

## DeKalb County Policy for the Location of New Power and Telecommunications Poles within County Road Right-of-Way

### 1. Use of the public right-of-way.

- a. As established in the DeKalb County Code of Ordinances, Section 23-87, it shall be unlawful for any person to Locate (defined to include installation, construction, maintenance, renewal, removal, or relocation) any Facilities (defined to include pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, wireless support structures, and other equipment, facilities, or appliances of any utility) in, on, along, over, or under the County's public roads and rights-of way unless the person has:
  - (1) Authorization by state law or County ordinance to Locate the Facilities in the public right-of-way; or
  - (2) A fully executed written agreement with or permit issued by the County to Locate the Facilities the public right-of-way.
- b. No person shall be permitted to Collocate (defined to include the installation, construction, maintenance, renewal, removal, or relocation, of Facilities on or adjacent to an existing pole, tower, traffic and other signal, structures for signage, or wireless support structure) on a County-Owned Pole (defined to include all light poles, traffic and other signals, structures for signage, and wireless support structures owned or operated by the County) without first entering into an agreement with the County or providing evidence to the County of permission from the owner of the Facility for the proposed Collocation.
- c. The owner of the Facility shall comply with this article, and with all other applicable laws, regulations, and policies of the County, including but not limited to provisions pertaining to insurance and indemnification; backup power supplies, maintenance and graffiti, permissible construction times; abandonment; removal; stop-work orders; fees; and penalties for violations.
- d. To the greatest practical extent, poles, towers and wireless support structures as well as any mounted Facilities shall be sited where they are concealed from public view by other objects such as trees or buildings.
- e. When it is necessary to site the Facility in public view, to the greatest practical extent it shall be designed to limit visual impact on surrounding land uses.
- f. To the greatest extent possible, the height of a Facility mounted on a pole, tower, traffic or other signal, structure for signage or other structure shall not exceed two (2) feet above the structure, but in no case more than ten (10) feet above the structure upon which the Facility is to be Collocated.
- g. Equipment shelters associated with Facilities which are sited within the public right-of-way shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes normally sited within the right-of-way and shall be sited in a manner and location approved by the County Engineer. To the greatest practical extent, equipment shelters associated with Facilities mounted on a pole, tower, traffic or other signal, structure for signage or other structure which are sited

outside of the public right-of-way shall be concealed from public view or shall be architecturally designed or buffered to be compatible from surrounding land uses, except that such shelters located in residential zoned areas must be screened from the view of residents and pedestrians.

- h. Equipment shelters associated with Facilities mounted on a pole, tower, traffic or other signal, structure for signage or other structure which are sited outside the public right-of-way shall meet the setback requirements for accessory structures for the zoning districts in which the equipment shelters are sited.
- i. Generators associated with equipment shelters must meet with the requirements of the County's noise ordinance.
- j. No Facility shall:
  - (1) Materially interfere with the safe operation of traffic control equipment;
  - (2) Materially interfere with sight lines or clear zones for transportation, pedestrians, or public safety purposes;
  - (3) Materially interfere with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement; or
  - (4) Fail to comply with all federal state and local applicable laws and codes.

## **2. Permits.**

- a. Prior to Locating Facilities in the public right-of-way, the owner of the Facility shall obtain all permits required by the department of public works.
- b. The owner of the Facility shall submit a permit application that is required for one or more Facilities to the director of public works or their designee on a form prescribed by the director of public works or their designee.
- c. The director of public works or their designee may consider a permit application as withdrawn by the applicant if the director does not receive missing or additional information within thirty (30) days after the date the director sends notice of the missing information to the applicant.
- d. A permit is valid only for the location authorized in the permit, and no installation of or attachment to Facilities shall be authorized at any other location without another permit.
- e. A permit application may be denied or a permit revoked by a written decision of the director of public works or their designee, including but not limited to revocation or denial if the permit application contains incorrect, misleading, or false information or if the permit was issued in error or in violation of any ordinance, law, regulation, the County's design manual, or rules and regulations promulgated by the director of public works or their designee.
- f. The owner of the Facility, permit holder, or permit applicant shall make permits available upon request of the director of public works or their designee when working in the public right-of-way.
- g. The director of public works or their designee may promulgate forms, rules, and procedures relating to the permit process, including approval and denial of permits. A copy of the forms rules, and procedures, if any, shall be maintained in the office of the

director of public works or their designee or on the County's website for inspection, and copies may be purchased at the fee prescribed by law.

