

DOUGLAS COUNTY, GEORGIA
ORDINANCE NO. _____
AN ORDINANCE BY THE DOUGLAS COUNTY BOARD
OF COMMISSIONERS TO ADOPT REGULATIONS OF
SMALL WIRELESS FACILITIES AND ANTENNAS IN THE
PUBLIC RIGHT OF WAY

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, provides in Article IX, Section 2, Paragraph 1 thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations, and

WHEREAS, O.C.G.A. § 36-1-20 authorizes the County to adopt ordinances preserving the public health, safety, and welfare, and to adopt appropriate measures to enforce those ordinances; and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of Douglas County, Georgia, the Board of Commissioners of Douglas County desires to exercise its authority to adopt an ordinance regulating small cell technology in the public right of way;

WHEREAS, appropriate notice and hearing on the ordinance contained herein have been carried out according to general and local law; and

WHEREAS, it is necessary to modify other sections of Article III of the County's Code of Ordinances to conform them to revisions that have been made elsewhere within the Code of Ordinances.

NOW, THEREFORE, the Board of Commissioners of DOUGLAS County, Georgia hereby ordains as follows:

Section 1. The language attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein is hereby adopted and approved, and shall be codified within Chapter 14, Article III and Article IX, of the Douglas County Code of Ordinances.

Section 2. All other ordinances shall continue in full force and effect and shall remain unaffected, except where such ordinance, or part thereof, conflicts herewith, in which case such ordinance, or part thereof, is hereby repealed.

Section 3. It is the express intent of the Board of Commissioners of Douglas County, Georgia that this Ordinance be consistent with both federal and state law. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the

Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 4. This Ordinance shall be effective upon APPROVAL.

Adopted this _____ day of _____, 2019.

DOUGLAS COUNTY BOARD OF COMMISSIONERS:

Dr Ramona Jackson Jones, Madam Chair

Kelly Robinson, Vice Chairman and District 2

Tarenia Carthan, District 3

Henry Mitchell, District 1

Ann Jones Guider District 4

Attest:

Lisa Watson
Clerk to the Board

**USE OF PUBLIC RIGHT-OF-WAY
FOR UTILITIES AND COMMUNICATIONS SERVICE PROVIDERS
AND
SMALL WIRELESS FACILITIES AND ANTENNAS ORDINANCE**

ARTICLE III. - ~~UTILITY EASEMENTS~~ USE OF PUBLIC RIGHT-OF-WAY ^[2]

Footnotes:

--- (2) ---

Editor's note— County Drawings, Standard numbers 3.01 and 3.02, of Backfilling and Repaving Utility Cuts, and Underground Utilities—Typical Locations, respectively, are on file in the office of the clerk.

Sec. 14-40. - Notice of intention to utilize right-of-way.

Any public utility or communications services provider (CSP) seeking to access, condemn or utilize an easement or right of use or access over or through or within the paved or unpaved portion of the public right-of-way which is under the supervision and control of the county, in order to run wires, pipes, cables, maintain dams, flow backwater, establish facilities, or for any other uses necessary to its purpose, shall first notify the county engineering transportation department or its designated agent of the utility's or CSP's intention to so access, condemn or utilize, and all cases other than condemnation said utility or CSP shall must obtain a permit from the engineering transportation department. Utilization shall mean any manner of use of the above-described right-of-way, including but not limited to, cutting of the pavement or boring under the pavement or cutting or boring of the ground outside of the paved area. Such notification shall must include the location and description of the right-of-way to be accessed, condemned or utilized and the purpose of the access, condemnation or utilization. In the event of emergency repair service involving utilization of the paved portion of the right-of-way during hours other than normal office hours, the utility or CSP shall notify the engineering transportation department on the next business day.

(Ord. of 3-3-81, § 57-101; Ord. of 3-18-97)

Sec. 14-41. - Promulgation of standard specifications.

The county engineering transportation department is hereby authorized to prepare standard specifications regulating the installation of pipes, wires, cables, poles, lines, communications facilities, etc., over, through or within a public right-of-way. These specifications shall be in conformance with the requirements of this article and shall be designed to protect and safeguard the welfare of the county and its citizens. A copy of the specifications shall be available for public view during normal business hours at the county engineering department.

(Ord. of 3-3-81, § 57-102; Ord. of 3-18-97)

Sec. 14-42. - Approval of installation.

