

Dig-Once Ordinance – Open Trench Model Draft

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

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

SECTION I

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

TELECOMMUNICATIONS INFRASTRUCTURE IMPROVEMENT ORDINANCE

Sections:

xx.xx.x10 Purpose and Findings.

xx.xx.x15 Definitions.

xx.xx.x20 Telecommunications Infrastructure Improvement.

xx.xx.x25 Implementation.

xx.xx.x30 Exemptions.

xx.xx.x35 Enforcement.

xx.xx.x40 Violations.

xx.xx.x45 Severability.

xx.xx.x50 Effective Date.

xx.xx.x55 No Conflict with Federal or State Law.

xx.xx.x60 Preemption.

xx.xx.x10 Purpose and Findings.

- A. It is the intent of the County of Glenn, 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. Minimize disruption of the county's public infrastructure, such as paved roads and sidewalks, and ensuring 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 both utility and telecommunications companies (public or private).
- C. Access to modern telecommunications infrastructure is vital for communication, education, healthcare, economic development and emergency 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 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 telecommunications service provider or utility company that is authorized by any government entity or law to provide services or operate in Glenn 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" refers 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 capable 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" refer 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 filled 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 those 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 advise and coordinate with other utility and telecommunications companies through county-sponsored coordination meetings, and, to the extent reasonably practical and feasible, coordinate their construction work with other utility and telecommunications companies installing infrastructure in the right of way. As a result of the coordination, installation of or upgrades to telecommunications Facilities or Infrastructure will be included as needed. In new developments, a 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. When utility or telecommunications companies participate or join in a construction, reconstruction or repaving project, which involves excavation in the County ROW, by installing 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.
- F. Where appropriate, telecommunications Facilities and Infrastructure shall be installed in or adjacent to County ROW in conformance with current county standards and specifications.
- G. The Director of Public Works will work with utility and telecommunications companies and contractors to identify cost-effective approaches consistent with County requirements.
- H. All installations shall conform to the technical specifications associated to this ordinance and shall be approved by the Director of Public Works.
- I. 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.

xx.xx.025 Implementation.

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

xx.xx.030 Exemptions.

- A. The Director of Public Works, or the directors' designee, may exempt construction, reconstruction or repaving projects from the requirements of this chapter where compliance is found to be not practical or feasible. Requests for an exemption shall be in writing, and the Director's or the director's designee's decision shall be final.
- B. An exemption application shall include all information necessary for the Director of Public Works or the director's designee to make a decision, including but not limited to documentation showing factual support for the requested exemption.
- C. The Director of Public Works or director's designee 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, or designee, shall have primary responsibility for enforcement of this ordinance and shall have authority to issue citations for violation of this chapter. The Director, or designee, 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 Glenn 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 or designee 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 Glenn, 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 Glenn 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 Glenn 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 _____ by the following vote:

AYES:	SUPERVISORS
NOES:	SUPERVISORS
ABSENT:	SUPERVISORS

ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

Office of County Counsel