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**ORDINANCE NO. 2019- 030**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA TO BE KNOWN AS THE RIGHT-OF-WAY PERMITTING ORDINANCE; REPEALING AND REPLACING CHAPTER 23, ARTICLE III OF THE PALM BEACH COUNTY CODE (ORD. 2008-006) PERTAINING TO RIGHT-OF-WAY PERMITTING; PROVIDING FOR SECTION 23-36 OF THE PALM BEACH COUNTY CODE (TITLE); PROVIDING FOR SECTION 23-37 OF THE PALM BEACH COUNTY CODE (DEFINITIONS); PROVIDING FOR SECTION 23-38 OF THE PALM BEACH COUNTY CODE (PERMIT REQUIRED); PROVIDING FOR SECTION 23-39 OF THE PALM BEACH COUNTY CODE (PERMIT APPLICATION); PROVIDING FOR SECTION 23-40 OF THE PALM BEACH COUNTY CODE (PROVIDER AND PASS-THROUGH PROVIDER PERMIT APPLICATION); PROVIDING FOR SECTION 23-41 OF THE PALM BEACH COUNTY CODE (PROVIDER AND PASS-THROUGH PROVIDER PERMIT REVIEW); PROVIDING FOR SECTION 23-42 OF THE PALM BEACH COUNTY CODE (OBLIGATIONS OF PERMITTEE); PROVIDING FOR SECTION 23-43 OF THE PALM BEACH COUNTY CODE (CONSTRUCTION SURETY); PROVIDING FOR SECTION 23-44 OF THE PALM BEACH COUNTY CODE (ENFORCEMENT REMEDIES); PROVIDING FOR SECTION 23-45 OF THE PALM BEACH COUNTY CODE (PERMIT REVOCATION); PROVIDING FOR SECTION 23-46 OF THE PALM BEACH COUNTY CODE (ABANDONMENT OF A FACILITY); PROVIDING FOR SECTION 23-47 OF THE PALM BEACH COUNTY CODE (APPEALS); PROVIDING FOR SECTION 23-48 OF THE PALM BEACH COUNTY CODE (INSURANCE); PROVIDING FOR SECTION 23-49 OF THE PALM BEACH COUNTY CODE (INDEMNIFICATION); PROVIDING FOR SECTION 23-50 OF THE PALM BEACH COUNTY CODE (FORCE MAJEURE); PROVIDING FOR SECTION 23-51 OF THE PALM BEACH COUNTY CODE (RESERVATION OF RIGHTS AND REMEDIES); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF**

1 **LAWS AND ORDINANCES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING**  
2 **FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

3  
4 WHEREAS, Chapter 125, Florida Statutes as may be amended, empowers  
5 counties to establish, coordinate and enforce regulations as are necessary for the  
6 protection of the public, to adopt technical codes and regulations, to regulate arterial  
7 and other roads and related facilities, and to perform other acts not inconsistent with  
8 the laws of the State of Florida; and

9 WHEREAS, Section 125.01(1)(m), Florida Statutes, as may be amended,  
10 authorizes the Board of County Commissioners of Palm Beach County, Florida (Board)  
11 to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related  
12 facilities as well as regulate the placement of signs, lights, and other structures within  
13 the right-of-way limits of the County road system; and

14 WHEREAS, Section 125.42, Florida Statutes, as may be amended,  
15 authorizes the Board to grant a license to any person or private corporation to construct,  
16 maintain, repair, operate, and remove lines for the transmission of water, sewage, gas,  
17 power, telephone, other public utilities, television, or other communications services as  
18 defined in Section 202.11(1) under, on, over, across, or within the right-of-way limits  
19 of any County highway or any public road or highway acquired by the County or public  
20 by purchase, gift, devise, dedication, or prescription; and

21 WHEREAS, Section 337.401, Florida Statutes, as may be amended,  
22 provides that local governments are authorized to prescribe and enforce reasonable  
23 rules and regulations with reference to the placing and maintaining of utilities along,  
24 across, within, or on the right-of-way limits of any road under local governments'  
25 jurisdiction and may grant to a resident or corporation organized or licensed in Florida  
26 the use of the right-of-way in accordance with said rules and regulations; and

27 WHEREAS, Section 334.03, Florida Statutes, as may be amended, defines  
28 the County Road System as all collector roads in the unincorporated areas of a County  
29 and all extensions of such collector roads into and through any incorporated areas, all  
30 local roads in the unincorporated areas, and all urban minor arterial roads not in the  
31 State Highway System; and

1                   WHEREAS, Palm Beach County is a Charter County and has all powers of  
2 local self- government; and

3                   WHEREAS, the Board has determined that the comprehensive system of  
4 Permitting regulations set forth herein furthers the public health, safety and welfare;  
5 and

6                   WHEREAS, the Board has delegated the responsibility for accepting,  
7 processing, reviewing and approving or denying applications to place or maintain  
8 facilities in the County Rights-of-Way to the County Engineer; and

9                   WHEREAS, public hearings have been held in conformance with the  
10 requirements set forth in Section 125.66, Florida Statutes.

11                   NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
12 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

13  
14 Chapter 23, Article III of the Palm Beach County Code (Ord. 2008-006) is hereby repealed and  
15 replaced with the following:

16  
17 **Section 1. Section 23-36 – Title.**

18 This Ordinance shall be known as the “Right-of-Way Permitting Ordinance.”  
19

20 **Section 2. Section 23-37 – Definitions.**

21 For purposes of this Ordinance, the following terms, phrases, words and their derivations shall  
22 have the meanings given. Where not inconsistent with the context, words used in the present tense  
23 include the future tense, words in the plural number include the singular number, “any” includes  
24 “all,” “and” includes “or.” The words “shall” and “will” are mandatory, and “may” is permissive.  
25 Words not otherwise defined shall be construed to mean the common and ordinary meaning.

- 26 1. “Abandoned” shall mean any Facility, except a Communications Facility, not in continued  
27 use for a period of 180 consecutive days. A Communications Facility shall be deemed  
28 “abandoned” if it is not in continued use for a period of 365 days.
- 29 2. “Abandonment” shall mean the permanent cessation of all uses of a Facility; provided that  
30 this term shall not include cessation of all use of a Facility within a physical structure where

1 the physical structure continues to be used. By way of example, and not limitation,  
2 cessation of all use of a cable within a conduit, where the conduit continues to be used or  
3 cessation of all use of an Antenna mounted on a streetlight, where the streetlight continues  
4 to be used, shall not be “Abandonment.”

