

PROPOSED

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO WIRELESS COMMUNICATIONS; REPEALING SECTION 39-102 AND AMENDING CHAPTER 20, ARTICLE XX OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, Section 337.401, Florida Statutes, was amended by CS/CS/CS/SB 1000 (2019) (the "Act");

WHEREAS, the Act limits a local government agency's authority to regulate the placement and maintenance of wireless communications facilities in public rights-of-way;

WHEREAS, the Act provides that a county may prescribe and adopt objective design standards required of wireless communications providers for placement and maintenance of wireless communication facilities in its rights-of-way;

WHEREAS, the Act further provides that a county may adopt reasonable, nondiscriminatory requirements for insurance coverage, indemnification, construction bonds, and force majeure; and

WHEREAS, Broward County ("County"), in accordance with the Act, has developed objective design standards and technical specifications for collocation of small wireless facilities and micro wireless facilities on County-owned utility poles, utility poles within County rights-of-way, and utility poles supporting traffic signal infrastructure operated and maintained by the County through valid interlocal traffic engineering agreements,

1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 BROWARD COUNTY, FLORIDA:

3
4 Section 1. Section 39-102 of the Broward County Code of Ordinances,
5 "Wireless communications facilities," is hereby repealed in its entirety.

6 Section 2. Chapter 20, Article XX of the Broward County Code of Ordinances is
7 hereby amended to read as follows:

8 **ARTICLE XX. TELECOMMUNICATIONS PROVIDERS**

9 **DIVISION 1. GENERALLY**

10 **Sec. 20-581. Intent and purpose.**

11 It is the intent of the Broward County ("County") to promote the public, health,
12 safety, and general welfare by providing for the Registration of operators using Broward
13 County rights-of-way; to adopt and administer regulations consistent with state and
14 federal law including Section 337.401, Florida Statutes; ; County home-rule authority, and
15 the Federal Communications Commission guidelines and regulations in accordance with
16 the provisions of the Telecommunications Act of 1996 ~~to provide for the payment of~~
17 ~~occupancy fees by Registrant to the County for the cost of establishing, maintaining, and~~
18 ~~regulating the use of the County's rights-of-way;~~ and to establish objective standards for
19 the maintenance and regulation of rights-of-way in the County for all operators using
20 Broward County rights-of-way. In regulating rights-of-way, the County shall be governed
21 by and shall comply with all controlling federal, state, and local laws and regulations.

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1 **Sec. 20-582. Name and scope.**

2 This article ~~shall be~~ is known as the Broward County Telecommunications
3 Ordinance. It ~~shall~~ will be applicable to all telecommunications companies that occupy
4 Broward Countys rights-of-way on or after the effective date of this article.

5 **Sec. 20-583. Definitions.**

6 For the purposes of this article, the following terms, phrases, words, and
7 abbreviations shall have the meanings given herein, unless otherwise expressly stated.
8 When not inconsistent with the context, words used in the present tense include the future
9 tense; words in the plural number include the singular number; words in the singular
10 number include the plural number; and words defined in upper and lower case shall have
11 the same meaning as words in all lower case. The words "and" and "or" may be read
12 conjunctively or disjunctively. The words "shall" and "will" are mandatory, and "may" is
13 permissive. Unless otherwise expressly stated, words not defined in this article shall be
14 given the meaning set forth in Chapter ~~203~~ 337, Florida Statutes, and, if not defined
15 therein, their common and ordinary meaning. References to governmental entities
16 (whether persons or entities) refer to those entities or their successors in authority. If
17 specific provisions of law referred to herein are renumbered, then the reference shall be
18 read to refer to the renumbered provision. References to laws, ordinances, or regulations
19 shall be interpreted broadly to cover government actions, however nominated, and
20 include laws, ordinances, and regulations now in force or hereinafter enacted or
21 amended.

22 Abandonment means the cessation of all uses of a telecommunications facility for
23 a period of at least one hundred eighty (180) consecutive days. This term does not include
24 cessation of all uses of a telecommunications facility within a physical structure where the

1 physical structure continues to be used for some purpose or use accessory to the
2 telecommunications facility.

3 (a) *Affiliate* means a person that (directly or indirectly) owns or controls, is owned or
4 controlled by, or is under common ownership or control with, another person.

5 *Applicable laws or applicable codes* means uniform building, fire, or electrical
6 codes, including the Florida Building Code, National Electric Safety Code, Florida
7 Administrative Code, Florida Department of Transportation ("FDOT") Manual of Uniform
8 Minimum Standards for Design, Construction and Maintenance for Streets and Highways,
9 FDOT Standard Specifications for Road and Bridge Construction, FDOT Roadway
10 Design Standards, FDOT Structures Manual, AASHTO Standard Specifications for
11 Structural Supports for Highway Signs, Luminaries and Traffic Signals, the County's
12 Minimum Standards, and all applicable FCC, state, and local laws, regulations, and
13 ordinances.

14 *Applicant* means a person who submits an application and is a wireless services
15 provider.

16 *Application* means a request submitted by an applicant to an authority for a permit
17 to collocate small wireless facilities or to place a new utility pole used to support a small
18 wireless facility.

19 (b) *Board* means the Board of County Commissioners ~~for~~ of Broward County, Florida,
20 ~~the governing body for Broward County government.~~

21 *Collocate or collocation* means to install, mount, maintain, modify, operate, or
22 replace one or more wireless facilities on, under, within, or adjacent to a wireless support
23 structure or utility pole. The term does not include the installation of a new utility pole or
24 wireless support structure in County rights-of-way.

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1 ~~(c) *Construction, operation, or repair* and similar formulations of those terms mean~~
2 ~~the named actions interpreted broadly, encompassing, among other things, installation,~~
3 ~~extension, maintenance, replacement of components, relocation, under grounding,~~
4 ~~grading, site preparation, adjusting, testing, make ready, and excavation.~~

5 ~~(d) *Effective date of R_egistration* means the date specified on the written~~
6 ~~acknowledgment of the R_egistration.~~

7 *Existing structure* means a structure within the County right-of-way that exists at
8 the time of filing an application with the County, for placement of a telecommunications
9 facility on that preexisting structure.

10 ~~(e) *FCC* means the Federal Communications Commission or its designee.~~

11 *Micro wireless facility (MWF)* means a small wireless facility having dimensions no
12 larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12)
13 inches in height and an exterior antenna, if any, no longer than eleven (11) inches.

14 ~~(f) *Minimum S_tandards* means those standards set forth in Chapter 25, Part I,~~
15 ~~Exhibit 25.A, of the Broward County Administrative Code entitled "Minimum Standards~~
16 ~~Applicable to Public Rights-of-Way Under Broward County Jurisdiction," as may be~~
17 ~~amended from time to time by resolution of the Board.~~

18 ~~(g) *Occupancy fee* means an annual per linear foot charge established by resolution~~
19 ~~of the Board against (1) the operator of telecommunications facilities; and (2) the owner~~
20 ~~of a private communications system that use the County's rights of way but does not~~
21 ~~provide services to unincorporated areas of the County.~~

22 ~~(h) *Operator, when used with reference to a telecommunications facility,* means a~~
23 ~~person (1) who owns a telecommunications facility; or (2) who otherwise controls or is~~

1 responsible for, through any arrangement, the management and operation of such a
2 facility. A ~~Registrant shall~~ may also be referred to herein as an operator.

3 Pass-through provider means any person or entity who places or maintains a
4 communications facility in the public right-of-way and does not remit communications
5 service taxes imposed by the County under Chapter 202, Florida Statutes, as amended.

6 Permit means the County right-of-way permit that must be obtained before a
7 person or entity may perform construction in the County right-of-way and includes, but is
8 not limited to, engineering and construction permits issued by the County's Highway
9 Construction & Engineering Division.

10 (i) *Person* means any individual, corporation, partnership, business association, or
11 other business entity, firm, joint stock company venture, partnership, trust, or any other
12 legal entity, but not the County.

13 (j) ~~*Private communications system* means a facility placed, in whole or in part, in the~~
14 ~~rights-of-way for the provision of telecommunications for a private business or personal~~
15 ~~use but not encompassing in any respect the provision of telecommunication services.~~

16 (k) ~~*Private communications system owner* means a person who owns or leases a~~
17 ~~private communications facility.~~

18 (l) *Register* means compliance with Division 2 and other provisions of this article.

19 Registrant means a person who has filed for registration with and who has received
20 a written acknowledgment from the County.

21 (m) ~~*Registration* means an informational documents~~ that must be ~~completed~~ submitted
22 and filed with the County before use of ~~the~~ its rights-of-way by an operator of a
23 telecommunications facility ~~or an owner of a private communications system for the~~
24 ~~purpose of constructing, operating, or repairing its telecommunications facility or private~~

1 ~~communications system. The operator of a telecommunications facility or an owner of a~~
2 ~~private communications system~~ An operator shall renew its Registration annually on
3 every five (5) years after the anniversary date of its initial Registration. ~~Registration forms~~
4 ~~may be obtained from Broward County's Office of Information Technology. Written~~
5 ~~acknowledgment of Registration shall be provided to an operator by the County's Office~~
6 ~~of Information Technology when required by Section 20-597 of this article.~~
7 Notwithstanding the above, within ninety (90) days after any change of its registration
8 information, a registrant must update the registration information provided.

9 ~~(n) *Registrant* means a person who has filed a Registration with and who has received~~
10 ~~a written acknowledgment from the County.~~

11 ~~(e) *Right-of-way or Rights-of-way* has the meaning given to "Public rights-of-way"~~
12 ~~"Public Right-of-Way/Easements" in the Minimum Standards. The terms right-of-way or~~
13 ~~rights-of-way shall also include all of the airport rights-of-way located at any County-~~
14 ~~owned airports that are operated, maintained, and controlled by the Aviation Department,~~
15 ~~which airport rights-of-way are used or to be used for ingress or egress, including, but not~~
16 ~~limited to, any and all roadways, alleys, thoroughfares, walkways, bikeways, or paths. No~~
17 ~~reference herein to rights-of-way, or in any Registration shall will be deemed to be a~~
18 ~~representation or guarantee by the County that its interest or other right to control the use~~
19 ~~of such property is sufficient to permit its use for such purposes, and a Registration shall~~
20 ~~will be applicable to only those rights-of-way as are properly in the County.~~

21 *Small wireless facility (SWF)* means a wireless facility that meets the following
22 qualifications:

- 23 (1) Each antenna associated with the facility is located inside an enclosure of
24 no more than six (6) cubic feet in volume or, in the case of antennas that

1 have exposed elements, each antenna and all of its exposed elements
2 could fit within an enclosure of no more than six (6) cubic feet in volume;
3 and

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

12 ~~(p) *Transfer* means any transaction in which: (1) all or a portion of the~~
13 ~~telecommunications facility is sold or assigned (except a sale or assignment that results~~
14 ~~in removal of a particular portion of the facility from the rights-of-way); (2) there is any~~
15 ~~change, acquisition, direct or indirect transfer of control of the Registrant; or (3) the rights~~
16 ~~and/or obligations held by the Registrant under the Registration are transferred, sold,~~
17 ~~assigned, or leased, in whole or in part, directly or indirectly, to another party. In~~
18 ~~succeeding provisions of this article, all these activities are referred to as Registration~~
19 ~~transfers.~~

20 (q) *Telecommunications facility* means a facility that is used to provide one (1) or more
21 telecommunications services, any portion of which occupies rights-of-way. The term
22 telecommunications facility includes ~~cable, fiber optic, conduit, pathway or other~~
23 ~~supporting structures, and associated facilities used to transmit telecommunications~~

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1 ~~signals~~ real estate, easements, apparatus, property, and routes used and operated to
2 provide two-way telecommunications services to the public for hire.

