

SENATE BILL 937

C5, C2, C8

9lr3159
CF HB 654

By: **Senator Klausmeier**

Introduced and read first time: February 15, 2019

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Wireless Facilities – Installation and Regulation**

3 FOR the purpose of establishing procedures and requirements for the deployment,
4 installation, and regulation of certain wireless telecommunications facilities in the
5 State; prohibiting an authority from entering into an exclusive agreement for the use
6 of certain rights-of-way for certain purposes; authorizing an authority to impose
7 certain rates and fees for use of certain rights-of-way in a certain manner and
8 subject to certain limitations; authorizing a wireless provider to collocate certain
9 facilities and use certain rights-of-way in certain manners as a matter of right;
10 establishing certain limitations on the installation and maintenance of certain
11 facilities in certain rights-of-way; authorizing an authority to adopt certain
12 guidelines for the location, appearance, and design of certain facilities; authorizing
13 the collocation of certain facilities on certain equipment; authorizing an authority to
14 restrict the use of certain attachments under certain circumstances and in a certain
15 manner; requiring an authority to provide for waivers of certain requirements;
16 providing for the character and administration of certain requirements for certain
17 facilities; authorizing an authority to require the repair of certain damage and the
18 restoration of certain rights-of-way to certain conditions under certain
19 circumstances; requiring a wireless provider to notify an authority of the
20 abandonment of certain facilities; providing for the removal of certain abandoned
21 facilities; providing for the collocation of certain facilities in certain areas and on
22 certain property; providing that certain collocation is not subject to certain review
23 and is a permitted use; authorizing an authority to require a permit for collocation
24 or installation of certain equipment under certain circumstances; prohibiting an
25 authority from requiring certain services or certain actions of an applicant for a
26 certain permit; authorizing an authority to require an applicant for a certain permit
27 to provide certain information; authorizing an authority to propose an alternate
28 location for certain facilities; authorizing an authority to require that certain
29 facilities be operational within a certain time period; establishing certain time
30 periods for certain applications and for decisions on the applications; providing for
31 an opportunity for an applicant to revise an application for a permit and have the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 application considered; providing for the automatic approval of an application for a
2 permit under certain circumstances; authorizing the denial of a permit under certain
3 circumstances; providing that a certain permit authorizes the applicant to install or
4 collocate and operate certain equipment for a certain time period and to renew the
5 permit at the applicant's discretion; prohibiting an authority from instituting a
6 moratorium on the receipt of applications or the issuance of certain permits;
7 prohibiting an authority from requiring a permit for certain maintenance and
8 replacement activities; prohibiting certain persons from entering into an exclusive
9 agreement for the use of certain authority utility poles; requiring an authority to
10 authorize the collocation of certain facilities on certain equipment; providing for
11 certain rates, fees, and terms for certain collocations and certain associated work
12 activities; requiring certain make-ready work to be completed in a certain manner
13 within a certain time period; prohibiting the imposition of certain fees for certain
14 uses, locations, and activities; establishing certain limitations for certain fees and
15 rates; providing that the District Court has jurisdiction over certain matters and
16 shall adjudicate certain cases within a certain time period; prohibiting an authority
17 from requiring a wireless provider to indemnify and hold harmless the authority and
18 certain persons for certain activities under certain circumstances; authorizing an
19 authority to require a certain wireless provider to carry certain insurance coverage
20 for certain risks and activities in a certain manner; authorizing a wireless provider
21 to self-insure against certain risks in a certain manner; authorizing an authority to
22 adopt certain surety bonding requirements for certain purposes; authorizing an
23 authority to enact a local law to carry out this Act; providing that this Act prevails
24 over local law; providing for the effect of certain agreements and ordinances in effect
25 before a certain date; limiting the authority of an authority over certain facilities;
26 requiring an authority to evaluate certain structure classifications in a certain
27 manner; providing that this Act is not subject to the jurisdiction of the Public Service
28 Commission; providing for the construction of this Act; excluding this Act from the
29 application of certain penalties; defining certain terms; and generally relating to
30 wireless telecommunications facilities.

31 BY adding to

32 Article – Public Utilities

33 Section 8–701 through 8–709 to be under the new subtitle “Subtitle 7. Wireless
34 Facilities”

35 Annotated Code of Maryland

36 (2010 Replacement Volume and 2018 Supplement)

37 BY repealing and reenacting, with amendments,

38 Article – Public Utilities

39 Section 13–101 and 13–201

40 Annotated Code of Maryland

41 (2010 Replacement Volume and 2018 Supplement)

42 Preamble

43 WHEREAS, Encouraging the deployment of small wireless facilities and other

1 next-generation wireless and broadband network facilities will attract new investment in
2 wireless infrastructure technology that supports enhanced network and next-generation
3 smart cities and other solutions and is a matter of statewide concern and interest; and

4 WHEREAS, Wireless and broadband products and services are a significant and
5 continually growing part of the State's economy and, accordingly, encouraging the
6 development of strong and robust wireless and broadband communications networks
7 throughout the State is integral to the State's economic competitiveness; and

8 WHEREAS, Rapid deployment of small wireless facilities will serve numerous
9 important statewide goals of meeting growing consumer demand for wireless data,
10 including increasing competitive options for communications services available to the
11 State's residents, promoting the ability of the State's citizens to communicate with other
12 citizens and with their State and local governments and promoting public safety; and

13 WHEREAS, Small wireless facilities, including facilities commonly referred to as
14 small cells and distributed antenna systems, often may be deployed most effectively in
15 rights-of-way; and

16 WHEREAS, To meet the key objectives of this Act, wireless providers must have
17 access to rights-of-way and the ability to attach infrastructure in rights-of-way to increase
18 the density of their networks and provide next-generation wireless services; and

19 WHEREAS, Uniform rates and fees for the permitting and deployment of small
20 wireless facilities in rights-of-way and on local government-owned infrastructure,
21 including poles, throughout the State are reasonable and will encourage the development
22 of robust next-generation wireless and broadband networks for the benefit of people
23 throughout the State; and

24 WHEREAS, The rates and fees provided for in this Act are fair and reasonable when
25 viewed from the perspective of the State's citizens and the State's interest in encouraging
26 investment in wireless infrastructure and having robust, reliable, and technologically
27 advanced wireless and broadband networks, and reflect a balancing of the interests of the
28 wireless providers in deploying new facilities and the interests of the State and local
29 governments in recovering their costs of managing access to rights-of-way and the
30 attachment space provided on public infrastructure and receiving the fair value of the
31 rights-of-way; now, therefore,

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
33 That the Laws of Maryland read as follows:

34 **Article – Public Utilities**

35 **SUBTITLE 7. WIRELESS FACILITIES.**

36 **8-701.**

1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) (1) "ANTENNA" MEANS AN APPARATUS DESIGNED FOR THE PURPOSE
4 OF EMITTING RADIOFREQUENCY RADIATION, TO BE OPERATED OR OPERATING
5 FROM A FIXED LOCATION IN ACCORDANCE WITH FEDERAL COMMUNICATIONS
6 COMMISSION AUTHORIZATION, TO PROVIDE PERSONAL WIRELESS SERVICE AND
7 ANY COMMINGLED INFORMATION SERVICES.

8 (2) "ANTENNA" DOES NOT INCLUDE AN UNINTENTIONAL RADIATOR,
9 MOBILE STATION, OR DEVICE AUTHORIZED UNDER 47 C.F.R. PART 15.

10 (C) (1) "ANTENNA EQUIPMENT" MEANS EQUIPMENT, SWITCHES, WIRING,
11 CABLING, POWER SOURCES, SHELTERS, OR CABINETS ASSOCIATED WITH AN
12 ANTENNA THAT IS LOCATED AT THE SAME FIXED LOCATION AS THE ANTENNA AND,
13 WHEN COLLOCATED ON A STRUCTURE, IS MOUNTED OR INSTALLED AT THE SAME
14 TIME AS THE ANTENNA.

15 (2) "ANTENNA EQUIPMENT" DOES NOT INCLUDE:

16 (I) THE STRUCTURE OR IMPROVEMENTS ON, UNDER, OR
17 WITHIN WHICH THE EQUIPMENT IS COLLOCATED; OR

18 (II) WIRELINE BACKHAUL FACILITIES, COAXIAL OR FIBER OPTIC
19 CABLE THAT IS BETWEEN WIRELESS SUPPORT STRUCTURES OR UTILITY POLES, OR
20 COAXIAL OR FIBER OPTIC CABLE THAT IS OTHERWISE NOT IMMEDIATELY ADJACENT
21 TO OR DIRECTLY ASSOCIATED WITH AN ANTENNA.

22 (D) "ANTENNA FACILITY" MEANS AN ANTENNA AND ASSOCIATED ANTENNA
23 EQUIPMENT.

