-way.

13  
14 *Provider* means a Communications Services Provider, Wireless Infrastructure Provider, or  
15 Pass-through Provider.

16  
17 *Public Rights-of-way or Rights-of-way* means land in which the County owns the fee or has an  
18 easement devoted to or required for use as a Transportation Facility and may lawfully grant access  
19 pursuant to applicable law, and includes the surface, the air space over the surface and the area below  
20 the surface of such rights-of-way. For the purposes of this definition, *Transportation Facility* means  
21 any means for the transportation of people or property from place to place which is constructed,  
22 operated, or maintained in whole or in part from public funds. The terms *Public Rights-of-way* or  
23 *Rights-of-way* shall not include: (1) City, State, or federal rights-of-way unless the County has been  
24 properly delegated authority to issue Permits for structures within those rights-of-way, unless  
25 prohibited by State or federal law; (2) platted utility easements that are not part of a dedicated public  
26 rights-of-way; (3) property owned by any Person other than the County; (4) service entrances or  
27 driveways leading from the road or street onto Adjacent Property; or (5) any real or personal County  
28 property except as described above and shall not include County buildings, fixtures, poles, conduits,  
29 facilities or other structures or improvements, regardless of whether they are situated in the Public  
30 Rights-of-way except as allowed by this Article or applicable State or federal law.

31  
32 *Registrant* means any Provider who has an effective Registration with the County.

33  
34 *Registration* or *Register* means the process described in this Article whereby a Provider  
35 provides certain information to the County by which it is determined whether the Person will be  
36 eligible to Place or Maintain Communications Facilities in the Public Rights-of-way and to apply for  
37 Permits, as required.

38  
39 *Repurposed Structure* means an Existing Structure that has been renovated, reconfigured, or  
40 replaced with a similar structure so as to continue serving its primary existing purpose while also  
41 supporting the attachment of Communications Facilities that is approximately in the same location as  
42 the Existing Structure and in such a manner that does not result in a net increase in the number of  
43 Utility Poles located within the Public Rights-of-way and does not interfere with pedestrian or  
44 vehicular access, and is compliant with Applicable Codes. The Repurposed Structure remains the  
45 property of the owner of the Existing Structure prior to the repurposing, unless ownership otherwise  
46 lawfully changes.

1  
2       *Residential Block* means a Lot or group of Lots within land zoned R-1, R-2, R-3, R-4, R-5,  
3 RA, MR-1, RP or MH, as well as that zoned R, RC, UF, LP, LT, LTUF, OR-1, OR-2, OR-3, or BOR  
4 when used only for residential purposes, that Abut or are Adjacent or contiguous to a Public Rights-  
5 of-way.  
6

7       *Service Drop* means the extension of a Wireline Facility from the Public Rights-of-way to a  
8 Lot or Parcel located outside of the Public Rights-of-way.  
9

10       *Shroud* means a covering or enclosure of pole-mounted equipment associated with a Small  
11 Wireless Facility.  
12

13       *Signage* means any display of characters, ornamentation, letters or other display such as, but  
14 not limited to, a symbol, logo, picture, or other device used to attract attention, identify, advertise,  
15 announce, or to indicate directions, including the structure or frame used in the display. The term  
16 *Signage* shall not include identification of the owner and contact information of the Communications  
17 Facility or Utility Pole, or identification of wires, cables, etc. necessary to aid in safety or hazard  
18 work or maintenance or repair work of the Communications Facility.  
19

20       *Small Wireless Facility* means a Wireless Facility that meets the following qualifications:  
21

- 22       (a) Each Antenna associated with the facility is located inside an enclosure of no more  
23 than six (6) cubic feet in volume or, in the case of Antennas that have exposed  
24 elements, each Antenna and all of its exposed elements could fit within an enclosure  
25 of no more than six (6) cubic feet in volume; and  
26       (b) All other wireless equipment associated with the facility is cumulatively no more than  
27 twenty-eight (28) cubic feet in volume. The following types of associated ancillary  
28 equipment are not included in the calculation of equipment volume: electric meters;  
29 concealment elements; telecommunications demarcation boxes; ground-based  
30 enclosures; grounding equipment; power transfer switches; cutoff switches; vertical  
31 cable runs for the connection of power and other services, and Utility Poles or other  
32 support structures.  
33

34       *State* means, as indicated by the context used, either Florida, as a geographic location, or the  
35 State of Florida, as a legal entity.  
36

37       *Surrounding Neighborhood* means the area within a five hundred (500) foot radius of a  
38 Communications Facility site or proposed Communications Facility site.  
39

40       *Tree* shall have the meaning ascribed to it in Section 10-1.101.  
41

42       *Tree Removal* shall have the meaning ascribed to it in Section 10-1.101.  
43

44       *Utility* means any Person or entity that is a local exchange carrier or an electric, gas, water,  
45 steam or other public utility, and who owns or operates appurtenant facilities or equipment that are  
46 situated within the Public Rights-of-way for transmission of such Utility's commodities or services.  
47

1       *Utility Pole* means a pole or similar structure used in whole or in part to provide  
2 Communications Services or electric distribution, lighting, traffic control, Signage, or similar  
3 function. This term includes the vertical support structure for traffic lights, but does not include any  
4 horizontal structures upon which are attached signal lights or other traffic control devices and does  
5 not include any pole or similar structure fifteen (15) feet or less in height unless the County grants a  
6 waiver for such pole.

7  
8       *Wireless Facility* means Communications Facility at a fixed location which enables wireless  
9 communications between user equipment and a communications network, including radio  
10 transceivers, Antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup powers  
11 supplies, and comparable equipment, regardless of technological configuration, and equipment  
12 associated with wireless communication. This term includes Small Wireless Facilities. This term does  
13 not include:

- 14  
15       (a) The structure or improvements on, under, within, or adjacent to the structure on which  
16 the equipment is Collocated;  
17       (b) Wireline backhaul facilities; or  
18       (c) Coaxial or fiber-optic cable that is between wireless structures or Utility Poles or that  
19 is otherwise not immediately adjacent to or directly associated with a particular  
20 Antenna.

21  
22       *Wireless Infrastructure Provider* means a Person who has been certified by the governing  
23 federal or State agency to provide Communications Services in the State and who builds or installs  
24 wireless communication transmission equipment, Wireless Facilities, or Wireless Support Structures  
25 but is not a Wireless Services Provider.

26  
27       *Wireless Services* means any services provided using licensed or unlicensed spectrum,  
28 whether at a fixed location or mobile, using Wireless Facilities.

29  
30       *Wireless Services Provider* means a Person who provides Wireless Services. A Wireless  
31 Services Provider is a type of Communications Services Provider.

32  
33       *Wireless Support Structure* means a freestanding structure, such as a monopole, a guyed or  
34 self-supporting tower, or another existing or proposed structure designed to support or capable of  
35 supporting Wireless Facilities. This term does not include a Utility Pole.

36  
37       *Wireline Facility* means a wireline aerial facility or Below-grade Facility used to provide  
38 Communications Services. The term includes wireline backhaul facilities associated with a Wireless  
39 Facility and coaxial or fiber-optic cable that is between wireless structures or Utility Poles or that is  
40 otherwise not immediately adjacent to or directly associated with a particular Antenna of a Wireless  
41 Facility.

42  
43       *Wrap* means an aesthetic covering approved by the County depicting scenic imagery such as  
44 vegetation, which blends with the surrounding area. A Wrap design may also be proposed by the  
45 Applicant by requesting a waiver pursuant to Section 16-305. Imagery in a wrap may not contain any

1 Signage.

2  
3 **Sec. 16-103. Registration.**  
4

5 (a) *Registration.* A Provider that desires to Place or Maintain a Communications Facility,  
6 conduit, backhaul facility, or Utility Pole intended to support the Collocation of a Small Wireless  
7 Facility in the Public Rights-of-way shall register with the County Public Works Department in  
8 accordance with this Article.  
9

10 (b) *Content of Registration.* Each Applicant shall submit the following information and  
11 documentation:  
12

- 13 (1) The name of the Applicant under which it will transact business in the County and, if  
14 different, in the State;
- 15 (2) The name, address, electronic mail address, and telephone number of the Applicant's  
16 primary contact person and the person to contact in case of an emergency;
- 17 (3) A copy of the Applicant's certificate of authorization, public convenience and  
18 necessity, or other similar certification or license(s) issued by the Florida Public  
19 Service Commission, the Florida Department of State, the Federal Communications  
20 Commission, or other federal authority; and
- 21 (4) Proof of the Applicant's insurance coverage as required pursuant to Section 16-111.  
22

23 (c) *County Engineer review and approval.* Within thirty (30) days after receipt of the information  
24 submitted by the Applicant, the County Engineer shall determine whether the application for  
25 Registration contains all information and documentation required and shall advise the Applicant in  
26 writing whether the Registration is effective or if any areas of deficiency need to be addressed. The  
27 Applicant shall re-submit any deficient information and documentation within thirty (30) days of the  
28 date of the notice of deficiency, otherwise the Registration shall be denied. A notice of deficiency or  
29 denial of Registration shall not preclude an Applicant from filing subsequent applications for  
30 Registration under the provisions of this Section. A denial of Registration or renewal of Registration  
31 may be appealed in accordance with the procedures set forth in Section 16-110.  
32

33 (d) *No property right arises from Registration.* A Registration shall not convey any title,  
34 equitable or legal, to the Registrant in the Public Rights-of-way. Registration under this Article  
35 governs only the ability to apply for a Permit, if applicable, and the ability to Construct, Place or  
36 Maintain Communications Facilities in the Public Rights-of-way. Registration does not excuse a  
37 Provider from obtaining necessary access or Pole Attachment agreements before locating its  
38 Communications Facilities in the Public Rights-of-way. Registration does not excuse a Provider from  
39 complying with all Applicable Codes, and State and federal laws and regulations.  
40

41 (e) *Registration is non-exclusive.* Registration does not in and of itself establish a right to Place  
42 or Maintain, or establish priority for the Placement or Maintenance of a Communications Facility in  
43 the Public Rights-of-way, but shall establish for the Registrant a right to Place or Maintain a  
44 Communications Facility in the Public Rights-of-way, if such proposed activity does not require a  
45 Permit by the County, or apply for a Permit to Place or Maintain a Communications Facility in the  
46 Public Rights-of-way, if such proposed activity requires a Permit by the County. Registrations are

1 expressly subject to any further amendment to or replacement of this Article and further subject to  
2 any additional County ordinances or regulations, as well as any State or federal laws that may be  
3 enacted.

4  
5 (f) *Cancellation.* A Registrant may cancel a Registration upon written notice to the County  
6 stating that it will no longer Place or Maintain any Communications Facilities in the Public Rights-of-  
7 way. A Registrant shall not cancel a Registration if the Registrant continues to Place or Maintain any  
8 Communications Facilities in the Public Rights-of-way.

