

BOARD OF SUPERVISORS, COUNTY OF GLENN, STATE OF CALIFORNIA

ORDINANCE NO. 1314

AN ORDINANCE OF THE COUNTY OF GLENN AMENDING THE GLENN COUNTY CODE BY ADDING
TITLE 14, CHAPTER 14.08 RELATING TO TELECOMMUNICATIONS INFRASTRUCTURE IMPROVEMENT

THE BOARD OF SUPERVISORS OF THE COUNTY OF GLENN ORDAINS AS FOLLOWS:

SECTION 1: The Glenn County Code is hereby amended by adding Title 14, Chapter 14.08 to read in its entirety as follows:

Chapter 14.08

TELECOMMUNICATIONS INFRASTRUCTURE IMPROVEMENT

Sections:

14.08.010	<i>Purpose, Objectives and Findings.</i>
14.08.020	<i>Definitions.</i>
14.08.030	<i>Telecommunications Infrastructure Improvement.</i>
14.08.040	<i>Implementation.</i>
14.08.050	<i>Exemptions.</i>
14.08.060	<i>Enforcement.</i>
14.08.070	<i>Violations.</i>
14.08.080	<i>Severability.</i>
14.08.090	<i>Effective Date.</i>
14.08.100	<i>No Conflict with Federal or State Law.</i>
14.08.110	<i>Preemption.</i>

14.08.010 Purpose, Objectives and Findings.

A. It is the intent of the County of Glenn, in enacting Chapter 14.08, 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 this chapter are as follows:

1. Minimize disruption of the County's public Infrastructure, such as paved roads, drainage ditches/storm drain Facilities, curb, gutters and sidewalks.
2. Ensuring efficient, non-duplicative placement of Infrastructure in the County's Rights-of-Way.
3. Reducing Infrastructure deployment barriers by reducing costs of all underground work in the County's Rights-of-Way for utility, telephone or telecommunication Companies, and internet service providers.

C. The Glenn County Board of Supervisors makes the following findings in support of this ordinance:

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1. Access to modern Telecommunications Infrastructure is vital for communication, education, healthcare, economic development and emergency response;
2. 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;
3. 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;
4. It is the responsibility of the County to protect and control access to public Rights-of-Way;
5. 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;
6. 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;
7. 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; and
8. 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.

14.08.020 Definitions.

For the purpose of this chapter, the following definitions apply:

- A. "Company" refers to any utility, telephone or Telecommunications Company, or internet/broadband service provider that is authorized by any government entity or law to provide services or operate in the County.
- B. "Conduit" refers to a tube, duct or other device or structure designed for enclosing telecommunication wires or cables.
- C. "County" refers to the County of Glenn.
- D. "Director" refers to the Director of the Glenn County Public Works Agency or his or her designee.
- E. "Encroachment Permit" refers to a permit issued pursuant to this chapter.
- F. "Excavation" refers to any process which removes material from the ground through digging, drilling, boring or other activity for the purpose of installing Conduit, utilities, Infrastructure or other structures or equipment.
- G. "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.
- H. "Feasible" refers to capable of being accomplished in a successful manner within a reasonable period of time, considering appropriate environmental, physical, legal, economic and technological factors.

I. "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.

J. "Reconstruction" refers to any project which repairs or replaces fifty (50%) percent or more of an existing road, highway or rail line.

K. "Rights-of-Way" 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.

L. "Telecommunications" refer to data, voice, video or other information provided by copper wire, coaxial cable, fiber optic cable or other technology.

M. "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.

14.08.030 Telecommunication 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, entity or individual may undertake any construction, Reconstruction, or repaving project involving Excavation of the County's Rights-of-Way without first obtaining an Encroachment 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 Encroachment Permit, along with payment of any fees or deposit required by the County, shall be filed with the Director, in the form and manner required by the Director.

C. The Encroachment Permit application shall contain, at a minimum, all of the following information:

1. General information regarding any Infrastructure and/or equipment that the Company plans to apply for permits to install within the County's Rights-of-Way in the next six (6) months, regardless of whether a permit is currently sought for those Infrastructure and/or equipment.