- h. Permit fees shall be remitted to the department at the time the permit application is submitted and in the amount stated in the County's then-current fee schedule, but such fees shall be no more than allowed by applicable law. An application shall not be considered complete and the director public works or their designee may not issue a permit under this article until the applicant pays the applicable permit application fees. Application fees shall include the payment of a deposit in an amount to be determined by the Director, against which such costs as are incurred beyond those covered by the initial application fee shall be drawn, and the balance of which shall be returned to the applicant upon final resolution of the application. An applicant shall be responsible for all costs associated with the review of any application, to the extent permitted by law.
- i. An applicant may appeal the denial or revocation of a permit application by delivering a written request for an appeal to the director of public works or their designee not more than seven (7) days after the first date of mailing or e-mailing written notice of denial or revocation. Applicants seeking an appeal shall agree not to pursue any judicial or other remedy on the basis of the expiration of any applicable "shot clock" during the time such an appeal is pending.
- j. Without first obtaining a permit, the owner of the Facility may remove or repair its Facilities to remedy an imminent danger to health and safety posed by its Facilities in the public right-of-way, but the owner of the Facility shall promptly notify the director and apply for a permit not later than noon the next County business day from the date the remediation commenced. As part of the remediation, the owner of the Facility may not relocate Facilities in the public right-of-way without first obtaining permits from the director of public works or their designee.
- k. At least once a month, the director of public works or their designee will notify the appropriate county commission members of the permit applications that have been received by the department for installation of Facilities within their districts.
- l. The applicant or the owner of the Facility shall identify each party that is attaching, collocating, leasing, or otherwise using its Facilities in the permit application and notify the director of public works or their designee within five business days whenever an additional party attaches, Collocates, leases, or otherwise uses its Facilities.

NOTE: The following requirements do not apply to the replacement of isolated existing poles due to wear or damage, as long as the replacement pole is similar in height and appearance, in the same location and deployed for the identical purpose as the original pole.

### **3. County's preference.**

- a. The owner of the Facility shall use good faith efforts to comply with the following County preferences:
  - (1) Poles that support network nodes should be spaced at least 300 feet apart from another pole that supports network nodes along the same public right-of-way to prevent interference with the public's enjoyment and safe use of the public right-of-way;
  - (2) Existing, available utility poles and street light poles should be considered for use before installing new poles to support network nodes; and
  - (3) Non-wooden poles to support network nodes should be installed.

- (4) As provided in Section 1 above, to the greatest extent practicable, poles and attachments shall be as concealed or comply with existing sight lines.

**4. Coverings.**

- a. It shall be the duty of the owner of the Facility to ensure that Facilities are enclosed in a cabinet or other covering as much as possible and that all wires are sheathed to the extent possible.

**5. Signage.**

- a. The owner of the Facility shall ensure that a sign or placard displaying the name, location identifying information, and emergency telephone number of the owner of the Facility is affixed to an area of the cabinet or pole that is visible to the public, unless an exception to this requirement is granted by the director of public works or their designee or otherwise provided in state law.
- b. Signage required under this section shall not exceed 4 x 6 inches, unless otherwise required by law.
- c. Except as required by this Code or other law, the owner of the Facility shall not allow any other signage or advertising to be displayed on or by the Facilities.

**6. New poles**

- a. New poles will only be permitted if the applicant can show that installation of a new pole is necessary to permit the provision of telecommunications or personal wireless services.

**7. Concealment**

- a. Any permit that is issued for any new pole or replacement pole that will serve a new telecommunications purpose shall be deemed to be subject to concealment requirements and may not expand vertically or horizontally without the authorization of the County. All antennas shall be sheathed or otherwise concealed from direct view, and equipment shall to the extent practicable be contained within a pole itself or otherwise placed in adjacent underground vaults. Installation of above-ground cabinets which create additional potential collision obstacles for vehicles entering the rights of way are strongly discouraged in the interests of roadway safety.