9  
10 (g) *Registration updates.* Within thirty (30) days of any change in the information required to be  
11 submitted pursuant to subsection (b), a Registrant shall provide updated information to the County.

12  
13 (h) *Registration renewal.* Each Registrant shall renew its Registration by April 1 of years ending  
14 in "0" or "5" (such as 2020, 2025, 2030, etc.) in accordance with the registration requirements of this  
15 Article, as amended. Failure to renew a Registration may result in the County restricting the issuance  
16 of additional Permits until the Provider has complied with the Registration requirements of this  
17 Article.

18  
19 (i) *Registration application fees.* No Registration application fees shall be imposed for  
20 Registration or renewal of Registration under this Article.

21  
22 (j) *Permits required of Registrants.* In accordance with Applicable Codes, local laws and  
23 regulations, and State and federal laws and regulations, a Permit shall be required of a Provider that  
24 desires to Place or Maintain a Communications Facility in the Public Rights-of-way, unless otherwise  
25 specifically exempted under this Article. An effective Registration shall be a condition precedent to  
26 or of obtaining a Permit. Notwithstanding an effective Registration, permitting requirements shall  
27 also apply. A Permit may be obtained by or on behalf of a Registrant having an effective Registration  
28 if all permitting requirements are met. If a Permit is submitted without an effective Registration, the  
29 Permit application shall be denied.

30  
31 (k) *Compliance required.* A Registrant shall at all times comply with and abide by all Applicable  
32 Codes, local laws and regulations, and State and federal laws in Placing or Maintaining a  
33 Communications Facility in the Public-Rights-of-way. By submitting a Registration, the Applicant  
34 acknowledges that it has reviewed a copy of this Article.

35  
36 **Sec. 16-104. Notice of Transfer, Sale or Assignment of Assets in the Public Rights-of-Way.**

37  
38 (a) If a Registrant transfers or assigns its Registration incident to a sale or other transfer of the  
39 Registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of  
40 this Article. Written notice of any transfer, sale or assignment shall be provided to the County within  
41 thirty (30) days of the effective date of the transfer, sale or assignment. Further, any such Person to  
42 whom such transfer, sale or assignment has been made, must register with the County in accordance  
43 with this Article and shall provide proof of insurance coverage in accordance with Section 16-111, a  
44 Security fund in accordance with Section 16-114, and, if applicable, a performance bond in  
45 accordance with Section 16-113.

(b) If Permit applications are pending in the Registrant's name, the transferee, buyer or assignee shall notify the County Engineer that the transferee, buyer or assignee is the new Registrant.

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

#### **Sec. 16-105. Involuntary Termination of Registration.**

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

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

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

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

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



the County, if required.

#### **Sec. 16-106. Unregistered Providers.**

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

#### **Sec. 16-107. General Permit Conditions.**

All Providers shall comply with the following general permit conditions:

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

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

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

(d) *Restoration of Public Rights-of-way.* After the completion of any Placement or Maintenance work involving a Communications Facility in the Public Rights-of-way or each phase thereof, a Registrant shall, at its own expense, restore the Public Rights-of-way to its existing condition prior to such work. If the Registrant fails to make such restoration within thirty (30) days, or such longer period of time as may be reasonably required under the circumstances, following the completion of such Placement or Maintenance work, the County may perform restoration and charge the costs of the restoration against the Registrant's performance bond, security fund, or in accordance with Section 337.402, F.S., as amended. For one (1) year following the original completion of the work, the Registrant shall guarantee its restoration work and shall correct, at their sole expense, any restoration

1 work that does not satisfy the requirements of this Article.

2  
3 (e) *Maintenance in accordance with industry standards and Applicable Codes.* A Registrant shall  
4 maintain its Communications Facilities in a manner consistent with accepted industry practice and  
5 Applicable Codes.

6  
7 (f) *Maintenance of facilities.* Each Communications Facility within the Public Rights-of-way,  
8 including any appurtenant features incorporated therewith under this Article, shall be maintained in a  
9 neat and clean condition at all times. Specifically, but not without limiting the generality of the  
10 foregoing, each Communications Facility in the Public Rights-of-way shall be regularly maintained  
11 so that it is free of Graffiti and is reasonably free of dirt, grease, rust, corrosion, and chipped, faded,  
12 peeling or cracked paint, finishes, or Wraps which is visible from the Public Rights-of-way or  
13 Surrounding Neighborhood.

14  
15 (g) *Underground Facility Damage Prevention and Safety Act.* In connection with excavation in  
16 the Public Rights-of-way, a Registrant shall, where applicable, comply with the Underground Facility  
17 Damage Prevention and Safety Act set forth in Chapter 556, F.S., as amended.

18  
19 (h) *Use of due caution.* Registrants shall use and exercise due caution, care and skill in  
20 performing work in the Public Rights-of-way and shall take all reasonable steps to safeguard work  
21 site areas, including, but not limited to those safeguards set forth in Chapter 33 of the Florida  
22 Building Code.

23  
24 (i) *No warranties or representations regarding fitness, suitability or availability of Public*  
25 *Rights-of-way.* The County makes no warranties or representations regarding the fitness, suitability,  
26 or availability of the Public Rights-of-way for the Registrant's Communications Facilities. Any  
27 performance of work, costs incurred or services provided by the Registrant shall be at the Registrant's  
28 sole risk. Nothing in this Article shall affect the County's authority to add, vacate or abandon its  
29 Public Rights-of-way, and the County makes no warranties or representations regarding the  
30 availability of any added, vacated or abandoned Public Rights-of-way for Communications Facilities.

31  
32 (j) *Right of inspection.* The County shall have the right to make such inspections of  
33 Communications Facilities Placed or Maintained in its Public Rights-of-way as it finds necessary.

34  
35 (k) *As-built Plans and GPS coordinates.* Upon completion of work authorized by a Permit, in the  
36 event that field work results in changes from the Permit plans, the Applicant shall furnish to the  
37 County As-built Plans, at no cost to the County. This requirement shall be in addition to, and not in  
38 lieu of, any filings the Registrant is required to make under the Underground Facility Damage  
39 Prevention and Safety Act set forth in Chapter 556, F.S., as amended. The fact that such As-built  
40 Plans are on file with the County shall in no way abrogate the duty of any Person to comply with the  
41 aforesaid Underground Facility Damage Prevention and Safety Act when performing work in the  
42 Public Rights-of-way. Upon completion of work authorized by a Permit for a Utility Pole or a Small  
43 Wireless Facility, in the event that field work results in changes from the Permit plans, the Applicant  
44 shall furnish to the County the exact GPS coordinates of the Utility Pole or Small Wireless Facility.

45  
46 (l) *Americans With Disabilities Act.* The Placement and Maintenance of all Communications

Facilities shall comply with the Americans With Disabilities Act, 42 U.S.C. Sec. 12101, et. seq., as amended, and regulations promulgated thereunder.

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

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

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

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

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

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

#### **Sec. 16-108. General Enforcement Remedies.**

(a) A Registrant's failure to comply with provisions of this Article or a Permit shall constitute a

1 violation of this Code and may subject the Registrant to termination of Registration in accordance  
2 with the provisions of Section 16-105, suspension or revocation of a Permit under the provisions of  
3 Section 16-109, and subject the Registrant to a civil penalty in accordance with the provisions of  
4 Section 1-9 or injunctive relief or as otherwise provided by law.

5  
6 (b) In addition to any other rights or remedies available at law or equity or as otherwise provided  
7 in this Article, the Code Enforcement Board shall have enforcement jurisdiction, including the power  
8 to conduct hearings and impose fines in the event a Provider violates any provision of this Article or a  
9 Permit pursuant to the procedures provided in Chapter 6. Any fines imposed by the Code  
10 Enforcement Board may be recoverable from the security fund at the option of the County. A final  
11 administrative order of the Code Enforcement Board shall be appealed by writ of certiorari to the  
12 circuit court within thirty (30) days following rendition of the order.

13  
14 (c) Failure of the County to enforce any requirements of this Article shall not constitute a waiver  
15 of the County's right to enforce a violation or subsequent violations of the same type or to seek  
16 appropriate enforcement remedies.

17  
18 **Sec. 16-109. Enforcement of Permit Obligations; Suspension and Revocation of Permits.**

19  
20 (a) The County Engineer may order the suspension of Placement and Maintenance work under a  
21 Permit and ultimately may revoke any Permit, in the event of a substantial breach of the terms and  
22 conditions of any Applicable Codes, State or federal laws or regulations, or any condition of the  
23 Permit. A substantial breach by the Permittee may include, but is not limited to:

- 24  
25 (1) The violation of any material provision of the Permit or Applicable Codes;  
26 (2) An evasion or attempt to evade any material provision of the Permit or the perpetration  
27 or attempt to perpetrate any fraud or deceit upon the County ;  
28 (3) Any material misrepresentation of fact in the process of Permittee's request for a  
29 Permit or Registration;  
30 (4) The failure to maintain the required performance bond, security fund or insurance;  
31 (5) The failure to properly restore the Public Rights-of-way;  
32 (6) The failure to comply within the specified time with an order issued by the County  
33 Engineer to correct a harmful condition or remedy a hazardous situation;  
34 (7) The failure to comply with a stop work order issued by the County Engineer;  
35 (8) The failure to Register, renew Registration, or provide notice of transfer in accordance  
36 with Section 16-104;  
37 (9) The failure to relocate or remove Facilities pursuant to this Article and Chapter 337,  
38 F.S., as amended; or  
39 (10) Conducting work in the Public Rights-of-Way without a Permit, if required.

40  
41 (b) If the County Engineer determines that the Permittee has committed a substantial breach of a  
42 term or condition of the Permit or this Article, the County Engineer shall make a written demand  
43 upon the Permittee to remedy such violation. The demand shall state that the continued violation(s)  
44 may be cause for suspension or revocation of the Permit. Further, the County Engineer, at his or her  
45 discretion, may impose additional or revised permit conditions on the Permit following a substantial  
46 breach.

1  
2 (c) Within thirty (30) days of receiving notification of the breach, the Permittee shall contact the  
3 County Engineer with a plan, acceptable to the County Engineer, for its correction or shall submit a  
4 statement as to why a substantial breach has not occurred. The County shall provide additional time  
5 as reasonably necessary for a Permittee to establish a plan acceptable to the County Engineer taking  
6 into account the nature and scope of the alleged breach. The Permittee's failure to contact the County  
7 Engineer, the Permittee's failure to submit an acceptable plan, or the Permittee's failure to reasonably  
8 implement the approved plan, shall be cause for suspension or revocation of the Permit. A final  
9 determination to suspend or revoke a Permit may be appealed in accordance with the procedures set  
10 forth in Section 16-110.

