

**ORDINANCE NO. 17-\_\_\_**

**AN ORDINANCE OF THE COUNTY OF PINELLAS AMENDING THE PINELLAS COUNTY LAND DEVELOPMENT CODE BY AMENDING SECTION 170-267 RELATING TO UTILITY WORK DEFINITIONS; AMENDING SECTION 170-268 RELATING TO PERMITS, ADDING THE REQUIREMENT FOR COMMUNICATIONS SERVICES PROVIDER REGISTRATION AND PROVIDING FOR PAYMENT OF AN ANNUAL FEE FOR ANTENNAE WITHIN THE RIGHT-OF-WAY AT THE TIME OF REGISTRATION; AND AMENDING SECTION 170-277 RELATING TO SMALL CELL WIRELESS FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the intent of the Telecommunications Act of 1996 (the Act) was to make both public and private lands more accessible to telecommunication services; and

**WHEREAS**, the Act requires local governments to base decisions granting or denying the Placement of telecommunication facilities to be based on substantial competent evidence; and

**WHEREAS**, pursuant to then applicable law, the County adopted Section 170-277 to allow for wireless facilities to be placed within county rights-of-way under certain conditions; and

**WHEREAS**, subsequently Florida Statutes §337.401 was amended so as to necessitate amendments to Section 170-277 relating to the placement of wireless facilities within the right-of-way as well as 170-267 relating to definitions; and

**WHEREAS**, as a result of the amendments to Florida Statutes, §337.401, additional definitions need to be added to Section 170-267 of the Pinellas County Code; and

**WHEREAS**, Florida Statutes, Section 337.401 allows counties to require providers of communications services to place or seek to place facilities in the County's roads or Rights-of-Way to register with the county; and

**WHEREAS**, Florida Statutes, Section 337.401 additionally places limitations upon the amount of time the County can review permit applications relating to the placement of small wireless facilities within the County's Rights-of-Way; and

**WHEREAS**, Florida Statutes, Section 337.401 allows for the collection of an annual permit fee for certain small cell wireless facilities; and

**WHEREAS**, the deployment of small wireless communication infrastructure is being facilitated both by communications providers as well as communication infrastructure providers; and

**WHEREAS**, a registration process will streamline the review process for permit applications relating to the placement of small wireless facilities within the County's Rights-of-Way; and

**WHEREAS**, the County has the ability to regulate its rights-of-way pursuant to Florida Statutes §125.01(m) and §336.02, and Pinellas County Code section 170.

**NOW THEREFORE**, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, that:

SECTION 1. Section 170-267 of the Pinellas County Land Development Code is hereby amended as follows:

**Sec. 170-267. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandonment* means the cessation of the use of a Utility facility; provided that this term shall not include cessation of all use of a Utility facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit, continues to be used, shall not be considered abandonment while the cessation of use of a Small Wireless Facility collocated upon an active Utility Pole shall be considered abandonment of the Small Wireless Facility but not constitute abandonment of the active Utility Pole. Removal of all utilities, including Small Wireless Facilities, from a pole and leaving the pole, in whole or in part, shall constitute abandonment of the utility pole.

*Annual General Permit* means an annual Permit issued by the County for certain routine, repetitive work not requiring a specific utilization Permit, which may be issued or renewed for periods up to one year, in the discretion of the County.

*Antenna*, a mounted device used for the transmission of telecommunications services or Communications Services, including but not limited to traditional and small cell technology.

*Applicant, Owner, or Permittee* means any Person requesting permission to Place or Maintain Facilities in a Right-of-way, or who has previously done so.

*As-built Survey* means a survey performed to obtain horizontal and vertical dimensional data so that constructed improvements may be located and delineated.

*Co-location, Co-locate or Attach* means the Placement or attachment of Telecommunications Antenna on any existing, lawfully permitted and active structure within the Right-of-way. Co-

location upon an existing structure not providing telecommunication services does not convert the pole structure into a Wireless Facility.

