

Executive Summary

Recommendation to adopt an Ordinance amending Ordinance 2017-27, which regulates the placement and permitting of communications facilities within the County right of way.

OBJECTIVE: To clarify and amend the regulations for communications facilities in the County Right-of-Way in accordance with the requirements of House Bill 687, the "Advanced Wireless Infrastructure Deployment Act," as codified in Section 337.401, Florida Statutes.

CONSIDERATIONS: During the 2017 Legislative Session, the Florida Legislature enacted House Bill 687, known as the "Advanced Wireless Infrastructure Deployment Act," codified in Section 337.401, Florida Statutes. The Act requires that a local government allow for the collocation of small wireless facilities on that government's utility poles within the Public Right-of-Way, such as traffic and light poles, but also limits the County's ability to regulate this activity in County Rights-of-Way.

In 2017, Ordinance 2017-27 was adopted by the Board of County Commissioners ("Board"), which implemented the regulatory scheme conferred by the Act and provided for the registration, permitting, and regulation of both small wireless facilities, as well as other new communications facilities, wireless facilities, and wireless support structures, within the County Right-of-Way in unincorporated Collier County.

Ordinance 2017-27 was intended to promote public health, safety and general welfare by providing reasonable rules, regulations and general conditions necessary to manage the placement and maintenance of communications facilities in the County Right-of-Way by all Wireless Providers, to minimize the disruption to the County Right-of-Way, to require the restoration of the County Right-of-Way to its original condition, and to minimize the visual impact of these facilities. The original Ordinance anticipated that an amendment would be required to reflect any necessary changes due to the uncertainties that existed when the Statute and Ordinance were originally written, as well as advancements in the technology of the wireless industry.

This proposed Ordinance amendment is intended to clarify insurance requirements for these providers and to specify when a permit is required and when inspections may be conducted.

FISCAL IMPACT: The costs associated with processing and advertising the proposed Ordinance are estimated at \$50.00. Funds have been allocated within Fund (1014) cost center (138361) Right-of-Way.

GROWTH MANAGEMENT IMPACT: There is no growth management impact associated with this action.

LEGAL CONSIDERATIONS: This Ordinance has been reviewed by the County Attorney, is approved as to form and legality, and requires a majority vote for Board adoption. -JAK

RECOMMENDATION(S): To adopt an Ordinance, amending Ordinance 2017-27, which regulates the permitting and placement of communications facilities within the County right of way.

PREPARED BY: Jaime Cook, Director, Development Review Division, Growth Management Community Development Department

ATTACHMENTS:

1. Ordinance - Public Hearing Amendment (2)
2. Business Impact Estimate
3. 05-12-2266 BCC - Amend Ord. 17-27 Re Communication Facilities in ROW
4. 05-12-2266 BIE - Amend Ord. 17-27 Re Communication Facilities in ROW

ORDINANCE NO. 2026-_____

AN AMENDMENT TO ORDINANCE 2017-27, KNOWN AS THE COMMUNICATIONS FACILITIES IN THE COUNTY RIGHTS-OF-WAY ORDINANCE; PROVIDING FOR AN AMENDMENT TO SECTION THREE, FIVE, SIX AND NINE OF ORDINANCE 2017-27 BY CLARIFYING THE INSURANCE REQUIREMENTS, THE INSTANCES IN WHICH A PERMIT IS REQUIRED AND WHEN INSPECTIONS MAY BE CONDUCTED; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA:

WHEREAS, on June 27, 2017, the Board of County Commissioners of Collier County ("Board") adopted Ordinance No. 2017-27, the Communications Facilities in the County Rights-of-Way Ordinance; and

WHEREAS, the Board wishes to amend the Ordinance in order to clarify requirements and instances in which inspections will be conducted.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY FLORIDA, THAT:

SECTION ONE: Amendment of Section 110-123, Registration Requirements, is hereby amended as follows:

- (1) *Registration Required.* Any Communications Services Provider, Wireless Provider, or Wireless Infrastructure Provider that places or seeks to place Facilities in the County Rights-of-Way shall register with the County.
- (2) *Registration Information.* Any Communications Services Provider, Wireless Provider or Wireless Infrastructure Provider shall provide the following information to the County:

- (a) Name of the registrant;
 - (b) If the registrant is a corporation or limited liability company, proof of authority to do business in the State of Florida;
 - (c) Name, address, telephone number, and electronic mail address of a contact person for the registrant;
 - (d) The number of the registrant's current certificate of authorization issued by the Florida Public Service Commission, the Federal Communications Commission, or the Department of State; and
 - (e) ~~Proof of insurance or self-insuring status adequate to defend and cover claims.~~ Proof of insurance consistent with the provisions of Section 337.401, *Florida Statutes* and comprehensive general liability insurance with a minimum limit of three million dollars (\$3,000,000.00) for each occurrence of personal injury, bodily injury, or property damage.
- (3) *Review and approval.* Within thirty (30) days after receipt of the information submitted by the Applicant, the County shall determine whether the applicant for Registration contains all information and documentation required and shall advise the Applicant of any areas of deficiency in writing. The Applicant shall resubmit the required information and documentation within thirty (30) days of the date of the notice of deficiency, otherwise the application for Registration is considered withdrawn. A notice of deficiency and/or denial of Registration shall not preclude an Applicant from reapplying or filing subsequent applications for Registration under the provisions of this Section. An Applicant has thirty (30) days after receipt of the notice of denial to appeal the decision as provided herein.
- (4) *Cancellation.* A Registrant may cancel a Registration upon written notice to the County stating that it will no longer place or maintain any Communications Facilities in the County Rights-of-Way and will no longer need to obtain permits to perform work in the County Rights-of-Way. A Registrant cannot cancel a Registration if the Registrant continues to place or maintain any Communications Facilities in the County Rights-of-Way.
- (5) *Registration Updates.* Within thirty (30) days of any change in the information required to be submitted, a Registrant shall provide updated information to the County.
- (6) *Registration Renewal.* Each Registrant shall renew its Registration by April 1 of years ending in "0" or "5" (such as 2020, 2025, 2030, etc.) in accordance with the registration requirements of this Article. Registration Renewals shall include an inventory of the Registrant's newly installed Communications Facilities or Abandoned Communications Facilities within the County Rights-of-Way place since the most recent renewal or update. Failure to renew a Registration may result in the County restricting the submittal and acceptance of any additional Permit applications until the Communications Services

Provider, Communications Facility Provider or the Pass-Through Provider has complied with the Registration requirements of this Article.

- (7) *Notice of Transfer, Sale or Assignment of Assets in County Rights-of-Way.* An Applicant shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, a Registration granted pursuant to this Article without having first provided the County with at least thirty (30) days written notice of the same. Further, any such Person to whom such transfer has been made, must register with the County in accordance with this Article within sixty (60) days of the transfer. If Permit Applications are pending in the Applicant's name, the transferee, buyer or assignee shall notify the County that the transferee, buyer or assignee shall notify the County that the transferee, buyer or assignee is the new Applicant.
- (8) *Compliance Required.* A Registrant shall at all times comply with and abide by all applicable provisions of State and federal law and County ordinances, codes and regulations in placing or maintaining a Communications Facility in the County Rights-of-Way.
- (9) A violation of the requirements of this Section shall be a violation of this Article and the Applicant who is alleged to have violated any of the provisions of this Section may be subject to the enforcement remedies set forth in this Article.

SECTION TWO: Amendment of Sec. 110-125, General Permitting Requirements, is hereby amended as follows:

- (1) *Applicability.* The provisions of this Article shall apply to County Rights-of-Way in both the unincorporated areas of the County and those locations where the County holds a proprietary interest in the County Rights-of-Way. It shall not apply in the incorporated areas where the County does not hold a proprietary interest.
- (2) *Proprietary Interests of the County.* Because of the proprietary interests the County holds in the County Rights-of-Way, the placement of Communications Facilities within County Rights-of-Way shall in all cases be subject to the ~~discretionary~~ County Rights-of-Way permit process.
- (3) *Permit Required.* Except for those exempt activities specifically listed below, it shall be unlawful for any person to place any Communication Facilities, Equipment or Facilities, or related equipment in the County Rights-of-Way without a County Right-of-Way Permit.
 - (a) *Permit Applications.* Applications to place a ~~Wireless~~ any Communications Facility in County Rights-of-Way shall contain the following:

1. The name and address of the Applicant who is requesting the permit and written evidence that such Applicant has legal authority to place, maintain, or remove the Equipment or Facilities covered by the requested permit in the County Rights-of-Way and will own and control all such Equipment and Facilities after completion of construction;
2. An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in F.S. § 471.003, identifying the location of the proposed facility, including a description of the facilities to be installed, where it is to be located, and the approximate size of facilities and equipment that will be located in County Rights-of-Way;
3. A description of the manner in which the facility will be installed (i.e. anticipated construction methods and/or techniques);
4. The timetable for construction of the project or each phase thereof, and the areas of the County which will be affected;
5. A county-approved traffic control plan for vehicular and pedestrian traffic in the area to be affected by the proposed work;
6. Proof of insurance, consistent with the provisions of Section 337.401, Florida Statutes and comprehensive general liability insurance with a minimum limit of three million dollars (\$3,000,000.00) for each occurrence of personal injury, bodily injury, or property damage;
7. Identification and description of any utility or other distribution or transmission system to which any Equipment or Facility covered by the requested permit is to be connected or attached;
8. Drawings (in such detail and form as may be specified by the County) which show: County Rights-of-Way in the area of the proposed construction; locations of all existing Equipment and Facilities in the area of proposed construction; all Equipment and Facilities to be installed or removed; the routes of all transmission and distribution lines to be installed or removed; and the sites of all other Equipment and Facilities to be installed or removed in the County Rights-of-Way;
9. Application fee per the Collier County Right-of-Way Fee Schedule, as may be amended from time to time; and
10. Such additional information that the County finds reasonably necessary to review the Application.
11. A written certification or attestation, in a form acceptable to the County, that the proposed Communication Facilities, Equipment, and work authorized by the permit comply with and abide by all applicable

state and federal regulations, including but not limited to, §337.401, Florida Statutes, 47 U.S.C. §332, and orders issued by the Federal Communications Commission, as amended, together with such supporting documentation as the County may reasonably require to verify such compliance.

(4) *Exemptions.* The following activities are exempt from the requirements of this Article:

- (a) Emergency Actions, but the County reserves authority to require an after-the-fact permit; and
- (b) Routine Maintenance and Repair of: Communications Facilities, Wireless Facilities, Small Wireless Facilities, Micro Wireless Facilities, Wireless Support Structures, or Utility Poles authorized to be located within the County Rights-of-Way.
- ~~(c) Installation, construction, or modification of: Communications Facilities, Wireless Facilities, Small Wireless Facilities, Micro Wireless Facilities, Wireless Support Structures, or Utility Poles by the County or approved as part of a County-initiated project within the County Rights-of-Way; and~~
- ~~(d) Placement or operation of Communications Facilities in the County Rights-of-Way by a Communications Services Provider authorized by state law to operate in the rights-of-way. Under Section 362.01, Florida Statutes, any telegraph or telephone company chartered by this or another state, or any individual operating or desiring to operate a telegraph or telephone line, or lines, in this state, may erect posts, wires or other fixtures for telegraph or telephone purposes on or beside any public road or highway; provided, however, that he same shall not be set as to obstruct or interfere with the common uses of said roads or highways.~~

(5) *Emergency Action.* Any person who performs work in the County Rights-of-Way in connection with an Emergency Action without a permit shall immediately notify the County of the Emergency Action. The person shall cease all work immediately upon completion of Emergency Action. The person shall also cease all work immediately upon receipt of a County stop work order determining the situation does not involve an emergency or that the Emergency Action is no longer warranted.

(6) *Effective Life of Approved Permit Application.* A permit issued pursuant to an approved application shall remain effective for one year unless extended by the County for an additional year. The County may only grant a single extension.

(7) *Revocation.* The County may revoke any permit granted pursuant to this Article, without refunding any fees, if it finds that an Applicant has not complied with applicable law,

including any provision of a permit, this Code, or any franchise, license, or other authorization, or that revocation is necessary to protect the public health, safety, or welfare.

