

**ORDINANCE ADDING CHAPTER __. __ TO LAKE COUNTY CODE RELATING TO TELECOMMUNICATIONS
INFRASTRUCTURE IMPROVEMENTS**

The Board of Supervisors of the County of Lake ordains as follows:

SECTION I

Chapter XX.XX of the Lake County Code is enacted to read as follows:

TELECOMMUNICATIONS INFRASTRUCTURE IMPROVEMENT ORDINANCE

Sections:

xx.xx.x10 Purpose and Findings.

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xx.xx.x10 Purpose and Findings.

- A. It is the intent of the County of Lake, in enacting Chapter xx.xx, to streamline and simplify the process of installing and upgrading telecommunications equipment throughout the county, and to encourage deployment, improvement, and modernization of telecommunications infrastructure.
- B. The objectives of Chapter xx.xx are the following:
 - a. To minimize disruption of the county's public infrastructure, such as paved roads and sidewalks, and to ensure efficient, non-duplicative placement of infrastructure in the county's right-of-way.
 - b. Reducing infrastructure deployment barriers by reducing costs of all underground work in the county's right-of-way, for utility, telephone or telecommunications companies, and Internet service providers.
- C. Access to modern telecommunications infrastructure is vital for communication, education, health care, economic development, and emergency and disaster response.
- D. It is the desire of the county to foster a fair and level playing field for all market competitors that does not disadvantage or advantage one service provider or technology over another.
- E. The county seeks to promote widespread access to the most technologically advanced telecommunications services for all county residents and businesses in a nondiscriminatory manner regardless of socioeconomic status.
- F. It is the responsibility of the county to protect and control access to public rights-of-way.
- G. The county has a duty to ensure that all service providers utilizing county property, facilities, or rights-of-way comply with all applicable state and local health, safety, and other laws.
- H. It is consistent with the county's goals and values to encourage investment in telecommunications infrastructure to ensure access to ubiquitous high-speed Internet services to residents, businesses, community anchor institutions, and community organizations in order to help close the digital divide.

- I. It is necessary to update county policies and practices to recognize the authority of the California Public Utilities Commission as established in state and federal statutes.
- J. It is the desire of the county to assess fees sufficient to recover the actual costs of providing services but not to discourage improvement of necessary infrastructure.

xx.xx.015 Definitions.

A. For the purpose of this Chapter, the following definitions apply:

1. "Company" refers to any utility, telephone or telecommunications company, or broadband service provider that is authorized by any government entity or law to provide services or operate in Lake County.
2. "Conduit" refers to a tube, duct, or other device or structure designed for enclosing telecommunication wires or cables.
3. "Director" refers to the director of the County's Department of Public Works or his or her designee.
4. "Excavation" refers to any process which removes material from the ground through digging, drilling, boring, or other activity for the purpose of installing utilities, infrastructure, or other structures or equipment.
5. "Facilities" and "Infrastructure" refer to wires, cables, conduit, switches, transmission equipment, or other equipment for use in transmitting or processing telecommunications services or for providing support or connection to such equipment.
6. "Feasible" refers to the capability of being accomplished in a successful manner within a reasonable period of time, taking into account appropriate environmental, physical, legal, economic, and technological factors.
7. "Incremental cost" refers to the cost associated with adding telecommunications cable, conduit, and other related equipment to an excavation project, including the cost of the materials needed and any additional labor cost.
8. "Reconstruction" refers to any project which repairs or replaces fifty percent or more of an existing road, highway, or rail line.
9. "Rights-of-way" ("ROW") refers to the area upon or adjacent to any county-owned road, highway, or rail line or along or across any of the waters or lands owned or controlled by the county.
10. "ROW Permit" refers to a permit issued pursuant to this chapter.
11. "Telecommunications" refers to data, voice, video, or other information provided by copper wire, coaxial cable, fiber-optic cable, or other technology.
12. "Telecommunications service providers" refers to any person, company, corporation, or other entity providing data, voice, cable, video, or other information services by wire, fiber-optic cable, or other technology.

xx.xx.020 Telecommunications Infrastructure Improvement

In recognition of the need to provide local residents and businesses within the community with the infrastructure required to meet their telecommunications needs, this chapter requires the following:

- A. No company may undertake any construction, reconstruction, or repaving project involving excavation of the county ROW without first obtaining a ROW Permit pursuant to this chapter.
- B. No fewer than 30 days prior to a company's intended construction, reconstruction, or repaving start date, a written application for a county ROW Permit, along with payment of any fees or deposit required by the county, shall be filed with the director of public works, in the form and manner required by the Director.
- C. The ROW application shall contain, at a minimum, all of the following information:

- a. General information regarding any infrastructure and/or equipment that the company plans to apply for permits to install within the ROW in the next six (6) months, regardless of whether a permit is currently sought for that infrastructure and/or equipment.
 - b. Site plan of the infrastructure and/or equipment proposed to be located within the ROW, including a map in digital and/or other form required by the county, including digital geographical information system (GIS) formats.
 - c. Estimated project start and completion dates.
 - d. A traffic control plan, if required, that complies with guidelines established by the director.
- D. Companies leading construction, reconstruction, or repaving projects involving excavation of county right-of-ways shall notify, advise, and coordinate with other companies (i.e., telephone or telecommunications companies or broadband service providers) regarding construction work to install telecommunications infrastructure in the right-of-way to a practical and feasible extent. This coordination shall be conducted through county or company sponsored coordination meetings. The frequency of the meetings shall be determined in coordination between the director and project leading company. As a result of the coordination, installation of, or upgrades to telecommunications facilities or infrastructure will be included as needed. In new developments, the company shall contact the developer to determine whether any surplus conduit is available in the areas that the company plans to install facilities or infrastructure, and whether any joint trenching or boring projects are feasible.
- E. The public works director shall maintain a list of companies (i.e., telephone and telecommunications companies and broadband service providers) and shall send notifications to these companies regarding construction, reconstruction, and repaving projects and coordination to install telecommunications infrastructure in the right-of-way, to a practical and feasible extent.
- F. The county may also opt in to participate in the installation of telecommunication infrastructure in the construction, reconstruction, or repaving projects.
- G. When utility or telecommunications companies or the county participate or join in a construction, reconstruction, or repaving project that involves excavation in the county ROW, and install telecommunications facilities or infrastructure in such projects, these companies shall be responsible for the ROW permit applicant's incremental costs for installing these Facilities and Infrastructure.
- H. The director of public works will work with companies and contractors to identify cost-effective approaches consistent with county requirements.
- I. All installations shall be approved by the director of public works. Technical specifications for installing telecommunications infrastructure shall be discussed among companies participating in the project and technical specifications may also be developed in association with this ordinance.
- J. In order to verify that a company has carried out the construction, reconstruction, or repaving project in the county ROW pursuant to this chapter, the county reserves the right to inspect the project, as well as to inspect all necessary documents related to said project
- K. There shall be a 5-year moratorium on excavating in the county ROW that have been constructed, reconstructed, or repaved in the preceding five years to protect the public infrastructure and maintain the integrity of the pavement and ROW. However, waivers to the moratorium may be granted by the public works director for "good cause," such as:
- a. to repair leaks
 - b. to respond to emergencies
 - c. to provide services to buildings where no other reasonable means of providing service exists
 - d. other situations deemed by the director to be in the best interest of the general public

xx.xx.025 Implementation.

No less than 60 days before this ordinance takes effect, the County of Lake shall e-mail, fax, mail, or deliver a copy of the ordinance to all telecommunications service providers and other affected entities doing business within the County of Lake.

xx.xx.030 Exemptions.

A. The director of public works may exempt construction, reconstruction, or repaving projects from the requirements of this chapter where compliance is found to be impractical or infeasible. Requests for an exemption shall be in writing, and the director's decision shall be final.

B. An exemption application shall include all information necessary for the director of public to make a decision, including but not limited to documentation showing factual support for the requested exemption.

C. The director of public works may approve the exemption application in whole or in part, with or without conditions.

xx.xx.035 Enforcement.

Enforcement of this ordinance shall be as follows:

A. The director of public works shall have primary responsibility for enforcement of this ordinance and shall have authority to issue citations for violation of this chapter. The director is authorized to establish regulations or administrative procedures to ensure compliance with this chapter.

B. A person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

C. The County of Lake may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulation or administrative procedure authorized by it.

D. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

E. The director of public works may inspect the premises of any construction, reconstruction, repaving, or excavation project to verify compliance with this ordinance.

xx.xx.040 Violations.

Violations of this ordinance shall be enforced as follows:

Violation of this chapter is hereby declared to be a public nuisance. Any violation described in the preceding paragraph shall be subject to abatement by the County of Lake, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by injunction, upon a showing of violation.

xx.xx.045 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The County of Lake hereby declares that it would have passed this title, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional.

xx.xx.050 Effective Date.

This ordinance shall become effective three (3) months after the date of final passage by the County of Lake Board of Supervisors.

xx.xx.055 No Conflict with federal or State Law.

Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

xx.xx.060 Preemption.

The provisions of this chapter shall be null and void if state or federal legislation or administrative regulation takes effect with the same or substantially similar provisions as contained in this chapter. The Board of Supervisors shall determine whether or not identical or substantially similar statewide legislation has been enacted or regulations issued.

SECTION II

This ordinance shall take effect and be in force six months from the date of adoption.

PASSED AND ADOPTED this ____ of _____ 20 __, by the Board of Supervisors of the County of Lake the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

Office of County Board of Supervisors