*Communications Services* shall have the meaning found in Florida Statutes, Section 202.11, as may be amended.

*County* means Pinellas County, Florida.

*County Project* means work done by or for the County within public Right-of-way for County purposes, not for the benefit of private developer.

*Department* means the County Department of Public Works.

*Director* means the Director of the County Department of Public Works.

*Emergency* means a condition that poses a threat to life, health, or property, or may create an out-of-service condition.

*Facilities* mean any Utilities located in, over or under any Right-of-way, but shall not include plantings, driveways, or other non-utility installations in the Right-of-way.

*FDOT* means the Florida Department of Transportation.

*Micro Wireless Facility* means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

*Permit* means the Right-of-Way Utilization Permit which must be obtained before a Person may Place or Maintain any facility in a Right-of-way.

*Permittee* means any Person to whom a Permit to Place or Maintain a facility in a Right-of-way has been granted by the County.

*Person* means any natural or corporate Person, municipality, school, church, or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have Facilities located in any Right-of-way.

*Place or Maintain, Placement and Maintenance, or Placing or Maintaining* shall mean to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A Person that owns or exercises physical control over Facilities located in the public Right-of-way, such as physical control to maintain and repair, is "Placing or Maintaining" the Facilities. A Person providing service only through resale or the use of a third party's unbundled network elements is not "Placing or Maintaining" the Facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public Rights-of-way does not constitute "Placing or Maintaining" Facilities within the public Rights-of-way.

*Registrant* means a person or corporation that has registered with Pinellas County as a provider of wireless communication services or infrastructure.

*Right-of-way* means the surface and space above and below any real property in which the County has an interest in law or equity, devoted to or required for use as a transportation facility, including streets, easements and sidewalks, but excluding parks. Right-of-way means the public Right-of-way, not private Rights-of-way. Right-of-way does not include the Fred Marquis Pinellas Trail or the Duke Energy Trail.

*Small Wireless Facility* means a wireless facility, including a Micro Wireless Facility, that meets the following qualifications:

- a. Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
- b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

*Structural Change* means activities affecting the integrity of the public road surface, road base, curb, sidewalk or shoulder.

*Telecommunications* means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

*Utilities* means any water, sewer, gas, drainage, monitor well, sprinkler or culvert pipe and any electric power, telecommunication, signal, communication, or cable television conduit, fiber, wire, cable, or operator thereof, including Utilities operated by the County.

*Utility Pole* means a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The terms includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less.

*Wireless facility* means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities, but does not include:

- a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- b. Wireline backhaul facilities; or
- c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

*Wireless infrastructure provider* means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication

transmission equipment, wireless facilities, or wireless support structures, but in not a wireless services provider.

*Wireless provider* means a Wireless Infrastructure Provider or a Wireless Services Provider.

*Wireless services* means any services provided using spectrum using wireless facilities.

*Wireless service provider* means a person who provides wireless services.

*Wireless support structure* or means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

SECTION 1. Section 170-268 of the Pinellas County Land Development Code is hereby created as follows:

**Section 170-268 – Permits and Registration required.**

- (a) The director, or his designee, shall be the principal county official responsible for the administration of this article, and he may delegate any or all of the duties hereunder.
- (b) **Permits required.** No person shall place or maintain facilities within the right-of-way prior to the issuance of a utility permit, including an annual general permit, for such work. All applications shall contain:
  - (1) Applicant's and local agent's name, address, e-mail address, telephone and facsimile numbers.
  - (2) A statement that the applicant is a utility owner or its authorized agent.
  - (3) All required attachments, and scaled, dated drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
  - (4) Certification of a registered Florida professional engineer (unless permittee is using exempt employees pursuant to F.S. § 471.003(2)(b)2(d)), that the drawings, plans, and specification submitted by the applicant shall comply with applicable technical codes, rules and regulations. Certification of plans is required if a construction project:
    - a. Results in a significantly different traffic control plan;
    - b. Results in a structural change of the county road; or
    - c. Contains engineering plans which were developed and designed by an outside engineering firm.
  - (5) A maintenance of traffic plan, consistent with the Uniform Manual of Uniform Traffic Control Devices, and/or a specific FDOT 600 Series for safety of the public and employees.
  - (6) For underground installation, information in sufficient detail to identify:
    - a. The physical space currently available in applicant's existing ducts or conduits before installation of applicant's facilities;