- (8) *Avoidance of interference, displacement, damage or destruction or destruction of other facilities, endangerment of life and property.* A Registrant shall not place or maintain its Communications Facilities so as to interfere with, displace, damage or destroy any facilities, including but not limited to sewers, gas or water mains, storm drains, storm drainage lines, pipes, cables or conduits of the County of any other Person's facilities lawfully occupying the County Rights-of-Way and shall not endanger the life or property of other persons.
- (9) *Coordination with other work in County Rights-of-Way.* Upon request of the County, and as notified by the County of other work, construction, installation, or repairs, a Registrant is encouraged to coordinate Placement or Maintenance activities under a Permit with any other work, construction, installation, or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject County Rights-of-Way, and the Registrant may be required to reasonable alter its Placement or Maintenance schedule as necessary so as to minimize disruptions and disturbance in the County Rights-of-Way.
- (10) *Maintenance in accordance with industry standards and applicable law.* A Registrant shall maintain its Communication Facilities in good condition, order, operation and repair in a manner consistent with accepted industry practice and applicable law.
- (11) *Safety practices; encourage strengthening utility infrastructure and infrastructure hardening plan.* All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of Communication Facilities. The County strongly encourages strengthening utility infrastructure and in particular as it relates to flooding and hurricane related events, and registrants are encouraged to implement an infrastructure hardening plan for any Communication Facilities within the County Rights-of-Way.
- (12) *As-Built Plans and GPS Coordinates.* Upon completion of work authorized by a permit for a Small Wireless Communications Facility or a Wireless Support Structure, in the event that field work resulted in changes from the permit plans, the applicant shall furnish to the County the exact GPS coordinates of the Small Wireless Communications Facility or Wireless Support Structure, at no cost to the County, and one complete set of sealed as-built plans. The as-built plans shall be in an electronic format specified by the County.
- (13) *Discretion to Include Conditions.* The County may include conditions on permits to ensure adherence to the County Code of Ordinances and adequate protection of the public's health, safety and welfare. These conditions may include, but are not limited to, interim or

temporary restoration, patching, or resurfacing of the County Rights-of-Way during the construction period.

(14) *Uniform Permit Conditions.* All permits issued pursuant to this Article shall contain the following conditions:

- (a) The Applicant shall remove any rubbish, excess earth, rock, or other debris arising from or associated with any work performed in the County Rights-of-Way or any other property affected by such work on a frequent and regular basis (or as specifically directed by the County), to the satisfaction of the County, and at the expense of the Applicant;
- (b) Unless otherwise specified by the County, the Applicant shall illuminate through use of red lanterns, red lights, or red torches any building material, machinery, motor vehicle, equipment, facility, or other object placed in the County Rights-of-Way, between sunset and sunrise. The permittee shall place such illumination at a distance of not more than five feet from each other along the width of any affected portion of the County Rights-of-Way (or as may be otherwise specified by the County) and not more than 15 feet from each other along the length of the affected portion of the County Rights-of-Way (or as may otherwise be specified by the County);
- (c) Any work performed by an Applicant in the County Rights-of-Way, including restoration, shall be completed by the completion date specified in the permit or as otherwise specified or provided by the County. Upon completion of work (or at such time as may be specified by the County if construction is not completed by the completion date or construction is terminated for any reason, including revocation of the permit), the Applicant shall restore the County Rights-of-Way to a condition which is at least as good as its condition prior to commencement of work. The Applicant shall perform restoration of the County Rights-of-Way in accordance with any specifications or standards regarding materials or any other matter specified by the County. The County may establish generally applicable restoration standards, which apply unless the County specifies other standards in a particular situation or may establish restoration standards on a case-by-case basis.
- (d) If an Applicant fails to restore the County Rights-of-Way, including any paved surface, curbs, or fixtures, to a condition at least as good as its condition prior to commencement of construction or to complete such restoration work by the completion date specified in the permit or as otherwise specified or provided by the County, the County may perform any work or undertake any other activity which it deems necessary to complete such work and/or restore the County Rights-of-Way. The Applicant shall reimburse the County for any such

costs in an amount equal to the sum of the actual cost of any work or other activity undertaken by the County plus 25 percent of such cost as compensation to the County for general overhead and administrative expenses associated with such work and shall pay such costs as directed by the County and not later than 20 calendar days after receipt of a bill;