5 3. “Antenna” shall mean communications equipment that transmits or receives  
6 electromagnetic radio frequency signals used in providing wireless services.

7 4. “Applicable Code” shall mean this ordinance, including local regulations and standards as  
8 well as state statutes and state and federal standards and any uniform building, fire,  
9 electrical, plumbing, or mechanical codes adopted by a recognized national code  
10 organization or local amendments to those codes enacted solely to address threats of  
11 destruction of property or injury to persons, and includes the National Electric Safety Code  
12 and all FDOT manuals. However, Applicable Code for a Communications Facility shall be  
13 limited to any uniform building, fire, electrical, plumbing, or mechanical codes adopted by  
14 a recognized national code organization or local amendments to those codes enacted solely  
15 to address threats of destruction of property or injury to persons, and includes the National  
16 Electric Safety Code and the 2017 edition of the Florida Department of Transportation  
17 Utility Accommodation Manual.

18 5. “Collocation” shall mean to install, mount, maintain, modify, operate, or replace one or  
19 more wireless facilities on, under, within, or adjacent to a wireless support structure or  
20 utility pole. The term does not include the installation of a new utility pole or wireless  
21 support structure in the public rights-of-way.

22 6. “Communications Facility” shall mean a facility that may be used to provide  
23 Communications Services. Multiple cables, conduits, strands, or fibers located within the  
24 same conduit shall be considered one communications facility.

25 7. “Communications Services” means the transmission, conveyance, or conveyance, or  
26 routing of voice, data, audio, video, or any other information or signals, including video  
27 services, to a point, or between or among points, by or through any electronic, radio,  
28 satellite, cable, optical, microwave, or other medium or method now in existence or  
29 hereafter devised, regardless of the protocol used for such transmission or conveyance. The  
30 term includes such transmission, conveyance, or routing in which computer processing  
31 applications are used to act on the form, code, or protocol of the content for purposes of

1 transmission, conveyance, or routing without regard to whether such service is referred to  
2 as voice-over-Internet-protocol services or is classified by the Federal Communications  
3 Commission as enhanced or value-added. The term does not include:

4 (a) Information services.

5 (b) Installation or maintenance of wiring or equipment on a customer's premises.

6 (c) The sale or rental of tangible personal property.

7 (d) The sale of advertising, including, but not limited to, directory advertising.

8 (e) Bad check charges.

9 (f) Late payment charges.

10 (g) Billing and collection services.

11 (h) Internet access service, electronic mail service, electronic bulletin board service, or  
12 similar online computer services.

13 8. "County" shall mean Palm Beach County, Florida, a political subdivision of the State of  
14 Florida, including but not limited to, the Department of Engineering and Public Works,  
15 and the Palm Beach County Sheriff's Office.

16 9. "County Engineer" shall mean the County Engineer of Palm Beach County or his or her  
17 designee.

18 10. "Facility" shall mean any permanent or temporary plant, property, Structure, or equipment,  
19 including but not limited to, sewer, gas, water, electric, drainage, Communications Facility,  
20 and any type of cable, conduit, duct, fiber optic, Pole, Antenna, converter, splice box,  
21 cabinet, hand hole, manhole, vault, surface location marker, or appurtenance, landscape  
22 material, access drive, road connection, pathway, signage, curbing, marking or pavement.

23 11. "FDOT Manual" shall mean the 2017 edition of the Florida Department of Transportation  
24 Utility Accommodation Manual.

25 12. "In Right-of-Way" or "in the Right-of-Way" shall mean in, on, over, under, within, or  
26 across the Right-of-Way.

27 13. "Law" shall mean any local, state or federal legislative, judicial or administrative order,  
28 certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff,  
29 guideline or other requirement, as amended, now in effect or subsequently enacted or  
30 issued, including, but not limited to, the Communications Act of 1934, 47 USC 151 et seq.,  
31 as amended by the Telecommunications Act of 1996, PL 104-104 § 101(a), 110 Stat. 70,

- 1 and all orders, rules, tariffs, guidelines and regulations issued by the Federal  
2 Communications Commission or the governing state authority pursuant thereto.
- 3 14. "Micro Wireless Facility" shall mean a small wireless facility having dimensions no larger  
4 than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna,  
5 if any, no longer than 11 inches.
- 6 15. "Ordinance" shall mean the Right-of-Way Permitting Ordinance.
- 7 16. "Pass-through Provider" shall mean any Person who, pursuant to this Ordinance, Places or  
8 Maintains a Communications Facility in the Right-of-Way, and does not remit  
9 communications service taxes, as imposed by the County pursuant to Chapter 202 and  
10 Section 337.401, Florida Statutes (CST). However, Pass-through Provider does not  
11 include a Person who does not remit CST but pursuant to Florida Statute 202.16(2) sells  
12 Communications Services for resale to a Person who sells Communications Services at  
13 retail or who integrates Communications Services into Communications Services sold at  
14 retail in the County and who remits CST.
- 15 17. "Permit" shall mean the Right-of-Way Permit, including but not limited to right-of-way  
16 (RW), utility permit (UT) and landscape permit (LA), pursuant to the Ordinance.
- 17 18. "Permittee" shall mean any Person who obtains or applies to obtain a Permit pursuant to  
18 the Ordinance.
- 19 19. "Person" shall mean any entity or individual, including but not limited to, a governmental  
20 entity, except for Palm Beach County Engineering and Public Works Department,  
21 contractor, firm, association, joint venture, partnership, estate, trust, business trust,  
22 syndicate, fiduciary, corporation, organization or legal entity of any kind, successor,  
23 assignee, transferee, personal representative and any other group.
- 24 20. "Place or maintain," "Placement or Maintenance," or "Placing or Maintaining" shall mean  
25 to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, replace,  
26 locate or relocate. Physical control, ownership or maintenance of a Facility is considered  
27 "Placing or Maintaining" a Facility. A Person providing service only through resale or only  
28 through use of a third party's unbundled network elements is not "Placing or Maintaining"  
29 the Communications Facility through which such service is provided. The transmission  
30 and receipt of radio frequency signals through the airspace of the Right-of-Way is not  
31 Placing or Maintaining a Facility in the Right-of-Way.