11  
12 (d) If a Permit is revoked, the Permittee shall reimburse the County for the County's reasonable  
13 costs, including restoration costs, administrative costs, attorney's fees, and the cost of collection. The  
14 County may charge the costs and/or fees to the security fund set forth in Section 16-114, if the  
15 Provider fails to remit payment within thirty (30) days of notification.

16  
17 (e) The County Engineer may cause an immediate stop work order where the Permittee's  
18 Construction, Placement or Maintenance poses a serious threat to the health, safety or welfare of the  
19 public until such time as such serious threat has been abated.

20  
21 **Sec. 16-110. Appeals.**

22  
23 (a) The following final determinations by the County are subject to appeal as provided in this  
24 Section:

- 25  
26 (1) Denial of an initial Registration or Registration renewal;  
27 (2) Involuntarily termination of a Registration;  
28 (3) Suspension or revocation of a Permit;  
29 (4) The issuance of a notice of withdraw from the security fund;  
30 (5) Denial of a Permit to Place or Maintain a Communications Facility or Utility Pole in  
31 the Public Rights-of-way; and  
32 (6) Denial of a request for waiver.

33  
34 (b) As used in this Section, the term *Party* or *Parties* means the County Engineer or County  
35 Administrator and the Applicant challenging a decision made by the County.

36  
37 (c) A decision subject to appeal may be appealed by the Applicant within thirty (30) days of the  
38 date of the decision by timely filing a petition. Petitions shall be made in writing and directed to the  
39 Public Works Director, and shall include the decision which is the subject of the appeal and a  
40 description of the facts upon which the decision is challenged and any argument in support thereof.  
41 Failure to file a petition within thirty (30) days is jurisdictional and will result in a waiver of a  
42 hearing. If contested, all determinations on the timeliness of the filing of a petition shall be made by  
43 the special master or administrative law judge.

44  
45 (d) The Board of County Commissioners shall appoint and retain a special master or shall  
46 contract with the Florida Division of Administrative Hearings for an administrative law judge to

1 conduct quasi-judicial proceedings regarding appeals. Each special master shall be a licensed attorney  
2 with the Florida Bar who has practiced law in Florida for at least five years. Any special master  
3 conducting quasi-judicial proceedings pursuant to this Section shall have the powers of special  
4 masters enumerated in Section 120.569(2)(f), F.S, as well as to issue other orders regarding the  
5 conduct of the proceedings.

6  
7 (e) All hearings shall be commenced within ninety (90) days of the date the petition was filed.  
8 Requests for continuance by any Party may be granted for good cause shown. To the maximum  
9 extent practicable, the hearings shall be informal. The Parties shall have the opportunity to respond,  
10 to present evidence and argument on all issues which are the subject of the appeal, and to conduct  
11 cross-examination and submit rebuttal evidence. During cross examination of witnesses, questioning  
12 shall be confined as closely as possible to the scope of direct testimony. The special master or  
13 administrative law judge may call and question witnesses or request additional evidence as he or she  
14 deems necessary and appropriate. To that end, if during the hearing the special master or  
15 administrative law judge believes that any facts, claims, or allegations necessitate review and  
16 response by any Party, then the special master or administrative law judge may order the hearing  
17 continued until a date certain, but no longer than fifteen (15) days. The special master or  
18 administrative law judge shall decide all questions of procedure.

19  
20 (f) Any Party may move for a summary final order when there is no genuine issue as to any  
21 material fact. A summary final order shall be rendered if the special master or administrative law  
22 judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file,  
23 together with affidavits, if any, that no genuine issue as to any material fact exists and that the  
24 moving party is entitled as a matter of law to the entry of a final order. A summary final order shall  
25 consist of written findings of fact, conclusions of law, and a recommendation to approve, approve  
26 with conditions, or deny the decision subject to appeal.

27  
28 (g) Findings of fact shall be based upon a preponderance of the evidence and shall be based  
29 exclusively on the evidence of record and on matters officially recognized.

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

40  
41 (i) Unless the Parties waive the time requirement, the hearing by the Board of County  
42 Commissioners will commence no later than sixty (60) days from the date of receipt of the  
43 recommended order and record of the decision being reviewed or the next regularly scheduled Board  
44 meeting, whichever is later. The record before the Board shall consist of the complete record of the  
45 proceedings before the special master or administrative law judge. The hearing before the Board of  
46 County Commissioners shall be limited to matters of record, and arguments based on the record. No

new evidence shall be presented to the Board at the hearing. The Parties shall be limited to a total of twenty (20) minutes to present his or her argument. For good cause shown the chairman may grant additional time. The Board shall also receive public comment. At the conclusion of the hearing, the Board shall render a decision approving, approving with conditions, or denying the decision subject to appeal. The Board is bound by the special master's or administrative law judge's findings of fact unless the findings of fact are not supported by competent substantial evidence in the record before the special master or administrative law judge. The Board may modify the conclusions of law if it finds that the special master's or administrative law judge's application or interpretation of law is erroneous. The Board may make reasonable legal interpretations of its Code without regard to whether the special master's or administrative law judge's interpretation is labeled as a finding of fact or a conclusion of law. The Board's final decision must be reduced to writing, including the findings of fact and conclusions of law, and is not considered rendered or final until officially date-stamped by the clerk of the Board of County Commissioners.

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

#### **Sec. 16-111. Insurance.**

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

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

- (1) *Worker's compensation and employer's liability insurance.* Florida statutory requirements.
- (2) *Comprehensive general liability.* Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars (\$1,000,000) per occurrence, combined single limit and two million dollars (\$2,000,000) in the aggregate.
- (3) *Commercial Automobile liability.* Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article shall be maintained in accordance with Florida statutory requirements.

1           (4)    *Commercial excess or umbrella liability.* Commercial excess or umbrella liability  
2                   coverage may be used in combination with primary coverage to achieve the required  
3                   limits of liability.  
4

5           (c)    *Proof of insurance.* Upon applying for Registration, the Registrant shall submit to the County  
6                   proof that it has obtained the insurance required under this Section, including a certificate of  
7                   insurance signed by an authorized representative of the insurance company.  
8

9           (d)    *Authority to increase or decrease policy limits.* The County shall have the authority to  
10                  reasonably increase or decrease the policy limits set forth above and shall provide each Registrant  
11                  with at least thirty (30) days advance written notice of such change. Within thirty (30) days from  
12                  receipt of a notice to increase its policy limits, the Registrant shall submit to the County proof of such  
13                  increased coverage.  
14

15          (e)    *Duration.* The coverage provided herein shall be maintained at all times during the use or  
16                  occupancy of the Public Rights-of-way, including any time during Placement or Maintenance of  
17                  Communications Facilities.  
18

19          (f)    *Failure to maintain required coverage.* Failure to maintain all the required insurance coverage  
20                  may subject the Applicant to the enforcement remedies set forth in Sections 1-9, 16-108 and 16-109.  
21

22   **Sec. 16-112. Indemnification.**  
23

24          (a)    By reason of the acceptance of a Registration or the issuance of a Permit under this Article,  
25                  the County does not assume any liability for injuries to persons, damage to property, or loss of  
26                  service claims by parties other than the Applicant or the County or for claims or penalties of any sort  
27                  resulting from the Construction, presence, Placement, installation, Maintenance, repair or operation  
28                  of Communications Facilities or Utility Poles by Applicants or agents of Applicants.  
29

30          (b)    An Applicant shall defend, indemnify, and hold the County whole and harmless from all  
31                  costs, liabilities, and claims for damages of any kind arising out of the Construction, presence,  
32                  Placement, installation, Maintenance, repair or operation of its Communications Facilities or Utility  
33                  Poles, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit,  
34                  inspection of plans or work by the County, except to the extent that such claims are caused by the  
35                  sole negligence of the County. This Section is not, as to third parties, a waiver of any defense or  
36                  immunity otherwise available to the Applicant or to the County; and the Applicant, in defending any  
37                  action on behalf of the County, shall be entitled to assert in any action every defense or immunity that  
38                  the County could assert in its own behalf. The provisions of this Section include, but are not limited  
39                  to, the County's reasonable attorneys' fees incurred in defending against any such claim, suit or  
40                  proceeding(s).  
41

42          (c)    The County agrees to notify the Applicant, in writing, within thirty (30) days of the County  
43                  receiving notice, of any issue it determines may require indemnification.  
44

45          (d)    This indemnification obligation is not limited in any way by a limitation of the amount or



1 type of damages or compensation payable by or for the Applicant under workers' compensation,  
2 disability or other employee benefit acts, or the acceptance of insurance certificates required under  
3 this Article, or the terms, applicability or limitations of any insurance held by the Applicant.  
4

5 (e) The Applicant shall investigate, handle, respond to, provide defense for, and defend any such  
6 claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim  
7 is groundless, false or fraudulent and if called upon by the County. The Applicant shall assume and  
8 defend not only itself but also the County in connection with any such claims and any such defenses  
9 shall be at no cost or expense whatsoever to the County and selection of counsel shall be subject to  
10 County approval. However, in the County's sole discretion, the County shall retain the right to select  
11 counsel of its own choosing and at its own expense. The County shall not settle or compromise any  
12 matter for which an Applicant is obligated to indemnify without the prior written consent of the  
13 Applicant. Such consent shall not be unreasonably withheld.  
14

15 (f) The County does not and shall not waive any rights against the Applicant which it may have  
16 by reason of this indemnification, or because of the acceptance by, or the Applicant's deposit with  
17 the County of any of the insurance policies required by this Article for Registration.  
18

19 (g) This indemnification by the Applicant shall apply to all damages and claims for damages of  
20 any kind suffered regardless of whether such insurance policies shall have been determined to be  
21 applicable to any such damages or claims for damages.  
22

23 (h) Nothing contained in this Section shall be construed or interpreted as denying to either party  
24 any remedy or defense available to such party under the laws of the State of Florida or as a waiver of  
25 sovereign immunity beyond the waiver provided in Section 768.28, F.S., as amended.  
26

27 (i) The indemnification requirements under this Section and this Article shall survive and be in  
28 full force and effect after the termination , cancellation, or expiration of a Registration or Permit.  
29

### 30 **Sec. 16-113. Performance Bond.**

31

32 (a) Prior to issuance of any Permit in accordance with this Article, the Registrant shall be  
33 required to obtain, pay for, and file with the County a performance bond. The performance bond shall  
34 serve to guarantee proper performance under the requirements of this Article and the Permit, the  
35 timeliness and quality of the Construction and restoration of the County's Public Rights-of-way, and  
36 to secure, and enable the County to recover, all costs related to the restoration of the Public Rights-of-  
37 way in the event the Registrant fails to make such restoration to the County's satisfaction or causes  
38 damage to the Public Rights-of-way during Construction. The performance bond must name the  
39 County as Obligee and be conditioned upon the full and faithful compliance by the Registrant with all  
40 requirements, duties, and obligations imposed by the Permit and provisions of this Article during and  
41 through completion of the Placement or Maintenance project. The performance bond shall be in a  
42 form acceptable to the County and must be issued by a surety having an A.M. Best A-VII rating or  
43 better and duly authorized to do business in the State of Florida.  
44

1           (1)     The performance bond shall be in the face amount of the total estimated costs of the  
2                 restoration of the Public Rights-of-way. No performance bond is required if the  
3                 estimated costs of the restoration of the Public Rights-of-way is less than two thousand  
4                 five hundred dollars (\$2,500) provided the Registrant has a fully replenished security  
5                 fund with the County.