- b. The physical space, if any, that will exist in such ducts or conduits after installation of applicant's facilities;
  - c. The location, depth, size and quantity of proposed new ducts or conduits;
  - d. The type of the utility facility to be installed.
- (7) A description of the construction methods or techniques to be used for the installation.
- (8) A preliminary construction schedule and completion date.
- (9) Payment of all uncontested money past due to the county for:
- a. Prior and current construction permits issued to applicant;
  - b. Any loss, damage, or expense suffered by the county as a result of applicant's prior construction in the right-of-way or any emergency actions taken by the county; and
  - c. Any use agreement, license, or franchise issued to the applicant.
- (c) **Registration.** Every person or entity that desires to place or maintain any Small Wireless Facility in any County right-of-way shall first register with the Director or his designee prior to applying for a permit, if required, to place or maintain such facility within the Right-of-Way.
- (1) Every person registering pursuant to this section shall provide the following information:
- a. the name of the Registrant under which it will transact business in the County and, if different, in the State of Florida; and
  - b. the address and telephone number of the registrant's principal place of business in the State of Florida and any branch office located in the County or, if none, the name, address and telephone number of the applicant's national headquarters and its Registered Agent in Florida; and
  - c. the name, address and telephone number of the Registrant's primary contact person and the person to contact in case of an emergency; and
  - d. the type of Small Wireless Facility that the registrant intends to provide within or upon the County's Rights-of-Ways (if more than one, state all that apply); and
  - e. a copy of both the Registrant's Florida Annual Resale Certificate and certificate of registration issued by the Florida Department of Revenue to engage in the business of providing communications services in the State of Florida; and
  - f. a copy of the Registrant's certificate of authorization, public convenience and necessity or other similar certification issued by the Florida Public Service Commission; and

- g. the number of the Registrant's certificate of authorization or license to provide Communications Services issued by the Florida Public Service Commission, the Department, the FCC, or other Federal authority, if any; and
  - h. evidence of the Registrant's insurance coverage as required under this Chapter.
- (2) The Director or designee shall review the information submitted by the Registrant. If it is found that the Registrant complied with the requirements in subsection 1 above, the registration shall be effective and the Director or designee shall notify the applicant of the effectiveness of registration in writing. If the Director or designee determines that the Registrant is not in compliance, the Director or designee shall notify the Registrant in writing of the non-effectiveness and denial of registration and the reasons therefor. Denial of registration shall not preclude an applicant from reapplying or filing subsequent applications for Registration under the provisions of this Section.
  - (3) An effective registration does not, and shall not be construed to, convey equitable or legal title in the Rights-of-Way.
  - (4) A Registrant may cancel a registration upon written notice to the Director stating that it will no longer place or maintain a Small Wireless Facility. A Registrant cannot cancel a registration if it intends to continue placing or maintaining a Small Wireless Facility in the Rights-of-Way.
  - (5) Registration does not establish a right to place or maintain or a priority for the placement or maintenance of any Facility in the Rights-of-Way. However, registration is required prior to submitting an application for the placement of Telecommunication Antennae or Towers pursuant to Section 277.
  - (6) A Registrant shall renew its registration annually and shall remit at such time the annual fee for each antennae existing within the right-of-way.
  - (7) An effective registration shall be a condition of a complete permit submitted pursuant to Section 277 of this Chapter.