- 1 21. "Pole" shall mean a pole or similar structure that is used in whole or in part to provide  
2 communications services or for electric distribution, lighting, traffic control, signage, or a  
3 similar function. The term includes the vertical support structure for traffic lights but does  
4 not include a horizontal structure to which signal lights or other traffic control devices are  
5 attached and does not include a pole or similar structure 15 feet in height or less unless an  
6 authority grants a waiver for such pole. A Pole may be a part of a Communications Facility.
- 7 22. "Provider" shall mean any Person who, pursuant to this Ordinance, Places or Maintains a  
8 Communications Facility in the Right-of-Way, and remits communications service taxes,  
9 as imposed by the County pursuant to Chapter 202 and Section 337.401, Florida Statutes.
- 10 23. "Registrant" shall mean a Provider or Pass-through Provider that is registered pursuant to  
11 the "Palm Beach County Communications Right-of-Way Registration Ordinance", as  
12 amended.
- 13 24. "Registration" shall mean the process described in the "Palm Beach County  
14 Communications Registration Right-of-Way Ordinance", as amended.
- 15 25. "Replacement" shall mean the removal of an existing Facility for purposes of installing a  
16 new Facility.
- 17 26. "Right-of-Way" shall mean a public right-of-way, highway, street, bridge, tunnel, Right-  
18 of-Way drainage area or alley which has been dedicated to the public or to the County and  
19 for which the County is the maintenance authority, or intends to be the maintenance  
20 authority, that has jurisdiction and control and may lawfully grant access to pursuant to  
21 applicable law, and includes the surface, the air space over the surface and the area below  
22 the surface. "Right-of-Way" shall not include private property unless it is subject to a  
23 public easement for a use referenced above. The term also includes but is not limited to  
24 associated sidewalks, the roadbed, all culverts, drains, sluices, ditches, water storage areas,  
25 waterways, embankments, slopes, retaining walls, bridges, and viaducts. "Right-of-Way"  
26 shall not include County buildings, fixtures, poles, conduits, Facilities or other structures  
27 or improvements, regardless of whether they are situated in the Right-of-Way.
- 28 27. "Small Wireless Facility" shall mean a wireless facility that meets the following  
29 qualifications:
- 30 a. Each antenna associated with the facility is located inside an enclosure of no more  
31 than 6 cubic feet in volume or, in the case of antennas that have exposed elements,

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

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

10 28. "Structure" shall mean anything constructed or erected, the use of which requires  
11 permanent location on the ground, or attachment to something having a permanent location  
12 on the ground.

13 29. "Wireless Facility" shall mean equipment at a fixed location which enables wireless  
14 communications between user equipment and a communications network, including radio  
15 transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and  
16 backup power supplies, and comparable equipment, regardless of technological  
17 configuration, and equipment associated with wireless communications. The term includes  
18 Small Wireless Facilities. The term does not include:

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

25  
26 **Section 3. Section 23-38 - Permit Required.**

- 27 1. Any Person Placing or Maintaining any Facility in the Right-of-Way shall have a Permit,  
28 except:
  - 29 a. In an Emergency, as defined in this Section;
  - 30 b. For routine Maintenance of a Small Wireless Facility, the performance of service  
31 restoration work on existing Small Wireless Facility, or repair work, including, but



1 not limited to, emergency repairs of existing Small Wireless Facility or extensions  
2 of such Small Wireless Facility;

3 c. For replacement of an existing Wireless Facility with a Wireless Facility that is  
4 substantially similar or is of the same or smaller size;

5 d. For installation, Placement or Maintenance of a Micro Wireless Facility that is  
6 suspended on cables strung between existing Poles in compliance with Applicable  
7 Codes by or for a Provider. The Provider shall submit a letter to the County  
8 attesting that the Micro Wireless Facility dimensions comply with the limits of this  
9 subsection. County shall not require any additional filing or other information as  
10 long as the Provider is deploying the same, a substantially similar, or a smaller size  
11 Micro Wireless Facility equipment;

12 e. By a Provider, for Maintenance, extension, or upgrade of existing aerial wireline  
13 Communications Facility on a Pole or for aerial wireline facility between existing  
14 wireline Communications Facility attachments on a Pole; orf. For  
15 Maintaining an existing Facility, where a standard maintenance of traffic plan for  
16 the Facility has been approved by the County.

17 Notwithstanding paragraphs a. through e., above, a Permit is required for work that involves  
18 excavation, closure of a sidewalk, or closure of a vehicular lane or parking lane, unless the Provider  
19 is performing service restoration to an existing Communication Facility and the work is done in  
20 compliance with the FDOT Manual. The Provider shall provide notice to the County of such work  
21 within thirty (30) days after restoration and shall obtain an after-the-fact Permit for work which  
22 would otherwise have required a Permit.

23 2. As used in this Section, "Emergency" shall mean a condition that threatens the public's  
24 health, safety or welfare, and includes an unplanned out-of-service condition of a pre-  
25 existing service. Permittee shall provide prompt notice to the County of the Placement or  
26 Maintenance of a Facility in the Right-of-Way in the event of an Emergency, and shall be  
27 required to obtain an after-the-fact Permit if a Permit would have originally been required  
28 to perform the work undertaken in the Right-of-Way in connection with the Emergency.

29 3. As used in this Section, "extension of existing facilities" includes those extensions from  
30 the Right-of-Way into a customer's private property for purposes of placing a service drop

- 1 or those extensions from the Right of Way into a utility easement to provide service to a  
2 discrete identifiable customer or group of customers.
- 3 4. A Permit shall be valid only for the Right-of-Way location identified in the Permit and for  
4 the dates set forth therein, unless modified in writing by the County.
- 5 5. A Permit shall be conspicuously displayed at all times or immediately available at the  
6 location identified in the Permit, for inspection by the County. Where the Ordinance  
7 requires a Permit, the County shall have the right to immediately stop any work within the  
8 Right-of-Way if a valid Permit is not displayed or immediately produced for inspection.
- 9 6. A Permit authorizes the Permittee to perform the work described in the Permit and in  
10 accordance with the Ordinance, and does not create any property right or grant any  
11 authority to impinge upon the rights of another who may have an interest in the Right-of-  
12 Way.
- 13 7. The County reserves the right to Place or Maintain, and permit to be Placed or Maintained,  
14 a Facility in any Right-of-Way subject to a Permit. The County further reserves, without  
15 limitation, the right to alter, change, or cause to be altered or changed, the grading, location,  
16 or width of a Right-of-Way.
- 17 8. To the extent not otherwise prohibited by State or Federal law, the County shall have the  
18 power to prohibit, limit, or regulate the location of any Facility in a Right-of Way, as  
19 follows:
- 20 a. when necessary to protect an existing Facility in a Right-of-Way;
- 21 b. to accommodate documented, funded, or approved County plans for public  
22 improvements or projects;
- 23 c. to prevent interference with the operations of public safety telecommunications  
24 services; or
- 25 d. to accommodate traffic safety issues of the County, State, or any other agency with  
26 authority over a Right-of-Way.
- 27 9. The County does not make any warranties or representations  
28 regarding the fitness, suitability or availability of a Right-of-Way for the Permittee's  
29 Facility, and any work, cost or service provided by Permittee shall be at Permittee's sole  
30 risk.