- (e) An Applicant shall guarantee and maintain any County Rights-of-Way which the County determines has been affected or altered by an excavation in the County Rights-of-Way or any break or cut in any surface of the County Rights-of-Way made by such Applicant for the 24 months following the date of completion of restoration of the affected or altered County Rights-of-Way either by the Applicant or by the County. Such Applicant shall take such action as the County deems necessary to correct any deficiencies in such restoration work within such 24-month period, shall commence such action not later than five calendar days after receipt of notice from the County or such other date as may be specified by the County, and complete such action promptly but not later than the date or any other deadline established by the County. The County may elect to perform any such work itself or undertake any other activity, which it deems necessary to correct any such deficiency during such 24-month period. Such Applicant or person shall be liable to the County for any costs incurred in connection with any such corrective action in an amount equal to the sum of the actual cost of any work or other activity undertaken by the County and shall make pay such costs as directed by the County and not later than 20 calendar days after receipt of a bill;
- (f) An Applicant must provide photographic or video documentation of the condition of the County Rights-of-Way in the area affected by the proposed work post construction;
- (g) An Applicant must provide as-built drawings (in such detail and form as may be specified by the County) which shows the locations of all the Applicant's existing equipment and facilities in the County;
- (h) No Applicant may permanently activate or place in service any equipment or facility in the County Rights-of-Way until such time as the County has approved such activation from the County. The Applicant shall provide notice of completion of construction of such equipment or facility;
- (i) Indemnification as required herein; and
- (j) All as-built plans shall be filed with Sunshine 811 underground locating service.

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

SECTION THREE: Amendment of Sec. 110-125, Permitting Requirements for Small Wireless Facilities, is hereby amended as follows:

(1) *Alternate Location Review.* Upon receipt of a permit application to install a Small Wireless Facility, the County shall have fourteen (14) days to review the application to determine whether the proposed Small Wireless Facility shall be placed on an alternative County Utility Pole or may be installed on a new Utility Pole. In making such a determination, the Administrator shall consider the following objective design standards and reasonable spacing requirements for ground-based equipment:

- (a) All Small Wireless Facilities shall use camouflage techniques which incorporate architectural treatment to conceal or screen their presence from public view through design to unobtrusively blend in aesthetically with the surrounding environment;
- (b) New and replacement Wireless Support Structures and Utility Poles that support Small Wireless Facilities shall match the style, design, and color of the existing Utility Poles in the surrounding area. Further all Wireless Support Structures and Utility Poles shall meet current safety standards in Applicable Codes;
- (c) Ground-based equipment boxes for Small Wireless Facilities must be located in areas with existing foliage or another aesthetic feature to obscure the view of the equipment box. Additional plantings may be required to meet this condition. Any new landscaping in the County Rights-of-Way must be approved by the County Manager or designee, who may require a landscape maintenance agreement to be executed as a condition of the permit;
- (d) For the Collocation on a County Utility Pole, no facilities or equipment as defined in Section Two, Subsection 25 22 (b) of this Article shall be mounted on exterior of the pole;
- (e) If the alternate location is a new Utility Pole, with the exception of electric meters and disconnect switches, equipment such as back-haul components shall not be mounted on the exterior of the pole;
- (f) No exposed wiring or conduit is permitted;
- (g) The grounding rod may not extend above the top of sidewalk and must be placed in a pull box, and the ground wire between the pole and ground rod must be inside an underground conduit; and
- (h) All pull boxes must be vehicle load bearing, complying with FDOT Standard specification 635 and be listed on the FDOT Approved Products List. A concrete apron must be installed around all pull boxes not located in the sidewalk. No new pull boxes may be located in pedestrian ramps.

(2) *Alternate Location Negotiation.* The County may negotiate any alternate location with the Applicant. If an agreement is not reached within thirty (30) days after the date the county

requests an alternate location, the Applicant must notify the County of such non-agreement and the County must grant or deny the original application within ninety (90) days after the date the application was filed. A request for an alternate location, and acceptance of an alternate location, or a rejection of an alternate location must be in writing and provided by electronic mail. Additionally, the design standards may be waived by the County upon a showing by the Applicant that the design standards are not reasonably compatible for the particular location of a Small Wireless Facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within thirty (30) days after the date of the request.