As to new installation, no public utility or CSP shall install any lines, wires, pipes or poles, or otherwise utilize a public right-of-way until after obtaining prior written approval from the county engineering transportation department respecting the proposed location of said lines, wires, pipes, communications facilities, etc., in accordance with these regulations. The engineering transportation department shall determine if the installed location and placement of any utility or CSP along a public right-of-way meets the requirements of this article and the specifications of the county engineering department (see section 14-41). The engineering transportation department shall then issue a written approval or disapproval to the public utility or CSP regarding the installation. Any installation made by any utility or CSP in a location other than that specified in this regulation or the county engineering transportation department standard number 3.02 "Underground Utilities-Typical Locations" shall must be removed and reinstalled in the proper location entirely at the expense of the utility or CSP. Failure to reinstall at the proper location will result in the withholding of any further installation permits. Failure to conform to this article or the permit will result in the withholding of any further installation permits.

(Ord. of 3-3-81, § 57-103)

Sec. 14-43. - Particular side of street for specific utilities or CSPs.

Water, electrical, telephone and cable television lines ~~shall~~ must be located on the south or west side of any road, highway or street; and gas, electrical, telephone and cable television lines ~~shall~~ must be located on the north or east side of any road, highway or street. The determination of which side is north and which side is south and which side is east and which side is west shall be made at the point where said street, road or highway begins. If there is any question regarding which side of the highway, road or street any particular utility or CSP should use, then said utility or CSP shall contact the county engineering transportation department. The county engineering transportation department shall then instruct the public utility or CSP regarding which side of a specific road, street or highway the particular utility or CSP should use.

(Ord. of 3-3-81, § 57-104)

Sec. 14-44. - Minimum depths of lines.

- (a) *Gas*. All gas service lines ~~shall~~ must be installed at a minimum depth of eighteen (18) inches. All gas main lines ~~shall~~ must be installed at a minimum depth of thirty (30) inches.
- (b) *Water*. All waterlines ~~shall~~ must be installed at a minimum depth of forty-eight (48) inches.
- (c) *Telephone*. All underground telephone wires ~~shall~~ must be installed at a minimum depth of twenty-four (24) inches.
- (d) *Power*. All underground power lines ~~shall~~ must be installed at a minimum depth of forty-two (42) inches.
- (e) *Cable television*. All underground cable television lines ~~shall~~ must be installed at a minimum depth of eighteen (18) inches.

(Ord. of 3-3-81, §§ 57-105—57-109)

Sec. 14-45. - Minimum distances from curb and street centerline of underground lines and poles.

- (a) *Gas*. All gas lines ~~shall~~ must be installed at a minimum of thirty-six (36) inches from the curb and seventeen (17) feet from the centerline of a county road, highway, street, etc., and ~~shall~~ must be installed a minimum of eighteen (18) inches from any other public utility line, pipe, etc.
- (b) *Water*. All waterlines ~~shall~~ must be installed a minimum of sixty (60) inches from the curb or eighteen and one-half (18.5) feet from the centerline of any county road, highway, street, etc., and ~~shall~~ must be installed a minimum of eighteen (18) inches from any other public utility line, pipe, etc.
- (c) *Telephone*. All telephone lines ~~shall~~ must be installed a minimum of eighteen (18) inches from the curb or fifteen and one-half (15.5) feet from the centerline of a county road, highway, street, etc., and ~~shall~~ must be installed a minimum of twelve (12) inches from any other public utility line, pipe, etc.
- (d) *Electrical*. All electrical lines ~~shall~~ must be installed a minimum of ninety-six (96) inches from the curb or twenty-two (22) feet from the centerline of any county road, highway, street, etc., and ~~shall~~ must be installed a minimum of twenty-four (24) inches from any other public utility line, pipe, etc.
- (e) *Cable television*. All cable television lines ~~shall~~ must be installed a minimum of six (6) inches from the curb or fourteen and one-half (14.5) feet from the centerline of any county road, highway, street, etc., and ~~shall~~ must be installed a minimum of twelve (12) inches from any other public utility line, pipe, etc.

- (f) *Sanitary sewer.* All sanitary sewer main lines ~~shall~~ must be installed a minimum of six (6) feet deep in any county right-of-way. All sanitary sewer service lines must be a minimum of five (5) feet deep in any county right-of-way.
- (g) *Poles.* All poles for overhead utilities ~~shall~~ must be installed with pole centerline a minimum of twenty (20) feet from the centerline of any county road, highway, street, etc.
- (h) *Small Wireless Facilities.* CSP equipment and connecting lines must be located at a depth and within a distance from the centerline of any County street so as to be consistent with the standards set forth in section 14-105 and so as to prevent conflict with any other allocated above or underground facilities.