1 10. Nothing in the Ordinance shall affect the County's authority to add, vacate or abandon  
2 Right-of-Way pursuant to applicable federal, state or local law, and the County does not  
3 make any warranties or representations regarding the availability of any added, vacated or  
4 abandoned Right-of-Way.  
5

6 **Section 4. Section 23-39 - Permit Application.**

7 1. Provider or a Pass-through Provider shall first complete the Registration and become a  
8 Registrant, prior to applying for a Permit under the Ordinance.

9 2. A Permittee, except a Provider or Pass-through-Provider that is a Registrant, shall submit  
10 a nonrefundable application fee at the time of Permit application. The application fee shall  
11 be established by a County Resolution, and shall not exceed the County's costs incurred in  
12 reviewing the application, processing the Permit, and monitoring the work authorized by  
13 the Permit.

14 3. The Permit application fee may be waived where:

15 a. the Permittee is a governmental agency, which is a party to a contract for work to  
16 be performed under the Permit, and the work is for the benefit of the governmental  
17 agency; or

18 b. the Right-of-Way is located within the municipal boundaries of a municipality,  
19 which also requires a permit before the same Facility is Placed or Maintained in the  
20 Right-of-Way, and the municipality charges a permit fee.

21 4. A Permit application to Place or Maintain any Facility in the Right-of-Way shall include  
22 the following:

23 a. An engineering plan in compliance with Applicable Codes, signed and sealed by a  
24 Florida-licensed Professional Engineer, or prepared by a person who is exempt  
25 from such registration requirements as provided in Section 471.003, Florida  
26 Statutes. The engineering plan shall identify the location of the proposed Facility  
27 with respect to at least one major roadway, and describe the Facility, including the  
28 approximate size of Facility;

29 b. A description of the manner in which the Facility would be Placed and Maintained,  
30 such as a description of proposed construction methods or techniques, and shall  
31 identify any deviation from the County's engineering standards as stated in the

1 Land Development Design Standards Manual, or applicable other regulations, as  
2 amended;

3 c. A maintenance of traffic (MOT) plan to address any disruption of the Right-of-  
4 Way. Except for a Registrant's MOT plan, the MOT plan will be processed by the  
5 Department's Traffic Division through a separate application only after the Permit  
6 application has been approved;

7 d. If Replacement of a Facility owned by the County is requested by the Permittee,  
8 indicate the function of the Facility to be replaced, the type of replacement Facility  
9 proposed, and provide evidence of compliance with County standards;

10 e. Except as provided in Section 4.4.e.i., information regarding the ability of Right-  
11 of-Way to accommodate the proposed Facility, including relevant information that  
12 identifies all above and below ground Facilities that currently exist in the Right-of-  
13 Way, if available;

14 i. Except as provided in Section 4.4.e.ii, a Registrant shall identify at-grade  
15 Communication Facilities within 50 feet of the proposed installation  
16 location for the Placement of at-grade Communication Facility.

17 ii. A Registrant that seeks to Collocate a Small Wireless Facility, or to Place a  
18 new Pole used to support a Small Wireless Facility is not required to provide  
19 inventories, maps, or locations of Communication Facilities in the Rights-  
20 of-Way other than as necessary to avoid interference with other at-grade or  
21 aerial facilities located at the specific location proposed for a Small Wireless  
22 Facility or within fifty (50) feet of such location.

23 f. An engineer's cost estimate, including but not limited to MOT costs, survey costs,  
24 mobilization, unit prices for each Facility installed, linear footage, and cost of  
25 restoration, as appropriate. However, a Registrant is not required to submit survey  
26 costs, mobilization, and unit prices for each Facility Placed or Maintained, and  
27 linear footage, as part of the Registrant's engineer's cost estimate;

28 g. The timetable for the Placement or Maintenance of the Facility, or each phase  
29 thereof, and the areas of the County which will be affected;

30 h. If appropriate given the Facility proposed, an estimate of the cost of restoration to  
31 the Right-of-Way, specifically for open cut applications; and

- 1 i. Such additional information as the County finds reasonably necessary with respect  
2 to the Placement or Maintenance of the Facility.  
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4

5 5. A Permittee that is a “utility,” as defined in Section 337.401, Florida Statutes, and that is  
6 not subject to Registration, may also be required to:

- 7 a. Pay an additional fee equal to 110% of the construction costs, including any  
8 pavement restoration cost, as approved by the County Engineer;  
9 b. Notify Sunshine 811 of the Facility’s final constructed location; and  
10 c. Indemnify the County for any damage to the Facility caused by action of the County  
11 or by any other Person.  
12

13 **Section 5. Section 23-40 – Provider and Pass-Through Provider Permit Application.**

- 14 1. In addition to Section 4, above, a Provider or Pass-through Provider shall also comply with  
15 all applicable provisions of this Section and this Ordinance and Applicable Codes  
16 regarding Placement or Maintenance of a Communications Facility in the Right-of-Way.  
17 2. The County reserves the right to permit the Placement and Maintenance of other Facilities  
18 in the same Right-of-Way occupied by the Provider and Pass-through Provider.  
19 3. A Permit application to Place or Maintain a Communications Facility in the Right-of-Way  
20 shall provide such additional information as the County finds reasonably necessary to  
21 demonstrate compliance with Applicable Codes regarding the Placement or Maintenance  
22 of the Communications Facility.  
23 4. If a Communications Facility must be Placed or Maintained in a Right-of-Way with  
24 residential use on any side, no part of any Communications Facility may be placed directly  
25 in front of a residential structure, and the Communications Facility shall preferably be  
26 located adjacent to common lot lines. If a Right-of-Way has a residential structure on only  
27 one side, the Communications Facility shall be Placed or Maintained on the opposite side  
28 of the Right-of-Way, whenever reasonably feasible.  
29 5. Any proposed Pole shall, to the extent reasonably feasible, be Placed and Maintained so as  
30 to align with existing Poles in the Right-of-Way and have equal setback distances with  
31 existing Poles from the Right-of-Way line.