- (3) *Time for Completing Completeness Review of Applications.* For applications in which the County does not request use of an alternate location for small wireless facilities, the County must make a determination as to whether an application is complete within fourteen (14) days. If an application is deemed incomplete, the County must specifically identify the missing information. An application is deemed complete if the County fails to provide notification to the Applicant within fourteen (14) days.
- (4) *Applications Processed on a Nondiscriminatory Basis.* All applications shall be processed on a nondiscriminatory basis. Thus, applications shall be processed on a first-come, first-served basis.
- (5) *Time for Completing Approval or Denial.* The County shall grant or deny an application within sixty (60) days after receipt of the application. If the County fails to act on a complete application within sixty (60) days, the application shall be deemed approved. If the County elects not to negotiate an alternate location, the Applicant and the County may mutually agree to extend the review period. The County shall grant or deny the application at the end of the extended period.
- (6) *Notification of Approval or Denial.* The County shall notify an Applicant of any approval or denial by electronic mail on the same day a decision is made. If the County denies an application, the denial must state in writing the basis for the denial, including the specific code provisions on which the denial was based. In the event of a denial, the Applicant may cure the deficiencies identified by the County and resubmit the application within thirty (30) days after the notice of the denial. The County shall approve or deny the revised application within thirty (30) days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.
- (7) *Consolidated Applications.* An Applicant who seeks to Collocate Small Wireless Facilities may, at the Applicant's discretion, file a consolidated application and receive a single permit for the Collocation of up to thirty (30) Small Wireless Facilities. If the application includes

multiple Small Wireless Facilities, the County may separately address Small Wireless Facility Collocations for which incomplete information has been received or which are denied.

- (8) *Height Limitations for Small Wireless Facilities.* The height of Small Wireless Facilities shall not exceed ten (10) feet above the Authority Utility Pole, Utility Pole, or Wireless Support Structure on which the Small Wireless Facility is to be Collocated.
- (9) *Height of Utility Poles.* The height of a new Utility Pole is limited to the tallest existing Utility Pole as of July 1, 2017, located in the same right-of-way, other than a Utility Pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the Small Wireless Facility. If there is no Utility Pole within 500 feet, the height of the new Utility Pole shall be limited to 50 feet.
- (10) *Permitting Criteria.* The County may deny a proposed Collocation for Small Wireless Facility in the County Rights-of-Way if the proposed Collocation:
- (a) Materially interferes with the safe operation of traffic control equipment;
 - (b) Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes;
 - (c) Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;
 - (d) Materially fails to comply with the 2010 edition of the *Florida Department of Transportation Utility Accommodation Manual*, as may be amended from time to time; or
 - (e) Fails to comply with Applicable Codes or Laws.
- (11) *Collocation on County Utility Poles.* Collocation of Small Wireless Facilities on County Utility Poles shall meet the following requirements:
- (a) The County may not enter into an exclusive agreement with any person for the right to attach equipment to County Utility Poles.
 - (b) The rates and fees for Collocations on County Utility Poles must be nondiscriminatory, regardless of services provided by the Collocating Person.
 - (c) The annual rate to Collocate a Small Wireless Facility on a County Utility Pole shall be consistent with Section 337.401, *Florida Statutes*.
 - (d) The County shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to Collocate its first Small Wireless Facility on a Utility Pole owned or controlled by the County, the County shall make available the rates, fees, and

terms for the Collocation of Small Wireless Facilities on the Utility Pole which comply with this subsection.

1. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.
2. For a County Utility Pole that supports an aerial facility used to provide Communications Services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the request Collocation must include pole replacement if necessary.
3. For a County Utility Pole that does not support an aerial facility used to provide Communications Services or electric service, the County shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the request Collocation, including necessary pole replacement, within 60 days after written acceptance of the good faith estimate by the Applicant. Alternatively, the County may require the Applicant seeking to Collocate a Small Wireless Facility to provide a make-ready estimate at the Applicant's expense for the work necessary to support the Small Wireless Facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a Utility Pole that is substantially similar in color and composition. The County may not condition or restrict the manner in which the Applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the County Rights-of-Way. The replaced or altered Utility Pole shall remain the property of the County.
4. The County may not require more make-ready work than is required to meet applicable code or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to Communication Services Providers other than Wireless Services Providers for similar work and may not include any consultant fee or expense.