24 (E) (1) "APPLICABLE CODES" MEANS UNIFORM BUILDING, FIRE, SAFETY,
25 ELECTRICAL, PLUMBING, OR MECHANICAL CODES ADOPTED BY A RECOGNIZED
26 NATIONAL CODE ORGANIZATION TO THE EXTENT AN AUTHORITY HAS ADOPTED THE
27 CODES.

28 (2) "APPLICABLE CODES" INCLUDES ANY AMENDMENT AN
29 AUTHORITY HAS ADOPTED THAT IS OF GENERAL APPLICATION, ADDRESSES PUBLIC
30 SAFETY, AND IS CONSISTENT WITH THIS SUBTITLE.

31 (F) (1) "AUTHORITY" MEANS THE STATE OR ANY UNIT, COUNTY,
32 MUNICIPALITY, DISTRICT, OR SUBDIVISION, OR ANY INSTRUMENTALITY OF THOSE
33 UNITS, IN THE STATE.

1 **(2) “AUTHORITY” INCLUDES A PUBLIC UTILITY DISTRICT, AN**
2 **IRRIGATION DISTRICT, AND A MUNICIPAL ELECTRIC UTILITY.**

3 **(3) “AUTHORITY” DOES NOT INCLUDE:**

4 **(I) A STATE COURT; OR**

5 **(II) THE GOVERNING BODY OF AN UNINCORPORATED,**
6 **CENSUS-DESIGNATED PLANNED COMMUNITY IN THE STATE.**

7 **(G) “AUTHORITY POLE” MEANS A UTILITY POLE THAT IS OWNED, MANAGED,**
8 **OR OPERATED BY OR ON BEHALF OF AN AUTHORITY.**

9 **(H) “COLLOCATE” MEANS TO INSTALL OR MOUNT AN ANTENNA FACILITY ON**
10 **A PREEXISTING STRUCTURE, OR TO MODIFY A STRUCTURE FOR THE PURPOSE OF**
11 **MOUNTING OR INSTALLING AN ANTENNA FACILITY ON THAT STRUCTURE.**

12 **(I) “COMMUNICATIONS FACILITY” MEANS THE SET OF EQUIPMENT AND**
13 **NETWORK COMPONENTS, INCLUDING WIRES AND CABLES AND ASSOCIATED**
14 **FACILITIES, THAT A COMMUNICATIONS SERVICE PROVIDER USES TO PROVIDE**
15 **COMMUNICATIONS SERVICE.**

16 **(J) “COMMUNICATIONS SERVICE” MEANS:**

17 **(1) CABLE SERVICE, AS DEFINED IN 47 U.S.C. § 522(6);**

18 **(2) TELECOMMUNICATIONS SERVICE, AS DEFINED IN 47 U.S.C. §**
19 **153(53);**

20 **(3) INFORMATION SERVICE, AS DEFINED IN 47 U.S.C. § 153(24); OR**

21 **(4) WIRELESS SERVICE.**

22 **(K) “COMMUNICATIONS SERVICE PROVIDER” OR “PROVIDER” MEANS:**

23 **(1) A CABLE OPERATOR, AS DEFINED IN 47 U.S.C. § 522(5);**

24 **(2) A TELECOMMUNICATIONS CARRIER, AS DEFINED IN 47 U.S.C. §**
25 **153(51);**

26 **(3) A PROVIDER OF INFORMATION SERVICE, AS DEFINED IN 47 U.S.C.**
27 **§ 153(24); OR**

1 (4) A WIRELESS PROVIDER.

2 (L) “DECORATIVE POLE” MEANS AN AUTHORITY POLE THAT IS SPECIALLY
3 DESIGNED AND PLACED FOR AESTHETIC PURPOSES AND ON WHICH NO
4 ATTACHMENTS ARE PLACED OR ALLOWED TO BE PLACED ACCORDING TO
5 NONDISCRIMINATORY LOCAL LAWS, OTHER THAN:

6 (1) A SMALL WIRELESS FACILITY;

7 (2) LIGHTING;

8 (3) SPECIALLY DESIGNED INFORMATIONAL OR DIRECTIONAL
9 SIGNAGE; OR

10 (4) A TEMPORARY HOLIDAY OR SPECIAL EVENT ATTACHMENT.

11 (M) “FACILITY” MEANS AN ANTENNA FACILITY OR A STRUCTURE THAT IS
12 USED TO PROVIDE PERSONAL WIRELESS SERVICE, WHETHER THE SERVICE IS
13 PROVIDED ON A STAND-ALONE BASIS OR IS COMMINGLED WITH OTHER WIRELESS
14 COMMUNICATIONS SERVICES.

15 (N) “HISTORIC DISTRICT” MEANS A GROUP OF BUILDINGS, PROPERTIES, OR
16 SITES THAT ARE:

17 (1) LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES OR
18 FORMALLY DETERMINED AS ELIGIBLE FOR LISTING BY THE KEEPER OF THE
19 NATIONAL REGISTER, IN ACCORDANCE WITH SECTION VI.D.1.A.I-V OF THE
20 NATIONWIDE PROGRAMMATIC AGREEMENT CODIFIED AT 47 C.F.R. PART 1,
21 APPENDIX C; OR

22 (2) LOCATED IN A HISTORIC DISTRICT ESTABLISHED UNDER TITLE 8
23 OF THE LAND USE ARTICLE AS OF JUNE 1, 2019.

24 (O) “MAKE-READY WORK” MEANS ANY REARRANGEMENT OF EXISTING
25 UTILITY POLE ATTACHMENTS OR UTILITY POLE REPLACEMENTS THAT MUST BE
26 COMPLETED BEFORE A PERSON COLLOCATES NEW WIRELESS FACILITIES ON A
27 UTILITY POLE IN ORDER TO ENSURE THE PROPER SPACING OF EQUIPMENT AND
28 COMPLIANCE WITH APPLICABLE CODES.

29 (P) “MICRO WIRELESS FACILITY” MEANS A SMALL WIRELESS FACILITY
30 THAT:

1 **(1) IS NOT LARGER THAN 24 INCHES LONG, 15 INCHES WIDE, AND 12**
2 **INCHES HIGH; AND**

3 **(2) HAS AN EXTERIOR ANTENNA, IF ANY, NOT MORE THAN 11 INCHES**
4 **LONG.**

5 **(Q) “RIGHT-OF-WAY” OR “ROW” MEANS THE AREA ON, BELOW, OR ABOVE**
6 **A PUBLIC ROADWAY, HIGHWAY, STREET, SIDEWALK, ALLEY, UTILITY EASEMENT, OR**
7 **SIMILAR PROPERTY OTHER THAN A FEDERAL INTERSTATE HIGHWAY.**

8 **(R) “SMALL WIRELESS FACILITY” MEANS A FACILITY THAT MEETS EACH OF**
9 **THE FOLLOWING SPECIFICATIONS:**

10 **(1) THE FACILITIES:**

11 **(I) ARE MOUNTED ON STRUCTURES 50 FEET OR LESS IN**
12 **HEIGHT, INCLUDING THE ANTENNAS;**

13 **(II) ARE MOUNTED ON STRUCTURES NOT MORE THAN 10%**
14 **TALLER THAN OTHER ADJACENT STRUCTURES; OR**

15 **(III) DO NOT EXTEND EXISTING STRUCTURES ON WHICH THEY**
16 **ARE LOCATED TO THE GREATER OF:**

17 **1. A HEIGHT OF MORE THAN 50 FEET; OR**

18 **2. AN EXTENSION OF MORE THAN 10%;**

19 **(2) EACH ANTENNA ASSOCIATED WITH THE DEPLOYMENT IS NOT**
20 **MORE THAN 3 CUBIC FEET IN VOLUME, EXCLUDING ASSOCIATED ANTENNA**
21 **EQUIPMENT;**

22 **(3) ALL OTHER WIRELESS EQUIPMENT ASSOCIATED WITH THE**
23 **STRUCTURE, INCLUDING WIRELESS EQUIPMENT ASSOCIATED WITH THE ANTENNA**
24 **AND ANY PREEXISTING ASSOCIATED EQUIPMENT ON THE STRUCTURE, IS NOT MORE**
25 **THAN 28 CUBIC FEET IN VOLUME;**

26 **(4) THE FACILITIES DO NOT REQUIRE ANTENNA STRUCTURE**
27 **REGISTRATION UNDER 47 C.F.R. PART 17;**

28 **(5) THE FACILITIES ARE NOT LOCATED ON TRIBAL LANDS, AS**
29 **DEFINED UNDER 36 C.F.R. 800.16(x); AND**

1 **(6) THE WIRELESS FACILITIES DO NOT RESULT IN HUMAN EXPOSURE**
2 **TO RADIO FREQUENCY IN EXCESS OF THE APPLICABLE SAFETY STANDARDS**
3 **SPECIFIED IN 47 C.F.R. 1.1307(B).**

