

Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1050

AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-32.3-15, AS AMENDED BY P.L.261-2017, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This chapter applies to permits issued by a permit authority **to a communications service provider**, under local law and consistent with IC 36-7, for the following:

- (1) Construction of a new wireless support structure.
- (2) Substantial modification of a wireless support structure.
- (3) Collocation of wireless facilities on an existing structure.
- (4) Construction, placement, and use of small cell facilities.

(b) A permit authority may not require an application or a permit for, or charge fees for, any of the following:

- (1) The routine maintenance of wireless facilities.
- (2) The replacement of wireless facilities with wireless facilities that are:
 - (A) substantially similar to; or
 - (B) the same size or smaller than;the wireless facilities being replaced.

(3) The installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by a communications service provider that is authorized to use the public rights-of-way. For purposes of this subdivision, "applicable

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codes" means uniform building, fire, electrical, plumbing, or mechanical codes that are:

- (A) adopted by a recognized national code organization; and
- (B) enacted solely to address imminent threats of destruction of property or injury to persons;

including any local amendments to those codes.

(c) With respect to the construction, placement, or use of a small cell facility and the associated supporting structure, a permit authority may prohibit the placement of a new utility pole or a new wireless support structure in a right-of-way within an area that is designated strictly for underground or buried utilities, if all of the following apply:

(1) The area is designated strictly for underground or buried utilities before May 1, 2017.

(2) The permit authority does all of the following:

- (A) Allows the collocation of small cell facilities on existing:
 - (i) utility poles; and
 - (ii) wireless support structures;

within the area.

(B) Allows the replacement **or improvement** of existing:

- (i) utility poles; and
- (ii) wireless support structures;

within the area.

(C) Provides:

- (i) a waiver;
- (ii) a zoning process; or
- (iii) another procedure;

that addresses requests to install new utility poles or new wireless support structures within the area.

(D) Upon receipt of an application for the construction, placement, or use of a small cell facility on one (1) or more new utility poles or one (1) or more new wireless support structures in an area that is designated strictly for underground or buried utilities, posts notice of the application on the permit authority's Internet web site, if the permit authority maintains an Internet web site. The notice of the application required by this clause must include a statement indicating that the application is available to the public upon request.

(3) The prohibition or other restrictions with respect to the placement of new utility poles or new wireless support structures within the area are applied in a nondiscriminatory manner.

(4) The area is zoned strictly for residential land use before May 1, 2017.

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(d) A permit authority shall allow a neighborhood association or a homeowners association to register with the permit authority to receive notice by United States mail of any application filed with the permit authority for the construction, placement, or use of a small cell facility on one (1) or more new utility poles or one (1) or more new wireless support structures in an area within the jurisdiction of the neighborhood association or homeowners association. If the permit authority maintains an Internet web site, the permit authority shall post on the permit authority's Internet web site instructions for how a neighborhood association or homeowners association may register to receive notice under this subsection.

(e) Subject to section 26(b) of this chapter, with respect to the construction, placement, or use of a small cell facility and the associated supporting structure within an area:

- (1) designated as a historic preservation district under IC 36-7-11;
- (2) designated as a historic preservation area under IC 36-7-11.1;
- or
- (3) that is subject to the jurisdiction of the Meridian Street preservation commission under IC 36-7-11.2;

a permit authority may apply any generally applicable procedures that require applicants to obtain a certificate of appropriateness.

(f) An applicant for the placement of a small cell facility and an associated supporting structure shall comply with applicable:

- (1) Federal Communications Commission requirements; and
- (2) industry standards;

for identifying the owner's name and contact information.

(g) A resolution, ordinance, or other regulation:

- (1) adopted by a permit authority after April 14, 2017, and before May 2, 2017; and**
- (2) that designates an area within the jurisdiction of the permit authority as strictly for underground or buried utilities;**

applies only to communications service providers and those geographic areas that are zoned residential and where all existing utility infrastructure is already buried.

SECTION 2. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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