- 8.** New poles shall be sited as far as practical from the roadway. Where practical, new poles shall be sited outside of the clear zone defined in the AASHTO Roadside Design Guide. Along curbed roadway sections, the following are minimum lateral clearances from the face of curb:

Minimum Lateral Clearance	Posted Speed Limit (mph)
12'	45 or greater
8'	Greater than or equal to 35, but less than 45
6'	Less than 35

- 9.** New poles and related above ground utility boxes shall not be sited where they would restrict needed sight distance for vehicles at intersecting streets and driveways. New telecommunications poles shall be set on property lines and not directly in front of a residence or business. The Public Works Department may allow a location away from the property line if it would reduce the visibility of the pole.

- 10.** In historic districts, new pole installations are subject to the review and concurrence of the DeKalb County Historic Preservation Commission.
- 11.** Except as provided by federal or state laws or for safety reasons, new poles shall not exceed the height of existing poles in the same right-of-way or within line of sight of the proposed location, and may not exceed height limits applicable in any zoning district adjacent to the right-of-way containing a proposed location., The Public Works Department may allow higher heights in an industrially zoned area if the pole is at least 200 feet from a residential or commercial zoned property. Attachments to new poles shall not exceed 5 feet in additional height, or such other amount as may be permitted by law.
- 12.** **Undergrounded Areas.** In areas where there are no above ground utilities in the road right-of-way (excluding traffic signals and street lights), new poles (except for traffic signals and street lights) shall be prohibited in the county road right-of-way unless such a prohibition would result in a violation of 47 USC Sections 253 or 332(c)(7). In order to place a pole in such an area, applicant must show:
  - a. There is a gap in service that must be addressed;
  - b. The pole is the least restrictive means to address the gap;
  - c. There is no other vertical infrastructure that could address the claimed gap in service.
  - d. The owner of the Facility shall adopt camouflage measures that consider the color, design, and other visuals of the underground utility district and minimize the visual impact of the Facilities, as approved, in writing, by the director. Camouflage measures may include, but are not limited to, street light poles installed or replaced at the owner of the Facility's expense.
  - e. The director of public works or their designee will consider the availability of alternative locations, proposed camouflage measures, and the impact of the Facilities to the underground utilities district when approving or denying installation of the Facilities.
  - f. The owner of the Facility shall not install overhead lines in an underground utility district.
- 13.** If an area becomes or is in the process of becoming an underground utility district, the owner of the Facility shall remove its Facilities from that area at its expense within the time period required by the director. When installing or re-installing poles to support network nodes in an underground utility district, the owner of the Facility shall comply with this section. The County and owner of the Facility shall work in good faith to find mutually agreeable alternative locations for the relocated Facilities, but in no case shall a provider's preference for a particular location be sufficient to block or interfere with undergrounding projects deemed necessary by the County.
- 14.** New poles shall not reduce the width of existing sidewalks. Where a conflict with existing sidewalk is unavoidable, the Public Works Department may allow the sidewalk alignment to be shifted where existing right-of-way allows. New pull boxes are not allowed to be installed within the existing sidewalk.
- 15.** Permit documents shall include, but not be limited to: a layout showing the relationship of the proposed Facilities to existing right of way, edge of roadway, property lines, and existing utilities; a detail for each location showing the proposed pole and attachments; and a vicinity

map. For telecommunications poles, also show any utility services required and the antenna height. The placement of a wireless Facility may require a letter from the electrical Facility owner adjacent to the installation site to verify NESC requirements are met.

- 16.** Any tree trimming or landscaping within the right of way must be identified on the permit documents.
- 17.** A right of way encroachment permit only grants access to perform work within the County right of way. A wireless applicant is also required to get written permission from the pole owner, including the County, before placing and antennas, wires, cables, equipment, etc. on any existing pole and written permission from the County for occupying the rights-of-way with any wire or support equipment. This written permission must be submitted with the permit application documents.
- 18.** All Facilities must comply with the county noise ordinance in Chapter 16 of the DeKalb County Code. Among other things, the noise ordinance places restrictions on noise in residential areas that can be heard inside single-family detached dwellings and in common areas of multi-family dwellings.
- 19.** Any new pole for telecommunications Facilities must be a minimum of 300 feet from any other pole mounted telecommunications Facility. Multiple telecommunications Facilities may be Collocated on the same pole.