- 1 a. The height of a Small Wireless Facility shall be limited to ten (10) feet above the  
2 Pole upon which the Small Wireless Facility is to be Collocated. The height for a  
3 new Pole shall be limited to the tallest existing Pole as of July 1, 2017, located in  
4 the same Right of Way, other than a Pole for which a waiver has previously been  
5 granted, measured from grade in place within five hundred (500) feet of the  
6 proposed location of the Small Wireless Facility. If there is no Pole within five  
7 hundred (500) feet, the height of the Pole shall be limited to fifty (50) feet.
- 8 b. If the Permittee seeks to Collocate a Small Wireless Facility on an existing Pole  
9 that is a County maintained Pole, the Permittee may petition the County Engineer  
10 to replace the existing Pole with a Pole capable of accommodating the Permittee's  
11 needs and continuing to serve the original County function, if necessary to  
12 accommodate the Collocation. If the proposed replacement Pole will function as a  
13 streetlight, the replacement Pole and the light fixture must meet County standards  
14 for structural integrity and lighting, must be a lighting type approved by the County  
15 Engineer, and must be metered separately for electric power to the streetlight and  
16 to the Communications Facility. The Permittee shall be responsible for maintaining  
17 the replacement Pole, and the County shall be responsible for maintaining the light  
18 fixture. A replacement Pole proposed under this section, is subject to review and  
19 approval of the County Engineer and the make-ready provisions of Section  
20 337.401(7)(f), Florida Statutes.

21  
22 **Section 6. Section 23-41 – Provider and Pass-Through Provider Permit Review.**

- 23 1. County shall review a Permit application submitted by a Provider or Pass-through Provider,  
24 pursuant to Sections 4 and 5, above, as follows:
- 25 a. Within fourteen (14) days after receiving the Permit application, the County shall  
26 notify the Permittee whether the Permit application is complete, or if incomplete,  
27 which information is missing, or initiate the negotiation period, as provided below.
- 28 i. Within fourteen (14) days after receiving the Permit application, County  
29 may request that the proposed location of a Small Wireless Facility be  
30 moved to another location in the Right of Way and placed on another Pole  
31 or Structure. County and Permittee may negotiate the alternative location

1 for thirty (30) days after the date of this request. At the end of the negotiation  
2 period, if the alternative location is accepted by the Permittee, the Permittee  
3 must notify the County of such acceptance and the Permit application shall  
4 be deemed granted for any new location for which there is agreement and  
5 all other locations in the Permit application. Permittee shall notify County  
6 if an agreement is not reached, and County shall approve or deny the  
7 original Permit application within ninety (90) days after the date the Permit  
8 application was filed.

9 b. Unless County initiates the negotiation period, pursuant to Section 6.1.a.i., County  
10 shall approve or deny the Permit application within 60 days after receipt of the  
11 Permit application or the Permit application will be deemed approved. The County  
12 and the Permittee may mutually agree to extend the 60-day Permit application  
13 review period.

14 c. If the Permit application is denied, County shall notify the Permittee on the day of  
15 the denial and provide the basis for the denial, including the specific code  
16 provisions on which the denial was based.

17 d. The Permittee may cure the deficiencies identified in County's denial of the Permit  
18 application and resubmit the Permit application within thirty (30) days of the denial.

19 e. County shall approve or deny the revised Permit application within thirty (30) days  
20 of receipt of the revised Permit application. County review of the revised Permit  
21 application shall be limited to the deficiencies identified in the denial.

22 2. County may deny a Registrant's application to Collocate a Small Wireless Facility, or to  
23 Place a new Pole used to support a Small Wireless Facility if the proposed Small Wireless  
24 Facility or Pole used to support a Small Wireless Facility:

25 a. materially interferes with the safe operation of traffic control equipment;

26 b. materially interferes with sight lines or clear zones for transportation, pedestrians,  
27 or public safety purposes;

28 c. materially interferes with compliance with the Americans with Disabilities Act or  
29 similar federal or state standards regarding pedestrian access or movement;

30 d. materially fails to comply with the FDOT Manual; or

31 e. fails to comply with Applicable Codes;

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- 3. Unless extended by the County, a Provider and Pass-through Provider Permit is effective for one (1) year from the date issued.
- 4. County shall communicate with and notify the Permittee regarding its Permit application, by e-mail.

**Section 7. Section 23-42 - Obligations of Permittee.**

- 1. A Permittee shall at all times comply with and abide by all applicable provisions of the State and Federal law and, to the extent not inconsistent with state and federal law, County ordinances, codes and regulations, as well as accepted industry practices, in Placing or Maintaining a Facility. Obtaining a Permit pursuant to this Ordinance does not excuse a Permittee from complying with all applicable County ordinances. In connection with excavation in the Right-of-Way, a Permittee shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Chapter 556, Florida Statutes, as may be amended.
- 2. A Permittee shall Place and Maintain its Facility in Right-of-Way in a manner consistent with accepted industry practice and applicable law. The Facility shall continue to be maintained by the Permittee unless otherwise approved by the County Engineer.
- 3. A Permittee acknowledges that as a condition of granting the Permit, the County may impose reasonable rules, conditions or regulations governing the Placement or Maintenance of a Facility to the extent consistent with applicable law.
- 4. A Facility shall be Placed and Maintained so as not to unreasonably interfere with the use of the Right-of-Way by the public and with any rights and safety of property owners who adjoin any of the Right-of-Way. The use of trenchless technology, such as directional boring, horizontal drilling, micro tunneling, or other similar method, for the installation of a Facility in the Right-of-Way, as well as joint trenching or the Collocation of a Facility in existing conduit is strongly encouraged, and should be employed wherever feasible. A Permittee shall not Place or Maintain a Facility so as to interfere with, displace, damage or destroy any Facility, including but not limited to, any sewer, gas or water main, storm drain, pipe, cable or conduit of the County or any other Person's Facility lawfully occupying Right-of-Way of the County. The Permittee shall be liable for any displacement, damage



1 or destruction of any property, including but not limited to, any irrigation system or  
2 landscaping, as a result of the Placement or Maintenance of a Facility within the Right-of-  
3 Way. A Permit does not relieve a Permittee from obtaining any necessary agreement before  
4 Placing or Maintaining its Facility on another Person's Facility. The County Engineer may  
5 promulgate reasonable rules and regulations concerning the Placement or Maintenance of  
6 a Facility in Rights-of- Way consistent with this Ordinance and other applicable law.