3 ~~(r) Telecommunications services has the meaning given in Section 203.012(5),~~
4 ~~Florida Statutes~~ means the offering of telecommunications for a fee directly to the public,
5 or to such classes of users as to be effectively available directly to the public, regardless
6 of the facilities used.

7 Transfer means any transaction in which: (1) all or a portion of the
8 telecommunications facility is sold or assigned (except a sale or assignment that results
9 in removal of a particular portion of the facility from the rights-of-way); (2) there is any
10 change, acquisition, direct or indirect transfer of control of the registrant; or (3) the rights
11 or obligations held by the registrant under the registration are transferred, sold, assigned,
12 or leased, in whole or in part, directly or indirectly, to another party. In succeeding
13 provisions of this article, all these activities are referred to as registration transfers.

14 ~~(s) User~~ means any person lawfully receiving for any purpose any service provided by
15 the telecommunications operator.

16 Utility pole means a pole or similar structure that is used in whole or in part to
17 provide telecommunications services or for electric distribution, lighting, traffic control,
18 signage, or a similar function. The term includes the vertical support structure for traffic
19 signal lights but does not include a horizontal structure to which traffic signal lights or
20 other traffic control devices are attached and does not include a pole or similar structure
21 fifteen (15) feet in height or less unless a regulatory authority grants a waiver for such
22 pole.

23 Wireless facility means equipment at a fixed location that enables wireless
24 communications between user equipment and a telecommunications network, including

1 radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular
2 and backup power supplies, and comparable equipment, regardless of technological
3 configuration, and equipment associated with wireless communications. The term
4 includes small wireless facilities. The term does not include:

5 (1) The structure or improvements, on, under, within, or adjacent to the
6 structure on which the equipment is collocated;

7 (2) Wireline backhaul facilities; or

8 (3) Coaxial or fiber-optic cable that is between wireless structures or utility
9 poles or that is otherwise not immediately adjacent to or directly associated
10 with a particular antenna.

11 Wireless services means any services provided using licensed or unlicensed
12 spectrum, whether at a fixed location or mobile, using wireless facilities.

13 Wireless services provider means a person who provides wireless services.

14 Wireless support structure means a freestanding structure, such as a monopole, a
15 guyed or self-supporting tower, or another existing or proposed structure designed to
16 support or capable of supporting wireless facilities. The term does not include a utility
17 pole, pedestal, or other support structure for ground-based equipment not mounted on a
18 utility pole and less than five (5) feet in height.

19 **Sec. 20-584. Purpose and characteristics.**

20 (a) In order to ensure ~~as far as possible and appropriate~~ that persons providing
21 similar services are treated similarly, considering differences in circumstances, and to
22 comply with requirements of state and federal law, all operators of a telecommunications
23 facility ~~or owners of a private communications system shall~~ must Register before using
24 County rights-of-way. The revocation of a Registration for one particular type of service

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1 in and of itself will not affect the authority of an operator to continue to provide other types
2 of services for which it holds a franchise or license. No ~~R~~egistration acknowledged by
3 the County ~~shall~~ will be exclusive.

4 (b) A ~~R~~egistration ~~shall~~ does not convey title, equitable or legal, in the
5 rights-of-way, nor does it establish priority for the placement or maintenance of a
6 communications facility in County roads or rights-of-way. The right acknowledged by the
7 County is only the right to occupy rights-of-way for the purposes of constructing,
8 operating, maintaining, upgrading, and/or repairing the operator's telecommunications
9 facility ~~or the owner's private communications system~~ for the period stated in the
10 ~~R~~egistration, which may not be alienated, assigned, or transferred without the prior
11 written consent of the County's ~~Office of Information Technology~~ Highway Construction &
12 Engineering Division.

13 (c) The fact that a particular telecommunications facility may be used for
14 multiple purposes ~~does~~ will not obviate the need to obtain a license or franchise for other
15 purposes if required by state or federal law. ~~By way of illustration and not limitation, a~~
16 ~~cable operator of a cable system must obtain a cable franchise or license, and, if the~~
17 ~~operator elects to provide telecommunication services over the same facilities, the~~
18 ~~operator must first Register in accordance with this article.~~ Notwithstanding, an operator
19 is not required to apply for or enter into an individual license, franchise, or other
20 agreement with County as a condition of placing or maintaining communications facilities
21 in its roads or rights-of-way.

22 **Sec. 20-585. Registration required.**

23 (a) An operator of a telecommunications facility covered by this ~~S~~ection shall
24 ~~R~~egister (in accordance with this article) prior to constructing a telecommunications

1 facility within the a County ~~rights-of-way~~ right-of-way. An operator of a
2 telecommunications facility within the County rights-of-way on the date of enactment of
3 this article ~~shall be~~ is required to Rregister on the effective date of this article except as
4 provided in Section 20-596. All Rregistration ~~form~~ documents must be submitted to
5 the County in accordance with the provisions of Division 2 of this article.

6 (b) ~~Every private communications system owner must Register as provided for~~
7 ~~in Division 2 of this article.~~

8 (c) ~~(b)~~ No Rregistration ~~shall~~ will be transferred or assigned in whole or in part by
9 a Rregistrant without prior written approval of the County's ~~Office of Information~~
10 Technology Highway Construction & Engineering Division, which approval ~~shall~~ must not
11 be unreasonably withheld. Any transfer of a Rregistration ~~shall~~ will be subject to the
12 requirements of Division 2 of this article.

13 **Sec. 20-586. Reseller.**

14 A reseller is a ~~person~~ pass-through provider who has entered into an agreement
15 with a Rregistrant to utilize the Rregistrant's telecommunications facility to provide
16 telecommunications services. A reseller is not required to Rregister, so long as it does
17 not own underlying facilities in the rights-of-way and is not involved in construction or
18 repair of the underlying facilities in the rights-of-way. A Rregistrant ~~shall be~~ is required to
19 provide the ~~Chief Information Officer~~ Director of the County's ~~Office of Information~~
20 Technology Highway Construction & Engineering Division with thirty (30) days' written
21 notice, sent by certified mail, following its decision to ~~permit~~ allow another person
22 providing telecommunications services to utilize its telecommunications facility within the
23 rights-of-way. If a Rregistrant is allowing the use of airport rights-of-way by a reseller, the
24 Rregistrant shall also provide thirty (30) days' written notice, sent by certified mail, to the

1 Director of the Aviation Department in accordance with the requirements set forth in this
2 section. Notwithstanding a Registrant's right to permit a reseller to use its
3 telecommunications facility, the Registrant ~~shall~~ will remain responsible for all terms and
4 conditions contained in this article.

5 **Sec. 20-587. Term of registration.**

6 A Registration ~~shall~~ will be effective on the date of the written acknowledgment by
7 the County's ~~Office of Information Technology~~ Highway Construction & Engineering
8 Division. A Registration issued under this article shall be for a term of ~~one (1)~~ five (5)
9 years. A registrant must update its registration information within ninety (90) days after a
10 change in such information. The County's ~~Office of Information Technology~~ Highway
11 Construction & Engineering Division or Aviation Department, as applicable, may
12 terminate the right to use a particular right-of-way ~~in the event that~~ if the right-of-way is
13 transferred, closed, abandoned, vacated, discontinued, or reconstructed.

14 **Sec. 20-588. Compensation required. Reserved.**

15 (a) ~~General.~~ ~~The County shall require persons using its rights-of-way to provide~~
16 ~~telecommunications facilities and private communications system owners to pay~~
17 ~~compensation in accordance with applicable state law and, as provided for in this article,~~
18 ~~to (1) ensure that the County, as far as possible, is compensated for the use of property~~
19 ~~over which it exercises control, or which is held in public trust; (2) ensure that the County~~
20 ~~is compensated for expenses arising from the use of that property, the regulation of the~~
21 ~~use and the cost to acquire, construct, and maintain the rights-of-way areas; and (3)~~
22 ~~ensure that similarly situated persons providing the same services are treated similarly,~~
23 ~~as far as is possible and appropriate considering differences in circumstances.~~

24 (b) Occupancy Fee.

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1 (1) ~~Each Registrant that uses the County's rights-of-way but does not provide~~
2 ~~services to unincorporated areas of the County shall pay to the County~~
3 ~~annually for the use of the rights-of-way a fee based on the total per linear~~
4 ~~foot of cable, fiber optic, or other pathway using the rights-of-way. The~~
5 ~~occupancy fee shall be based upon usage of all of the rights-of-way, as~~
6 ~~defined herein, whether located in unincorporated Broward County or within~~
7 ~~incorporated municipal boundaries and calculated as provided for in~~
8 ~~subsection (b)(4)e. below. The County shall establish from time to time by~~
9 ~~resolution of the Board the annual occupancy fees to be paid by Registrants~~
10 ~~for use of the rights-of-way calculated on a per linear foot basis. Occupancy~~
11 ~~fees with respect to use of rights-of-way operated, maintained, and~~
12 ~~controlled by the Aviation Department shall be paid to the Aviation~~
13 ~~Department.~~

14 (2) ~~If a Registrant provides services within unincorporated areas of the County,~~
15 ~~fees based on those services shall be paid in accordance with state law.~~

16 (3) ~~The County may, from time to time, and upon reasonable advance written~~
17 ~~notice, inspect and audit, subject to applicable state law, any and all books~~
18 ~~and records reasonably necessary to the determination of whether fees paid~~
19 ~~according to state law and occupancy fees paid pursuant to this article have~~
20 ~~been accurately computed and paid.~~

21 (4) General Rules for Payment of Occupancy Fees.

22 a. ~~Each Registrant shall pay the occupancy fee described in~~
23 ~~subsection (b)(1) above on a quarterly basis based on a calendar~~
24 ~~year for the preceding quarter. The quarterly payments shall be~~

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1 submitted according to the following schedule: January-March
2 payments due April 25; April-June payments due July 25; July-
3 September payments due October 25; and October-December
4 payments due January 25 of each year. Initial and final payments
5 shall be prorated for any portion of the quarter at the beginning or
6 end of the term of the Registration. In the event an error by the
7 Registrant results in an overpayment of an occupancy fee, the
8 County may, at its sole option, credit the overpayment to the next
9 payment due or spread the credit over a period equal to the period
10 over which the error occurred.

11 b. Unless a Registration provides otherwise, each occupancy fee
12 payment shall be accompanied by a statement showing the manner
13 in which the fee was calculated on a monthly basis.

14 c. Accrual of the occupancy fee shall begin on the Effective Date of the
15 Registration.