6           (b)     The performance bond must be issued as non-cancelable and be for a term of not less than  
7                 ninety (90) days after the anticipated date of completion of Construction, restoration and County  
8                 inspection. In the event the term of any construction bond expires, or is reasonably expected to  
9                 expire, prior to ninety (90) days after the completion of Construction, restoration and County  
10                inspection, the Provider shall immediately obtain, pay for, and file with the County a replacement  
11                performance bond.

12          (c)     In lieu of providing a performance bond for each Permit, the Registrant may provide the  
13                 County with a blanket performance bond of no less than fifty-thousand dollars (\$50,000) to meet the  
14                 requirements of this Section, provided the total estimated costs of the restoration of the Public Rights-  
15                 of-way does not exceed fifty-thousand dollars (\$50,000).

16          (d)     The County's right to recover under the performance bond shall be in addition to all other  
17                 rights of the County, whether reserved in this Article, or authorized by other law, and no action,  
18                 proceeding or exercise of a right with respect to the performance bond will affect or preclude any  
19                 other right the County may have. Any proceeds recovered under the performance bond may be used  
20                 to reimburse the County for such additional expenses as may be incurred by the County as a result of  
21                 the failure of the Registrant to comply with the responsibilities imposed by this Article, including, but  
22                 not limited to, attorney's fees and costs of any action or proceeding.

23     **Sec. 16-114. Security Fund.**  
24

25          (a)     Prior to occupying or using the Public Rights-of-way, the Registrant shall be required to file  
26                 with the County a security fund in the form of cash deposit or irrevocable letter of credit in the sum of  
27                 ten thousand dollars (\$10,000) conditioned on the full and faithful performance by the Registrant of  
28                 all requirements, duties and obligations imposed upon the Registrant by the provisions of this Article,  
29                 including requirements to restore the Public Rights-of-way, to remove any Abandoned  
30                 Communications Facilities, and to avoid damage to other Utilities and facilities within the Public  
31                 Rights-of-way. Any cash deposit shall be held in a separate, non-interest bearing account. The letter  
32                 of credit shall be issued by a financial institution with a location in Leon County and shall be in a  
33                 form and issued by a financial institution acceptable to the County. A security fund may be submitted  
34                 to the County at the time of Registration.  
35

36          (b)     Prior to drawing from the security fund, the County shall notify the Registrant of the reason  
37                 for such withdraw and provide the Registrant no less than thirty (30) days to make payment or to  
38                 object to such withdraw. If the Registrant objects, the Registrant may appeal the County's notice of  
39                 withdraw pursuant to Section 16-110.  
40

41          (c)     Should the County draw upon the security fund, it shall promptly notify Provider, and the  
42                 Provider shall promptly restore the cash deposit or letter of credit to the full amount. The security

1 fund shall be maintained until the later of: (a) the effective date of transfer, sale or assignment by the  
2 Provider of all of its Communications Facilities in the Public Rights-of-way; (b) twelve (12) months  
3 after the removal or Abandonment by the Provider of all of its Communications Facilities and/or  
4 Utility Poles in the Public Rights-of-way; or (c) six (6) months after the termination of Registration,  
5 including any appeals undertaken. Upon the later of these events the cash deposit will be returned  
6 without interest or the letter of credit may be canceled.

7  
8 (d) In the event a Provider fails to perform any requirement, duty or obligation imposed upon it  
9 by the provisions of this Article, there shall be recoverable, jointly and severally from the security  
10 fund, any damages or loss suffered by the County as a result, including the full amount of any  
11 compensation, indemnification, or cost of removal, relocation or Abandonment of any  
12 Communications Facilities in the Public Rights-of-Way, plus reasonable attorneys' fees, up to the full  
13 amount of the security fund.

14  
15 **Sec. 16-115. Abandonment of a Communications Facility or Utility Pole.**

16  
17 (a) Upon determination by a Person that one or more of its Communications Facilities or Utility  
18 Poles in the Public Rights-of-way is to be Abandoned, the Person shall notify the County no later  
19 than one hundred eighty (180) days from such determination, or no later than thirty (30) days  
20 following such Abandonment, whichever is sooner.

21  
22 (b) The County shall provide written notice to a Person if, upon independent evaluation, the  
23 County reasonably believes a Communications Facility or Utility Pole is Abandoned. The written  
24 notice shall provide the Person no less than thirty (30) days to either verify that the Communications  
25 Facility or Utility Pole is not Abandoned or to remove the Communications Facility or Utility Pole.  
26 Failure of the Person to respond within the specified time shall constitute Abandonment of the  
27 Communications Facility or Utility Pole.

28  
29 (c) Abandonment of the Communications Facility or Utility Pole requires removal of the  
30 Communications Facility or Utility Pole, except that, at the sole discretion of the County Engineer, a  
31 Below-grade Facility may not require removal. If the Communications Facility is attached to an  
32 Existing Structure that has an independent function, such as a light pole, traffic signal, pedestrian  
33 signal, or the like, said Abandonment of the Communications Facility requires removal of the  
34 Communications Facility only and does not require the removal of the Existing Structure.

35  
36 (d) If the Person fails to remove all or any portion of an Abandoned Communications Facility or  
37 Utility Pole as directed by the County within a reasonable time period as may be required by the  
38 County, the County may perform such removal and charge the cost of the removal against the Person.  
39 Any such costs of removal shall be recoverable from the security fund at the option of the County.

40  
41 **Sec. 16-116. Removal or Relocation; Conversion of Overhead Distribution Facilities to**  
42 **Underground Distribution Facilities**

43  
44 (a) *Removal or relocation.* Removal or relocation, including conversion to underground, shall be  
45 governed by the provisions of Chapter 337, F.S. as amended, applicable State or federal laws or  
46 regulations, or the terms of any applicable Pole Attachment agreement.

1  
2  
3 (c) *Temporary raising and lowering of Communications Facilities as accommodation.* A  
4 Registrant shall, on the request of any Person holding a Permit issued by the County, temporarily  
5 raise or lower its aerial Wireline Facilities to permit the work authorized by the Permit within the  
6 Public Rights-of-way. With the exception of the County, the expense of such temporary raising or  
7 lowering of Wireline Facilities shall be paid by the Person requesting the same, and the Registrant  
8 shall have the authority to require such payment in advance, unless otherwise governed by State or  
9 federal law. The Registrant shall not require the County to submit any payment for temporarily  
10 raising or lowering Wireline Facilities. The Registrant shall be given no less than thirty (30) days  
11 advance written notice to arrange for such temporary relocation.  
12

13 **Sec. 16-117. Force Majeure.**  
14

15 In the event the County's or a Person's performance of or compliance with any of the provisions of  
16 this Article is prevented by a cause or event not within the County's or a Person's control, such  
17 inability to perform or comply shall be deemed excused and no penalties or sanctions shall be  
18 imposed as a result, provided, however, that such Person uses all practicable means to expeditiously  
19 cure or correct any such inability to perform or comply. For the purposes of this Section, cause or  
20 events not within the County's or a Person's control shall include, but not be limited to, acts of God,  
21 floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies,  
22 riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency  
23 or court. Causes or events within a Person's control, and thus not falling within this Section shall  
24 include without limitation, a Person's financial inability to perform or comply, economic hardship,  
25 and misfeasance, malfeasance or nonfeasance by any of Person's directors, officers, employees,  
26 contractors or agents. Upon the issuance of a County or State Declaration of a State of Emergency,  
27 the timeframes outlined in Sections 16-201 and 16-302 are tolled until the State of Emergency is  
28 lifted.  
29

30 **Sec. 16-118. Pass-through Provider fees and charges.**  
31

32 (a) Pass-through Providers shall pay to the County on an annual basis an amount equal to five  
33 hundred dollars (\$500.00) per linear mile or portion thereof of Communications Facilities Placed  
34 and/or Maintained in the Public Rights-of-way.  
35

36 (b) The amounts charged pursuant to this Section shall be based on the linear miles of Public  
37 Rights-of-way where Communications Facilities are Placed, not based on a summation of the lengths  
38 of individual cables, conduits, strands or fibers.  
39

40 (c) A County shall not impose a charge for any linear miles, or portions thereof, for Public  
41 Rights-of-way where a Communications Facility is Placed that extends through the City to which the  
42 Pass-through Provider remits Communications Services Tax.  
43

44 (d) The County shall discontinue charging Pass-through Provider fees to a Person that has ceased  
45 being a Pass-through Provider. Any annual amounts charged shall be reduced for a prorated portion

1 of any 12-month period during which the Pass-through Provider remits Communications Services  
2 Tax.

3  
4 (e) Annual payments shall be due and payable on April 1 of each year. Fees not paid within ten  
5 (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date  
6 due until paid. The acceptance of any payment required hereunder by the County shall not be  
7 construed as an acknowledgement that the amount paid is the correct amount due, nor shall such  
8 acceptance of payment be construed as a release of any claim which the County may have for  
9 additional sums due and payable. All fee payments shall be subject to audit by the County, and  
10 assessment or refund if any payment is found to be in error. If such audit results in an assessment by  
11 and an additional payment to the County, such additional payment shall be subject to interest at the  
12 rate of one (1) percent per month from the date of the audit until the date payment is made.

13  
14 (f) If the payments required by this Section are not made within ninety (90) days after the due  
15 date, the County Engineer may withhold the issuance of any Permits to the Registrant until the  
16 amount past due is paid in full. In addition to other remedies available at law or in equity, the any  
17 payments past due shall be recoverable from the security fund at the sole discretion of the County.

18  
19 **Sec. 16-119. Permit Fees.**

20  
21 No Permit fees shall be imposed for Permits for Communications Facilities or Utility Poles used to  
22 support the Collocation of Small Wireless Facilities under this Article. The Board may adopt by  
23 resolution a fee schedule relating to the issuance of Permits for Utility Poles not intended to support  
24 the Collocation of Small Wireless Facilities under this Article.

25  
26 **Sec. 16-120. Reservation of Rights and Remedies.**

27  
28 (a) The provisions of this Article shall be applicable to all Communications Facilities and Utility  
29 Poles Placed in the Public Rights-of-way on or after the effective date of this Ordinance and shall  
30 apply to all existing Communications Facilities and Utility Poles Placed in the Public Rights-of-way  
31 prior to the effective date of this Ordinance to the full extent permitted by federal and State law,  
32 except that any provision of Section 16-203 shall not apply to Communications Facilities or Utility  
33 Poles lawfully Placed within the Public Rights-of-way prior to the effective date of this Ordinance, to  
34 the extent that such Communications Facilities may be maintained, repaired, and replaced with a  
35 Communications Facility substantially similar in size and design.