- (12) *Attestation of Wireless Services.* A Wireless Infrastructure Provider must include within its Application to place a Utility Pole in the County Rights-of-Way an attestation that the Small Wireless Facility will be used by a Wireless Services Provider for the provision of Communication Services within nine (9) months of the date the application is approved. In

the event a Wireless Services Provider fails to provide Communication Services within the nine (9) months of an approved application, the County may begin proceedings for revocation.

- (13) *Privately-Owned Utility Poles.* Nothing in this section authorizes a person to Collocate or attach Wireless Facilities, including any Antenna, Micro Wireless Facility, or Small Wireless Facility, on a privately-owned Utility Pole, a Utility Pole owned by an electronic cooperative or a municipal electric utility, a privately-owned Wireless Support Structure, or other private property within the consent of the property owner.
- (14) *Limitation on Permitting of Small Wireless Facilities.* Any permit approval by the County for the installation, placement, maintenance, or operation of a Small Wireless Facility under this section does not authorize the provision of any voice, data, or video Communications Services or the installation, placement, maintenance, or operation of any Communications Facilities other than Small Wireless Facilities in the County Rights-of-Way.
- (15) The County shall not require approval or require fees or other charges for:
- (a) Routine maintenance;
 - ~~(b) Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or~~
 - ~~(c) Installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under Chapter 202, Florida Statutes.~~

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

SECTION FOUR: Amendment of Sec. 110-129, Inspections, is hereby amended as follows:

The County may conduct any inspection it deems necessary to administer and enforce this Article or any other State, or County Codes, laws, ordinances, or regulations, or to enforce the conditions of any permit granted, or to enforce related regulations or policies. The County may order a work stoppage or revoke a permit, as it deems necessary in the case of a failure to comply with the provisions of this Article or the conditions of any permit, or to otherwise protect the public health, safety and welfare.

SECTION FIVE: CONFLICT AND SEVERABILITY.

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION SIX: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION SEVEN: EFFECTIVE DATE.

This Ordinance shall be effective upon filing with the Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this ____ day of _____, 2026.

ATTEST:
Crysal Kinzel, Clerk

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: _____
_____, Deputy Clerk

By: _____
Dan Kowal, Chair

Approved as to form and legal sufficiency:

Jeffrey A. Klatzkow, County Attorney

GA
3/26/26



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the County's website by the time notice of the proposed ordinance is published.

Published on County website by: _____[expected legal advertising date]

Proposed ordinance's Short Title:

"Communications Facilities in the County Rights-of-Way" Ordinance

This Business Impact Estimate is provided in accordance with section 125.66(3), Florida Statutes. If one or more boxes are checked below, this means the County is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the County is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☒ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the county government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Development orders and development permits, as those terms are defined in Section 163.3164, and development agreements, as authorized by the Florida Local Government Development Agreement Act under Sections 163-3220-163.3243;
 - b. Comprehensive Plan amendments and land development regulation amendments initiated by application by a private party other than Collier County;
 - c. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - d. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - e. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 125.66(3)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the County hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

This ordinance amends existing Ordinance 2017-27 by clarifying insurance requirements, instances in which a permit is required and when inspections may be conducted, to align with existing Florida Statute 337.401

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the County, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the County's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

Providing a copy of the insurance certificates will not cause an economic impact to the permit holder. Collier County has issued approximately 55 small cell wireless permits since the Ordinance was first adopted in 2017. The permit fee has been set by statute at \$100 per permit; The 2017 Ordinance did not require permits for the replacement of existing small cell wireless facilities or micro wireless facilities, so the impact of now requiring those permits is unknown.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

Since 2017, there have been approximately 6 companies that have applied for small cell wireless permits.

4. Additional information the governing body deems useful (if any):

When Ordinance 2017-27 was passed, it was expected that updates would be needed to the Ordinance as technology improved and if there were any changes to state Statute. These changes further align with Florida Statute by requiring the applicant to demonstrate they have insurance required by Statute as well as all state and federally required permits.