4 **(S) “STRUCTURE” MEANS A UTILITY POLE OR WIRELESS SUPPORT**
5 **STRUCTURE, WHETHER OR NOT IT HAS AN EXISTING ANTENNA FACILITY, THAT IS**
6 **USED OR TO BE USED TO PROVIDE PERSONAL WIRELESS SERVICE, EITHER ON ITS**
7 **OWN OR COMMINGLED WITH OTHER TYPES OF SERVICES.**

8 **(T) “TECHNICALLY FEASIBLE” MEANS, WITH RESPECT TO A PROPOSED**
9 **PLACEMENT FOR A SMALL WIRELESS FACILITY, THAT THE PLACEMENT CAN BE**
10 **IMPLEMENTED WITHOUT A REDUCTION IN THE FUNCTIONALITY OF THE FACILITY**
11 **BECAUSE OF:**

12 **(1) THE FACILITY’S ENGINEERING OR SPECTRUM USAGE; OR**

13 **(2) THE FACILITY’S DESIGN, CONCEALMENT MEASURES, OR SITE**
14 **LOCATION.**

15 **(U) “UTILITY EASEMENT” MEANS A LOCATION WITHIN AN AUTHORITY ON**
16 **PRIVATE PROPERTY WHERE PUBLIC UTILITIES ARE AUTHORIZED BY LAW, DEED, OR**
17 **AGREEMENT TO PLACE, MAINTAIN, AND ALLOW ACCESS TO UTILITY FACILITIES.**

18 **(V) (1) “UTILITY POLE” MEANS A POLE OR SIMILAR STRUCTURE THAT IS**
19 **OR MAY BE USED WHOLLY OR PARTLY BY OR FOR WIRELINE COMMUNICATIONS,**
20 **ELECTRIC DISTRIBUTION, LIGHTING, TRAFFIC CONTROL, SIGNAGE, OR A SIMILAR**
21 **FUNCTION, OR FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES.**

22 **(2) “UTILITY POLE” DOES NOT INCLUDE WIRELESS SUPPORT**
23 **STRUCTURES OR ELECTRIC TRANSMISSION STRUCTURES.**

24 **(W) “WIRELESS INFRASTRUCTURE PROVIDER” MEANS A PERSON WHO:**

25 **(1) BUILDS OR INSTALLS WIRELESS COMMUNICATIONS**
26 **TRANSMISSION EQUIPMENT, A WIRELESS FACILITY, OR A WIRELESS SUPPORT**
27 **STRUCTURE; BUT**

28 **(2) IS NOT A WIRELESS SERVICES PROVIDER.**

29 **(X) “WIRELESS PROVIDER” MEANS A WIRELESS INFRASTRUCTURE**
30 **PROVIDER OR A WIRELESS SERVICES PROVIDER.**

31 **(Y) “WIRELESS SERVICES” MEANS ANY SERVICES PROVIDED TO THE**

1 PUBLIC USING LICENSED OR UNLICENSED SPECTRUM, INCLUDING THE USE OF
2 WI-FI, WHETHER AT A FIXED LOCATION OR USING MOBILE EQUIPMENT.

3 (Z) "WIRELESS SERVICES PROVIDER" MEANS A PERSON WHO PROVIDES
4 WIRELESS SERVICES.

5 (AA) (1) "WIRELESS SUPPORT STRUCTURE" MEANS A STRUCTURE THAT IS
6 DESIGNED TO SUPPORT OR CAPABLE OF SUPPORTING WIRELESS FACILITIES.

7 (2) "WIRELESS SUPPORT STRUCTURE" DOES NOT INCLUDE:

8 (I) A UTILITY POLE; OR

9 (II) A STRUCTURE DESIGNED SOLELY FOR THE COLLOCATION
10 OF SMALL WIRELESS FACILITIES.

11 8-702.

12 (A) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS
13 SUBTITLE ARE NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION.

14 (B) THIS SUBTITLE MAY NOT BE CONSTRUED OR INTERPRETED TO:

15 (1) AUTHORIZE ANY PERSON TO PROVIDE SERVICES THAT ARE
16 REGULATED UNDER 47 U.S.C. §§ 521 THROUGH 573 WITHOUT COMPLYING WITH ALL
17 LAWS APPLICABLE TO THOSE SERVICES AND PROVIDERS; OR

18 (2) IMPOSE ANY NEW REQUIREMENTS ON CABLE PROVIDERS FOR THE
19 PROVISION OF CABLE SERVICE IN THE STATE.

20 8-703.

21 (A) THIS SECTION APPLIES ONLY TO THE DEPLOYMENT OF SMALL
22 WIRELESS FACILITIES AND ASSOCIATED UTILITY POLES IN A RIGHT-OF-WAY.

23 (B) AN AUTHORITY MAY NOT ENTER INTO AN EXCLUSIVE AGREEMENT WITH
24 ANY PERSON FOR THE USE OF A RIGHT-OF-WAY FOR:

25 (1) THE COLLOCATION OF SMALL WIRELESS FACILITIES; OR

26 (2) THE INSTALLATION, OPERATION, MARKETING, MODIFICATION,
27 MAINTENANCE, OR REPLACEMENT OF UTILITY POLES ASSOCIATED WITH A SMALL
28 WIRELESS FACILITY.

1 (C) IF AN AUTHORITY IMPOSES A RATE OR FEE FOR THE USE OF A
2 RIGHT-OF-WAY FOR UTILITY PURPOSES, THE AUTHORITY MAY IMPOSE A RATE OR
3 FEE FOR THE USE OF A RIGHT-OF-WAY IN ACCORDANCE WITH THIS SECTION.

4 (D) IN ACCORDANCE WITH THIS SECTION, A WIRELESS PROVIDER SHALL
5 HAVE THE RIGHT, AS A PERMITTED USE NOT SUBJECT TO ZONING REVIEW OR
6 APPROVAL, TO COLLOCATE SMALL WIRELESS FACILITIES AND INSTALL, OPERATE,
7 MODIFY, MAINTAIN, AND REPLACE UTILITY POLES ALONG, ACROSS, ON, AND UNDER
8 A RIGHT-OF-WAY.

9 (E) A WIRELESS PROVIDER SHALL INSTALL AND MAINTAIN SMALL
10 WIRELESS FACILITIES AND UTILITY POLES IN A RIGHT-OF-WAY IN A MANNER THAT
11 DOES NOT OBSTRUCT OR HINDER:

12 (1) THE USUAL TRAVEL OR PUBLIC SAFETY ON THE RIGHT-OF-WAY;
13 OR

14 (2) THE LEGAL USE OF THE RIGHT-OF-WAY BY OTHERS.

15 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
16 NEW OR MODIFIED UTILITY POLE INSTALLED UNDER THIS SECTION MAY NOT
17 EXCEED THE GREATER OF:

18 (I) 10% IN HEIGHT ABOVE ADJACENT STRUCTURES WITHIN 500
19 FEET OF THE NEW OR MODIFIED UTILITY POLE IN THE SAME RIGHT-OF-WAY; OR

20 (II) 50 FEET IN HEIGHT ABOVE GROUND LEVEL.

21 (2) IN ACCORDANCE WITH LOCAL ZONING LAWS, AN AUTHORITY MAY
22 AUTHORIZE THE INSTALLATION OF A NEW OR MODIFIED UTILITY POLE THAT
23 EXCEEDS THE HEIGHT LIMITS SET IN PARAGRAPH (1) OF THIS SUBSECTION.

24 (3) UNLESS OTHERWISE AUTHORIZED BY AN AUTHORITY, A SMALL
25 WIRELESS FACILITY UNDER THIS SECTION MAY NOT EXTEND EXISTING STRUCTURES
26 ON WHICH THEY ARE LOCATED TO THE GREATER OF:

27 (I) A HEIGHT OF MORE THAN 50 FEET ABOVE GROUND LEVEL;
28 OR

29 (II) AN EXTENSION OF MORE THAN 10%.

30 (G) (1) AN AUTHORITY MAY ADOPT REASONABLE WRITTEN DESIGN

1 GUIDELINES WITH OBJECTIVE, TECHNICALLY FEASIBLE CRITERIA THAT
2 REASONABLY MATCH THE AESTHETICS AND CHARACTER OF AN IMMEDIATE AREA
3 REGARDING ALL OF THE FOLLOWING:

4 (I) THE LOCATION OF ANY GROUND-MOUNTED SMALL
5 WIRELESS FACILITIES;

6 (II) THE LOCATION OF A SMALL WIRELESS FACILITY ON A
7 UTILITY POLE OR WIRELESS SUPPORT STRUCTURE;

8 (III) THE APPEARANCE AND CONCEALMENT OF SMALL WIRELESS
9 FACILITIES, INCLUDING THOSE RELATING TO MATERIALS USED FOR ARRANGING,
10 SCREENING, OR LANDSCAPING; AND

11 (IV) THE DESIGN AND APPEARANCE OF A UTILITY POLE.