(Ord. of 3-3-81, §§ 57-110—57-115, 57-117)

Sec. 14-46. - Location of transformer pads.

All electrical transformer pads ~~shall~~ must be installed with the rear edge of the pad at the right-of-way line.

(Ord. of 3-3-81, § 57-116)

Sec. 14-47. - Variances.

The county ~~engineering~~ transportation department is authorized to approve a variance from the requirements of section 14-43 through section 14-46, if, in its opinion, such variance is absolutely necessary under the conditions then and there existing; and, such variance will not create a public hazard or otherwise be detrimental to the best interest of the county and its citizens. The county ~~engineering~~ transportation department ~~shall~~ must keep a record of all variances granted under this section. This record shall include the name of the utility or CSP to which said variance is granted, the description and location of the variance, and the reasons for granting said variance.

(Ord. of 3-3-81, § 57-118)

Sec. 14-48. - Use of minimum area; restoration of disturbed areas.

Any utility or CSP ~~shall~~ must ~~access~~, condemn or utilize only that portion of a public right-of-way necessary for the purpose intended. It ~~shall~~ must leave undisturbed the area surrounding the condemned or utilized right-of-way and ~~shall~~ must replace or repair, in kind, any structures, shrubbery, driveways, embankments, ground cover, etc., which are altered or disturbed while installing pipes, wires, ditches, or otherwise using the public right-of-way, and ~~shall~~ must regrade the undisturbed area to its original contours.

(Ord. of 3-3-81, § 57-201)

Sec. 14-49. - Excavations; backfilling.

No street cuts for crossings will be made unless specifically approved by the county ~~engineering~~ transportation department after at least three (3) attempts to bore at different locations. Patches ~~shall~~

must be made in accordance with county engineering transportation department standard number 3.01 "Backfilling and Repaving Utility Cuts."

(Ord. of 3-3-81, § 57-202)

Sec. 14-50. - Liability for costs and expenses.

Any costs or expenses incurred by the county in repairing or replacing any such structures, etc., as described in section 14-41, which are not left in their original condition by the public utilities or CSPs shall be chargeable to the public utility or CSP, including reasonable attorney's fees incurred in the collection of said costs or expenses.

(Ord. of 3-3-81, § 57-203)

Sec. 14-50.1. - Inspections.

The utility or CSP cutting the asphalt of the roadway for the installation/repair of a utility or facilities is required to notify the engineering transportation department, in advance, of the date and time of the roadway backfilling and repaving so that the engineering transportation department can schedule an inspection of this work.

(Ord. of 3-18-97)

Sec. 14-50.2. - Penalties.

Any utility or CSP that does not notify the engineering transportation department in advance of the date and time of the roadway backfilling and repaving, shall be fined two hundred fifty dollars (\$250.00) per occurrence. In addition, the utility or CSP may be required by the engineering transportation department to core the patching, at the utility's or CSP's cost, to determine its compliance with the county engineering transportation department standard number 3.01, "Backfilling and Repaving Utility Cuts." All cost or expenses incurred by the county in repairing or replacing any structure, shrubbery, driveway, embankment, ground cover or any other item which has been altered or disturbed and not left or returned to the original condition by the utility or CSP, shall be chargeable to the utility or CSP which disturbed the area or cut the county roadway. The county shall be entitled to collect reasonable attorney's fees incurred in the collection of such costs or expenses and all costs of collection.

(Ord. of 3-18-97)

Sec. 14-50.3. - Applicability of other ordinances.

In addition to the above-described regulations, all CSP installations are subject to the requirements of Article IX herein, which shall control in the event they conflict with any provision within Article III. Additionally, all utility or CSP installations are subject to the requirements of Article XI, Erosion Control and Stormwater Management, including all penalties for noncompliance. Finally, all utilities or CSP installations outside of the above described right-of-way are subject to the provisions of the Unified Development Code, as amended.

(Ord. of 3-18-97)

...NO CHANGES PROPOSED TO SECTIONS 14-51 THROUGH 14-53

Sec. 14-54. - Definitions.