36  
37 (b) Nothing in this Article shall affect the remedies the County or the Provider has available  
38 under applicable law.

39  
40 **Sec. 16-121. No liability or warranty.**

41  
42 Nothing contained in this Article shall be construed to make or hold the County responsible or liable  
43 for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the  
44 use, operation or condition of a Person's Communications Facilities or Utility Poles by reason of any  
45 inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance

1 of any Permit or the approval or disapproval of any Placement or Maintenance of a Person's  
2 Communications Facilities or Utility Poles as authorized herein constitute any representation,  
3 guarantee or warranty of any kind by, or create any liability upon the County or any official, agent or  
4 employee thereof.  
5

6 **Division 2. At-grade Facility, Below-grade Facility, Wireline Facility, and Utility Pole**  
7 **Standards**  
8

9 **Sec. 16-200. Applicability**  
10

11 This Division shall apply to any Person who seeks to Construct, Place, install, Maintain or  
12 operate an At-grade Facility, Below-grade Facility, Wireline Facility or Utility Pole in the Public  
13 Rights-of-way, unless otherwise exempt by operation of Applicable Codes, or State or federal laws or  
14 regulations. This Division shall not apply to At-grade Facilities, Below-grade Facilities or Wireline  
15 Facilities owned by a Person, including the County, to the extent such facilities are only utilized on  
16 an internal, non-commercial basis by said Person. This Division shall not apply to the ground-  
17 mounted equipment of Small Wireless Facilities, as defined in Section 16-102 of this Article and as  
18 regulated under Division 3 of this Article.  
19

20 **Sec. 16-201. Permit Requirements; Application; Review Timeframes.**  
21

22 (a) *Permit required.* A Person or Registrant shall not commence to Place or Maintain a Utility  
23 Pole, At-grade Facility, Below-grade Facility, or Wireline Facility, including wireline backhaul  
24 facilities and coaxial or fiber-optic cable that are between wireless structures or Utility Poles or that  
25 are otherwise not immediately adjacent to or directly associated with a particular Antenna, in the  
26 Public Rights-of-way until all applicable Permits have been issued by the County. As a condition of  
27 granting Permits, the County may impose reasonable conditions governing the Placement or  
28 Maintenance of an At-grade Facility, Below-grade Facility, Wireline Facility, or Utility Pole in the  
29 Public Rights-of-way as set forth in Section 337.401, F.S., as amended. Permits shall apply only to  
30 the areas of the Public Rights-of-way specifically identified in the Permit. As used in this Section, the  
31 term *Facility* shall be used to collectively refer to At-grade Facilities, Below-grade Facilities, and  
32 Wireline Facilities.  
33

34 (b) *Permit not required.*  
35

- 36 (1) A Person or Registrant shall be allowed to perform Emergency Maintenance within  
37 the Public Rights-of-way without first obtaining a Permit. However, such Person or  
38 Registrant shall provide prompt notice to the County of the Emergency Maintenance  
39 and, within fifteen (15) days of completing the Emergency Maintenance, apply for a  
40 Permit in accordance with subsection (c) herein if such activity required a Permit  
41 under this Article. As used in this Section, the term *Emergency Maintenance* means  
42 the repair or replacement of a Communications Facility as a result of a condition that  
43 affects the public health, safety or welfare, which includes an unplanned out-of-service  
44 condition of a pre-existing service.  
45

- (2) A Person or Registrant shall be allowed to perform routine maintenance within the Public Rights-of-way if such proposed routine maintenance does not involve excavation or the closure of a vehicle lane, upon reasonable advance written notice to the County identifying the areas where such maintenance will occur, scope of maintenance, date(s) and duration of work to be performed. If routine maintenance requires the closure of a vehicle lane, a lane closure Permit shall be required.
- (3) A Person or Registrant shall be allowed to Place or Maintain a Service Drop within the Public Rights-of-way without first obtaining a permit if such proposed work does not involve excavation, or the closure of a vehicle lane. If such Placement or Maintenance of a Service Drop requires the closure of a vehicle lane, a lane closure Permit shall be required.
- (4) A Person or Registrant shall be allowed to replace or remove aerial Wireline Facilities within the Public Rights-of-way if such proposed removal does not involve excavation or the closure of a vehicle lane, upon reasonable advance written notice to the County identifying the areas where such replacement or removal will occur and the date(s) and duration of work to be performed. If the removal of an aerial Wireline Facility requires the closure of a vehicle lane, a lane closure Permit shall be required.
- (5) A Person or Registrant shall be allowed to remove Utility Poles within the Public Rights-of-way if such proposed removal does not involve excavation or the closure of a vehicle lane, upon reasonable advance written notice to the County identifying the areas where such removal will occur and the date(s) and duration of work to be performed. If the removal of a Utility Pole requires the closure of a vehicle lane, a lane closure Permit shall be required.
- (6) The County Engineer may issue an immediate stop work order where any work poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.
- (7) A Permit is not required if the proposed work is otherwise authorized to be performed without County approval by applicable State or federal laws or regulations or this Article.
- (c) *Permit Application.* As part of any Permit application to Place or Maintain an At-grade Facility, Below-grade Facility, Wireline Facility, or Utility Pole, in the Public Rights-of-way, the Person or Registrant shall provide a Permit application that sets forth, at a minimum, the following:
- (1) *Engineering plan.* An engineering plan that includes:
- a. The type of proposed Facility, location of the proposed Facility or Utility Pole, and the dimensions, height, footprint, stealth design, and concealment features of the proposed Facility or Utility Pole;
  - b. The distance between the proposed Facility or Utility Pole and nearby pavement, sidewalks, driveways, ramps, trees, underground Utilities and other

- 1 above-grade and below-grade structures and Utilities located nearby within the  
2 Public Rights-of-way;
- 3 c. Sufficient specificity demonstrating compliance with the Florida Building  
4 Code, the Florida Department of Transportation's Manual of Minimum  
5 Standards, the Utility Accommodation Guide, and the National Electric Safety  
6 Code, as amended and as applicable;
- 7 d. For Utility Poles, the Global Positioning System (GPS) coordinates of the  
8 proposed Utility Pole. The GPS coordinates shall be based on the reading from  
9 a handheld mobile GPS unit set to Datum NAD 83 or WGS84. GPS  
10 coordinates based on Google Earth or similar application may be used where  
11 areas of shading occur due to overhead canopy. GPS Coordinates shall be  
12 provided in decimal degrees at a six (6) decimal point precision;
- 13 e. Attestation that the proposed Facility or Utility Pole is to be located within the  
14 Public Rights-of-way, except that if the County Engineer reasonably disagrees  
15 the Applicant shall submit a survey; and
- 16 f. Trees or landscaping to be removed or impacted upon the Placement or  
17 Maintenance of the proposed Facility or Utility Pole. The Placement or  
18 Maintenance of a Facility or Utility Pole that results in the Tree Removal of a  
19 Protected Tree within the Canopy Road Tree Protection Zones shall provide  
20 additional information and documentation in accordance with Sections 10-  
21 4.206(b)(2) and 10-4.206(c)(1). The Placement or Maintenance of a Facility or  
22 Utility Pole that results in the Tree Removal of a Protected Tree outside of the  
23 Canopy Road Tree Protection Zone shall provide additional information and  
24 documentation in accordance with Section 10-4.206(c)(1).  
25

- 26 (2) *Description of installation or Construction.* The Applicant shall provide a description  
27 of the manner in which the Facility or Utility Pole will be installed and/or modified  
28 (i.e. anticipated Construction methods or techniques).  
29
- 30 (3) *Temporary sidewalk closure plan.* The Applicant shall provide a temporary sidewalk  
31 closure plan, if applicable, to accommodate Placement or Maintenance of the Facility  
32 or Utility Pole.  
33
- 34 (4) *Temporary maintenance of traffic (MOT) plan.* The Applicant shall provide a  
35 temporary traffic lane closure and maintenance of traffic (MOT) plan, if applicable, to  
36 accommodate Placement or Maintenance of the Facility or Utility Pole.  
37
- 38 (5) *Restoration plan and estimated cost of restoration of the Public Rights-of-way.* A  
39 restoration plan and a good faith estimate of the cost of restoration of the Public  
40 Rights-of-way to the condition prior to commencing work in the Public Rights-of-way.  
41 Such good faith estimate shall be accepted by the County unless the County  
42 determines such estimated costs are not representative of the actual costs of the  
43 restoration of the Public Rights-of-way. Estimates of the cost to restore the Public  
44 Rights-of-way shall include all costs necessary to restore the Public Rights-of-way to  
45 its original condition. Such good faith estimate may include, but shall not be limited  
46 to, costs to restore the paving, curbs/gutters, sidewalks, multi-purpose trails, and



landscaping. All planted or naturally occurring shrubbery or vegetation, including sod, damaged or destroyed during work in the Public Rights-of-way shall be replaced. Tree removal shown on the Permit shall not be considered damage or impairment to be restored to the original condition provided the Person complies with the approved mitigation plan, if any.