SECTION 2. Section 170-277 is hereby amended as follows:

**Sec. 170-277 Small Wireless Facilities Located Within the Right-of-Way**

(A) **Purpose.** The purpose of this section is to adopt specific regulations relating to the use of Rights-of-way for the erection of Small Wireless Facilities and any accessory equipment supporting the same within County Right-of-way, regardless of whether or not the Right-of-way is in an unincorporated or incorporated area in accordance with Florida Statute §337.401. Regardless of the type of Small Wireless Facility, a Utilization permit pursuant to Article IV of this Chapter shall be obtained prior to commencing any activity which impedes or alters the movement of pedestrian or vehicular traffic, or excavating, filling, or altering the right-of-way and must thereafter comply with all applicable terms therein and this Section.

(B) **Permit Needed.** All Small Wireless Facilities, must apply for a permit as follows:

(1) Micro Wireless Facilities:

- a. In accordance with applicable Florida law, Micro Wireless Facilities strung on cables between utility poles do not require an annual permit for the wireless facility but must be registered with the County and meet the appropriate insurance and bonding requirements.
- b. To the extent that the installation of a Micro Wireless Facility will require excavation, a sidewalk or multi-modal trail closure, or the closure of lane(s) for vehicular traffic, a Use Permit is required for those uses of the right-of-way.
- c. Micro Wireless Facilities mounted on Utility poles must comply with Section B(2).

(2) Small Wireless Facilities:

- a. With the exception of Micro Wireless Facilities suspended on cables strung between existing Utility Poles, a permit must be sought and may be granted for any Small Wireless Facilities to be installed within the County Right-of-Way through the submittal of a permit application as set forth in Section 170-268.
- b. In accordance with Florida law, Permits for Small Wireless Facilities placed upon new poles will have a minimum term of five (5) years while permits for co-located poles will have to be permitted annually.

(C) **Permit conditions.** Any Permit issued pursuant to this Section, must contain the following conditions, in addition to any other appropriate conditions authorized by the Pinellas County Land Development Code:

- (1) If necessary for the construction, Maintenance, operation or alteration of the Right-of-way, the Antenna, Tower, or Utility Pole, must be immediately removed or relocated from the Right-of-way at the expense of the Permittee unless reimbursement is authorized by the County or otherwise required by law. Unless the removal and relocation is required as a result of an



Emergency, the County must provide at least 90 days' written notice to the Permittee and must cooperate with the Permittee to relocate the Antenna, Tower, or Utility Pole, at the Permittee's expense, in the Right-of-way.

(2) All work, materials and equipment must meet all County codes and standards and must be subject to inspection by the County. All disturbed areas must be restored to the original condition or better and in accordance with applicable County codes.

(3) The installation, Maintenance and operation of the Antenna, Tower, or Utility Pole must not interfere with the prior rights of a Permittee or interfere with the convenient, safe or continuous use of the Right-of-way. Interference that requires relocation or removal pursuant to Section 170-271 must be done so within 90 days of written notice and at Permittee's expense or as otherwise required by section 337.403, Florida Statutes as may be amended.

(4) The County will not be responsible for damage to any structure placed within the Right-of-way or any structure/vehicle outside of the Right-of-way as a result of granting a Permit. Normal maintenance of the Right-of-way must not be impaired by the actions/omissions of the Permittee.

(5) Final inspection and acceptance of work by the County must be obtained. All work is subject to the installation requirements of the County.

(6) In the case of noncompliance with any of the County's requirements, the Permit will be void and the installation must be brought into compliance or removed from the Right-of-way at no cost to the County.

(7) The County may issue a stop work order upon a Permittee committing or creating an unsafe act which may create a public hazard, failing to comply with the Permit, or not complying with applicable County requirements.

(8) The Permittee is responsible for all repair costs incurred due to damage to existing Utilities in accordance with the Underground Facility Damage Prevention and Safety Act, Florida Statutes, Chapter 556, as may be amended.

(9) It is expressly stipulated that the Permit represents a nonexclusive permissive use only and that the Placing of a, Antenna, Tower, Utility Pole, or any equipment, or lines upon public property pursuant to the Permit does not create a property right in the Permittee.