- (a) *Department.* The county ~~public works~~ transportation department.
- (b) *MUTCD.* The Manual for Uniform Traffic Control Devices.
- (c) *Program manual.* The Douglas County Speed Hump Program Manual.
- (d) *Street.* A right-of-way for vehicular traffic whether designated as street, highway, thoroughfare, parkway, road, avenue, drive, expressway, boulevard, lane, place, circle, or otherwise. Street definitions herein are taken from the county ~~zoning ordinance~~ Unified Development Code. Various classifications of streets and roads shall be defined as follows:
 - (1) *Interstate highway or expressway.* A general road alignment as identified and described by the county road classification system for dedication and use as a public right-of-way to carry large volumes of through traffic at high speeds. These facilities have limited or controlled access to adjoining properties.
 - (2) *Major arterial road.* A general road alignment as identified and described by the county road classification system for dedication and use as a public right-of-way. These are thoroughfares providing access into and through the county. Major arterials serve intrastate travel and are usually multilane roadways in urban areas. They may have a turning lane or a median. Major arterial roads may also warrant controlled access in certain areas to encourage the through movement of traffic and discourage adjacent development and turning movements which might limit the through traffic carrying capacity of the roadway. Major arterials in rural areas may be two-or four-lane roadways depending upon traffic volumes. Major arterials may provide local access to property abutting the roadway in addition to their primary function which is to move traffic.
 - (3) *Minor arterial road.* A general road alignment as identified by the county road classification system for dedication and use as a public right-of-way. These facilities provide access into and through the county, only to a lesser extent than the major arterials. Minor arterials predominately serve intra-county traffic and may be two-or four-lane roadways. There is usually no access control on minor arterials. Minor arterials may provide local access to property abutting the roadway in addition to their primary function which is to move traffic.
 - (4) *Collector street.* A general road alignment as identified and described by the county road classification system for dedication and use as a public right-of-way. The primary function of these facilities is to provide internal, low-volume traffic circulation and access to abutting properties.
 - (5) *Local street.* A general road alignment as identified and described by the county road classification system for dedication and use as a public right-of-way. The primary purpose of these roadways is to provide access to abutting properties and connect those properties to the arterial and collector street system.
 - (6) *Cul-de-sac.* A street with a single common ingress and egress and with a turnaround at the end.
 - (7) *Dual or boulevard.* A street with opposing lanes separated by a median strip, center island, or other form of barrier, which cannot be crossed except at designated locations.
 - (8) *Loop.* A local street that has its only ingress and egress at two (2) points on the same collector street.
 - (9) *Private.* A street that has not been accepted by the county.

(e) *Zoning ordinance.* The county zoning ordinance—Unified Development Code.

(Ord. of 6-19-01)

...NO CHANGES PROPOSED TO ARTICLES IV THROUGH VIII

Article IX

Sec. 14-101. - Purpose and Compliance.

Sec 14-101.1. O.C.G.A. § 32-4-42(6) authorizes Douglas County, Georgia (the “County”) to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the County. Further, 47 U.S.C. § 253(c) provides that the County has authority to manage its public rights of way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act., O.C.G.A. Title 36, Chapter 66C (the “SWFAA”), addresses the placement of small wireless facilities in the public rights of way of the County.

Sec 14-101.2 The County finds it is in the best interest of the County and its residents and businesses to establish requirements, specifications and reasonable conditions regarding placement of small wireless facilities and poles in the public rights of way. These requirements, specifications and reasonable conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the County and to reasonably manage and protect the public rights of way and its uses in the County.

Sec 14-101.3 The objective of this Ordinance is to (i) implement the SWFAA and (ii) ensure use of the public rights of way is consistent with the design, appearance and other features of nearby land uses, protects the integrity of historic, cultural and scenic resources and does not harm residents’ quality of life.

Sec. 14-101.4 The provision of this Article shall apply to poles, decorative poles, support structures, replacement poles, and small wireless facilities installed on or after October 1, 2019. If the County and a wireless provider entered into an agreement addressing the subject matter of this Article prior to October 1, 2019, this Article shall not apply until such agreement expires or is terminated pursuant to its terms.

Sec. 14-102. – Definitions.

Sec 14-102.1 As used in this Ordinance, the following terms have the following meanings:

(a) “Antenna” means: (i) communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or (ii) communications equipment similar to equipment described in part (i) used for the transmission, reception, or transmission and reception of surface waves. Such term shall not include television broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

(b) “Applicable Codes” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the State of Georgia or the County or are otherwise applicable in the County.