Clerk of the Circuit Court and Comptroller - Crystal K. Kinzel
Collier County, Florida
3315 Tamiami Trail East, Ste. 102 - Naples, FL 34112-5324
Phone: (239) 252-2646

Publication Confirmation

COLLIER COUNTY STATE OF FLORIDA

The attached copy of advertisement,
5-12-26 BCC - Amend Ord. 17-27 Re Communication
Facilities in ROW was published on the publicly
accessible website <https://notices.collierclerk.com> as
designated by Collier County, Florida on 04/22/2026.

THIS IS NOT AN AFFIDAVIT OF PUBLICATION.

NOTICE OF PUBLIC HEARING NOTICE OF INTENT TO CONSIDER AN ORDINANCE

Notice is hereby given that a public hearing will be held by the **Collier County Board of County Commissioners** commencing at **9:00 a.m. on May 12, 2026**, in the Board of County Commissioners meeting room, Third floor, Collier Government Center, 3299 East Tamiami Trail, Naples, FL, to consider:

AN AMENDMENT TO ORDINANCE 2017-27, KNOWN AS THE COMMUNICATIONS FACILITIES IN THE COUNTY RIGHTS-OF-WAY ORDINANCE; PROVIDING FOR AN AMENDMENT TO SECTION THREE, FIVE, SIX AND NINE OF ORDINANCE 2017-27 BY CLARIFYING THE INSURANCE REQUIREMENTS, THE INSTANCES IN WHICH A PERMIT IS REQUIRED AND WHEN INSPECTIONS MAY BE CONDUCTED; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

A copy of the proposed Ordinance is on file with the Clerk to the Board and is available for inspection. All interested parties are invited to attend and be heard.

All persons wishing to speak on any agenda item must register with the County Manager prior to presentation of the agenda item to be addressed. Individual speakers will be limited to 3 minutes on any item. The selection of an individual to speak on behalf of an organization or group is encouraged. If recognized by the Chairman, a spokesperson for a group or organization may be allotted 10 minutes to speak on an item. Written materials intended to be considered by the Board shall be submitted to the appropriate County staff a minimum of 7 days prior to the public hearing. All materials used in presentations before the Board will become a permanent part of the record.

As part of an ongoing initiative to encourage public involvement, the public will have the opportunity to provide public comments remotely, as well as in person, during this proceeding. Individuals who would like to participate remotely should register through the link provided within the specific event/meeting entry on the Calendar of Events on the County website at www.collier.gov/Calendar-Events-directory after the agenda is posted on the County website. Registration should be done in advance of the public meeting or any deadline specified within the public meeting notice. Individuals who register will receive an email in advance of the public hearing detailing how they can participate remotely in this meeting. Remote participation is provided as a courtesy and is at the user's risk. The County is not responsible for technical issues. For additional information about the meeting, please call Geoffrey Willig at 252-8369 or email to Geoffrey.Willig@collier.gov.

Any person who decides to appeal any decision of the Board will need a record of the proceedings pertaining thereto and therefore, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Collier County Facilities Management Division, located at 3335 Tamiami Trail East, Suite 101, Naples, FL 34112-5356, (239) 252-8380, at least two days prior to the meeting. Assisted listening devices for the hearing impaired are available in the Board of County Commissioners Office.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA
DAN KOWAL, CHAIRMAN

CRYSTAL K. KINZEL,
CLERK OF THE CIRCUIT COURT AND COMPTROLLER



Clerk of the Circuit Court and Comptroller - Crystal K. Kinzel
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Published on County website by: April 22, 2026

Proposed ordinance's Short Title:

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¹ See Section 125.66(3)(c), Florida Statutes.

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- d. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
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Providing a copy of the insurance certificates will not cause an economic impact to the permit holder. Collier County has issued approximately 55 small cell wireless permits since the Ordinance was first adopted in 2017. The permit fee has been set by statute at \$100 per permit; The 2017 Ordinance did not require permits for the replacement of existing small cell wireless facilities or micro wireless facilities, so the impact of now requiring those permits is unknown.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

Since 2017, there have been approximately 6 companies that have applied for small cell wireless permits.

4. Additional information the governing body deems useful (if any):

When Ordinance 2017-27 was passed, it was expected that updates would be needed to the Ordinance as technology improved and if there were any changes to state Statute. These changes further align with Florida Statute by requiring the applicant to demonstrate they have insurance required by Statute as well as all state and federally required permits.