16 d. Subject to Section 20-588(b) (1), the occupancy fee is calculated
17 based on the following:

18 1. The occupancy fee shall be calculated based on the rights-of-
19 way fee resolution, as approved by the Board, and on the
20 actual usage of the rights-of-way for the placement of
21 telecommunication facilities identified in the Registration as
22 verified by as-built maps and County inspection.

23 2. For the purposes of this article, linear feet on which the
24 occupancy fees are due shall be measured by the length of

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1 cable, conduit, or other pathway either owned or controlled by
2 any telecommunication facility. All measurements shall be
3 calculated to the nearest foot by rounding up, where
4 applicable.

5 3. The Registrant shall be charged for all cable or other pathway
6 in place at the time the quarterly occupancy fee is due to the
7 County. Where an existing Registration is amended to include
8 additional occupancy of the rights-of-way, the Registrant shall
9 be charged an additional occupancy fee based upon the
10 amended total per linear foot usage of the rights-of-way.

11 e. The Registrant shall submit with the occupancy fee a quarterly report
12 in a form provided by the County which provides detailed information
13 on all aerial and underground usage of the rights-of-way, including
14 any amended areas that have been approved by the County within
15 that quarter. The report shall list by category existing or any newly
16 amended aerial and underground installations on a per linear foot
17 basis in the rights-of-way areas of Broward County.

18 f. Each quarterly payment for the occupancy fee shall be accompanied
19 by a summary form provided by the County, with a cover letter on
20 company letterhead which contains a statement by an officer of the
21 Registrant certifying that the information and computation of the
22 payment amount shown on the summary form are true and accurate.

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- ~~g. All occupancy fees listed in this section shall apply at the same rate for all aerial and underground cable, fiber optic, or other pathway installed by the Registrant on the Effective Date of the Registration.~~
- ~~h. The County may accept compensation as in-kind services for the occupancy fee, in accordance with state law, from an operator of a telecommunications facility; provided, that the County shall not accept in-kind payments from any operator without providing other Registrants that submit or have submitted their Registration within twelve (12) months an opportunity to make an equivalent in-kind payment. Such in-kind services shall be negotiated in good faith between the Registrant and the County.~~
- ~~i. No acceptance of payment for the occupancy fee shall be construed as a release or as an accord and satisfaction of any claim the County may have for further sums payable under this article or for the performance of any other obligation hereunder.~~
- ~~j. Nothing in this section shall limit the Registrant's liability to pay other local taxes, fees, charges, or assessments to the County and other taxing and governmental authorities.~~
- ~~k. The occupancy fee is not a payment in lieu of any tax, fee, or other assessment except as specifically provided in this article, or as required by applicable law. By way of example, and not limitation, business license taxes are not waived and remain applicable.~~
- ~~l. All occupancy fees which are not paid when due and payable hereunder shall bear interest at the statutory interest rate applicable~~

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1 to judgments, until paid. Payment of interest is in addition to any
2 applicable penalties as may be provided by law or County ordinance.

3 m. ~~The compensation paid by each Registrant for occupancy fees shall~~
4 ~~be subject to public disclosure by the County.~~

5 n. ~~A Registrant may elect to pay its occupancy fee annually in advance,~~
6 ~~on the date that the first quarterly payment would otherwise be due,~~
7 ~~together with the quarterly reports then due. A Registrant which~~
8 ~~elects to pay annually shall not be required to file any other quarterly~~
9 ~~reports. Any credit, overpayment, or under payment by any~~
10 ~~Registrant shall be applied to the occupancy fee due for the year~~
11 ~~following the prior annual payment.~~

12 **Sec. 20-589. Registration for persons providing different types of services**

13 **Objective design standards.**

14 ~~The fact that a fee is paid on one type of service provided over a~~
15 ~~telecommunications facility does not excuse an operator from its duty to pay fees on other~~
16 ~~types of services provided over that same facility as required by this article or other~~
17 ~~County ordinances. As an example, and not as a limitation of the foregoing, a cable~~
18 ~~operator that is granted a franchise or a license and who according to state law pays a~~
19 ~~fee must pay the fee as identified under Section 20-588 of this article to the extent that~~
20 ~~the operator maintains telecommunication facilities; likewise, the operator of a~~
21 ~~telecommunications facility must pay subject to applicable state law a fee under Broward~~
22 ~~County Code, Article XVII, Cable TV Regulations. Wireless services providers must~~
23 ~~comply with the County's objective design standards as set forth in this section unless~~
24 ~~waived by the County upon a showing that the design standards are not reasonably~~

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1 compatible for the particular location of a small wireless facility or utility pole, are
2 technically infeasible, or impose an excessive expense. Any waiver request must be
3 granted or denied within forty-five (45) days after the date of the written request. The
4 objective design standards require the following:

5 (1) Any new utility pole that replaces an existing utility pole must be of
6 substantially similar design, material, and color;

7 (2) Compliance with reasonable spacing requirements concerning the location
8 of all ground-mounted components of a small wireless facility as detailed in
9 the technical specifications to be provided by the County upon submission
10 of a registrant's permit application;

11 (3) Compliance with reasonable location, context, color, camouflage, and
12 concealment requirements, in accordance with the above-referenced
13 technical specifications and subject to the limitations of Section 337.401,
14 Florida Statutes, as amended; and

15 (4) Any new utility pole used to support a small wireless facility must meet
16 reasonable location, context, color, and material of the predominant utility
17 pole type at the proposed location of the new utility pole.

18 **Sec. 20-590. General conditions upon use of rights-of-way.**

19 (a) *Responsibility for Costs.* An operator, or its contractors or subcontractors,
20 ~~who is required to perform~~ s under this ~~S~~section shall do so at its own cost. ~~If an operator~~
21 ~~fails to perform work that it is required to perform within the time provided for~~
22 ~~performance, the County may perform the work, and bill the operator therefor. The~~
23 ~~operator shall pay the amounts billed within thirty (30) days. Prior to performing work~~
24 ~~pursuant to this Section, the County shall give the operator notice and a reasonable~~

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1 opportunity to cure; provided, however, that no notice shall be required in the event that
2 the failure presents an immediate threat to public health, safety, or welfare as determined
3 by the County in its sole discretion.

4 (b) *Right to use ~~Rights-of-way~~ not ~~warranted~~.* It is understood that there
5 may from time to time be within the County various rights-of-way which that the County
6 does not have the unqualified right to authorize the operator to use; therefore,
7 ~~R~~egistration under this article does not warrant or represent that the County has the
8 right, as to any particular right-of-way, or portion of a right-of-way, to authorize the
9 operator to install or maintain portions of its facility therein, and in each case the burden
10 and responsibility for making such determination in advance of the installation ~~shall~~ will
11 be upon the operator.

12 (c) *Responsibilities of Operator.*

13 (1) In installing, maintaining, operating, or removing its telecommunications
14 facility in, upon, or from any County right-of-way, the operator shall ensure:

15 a. That the safety, functioning, and appearance of the rights-of-way and
16 the convenience and safety of users of the rights-of-way and other
17 persons are not ~~be~~ adversely affected by the installation,
18 construction, or removal of the telecommunications facility.

19 b. That the costs of the installation, construction, operation, or removal
20 of the telecommunications facility ~~shall be~~ are borne by the operator
21 or user, or a combination of such parties.

22 c. That the damages caused by the installation, construction, operation,
23 or removal of such telecommunications facility by the operator ~~shall~~
24 ~~be~~ are the responsibility of the operator.

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1 (2) Nothing herein shall be construed to prohibit or prevent any property owner
2 from constructing, installing, or continuing to maintain and operate a private
3 communications facility subject to the provisions of Division 3 of this article;
4 provided, however, that the construction, installation, maintenance, and
5 operation of such private communications facility shall not prevent an
6 operator of a telecommunications facility from constructing, installing,
7 maintaining, and operating its facility.

8 (3) (2) This ~~§~~section is not intended to, and nothing herein shall will be construed
9 to, preclude appropriate payments, arrangements, or agreements for the
10 use by operators of other utilities' facilities and equipment, including pole
11 attachment and conduit agreements.

12 (d) ~~Other a~~Agreements, ~~p~~Permit, and ~~e~~Easement ~~r~~Requirements. The County
13 shall will not be required to assume any responsibility for securing any rights-of-way,
14 easements, or other rights ~~which~~ that may be required of the ~~R~~Registrant for the
15 installation of a telecommunications facility, nor shall will the County be responsible for
16 securing any permits or agreements with other persons or utilities.

17 (e) ~~No~~ ~~p~~Property ~~r~~Rights ~~e~~Conveyed. Nothing in this article or in the
18 ~~R~~Registration shall ~~grants~~ to the holder any property rights in County-owned property or
19 rights-of-way, nor shall will the County be compelled to maintain any of its property or
20 rights-of-way any longer than, or in any other ~~fashion~~ manner than, the County, in its
21 judgment, may require for its own needs. In addition, the ~~R~~Registrant shall will not be
22 entitled to any compensation for damages from the County as a result of having to
23 remove or relocate its property, lines, and or cables from such public property or rights-

1 of-way ~~in the event~~ if the County determines that a necessity exists for such removal or
2 relocation.

3 (f) *Construction Permits Required.* The ~~R~~registrant shall apply for and obtain
4 permits for construction work involving excavation, closure of a sidewalk, or closure of a
5 vehicular lane or parking space as required by the County prior to the commencement
6 of construction. Permits are not required for the following:

7 (1) Routine maintenance, the performance of service restoration work on
8 existing facilities, or repair work, including, but not limited to, emergency
9 repairs of existing facilities or extensions of such facilities for providing
10 telecommunications services to customers;

11 (2) Replacement of existing wireless facilities with wireless facilities that are
12 substantially similar or of the same or smaller size; or

13 (3) Installation, placement, maintenance, or replacement of micro wireless
14 facilities that are suspended on cables strung between existing utility poles
15 in compliance with applicable codes by or for a telecommunications
16 services provider authorized to occupy the rights-of-way and who is
17 remitting taxes under Chapter 202. An initial letter from or on behalf of such
18 provider, which is effective upon filing, attesting that the micro wireless
19 facility's dimensions are compliant with the limitations set forth in
20 Section 337.401, Florida Statutes, must be submitted to the County's
21 Highway Construction & Engineering Division.