(c) “Applicant” means any person that submits an application.

(d) “Application” means a written request submitted by an applicant to the County for a permit to: (i) collocate a small wireless facility in a right of way; or (ii) install, modify, or replace a pole or decorative pole in a right of way on which a small wireless facility is or will be collocated.

(e) “Authority Pole” means a pole owned, managed, or operated by or on behalf of the County. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

(f) “Collocate” or “Collocation” means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

(g) “Communications Facility” means the set of equipment and network components, including wires and cables and associated equipment and network components, used by a communications service provider to provide communications services.

(h) “Communications Services Provider” (CSP) means a provider of communications services.

(i) “Communications Services” means cable service as defined in 47 U.S.C. § 522(6); telecommunications service as defined in 47 U.S.C. § 153(53); or information service as defined in 47 U.S.C. § 153(24), as each such term existed on January 1, 2019; or wireless services.

(j) “Consolidated Application” means an application for the collocation of multiple small wireless facilities on existing poles or support structures or for the installation, modification, or replacement of multiple poles and the collocation of

associated small wireless facilities.

(k) “Decorative Pole” means an authority pole that is specially designed and placed for aesthetic purposes.

(l) “Electric Supplier” means any electric light and power company subject to regulation by the Georgia Public Service Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state.

(m) “Eligible Facilities Request” means an eligible facilities request as set forth in 47 C.F.R. § 1.40001(b)(3), as it existed on January 1, 2019.

(n) “FCC” means the Federal Communications Commission of the United States.

(o) “Fee” means a one-time, nonrecurring charge based on time and expense.

(p) “Historic District” means: (i) any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the secretary of the interior of the United States in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part 1; (ii) any area designated as a historic district under Article 2 of Chapter 10 of Title 44, the Georgia Historic Preservation Act; or (iii) any area designated as a historic district or property by law prior to April 26, 2019.

(q) “Law” means and includes any and all federal, state, or local laws, statutes, common laws, codes, rules, regulations, orders, or ordinances.

(r) “Micro Wireless Facility” means a small wireless facility not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.

(s) “Permit” means a written authorization, in electronic or hard copy format, required to be issued by the County to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole or decorative pole upon which a small wireless facility is collocated.

(t) “Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

(u) “Pole” means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way, including without limitation a replacement pole and an authority pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.

(v) “Rate” means a recurring charge.

(w) “Reconditioning Work” means the activities associated with substantially painting, reconditioning, improving, or repairing authority poles.

(x) “Replace,” “Replacement” or “Replacing” means to replace a pole or decorative pole with a new pole or a new decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. § 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.

(y) “Replacement Work” means the activities associated with replacing an authority pole.

(z) “Right of Way” means, generally, property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road; provided, however, that such term shall apply only to property or an interest therein that is under the ownership or control of the County and shall not include property or any interest therein acquired for or devoted to an interstate highway or the public rights, structures, sidewalks, facilities, and appurtenances of buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of public roads or research pertaining thereto or scenic easements and easements of light, air, view and access. See also Article III, Section 14-54(d) for classification of streets and roads.

(aa) “Small Wireless Facility” means radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications: (i) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters; concealment elements; telecommunications demarcation boxes; grounding equipment; power transfer switches;

cut-off switches; and vertical cable runs for connection of power and other services. Such term shall not include a pole, decorative pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

(bb) “State” means the State of Georgia.

(cc) “Support Structure” means a building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.

(dd) “Wireless Infrastructure Provider” means any person, including a person authorized to provide telecommunications services in this state, that builds, installs, or operates small wireless facilities, poles, decorative poles, or support structures on which small wireless facilities are or are intended to be used for collocation but that is not a wireless services provider.

(ee) “Wireless Provider” means a wireless infrastructure provider or a wireless services provider.

(ff) “Wireless Services” means any services provided to the public using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

(gg) “Wireless Services Provider” means a person that provides wireless services.

(hh) “Wireline Backhaul Facility” means an aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with a small wireless facility to a network.

Sec. 14-102.2 In the event that any federal or state law containing definitions used in this Ordinance is amended, the definition in the referenced section, as amended, shall control.

Sec. 14-103. – Permits.