12 (2) THE GUIDELINES SHALL BE APPLIED IN A NONDISCRIMINATORY
13 MANNER.

14 (3) MATERIALS USED TO COMPLY WITH THE APPEARANCE AND
15 CONCEALMENT CRITERIA ESTABLISHED IN THE GUIDELINES MAY NOT BE
16 CONSIDERED PART OF THE SMALL WIRELESS FACILITY FOR PURPOSES OF FACILITY
17 SIZE RESTRICTIONS UNDER THIS SUBTITLE.

18 (4) EACH NEW OR MODIFIED SMALL WIRELESS FACILITY OR UTILITY
19 POLE INSTALLED IN THE RIGHT-OF-WAY SHALL COMPLY WITH AN AUTHORITY'S
20 CURRENT DESIGN GUIDELINES.

21 (H) (1) A WIRELESS PROVIDER SHALL BE AUTHORIZED TO COLLOCATE
22 ON OR REPLACE DECORATIVE POLES WHEN NECESSARY TO DEPLOY A SMALL
23 WIRELESS FACILITY.

24 (2) THE COLLOCATION OR DECORATIVE POLE REPLACEMENT SHALL
25 REASONABLY CONFORM TO THE DESIGN AESTHETICS OF THE ORIGINAL
26 DECORATIVE POLE AND ANY APPLICABLE DESIGN GUIDELINE ADOPTED UNDER
27 SUBSECTION (G) OF THIS SECTION.

28 (I) (1) AN AUTHORITY MAY RESTRICT A WIRELESS PROVIDER TO THE USE
29 OF ATTACHMENTS TO EXISTING STRUCTURES IN AN AREA DESIGNATED SOLELY FOR
30 UNDERGROUND CABLE AND UTILITY FACILITIES, OR THE AUTHORITY MAY PROHIBIT
31 A WIRELESS PROVIDER FROM INSTALLING A STRUCTURE IN A RIGHT-OF-WAY
32 LOCATED IN AN AREA DESIGNATED SOLELY FOR UNDERGROUND CABLE AND UTILITY
33 FACILITIES, IF:

1 **(I) THE AUTHORITY REQUIRES ALL CABLE AND UTILITY**
2 **FACILITIES OTHER THAN THOSE OWNED BY THE AUTHORITY TO BE PLACED**
3 **UNDERGROUND BY A SPECIFIC DATE AT LEAST 3 MONTHS PRECEDING THE**
4 **APPLICATION OF A WIRELESS PROVIDER TO INSTALL A STRUCTURE;**

5 **(II) THE AUTHORITY DOES NOT PROHIBIT THE REPLACEMENT**
6 **OF UTILITY POLES OWNED BY THE AUTHORITY IN THE DESIGNATED AREA; AND**

7 **(III) THE AUTHORITY PROVIDES FOR A NONDISCRIMINATORY**
8 **WAIVER PROCESS FOR THE PLACEMENT OF A NEW POLE TO SUPPORT A SMALL**
9 **WIRELESS FACILITY IN THE DESIGNATED AREA.**

10 **(2) AN AUTHORITY SHALL PROCESS WAIVERS UNDER PARAGRAPH**
11 **(1)(III) OF THIS SUBSECTION IN A REASONABLE AND NONDISCRIMINATORY MANNER**
12 **THAT DOES NOT HAVE THE EFFECT OF PROHIBITING THE PROVISION OF WIRELESS**
13 **SERVICE.**

14 **(J) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, AN AUTHORITY MAY**
15 **REQUIRE A WIRELESS PROVIDER TO USE TECHNICALLY FEASIBLE,**
16 **NONDISCRIMINATORY, AND TECHNOLOGICALLY NEUTRAL DESIGN OR**
17 **CONCEALMENT MEASURES WHEN COLLOCATING WIRELESS FACILITIES IN A**
18 **HISTORIC DISTRICT.**

19 **(2) THE DESIGN OR CONCEALMENT MEASURES MAY NOT:**

20 **(I) HAVE THE EFFECT OF PROHIBITING ANY WIRELESS**
21 **PROVIDER'S TECHNOLOGY; OR**

22 **(II) BE CONSIDERED A PART OF THE SMALL WIRELESS FACILITY**
23 **FOR PURPOSES OF THE SIZE RESTRICTIONS FOR SMALL WIRELESS FACILITIES.**

24 **(K) (1) ANY REQUIREMENTS AN AUTHORITY ADOPTS UNDER**
25 **SUBSECTIONS (G) THROUGH (J) OF THIS SECTION MUST BE:**

26 **(I) REASONABLE, IN THAT THEY ARE TECHNICALLY FEASIBLE**
27 **AND REASONABLY DIRECTED TO AVOIDING OR REMEDYING THE INTANGIBLE**
28 **PUBLIC HARM OF UNSIGHTLY OR OUT-OF-CHARACTER DEPLOYMENTS;**

29 **(II) NO MORE BURDENSOME THAN THOSE APPLIED TO OTHER**
30 **TYPES OF INFRASTRUCTURE DEPLOYMENTS; AND**

31 **(III) OBJECTIVE AND PUBLISHED IN ADVANCE.**

1 **(2) AN AUTHORITY SHALL BE NEUTRAL AND NONDISCRIMINATORY IN**
2 **THE EXERCISE OF ITS ADMINISTRATION AND REGULATION OF THE USES AND USERS**
3 **OF RIGHTS-OF-WAY IN THE AUTHORITY'S JURISDICTION.**

4 **(L) AN AUTHORITY MAY REQUIRE A WIRELESS PROVIDER TO:**

5 **(1) REPAIR ANY DAMAGE TO THE RIGHT-OF-WAY OR ANY FACILITIES**
6 **IN THE RIGHT-OF-WAY DIRECTLY CAUSED BY THE ACTIVITIES OF THE WIRELESS**
7 **PROVIDER; AND**

8 **(2) RETURN THE RIGHT-OF-WAY TO THE CONDITION THAT EXISTED**
9 **BEFORE ANY DAMAGE WAS INCURRED IN ACCORDANCE WITH THE NEUTRAL,**
10 **REASONABLE REQUIREMENTS AND SPECIFICATIONS OF THE AUTHORITY.**

11 **(M) (1) A WIRELESS PROVIDER SHALL NOTIFY THE AUTHORITY OF**
12 **ABANDONMENT OF ANY SMALL WIRELESS FACILITY AT THE TIME THE DECISION TO**
13 **ABANDON IS MADE AND NOT LESS THAN 30 DAYS BEFORE ABANDONMENT.**

14 **(2) AFTER RECEIVING THE NOTICE, THE AUTHORITY MAY DIRECT**
15 **THE WIRELESS PROVIDER TO REMOVE ALL OR ANY PORTION OF THE SMALL**
16 **WIRELESS FACILITY THAT THE AUTHORITY DETERMINES WOULD BE IN THE BEST**
17 **INTEREST OF THE PUBLIC SAFETY AND PUBLIC WELFARE TO REMOVE.**

18 **(3) A SMALL WIRELESS FACILITY THAT IS NOT OPERATED FOR A**
19 **CONTINUOUS PERIOD OF 12 MONTHS SHALL BE CONSIDERED ABANDONED, AND THE**
20 **WIRELESS PROVIDER MUST REMOVE THE SMALL WIRELESS FACILITY WITHIN 60**
21 **DAYS AFTER RECEIVING WRITTEN NOTICE FROM THE AUTHORITY NOTIFYING THE**
22 **WIRELESS PROVIDER OF THE ABANDONMENT.**

23 **(4) IF THE WIRELESS PROVIDER FAILS TO REMOVE THE ABANDONED**
24 **FACILITY WITHIN 60 DAYS AFTER THE NOTICE, THE AUTHORITY MAY REMOVE THE**
25 **FACILITY AND RECOVER THE ACTUAL AND REASONABLE EXPENSES OF THE**
26 **REMOVAL FROM THE WIRELESS PROVIDER OR ITS SUCCESSORS OR ASSIGNS.**

27 **8-704.**

28 **(A) THIS SECTION APPLIES TO:**

29 **(1) THE COLLOCATION OF SMALL WIRELESS FACILITIES AND THE**
30 **INSTALLATION, MODIFICATION, AND REPLACEMENT OF UTILITY POLES IN A**
31 **RIGHT-OF-WAY; AND**

1 **(2) THE COLLOCATION OF SMALL WIRELESS FACILITIES OUTSIDE A**
2 **RIGHT-OF-WAY ON PROPERTY NOT ZONED EXCLUSIVELY FOR SINGLE-FAMILY**
3 **RESIDENTIAL USE.**

4 **(B) EXCEPT AS PROVIDED IN THIS SUBTITLE, AN AUTHORITY MAY NOT**
5 **PROHIBIT, REGULATE, OR IMPOSE A RATE OR FEE FOR THE COLLOCATION OF SMALL**
6 **WIRELESS FACILITIES.**

7 **(C) THE COLLOCATION OF SMALL WIRELESS FACILITIES UNDER THIS**
8 **SECTION IS A PERMITTED USE AND IS NOT SUBJECT TO LOCAL ZONING REVIEW AND**
9 **APPROVAL IF THE FACILITIES ARE COLLOCATED:**

10 **(1) IN A RIGHT-OF-WAY; OR**

11 **(2) OUTSIDE A RIGHT-OF-WAY ON PROPERTY NOT ZONED AND USED**
12 **EXCLUSIVELY FOR SINGLE-FAMILY RESIDENTIAL USE.**

13 **(D) IF A PERMIT IS NOT EXCLUSIVELY APPLIED TO WIRELESS FACILITIES,**
14 **AN AUTHORITY MAY REQUIRE A PERSON TO OBTAIN A PERMIT TO COLLOCATE A**
15 **SMALL WIRELESS FACILITY OR INSTALL A NEW, MODIFIED, OR REPLACEMENT**
16 **UTILITY POLE ASSOCIATED WITH THE SMALL WIRELESS FACILITY.**

17 **(E) AN AUTHORITY MAY NOT REQUIRE AN APPLICANT FOR A PERMIT UNDER**
18 **THIS SECTION TO:**

19 **(1) PERFORM SERVICES OR PROVIDE GOODS UNRELATED TO THE**
20 **PERMIT, INCLUDING RESERVING FIBER, CONDUIT, OR UTILITY POLE SPACE FOR THE**
21 **AUTHORITY;**

22 **(2) PROVIDE INFORMATION IN ADDITION TO THAT REQUIRED OF**
23 **COMMUNICATIONS SERVICE PROVIDERS OTHER THAN WIRELESS PROVIDERS;**

24 **(3) PLACE SMALL WIRELESS FACILITIES ON A SPECIFIC UTILITY POLE**
25 **OR CATEGORY OF UTILITY POLES OR PLACE MULTIPLE ANTENNA SYSTEMS ON A**
26 **SINGLE UTILITY POLE; OR**

27 **(4) PLACE SMALL WIRELESS FACILITIES A CERTAIN MINIMUM**
28 **DISTANCE APART IN ORDER TO LIMIT THE PLACEMENT OF SMALL WIRELESS**
29 **FACILITIES.**

30 **(F) AN AUTHORITY MAY REQUIRE AN APPLICANT FOR A PERMIT TO**
31 **INCLUDE CONSTRUCTION AND ENGINEERING DRAWINGS AND INFORMATION**
32 **DEMONSTRATING THAT THE SMALL WIRELESS FACILITY OR ASSOCIATED UTILITY**

1 POLE:

2 (1) WILL NOT MATERIALLY INTERFERE WITH:

3 (I) THE SAFE OPERATION OF TRAFFIC CONTROL EQUIPMENT;

4 (II) SIGHT LINES OR CLEAR ZONES FOR TRANSPORTATION OR
5 PEDESTRIANS; OR

6 (III) COMPLIANCE WITH THE FEDERAL AMERICANS WITH
7 DISABILITIES ACT OR SIMILAR FEDERAL OR STATE LAWS REGARDING PEDESTRIAN
8 ACCESS OR MOVEMENT; AND

9 (2) SHALL COMPLY WITH:

10 (I) ANY LOCAL REQUIREMENTS FOR THE REASONABLE AND
11 NONDISCRIMINATORY SPACING OF GROUND-MOUNTED EQUIPMENT AND NEW
12 UTILITY POLES IF THE SPACING REQUIREMENTS DO NOT PREVENT A WIRELESS
13 PROVIDER FROM SERVING ANY LOCATION; AND

14 (II) APPLICABLE CODES AND THE CRITERIA UNDER
15 SUBSECTION (J) OF THIS SECTION.

16 (G) (1) AN AUTHORITY MAY PROPOSE AN ALTERNATE LOCATION WITHIN
17 THE RIGHT-OF-WAY TO THE LOCATION PROPOSED BY A WIRELESS PROVIDER FOR A
18 NEW UTILITY POLE TO SUPPORT A SMALL WIRELESS FACILITY THAT IS WITHIN 50
19 FEET OF THE LOCATION PROPOSED BY THE WIRELESS PROVIDER.

20 (2) THE WIRELESS PROVIDER SHALL USE THE ALTERNATE LOCATION
21 IF THE ALTERNATE LOCATION DOES NOT MATERIALLY LIMIT OR INHIBIT THE
22 WIRELESS PROVIDER'S ABILITY TO OFFER WIRELESS SERVICE AS COMPARED TO THE
23 LOCATION PROPOSED BY THE WIRELESS PROVIDER, OR IMPOSE ADDITIONAL
24 TECHNICAL LIMITATIONS OR ADDITIONAL COSTS, AS DETERMINED BY THE
25 APPLICANT.

26 (H) AN AUTHORITY MAY REQUIRE AN APPLICANT FOR A PERMIT TO ATTEST
27 THAT THE SMALL WIRELESS FACILITY FOR WHICH A PERMIT IS APPLIED WILL BE
28 OPERATIONAL FOR USE BY A WIRELESS PROVIDER WITHIN 1 YEAR AFTER THE DATE
29 THE PERMIT IS ISSUED, UNLESS:

30 (1) THE AUTHORITY AND THE APPLICANT AGREE TO EXTEND THE
31 PERIOD; OR

1 **(2) A DELAY IS CAUSED BY A LACK OF COMMERCIAL POWER OR**
2 **COMMUNICATIONS TRANSPORT FACILITIES TO THE AREA WHERE THE SMALL**
3 **WIRELESS FACILITY IS TO BE COLLOCATED.**

4 **(I) (1) WITHIN 10 DAYS AFTER RECEIVING THE APPLICATION FOR A**
5 **PERMIT, THE AUTHORITY SHALL VERIFY THAT THE APPLICATION IS COMPLETE.**

6 **(2) (I) IF THE APPLICATION IS NOT COMPLETE, THE AUTHORITY**
7 **SHALL NOTIFY THE APPLICANT IN WRITING IDENTIFYING THE PARTS OF THE**
8 **APPLICATION THAT ARE INCOMPLETE AND THE RULE OR REGULATION CREATING**
9 **THE OBLIGATION TO SUBMIT THE MISSING INFORMATION.**

10 **(II) THE PROCESSING DEADLINES IN PARAGRAPH (3) OF THIS**
11 **SUBSECTION WILL RESTART FROM THE BEGINNING ON THE DATE THE APPLICANT**
12 **PROVIDES THE INFORMATION IDENTIFIED BY THE AUTHORITY TO RENDER THE**
13 **APPLICATION COMPLETE.**

14 **(3) (I) WITHIN 60 DAYS AFTER RECEIVING AN APPLICATION TO**
15 **COLLOCATE A SMALL WIRELESS FACILITY AND WITHIN 90 DAYS AFTER RECEIVING**
16 **AN APPLICATION TO INSTALL, MODIFY, OR REPLACE A UTILITY POLE IN THE**
17 **RIGHT-OF-WAY, THE AUTHORITY SHALL EITHER APPROVE OR DENY THE PERMIT.**

18 **(II) IF AN AUTHORITY FAILS TO ACT ON A COMPLETE PERMIT**
19 **APPLICATION WITHIN THE APPLICABLE DEADLINE, THE PERMIT SHALL BE DEEMED**
20 **TO BE APPROVED ON WRITTEN NOTICE BY THE APPLICANT TO THE AUTHORITY THAT**
21 **THE TIME PERIOD FOR ACTING ON THE APPLICATION HAS LAPSED.**

22 **(III) THE PROCESSING DEADLINE MAY BE TOLLED BY**
23 **AGREEMENT OF THE APPLICANT AND THE AUTHORITY.**

24 **(4) (I) IF AN AUTHORITY DENIES A PERMIT, THE AUTHORITY**
25 **SHALL NOTIFY THE APPLICANT IN WRITING OF THE BASIS FOR THE DENIAL AND**
26 **SHALL INCLUDE ANY DOCUMENTATION REGARDING THE DENIAL.**

27 **(II) AN APPLICANT SHALL HAVE 30 DAYS AFTER RECEIVING**
28 **NOTICE OF A DENIAL OF A PERMIT TO REVISE THE APPLICATION TO CURE THE**
29 **DEFICIENCIES NOTED BY THE AUTHORITY THAT FORM THE BASIS FOR THE DENIAL.**

30 **(III) AN AUTHORITY MAY NOT CHARGE AN ADDITIONAL**
31 **APPLICATION FEE FOR A REVISED APPLICATION RECEIVED WITHIN 30 DAYS AFTER**
32 **A DENIAL OF THE ORIGINAL APPLICATION.**

33 **(IV) WITHIN 30 DAYS AFTER RECEIVING A REVISED**

1 APPLICATION, AN AUTHORITY SHALL APPROVE OR DENY THE PERMIT.

2 (5) (I) AN APPLICANT MAY FILE A CONSOLIDATED APPLICATION
3 FOR ALL SMALL WIRELESS FACILITIES TO BE COLLOCATED WITHIN THE
4 JURISDICTION OF AN AUTHORITY.