(10) All Antennae, Towers, and Utility Poles must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate Antennae, Towers, and/or Utility Poles, as well as all requirements of the Americans with Disabilities Act (ADA) as amended and as may be amended. If such standards and regulations are changed, then the Permittee must bring such facilities into compliance with such revised standards and regulations in accordance with the compliance deadline requirements of such standards and regulations. Failure to bring Antennae, Towers, and/or Utility Poles into compliance with such revised standards and regulations shall constitute grounds for the removal of the structure at the Permittee's expense.

- (D) ***Design standards:*** Wireless Facilities and Accessory Equipment placed anywhere in County Right-of-way is subject to the following design parameters.
- (1) Micro Wireless Facilities must comply with the design parameters for Small Wireless facilities with the following exception:
    - a. To the extent permitted by state law, micro-wireless facilities may be suspended on cable strings between Utility Poles, except within historic preservation areas.
  - (2) Small Wireless Facilities:
    - a. Small wireless facilities may not extend more than ten (10) feet above the Utility Pole upon which it is mounted.
    - b. A new pole placed in the right-of-way upon which a Small Wireless Facility will be mounted may not exceed the maximum height as follows:
      1. The tallest pole, as of July 1, 2017, within five hundred (500) feet of the new pole, provided the tallest pole was not issued a waiver by the County. If the tallest pole within 500 feet was installed pursuant to a waiver by the County or after July 1, 2017, the maximum height must not exceed that of the next tallest pole, if any, within 500 feet of the new pole; and
      2. If there are no existing poles within five hundred (500) feet of the new pole that were in existence as of July 1, 2017 and not issued a waiver by the County, the new pole must not extend past the maximum height of fifty (50) feet; and
      3. A Utility Pole upon which a Small Wireless Facility is mounted must be of a substantially similar design, material and color as the existing Utility Poles.
      4. New Utility Poles upon which Small Wireless Facilities are mounted must not be constructed of wood except in a area predominately comprised of wooden polls; and
    - a.
    - c. Must not be artificially lighted except as required by the FAA. In cases where there are residential uses located within a distance that is 300% of the height of the Utility Pole or Tower, authorization for dual mode lighting must be requested from the FAA; and
    - d. Must comply with any applicable local building codes in terms of design, construction and installation. All construction or maintenance of facilities must be accomplished in the manner resulting in the least amount of damage and disruption of the Right-of-way, subject to economic and technical feasibility; and
    - e. All Small Wireless Facilities, including the Utility Poles or Towers installed for the purpose of mounting and accessory

equipment, must be located to avoid any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians or motorists, including clear zone and sight-line requirements per Florida Department of Transportation (FDOT)'s "Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways" commonly known as "Florida Greenbook" as may be amended; and

- f. Must not include signs or advertising or other form of communication unless otherwise required by law; and
- g. Must not be installed upon horizontal traffic signal poles or mast arms inside the County's public Right-of-way or on any County maintained traffic infrastructure; and
- h. New and replacement Utility Poles that support Antenna must match the style, design, and color of the Utility Poles in the surrounding area, unless otherwise approved in writing in the Permit.
- ~~4.~~ i. Where possible, new Utility Poles or Towers that support small wireless facilities must be located in public utility easements within or immediately adjacent to the Right-of-way; and
- ~~2.~~ ~~j. 3.~~ k. New Utility Poles or Towers for the mounting of Small Wireless Facilities must adhere to the following minimum setbacks:
  - i. must be located at least 6 feet from a driveway and at least 10 feet from the edge of existing trees 12 inches or greater in diameter;
  - ii. distance from sidewalks and pedestrian ramps must be such so as to satisfy the requirements of the ADA, as may be amended;
  - iii. Notwithstanding the above, the County may require greater setbacks from these and other fixtures in the Right-of-way to ensure proper sight lines for public safety purposes.
  - iv. In residential zoning districts, Facilities must be located within the Right-of-way where the shared property line between two residential parcels intersects the Right-of-way, or otherwise in a manner that demonstrates the least impact to access to private property.
  - v. In nonresidential districts wireless communication Facilities must be located within the Right-of-way between tenant spaces or adjoining properties where their shared property lines intersect the Right-of-way, or otherwise in a manner that demonstrates the least impact to access to private property.

vi. Must not be located in an area that will cause sight line issues.