- (6) *Timetable for Construction or installation.* The timetable for Construction, Placement or Maintenance of the proposed Facility or Utility Pole or each phase thereof.
  - (7) *Indemnification.* A statement shall be included within the Permit application that by execution of the application, the Applicant shall be bound to the County with respect to the indemnification provisions set forth in Section 16-112.
  - (8) *Attestation.* For Utility Poles that are intended to support the Collocation of Small Wireless Facilities, the Applicant shall provide an attestation by an officer of the Registrant that a Small Wireless Communications Facility will be Collocated on the Utility Pole and will be used by a Wireless Services Provider to provide service within nine (9) months after the date the application is approved.
  - (9) *Information regarding height limitations.* For Utility Poles intended to support the Collocation of Small Wireless Facilities, the Applicant shall provide information regarding the heights of other Utility Poles located in the same Public Rights-of-way, measured from grade in place within five hundred (500) feet of the proposed location of the Utility Pole. If there is no Utility Pole within five hundred (500) feet of the proposed location of the Utility Pole intended to support the Collocation of Small Wireless Facilities, the Applicant shall certify such.
  - (10) *Additional information as reasonably required for review of Permit application.* Such additional information as the County Engineer finds reasonably necessary to demonstrate the Applicant's Compliance with Applicable Codes, local laws and regulations, and State and federal laws with respect to the Placement or Maintenance of the proposed Facility or Utility Pole that is the subject of the Permit application.
- (d) *Application review timeframes.* An application for a Permit for an At-grade Facility, Below-grade Facility, Wireline Facility or Utility Pole not intended to support the Collocation of Small Wireless Facilities in the Public Rights-of-way shall be reviewed by the County as follows:
- (1) *Notice of application deficiency.* Within thirty (30) days after the date of filing an application, the County Engineer shall determine whether the application is complete. If an application is deemed incomplete, the County Engineer shall notify the Applicant by electronic mail and specifically identify the missing information.
  - (2) *Application review period.* Within sixty (60) days after the date of filing an application, the County Engineer shall approve or deny the application.
  - (3) *Notice of denial; resubmission.* Should the application be denied, the County Engineer

1 shall notify the Applicant by electronic mail and specify the basis for denial, including  
2 the specific code provisions on which the denial is based. The Applicant may cure the  
3 deficiencies identified by the County Engineer and resubmit the application within  
4 thirty (30) days after the notice of denial is sent. The County Engineer shall approve or  
5 deny the revised application within thirty (30) days after the date of filing the revised  
6 application. A denial of a Permit may be appealed pursuant to Section 16-110.  
7

- 8 (4) *Repurposed Structures and Utility Poles intended to support the Collocation of Small*  
9 *Wireless Facilities.* An application for a Repurposed Structure or Utility Pole intended  
10 to support the Collocation of Small Wireless Facilities shall be reviewed by the  
11 County pursuant to the application review timeframes set forth in Section 16-302(e).  
12

- 13 (e) A Permit application for a Repurposed Structure or a Utility Pole intended to support the  
14 Collocation of Small Wireless Facilities shall be submitted prior to or contemporaneously with a  
15 Permit application for a Small Wireless Facility.  
16

17 **Sec. 16-202. At-grade Facility, Below-Grade Facility, Wireline Facility, and Utility Pole Permit**  
18 **Conditions.**  
19

- 20 (a) At-grade Facilities, Below-grade Facilities, Wireline Facilities, and Utility Poles, may be  
21 Placed and Maintained within the Public Rights-of-way subject to the County's consideration of the  
22 following standards and minimum requirements:  
23

- 24 (1) *Sufficiency of space to accommodate present and pending applications for use of the*  
25 *Public Rights-of-way.* The sufficiency of space to accommodate all of the present and  
26 pending applications to place other Communications Facilities, Utility Poles, Utilities,  
27 and other structures within the subject area of the Public Rights-of-way;  
28  
29 (2) *Sufficiency of space to accommodate the need for projected public improvements.* The  
30 sufficiency of space to accommodate budgeted County plans for public improvements  
31 or projects adopted as part of the Leon County Capital Improvements Schedule or  
32 other approved capital improvements lists as part of the Tallahassee-Leon County  
33 Comprehensive Plan;  
34  
35 (3) *Impact on traffic and traffic and pedestrian safety.* The impact on traffic and traffic  
36 and pedestrian safety. Such impact evaluation will include, without limitation,  
37 potential traffic and pedestrian interference, interference with the efficient movement  
38 of people and property, interference with sight lines or clear zones for transportation,  
39 pedestrians or public safety purposes; and  
40  
41 (4) *Applicable Codes.* Applicable Codes and State and federal laws and regulations,  
42 including the General Permit Conditions in Section 16-107 and the Objective Design  
43 Standards in Section 16-203.  
44

- 45 (b) A Permit for a proposed At-grade Facility, Below-grade Facility, Wireline Facility, or Utility  
46 Pole shall remain effective for and Construction must be completed within sixty (60) days. The

County Engineer may extend the expiration date of the Permit for good cause.

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

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

### **Sec. 16-203. Objective Design Standards**

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

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

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

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

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

1 (3) At-grade Facilities shall be located in areas with existing foliage or other aesthetic  
2 features to obscure the view of the At-grade Facility or shall be designed to appear  
3 similar to other At-grade Facilities in the same Public Rights-of-way. Any additional  
4 plantings proposed pursuant to this subsection shall be approved by the County. An  
5 Applicant may also utilize a Wrap for At-grade Facilities. An Applicant may propose  
6 a Wrap design not previously approved by the County by applying for and obtaining a  
7 waiver pursuant to Section 16-204. Wraps shall be maintained by the Applicant such  
8 that the Wrap does not peel or significantly fade.  
9

10 (d) *Maximum height restrictions.* The height of a Utility Pole intended to support the Collocation  
11 of Small Wireless Facilities is limited to the tallest existing Utility Pole as of July 1, 2017, located in  
12 the same County Public Rights-of-way, other than a Utility Pole for which a waiver has previously  
13 been granted, measured from grade in place within five hundred (500) feet of the proposed location  
14 of the Utility Pole intended to support the Collocation of Small Wireless Facilities. If there is no  
15 Utility Pole within five hundred (500) feet, the Utility Pole intended to support the Collocation of  
16 Small Wireless Facilities shall be limited to fifty (50) feet.  
17

18 (e) *Location context.* The following location context standards shall apply to proposed Facilities  
19 and Utility Poles.  
20

21 (1) *Installation at outermost boundary of Public Rights-of-way.* At-grade Facilities and  
22 Utility Poles shall be Placed at the farthest distance practicable from the edge of  
23 pavement unless there is a designated corridor within the Public Rights-of-way.  
24

25 (2) *Equidistant requirement.* Utility Poles are strongly encouraged to be Placed  
26 equidistant between existing Utility Poles, if any, within the Public Rights-of-way.  
27

28 (3) *Common property line.* For Placement within Residential Blocks, Utility Poles are  
29 strongly encouraged to be Placed at the common property line of the Parcels that Abut  
30 the Public Rights-of-way.  
31

32 (4) *Prohibition against Placement that significantly impairs view from principal*  
33 *structures within Residential Blocks.* At-grade Facilities and Utility Poles, shall be  
34 Placed such that views from principal structures within Residential Blocks are not  
35 significantly impaired.  
36

37 (5) *Prohibition against Placement in location where facilities are placed underground.*  
38 At-grade Facilities, aerial Wireline Facilities, and Utility Poles in the Public Rights-of-  
39 way shall comply with undergrounding requirements of the County that prohibit  
40 aboveground structures in the Public Rights-of-way.  
41

42 (6) *Tree Removal.* The Placement or Maintenance of a Communications Facility or Utility  
43 Pole that results in the Tree Removal of a Protected Tree within the Canopy Road Tree  
44 Protection Zones shall comply with the conditions outlined in Section 10-4.206(b)(5),  
45 as determined by the Development Review Committee, and abide by the tree  
46 replanting requirements in Section 10-4.364(b). The Placement or Maintenance of a

1 Communications Facility or Utility Pole that results in the Tree Removal of a  
2 Protected Tree that is not within the Canopy Road Tree Protection Zones shall comply  
3 with the conditions outlined in Section 10-4.364(a) and abide by the tree replanting  
4 requirements in Section 10-4.364(b). Notwithstanding any other Code, the County  
5 Engineer shall determine if the proposed Tree Removal meets the conditions of  
6 Section 10-4.364(a) and the tree replanting requirements in 10-4.364(b).  
7

- 8 (7) *Prohibition against Placement in violation of OSHA or NESC rules and regulations.*  
9 At-grade Facilities, Below-grade Facilities, Wireline Facilities, and Utility Poles shall  
10 not be Placed in a location which violates rules and regulations set by the  
11 Occupational Safety and Health Administration or the National Electric Safety Code.  
12

13 **Sec. 16-204. Waiver of the Objective Design Standards for At-grade Facilities, Below-grade**  
14 **Facilities, Wireline Facilities, and Utility Poles.**  
15

16 (a) The waiver provisions listed in this subsection apply in those circumstances where a  
17 Provider's use of the Public Rights-of-way is impaired by strict application of the requirements of  
18 this Article. Objective design standards provided in Section 16-107 and Section 16-203 may be  
19 waived by the County Engineer.  
20

21 (b) A request for a waiver shall be filed contemporaneously with the Permit application. The  
22 request for waiver shall state each Section or subsection for which a waiver is being sought. A request  
23 for a waiver shall include the following information:  
24

- 25 (1) A detailed explanation, with supporting engineering or other data, as to why a waiver  
26 from the requirements of this Article is required, including a detailed explanation  
27 addressing the relevant criteria to be considered by the County Engineer as provided in  
28 subsection (c);  
29  
30 (2) Design of the proposed At-grade Facility or Utility Pole, with particular reference to  
31 achieving compatibility with the Surrounding Neighborhood and eliminating adverse  
32 visual impacts on the Surrounding Neighborhood; and  
33  
34 (3) Any other information the County Engineer may reasonably require to process the  
35 request for waiver.  
36

37 (c) The County Engineer shall consider the following criteria when determining whether to grant  
38 or deny a request for a waiver:  
39

- 40 (1) Any special conditions and circumstances affecting the proposed site which prevent  
41 compliance with the Section or subsection for which a waiver is being sought;  
42  
43 (2) The compatibility of the proposed Communications Facility or Utility Pole with  
44 Adjacent Properties and the Surrounding Neighborhood;  
45  
46 (3) If there is an excessive expense associated with compliance with the Section or

subsection for which a waiver is being sought; or

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

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

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

### **Division 3. Wireless Facility Standards**

#### **Sec. 16-300. Applicability.**

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

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

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

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

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

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

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

(c) Wireless Facilities shall not be permitted in the Public Rights-of-way except as permitted in

1 this Article, unless otherwise permitted by applicable State or federal laws or regulation.

2  
3 (d) The approval of the installation, Construction, Placement, Maintenance, or operation of a  
4 Small Wireless Facility pursuant to this Article does not authorize the provision of any voice, data, or  
5 video communications services or the installation, Placement, Maintenance, or operation of any  
6 Communications Facilities other than Small Wireless Facilities in the Public Rights-of-way.

7  
8 **Sec. 16-302. Permit Requirements; Application; Review Timeframes.**

9  
10 (a) *Permit Required.* A Registrant shall not commence to Place or Maintain a Wireless Facility in  
11 the Public Rights-of-way until all applicable Permits have been issued by the County, except for  
12 Limited Work as provided in subsection (b), unless otherwise authorized by Applicable Codes or  
13 State or federal laws or regulations. A Registrant may submit a Consolidated Permit Application and  
14 receive a single Permit for the Collocation of up to thirty (30) Small Wireless Facilities. The  
15 Registrant acknowledges that as a condition of granting Permits, the County may impose reasonable  
16 conditions governing the Placement or Maintenance of a Wireless Facility in the Public Rights-of-  
17 way as set forth in Section 337.401, F.S., as amended. Permits shall apply only to the areas of the  
18 Public Rights-of-way specifically identified in the Permit.