22 (g) *Prior Approval by the County.* Notwithstanding any provision to the contrary
23 in this article, the ~~R~~registrant must comply at all times with all policies, procedures, and
24 directives of the County's ~~Public Works Department~~ Highway Construction &

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1 Engineering Division and, in the case of airport rights-of-way, any policies, procedures,
2 and directives of the Aviation Department. Except for individual service drops outside the
3 rights-of-way, ~~the~~ maintenance, repair, replacement, extension, or upgrade of existing
4 aerial wireline communications facilities on utility poles, or aerial wireline facilities
5 between existing wireline communications facility attachments on utility poles by a
6 telecommunications services provider, a Registrant shall must not erect any pole, run
7 any cable, conduit, fiber optic, or other pathway, nor shall any construction, as described
8 in Section 20-590(f), on rights-of-way related to the delivery of telecommunications
9 services, be commenced without the prior ~~written approval of~~ issuance of a permit by the
10 County's ~~Public Works Department, Highway Construction & Engineering Division or the~~
11 Aviation Department if the construction is on airport rights-of-way. Prior to the issuance
12 of such ~~approval and~~ permit, the Registrant shall must submit to the County's ~~Public~~
13 ~~Works Department, Highway Construction & Engineering Division, or, in the case of~~
14 airport rights-of-way, to the Aviation Department, the following:

- 15 (1) If required by the County, hard copies of construction plans in a digital
16 format acceptable to the County, if prepared, utilizing Computer Aided
17 Drafting/Geographic Information Systems ("CAD/GIS") or another
18 automated system capable of exporting a file compatible with CAD/GIS, of
19 the proposed telecommunications facility illustrating plant routing and utility
20 poles to be utilized; and
- 21 (2) As a prerequisite to the issuance of a rights-of-way permit by the County, a
22 ~~performance and maintenance~~ construction bond ~~as required by~~
23 ~~Administrative Code, including the Minimum Standards, shall must be~~
24 provided for any and all work performed in the rights-of-way to ensure

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1 proper restoration and maintenance of the rights-of-way and to provide a
2 one (1) year warranty maintenance period.

3 (h) *County's Right to Inspect.* The County ~~shall have~~ has and maintains the
4 right to inspect the installation and construction operations, as well as the maintenance
5 operations of the R~~egistrant's~~ telecommunications facility to ensure the proper
6 performance of the terms of this article and compliance with the Minimum Standards.

7 (i) *Joint or Common Use of Poles.* ~~The Registrant shall be encouraged to enter~~
8 ~~into agreements for the joint or common use of poles or other wire holding structures~~
9 ~~where poles or other wire holding structures already exist for use in serving the County~~
10 ~~or serving the public convenience.~~ No location of any pole or wire holding structure of the
11 R~~egistrant~~ shall will be a vested interest, and such pole or structure shall must be
12 removed or modified by the R~~egistrant~~ at its own expense, to the extent required by state
13 or local law.

14 (j) Notwithstanding any other provision of this article, pledges in trust or
15 mortgages of the assets of a R~~egistrant's~~ telecommunications facility to secure the
16 construction, operation, or repair of the facility may be made without application and
17 without the County's prior consent; except, no such arrangement may be made if it would
18 in any respect or under any condition prevent the telecommunications facility operator or
19 any successor from complying with the R~~egistration~~ and applicable law. No arrangement
20 may permit a third party to succeed to the interest of the operator, or to own or control the
21 telecommunications facility, without R~~egistration~~ pursuant to under this A~~rticle~~. Any
22 mortgage, pledge, or lease shall will be subject and subordinate to the rights of the County
23 under this article or other applicable law.

24 (k) *Location or Relocation of Facilities.*

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- 1 (1) A ~~R~~registrant's telecommunications facility may be installed above ground
2 in areas where existing power or other facilities are above ground, and ~~shall~~
3 must be installed underground in areas where existing power and other
4 facilities are installed underground. ~~If both power and other facilities are~~
5 ~~installed above ground, a Registrant shall install its facilities underground at~~
6 ~~the request of a resident or property owner when the resident or property~~
7 ~~owner agrees to pay the additional cost of such installation.~~
- 8 (2) A ~~R~~registrant ~~shall~~ must not place any fixtures or equipment where the
9 same will materially interfere with any existing gas, electric, ~~CATV~~ Cable
10 TV, telephone, sewer, drainage or water lines, fixtures or equipment, or
11 other users having rights to place a facility within County rights-of-way. The
12 ~~R~~registrant ~~shall~~ must locate its lines and equipment in such a manner so
13 as not to unreasonably interfere ~~unnecessarily~~ with the usual travel on
14 rights-of-way; with the installation or operation of gas, electric, ~~CATV~~ Cable
15 TV, telephone, water, drainage, or sewer lines equipment; or with the rights
16 or reasonable convenience of owners of ~~property which~~ properties that abut
17 any rights-of-way.
- 18 (3) A ~~R~~registrant ~~shall~~ will have the authority to trim trees upon or overhanging
19 streets, alleys, sidewalks, and rights-of-way so as to prevent the branches
20 of such trees from coming in contact with the wires and cables of the
21 ~~R~~registrant in a manner approved by and acceptable to the County. If the
22 County notifies the ~~R~~registrant of the need for tree trimming and the
23 ~~R~~registrant fails to take the appropriate action within a time prescribed by
24 the County, the County may, at its option, cause such trimming to be done

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1 by the County or by a third party under the County's supervision and
2 direction at the expense of the R~~eg~~istrant.

3 (4) A R~~eg~~istrant shall promptly, at its own expense, protect, temporarily
4 disconnect, remove, modify, or relocate any part of its facility when required
5 by the County by reason of its unreasonably interfering in any way with the
6 convenient, safe, or continuous use, or the maintenance, improvement,
7 extension, or expansion of rights-of-way or for any other reason to the
8 extent allowed or required by applicable law, upon thirty (30) days' written
9 notice.

10 (5) A R~~eg~~istrant shall, at the request of any person holding a ~~building moving~~
11 permit to relocate a building issued by the County, temporarily raise or lower
12 its wires to permit the moving of the building~~(s)~~. The expense of such
13 temporary raising or lowering of wires shall be paid by the person requesting
14 same, and the R~~eg~~istrant shall have the authority to require such payment
15 in advance. A R~~eg~~istrant shall be given not less than forty-eight (48) hours'
16 advance notice to arrange for such temporary wire changes.

17 (6) With regard to underground construction, all cables shall must be buried at
18 a sufficient depth so that no portion of the service drop is exposed or visible
19 and in accordance with the Minimum Standards.

20 (l) *Work in the Rights-of-Way.* All materials, installations, and construction in
21 any County rights-of-way ~~under the County's jurisdiction shall~~ must be in accordance
22 with the Minimum Standards.

23 (1) A R~~eg~~istrant shall must obtain any required rights-of-way permits before
24 causing any damage or disturbance to rights-of-way as a result of its

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1 construction or operations and shall restore the property to its former
2 condition or in a ~~manner~~ condition approved by the County. If such
3 restoration is not performed or is not satisfactorily performed, the County,
4 after ten (10) days' prior notice to the R~~eg~~istrant, may cause the repairs to
5 be made at the expense of the R~~eg~~istrant if and to the extent permitted by
6 state or federal law. Prior to performing work ~~pursuant to~~ under this
7 S~~ec~~tion, the County shall give the operator notice and a reasonable
8 opportunity to cure; provided, however, that no notice shall be required ~~in~~
9 ~~the event that~~ if the failure presents an immediate threat to public health,
10 safety, or welfare as determined by the County in its sole discretion. All
11 additional or reoccurring repairs required as a result of the unsatisfactory
12 work may also be made by the County at the expense of the R~~eg~~istrant.

13 (2) A R~~eg~~istrant installing and operating a telecommunications facility in
14 ~~Broward~~ County rights-of-way, ~~except in the event of~~ for an emergency,
15 shall provide at least seven (7) days' (or such shorter period as the County
16 may accept) prior notice to the residents of the affected area, as determined
17 by the County, when construction crews will be performing construction or
18 maintenance that will block a travel lane used by residents of the affected
19 rights-of-way for more than two (2) hours. Such notification ~~shall~~ must be by
20 mail or through the placement of notices on ~~the front doorknobs of the~~
21 ~~residences~~ notice boards in the affected area, with such notices providing
22 the name and telephone number of the R~~eg~~istrant.

23 (3) All vehicles utilized by a R~~eg~~istrant or its contractors or subcontractors in
24 the construction of a telecommunications facility ~~shall~~ must be clearly

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1 marked providing the name of the ~~R~~registrant, contractor, or subcontractor
2 and, if applicable, the Broward County occupational license number as
3 required by the Broward County Code of Ordinances. All personnel
4 employed by a ~~R~~registrant or its contractors or subcontractors in the
5 construction of a telecommunications facility shall must possess
6 identification providing the ~~employee's name~~ employees' names and the
7 name and telephone number of the ~~R~~registrant or its contractors or
8 subcontractors.

9 (4) The ~~R~~registrant must ~~utilize any authorized underground locate service~~
10 notify Sunshine State One-Call of Florida prior to any excavation or
11 demolition activities conducted in construction of the telecommunications
12 facility. Only state licensed ~~and/or~~ Broward County certified contractors may
13 be utilized for this construction.

14 (5) All underground crossings of paved roadways shall must be made by the
15 directional bore method unless the Broward County Highway &
16 Construction Engineering Division approves an alternate method prior to
17 the construction.

18 (m) Make-Ready Work. The County may not require more make-ready work
19 than is required to meet applicable codes or industry standards. Fees for make-ready
20 work may not include costs related to preexisting damage or prior noncompliance. Fees
21 for make-ready work, including any utility pole replacement, may not exceed actual costs
22 or the amount charged to telecommunications services providers other than wireless
23 services providers for similar work and may not include any consultant fee or expense.
24

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1 (1) For County utility poles that support an aerial facility used to provide
2 wireless communications services or electric service, the parties must
3 comply with the process for make-ready work codified in 47 U.S.C.
4 Section 224 and other applicable regulations. The good-faith estimate of
5 the person owning or controlling the utility pole for any make-ready work
6 necessary to enable the utility pole to support the requested collocation
7 must include utility pole replacement if necessary.

8 (2) For County utility poles that do not support an aerial facility used to provide
9 telecommunications services or electric service, the County will provide a
10 good-faith estimate for any make-ready work necessary to enable the utility
11 pole to support the requested collocations, including necessary pole
12 replacement, within sixty (60) days after receipt of a complete application.
13 Make-ready work, including any pole replacement, must be completed
14 within sixty (60) days after written acceptance of the good-faith estimate by
15 the applicant. Alternatively, the County may require the applicant seeking
16 to collocate a small wireless facility to provide a make-ready estimate at
17 the applicant's expense for the work necessary to support the small
18 wireless facility, including pole replacement, and perform the make-ready
19 work. If pole replacement is required, the scope of the make-ready
20 estimate is limited to the design, fabrication, and installation of a utility pole
21 that is substantially similar in color and composition. The County will not
22 condition or restrict the manner in which the applicant obtains, develops,
23 or provides the estimate, and the County will not conduct the make-ready
24 work subject to usual construction restoration standards for work in the

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1 right-of-way. The replaced or altered utility pole will remain the property of
2 the County.

3 ~~(m)~~ (n) *Safety of the Public.*

4 (1) A R~~eg~~istrant's work performance, equipment, and job sites ~~shall~~ must be
5 in compliance at all times with all applicable county, state, and federal
6 requirements and ~~shall~~ must conform to the applicable provisions of the
7 Minimum Standards. All work while in progress shall be properly protected
8 at all times with suitable barricades, flags, lights, flares, or other devices as
9 are required by the United States Department of Transportation's Manual of
10 Uniform Traffic Control Devices (MUTCD), latest edition, the Florida
11 Department of Transportation Utility Accommodation Manual (latest
12 edition), Florida Department of Transportation Design Standards (latest
13 edition), or any requirements of the County's ~~Public Works Department~~
14 Highway Construction & Engineering Division to protect all members of the
15 public while such work is being performed.