5 (II) IF AN APPLICANT FILES A CONSOLIDATED APPLICATION
6 AND AN AUTHORITY DENIES THE COLLOCATION OF ONE OR MORE OF THE SMALL
7 WIRELESS FACILITIES IDENTIFIED IN THE APPLICATION, THAT DENIAL MAY NOT
8 DELAY THE PROCESSING OF THE PERMITTING OF ANY OTHER SMALL WIRELESS
9 FACILITY IDENTIFIED IN THE CONSOLIDATED APPLICATION.

10 (J) AN AUTHORITY MAY DENY AN APPLICATION FOR A PERMIT TO
11 COLLOCATE A SMALL WIRELESS FACILITY OR FOR THE INSTALLATION,
12 MODIFICATION, OR REPLACEMENT OF A UTILITY POLE ONLY IF THE SUBJECT OF THE
13 APPLICATION:

14 (1) MATERIALLY INTERFERES WITH THE SAFE OPERATION OF
15 TRAFFIC CONTROL EQUIPMENT;

16 (2) MATERIALLY INTERFERES WITH SIGHT LINES OR CLEAR ZONES
17 FOR TRANSPORTATION OR PEDESTRIANS;

18 (3) MATERIALLY INTERFERES WITH COMPLIANCE WITH THE
19 FEDERAL AMERICANS WITH DISABILITIES ACT OR SIMILAR FEDERAL OR STATE
20 LAWS REGARDING PEDESTRIAN ACCESS OR MOVEMENT;

21 (4) FAILS TO COMPLY WITH A LOCAL LAW REGARDING THE
22 REASONABLE AND NONDISCRIMINATORY SPACING OF GROUND-MOUNTED
23 EQUIPMENT AND NEW UTILITY POLES AS LONG AS THE SPACING REQUIREMENTS DO
24 NOT PREVENT A WIRELESS PROVIDER FROM SERVING ANY LOCATION;

25 (5) FAILS TO COMPLY WITH APPLICABLE CODES AND GENERALLY
26 APPLICABLE STANDARDS THAT ARE CONSISTENT WITH THIS SUBTITLE AND
27 ADOPTED BY AN AUTHORITY FOR CONSTRUCTION AND PUBLIC SAFETY IN THE
28 RIGHTS-OF-WAY, INCLUDING REASONABLE AND NONDISCRIMINATORY WIRING AND
29 CABLING REQUIREMENTS, GROUNDING REQUIREMENTS, AND ABANDONMENT AND
30 REMOVAL PROVISIONS;

31 (6) FAILS TO COMPLY WITH APPLICABLE DESIGN GUIDELINES
32 ADOPTED UNDER § 8-703(G) OF THIS SUBTITLE; OR

33 (7) FAILS TO ATTEST THAT A SMALL WIRELESS FACILITY WILL

1 COMPLY WITH RELEVANT FEDERAL COMMUNICATIONS COMMISSION REGULATIONS
2 CONCERNING RADIOFREQUENCY EMISSIONS FROM RADIO TRANSMITTERS AND
3 UNACCEPTABLE INTERFERENCE WITH PUBLIC SAFETY SPECTRUM, INCLUDING
4 COMPLIANCE WITH THE ABATEMENT AND RESOLUTION PROCEDURES FOR
5 INTERFERENCE WITH PUBLIC SAFETY SPECTRUM ESTABLISHED BY THE FCC UNDER
6 47 C.F.R. 22.970 THROUGH 47 C.F.R. 22.973 AND 47 C.F.R. 90.672 THROUGH 47
7 C.F.R. 90.675.

8 (K) SUBJECT TO APPLICABLE RELOCATION REQUIREMENTS AND THE
9 APPLICANT'S RIGHT TO TERMINATE AT ANY TIME, A PERMIT AUTHORIZES THE
10 APPLICANT TO INSTALL OR COLLOCATE AND OPERATE AND MAINTAIN THE SMALL
11 WIRELESS FACILITIES AND ANY ASSOCIATED UTILITY POLE COVERED BY THE
12 PERMIT FOR A PERIOD OF NOT LESS THAN 10 YEARS, WITH AN OPTION OF RENEWAL
13 AT THE APPLICANT'S DISCRETION.

14 (L) AN AUTHORITY MAY NOT INSTITUTE A MORATORIUM ON:

15 (1) THE RECEIPT AND PROCESSING OF APPLICATIONS FOR A PERMIT
16 UNDER THIS SECTION; OR

17 (2) THE ISSUANCE OF PERMITS OR OTHER APPROVALS UNDER THIS
18 SECTION.

19 (M) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
20 AN AUTHORITY MAY NOT REQUIRE A PERMIT UNDER THIS SECTION FOR:

21 (I) ROUTINE MAINTENANCE;

22 (II) THE REPLACEMENT OF SMALL WIRELESS FACILITIES WITH
23 SMALL WIRELESS FACILITIES THAT ARE SUBSTANTIALLY SIMILAR TO OR NOT
24 LARGER THAN THE FACILITIES BEING REPLACED; OR

25 (III) THE INSTALLATION, PLACEMENT, MAINTENANCE,
26 OPERATION, OR REPLACEMENT OF MICRO WIRELESS FACILITIES THAT ARE STRUNG
27 ON CABLES BETWEEN EXISTING UTILITY POLES IN COMPLIANCE WITH THE
28 NATIONAL ELECTRICAL SAFETY CODE.

29 (2) (I) AN AUTHORITY MAY REQUIRE A PERMIT TO WORK WITHIN A
30 RIGHT-OF-WAY FOR THE ACTIVITIES LISTED IN PARAGRAPH (1) OF THIS
31 SUBSECTION AND UNDER SUBSECTION (D) OF THIS SECTION.

32 (II) IF AN AUTHORITY REQUIRES A WORK PERMIT UNDER THIS
33 PARAGRAPH, THE AUTHORITY SHALL PROCESS AND APPROVE THE PERMIT

1 CONCURRENTLY WITH A PERMIT UNDER SUBSECTION (D) OF THIS SUBSECTION AND
2 WITHIN THE SAME PROCESSING DEADLINE IN SUBSECTION (I)(3) OF THIS SECTION.

3 (3) (I) AN AUTHORITY MAY REQUIRE ADVANCE NOTICE OF AN
4 ACTIVITY DESCRIBED IN THIS SUBSECTION.

5 (II) A WIRELESS PROVIDER MAY REPLACE OR UPGRADE A
6 UTILITY POLE ONLY WITH THE APPROVAL OF THE UTILITY POLE'S OWNER.

7 8-705.

8 (A) THIS SECTION APPLIES TO ACTIVITIES OF A WIRELESS PROVIDER IN A
9 RIGHT-OF-WAY.

10 (B) A PERSON THAT OWNS, MANAGES, OR CONTROLS AUTHORITY UTILITY
11 POLES IN A RIGHT-OF-WAY MAY NOT ENTER INTO AN EXCLUSIVE AGREEMENT WITH
12 ANY PERSON FOR THE RIGHT TO ATTACH EQUIPMENT TO THE AUTHORITY UTILITY
13 POLES.

14 (C) AN AUTHORITY SHALL AUTHORIZE THE COLLOCATION OF SMALL
15 WIRELESS FACILITIES ON AUTHORITY UTILITY POLES IN ACCORDANCE WITH § 8-704
16 OF THIS SUBTITLE.

17 (D) THE RATE TO COLLOCATE WIRELESS FACILITIES ON AUTHORITY
18 UTILITY POLES SHALL BE:

19 (1) NONDISCRIMINATORY REGARDLESS OF THE SERVICES PROVIDED
20 BY THE PERSON PERFORMING THE COLLOCATION; AND

21 (2) AS PROVIDED UNDER § 8-706 OF THIS SUBTITLE.

22 (E) (1) ALL RATES, FEES, AND TERMS AND CONDITIONS FOR
23 MAKE-READY WORK ON AN AUTHORITY UTILITY POLE SHALL BE
24 NONDISCRIMINATORY, COMPETITIVELY NEUTRAL, AND COMMERCIALY
25 REASONABLE.

26 (2) WITHIN 60 DAYS AFTER RECEIVING A COMPLETE APPLICATION
27 FOR A PERMIT IN ACCORDANCE WITH § 8-704(D) OF THIS SUBTITLE, AN AUTHORITY
28 SHALL PROVIDE A GOOD FAITH ESTIMATE FOR ANY MAKE-READY WORK, INCLUDING
29 UTILITY POLE REPLACEMENT, IF NECESSARY.

30 (3) WITHIN 60 DAYS AFTER AN APPLICANT ACCEPTS A GOOD FAITH
31 ESTIMATE UNDER PARAGRAPH (2) OF THIS SUBSECTION, AN AUTHORITY SHALL

1 COMPLETE ALL NECESSARY MAKE-READY WORK, INCLUDING REPLACEMENT OF AN
2 AUTHORITY UTILITY POLE IF THE AUTHORITY DEMONSTRATES THAT THE
3 COLLOCATION WILL RENDER THE UTILITY POLE STRUCTURALLY UNSOUND.

4 (4) AN AUTHORITY SHALL MAKE AVAILABLE AND KEEP CURRENT A
5 REASONABLY SUFFICIENT LIST OF CONTRACTORS THAT THE AUTHORITY
6 AUTHORIZES TO PERFORM SURVEYS FOR GOOD FAITH ESTIMATES AND
7 MAKE-READY WORK ON AUTHORITY POLES IF THE AUTHORITY ELECTS TO HAVE A
8 CONTRACTOR PERFORM THE AUTHORITY'S DUTIES UNDER THIS SECTION WHEN THE
9 AUTHORITY HAS FAILED TO MEET THE DEADLINES SPECIFIED IN THIS SECTION.

10 (5) A PERSON OWNING, MANAGING, OR CONTROLLING AN AUTHORITY
11 UTILITY POLE MAY NOT REQUIRE MORE MAKE-READY WORK THAN IS REQUIRED TO
12 SATISFY ANY APPLICABLE CODES OR INDUSTRY STANDARDS.

13 (6) A FEE FOR MAKE-READY WORK MAY NOT:

14 (I) INCLUDE COSTS RELATED TO PREEXISTING OR PRIOR
15 DAMAGE OR NONCOMPLIANCE;

16 (II) EXCEED ACTUAL COSTS OR THE AMOUNT CHARGED TO ANY
17 OTHER CABLE, INFORMATION SERVICE, OR TELECOMMUNICATIONS PROVIDER FOR
18 SIMILAR WORK; OR

19 (III) INCLUDE ANY CONSULTANT FEES OR EXPENSES.

20 **8-706.**

21 (A) AN AUTHORITY MAY NOT REQUIRE A WIRELESS PROVIDER TO PAY ANY
22 RATE, FEE, OR OTHER COMPENSATION TO THE AUTHORITY OR ANY OTHER PERSON
23 EXCEPT AS AUTHORIZED BY THIS SUBTITLE FOR:

24 (1) THE RIGHT TO USE OR OCCUPY A RIGHT-OF-WAY;

25 (2) THE COLLOCATION OF SMALL WIRELESS FACILITIES ON UTILITY
26 POLES IN A RIGHT-OF-WAY; OR

27 (3) THE INSTALLATION, MAINTENANCE, MODIFICATION, OPERATION,
28 OR REPLACEMENT OF UTILITY POLES IN A RIGHT-OF-WAY.

29 (B) AN APPLICATION FEE FOR A PERMIT ISSUED UNDER THIS SUBTITLE
30 FOR:

1 **(1) THE COLLOCATION OF SMALL WIRELESS FACILITIES ON EXISTING**
2 **OR REPLACEMENT AUTHORITY UTILITY POLES MAY NOT EXCEED \$500 FOR A SINGLE**
3 **UP-FRONT APPLICATION THAT INCLUDES UP TO FIVE SMALL WIRELESS FACILITIES,**
4 **WITH AN ADDITIONAL \$100 FOR EACH SMALL WIRELESS FACILITY BEYOND THE**
5 **INITIAL FIVE ON THE SAME APPLICATION;**

6 **(2) THE INSTALLATION, MODIFICATION, OR REPLACEMENT OF A**
7 **UTILITY POLE TOGETHER WITH THE COLLOCATION OF AN ASSOCIATED SMALL**
8 **WIRELESS FACILITY THAT ARE PERMITTED USES AS OF RIGHT UNDER § 8-703 OF**
9 **THIS SUBTITLE MAY NOT EXCEED \$1,000 PER UTILITY POLE; AND**

10 **(3) THE INSTALLATION, MODIFICATION, OR REPLACEMENT OF A NEW**
11 **UTILITY POLE ASSOCIATED WITH A SMALL WIRELESS FACILITY THAT IS NOT A**
12 **PERMITTED USE AS OF RIGHT UNDER § 8-703 OF THIS SUBTITLE MAY NOT EXCEED**
13 **\$1,000.**

14 **(C) A RATE FOR THE OCCUPANCY OF A RIGHT-OF-WAY MAY NOT EXCEED**
15 **\$20 PER YEAR FOR EACH SMALL WIRELESS FACILITY.**

16 **(D) A RATE FOR THE COLLOCATION OF A SMALL WIRELESS FACILITY**
17 **ATTACHED TO AN AUTHORITY UTILITY POLE SHALL BE SET AT \$100 PER YEAR FOR**
18 **EACH SMALL WIRELESS FACILITY CONNECTED TO AN AUTHORITY UTILITY POLE.**

19 **8-707.**

20 **(A) THE DISTRICT COURT SHALL HAVE JURISDICTION OVER ANY DISPUTE**
21 **ARISING UNDER THIS SUBTITLE.**

22 **(B) THE DISTRICT COURT SHALL ADJUDICATE A CASE ARISING FROM A**
23 **DISPUTE UNDER THIS SUBTITLE WITHIN 180 DAYS AFTER THE COMPLAINT OR**
24 **PETITION IS FILED.**

25 **8-708.**

26 **(A) AN AUTHORITY MAY NOT REQUIRE A WIRELESS PROVIDER TO**
27 **INDEMNIFY AND HOLD HARMLESS THE AUTHORITY AND ITS OFFICERS AND**
28 **EMPLOYEES AGAINST ANY LOSS, DAMAGE, OR LIABILITY, EXCEPT WHEN A COURT OF**
29 **COMPETENT JURISDICTION HAS FOUND THAT THE LOSS, DAMAGE, OR LIABILITY**
30 **WAS DIRECTLY CAUSED BY THE NEGLIGENCE OF THE WIRELESS PROVIDER WHEN**
31 **INSTALLING, REPAIRING, OR MAINTAINING SMALL WIRELESS FACILITIES AND**
32 **ASSOCIATED UTILITY POLES.**

33 **(B) (1) EXCEPT FOR A WIRELESS PROVIDER WITH AN EXISTING**

1 AGREEMENT OR LICENSE TO OCCUPY AND OPERATE IN THE RIGHTS-OF-WAY,
2 DURING THE PERIOD IN WHICH THE WIRELESS PROVIDER'S FACILITIES ARE
3 LOCATED ON THE AUTHORITY IMPROVEMENTS OR RIGHTS-OF-WAY, THE
4 AUTHORITY MAY REQUIRE THE WIRELESS PROVIDER TO CARRY, AT THE WIRELESS
5 PROVIDER'S OWN COST AND EXPENSE, THE FOLLOWING INSURANCE:

6 (I) PROPERTY INSURANCE FOR THE AUTHORITY'S PROPERTY'S
7 REPLACEMENT COST AGAINST ALL RISKS;

8 (II) WORKERS' COMPENSATION INSURANCE, AS REQUIRED BY
9 LAW; OR

10 (III) COMMERCIAL GENERAL LIABILITY INSURANCE WITH
11 RESPECT TO THE WIRELESS PROVIDER'S ACTIVITIES ON THE AUTHORITY
12 IMPROVEMENTS OR RIGHTS-OF-WAY TO AFFORD MINIMUM PROTECTION LIMITS
13 CONSISTENT WITH THE AUTHORITY'S REQUIREMENTS OF OTHER USERS OF
14 AUTHORITY IMPROVEMENTS OR RIGHTS-OF-WAY, INCLUDING COVERAGE FOR
15 BODILY INJURY AND PROPERTY DAMAGE.

16 (2) AN AUTHORITY MAY REQUIRE A WIRELESS PROVIDER TO INCLUDE
17 THE AUTHORITY AS AN ADDITIONAL INSURED ON THE COMMERCIAL GENERAL
18 LIABILITY POLICY AND PROVIDE CERTIFICATION AND DOCUMENTATION OF
19 INCLUSION OF THE AUTHORITY IN A COMMERCIAL GENERAL LIABILITY POLICY AS
20 REASONABLY REQUIRED BY THE AUTHORITY.

21 (3) (I) A WIRELESS PROVIDER MAY SELF-INSURE ALL OR A
22 PORTION OF THE INSURANCE COVERAGE AND LIMIT REQUIREMENTS REQUIRED BY
23 AN AUTHORITY.

24 (II) A WIRELESS PROVIDER THAT SELF-INSURES IS NOT
25 REQUIRED, TO THE EXTENT OF THE SELF-INSURANCE, TO COMPLY WITH THE
26 REQUIREMENT FOR THE NAMING OF ADDITIONAL INSUREDS UNDER THIS SECTION.

27 (III) A WIRELESS PROVIDER THAT ELECTS TO SELF-INSURE
28 SHALL PROVIDE TO THE AUTHORITY EVIDENCE SUFFICIENT TO DEMONSTRATE THE
29 WIRELESS PROVIDER'S FINANCIAL ABILITY TO SELF-INSURE THE INSURANCE
30 COVERAGE AND LIMITS REQUIRED BY THE AUTHORITY.

31 (C) (1) AN AUTHORITY MAY ADOPT, THROUGH LOCAL LAW, SURETY
32 BONDING REQUIREMENTS FOR WIRELESS PROVIDERS COLLOCATING SMALL
33 WIRELESS FACILITIES ONLY IF THE AUTHORITY IMPOSES SIMILAR SURETY BONDING
34 REQUIREMENTS ON OTHER PERSONS USING A RIGHT-OF-WAY.

1 **(2) THE PURPOSE OF A SURETY BOND REQUIRED UNDER PARAGRAPH**
2 **(1) OF THIS SUBSECTION SHALL BE TO:**

3 **(I) PROVIDE FOR THE REMOVAL OF ABANDONED OR**
4 **IMPROPERLY MAINTAINED SMALL WIRELESS FACILITIES, INCLUDING THOSE THAT**
5 **THE AUTHORITY DETERMINES NEED TO BE REMOVED TO PROTECT PUBLIC HEALTH,**
6 **SAFETY, OR WELFARE AND RESTORE THE RIGHT-OF-WAY; OR**

7 **(II) RECOUP RATES OR FEES THAT HAVE NOT BEEN PAID BY A**
8 **WIRELESS PROVIDER IN MORE THAN 12 MONTHS, IF THE AUTHORITY HAS GIVEN**
9 **REASONABLE NOTICE TO THE WIRELESS PROVIDER AND THE OPPORTUNITY TO PAY**
10 **THE RATES OR FEES OUTSTANDING.**

11 **(3) SURETY BONDING REQUIREMENTS UNDER THIS SUBSECTION MAY**
12 **NOT EXCEED \$200 FOR EACH SMALL WIRELESS FACILITY, UP TO A MAXIMUM**
13 **AMOUNT OF \$10,000 FOR ALL SMALL WIRELESS FACILITIES OWNED BY A WIRELESS**
14 **PROVIDER IN THE JURISDICTION.**

15 **8-709.**

16 **(A) (1) AN AUTHORITY MAY ENACT A LOCAL LAW TO CARRY OUT THE**
17 **REQUIREMENTS OF THIS SUBTITLE.**

18 **(2) IF AN AUTHORITY DOES NOT ENACT A LOCAL LAW TO CARRY OUT**
19 **THE REQUIREMENTS OF THIS SUBTITLE, A WIRELESS PROVIDER MAY INSTALL AND**
20 **OPERATE SMALL WIRELESS FACILITIES AND UTILITY POLES IN ACCORDANCE WITH**
21 **THIS SUBTITLE.**

22 **(B) (1) IF THERE IS AN INCONSISTENCY BETWEEN THIS SUBTITLE AND A**
23 **LOCAL LAW THAT APPLIES TO SMALL WIRELESS FACILITIES AND ASSOCIATED**
24 **UTILITY POLES, THIS SUBTITLE SHALL PREVAIL OVER THE LOCAL LAW TO THE**
25 **EXTENT OF THE INCONSISTENCY.**

26 **(2) AN AGREEMENT OR ORDINANCE THAT APPLIES TO SMALL**
27 **WIRELESS FACILITIES OR UTILITY POLES THAT WAS IN EFFECT BEFORE JUNE 1,**
28 **2019, IS VALID AND ENFORCEABLE ONLY AS TO SMALL WIRELESS FACILITIES THAT**
29 **BECAME OPERATIONAL OR WERE CONSTRUCTED BEFORE JUNE 1, 2019.**

30 **(C) (1) EXCEPT TO ENSURE COMPLIANCE WITH APPLICABLE CODES THAT**
31 **ARE BUILDING, ELECTRICAL, PLUMBING, OR MECHANICAL CODES, AN AUTHORITY**
32 **DOES NOT HAVE ANY AUTHORITY OVER THE DESIGN, ENGINEERING,**
33 **CONSTRUCTION, INSTALLATION, OR OPERATION OF A SMALL WIRELESS FACILITY**
34 **THAT IS NOT LOCATED ON PROPERTY OWNED OR CONTROLLED BY THE AUTHORITY.**

1 **(2) AN AUTHORITY SHALL EVALUATE THE STRUCTURE**
2 **CLASSIFICATION FOR WIRELESS SUPPORT STRUCTURES UNDER THE LATEST**
3 **VERSION OF ANSI/TIA-222.**

4 **(D) NOTHING IN THIS SUBTITLE AUTHORIZES THE STATE OR AN AUTHORITY**
5 **TO:**

6 **(1) REQUIRE WIRELESS FACILITY DEPLOYMENT; OR**

7 **(2) REGULATE WIRELESS SERVICES.**

8 **(E) NOTHING IN THIS SECTION MAY BE CONSTRUED TO IMPOSE OR**
9 **OTHERWISE AFFECT ANY RIGHTS, CONTROLS, TARIFFS, OR CONTRACTUAL**
10 **OBLIGATIONS THAT MAY BE ESTABLISHED WITH REGARD TO THE UTILITY POLES,**
11 **SIMILAR STRUCTURES, OR EQUIPMENT OF ANY TYPE THAT ARE OWNED OR**
12 **CONTROLLED BY AN INVESTOR-OWNED ELECTRIC UTILITY WHOSE RATES ARE**
13 **REGULATED BY THE COMMISSION OR ANY OF THE UTILITY'S AFFILIATES, OR BY ANY**
14 **INDEPENDENT TRANSMISSION COMPANY.**

15 13-101.

16 (a) This section does not apply to a violation of the following provisions of this
17 article:

18 (1) Title 5, Subtitle 4;

19 (2) Title 7, Subtitle 1;

20 (3) Title 8, Subtitles [1 and] 1, 3, AND 7; and

21 (4) Title 9, Subtitle 3.

22 (b) A person may not fail, neglect, or refuse to comply with any provision of this
23 division or any effective and outstanding direction, ruling, order, rule, regulation, or
24 decision of the Commission.

25 (c) An individual who knowingly violates or knowingly aids or abets a public
26 service company in the violation of subsection (b) of this section or any provision of this
27 division:

28 (1) is guilty of a misdemeanor; and

29 (2) unless a different punishment is specifically provided by law, on
30 conviction is subject to a fine not exceeding \$1,000 for a first offense and not exceeding

1 \$5,000 for each additional or subsequent offense.

2 13–201.

3 (a) This section does not apply to a violation of the following provisions of this
4 article:

5 (1) Title 5, Subtitle 4;

6 (2) Title 7, Subtitle 1;

7 (3) § 7–213 as it applies to electric cooperatives;

8 (4) Title 8, Subtitles [1 and] 1, 3, AND 7;

9 (5) Title 9, Subtitle 3; and

10 (6) Title 8, Subtitle 4.

11 (b) (1) Except as provided in paragraph (2) of this subsection, the Commission
12 may impose a civil penalty not exceeding \$25,000 against a person who violates a provision
13 of this division, or an effective and outstanding direction, ruling, order, rule, or regulation
14 of the Commission.

15 (2) The civil penalty that the Commission may impose on a common carrier
16 for each violation may not exceed \$2,500.

17 (c) (1) A civil penalty may be imposed in addition to any other penalty
18 authorized by this division.

19 (2) Each violation is a separate offense.

20 (3) Each day or part of a day the violation continues is a separate offense.

21 (d) The Commission shall determine the amount of any civil penalty after
22 considering:

23 (1) the number of previous violations of any provision of this article;

24 (2) the gravity of the current violation;

25 (3) the good faith efforts of the violator in attempting to achieve compliance
26 after notification of the violation; and

27 (4) any other matter that the Commission considers appropriate and
28 relevant.

1 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, a civil
2 penalty collected under this section shall be paid into the General Fund of the State.

3 (2) A civil penalty assessed for a violation of a service quality and reliability
4 standard under § 7–213 of this article shall be paid into the Electric Reliability Remediation
5 Fund under § 7–213(j) of this article.

6 (3) A civil penalty assessed for a violation of § 7–505(b)(7), § 7–507, §
7 7–603, § 7–604, or § 7–606 of this article, or a rule, an order, or a regulation adopted under
8 any of those sections, shall be paid into the Retail Choice Customer Education and
9 Protection Fund under § 7–310 of this article.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
11 1, 2019.