19  
20 (b) *Permit Not Required.*

21  
22 (1) A Registrant shall be allowed to perform Limited Work within the Public Rights-of-  
23 way without first obtaining a Permit if such proposed Limited Work does not involve  
24 excavation or the closure of a vehicle lane. As used in this section, the term *Limited*  
25 *Work* shall mean:

- 26  
27 a. Routine maintenance;  
28 b. Replacement of an existing Wireless Facility with a Wireless Facility that is  
29 substantially similar or of the same or smaller size; or  
30 c. Installation, Placement, Maintenance, or replacement of a Micro Wireless  
31 Facility that is suspended on cable strung between Existing Structures in  
32 compliance with Applicable Codes by or for a Communications Services  
33 Provider authorized to occupy the Public Rights-of-way and who is remitting  
34 Communications Services Tax.

35  
36 (2) Prior to performing any Limited Work, a Registrant shall provide reasonable advance  
37 written notice to the County identifying the areas where such maintenance will occur,  
38 scope of maintenance, date(s) and duration of work to be performed. If any Limited  
39 Work requires the closure of a vehicle lane, a lane closure Permit shall be required.

40  
41 (3) A Registrant shall be allowed to perform Emergency Maintenance within the Public  
42 Rights-of-way without first obtaining a Permit. However, a Registrant shall provide  
43 prompt notice to the County of the Emergency Maintenance and, within fifteen (15)  
44 days of completing the Emergency Maintenance, apply for a Permit in accordance  
45 with subsection (d) herein if such activity required a Permit under this Article. As used

1 in this Section, the term *Emergency Maintenance* means the repair or replacement of a  
2 Wireless Facility as a result of a condition that affects the public health, safety or  
3 welfare, which includes an unplanned out-of-service condition of a preexisting service.  
4

- 5 (4) The County Engineer may issue an immediate stop work order where any Limited  
6 Work poses a serious threat to the health, safety or welfare of the public until such  
7 time as such serious threat has been abated.  
8

9 (c) *Presubmittal conference.* Prior to submitting a Permit application, the Applicant is strongly  
10 encouraged to schedule a presubmittal conference with the County. A pre-submittal conference is not  
11 required prior to submitting a Permit application.  
12

13 (d) *Permit Application.* As part of any Permit application to Place or Maintain a Small Wireless  
14 Facility or in the Public Rights-of-way, the Registrant shall provide a Permit application or  
15 Consolidated Permit Application that sets forth, at a minimum, the following:  
16

- 17 (1) *Engineering plan.* An engineering plan signed and sealed by a Florida licensed  
18 professional engineer, that includes:  
19
- 20 a. The type of proposed Wireless Facility including the dimensions, volume,  
21 height, footprint, and stealth design and concealment features of the proposed  
22 Small Wireless Facility, and location of the proposed Small Wireless Facility,  
23 including whether the proposed Small Wireless Facility is proposed within a  
24 location subject to restrictions pursuant to Section 16-304(e)(1);
  - 25 b. The type of structure intended to support the Small Wireless Facility, such as  
26 an Existing Structure, Repurposed Structure, or new Utility Pole intended to  
27 support the Collocation of the Small Wireless Facility, including supporting  
28 documentation that the structure can support the additional load of the  
29 proposed Small Wireless Facility, if applicable;
  - 30 c. The distance of the proposed Small Wireless Facility, including ground-  
31 mounted equipment, and nearby pavement, sidewalks, driveways, ramps, trees,  
32 underground Utilities and other above-grade and below-grade structures and  
33 Utilities located nearby within the Public Rights-of-way;
  - 34 d. The Global Positioning System (GPS) coordinates of the proposed Small  
35 Wireless Facility. The GPS coordinates shall be based on the reading from a  
36 handheld mobile GPS unit set to Datum NAD 83 or WGS84. GPS coordinates  
37 based on Google Earth or similar application may be used where areas of  
38 shading occur due to overhead canopy. GPS Coordinates shall be provided in  
39 decimal degrees at a six (6) decimal point precision;
  - 40 e. Sufficient specificity demonstrating compliance with the Florida Building  
41 Code and other Applicable Codes, including but not limited to sight lines or  
42 clear zone standards and specifications for transportation, pedestrians, and  
43 public safety as provided in the Florida Department of Transportation Plans  
44 Preparation Manual, Florida Department of Transportation Manual of Uniform  
45 Minimum Standards for Design, Construction and Maintenance for Streets and  
46 Highways (the Florida Greenbook), and the Florida Department of



1 Transportation Design Standards, as amended, and the National Electric Safety  
2 Code;

- 3 f. Trees and landscaping to be removed or impacted upon the Placement or  
4 Maintenance of the proposed Small Wireless Facility. The Placement or  
5 Maintenance of a Small Wireless Facility that results in the Tree Removal of a  
6 Protected Tree within the Canopy Road Tree Protection Zones shall provide  
7 additional information and documentation in accordance with Sections 10-  
8 4.206(b)(2) and 10-4.206(c)(1). The Placement or Maintenance of a Small  
9 Wireless Facility that results in the Tree Removal of a Protected Tree outside  
10 of the Canopy Road Tree Protection Zone shall provide additional information  
11 and documentation in accordance with Section 10-4.206(c)(1).  
12

- 13 (2) *Description of installation or Construction.* The Applicant shall provide a description  
14 of the manner in which the Small Wireless Facility will be Placed or Maintained (i.e.  
15 anticipated Construction methods or techniques).  
16
- 17 (3) *Pole attachment agreement.* For Collocations on Private Utility Poles, the Applicant  
18 shall provide a copy of a valid pole attachment agreement for the Collocation of the  
19 proposed Small Wireless Facility. In lieu of providing the complete pole attachment  
20 agreement between the owner of the Private Utility Pole and Applicant, the Applicant  
21 may provide the first page of such agreement and the signature page or a notarized  
22 letter of authorization from the owner of the Private Utility Pole, providing adequate  
23 identifying information, acceptable to the County, and indicating the Applicant is  
24 authorized to Collocate on the identified Private Utility Pole.  
25
- 26 (4) *Stealth design.* The Applicant shall provide a description of stealth design to be  
27 utilized pursuant to Section 16-304(b).  
28
- 29 (5) *Temporary sidewalk closure plan.* The Applicant shall provide a temporary sidewalk  
30 closure plan, if applicable, to accommodate Placement or Maintenance of the Small  
31 Wireless Facility.  
32
- 33 (6) *Temporary maintenance of traffic (MOT) plan.* The Applicant shall provide a  
34 temporary traffic lane closure and maintenance of traffic (MOT) plan, if applicable, to  
35 accommodate Placement or Maintenance of the Small Wireless Facility.  
36
- 37 (7) *Restoration plan and estimate cost of restoration of the Public Rights-of-way.* If  
38 applicable, a restoration plan and a good faith estimate of the cost of restoration of the  
39 Public Rights-of-way. Such good faith estimate shall be accepted by the County unless  
40 the County Engineer determines such estimated costs are not representative of the  
41 actual costs of the restoration of the Public Rights-of-way. Estimates of the cost to  
42 restore the Public Rights-of-way shall include all costs necessary to restore the Public  
43 Rights-of-way to its original condition. Such good faith estimate shall include, but is  
44 not limited to, costs to restore the paving, curbs/gutters, sidewalks, multi-purpose  
45 trails, and landscaping. All planted or naturally occurring shrubbery or vegetation,  
46 including sod, damaged or destroyed during work in the Public Rights-of-way shall be

1 replaced, except Tree Removals as allowed by the Permit.  
2

3 (8) *Timetable for Construction or installation.* The timetable for Placement or  
4 Maintenance of the proposed Small Wireless Facility or each phase of the Placement  
5 or Maintenance thereof.  
6

7 (9) *Indemnification.* A statement shall be included within the Permit application that by  
8 execution of the application, the Registrant shall be bound to the County with respect  
9 to the indemnification provisions set forth in Section 16-112 .  
10

11 (e) *Application review timeframes.* An application for a Permit for a Small Wireless Facility,  
12 Repurposed Structure, and Utility Pole intended to support the Collocation of Small Wireless  
13 Facilities within the Public Rights-of-way shall be reviewed by the County as follows:  
14

15 (1) *Notice of application deficiency.* Within fourteen (14) days after the date of filing an  
16 application, unless the timeframe is mutually extended, for the Collocation of a Small  
17 Wireless Facility, Repurposed Structure, or Utility Pole intended to support the  
18 Collocation of Small Wireless Facilities the County Engineer shall determine whether  
19 the application is complete. If an application is deemed incomplete, the County  
20 Engineer shall notify the Applicant by electronic mail and specifically identify the  
21 missing information. An application shall be deemed complete if the County Engineer  
22 fails to notify the Applicant otherwise within fourteen (14) days after the date of filing  
23 the application.  
24

25 (2) *Request for alternative location.* Within fourteen (14) days after the date of filing the  
26 application for Collocation of a Small Wireless Facility, the County Engineer may  
27 request that the proposed location of the Small Wireless Facility be moved to another  
28 location and be placed on another Existing Structure or by placing a new Utility Pole  
29 intended to support the Collocation of Small Wireless Facilities. The County and  
30 Applicant may negotiate the alternative location, including objective design standards  
31 and reasonable spacing requirements for ground-mounted equipment for thirty (30)  
32 days after the County submits the request. The Applicant shall notify the County of its  
33 acceptance or rejection within this thirty (30) day negotiating period. If the Applicant  
34 accepts the alternative location, the application shall be deemed granted for the  
35 agreed-upon alternative location and all other locations in the application. If the  
36 requested alternative location is rejected by the Applicant, the County Engineer shall  
37 approve or deny the original application within ninety (90) days after the date the  
38 application was filed.  
39

40 (3) *Application review period.* Within sixty (60) days after the date of filing an application  
41 for the Collocation of a Small Wireless Facility, the County Engineer shall approve or  
42 deny the application. If the County Engineer does not submit a request for an alternate  
43 location as provided in subsection (2), the County Engineer and the Applicant may  
44 mutually agree to extend the sixty (60) day application review period.  
45

46 (4) *Notice of denial; resubmission.* Should the application be denied, the County Engineer

1 shall notify the Applicant by electronic mail on the day the application is denied and  
2 specify in writing the basis for denial, including the specific Code provisions on which  
3 the denial is based. The Applicant may cure the deficiencies identified by the County  
4 Engineer and resubmit the application within thirty (30) days after the notice of denial  
5 is sent. The County Engineer shall approve or deny the revised application within  
6 thirty (30) days after the date of filing the application. Any subsequent review shall be  
7 limited to the deficiencies cited in the notice of denial. A denial of a Permit may be  
8 appealed pursuant to Section 16-110.  
9

10 (5) *Consolidated Permit Applications.* The County may separately address each proposed  
11 Collocated Small Wireless Facility for which incomplete information has been  
12 received or which are denied.  
13

14 (6) *Deemed approved.* Prior to commencing Construction, a Person with a deemed  
15 approved Permit must be registered pursuant to Section 16-103, and must file a  
16 performance bond and security fund with the County pursuant to this Article.  
17