7 5. Upon County's request, a Permittee shall be required to coordinate the Placement or  
8 Maintenance of a Facility with any other work, construction, installation or repair that may  
9 be occurring or scheduled to occur within a reasonable time, in the subject Right-of-Way.  
10 The Permittee shall reasonably alter its Placement or Maintenance schedule, as necessary  
11 to minimize disruption and disturbance in the Right-of-Way. In the event of a conflict with  
12 a County project, the Permittee shall yield to the County's schedule such that no two  
13 entities are working within the same area of the Right-of-Way at the same time.

14 6. A Permittee shall use and exercise due caution, care and skill in Placing or Maintaining a  
15 Facility in any Right-of-Way and shall take all reasonable steps to safeguard all work site  
16 areas.

17 7. Subject to applicable law, a Permittee, on the request of any other Permittee under the  
18 Ordinance, shall temporarily support, protect, raise, lower or otherwise reasonably modify  
19 on a temporary basis, its Facility to allow the work authorized by the Permit of the other  
20 Permittee. The expense of such temporary support, protection, raising or lowering of a  
21 Facility shall not be the responsibility of the County, regardless of the requesting Permittee.  
22 The Permittee shall be given not less than thirty (30) calendar days advance written notice  
23 to arrange for such temporary relocation.

24 8. After the completion of the Placement or Maintenance of a Facility in the Right-of-Way or  
25 each phase thereof, the Permittee shall, at its own expense, restore the Right-of-Way to at  
26 least its original condition before the permitted work, subject to the County's inspection.  
27 If the Permittee fails to make such restoration within thirty (30) days, or such longer period  
28 of time as may be reasonably required under the circumstances, following the completion  
29 of such Placement or Maintenance, the County may perform restoration and charge the  
30 costs of the restoration against the Permittee, pursuant to Section 337.402, Florida Statutes.  
31 Alternatively and at the County's sole discretion, the County may draw against any surety

1 received pursuant to Section 8 below, to recover expenses, costs, and any other damages  
2 related to restoring the Right-of-Way. For a period of twelve (12) months following the  
3 completion of the restoration, the Permittee shall warrant and guarantee its restoration work  
4 and shall correct, at its own expense, any restoration work that does not satisfy the  
5 requirements of this Ordinance.

6 9. The County shall have the right to inspect a Facility Placed or Maintained in the Right-of-  
7 Way as the County finds necessary to ensure compliance with this Ordinance. In the event  
8 the County determines that a violation of the Ordinance exists, which violation is not  
9 considered to an emergency or danger to the public health, safety or welfare, the County  
10 will provide Permittee written notice, setting forth the violation and requesting correction  
11 within a reasonable time.

12 10. Removal or relocation of a Facility at the direction of the County is governed by Florida  
13 Statutes 125.01, 125.42, 337.403 and 337.404, as amended.

14 11. Permittee shall promptly provide revised an engineering plan to reflect any deviation from  
15 any approved engineering plans.

16 12. Upon completion of the Placement of a Facility, Permittee shall promptly provide as-built  
17 drawings to the County unless the Permit applies only to attachments to existing poles or  
18 maintenance such that no as-built drawings are necessary. The as-built drawings shall  
19 identify all revisions made in the field that are not shown on the approved engineering  
20 plans. The as-built drawings shall be in an electronic format, showing the two-dimensional  
21 location of the Facility based on the County's geographical database, or other format  
22 acceptable to the County. The Permittee shall provide such plans at no cost to the County.  
23 The County shall maintain the confidentiality of such plans and any other information  
24 provided in accordance with Section 202.195, Florida Statutes, as amended.

25  
26 **Section 8. Section 23-43 – Construction Surety.**

27 1. Prior to issuing a Permit, the County may require a construction surety in an amount equal  
28 to 100% of the engineer's cost estimate, as approved by the County Engineer, to secure the  
29 restoration of the Right-of-Way and in a form acceptable to the County Engineer. Except  
30 as provided in Section 8.1.a., the Permittee shall provide a surety, pursuant to Section

1 287.0935, Florida Statutes, as amended, and Section 307.00, Palm Beach County  
2 Administrative Code, as amended.

3 a. The construction surety for a Registrant is time limited to not more than 18 months  
4 after the construction to which the construction surety applies is completed. A  
5 Registrant may submit a letter of credit or similar financial instrument issued by  
6 any financial institution that is authorized to do business within the United States,  
7 provided that a claim against the financial instrument may be made by electronic  
8 means, including facsimile. The County will accept a Registered Provider adding  
9 the County to any existing bond or other relevant financial instrument, provided  
10 that Palm Beach County, Florida is the venue for purposes of any litigation to which  
11 the County is a party.

12 2. The rights reserved to the County under this Section are in addition to all other rights of  
13 the County, whether reserved in this Ordinance, or authorized by other law, and no action,  
14 proceeding or exercise of a right with respect to the construction surety will affect any other  
15 right the County may have.

16 3. The County may withhold issuing a Permit until any amount past due from Permittee to  
17 County is paid in full.

18  
19 **Section 9. Section 23-44 - Enforcement Remedies.**

20 1. A Permittee's failure to comply with any provision of this Ordinance shall constitute a  
21 violation of this Ordinance and shall subject the Permittee to the Revocation provisions of  
22 this Ordinance and the code enforcement provisions set forth in the Palm Beach County  
23 Unified Land Development Code, Article 10 - ENFORCEMENT. In addition, violation of  
24 this Ordinance may be punishable as provided in Section 125.69, Florida Statutes, as may  
25 be amended, or any other legal or equitable remedy available at law.

26 2. This Ordinance is enforceable by all means provided by law. Additionally, the County may  
27 choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm  
28 Beach County.

29 3. Failure of the County to enforce any requirement of this Ordinance shall not constitute a  
30 waiver of the County's right to enforce that violation or subsequent violations of the same  
31 type or to seek appropriate enforcement remedies.