2. Site plan of the infrastructure and/or equipment proposed to be located within the Rights-of-Way, including a map in digital and/or other form required by the County, including digital geographical information system (GIS) formats.

3. Estimated project start and completion dates.

4. A traffic control plan that complies with guidelines established by the Director.

D. Companies leading construction, Reconstruction, or repaving projects involving Excavation of County Rights-of-Way shall notify, advise, and coordinate with other Companies (i.e., internet/broadband, communications or Telecommunications Service Providers) regarding construction work to install Telecommunications Infrastructure in the Rights-of-Way, to a practical and Feasible extent. This coordination shall be conducted through County or Company sponsored coordination meetings. 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. The Director shall maintain a list of Companies (i.e., internet/broadband, communication and Telecommunication Service Providers) and shall send notifications to these Companies regarding construction, Reconstruction, and repaving projects and coordination to install Telecommunications Infrastructures in the Rights-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 Rights-of-Way, and install Telecommunication Facilities or Infrastructure in such projects, these Companies shall be responsible for the Encroachment Permit applicant's Incremental Costs for installing these Facilities and Infrastructure.

H. The Director will work with Companies and contractors to identify cost-effective approaches consistent with County requirements.

I. All installations shall be approved by the Director. Technical specifications for installing Telecommunications Infrastructure shall be discussed among Companies participating in the project and technical specification 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 Rights-of-Way pursuant to this chapter, the County reserves the right to inspect the project, as well as to inspect all necessary documents related to the project.

K. There shall be a 5-year moratorium on excavating in the County Rights-of-Way that have been constructed, reconstructed, or replaced in the preceding five years to protect the public Infrastructure and maintain the integrity of the pavement and Rights-of-Way. However, waivers to the moratorium may be granted by the Director for "good cause," such as:

1. To repair leaks;
2. To respond to emergencies;
3. To provide services to buildings where no other reasonable means of providing services exists; or
4. Other situations deemed by the Director to be in the best interested of the general public.

14.08.040 Implementation

No less than fifteen (15) days before this ordinance takes effect, the County shall e-mail, fax, mail or deliver a copy of this ordinance to all Telecommunications Service Providers and other affected entities doing business within the County of Glenn.

14.08.050 Exemptions

A. The Director, 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 request shall include all information necessary for the Director 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, or Director's designee, may approve the exemption request in whole or in part, with or without conditions.

14.08.060 Enforcement

Enforcement of this ordinance shall be as follows:

A. The Director, or Director's 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 Director's 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 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 or Director's designee may inspect the premises of any construction, Reconstruction, repaving or Excavation project to verify compliance with this ordinance.

14.08.070 Violations

Violation of this chapter is hereby declared to be a public nuisance. Any violation described in the preceding paragraph shall be subject to abatement pursuant to chapter 1.14 of the County of Glenn Code.

14.08.080 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 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.

14.08.090 Effective Date

This ordinance shall become effective thirty (30) days after the date of final passage by the Board of Supervisors of the County of Glenn.

14.08.100 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.

14.08.110 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 of the County of Glenn shall determine whether or not identical or substantially similar statewide legislation has been enacted or regulations issued.

SECTION 2: This ordinance shall take effect thirty (30) days after the date of its adoption and before the expiration of fifteen (15) days from the date of passage thereof shall be published at least once in a newspaper of general circulation, printed and published in the County of Glenn, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

THIS ORDINANCE WAS PASSED AND ADOPTED by the Glenn County Board of Supervisors, State of California, at the regular meeting of said Board held on August 30, 2022, by the following vote:

AYES: Supervisors Barr, Carmon, Corum and Arnold (Chairman)

NOES: None

ABSENT OR ABSTAIN: None



THOMAS J. ARNOLD, Chairman
Glenn County Board of Supervisors

ATTEST:



SCOTT H. DE MOSS, Clerk of the Board
County of Glenn, California

APPROVED AS TO FORM:



WILLIAM J. VANASEK, County Counsel
County of Glenn, California