18 **Sec. 16-303. Small Wireless Facility Collocation Permit Conditions.**  
19

20 (a) The County Engineer may deny a proposed Collocation of a Small Wireless Facility in the  
21 Public Rights-of-way if the proposed Collocation:  
22

23 (1) Materially interferes with the safe operation of traffic control equipment;  
24

25 (2) Materially interferes with sight lines or clear zone standards and specifications for  
26 transportation, pedestrians, or public safety purposes as provided in the Florida  
27 Department of Transportation Plans Preparation Manual, Florida Department of  
28 Transportation Manual of Uniform Minimum Standards for Design, Construction and  
29 Maintenance for Streets and Highways (the Florida Greenbook), and/or the Florida  
30 Department of Transportation Design Standards, as amended;  
31

32 (3) Materially interferes with compliance with the Americans with Disabilities Act, 42  
33 U.S.C. Sec. 12101, et seq, or similar federal or State standards regarding pedestrian  
34 access or movement;  
35

36 (4) Materially fails to comply with the 2010 edition of the Florida Department of  
37 Transportation Utility Accommodation Manual; or  
38

39 (5) Fails to comply with Applicable Codes governing Placement or Maintenance of Small  
40 Wireless Facilities within the Public Rights-of-way, including the General Permit  
41 Conditions in Section 16-107 and the Objective Design Standards in Section 16-304.  
42

43 (b) A Permit for the Collocation of a Small Wireless Facility shall remain effective for and  
44 Construction must be completed within one (1) year. The County Engineer may extend the expiration  
45 date of the Permit for good cause.  
46

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

#### **Sec. 16-304. Objective Design Standards**

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

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

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

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

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

(c) *Concealment.* The following concealment standards shall apply to proposed Small Wireless Facilities.

- (1) Applicants shall not Place or Maintain Signage on Communications Facilities in the Public Rights-of-way, unless otherwise required by applicable State or federal laws or regulations, or as permitted by the County.
- (2) A Small Wireless Facility shall not have any type of lighted signal, lights, or illuminations unless required by applicable State or federal laws or regulations or as permitted by the County.
- (3) Ground-mounted equipment for Small Wireless Facilities shall be located within a ten (10) foot radius of the supporting structure for the Small Wireless Facility and, if possible, in areas with existing foliage or other aesthetic features to obscure the view of the ground-mounted equipment. The ground-mounted equipment shall be designed to appear similar to other at-grade facilities in the same Public Rights-of-way and may be further concealed with additional plantings. Any additional plantings proposed pursuant to this subsection shall be approved by the County. An Applicant may also utilize a Wrap for At-grade Facilities. An Applicant may propose a Wrap design not previously approved by the County by applying for and obtaining a waiver pursuant to Section 16-204. Wraps shall be maintained by the Applicant such that the Wrap does not peel or significantly fade.
- (d) *Maximum height restrictions.* A Small Wireless Facility, including any attached Antennas, shall not exceed ten (10) feet above the Existing Structure, Repurposed Structure or Utility Pole upon which the Small Wireless Facility is to be Collocated.
- (e) *Location context.* The following location context standards shall apply to proposed Small Wireless Facilities.
- (1) *Prohibition against Placement within a location subject to Homeowners' Association restrictions.* Small Wireless Facilities shall not be Collocated in a location subject to covenants, restrictions, articles of incorporation, or bylaws of a Homeowners' Association unless specifically authorized by the Homeowners' Association. This subsection shall not limit the installation, Placement, Maintenance, or replacement of Micro Wireless Facilities on any existing and duly authorized aerial Wireline Facility.
- (2) *Prohibition against Placement in location where facilities are placed underground.* Small Wireless Facilities shall comply with nondiscriminatory undergrounding requirements of the County that prohibit aboveground structures in the Public Rights-of-way. Any such requirements may be waived by the County pursuant to Section 16-305.
- (3) *Tree Removal.* The Placement or Maintenance of a Small Wireless Facility that results in the Tree Removal of a Protected Tree within the Canopy Road Tree Protection Zones shall comply with the conditions outlined in Section 10-4.206(b)(5), as determined by the Development Review Committee, and abide by the tree replanting requirements in Section 10-4.364(b). The Placement or Maintenance of a Small

1 Wireless Facility that results in the Tree Removal of a Protected Tree that is not within  
2 the Canopy Road Tree Protection Zones shall comply with the conditions outlined in  
3 Section 10-4.364(a) and abide by the tree replanting requirements in Section 10-  
4 4.364(b). Notwithstanding any other Code, the County Engineer shall determine if the  
5 proposed Tree Removal meets the conditions of Section 10-4.364(a) and the tree  
6 replanting requirements in 10-4.364(b). Tree Removal is not permitted within the  
7 Public Rights-of-way to increase signal strength or provide a line-of-sight.  
8

- 9 (4) *Prohibition against Placement in violation of OSHA or NESC rules and regulations.*  
10 Small Wireless Facilities shall not be placed in a location which violates rules and  
11 regulations set by the Occupational Safety and Health Administration or the National  
12 Electric Safety Code.  
13

14 **Sec. 16-305. Waiver of Objective Design Standards for Small Wireless Facilities.**  
15

16 (a) Objective design standards provided in Section 16-107 and Section 16-304 may be waived by  
17 the County Engineer upon a showing that the objective design standards are not reasonably  
18 compatible for the particular location of a Small Wireless Facility or that the objective design  
19 standards impose an excessive expense.  
20

21 (b) A request for a waiver shall be filed contemporaneously with the Permit application. The  
22 request for waiver shall state each Section or subsection for which a waiver is being sought. A request  
23 for a waiver shall include a detailed explanation, with supporting engineering or other data, as to why  
24 a waiver from the requirements of this Article is required.  
25

26 (c) In granting any waiver, the County Engineer may impose conditions to the extent the County  
27 Engineer concludes such conditions are necessary to minimize any adverse effects of the proposed  
28 Small Wireless Facility on the Surrounding Neighborhood or to protect the health, safety and welfare  
29 of the public.  
30

31 (d) The County Engineer shall grant or deny a request for a waiver within forty-five (45) days  
32 after receiving the request for waiver. Should a request for waiver, and ultimately a Permit, be denied  
33 by the County Engineer, the denial of the waiver may be appealed in conjunction with an appeal of  
34 the Permit denial in accordance with Section 16-110.  
35

36 **Sec. 16-306. Make-Ready Work.**  
37

38 (a) For an Authority Utility Pole that supports aerial Wireline Facility used to provide  
39 Communications Services or electric service, the County, Communications Services Provider,  
40 Wireless Infrastructure Provider, and Pass-through Provider shall comply with the process for make-  
41 ready work under 47 U.S.C. § 224, as amended, and implementing regulations. The good faith  
42 estimate of the Person owning or controlling the pole for any make-ready work necessary to enable  
43 the pole to support the requested Collocation must include pole replacement if necessary.  
44

45 (b) For an Authority Utility Pole that does not support aerial Wireline Facility used to provide  
46 Communications Services or electric service, the County shall provide a good faith estimate for any

1 make-ready work necessary to enable the pole to support the requested Collocation, including  
2 necessary pole replacement, within sixty (60) days after receipt of a complete application. Make-  
3 ready work, including any pole replacement, must be completed within sixty (60) days after the  
4 written acceptance of the good faith estimate by the Applicant. Alternatively, the County may require  
5 the Applicant seeking to Collocate a Small Wireless Facility to provide a make-ready estimate at the  
6 Applicant's expense for the work necessary to support the Small Wireless Facility, including pole  
7 replacement, and perform the make-ready work.

8  
9 (c) If pole replacement is required, the scope of the make-ready estimate is limited to the design,  
10 fabrication, and installation of a Utility Pole that is substantially similar in color and composition.  
11 The County may not condition or restrict the manner in which the Applicant obtains, develops, or  
12 provides the estimate or conducts make-ready work subject to the usual construction restoration  
13 standards for work in the Public Rights-of-way. The replaced or altered Utility Pole shall remain the  
14 property of the County.

#### 15 16 **Section 16-307. Collocation Fees.**

17  
18 The rate to Collocate a Small Wireless Facility on an Authority Utility Pole shall be \$150 per pole  
19 annually. Annual payments shall be due and payable on April 1 of each year. If the payments  
20 required by this Section are not made within ninety (90) days after the due date, the County Engineer  
21 may withhold the issuance of any Permits to the Registrant until the amount past due is paid in full.

22  
23 **SECTION 4.** Section 10-6.812 of the Code of Laws of Leon County, Florida, entitled  
24 "Communication Antennas and Communication Antenna Support Structures" is amended to read as  
25 follows:

26 \*\*\*

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

- 38  
39 (1) Nonconforming uses and structures. To the extent set forth herein, the restrictions on  
40 nonconforming uses and structures contained in Division 3 of Article VI of the Leon  
41 County Code of Laws are modified and supplemented by this section. Bona fide  
42 nonconforming communication antenna support structures or communication antennas  
43 that are damaged or destroyed may be rebuilt and all such communication antenna  
44 support structures or communication antennas may be modified, reconstructed or  
45 replaced without meeting the minimum setback requirements specified in subsection  
46 (e)(2)(c) hereinafter. The type, height, and location of the communication antenna

support structure on the site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the communication antenna support structure shall comply with the applicable county codes and shall be obtained within 180 days from the date the communication antenna support structure is damaged or destroyed. If no permit is applied for or obtained, or if said permit expires, the communication antenna support structure shall be deemed abandoned as specified in subsection (h) hereinafter.

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

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

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

\*\*\*

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

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

**SECTION 7. Effective Date.** This ordinance shall be effective according to law.

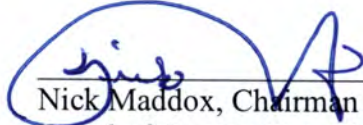


1 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County,  
2 Florida, this 12th day of December, 2017.

3  
4  
5 LEON COUNTY, FLORIDA



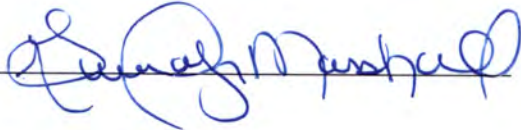
By:

  
Nick Maddox, Chairman  
Board of County Commissioners

13 ATTESTED BY:

14 Gwendolyn Marshall, Clerk of Court  
15 & Comptroller  
16 Leon County, Florida

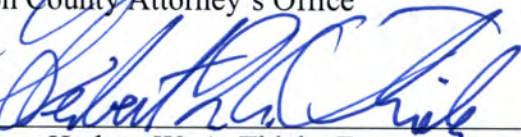
17  
18  
19 By:



22 APPROVED AS TO FORM:

23 Leon County Attorney's Office

24  
25  
26 By:



27 Herbert W. A. Thiele, Esq.  
28 County Attorney