Sec 14-103.1 A permit is required to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the

public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

Sec 14-103.2 Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way must submit an application to the transportation department for a permit. Applications are available from the transportation department. Any material change to information contained in an application shall be submitted in writing to the transportation department within thirty (30) days after the events necessitating the change.

Sec 14-103.3 Any person who intends to submit an application to the County pursuant to this Ordinance shall meet with the transportation department at least thirty (30) days prior to submitting an application for a permit. The purpose of such meeting shall be to inform the County, in good faith, when the applicant expects to commence deployment of small wireless facilities and poles within the County, the number of small wireless facilities and poles it expects to deploy during the twenty-four (24) months after commencement, and the expected timing of such deployments.

Sec 14-103.4 Each application shall be submitted by the applicable wireless provider or its duly authorized representative and shall contain the following:

(a) The applicant's name, address, telephone number, and email address, including emergency contact information for the applicant;

(b) The names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to filing the application;

(c) A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;

(d) Detailed construction drawings regarding the proposed use of the right of way;

(e) To the extent the proposed facility involves collocation on a pole, decorative pole, or support structure, a structural report performed by a duly licensed engineer evidencing that the pole, decorative pole, or support structure will structurally support the collocation (or that the pole, decorative pole, or support structure may and will be modified to meet structural requirements) in accordance with applicable codes;

(f) For any new aboveground facilities, visual depictions or representations if

not included in the construction drawings;

(g) Information indicating the horizontal and approximate vertical location, relative to the boundaries of the right of way, of the small wireless facility for which the application is being submitted;

(h) If the application is for the installation of a pole or replacement of a decorative pole, a certification that complies with O.C.G.A. § 36-66C-6(k);

(i) If the small wireless facility will be collocated on a pole or support structure owned by a third party, a certification that the wireless provider has permission from the owner to collocate on the pole or support structure; and

(j) If the applicant is not a wireless services provider, a certification that a wireless services provider has requested in writing that the applicant collocate the small wireless facilities or install, modify or replace the pole or decorative pole at the requested location

Sec 14-103.5 Each application for a permit must include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2) and (a)(3). Such maximum application fees must automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

Sec 14-103.6 The transportation department shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.

Sec 14-103.7 Applications for permits must be approved unless the requested collocation of a small wireless facility or the requested installation, modification, or replacement of a pole or decorative pole:

(a) Interferes with the operation of traffic control equipment;

(b) Interferes with sight lines or clear zones for transportation or pedestrians;

(c) Fails to comply with the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., or similar Laws of general applicability regarding pedestrian access or movement;

(d) Requests that ground-mounted small wireless facility equipment be located more than seven and a half (7.5) feet in radial circumference from the base of the pole,

decorative pole or support structure to which the small wireless facility antenna would be attached, provided that the County shall not deny the application if a greater distance from the base of the pole, decorative pole or support structure is necessary to avoid interfering with sight lines or clear zones for transportation or pedestrians or to otherwise protect public safety;

(e) Fails to comply with applicable codes;

(f) Fails to comply with the maximum limitations set forth in Section 14-105 of this Ordinance or O.C.G.A. § 36-66C-7(h) or (i);

(g) With respect to an application to install a pole or decorative pole, interferes with the widening, repair, reconstruction, or relocation of a public road or highway by the County or the State Department of Transportation that has been advertised for bid and scheduled for completion within six months after the application is filed;

(h) With respect to an application to install a pole or decorative pole, interferes with a public works construction project governed by Chapter 91 of Title 36 which is advertised for bid and scheduled for completion within six months after the application is filed;

(i) Fails to comply with O.C.G.A. § 36-66C-10, O.C.G.A. § 36-66C-11, or O.C.G.A. § 36-66C-12;

(j) Fails to comply with laws of general applicability addressing pedestrian and vehicular traffic and safety requirements; or

(k) Fails to comply with laws of general applicability that address the occupancy or management of the right of way and that are not otherwise inconsistent with this Ordinance.

Sec 14-103.8 For applications for new poles in the public right of way in areas zoned for residential use, the transportation department may propose an alternate location in the public right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the transportation department's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider must certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it must provide a written summary of the basis for such determination.

Sec 14-103.9 A permit issued under this Article IX shall authorize such person to access and occupy the public rights of way to: (i) collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and (ii) install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).