16 (2) A R~~eg~~istrant ~~shall~~ must at all times ~~employ~~ exercise due care and ~~shall~~
17 must install, maintain, and use commonly accepted methods and devices
18 for preventing failures and accidents ~~which~~ that are likely to cause damage,
19 injuries, or nuisances to the public. All structures and all lines, equipment,
20 and connections in, over, under, and upon the rights-of-way of the County
21 wherever situated or located ~~shall~~ must at all times be kept and maintained
22 in a safe, suitable, substantial condition, and in good order and repair.

23 ~~(n)~~ (o) *Removal Required.* To the extent that it is determined by the County to be

24 in the best interest of the health, safety, and welfare of the public, a R~~eg~~istrant ~~shall~~ must

1 at its own expense, upon notice, promptly remove from the rights-of-way covered by this
2 article all portions of the telecommunications facility and its appurtenances.

3 ~~(e)~~ (p) *Restoration Required.*

4 (1) ~~In the event of~~ If such removal as referenced in subsection ~~(e)~~ above is
5 required, the Rregistrant shall must promptly and reasonably restore the
6 rights-of-way area from which such property was removed to the condition
7 existing prior to the disruption of the rights-of-way area and in accordance
8 with the Minimum Standards.

9 (2) If a Rregistrant fails to properly and promptly restore the area, the County,
10 at its election, may restore the rights-of-way area and cause forfeiture of the
11 ~~permanent performance~~ construction bond in order to reimburse the County
12 for any costs and expenses it incurs for restoring the area. Prior to
13 performing work ~~pursuant to~~ under this Ssection, the County shall must give
14 the operator notice and a reasonable opportunity to cure as provided in
15 Section 20-590(l)(2); provided, however, that no notice ~~shall~~ will be required
16 ~~in the event that~~ if the failure presents an immediate threat to public health,
17 safety, or welfare as determined by the County in its sole discretion.

18 **Sec. 20-591. Indemnification; insurance requirements.**

19 (a) *Indemnification.*

20 (1) By operation of this article and as conditions precedent to use of the
21 County's rights-of-way and the effectiveness of its Rregistration, a
22 Rregistrant shall:

23 a. Release the County, its officers, agents, and employees from and
24 against any and all liability and responsibility in or arising out of the

1 construction, operation, or maintenance of the telecommunications
2 facility to the extent caused by the operator. ~~No Registrant shall sue~~
3 ~~the County or seek any monetary damages or such other relief in~~
4 ~~connection with the above-mentioned matters;~~

5 b. Indemnify, hold harmless, and at the County Attorney's option,
6 defend or pay for an attorney selected by the County Attorney to
7 defend the County, its officers, agents, and employees, against any
8 and all claims, losses, liabilities, and expenditures of any kind,
9 including attorneys' fees, court costs, and expenses, accruing or
10 resulting from any and all claims, demands, or causes of action of
11 any nature whatsoever resulting from injuries or damage sustained
12 by any person or property by virtue of the R~~eg~~istrant's construction,
13 operation, or maintenance of the telecommunications facility,
14 provided that such liabilities arise from the operator's negligence,
15 gross negligence, or willful conduct; and

16 c. Provide that the covenants and representations relating to the
17 indemnification provision ~~shall survive~~s the expiration or termination
18 of any R~~eg~~istration with the County and continue in full force and
19 effect as to the R~~eg~~istrant's responsibility to indemnify.

20 (b) *Insurance; Policy Limits.* By operation of this article and as conditions
21 precedent to the use of the County's rights-of-way and the effectiveness of its
22 R~~eg~~istration:

23 (1) Within thirty (30) days after the ~~E~~ffective Date of the R~~eg~~istration, and
24 prior to any operations under the R~~eg~~istration, the R~~eg~~istrant shall provide

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1 the County with proof of the required insurance. The Registrant shall
2 maintain said insurance throughout the term of the Registration and said
3 insurance ~~shall~~ must include, at a minimum, the following types of insurance
4 coverage in amounts not less than shown:

5 a. Workers' compensation. Coverage shall apply for all employees for
6 statutory limits in compliance with the applicable state and federal
7 laws. The policy must include Employers' Liability with a minimum
8 limit of ~~One~~ Five Hundred Thousand Dollars (\$500,000.00) for each
9 accident.

10 b. Comprehensive general liability. Minimum limits of One Million
11 Dollars (\$1,000,000.00) per occurrence shall apply with combined
12 single limit for bodily injury liability and property damage liability. This
13 coverage shall include premises and/or operations, independent
14 contractors, and subcontractors and/or completed operations, broad
15 form property damage, explosion collapse, and underground (XCU)
16 coverage, and a contractual liability endorsement.

17 c. Business auto policy. Minimum limits of Five Hundred Thousand
18 Dollars (\$500,000.00) per occurrence shall apply with combined
19 single limit for bodily injury liability and property damage liability. This
20 coverage shall include owned, ~~non-owned~~ nonowned, and hired
21 vehicles.

22 d. In lieu of subsections (b)(1)a. through (b)(1)c. above, a Registrant
23 may self-insure the foregoing requirements. Self-insured status must
24 be confirmed with certification of same by presentation of financial

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1 statements ~~which~~ that are not more than one (1) year old, and signed
2 by the chief financial officer of the Rregistrant. Information contained
3 therein is subject to review and written approval by the County's Risk
4 Management Division. A State of Florida self-insurance certification
5 is not satisfactory or adequate certification under this option.

6 (2) The insurance certificate obtained by a Rregistrant in compliance with this
7 section ~~shall~~ must be approved in writing by the County's Risk Management
8 Division and ~~shall~~ must be filed and maintained with the ~~Chief Information~~
9 ~~Officer~~ Director of the County's Highway Construction & Engineering
10 Division during the term of the Rregistration. The certificate of insurance
11 shall provide thirty (30) days' prior written notice to the County of any
12 change, cancellation, and/or ~~non-renewal~~ nonrenewal of the policy(ies).

13 (3) Upon thirty (30) days' notice, insurance requirements may be changed and
14 increased from time to time at the discretion of the County's Risk
15 Management Division to reflect changing liability exposure and limits.

16 (4) Nothing herein is intended as a limitation to the extent of any legal liability
17 of the Rregistrant.

18 (5) Resident Company and Agent. All insurance policies, letters of credit, and
19 bonds as are required of a Rregistrant in this section shall be written by a
20 company or companies authorized and qualified to do business in the State
21 of Florida, and have a minimum rating of "A" in Best's Rating Guide.

22 (6) Certificates and Renewals. Certificates and renewals of all insurance
23 coverage required ~~shall~~ must be promptly ~~filed~~ submitted by the Rregistrant
24 ~~with the Chief Information Officer~~ to the County's Risk Management Division

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1 with a copy issued to the Director of the County's Highway Construction &
2 Engineering Division. Renewal certificates ~~shall~~ must be filed with the
3 County no less than thirty (30) days' prior to the policy expiration date.

4 (7) Additional Insured. Broward County ~~and the Board of County~~
5 ~~Commissioners of Broward County shall~~ must be included as an additional
6 insureds on the Comprehensive General Liability policy.

7 (8) Premium Payment. Companies issuing the insurance policy(ies) ~~shall~~ will
8 have no recourse against the County for payment of any premiums or
9 assessments, and same ~~shall~~ will be the sole responsibility of the
10 Registrant.

11 (9) Neither the provisions of this section, nor the acceptance of any bond by
12 the County ~~pursuant to~~ under this article, nor any damages received by the
13 County thereunder, ~~shall~~ will be construed to excuse performance by a
14 Registrant or limit the liability of a Registrant for damages to the full
15 amount of the bond or otherwise.

16 (10) If the operator has an existing certificate of insurance filed with ~~Broward~~ the
17 County as a prerequisite to provide other services such as cable television
18 or open video systems, the operator's insurer may amend the current
19 certificate filed with ~~Broward~~ the County to include the additional related
20 entities authorized by the County to provide telecommunications services.
21 The County's Risk Management Division may require an increase in the
22 amount of coverage of policy(ies) limits.

23 (11) ~~In the event~~ If the Registrant is using the County's airport rights-of-way
24 ~~pursuant to~~ under any Registration and only ~~in the event~~ if such Registrant

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1 requires access to the secure area of the airport (the Airport Operations
2 Area), the Registrant shall comply with any additional insurance
3 requirements of the County's Aviation Department and the Risk
4 Management Division.

5 (c) ~~Permanent Performance and Payment~~ Construction Bond. Each
6 Registrant shall ~~within thirty (30) days of the Effective Date of its Registration under this~~
7 ~~article or within thirty (30) days of the County's written consent to the transfer or~~
8 ~~assignment of a Registration,~~ upon application for a permit to perform construction in any
9 County right-of-way, furnish to the County a ~~performance~~ construction bond or an
10 irrevocable letter of credit in the amount of One Hundred Thousand Dollars (\$100,000.00)
11 ~~issued by a Florida bank or a federally insured lending institution in the amount of One~~
12 ~~Hundred Thousand Dollars (\$100,000.00)~~ authorized to do business within the United
13 States, provided that a claim against the financial instrument may be made by electronic
14 means, including by facsimile. The ~~performance~~ construction bond or letter of credit shall
15 will be used to guarantee ~~the compliance with performance requirements and payment of~~
16 ~~all sums which may become due to the County under this article~~ secure restoration of the
17 post-construction rights-of-way to the pre-construction condition. The ~~performance~~
18 construction bond or letter of credit shall will be maintained ~~in the full amount specified~~
19 ~~herein throughout the term of the Registration, and for one (1) year after the Registration~~
20 ~~expires or is terminated~~ for up to eighteen (18) months after the construction for which
21 the bond applies is completed, without reduction or allowances for any amounts ~~which~~
22 that are withdrawn or paid ~~pursuant to~~ under this article. ~~In the event~~ If the Registrant is
23 using the County's airport rights-of-way ~~pursuant to~~ under any Registrant, the
24

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underscored type are additions.

1 R~~egistrant~~ shall comply with any additional ~~permanent performance and payment~~
2 construction bond requirements of the County's Aviation Department.

3 (d) All required insurance coverages and policies shall be without a deductible
4 unless approved in writing by the County's Risk Management Division.

5 (e) An operator may add the County to any existing bond, insurance policy, or
6 other financial instrument, and such proof of coverage will be accepted without any
7 conditions other than consent to venue for purposes of any litigation to which the County
8 is a party.

9 **Sec. 20-592. ~~Enforcement and remedies~~ Registration authority and content.**

10 (a) ~~Office of Information Technology Responsible for Administration.~~ The
11 County's ~~Office of Information Technology~~ Highway Construction & Engineering Division
12 is responsible for ~~enforcing and~~ administering this article, and its ~~Chief Information Officer~~
13 Director or designee is authorized to give any notice required by law or under any
14 ~~Registration.~~ The ~~Chief Information Officer~~ Director of the Highway Construction &
15 Engineering Division or designee is authorized to seek information from any operator
16 relative to this article, to establish forms for submission of ~~R~~registrations and other
17 information, and to take all other actions necessary or appropriate ~~to~~ for the administration
18 of this article. Registrations ~~shall~~ will only be issued or revoked by action of the County's
19 ~~Office of Information Technology~~ Highway Construction & Engineering Division. If the
20 ~~R~~registrant is occupying airport rights-of-way, then the County's Aviation Department
21 ~~shall~~ will be responsible for enforcing and administering this article in accordance with the
22 requirements set forth in this ~~S~~ection.

23 (b) ~~Minimum Contents of Every Registration~~ Minimum Contents of Every
24 Registration. In addition to satisfying the other applicable requirements of Divisions 4—

1 ~~3~~ 1-3 of this article, every Registration pertaining to the provision of telecommunications
2 services ~~shall~~ must contain the following provisions:

3 (1) The Registration, or any provision thereof, ~~shall~~ will not constitute a waiver
4 or bar to the exercise of any governmental right or power, police power, or
5 regulatory power of the County ~~which~~ that may exist on the ~~E~~effective ~~D~~date
6 of the Registration or ~~which~~ that may become effective thereafter.

7 (2) The Registration to occupy the rights-of-way is solely for the purpose of
8 providing telecommunications services described in the Registration.

9 (3) The Registration ~~shall~~ will not convey title, equitable or legal, in the
10 rights-of-way. The Registration is only to occupy rights-of-way for the
11 purposes and for the period stated in the Registration, and the Registration
12 may not be alienated, assigned, or transferred except as permitted by this
13 article or by state or federal law.

14 (4) A transfer of a Registration ~~shall~~ must be ~~completed on form(s) supplied by~~
15 ~~the Office of Information Technology and~~ submitted in accordance with
16 Division 2 of this article, except that, if the information provided by the
17 Registrant/transferor under Division 2 remains accurate, the transferee
18 may simply cross-reference the earlier Registration.

19 (5) Appropriate provisions for enforcement, ~~compensation,~~ and protection of
20 the public, consistent with the other provisions of this article.

21 **Sec. 20-593. Theft, vandalism, tampering; violation.**

22 (a) It is unlawful ~~pursuant to~~ under Section 812.14, Florida Statutes, and a
23 violation of this article for any person to:

1 (1) Willfully alter, tamper with, injure, or knowingly ~~suffer to be injured~~ damage
2 any conduit, wire, line, cable, transformer, amplifier, or other apparatus or
3 device belonging to a utility line service in such a manner as to cause loss
4 or damage.

5 (2) ~~Make or cause to be made~~ Connect or cause any connection with any wire
6 without the consent of the utility.

7 (3) Use or receive the direct benefit from the use of a utility knowing, or under
8 ~~such~~ circumstances as that would induce a reasonable person to believe,
9 that such direct benefits have resulted from any tampering with, altering of,
10 or injury to any connection, wire, conduit, line, cable, transformer, amplifier,
11 or other apparatus or device owned, operated, or controlled by such utility,
12 for the purpose of avoiding payment.

13 (b) The actual possession by a person on property of any device or alteration
14 ~~which effects~~ that affects the diversion or use of the services of a utility so as to avoid the
15 ~~R~~egistration of such use by the utility or so as to otherwise avoid the reporting of use of
16 such service for payment ~~shall~~ will be prima facie evidence of a violation of this ~~S~~section
17 by such person; however, this presumption does not apply unless:

18 (1) The presence of such a device or alteration can be attributed only to a
19 deliberate act in furtherance of an intent to avoid payment for utility services;

20 (2) The person charged has received the direct benefit of the reduction of the
21 cost of such utility services; and

22 (3) The customer or recipient of the utility services has received the direct
23 benefit of such utility service for at least one full billing cycle.

24 **Sec. 20-594. Revocation; eCounty's right of revocation.**

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underscoring type are additions.

1 (a) The County's ~~Office of Information Technology~~ Highway Construction
2 & Engineering Division or Aviation Department, as applicable, reserves the right to
3 suspend or revoke a Registration and all rights and privileges granted thereunder ~~in the~~
4 ~~event~~ if any one of the following occurs:

5 (1) The Registrant, after sixty (60) days' notice of a violation sent by certified
6 mail by the County Administrator or designee, continues to violate any
7 material provision set forth in this article or the Registration ~~pursuant to~~
8 under this article; provided, however, that the notice period ~~shall~~ will be
9 thirty (30) days ~~in the event that~~ if such violation is ~~(i) the failure to make a~~
10 ~~required payment of occupancy fees under Sec. 20-588 above,~~ (ii) the failure
11 to submit to an audit as applicable under state law, ~~or (iii) the failure~~
12 ~~to provide the quarterly report required by Section 20-588(4);~~;

13 (2) The Registrant becomes insolvent, unable, or unwilling to pay its debts, or
14 makes an assignment for the benefit of creditors;

15 (3) The Registrant practices any fraud or deceit upon the County in connection
16 with its responsibilities under its Registration; or

17 (4) The Registrant fails to commence any required construction, if applicable,
18 within one (1) year from the ~~E~~effective ~~D~~date of the Registration.

19 This subsection ~~shall~~ will not ~~apply to permit~~ authorize the County to revoke a
20 Registration to the extent such revocation is prohibited by federal ~~bankruptcy~~ or state
21 law.

22 (b) *Procedures for Revocation.* A Registration may be revoked by the County
23 in accordance with the following procedures:

24
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- 1 (1) The ~~County Administrator~~ Director of the Highway Construction
2 & Engineering Division or designee shall notify the R~~egistrant~~, in writing, of
3 the exact nature of the alleged violation(s) constituting grounds for
4 revocation and give the R~~egistrant~~ sixty (60) days, or such other greater
5 amount of time as the ~~County Administrator~~ Director of the Highway
6 Construction & Engineering Division or designee may specify, to correct
7 such violation(s) or to present facts and argument refuting the alleged
8 violation(s).
- 9 (2) If within the designated time the R~~egistrant~~ does not remedy ~~and/or~~ cease
10 the alleged violation, or if corrective action is not being actively and
11 expeditiously pursued, the ~~County Administrator~~ Director of the Highway
12 Construction & Engineering Division or designee may, after giving the
13 R~~egistrant~~ an opportunity to meet upon not less than fourteen (14) days'
14 written notice, revoke the R~~egistration~~ if it determines that such action is
15 warranted.
- 16 (3) Following the meeting, the ~~County Administrator~~ Director of the Highway
17 Construction & Engineering Division or designee shall order an
18 administrative hearing if the issues have not been satisfactorily resolved.
19 The ~~County Administrator~~ Director of the Highway Construction
20 & Engineering Division shall initiate an administrative proceeding by issuing
21 an order ~~which~~ that establishes the issues to be addressed in the hearing
22 and the procedures to be followed, and the ~~County Administrator~~ Director
23 of the Highway Construction & Engineering Division shall appoint a hearing
24 officer for the hearing. Said hearing officer shall be a member of good

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1 standing of The Florida Bar engaged in the private practice of law in
2 Broward, Miami-Dade, or Palm Beach County with experience in areas
3 related to telecommunications issues. Upon completion of the hearing, the
4 hearing officer shall issue a preliminary order. The ~~Office of Information~~
5 ~~Technology~~ Highway Construction & Engineering Division shall publish
6 notice in a newspaper of general circulation in the County inviting public
7 comment on the preliminary order. Parties to the hearing and the public
8 shall have thirty (30) calendar days to comment on the preliminary order
9 after publication of the notice. Within thirty (30) days after the public
10 comment period, the hearing officer shall decide whether or not to revoke
11 the ~~R~~egistration in accordance with Section (4) below.

12 (4) The hearing officer shall determine whether or not to revoke the
13 ~~R~~egistration based on the comments provided, the evidence and argument
14 presented at the hearing, any recommendations of the ~~county administrator~~
15 Director of the Highway Construction & Engineering Division or designee,
16 and other evidence of record. The hearing officer's determination shall be
17 reflected in a written opinion setting forth the reasons for his/her decision.

18 (5) ~~In the event of~~ For foreclosure or other judicial sale of any of the facilities,
19 equipment, or property of the ~~R~~egistrant located in the County
20 rights-of-way, the County's ~~Office of Information Technology~~ Highway
21 Construction & Engineering Division shall, upon not less than fourteen (14)
22 days' written notice, give a successful bidder an opportunity to be heard
23 prior to revoking the ~~R~~egistration. If the ~~Office of Information Technology~~
24 Highway Construction & Engineering Division decides to revoke the

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1 R_registration, it shall do so by serving written notice upon the R_registrant
2 and the successful bidder, in which event the R_registration and all rights
3 and privileges of the R_registration will be revoked ninety (90) calendar days
4 after serving such notice, unless:

5 a. The County has approved the transfer of the R_registration to the
6 successful bidder; and

7 b. The successful bidder complies with the terms and conditions of the
8 R_registration and this article.

9 (c) *Effect of Termination or Forfeiture.* Upon termination of a R_registration,
10 whether by revocation, forfeiture, or otherwise, the R_registrant shall be obligated to cease
11 using the telecommunications facilities pursuant to under this article or to remove some
12 or all of the R_registrant's facilities from the rights-of-way and restore the rights-of-way to
13 their proper condition. Should the R_registrant neglect, refuse, or fail to remove such
14 facility, the County may remove the facility at the expense of the R_registrant. The
15 obligation of the R_registrant to remove facilities shall survive the termination of the
16 R_registration for a period of two (2) years. Notwithstanding the above, the County may
17 not require the R_registrant to remove any facilities that are used to provide another service
18 for which the R_registrant holds a valid franchise or license issued by the County.

19 (d) *Remedies Cumulative.* All remedies under this article, federal law, state law,
20 and ~~pursuant to~~ under any R_registration are cumulative unless otherwise expressly
21 stated. The exercise of one remedy shall not foreclose use of another, nor shall the
22 exercise of a remedy or the payment of penalties relieve an operator of its obligations to
23 comply with its R_registration. Remedies may be used singly or in combination. In addition,
24 the County may exercise any rights it has at law or equity. Recovery by the County of any

1 amounts under insurance, the ~~performance~~ construction bond, or letter of credit, or
2 otherwise does not limit an operator's duty to indemnify the County ~~in any way~~ to the
3 extent permitted by state or federal law; nor shall such recovery relieve an operator of its
4 obligations under a R~~e~~gistration, limit the amounts owed to the County, or in any respect
5 prevent the County from exercising any other right or remedy it may have.

6 **Sec. 20-595. Access to books and records.**

7 (a) Subject to applicable state law, each operator shall provide the County
8 access to all books and records related to the construction, operation, maintenance, or
9 repair of the telecommunications facility so that the County may inspect and copy these
10 books and records for the purpose of determining compliance with this article. An operator
11 is responsible for obtaining or maintaining the necessary possession or control of all
12 books and records related to the construction, operation, maintenance, or repair of the
13 telecommunications facility, so that it can produce the documents upon request. Books
14 and records shall be maintained for a period of five (5) years, except that: (1) any record
15 that is a public record shall be maintained for a greater period of time if required by state
16 law; or (2) any record that is not a public record may be maintained for a shorter period
17 of time if not in conflict with state law ~~for certain categories of voluminous books and~~
18 ~~records~~ where the information contained therein can be derived simply from other
19 materials.

20 (b) For purposes of this article, the term "books and records" shall be read
21 expansively to include information in whatever format stored. Books and records
22 requested shall be produced to the County Administrator or designee, except as provided
23 pursuant to under subsection (c) below.

1 (c) If any books and records are too voluminous, or for security reasons cannot
2 be copied ~~and~~ or moved, then a telecommunications facility operator may request that
3 the inspection take place at some other location mutually agreed to by the County and
4 the operator, provided that (1) the operator must make necessary arrangements for
5 copying documents selected by the County after its review; and (2) the operator must pay
6 all travel and additional copying expenses incurred by the County (above those that would
7 have been incurred had the documents been produced in the County) in inspecting those
8 documents or having those documents inspected by a County designee. Notwithstanding
9 the above, a registrant is not required to provide inventories, maps, or locations of
10 telecommunications facilities in County rights-of-way other than as necessary to avoid
11 interference with other at-grade, below grade, or aerial facilities located at the specific
12 location proposed for a small wireless facility or within one hundred (100) feet of such
13 location. A pass-through provider, however, upon request by the County, must provide
14 reasonable access to maps of pass-through facilities located in County rights-of-way
15 subject to the following:

- 16 (1) The scope of the request must be limited to only those maps of pass-
17 through facilities from which the calculation of linear miles of pass-through
18 facilities in the rights-of-way can be determined;
- 19 (2) The request must be accompanied by an affidavit that the person making
20 the request is authorized by the County to review tax information related to
21 the revenue and mileage calculations for pass-through providers; and
- 22 (3) A request has not been made more than once annually to the pass-through
23 provider.
- 24

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1 (d) Without limiting the foregoing, the operator of a telecommunications facility
2 shall provide the County with the following information or, in the case of documents
3 created by the operator or its affiliate, filing within ten (10) days of after receipt:

4 (1) Notices of deficiency or forfeiture related to the operation of the
5 telecommunications facility; and

6 (2) Copies of any request for protection under bankruptcy laws, or any
7 judgment related to a declaration of bankruptcy by the Registrant or by any
8 partnership or corporation that owns or controls the Registrant directly or
9 indirectly.

10 (e) *Retention of Records; Relation to Privacy Rights.* Each telecommunications
11 facility operator shall take all reasonable steps required, if any, to ensure that it is able to
12 provide the County all information ~~which~~ that must be provided or may be requested under
13 this article, its Registration, or applicable law. Each operator shall be responsible for
14 providing the County with only the information that it is permitted by law to disclose.

15 (f) *Reports.* The County may require operators of telecommunications facilities
16 to maintain records and prepare reports relevant to determining the compliance of the
17 telecommunications facility operator with the terms and conditions of this article and the
18 Registration.

19 (g) *Maps.* Each telecommunications facility operator shall maintain accurate
20 maps and improvement plans (it being understood that such maps and plans may not be
21 to scale) ~~which~~ that show the location, size, and a general description of all facilities
22 installed in the rights-of-way and any power supply sources (including voltages and
23 connections). Maps shall be based upon accurate as-built data to verify location. The
24 operator shall provide a map to the County showing the location of its facilities as

1 described in Sections 20-590(f) and (g), as may be applicable but only if, and to the extent,
2 required by Section 337.401, Florida Statutes. ~~New~~ These maps, to the extent statutorily
3 required, shall be promptly submitted to the County when the facility expands or is
4 relocated. If statutorily required to be provided to the County, ~~C~~copies of as-built maps in
5 a digital format acceptable to the County, if prepared, utilizing CAD/GIS or other
6 automated system capable of exporting a file compatible with CAD/GIS, shall be
7 submitted to the County's Highway Construction & Engineering Division. If the ~~as-built~~
8 as-built maps include airport rights-of-way, such as-built maps shall be submitted to the
9 Aviation Department.

10 (h) *Compliance with Laws.* Each operator shall comply with all applicable laws
11 heretofore and hereafter adopted or established during the entire term of its ~~R~~registration.

12 (i) *No Waiver.* The failure of the County to insist on timely performance or
13 compliance by any operator shall not constitute a waiver of the County's right to later insist
14 on timely performance or compliance by that operator or any other person holding a
15 ~~R~~registration.

16 (j) *Powers Reserved.* The County expressly reserves the right to amend this
17 article from ~~time to time~~ time to time in the exercise of its lawful powers and shall, at a
18 minimum, review all matters related to the Broward County Telecommunications
19 Ordinance every three (3) years.

20 DIVISION 2. REGISTRATION PROCESS FOR TELECOMMUNICATION FACILITIES

21 **Sec. 20-596. Registration, renewal, transfer, or modification.**

22 (a) *Registration Required.* In order to obtain an initial, renewal, transfer, or
23 modification of a ~~R~~registration, an operator of a telecommunications facility must
24 complete and submit a ~~R~~registration form documents to the County's ~~Office of Information~~

1 ~~Technology~~ Highway Construction & Engineering Division in accordance with the
2 requirements of Divisions ~~4—3~~ 1-3 of this article. The ~~R~~registration form ~~documents for a~~
3 telecommunications services provider must contain ~~such~~ the name, address, and
4 telephone number of a contact person for the registrant, the number of the registrant's
5 current certificate of authorization issued by the Florida Public Service Commission, the
6 Federal Communications Commission, or the Department of State; a statement of
7 whether the registrant is a pass-through provider as defined in Section 337.401(6)(a)1,
8 Florida Statutes; the registrant's federal employer identification number; proof of
9 insurance or self-insurance status adequate to defend and cover claims; and any other
10 information as the County may from time to time require to the extent allowed by state or
11 federal law. ~~Registration forms may be obtained from the County's Office of Information~~
12 ~~Technology.~~ If the ~~R~~registration is for the use of airport rights-of-way, then the
13 ~~R~~registration documents as required by this ~~S~~section shall must be submitted to the
14 Aviation Department.

15 (b) *Contents of a Registration.* All ~~R~~registrations, renewals, transfers, or
16 modifications shall be initiated by submission of ~~an original and two (2) copies of a~~
17 ~~completed form~~ the renewed, transferred, or modified documents. All ~~R~~registrations shall
18 be submitted to the ~~Chief Information Officer~~ Director of the County's ~~Office of~~
19 ~~Information Technology~~ Highway Construction & Engineering Division or the Aviation
20 Department, or designee. The County has the right to request additional information if
21 the ~~form~~ submission is incomplete. All completed ~~R~~registration forms documents shall
22 be available for public inspection and shall include the names and addresses of persons
23 authorized to act on behalf of the operator with respect to the ~~R~~registration.

24

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1 (c) A Registration may be filed by any person on that person's own initiative or
2 in response to a request for proposals by the County.

3 ~~(d)~~ Registration Filing Fee.

4 ~~(1)~~ Every Registration shall be accompanied by a nonrefundable Registration
5 fee established by resolution of the Board and incorporated into the Broward
6 County Administrative Code.

7 ~~(2)~~ All checks shall be made payable to the Board of County Commissioners
8 for Broward County, Florida, and delivered to the Chief Information Officer
9 of the County's Office of Information Technology or designee.

10 ~~(3)~~ Where the County's out-of-pocket costs in considering the Registration
11 exceed the amount of the filing fee, such costs shall be paid by the operator.
12 Within thirty (30) calendar days of the Effective Date of the Registration, the
13 County Administrator or designee must notify the successful Registrant of
14 the amount of any such costs and its method of calculation. If the costs are
15 not paid within sixty (60) calendar days of the Effective Date of the
16 Registration, the Registration shall be deemed null and void. Payment
17 under protest of the costs shall be a prerequisite to contesting the amount
18 of the out-of-pocket costs. Amounts paid under this subsection shall be
19 amortized over the term of the Registration and shall be applied as credit
20 against the occupancy fee.

21 ~~(e)~~ (d) Modification of Registration.

22 (1) Each operator requesting modification of a Registration shall, at a
23 minimum, set forth the information contained in subsection (2) below. To be
24 deemed acceptable for filing, an original and two (2) copies of the request

1 for modification shall be submitted to the County ~~accompanied by the~~
2 ~~required fee.~~

3 (2) Each request for modification shall contain:

- 4 a. The specific modification requested;
- 5 b. The justification for the requested modification, including the impact
6 of the requested modification on the use of the rights-of-way, and the
7 impact on the operator if the modification is denied;
- 8 c. A statement whether the modification is sought ~~pursuant to~~ under
9 federal or state law and, if so, a demonstration that the requested
10 modification meets all the requirements of that law; and
- 11 d. Any other information deemed necessary by the County in order for
12 the County to make a determination regarding the use and regulation
13 of its rights-of-way.

14 (3) ~~No fee shall be required where the modification is required to bring the~~
15 ~~Registration into conformity with any state, federal, or local law or~~
16 ~~regulation.~~ A registrant must update its registration information provided
17 under this section within ninety (90) days after any change in such
18 information.

19 f) (e) *Requests for Transfer.* Any operator requesting a transfer of a R~~egistration~~
20 must comply with the requirements set forth in ~~subsection (d) above~~ this section.
21 However, if the proposed transferee has already been registered ~~pursuant to~~ under this
22 article, to the extent information provided by the proposed transferee is accurate at the
23 time of the request of the transfer, the proposed transferor may simply cross-reference
24 the proposed transferee's previous submission.

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1 ~~(g)~~ (f) *County Review of Registration.* The County Administrator or designee shall
2 review the request for ~~R~~registration, or the request for changes to, renewal of, or transfer
3 of an existing ~~R~~registration and may request such additional information as deemed
4 necessary in the review process and require such changes to the proposed use of the
5 County's rights-of-way as may be necessary and lawful in the exercise of the County's
6 authority over County roads and rights-of-way. Once the information required by the
7 County has been provided, the ~~R~~registration request shall be promptly reviewed by the
8 County and written acknowledgment of ~~R~~registration shall be provided if it finds that:

- 9 (1) The operator has the qualifications to construct, operate, maintain, and
10 repair the proposed telecommunications facility in conformity with
11 applicable law.
- 12 (2) The operator has demonstrated compliance with state and federal law and
13 with all the requirements for a ~~R~~registration provided in this article.
- 14 (3) The operator accepts the modifications required by the County to its
15 proposed telecommunications facility.
- 16 (4) The operator has complied with all conditions precedent ~~pursuant to~~ under
17 this article.
- 18 (5) In the case of a transfer of a ~~R~~registration, the County must also determine
19 that:
 - 20 a. There will be no adverse effect on the use and regulation of the
21 County's rights-of-way, or the County's interest in the ~~R~~registration;
 - 22 b. The ~~P~~proposed transferee agrees to be bound by all the conditions
23 of the ~~R~~registration and to assume all the obligations of its
24 predecessor; and

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1 c. Any outstanding compliance ~~and compensation~~ issues are resolved
2 or preserved to the satisfaction of the County.

3 ~~(h)~~ (g) An operator ~~shall~~ may not be registered if it files or, in the previous three (3)
4 years, has filed materially misleading information in a previous submission to the County,
5 or a Registration form is incomplete.

6 ~~(i)~~ (h) *Denial of a Registration.* The County's denial of a Registration and the
7 basis therefor shall be supported by written findings ~~which~~ that may include, among other
8 things, past performance of the Registrant and findings of a material violation of this
9 article, ~~which shall be provided to the operator~~ and must include the specific code
10 provisions on which the denial was based. The County shall provide this written
11 documentation to the registrant by electronic mail on the day the registration is denied
12 and allow a reasonable opportunity for the operator to show that it would be inappropriate
13 for the County to deny the renewal, transfer, or modification under this article. A material
14 violation of this article shall be deemed to exist ~~in the event~~ if any of the following exists
15 or has occurred:

16 ~~(1)~~ (1) ~~Failure to pay Registration filing fees pursuant to this article;~~

17 ~~(2)~~ (1) Operating in a manner inconsistent with the Registration;

18 ~~(3)~~ (2) Failure to perform work within the rights-of-way pursuant to the
19 requirements of Section 20-591 of this article and the County's Minimum
20 Standards;

21 ~~(4)~~ (3) Failure to provide insurance and bonding requirements pursuant to
22 Section 20-591 of this article;

23
24
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1 ~~(5)~~ (4) Permitting a reseller to use a ~~R~~registrant's telecommunications facilities
2 within the rights-of-way without providing written notice to the County
3 pursuant to this article; or

4 ~~(6)~~ (5) Failure to comply with any provision of this article.

5 ~~(j)~~ (i) *Acknowledgment of Registration.* Within thirty (30) calendar days after the
6 ~~Office of Information Technology's Highway Construction & Engineering Division's~~ receipt
7 ~~of a completed~~ the required Rregistration ~~form~~ documents, the ~~Office of Information~~
8 ~~Technology Highway Construction & Engineering Division~~ shall issue a written
9 acknowledgment of the ~~R~~registration when required by Section 20-596 of this article. All
10 material statements and declarations contained in the ~~R~~registration ~~form~~ documents shall
11 be incorporated in the operator's ~~R~~registration.

12 DIVISION 3. ~~PRIVATE COMMUNICATIONS FACILITIES PERMIT APPLICATION~~
13 PROCESS FOR WIRELESS COMMUNICATIONS SERVICE PROVIDERS

14 **Sec. 20-597. ~~Private communications facilities~~ Permit application process.**

15 (a) *Submission of Registration Permit Applications.* A ~~person~~ wireless
16 communications services provider desiring to construct, or install, ~~operate, replace,~~
17 ~~reconstruct, or maintain a private communications system in Broward County,~~ a new utility
18 pole used to support a small wireless facility, or to collocate small wireless facilities is
19 required to ~~Register~~ submit an application for a permit with the County's Highway
20 Construction & Engineering Division. The ~~Registration shall only authorize~~ application
21 must request authorization for placement of the facilities in ~~a specific portion of the rights-~~
22 ~~of-way for a limited and specific purpose in connection with the person's business;~~
23 however, it shall not encompass, in whole or in part, the carriage of telecommunications
24 for hire in the rights-of-way accordance with Section 337.401, Florida Statutes, as

1 ~~amended.~~ Such request shall must also be in the form identified in Division 2 of
2 accordance with this article and must be accompanied by a filing fee, the amount of which
3 ~~shall be fixed by resolution of the Board as may be amended from time to time the~~
4 County's Minimum Standards.

5 (b) *Conditions of Registration Application.* Any Registration application shall be
6 subject to such conditions as the County may from time to time establish, ~~shall be~~
7 ~~expressly subordinate to the use of the rights-of-way by operators of telecommunications~~
8 ~~facilities,~~ and shall otherwise conform to the requirements of this article. ~~Subject to the~~
9 ~~foregoing, the provisions of Division 1, Division 2, and Division 3 of this article shall be~~
10 ~~applicable to a private communications system as if it were a telecommunications facility.~~

11 (1) Within fourteen (14) days after receiving a permit application, the County
12 must determine and notify the applicant by electronic mail as to whether the
13 application is complete. If the County deems an application incomplete, the
14 County will specifically identify the missing information. Notwithstanding, an
15 application will be deemed complete if the County fails to provide notification
16 to the applicant within fourteen (14) days or any other time frame
17 established by Section 337.40 Florida Statutes, as amended.

18 (2) Subject to Section 20-589, and Section 337.401 Florida Statutes, as
19 amended, the County may not limit the placement, by minimum separation
20 distances, of small wireless facilities, utility poles on which small wireless
21 facilities are or will be collocated, or other at-grade wireless communications
22 facilities. However, within fourteen (14) days after the date of filing a permit
23 application, the County may request that the proposed location of a small
24 wireless facility be moved to another location in the County's right-of-way

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1 and placed on an alternative utility pole or support structure or placed on a
2 new utility pole. The County may negotiate the alternative location, including
3 any objective design standards and reasonable spacing requirements for
4 ground-based equipment for thirty (30) days after the date of the request.
5 At the conclusion of the negotiation period, if the alternative location is
6 accepted by the applicant, the applicant must notify the County of such
7 acceptance, and the application will be deemed granted for any new
8 location where there is agreement and all other locations in the application.
9 If agreement is not achieved, the applicant must notify the County of the
10 absence of agreement and the County must grant or deny the original
11 application within ninety (90) days after the date the application was filed.
12 All requests, acceptances, and rejections for alternative locations must be
13 in writing and provided by electronic mail.

14 (3) A complete application is deemed approved if the County fails to approve
15 or deny the application within sixty (60) days after receipt of the application.
16 If the County does not use the thirty (30) day negotiation period provided in
17 paragraph (2) above, the parties may mutually agree to extend the
18 sixty (60) day application review period. The County shall grant or deny the
19 application at the end of the extended period.

20 (4) The County must notify the applicant of approval or denial by electronic
21 mail. The County shall approve a complete application unless it does not
22 comply with applicable codes or regulations. If the application is denied, the
23 County will specifically write the basis for denial, including the specific code
24 provisions on which it is based, and send the documentation to the applicant

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1 by electronic mail on the day the County denies the application. The
2 applicant may cure the deficiencies identified by the County and resubmit
3 the application within thirty (30) days after notice of the denial is sent to the
4 applicant. The County shall approve or deny the revised application within
5 thirty (30) days after receipt or the applicant will be deemed approved. The
6 County's review of a revised application will be limited to the deficiencies
7 cited in the denial. If the County provides for administrative review of the
8 denial of an application, the review must be complete and a written decision
9 issued within forty-five (45) days after a written request for review is made.
10 If the administrative review is not complete within forty-five (45) days, the
11 County waives any claim regarding failure to exhaust administrative
12 remedies in any judicial review of the denial of an application.

13 (c) ~~Compensation. The owner of a private communications facility shall pay an~~
14 ~~occupancy fee for use of the rights-of-way. The occupancy fee for a private~~
15 ~~communications facility shall be paid under the same terms and conditions as established~~
16 ~~for Registration fees in Division 1 of this article.~~

17 DIVISION 4. MISCELLANEOUS

18 **Sec. 20-598. Captions.**

19 The captions to sections throughout this article are intended solely to facilitate
20 reading and reference to the sections and provisions of this article. Such captions shall
21 not affect the meaning or interpretation of this article.

22 **Sec. 20-599. Calculation of time.**

23 Unless otherwise indicated, when the performance or doing of any act, duty,
24 matter, or payment is required under this article or any Registration, and a period of time

1 for the fulfillment of same is prescribed herein, the time shall be computed so as to
2 exclude the first and include the last day of the prescribed time period.

3
4 **Sec. 20-600. Penalties.**

5 (a) A violation of certain provisions of this article may subject a person to civil
6 penalties pursuant to Chapter 8½ of the Broward County Code.

7 (b) Any person who violates any applicable provision of this article may be
8 prosecuted by the State Attorney's Office in the same manner as misdemeanors are
9 prosecuted pursuant to ~~§ 775.082, F.S. or § 775.083, F.S.~~ Section 775.082 or 775.083,
10 Florida Statutes. Such a violation may be prosecuted in the name of the state in a court
11 having jurisdiction of misdemeanors by the prosecuting attorney thereof, and upon
12 conviction shall be punished by a fine not to exceed ~~f~~Five ~~h~~Hundred ~~d~~Dollars (\$500.00)
13 or by imprisonment in a county jail for a definite term not to exceed
14 sixty (60) days or by both such fine and imprisonment.

15 **Sec. 20-601. Liability in case of emergency.**

16 If a fire, police action, disaster, or other emergency threatens the public health,
17 safety, and general welfare and it shall appear necessary in the reasonable judgment of
18 the County to cut, move, or otherwise interfere with any of the wires, cables, amplifiers,
19 appliances, or appurtenances thereto of the Registrant, the County shall not be liable for
20 any injury or damage to such property and equipment of the Registrant as a result of
21 such cutting, moving, or interference. If state, federal, or local emergency funds are
22 available, the County will reimburse the Registrant to the extent possible.

23 **Sec. 20-602. Abandonment.**
24

1 (a) The County may require removal of abandoned telecommunications
2 facilities thirty (30) days after notice of abandonment has been provided to the owner of
3 the telecommunications facility.

4 (b) Where a telecommunications facility is abandoned but not removed within
5 the specified time frame, the County may remove the facility in accordance with all
6 applicable codes, rules, and regulations.

7 (c) Where a telecommunications facility is removed by the operator, said
8 operator shall restore the area to a condition acceptable to the County in the sole
9 discretion of the Director of the Highway Construction & Engineering Division, unless
10 otherwise instructed by the County.

11 (d) Where a telecommunications facility is used for other purposes, including,
12 but not limited to, light standards and power poles, it will not be considered abandoned.

13 Section 3. Severability.

14 If any portion of this Ordinance is determined by any court to be invalid, the invalid
15 portion will be stricken, and such striking will not affect the validity of the remainder of this
16 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
17 legally applied to any individual, group, entity, property, or circumstance, such
18 determination will not affect the applicability of this Ordinance to any other individual,
19 group, entity, property, or circumstance.

20 Section 4. Inclusion in the Broward County Code of Ordinances.

21 It is the intention of the Board of County Commissioners that the provisions of this
22 Ordinance become part of the Broward County Code of Ordinances as of the effective
23 date. The sections of this Ordinance may be renumbered or relettered and the word
24

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 underscoring type are additions.

1 "ordinance" may be changed to "section," "article," or such other appropriate word or
2 phrase to the extent necessary in order to accomplish such intention.

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Section 5. Effective Date.

This Ordinance is effective as of the date provided by law.

PROPOSED

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Amanda Tolbert 10/14/2020
Amanda Tolbert (date)
Assistant County Attorney

By /s/ Michael J. Kerr 10/14/2020
Michael J. Kerr (date)
Deputy County Attorney

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10/14/2020
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