



## Legislation Details (With Text)

**File #:** 20-0659

**Type:** Public Hearing

**Status:** Passed

**In control:** Board of County Commissioners

**On agenda:** 5/5/2020

**Final action:** 5/5/2020

**Title:** PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE REGARDING STREETS, ROADS, AND BRIDGES

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2020-04-21 BOCC Presentation, 2. 2020-04-21 Chapter\_155\_STREETS\_ROADS\_AND\_BRIDGES

Date	Ver.	Action By	Action	Result
5/5/2020	1	Board of County Commissioners	approved	Pass

**PLACEMENT:** Public Hearings

### TITLE:

**PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE REGARDING STREETS, ROADS, AND BRIDGES**

### EXECUTIVE SUMMARY:

This is a public hearing to consider adoption of an Ordinance repealing Chapter 25, Cable Communications, and amending Chapter 155, Streets, Roads, and Bridges to: establish a minimum speed limit; eliminate conflicts with state statutes; and require permits in County rights-of-way.

**DEPARTMENT:** Public Works

**PREPARED BY:** **Name:** Lisa A. Wichser, P.E., CFM  
**Title:** County Engineer

**REQUESTED BY:** The Honorable Board of County Commissioners

**PRESET:**

**PROCEDURES:** None

### **BACKGROUND/RELATED STRATEGIC GOAL:**

#### Article 1. In General

Pursuant to Section 316.189, Florida Statutes, the Board of County Commissioners (Board) may establish speed zones on County roads. Historically, the Martin County Sheriff has not enforced posted speeds of less than 25 MPH. Staff is proposing the Board formalize the historic enforcement by establishing 25 MPH as the minimum posted speed limit on any County road.

## Article 2. Road Right-of-way Improvements

Presently, the only requirement for the issuance of a permit to do work in the County's rights-of-way is found in Chapter 25, Code of Ordinances, related to Cable Communication. Chapter 25 was created in 1986 when cable television and cable communications were being developed as modern systems. It is specific to one type of communication facility that has evolved significantly over the past 33 years. Staff is proposing the Board repeal Chapter 25 and expand Chapter 155 related to Streets, Roads, and Bridges to provide for the issuance of permits in the County's rights-of-way. The proposed changes to Article 2 of Chapter 155 address Right-of-way Use Permits for work associated with permanent improvements or facilities in County right-of-way as well as Road Opening Permits that were previously under the purview of the Growth Management Director. The Article provides for an application fee, which can only be waived if the applicant is regulated by the Florida Public Service Commission, the Federal Communications Commission or is a publicly owned water and wastewater utility. The application must be accompanied with an engineered plan, maintenance of traffic plans(s), a cost estimate, security, a schedule, and insurance. The applicant must coordinate with other activities in the area. Article 2 also proposes the County Engineer issue Road Opening Permits in unopened platted rights-of-way and request Board's acknowledgement, by resolution, of newly opened roads twice per year. Finally, Article 2 proposes a way for the applicant to appeal the County Engineer's denial of a permit consistent with Article 10 of the Land Development Regulations.

## Article 3. Street Improvements

The last substantive amendment to Chapter 155, Code of Ordinances, related to Streets, Roads, and Bridges was made in 1986 when the Board of County Commissioners adopted Ordinance 274 to establish policies and procedures for assessable paving projects. This became Article 3, Street Improvements. In 1996, the Board of County Commissioners adopted the Special Assessment Ordinance that provided, in short, the creation of Municipal Service Benefit Units (MSBUs) and the imposition and collection of special assessments to fund the cost of capital improvements providing a special benefit to local areas. When the Special Assessment Ordinance was adopted, Chapter 155 became obsolete, but was not repealed. Staff is proposing the Board repeal Article 3.

## **ISSUES:**

On August 27, 2019, the Board of County Commissioners was asked to consider an ordinance amending Articles 1 and 2 and replacing Article 3 with one that would prohibit the obstruction or encroachment of any road right-of-way. After much discussion and deliberation among the Board of County Commissioners and members of the public, staff was directed to bring this request to amend Chapter 155 back to the Board for reconsideration. The concerns regarding the regulation of obstructed rights-of-way will be the subject of a separate agenda item.

## **LEGAL SUFFICIENCY REVIEW:**

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of

review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that arbitrary and capricious or illegal are subject to serious legal challenge.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

Move that the Board adopt the Ordinance as proposed.

**ALTERNATIVE RECOMMENDATIONS**

Provide staff direction regarding the proposed Ordinance.

**FISCAL IMPACT:**

**RECOMMENDATION**

None

Funding Source	County Funds	Non-County Funds
Subtotal		
Project Total		

**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

- ☐ Budget Transfer / Amendment   ☐ Chair Letter   ☐ Contract / Agreement  
☐ Grant / Application   ☐ Notice   ☒ Ordinance   ☐ Resolution  
☐ Other:

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