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**Section 10. Section 23-45 – Permit Revocation.**

1. The County may revoke a Permit for one or more of the following reasons:
  - a. Violation of a Permit condition, including but not limited to conditions set forth in the Permit, this Ordinance or other applicable County ordinances, codes or regulations governing the Placement or Maintenance of a Facility in the Right-of-Way;
  - b. Misrepresentation or fraud by Permittee in a Permit application to the County;
  - c. Failure to relocate or remove Facilities, as may be lawfully required by the County;
  - d. As to a Provider and Pass-through Provider, failure to comply with the Palm Beach County Communications Registration Right-of-Way Ordinance;
  - e. A Federal or State authority suspends, denies, or revokes any applicable certification or license required by Permittee to provide services related to the Placement or Maintenance of Facilities in the Right-of-Way;
  - f. The Permittee ceases to use all of its Facilities in the Right-of-Way and has not complied with Section 9 - Abandonment of Facilities of this Ordinance;
  - g. The Permittee's placement or maintenance of a Facility in the Right-of-Way presents an extraordinary danger to the general public or other users of the Right-of-Way and the Permittee fails to remedy the danger promptly after receipt of written notice;
  - h. The Permittee fails to commence work prior to the Permit expiration;
  - i. The Permit has been extended more than one time and work will not commence prior to the extended expiration; or
  - j. The Permittee fails to maintain the Facility in accordance with the approved Permit and/or appropriate regulations.
2. Prior to revocation, the Permittee shall be notified by the County Engineer with a written notice setting forth all matters pertinent to the proposed revocation action, including which of (a) through (j) above is applicable as the reason therefore, and describing the proposed action of the County with respect thereto. The Permittee shall have sixty (60) days after receipt of such notice within which to address or eliminate the reason, or within which to present a plan, satisfactory to the County Engineer, to accomplish the same. In the event

1 revocation is based on subsection l(g) above, the County Engineer may demand such  
2 response from the Permittee in less than sixty (60) days based on the nature of the danger  
3 to the general public. If the plan is rejected, the County Engineer shall provide written  
4 notice of such rejection to the Permittee and shall provide written notice of revocation of  
5 the Permit. This notice of revocation may be appealed as set forth in Section 12 – Appeals.

6 3. In the event of revocation, the former Permittee shall:

7 a. Notify the County of the assumption or anticipated assumption by another  
8 Permittee of ownership of the Permittee's existing Facilities which were the subject  
9 of the revoked Permit in the Right-of-Way and submit an acceptable application to  
10 the County Engineer to allow issuance of a Permit to the new Permittee; or

11 b. Provide the County with an acceptable plan for disposition of its Facilities which  
12 were the subject of the revoked Permit in the Right-of-Way. If a Permittee fails to  
13 comply with this subsection 3, which determination of non-compliance is subject  
14 to appeal as provided in Section 12 – Appeals, the County may exercise any  
15 remedies or rights it has at law or in equity, including but not limited to taking  
16 possession of the Facilities at issue (where another Person has not assumed the  
17 ownership or physical control of the Facilities) or requiring the Permittee within 90  
18 days of the revocation, or such longer period as may be agreed to by the County, to  
19 remove some or all of the Facilities at issue from the Right-of-Way and restore the  
20 Right-of-Way to its original condition before the removal.

21 4. In any event, a former Permittee shall take such steps as are necessary to render safe every  
22 portion of the Facilities remaining in the Right-of-Way of the County.

23 5. In the event of revocation, this Section does not authorize the County to cause the removal  
24 of Facilities not the subject of the Permit under revocation or which are used to provide  
25 another service for which the Permittee or another Person who owns or exercises physical  
26 control over the Facilities holds a valid certification or license with the governing Federal  
27 or State agency, if required for provision of such service.

28  
29 **Section 11. Section 23-46 – Abandonment of a Facility.**

30 1. Upon Abandonment of a Facility by a Permittee, the Permittee shall notify the County in  
31 writing within ninety (90) days.

- 1 2. The County may direct the Permittee by written notice to remove all or any portion of such  
2 Abandoned Facility at the Permittee's sole expense if the County determines that the  
3 Abandoned Facility's presence interferes with the public health, safety or welfare, which  
4 shall include, but shall not be limited to, a determination that such Facility:
- 5 a. compromises safety at any time for any Right-of-Way user or during construction  
6 or maintenance in the Right-of-Way; or
  - 7 b. prevents another Person from locating a Facility in the area of Right-of-Way where  
8 the Abandoned Facility is located when other alternative locations are not  
9 reasonably available; or
  - 10 c. creates a maintenance condition that is disruptive to the Rights-of-Way use. In the  
11 event of (b), the County may require the third Person to coordinate with the  
12 Permittee of the existing Facility for joint removal and placement, where agreed to  
13 by the Permittee.
- 14 3. In the event that the County does not direct the removal of the Abandoned Facility, the  
15 Permittee, by its notice of Abandonment to the County, shall be deemed to consent to the  
16 alteration or removal of all or any portion of the Facility by the County or another Person  
17 at such Person's cost.
- 18 4. If the Permittee fails to remove all or any portion of an Abandoned Facility as directed by  
19 the County within a reasonable time period as may be required by the County under the  
20 circumstances, the County may perform such removal and charge the cost of the removal  
21 against the Permittee.

22  
23 **Section 12. Section 23-47 – Appeals.**

24 Except for Permit issued to a Provider or Pass-Through Provider, pursuant to Section 6 above, a  
25 final, written decision of the County revoking, suspending or denying a Permit, is subject to appeal  
26 before a hearing officer in the same manner as the interpretations, as established in Palm Beach  
27 County Unified Land Development Code, Article 2.A.14.C.2.d APPEAL, as may be amended.  
28 Upon correction of the grounds that gave rise to a suspension, revocation or denial, the suspension,  
29 revocation or denial shall be lifted. For a Permit revoked, suspended or denied to a Provider or  
30 Pass-Through Provider, the Provider or Pass-Through Provider may waive the Permit Review time

1 limits in Section 6 and pursue an appeal under this Section 12, or pursue any remedy available in  
2 a court of competent jurisdiction.

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4 **Section 13. Section 23-48 – Insurance.**

5 1. Except where the County is a Permittee, a Permittee shall provide, pay for and maintain  
6 satisfactory to the County the types of insurance described herein. The insurance shall be  
7 from a responsible company duly authorized to do business in the State of Florida and  
8 having a rating reasonably acceptable to the County. All liability policies shall provide that  
9 the County is an additional insured as to the activities under this Ordinance. The required  
10 coverages must be evidenced by properly executed Certificate of Insurance. The Certificate  
11 of Insurance must be signed by the authorized representative of the insurance company and  
12 shall be filed and maintained with the County prior to the Permittee receiving a  
13 construction start date from the County. Thirty (30) days advance written notice must be  
14 given to the County, of any cancellation, intent not to renew or reduction in any coverage  
15 under the insurance policy. The insurance requirements may be satisfied by evidence of  
16 self-insurance or other types of insurance acceptable to the County.