4. 1. Small Wireless Facilities, including any ground-mounted equipment supporting said facilities, must, to the greatest extent possible, use camouflaging techniques to blend in with the surrounding area. The application must include a depiction of such camouflaging for approval by the County.

(E) **Accessory Equipment:** All equipment attached to or connected with a Co-located Antenna, Tower, or Utility Pole must comply with the following standards:

- (1) Equipment boxes located at grade must be located in areas with existing foliage or another aesthetic feature to obscure it from the view, to the greatest extent possible, use camouflaging techniques to blend in with the surrounding area. The application must include a depiction of such camouflaging for approval by the County.
- (2) Equipment boxes at the base of the Tower must not exceed 28 cubic feet of volume;
- (3) Equipment mounted to the exterior of a pole must be a minimum of 12 feet above finished grade, excluding the electric meter and disconnect switch. Each pole mounted equipment component must be no more than 15 cubic feet in area. The external finish of the equipment cases must generally match the color of the pole. All mounting and banding fixtures must also match the color of the pole;
- (4) No exposed wiring or conduit is permitted. Above the electric meter and disconnect switch, all conduit and wiring must be located inside the pole;
- (5) Electric meters and disconnect switches must not be located on the side of the pole that faces the sidewalk, or if there is not currently a sidewalk, the area identified by County staff for the preferred Placement of any future sidewalk. Conduit leading to the electric meter box and disconnect switch must generally match the color of the utility pole;
- (6) The grounding rod may not extend above the top of sidewalk and must be Placed in a pull box; and the ground wire between the pole and ground rod must be inside an underground conduit;
- (7) Where feasible, all pull boxes must be located outside of the sidewalk or pedestrian ramp. A concrete apron must be installed around all pull boxes not located in the sidewalk;
- (8) All pull boxes must be vehicle load bearing, comply with FDOT Standard Specifications and be listed on the FDOT Approved Products List;
- (9) Every 5 years from County Permit issuance date, inspection reports must be submitted to the County by the Applicant. These inspection reports must certify that the tower has not had any structural degradation and/or that any structural degradation has been rectified. Failure to submit an inspection report within 60 days after the due date will result in the revocation of the

Permit for non-compliance. The actual inspection must be physically performed within 6 months prior to the due date.

- (F) **Waiver of design and siting standards:** The design and siting standards applicable to Small Wireless Facilities may be waived by the County Administrator, or designee, upon a showing as follows:
- (1) If the applicant shows that the particular requirement(s) for which a waiver is sought is not reasonably compatible for the particular location of the small wireless facility. It is the burden of the applicant to demonstrate that the requirement is not reasonably compatible for the particular location; or
  - (2) If the applicant shows that compliance with the particular requirement(s) for which a waiver is sought would result in an excessive expense, which must be demonstrated by the applicant.
- (G) **Advance Installation of Utility Poles to Support Small Wireless Facilities** Wireless Infrastructure Providers certificated to provide telecommunications services in the state, may apply to place poles to support collocation of small wireless facilities, separate from the placement of said facilities. Such application must additionally include an attestation that facilities will be collocated on the Utility Pole and used by a Wireless Service Provider within nine (9) months of application approval. All other requirements, including fees, insurance, and bonds, relative to the placement of Utility Poles in the right-of-way apply.

**SECTION 4. Area Embraced.** The areas embraced by this article shall be all county rights-of-way, whether or not within municipal boundaries, pursuant to Pinellas County Code, Section 170-266.

**SECTION 5. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

**SECTION 6. Codification.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 7. Filing of Ordinance; Effective Date.** Pursuant to Section 125.66, Florida Statutes (2016), a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing with the Department of State.