Sec 14-103.10 Upon the issuance of a permit under this Ordinance, and on each anniversary of such issuance, every person issued a permit must submit to the County the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights of way pursuant to O.C.G.A. § 36-66C-5(e), then such person must be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal. The maximum annual payments must automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

Sec 14-103.11 Any person issued a permit must pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.

Sec 14-103.12 The County may revoke a permit issued pursuant to this Article IX if the wireless provider or its equipment placed in the public right of way under that permit subsequently is not in compliance with any provision of this Ordinance or the SWFFA. Upon revocation, the County may proceed according to Section 103.13.

Sec 14-103.13 If a wireless provider occupies the public rights of way without obtaining a permit required by this Article IX or without complying with the SWFFA, then the County may, at its sole discretion, restore the right of way, to the extent practicable in the reasonable judgment of the County, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the County in doing so, plus a penalty not to exceed \$1,000.00. The County may suspend the ability of the wireless provider to receive any new permits from the County under this Article IX until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the County may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

Sec 14-103.14 All accepted applications for permits shall be publically available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).

Sec 14-103.15 An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.

Sec 14-103.16 Activities authorized under a permit must be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).

Sec 14-103.17 Issuance of a permit authorizes the applicant to: (i) undertake the collocation, installation, modification or replacement approved by the permit and (ii) operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of ten (10) years.

Sec 14-103.18 Permits must be renewed following the expiration of the term identified in Section 103.17 upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).

Sec 14-103.19 If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights of way, then the County shall, within 60-days of receipt of the completed application: (i) provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or (ii) notify the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the County shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

SECTION 14-104. – Removal; Relocation; Reconditioning; Replacement; Abandonment.

Sec 14-104.1 A person may remove its small wireless facilities from the public rights of according to the procedures of O.C.G.A. § 36-66C-5(e).

Sec 14-104.2 In the event of a removal under Section 104.1, the right of way must be, to the extent practicable in the reasonable judgment of the County, restored to its condition prior to the removal. If a person fails to return the right of way, to the extent practicable in the reasonable judgment of the County, to its condition prior to the removal within 90 days of the removal, the County may, at its sole discretion, restore the right of way to such condition and charge the person the County’s reasonable, documented cost of removal and restoration, plus a penalty not to exceed \$500.00. The County may suspend the ability of the person to receive any new permits under Article IX until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the County will not suspend such ability of any person that has deposited the amount in controversy in

escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

Sec 14-104.3 If, in the reasonable exercise of police powers, the County determines: (i) a pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway, or (ii) relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider must relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l). If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless facility within the time period prescribed in O.C.G.A. § 36-66C-7(l), the County may take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.

Sec 14-104.4 The County shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).

Sec 14-104.5 A wireless provider must notify the County of its decision to abandon any small wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider must perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The County may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

Sec 14-104.6 A wireless provider shall repair all damage to a right of way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining small wireless facilities, poles, or support structures, in such right of way and restore the right of way to its condition before the damage occurred in accordance with the provisions of O.C.G.A. § 36-66C-7(r). The wireless provider must perform all acts and duties identified in O.C.G.A. § 36-66C-7(r), and the County may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(r), in addition to any other powers under applicable law.

Section 14-105. – Standards.

Sec 14-105.1 Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use: (i) upon a receipt of a permit under Article IX; (ii) subject to applicable codes; and (iii) so long as such small wireless facilities and new, modified, or

replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).

(a) New, modified, or replacement poles installed in the right of way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.

(b) Each new, modified, or replacement pole installed in the right of way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:

- (i) Fifty feet above ground level; or
- (ii) Ten feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole;

(c) New small wireless facilities in the public right of way and collocated on an existing pole or support structure must not exceed more than ten feet above the existing pole or support structure.

(d) New small wireless facilities in the public right of way collocated on a new or replacement pole under Section 105.1(a) or Section 105.1(b) may not extend above the top of such poles.

Sec 14-105.2 Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities must be concealed as follows:

- (a) Antennas located at the top of poles and support structures must be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure;
- (b) Antennas placed elsewhere on a pole or support structure must be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.
- (c) Radio units or equipment cabinets holding radio units and mounted on a pole must be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles must be designed so that

the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.

- (d) Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

Sec 14-105.3 Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following:

- (i) Issuance of a permit under Article IX and
- (ii) Compliance with applicable codes.

Sec 14-105.4 Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following:

- (i) Issuance of a permit under Article IX and
- (ii) Compliance with applicable codes.