17 2. The limits of insurance coverage shall not be less than the  
18 following:

19 a. Worker's Compensation and Liability Insurance – Florida Statutory Requirements  
20 Employer's Liability - \$100,000 each accident; \$500,000 disease policy limit;  
21 \$100,000 disease each employee.

22 b. Comprehensive General Liability -- Bodily injury and property damage -  
23 \$1,000,000 each occurrence; \$3,000,000 general aggregate.

24 c. Automobile Liability Bodily injury and property damage - \$1,000,000 combined  
25 single limit each accident.

26 3. In addition to the requirements in this section, a Permittee that is a Provider or a Pass-  
27 through Provider shall maintain, at its own expense, commercial general liability insurance  
28 for bodily injury and property damage with a policy limit of \$1,000,000 per occurrence, or  
29 in such other amount specified by the County's risk management department. The County  
30 will accept a Registered Provider adding the County to any existing insurance policy,

1 provided that Palm Beach County, Florida is the venue for purposes of any litigation to  
2 which the County is a party.

3  
4 **Section 14. Section 23-49 – Indemnification.**

- 5 1. A Permittee shall, at its sole cost and expense, protect, defend, reimburse, indemnify, and  
6 hold the County, its elected officers, agents, and employees, harmless from and against all  
7 claims, liability, expense, loss, damages causes of action of every kind or character,  
8 including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising,  
9 during, and as a result of Permittee's performance under the Ordinance, however, a  
10 Provider's duty under this section does not extend to liabilities not caused by the Provider,  
11 including liabilities arising from the County's negligence, gross negligence, or willful  
12 conduct. Nothing contained in this Section shall be construed or interpreted: (a) as denying  
13 to either party any remedy or defense available to such party under the laws of the State of  
14 Florida; (b) as a waiver of sovereign immunity; or (c) as consent by the County to be sued.
- 15 2. The indemnification requirements shall survive and be in effect after the suspension,  
16 revocation, termination or expiration of a Permit.

17  
18 **Section 15. Section 23-50 - Force Majeure.**

19 In the event a Permittee's performance of or compliance with any of the provisions of this  
20 Ordinance is prevented by a cause or event not within the Permittee's control, such inability to  
21 perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a  
22 result, provided, however, that such Permittee uses all practicable means to expeditiously cure or  
23 correct any such inability to perform or comply. For purposes of this Ordinance, causes or events  
24 not within a Permittee's control shall include, without limitation, acts of God, floods, earthquakes,  
25 landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil  
26 disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court.  
27 Causes or events within Permittee's control, and thus not falling within this Section, shall include,  
28 without limitation, Permittee's financial inability to perform or comply, economic hardship, and  
29 misfeasance, malfeasance or nonfeasance by any of Permittee's directors, officers, employees,  
30 contractors or agents.



1 **Section 16. Section 23-51 – Reservation of Rights and Remedies.**

- 2 1. The County reserves the right to amend this Ordinance as it shall find necessary in the  
3 lawful exercise of its police powers.
- 4 2. This Ordinance shall be applicable to any Facility Placed or Maintained in the Right-of-  
5 Way on or after the effective date of this Ordinance and shall apply to all existing Facilities  
6 in Rights-of- Way prior to the effective date of this Ordinance to the full extent permitted  
7 by State and Federal law. No ‘grandfathering’ of any existing Facility that does not comply  
8 with this Ordinance shall occur, unless the County determines that the existing Facility  
9 does not pose a threat to the public’s health, safety and welfare.
- 10 3. The adoption of this Ordinance is not intended to affect any right or defense of the County  
11 or a Permittee under any existing franchise, license or other agreement with a Permittee.
- 12 4. Nothing in this Ordinance shall affect any remedy the County or the Permittee has available  
13 under applicable law.
- 14

15 **Section 17. Section 23-52 – Severability.**

16 The invalidity of any provision, portion, article, paragraph, clause, or any portion thereof of this  
17 Ordinance shall not affect the validity of any other provision, portion, article, paragraph, clause,  
18 or any portion thereof.

19

20 **Section 18. Section 23-53 – Repeal of Ordinances in Conflict.**

21 The Right-of-Way Construction Permitting Ordinance, adopted as Ordinance No. 2008-  
22 006, as amended, and codified at Sections 23-36 through 23-65, Code of Laws and Ordinances of  
23 Palm Beach County, Florida, is hereby repealed, as are other applicable rules and regulations to  
24 the extent that they conflict with the provisions of this Ordinance.

25

26 **Section 19. Section 23-54 – Inclusion in the Code of Laws and Ordinances.**

27 The provisions of this Ordinance shall become and be made part of the Code of Laws and  
28 Ordinances of Palm Beach County, Florida, and the Sections of this Ordinance may be renumbered  
29 or re-lettered to accomplish such intention, and the word Ordinance may be changed to Section,  
30 Ordinance, or another appropriate word.

31

1 Permits and all applicable Ordinance requirements; and the Palm Beach County Land  
2 Development Fee Schedule in R-2009-0952, as may be amended, shall continue in full force and  
3 effect and without interruption.

4

5 **Section 21. Section 23-56 – Captions.**

6 The captions, section headings, and section designations used in this Ordinance are for  
7 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

8

9 **Section 22. Section 23-57 – Effective Date.**

10 The provisions of this Ordinance shall become effective upon filing with the Department of State,  
11 except as to Registrants, for which this Ordinance shall become effective on October 21, 2019.

12

13 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County,  
14 Florida, on this the 20th day of August, 2019.

15

16 **SHARON R. BOCK, CLERK**

**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

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By: *Sharon R. Bock*  
Deputy Clerk



By: *Mack Bernard*  
Mack Bernard, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By: *Yelizaveta B. Herman*  
Yelizaveta B. Herman,  
Assistant County Attorney

**FILING DATE: Filed with the Department of State on the 23rd day of August,  
2019.**



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

August 26, 2019

Honorable Sharon R. Bock  
Clerk and Comptroller  
Palm Beach County  
301 North Olive Avenue  
West Palm Beach, Florida 33401

Attention: Mr. Timothy Montiglio

Dear Ms. Bock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2019-030, which was filed in this office on August 23, 2019.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb