

# CITY COUNCIL REPORT



Meeting Date: December 4, 2017  
 General Plan Element: *Public Services and Facilities*  
 General Plan Goal: *Encourage provision of power and communication systems that match the character of Scottsdale and provide reliable, efficient service for Scottsdale citizens, visitors and businesses.*

## ACTION

### Small Wireless Facility Fees

1. Adopt Resolution No. 10945, establishing a new fee schedule for small wireless facilities (SWF's) in the City's rights-of-way (ROW).

## PURPOSE

The purpose of this City Council Action is to create an application fee, plan review fee, permit fee and annual rent fee for small wireless facilities (SWF) in compliance with Arizona House Bill 2365.

## BACKGROUND

### Arizona HB 2365

On March 31, 2017, Arizona Governor Doug Ducey signed into law House Bill 2365, which amended Title 9, chapter 5 of the Arizona Revised Statutes, by adding Article 8 regarding use of the public right-of-way by wireless providers, such as Verizon, AT&T, T-Mobile and Mobility among others for the installation of "small cell" wireless sites, also known as small wireless facilities. Small wireless facilities are antennas, less than six cubic feet in size, co-located on streetlight poles, traffic signal poles, utility poles or stand-alone poles within the public right-of-way (ROW). This bill requires several changes to the City's application, plan review and permit fee schedules. Some aspects of the bill are as follows:

- Defines a Small Wireless Facility (SWF) as a wireless facility that meets both of the following qualifications:
  - All antennas are located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of not more than six (6) cubic feet in volume.
  - All other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume, or fifty (50) cubic feet in volume if the equipment

was ground mounted before August 9, 2017.

- Streamlines the permitting process for SWF, making these facilities a permitted use exempt from zoning review.
- Allows wireless carriers and wireless infrastructure providers access to the public rights-of-way to collocate new SWF on City street light poles, utility poles and other vertical structures.
- Allows wireless carriers and wireless infrastructure providers access to the public rights-of-way to build new poles within the right-of-way for SWF. New poles would be subject to a zoning process, but the fees would be dictated by House Bill 2365.
- Sets timeframes for the approval or denial of a SWF – 75 days or the application is automatically approved.
- Requires a local government to grant approval of a SWF unless the application does not meet regulations concerning public safety, design standards, concealment requirements or spacing requirements for ground-mounted equipment in the right-of-way.
- Prohibits cities from imposing moratorium on receiving and processing SWF permits.
- Caps application, plan review and permit fees at \$750 for SWF on new, replacement, or modified utility poles or streetlight poles, and \$1,000 for SWF on new, replacement or modified monopoles. The three-year average for application, plan review and permit fees has been \$2,282 for each SWF location.
- Caps the amount of annual fee (rent) for the use of the right-of-way a City can charge for a SWF within the public right-of-way at \$50 per year for use of the right-of-way, or \$100 per year if the facility is co-located on City owned streetlights, utility poles or other vertical elements.
- Scottsdale currently has 179 wireless communication facilities within the public ROW's that could qualify as a SWF, per the definition. HB2365 says existing agreements with wireless providers that are in effect on August 9, 2017 will remain in effect subject to applicable termination provisions. These currently generate \$693,217 annually as of fiscal year 2017/2018. Wireless providers may accept the new rates, fees and terms that are consistent with HB2365 for SWF if they resubmit applications to the City.
- Scottsdale currently has fifty-nine (59) existing larger sized wireless communication facilities in the public ROW that are not considered SWF's and not impacted by HB2365. These currently generate \$652,070 annually as of fiscal year 2017/18.

Currently, all wireless communication facilities (WCF), including small wireless facilities located within the public right-of-way go through a zoning approval process (Administrative approval or Development Review Board (DRB) approval) and pay application fees, plan review fees, and permit fees. The three-year average cost for application, plan review and permit fees for small wireless

## City Council Report | Small Wireless Facility Fees

facilities has been \$2,282 (if a Development Review Board application was required). As previously mentioned - application, plan review and permit fees for SWF must now be capped at \$750 or \$1,000, depending on if an existing vertical element is being utilized, or if a new vertical element is being installed. The below chart summarizes current and proposed fee changes recommended to comply with HB2365.

	<b>CURRENT DEVELOPMENT REVIEW FEES/COSTS</b>	<b>PROPOSED FEES FOR SWF ON STREETLIGHT POLES AND UTILITY POLES</b>	<b>PROPOSED FEES FOR SWF ON NEW MONOPOLES</b>
Pre-Application Fee	\$87	\$87	\$87
Application Fee	\$460 (Administrative Approval), or \$1,515 (DRB)	None	\$250
Plan Review Fee	Average \$365	\$365	\$365
Permit Fees	Average \$315	\$298	\$298

*See Exhibit A for proposed development fee sheet changes.*

Currently, small wireless facilities located within the public right-of-way pay an annual fee for use of the right-of-way rent of \$3,790 if it's co-located on a streetlight pole and \$4,011 if it's located on its own pole, or within a faux cactus. HB 2365 mandates that the annual fee not exceed \$50 per site for use of the right-of-way, or \$100 if attached to a City owned pole or vertical structure in the right-of-way.

<b>TYPE</b>	<b>CURRENT ANNUAL ROW USE FEE (RENT)</b>	<b>PROPOSED ANNUAL ROW USE FEE (RENT)</b>
Streetlight pole, signal pole, utility pole small wireless facilities	\$3,790	\$100
Stand-alone monopoles or faux cactus	\$4,011	\$50

*See Exhibit A for proposed annual fees for small wireless facilities and wireless communication facilities on the rights-of-way.*

There are currently 360 approved wireless communication facilities within Scottsdale. 239 of these wireless communication facilities are located within the public rights-of-way. Of the 239 approved wireless communication facilities in the public right-of-way, 179 would likely be considered SWF per the HB2365 definition. HB2365 says existing agreements with wireless providers that are in effect on August 9, 2017 will remain in effect subject to applicable termination provisions. Wireless

providers may accept the new rates, fees and terms that are consistent with HB2365 for SWF and utility poles and streetlight poles that are the subject of an application submitted after the rates, fee and terms become effective.

Many of the existing antenna right-of-way license agreements (ARLA's) for SWF's with Crown Castle are set to expire between 2019 through 2022. At that time (or earlier if they request termination of the agreement), the City would charge rates consistent with HB2365 if they re-apply to keep the site in place. When fully implemented, this could result in an annual revenue loss to the city of \$678,667 not including the one-time offset for fees collected during the application process.

CARRIER	NUMBER OF SWF's	CURRENT ANNUAL BILLING	HB2365 ANNUAL BILLING	LOSS
Verizon	12	\$45,480	\$1,200 (\$100x12)	\$44,280
Crown Castle	67 cacti/slim line pole	\$268,737	\$3,350 (\$50x67)	\$265,387
	100 streetlights	\$379,000	\$10,000 (\$100x100)	\$369,000
TOTAL	179	\$693,217	\$14,550	<b>\$678,667</b>

## IMPLICATIONS

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- Expedited review and approval process
- Reduction of application, plan review and permit fees by approximately \$1,282 or \$1,532 per SWF depending on the type of SWF.
- Reduction of annual right-of-way use fee (rent) from \$4,011 to \$50, or from \$3,790 to \$100 per SWF depending on the type of SWF.

## OPTIONS & STAFF RECOMMENDATION

### Recommended Approach

Approve Resolution 10945 establishing an adjusted fee schedule for small wireless facilities within the public right-of-ways.

## RESPONSIBLE DEPARTMENT

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Planning and Development Services

## STAFF CONTACT

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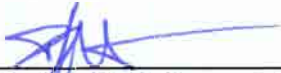
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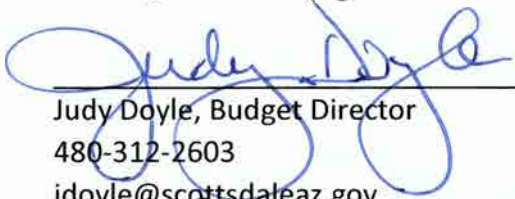
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11-14-2017  
Date



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11/14/2017  
Date



Judy Doyle, Budget Director  
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11.14.17  
Date



Randy Grant, Planning & Development Director  
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11/14/17  
Date

## ATTACHMENTS

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- 1: Resolution 10945  
Exhibit A: Fee Schedule
- 2: Arizona House Bill 2365

RESOLUTION NO. 10945

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE,  
ARIZONA, AUTHORIZING PLANNING AND DEVELOPMENT RATES  
AND FEES.

WHEREAS, Arizona State Legislature House Bill 2365 ("HB2365") became effective on or about August 9, 2017; and

WHEREAS, House Bill 2365 introduced a new category of wireless communication facilities defined in A.R.S. § 9-591 *et seq.* as Small Wireless Facilities ("SWF"); and

WHEREAS, HB2365 requires the City to recognize SWF but also allows the City to recover some of its costs for providing services associated with plan review, building permits, and other fees related to development processing; and

WHEREAS, HB2365 allows the City to charge certain fees for use of the City's rights-of-way to install SWF;

NOW THEREFORE LET IT BE RESOLVED by the City Council of the City of Scottsdale, Arizona, as follows:

Section 1. The City Council hereby authorizes the Planning & Development Department to adjust its rates and fees for the Small Wireless Communications Facilities in the rights-of-way (ROW) to the amounts stated in **Exhibit "A"**, attached and by reference made part of this Resolution. All other Planning & Development rates and fees remain as previously adopted and established.

Section 2. The Small Wireless Facilities in the right-of-way (ROW) fees shall become effective February 1, 2018.

Section 3. Provided, however, the new fees for SWF as set forth in this resolution shall only apply to antenna sites in the right-of-way (ROW) meeting the definition of SWF as set forth in HB2365 and for which an antenna in the right of way license agreement is issued by the City after February 1, 2018.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CITY OF SCOTTSDALE, an Arizona  
municipal corporation

By: \_\_\_\_\_  
W. J. "Jim" Lane, Mayor

ATTEST:

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
Bruce Washburn, City Attorney  
By: Eric C. Anderson, Senior Assistant City Attorney

16057046v1

# Application Fee Schedule



Official Schedule of City of Scottsdale Rates and Fees at: [www.scottsdaleaz.gov](http://www.scottsdaleaz.gov) - keyword "Fees".

<b><u>Pre-Application</u></b>	\$87	<b><u>General Plan Amendments</u></b>	
<b><u>Records Packet</u></b>	\$21	Major	\$3,900
<b><u>Abandonment of Right of Way</u></b>		Non-major	\$1,950
Single Family Lot	\$1,600	<b><u>Hardship Exemption</u></b>	\$153
All Other Abandonments, including		<b><u>In-lieu Parking</u></b>	\$153
Subdivisions	\$2,250	<b><u>Minor Amendment</u></b>	\$153
<b><u>Annexation / De-annexation</u></b>	\$1,950	<b><u>Records Changes</u></b>	
<b><u>Board of Adjustment</u></b>		Street Name Change	\$250
Appeal	\$153	Address Change Residential	\$50
Residential Variance (Single Family Lot)	\$153	Address Change Commercial	\$100
All Other Variances	\$1,240	<b><u>Special Exception</u></b>	\$153
<b><u>Building Advisory Board of Appeals</u></b>		<b><u>Zoning District Map Amendment</u></b>	
Commercial	\$320	Residential District	\$1,140 + per acre fee
Residential	No charge	Commercial District	\$2,140 + per acre fee
<b><u>Conditional Use Permit</u></b>		Industrial District	\$2,140 + per acre fee
Major	\$2,440	Mixed-use District	\$5,515 + per acre fee
Minor	\$615	Supplementary District	
<b><u>Development Review (DRB)</u></b>		Parking P-1	\$2,140 + per acre fee
Land Division (Preliminary Plat)		Parking P-2	\$2,140 + per acre fee
Major Subdivision	\$2,400 + \$18 per lot	Western Theme Park	\$2,140 + per acre fee
Minor Subdivision	\$1,200 + \$18 per lot	Open Space	\$1,140 + per acre fee
New Construction	\$1,515	Conservation Open Space	\$1,140 + per acre fee
Revision	\$460	ESL Amendments to Map	\$375
Time extension	\$305	ESL Density Transfer	\$2,140 + per acre fee
<b><u>Development Review (Minor) – Staff Approval</u></b>		ESL Density Incentive	\$1,140 + per acre fee
Major	\$307	All other	Underlying district fees only
(includes new Master Sign Program)		Time extension/revision	\$745
Minor	\$87	<b><u>Rezoning per acre</u></b>	
Amendment to Master Sign Program	\$87	0-20	No additional fees
Cuts/Fills	\$460	21-100	\$70
Wash Modification	\$460	101-600	\$53
Time extension	\$87	601+ acres	\$46
Small Wireless Facility "SWF" on street		<b><u>Zoning Text Amendment</u></b>	
light or utility poles	No charge	Major	\$2,440
Small Wireless Facility "SWF" on new		Minor	\$875
monopoles	\$250		
Wireless Communications Facilities	\$460		

Note: This schedule is not all-inclusive and other fees may apply.

## Planning & Development Services

7447 E Indian School Road, Suite 100, Scottsdale, AZ 85251

Resolution No. 10945

Exhibit A

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# Plan Review Fee Schedule

## Commercial



Official Schedule of City of Scottsdale Rates and Fees at: [www.scottsdaleaz.gov](http://www.scottsdaleaz.gov) - keyword "Fees".

### Commercial

Livable area with A/C	\$0.35 Sq. Ft.
Covered area (non A/C)	\$0.20 Sq. Ft.

### Foundation Only

\$0.35 Sq. Ft. x 25% + \$235

### Shell Only

Livable area with A/C	\$0.35 Sq. Ft. x 95%
Covered area (non A/C)	\$0.20 Sq. Ft.

### Commercial Addition

Livable area with A/C	\$0.35 Sq. Ft.
Covered area (non A/C)	\$0.20 Sq. Ft.

### Commercial Remodel / Tenant Improvement

Livable area with A/C	\$0.35 Sq. Ft. x 30%
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### Apartments/Condos

Livable Area with A/C	\$0.35 Sq. Ft.
Covered area (non A/C)	\$0.20 Sq. Ft.

**\*Apts/Condos with 4 or more units & reoccurring floor plans pay 50% of the calculated fee for 0-100,000 sq. ft. of livable space & 25% for livable square feet over 100,000 sq. ft.**

### Engineering Site Review (per sheet)

#### Per ESL Desert Land Form

	<u>NON/LOWER</u>	<u>UPPER</u>	<u>HILLSIDE</u>
Paving	\$690	\$730	\$755
Grading/Drainage	\$690	\$730	\$755
Water/Sewer	\$690	\$730	\$755
Traffic (sign/stripe)	\$690	\$730	\$755
Landscape	\$690	\$730	\$755
Map of Dedication	\$690	\$730	\$755
Condominium Plat	\$690	\$730	\$755
Preliminary Grading	\$235	\$235	\$235
Revision to Approved Engineering Plan	\$235	\$235	\$235

### Master Plan Review (per set)

Water Master Plan	\$895	\$980	\$1,020
Sewer Master Plan	\$895	\$980	\$1,020
Circulation Master Plan	\$895	\$980	\$1,020
Drainage Master Plan	\$895	\$980	\$1,020
Environmental Design Master Plans	\$895	\$980	\$1,020

### Small Wireless Facility - "SWF"

\$365	\$365	\$365
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### Complete Master Plan Package

\$3,600	\$3,940	\$4,090
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### Minor Revision to Approved Master Plans

\$480	\$480	\$480
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### Major Revision or Addition to Approved Master Plan

Individual Plans	\$900	\$980	\$1,020
Complete Package	\$2,400	\$2,580	\$2,800

**Note: This schedule is not all inclusive and other fees may apply.**

## Planning & Development Services

7447 E Indian School Road, Suite 100, Scottsdale, AZ 85251

Resolution No. 10945

Exhibit A

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# Right of Way/Improvement Permits

## Permission to Work in Right of Way (P.W.R.)

### Fee Schedule



Official Schedule of City of Scottsdale Rates and Fees at: [www.scottsdaleaz.gov](http://www.scottsdaleaz.gov) - keyword "Fees".

#### IMPROVEMENT PLANS

The following inspection and permit fees are required for the specified encroachments, and must be paid in addition to all other required fees.

Item	Unit	Fee
Paving, Asphaltic concrete (single course)	Square yard	\$0.68
Paving, Overlay or top course of multicourse paving	Square yard	\$0.21
Paving, Portland cement concrete	Square yard	\$0.52
Decorative sidewalk or paving (Bomanite, Terrazzo, etc)	Square foot	\$0.21
Sidewalk and bicycle path	Square foot	\$0.16
Curb and gutter	Linear foot	\$0.31
Valley gutter	Square foot	\$0.97
Concrete apron including curb and/or wheelchair ramps	Each	\$25.16
Scuppers & building drains	Each	\$20.00
Alley surfacing (non A.C.)	Square yard	\$0.16
Cutoff walls	Linear foot	\$0.47
Slope protection (riprap, gabions, gunnite, cobbles, etc.)	Square yard	\$0.83
Dry wells (Maxwell or similar types)	Each	\$118
Irrigation and storm drain pipe	Linear foot	\$2.27
Pressure manholes	Each	\$118
Catchbasins, headwalls, irrigation, S.D. and water manholes	Each	\$53
Sanitary Sewer (except truss and PVC pipe)	Linear foot	\$0.88
Sanitary Sewer (truss and PVC pipe)	Linear foot	\$1.17
Sanitary Sewer taps and service line (from main to property line)	Linear foot	\$0.49
Sanitary Sewer manholes, without drop connection	Each	\$78
Cleanouts and drop connections	Each	\$47.31
Pipe encasements (in twenty-linear-foot sections)	Each	\$18.76
Water line	Linear foot	\$0.67
Water service line	Linear foot	\$0.49
Tapping sleeves and valves	Each	\$78
Fire hydrants and lines from existing mains	Linear foot	\$12.80
Borings	Linear foot	\$6.68
Sprinkler system, piping (for landscaping)	Linear foot	\$0.23
Telecommunications, Cable TV, or other communications underground cable of conduit (placed in trench excavated by or for party laying cable or conduit; includes trenching & backfill)	Linear foot	\$0.44
Barricading (permanent-wooden)	Each	\$36
Guard Rail	Linear foot	\$0.36

# Right of Way/Improvement Permits

## Permission to Work in Right of Way (P.W.R.)

### Fee Schedule



Official Schedule of City of Scottsdale Rates and Fees at: [www.scottsdaleaz.gov](http://www.scottsdaleaz.gov) - keyword "Fees".

Item		Unit	Fee
Trash Enclosure – Single Enclosure		Each	\$205
Trash Enclosure – Double Enclosure		Each	\$270
Utility trenching and backfill		Linear Foot	\$0.47
Splice and repair pits (backfill and patch)		Each	\$57
Survey monuments		Each	\$12.80
Adjustments: Manholes, valves, cleanouts, monuments, etc.		Each	\$20.34
Signs (regulatory, warning, street, etc.)		Each	\$8.56
Television inspections for sewer lines		Linear foot	\$0.60
Haul Permits		Cubic Yard	\$0.08
Excavation and fill in public right-of-way and easements			
Cubic Yards	Less than 100	No charge	
	101 - 1,000	\$133 for first 100 cubic yards, plus \$56 for each additional 100 cubic yards or fraction thereof	
	1,001 – 10,000	\$650 for first 1,000 cubic yards, plus \$56 for each additional 1,000 cubic yards or fraction thereof	
	10,001 – 100,000	\$1,175 for first 10,000 cubic yards, plus \$255 for each additional 10,000 cubic yards or fraction thereof	
	100,001 or more	\$3,345 for first 100,000 cubic yards, plus \$255 for each additional 10,000 cubic yards or fraction thereof	
Small Wireless Facility "SWF" Right-of-Way Permit			\$298
As Builts (GIS)			\$255
Planning Inspection			\$128
After Hours Inspection Fee			\$225 per hour
Base Fee			\$159, plus itemized fees

#### Multiple permits – Base Fee

If more than one permit is required for a single project, only the highest base fee shall be paid. If reinspection is necessary on any inspection with a total permit fee less than \$78, a reinspection fee will be charged at 75% of the original total base fee.

**Miscellaneous improvements** not covered by the fees listed above shall be charged in accordance with the following rate schedule, based on the estimated or actual cost of building the improvements:

6% of the first \$20,000 or portion thereof, plus 5% of the portion between \$20,000 and \$100,000, plus 3% of the portion over \$100,000.

# **Right of Way/Improvement Permits**

## **Permission to Work in Right of Way (P.W.R.)**

### **Fee Schedule**



Official Schedule of City of Scottsdale Rates and Fees at: [www.scottsdaleaz.gov](http://www.scottsdaleaz.gov) - keyword "Fees".

#### **Street Cut Surcharge (In addition to any permit fees)**

New paving less than 12 months old

- Openings 9 square feet to 9 lineal feet: \$1,555 each 50 feet
- Openings over 9 lineal feet then A-1 plus: \$3,890 each 50 feet

New paving 12 to 24 months old

- Openings 9 square feet to 9 lineal feet: \$990 each 50 feet
- Openings over 9 lineal feet then B-1 plus: \$2,490 each 50 feet

New paving 25 to 48 months

- Openings 9 square feet to 9 lineal feet: \$495 each 50 feet
- Openings over 9 lineal feet then C-1 plus: \$1,240 each 50 feet

#### **Phased Engineering Permits**

A surcharge will be charged for the phased construction of infrastructure (grading, water/sewer, streets/curb/sidewalk and trails). The surcharge will be 25% (per phase) in addition to the permit value of the requested phase.

# Annual Fees For SWF & WCF In The Right-Of-Way



Effective February 9, 2018 through June 30, 2018

## Annual Right-of-Way Use Fees for Small Wireless Facilities (SWF)

### Small Wireless Facility (SWF) on City-owned Pole in the ROW

*Antenna area 6 cubic feet or less with associated equipment 28 cubic feet or less.*

- A. \$50.00 per SWF site per calendar year for use of the right-of-way.
- B. \$50.00 per SWF site per calendar year for the co-location of a SWF on a City-owned streetlight, traffic signal pole or other City-owned wireless support structure.

### Small Wireless Facility (SWF) on a Third Party-owned Pole in the ROW

*Antenna area 6 cubic feet or less with associated equipment 28 cubic feet or less.*

\$50.00 per SWF site per calendar year for the co-location of a SWF on a Third Party-owned utility pole of wireless support structure in the ROW. Wireless provider shall provide documentation from the Third Party pole owner authorizing the use of the pole as a SWF.

## Annual Right-of-Way Use Fees for non-SWF Wireless Communication Facilities (WCF)

Category 1 – WCF with antennas(s) mounted on an EXISTING vertical element or pole and any associated ground equipment. Each WCF site will have an Antenna Base Fee of \$3,790 for a WCF site on the ROW, plus a Ground Equipment Fee (if applicable) for the cubic feet of ground equipment in the ROW, as set forth below:

	Antenna Base Fee	Equipment Fee	Total WCF Annual Fee
A. Total is 29 c.f. up to 50 c.f.	Included	Included	\$3,790
B. Total is 51 c.f. up to 200 c.f.	\$3,790	\$7,059	\$10,849
C. Total is 201 c.f up to 300 c.f.	\$3,790	\$10,569	\$14,359
D. Total is 301 c.f. up to 400 c.f.	\$3,790	\$14,062	\$17,852
E. Total is 401 c.f. or more	\$3,790	\$17,613	\$21,403

Category 2 – WCF with antennas(s) mounted on a NEW vertical element that is stealth or utilizes alternative concealment when existing vertical elements are not available, and any associated ground equipment. Each WCF site will have an Antenna Base Fee of \$4,011 for a WCF site on the ROW, plus a Ground Equipment Fee (if applicable) for the cubic feet of ground equipment in the ROW, as set forth below:

	Antenna Base Fee	Equipment Fee	Total WCF Annual Fee
A. Total is 29 c.f. up to 50 c.f.	Included	Included	\$4,011
B. Total is 51 c.f. up to 200 c.f.	\$4,011	\$7,059	\$11,069
C. Total is 201 c.f up to 300 c.f.	\$4,011	\$10,569	\$14,580
D. Total is 301 c.f. up to 400 c.f.	\$4,011	\$14,062	\$18,072
E. Total is 401 c.f. or more	\$4,011	\$17,613	\$21,624

## Planning & Development Services

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Category 3 – WCF with antennas(s) mounted on a NEW vertical element that is neither stealth nor concealed in appearance, and any associated ground equipment. Each WCF site will have an Antenna Base Fee of \$5,414 for a WCF site on the ROW, plus a Ground Equipment Fee (if applicable) for the cubic feet of ground equipment in the ROW, as set forth below:

	Antenna Base Fee	Equipment Fee	Total WCF Annual Fee
A. Total is 29 c.f. up to 50 c.f.	Included	Included	\$5,414
B. Total is 51 c.f. up to 200 c.f.	\$5,414	\$7,059	\$12,472
C. Total is 201 c.f. up to 300 c.f.	\$5,414	\$10,569	\$15,982
D. Total is 301 c.f. up to 400 c.f.	\$5,414	\$14,062	\$19,475
E. Total is 401 c.f. or more	\$5,414	\$17,613	\$23,027

Note: This schedule is not all-inclusive and other fees may apply.

### **Annual Fees for WCF in the ROW (Instructions) For Non-SWF Wireless Communication Facilities – Effective February 9, 2018 to June 30, 2018**

The annual encroachment permit fees for wireless communications facilities in the rights-of-way categories above shall be administered according to the following rules:

- 1) The fee structure shall apply to the installation of any antennas, antenna structures, ground equipment, electronics, cabinets, and other appurtenances required or associated with the operation of a wireless communications facility (WCF) in the City's rights-of-way (ROW).
- 2) Antenna Structures and Base Fee – In cases where the existing vertical element is replaced for structural purposes with a pole designed to support the antennas and cabling, the WCF will be categorized as being installed on an existing vertical element. The Antenna Base Fee includes up to 50 cubic feet of ground equipment and any electrical conductors necessary to operate the WCF site.
- 3) Ground Equipment Fee – The ground equipment measurement is calculated by the size of a flat, four- sided "box" (parallel sides of equal length) with a top panel that is parallel to the ground so that the box will cover the ground equipment from the top of the equipment to the ground (non-improved dirt surface), and from side-to side, including any foundation or pad for the equipment. For situations where there is more than one ground equipment fixture or cabinet (adjacent to each other or within the same use area), the equipment fixtures, cabinets and generators are deemed to be part of the same contiguous ground equipment space and will be measured together within the same box. Any Remote Radio Heads or Remote Radio Units mounted to a cabinet, post or wall in the same area with the ground equipment shall be included in the measurement for the ground equipment. Electrical meters and telecom pedestals are not included in the ground equipment.
- 4) WCF site that has both the vertical element and ground equipment in the ROW will be assessed an amount equal to the Antenna Base Fee plus the Ground Equipment Fee, except that:
  - A) WCF sites that have the antennas installed on a vertical element in the ROW but the ground equipment installed on private property will be assessed the Antenna Base Fee only.
  - B) WCF sites with antennas on a vertical element located on private property but with the ground equipment in the ROW, will be assessed the Ground Equipment Fee only. If the ground equipment is less than 50 cubic feet, the annual Ground Equipment Fee shall be the actual cubic feet of the ground equipment multiplied by the FY2017/18 fee of \$35 per cubic foot. If the ground equipment is greater than 50 cubic feet, the applicable ground equipment fee shall apply as provided in the schedule on page 1 of the Annual Fees for WCF in the ROW document.
- 5) All WCF in the ROW must have an Antenna Site Right-of-Way License Agreement (ARLA) document submitted to the City for each WCF site installed and operated in the ROW.

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6) An invoice for the annual WCF in the ROW permit fee is sent to the person and address provided on the ARLA document, one month prior to the anniversary of the ARLA permit issuance date.

7) The ARLA is an encroachment permit allowing the WCF to be in the ROW; a WCF owner or applicant must obtain a "Permission to Work in the ROW" permit to construct, repair or maintain the WCF site.

8) The annual WCF in the ROW permit fee does not include fees and charges for any other planning & development fees, permits, plan review fees, inspection fees, or any other services or approvals that may be required by the City of an owner or applicant of a WCF in the ROW.

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State of Arizona  
House of Representatives  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 124**  
**HOUSE BILL 2365**

AN ACT

AMENDING TITLE 9, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING TITLE 11, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 13; RELATING TO WIRELESS SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 5, Arizona Revised Statutes, is amended  
3 by adding article 8, to read:

4 ARTICLE 8. USE OF PUBLIC HIGHWAYS BY WIRELESS PROVIDERS

5 9-591. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "ANTENNA" MEANS COMMUNICATIONS EQUIPMENT THAT TRANSMITS OR  
8 RECEIVES ELECTROMAGNETIC RADIO FREQUENCY SIGNALS AND THAT IS USED IN  
9 PROVIDING WIRELESS SERVICES.

10 2. "APPLICABLE CODES" MEANS UNIFORM BUILDING, FIRE, ELECTRICAL,  
11 PLUMBING OR MECHANICAL CODES THAT ARE ADOPTED BY A RECOGNIZED NATIONAL  
12 CODE ORGANIZATION OR LOCAL AMENDMENTS TO THOSE CODES THAT ARE ENACTED TO  
13 ADDRESS THREATS OF DESTRUCTION OF PROPERTY OR INJURY TO PERSONS AND TO AN  
14 EXTENT THAT IS NOT INCONSISTENT WITH THIS ARTICLE.

15 3. "APPLICANT" MEANS ANY PERSON THAT SUBMITS AN APPLICATION AND  
16 THAT IS A WIRELESS PROVIDER.

17 4. "APPLICATION" MEANS A REQUEST THAT IS SUBMITTED BY AN APPLICANT  
18 TO AN AUTHORITY FOR A PERMIT TO COLLOCATE SMALL WIRELESS FACILITIES OR TO  
19 APPROVE THE INSTALLATION, MODIFICATION OR REPLACEMENT OF A UTILITY POLE OR  
20 WIRELESS SUPPORT STRUCTURE.

21 5. "AUTHORITY" MEANS ANY CITY, TOWN, SPECIAL DISTRICT OR POLITICAL  
22 SUBDIVISION OF THIS STATE THAT IS AUTHORIZED TO MAKE LEGISLATIVE,  
23 QUASI-JUDICIAL OR ADMINISTRATIVE DECISIONS CONCERNING AN APPLICATION.  
24 AUTHORITY DOES NOT INCLUDE ANY STATE COURT THAT HAS JURISDICTION OVER AN  
25 AUTHORITY AND DOES NOT INCLUDE A COUNTY, SPECIAL TAXING DISTRICT, OR  
26 ELECTRIC COOPERATIVE.

27 6. "AUTHORITY UTILITY POLE" MEANS A UTILITY POLE THAT IS OWNED OR  
28 OPERATED BY AN AUTHORITY AND THAT IS IN A RIGHT-OF-WAY. AUTHORITY UTILITY  
29 POLE DOES NOT INCLUDE A UTILITY POLE FOR ELECTRIC DISTRIBUTION.

30 7. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION  
31 9-505. CABLE OPERATOR DOES NOT INCLUDE A SPECIAL TAXING DISTRICT.

32 8. "COLLOCATE" OR "COLLOCATION" MEANS TO INSTALL, MOUNT, MAINTAIN,  
33 MODIFY, OPERATE OR REPLACE WIRELESS FACILITIES ON, WITHIN OR ADJACENT TO A  
34 WIRELESS SUPPORT STRUCTURE OR UTILITY POLE.

35 9. "COMMUNICATIONS SERVICE" MEANS CABLE SERVICE AS DEFINED IN  
36 47 UNITED STATES CODE SECTION 522(6), INFORMATION SERVICE AS DEFINED IN  
37 47 UNITED STATES CODE SECTION 153(24), TELECOMMUNICATIONS SERVICE AS  
38 DEFINED IN 47 UNITED STATES CODE SECTION 153(53) OR WIRELESS SERVICE.

39 10. "COMMUNICATIONS SERVICE PROVIDER" MEANS A CABLE OPERATOR, A  
40 PROVIDER OF INFORMATION SERVICE AS DEFINED IN 47 UNITED STATES CODE  
41 SECTION 153(24), A TELECOMMUNICATIONS CARRIER AS DEFINED IN 47 UNITED  
42 STATES CODE SECTION 153(51) OR A WIRELESS SERVICES PROVIDER.

43 11. "FEE" MEANS A ONE-TIME CHARGE.

44 12. "LAW" MEANS ANY FEDERAL, STATE OR LOCAL LAW, STATUTE, COMMON  
45 LAW, CODE, RULE, REGULATION, ORDER OR ORDINANCE.

1        13. "MONOPOLE" MEANS A WIRELESS SUPPORT STRUCTURE THAT IS NOT MORE  
2 THAN FORTY INCHES IN DIAMETER AT THE GROUND LEVEL AND THAT HAS ALL OF THE  
3 WIRELESS FACILITIES MOUNTED ON THE POLE OR CONTAINED INSIDE OF THE POLE.

4        14. "PERMIT" MEANS WRITTEN PERMISSION REQUIRED BY AN AUTHORITY TO  
5 INSTALL, MOUNT, MAINTAIN, MODIFY, OPERATE OR REPLACE A UTILITY POLE OR  
6 MONOPOLE, TO COLLOCATE A SMALL WIRELESS FACILITY ON A UTILITY POLE OR  
7 WIRELESS SUPPORT STRUCTURE OR TO COLLOCATE WIRELESS FACILITIES ON A  
8 MONOPOLE.

9        15. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY  
10 COMPANY, PARTNERSHIP, ASSOCIATION, TRUST OR OTHER ENTITY OR ORGANIZATION,  
11 INCLUDING AN AUTHORITY.

12        16. "PRIVATE EASEMENT" MEANS AN EASEMENT OR OTHER REAL PROPERTY  
13 RIGHT THAT IS ONLY FOR THE BENEFIT OF THE GRANTOR AND GRANTEE AND THE  
14 GRANTOR'S OR GRANTEE'S SUCCESSORS AND ASSIGNS.

15        17. "RATE" MEANS A RECURRING CHARGE.

16        18. "RIGHT-OF-WAY" MEANS THE AREA ON, BELOW OR ABOVE A PUBLIC  
17 ROADWAY, HIGHWAY, STREET, SIDEWALK, ALLEY OR UTILITY EASEMENT.  
18 RIGHT-OF-WAY DOES NOT INCLUDE A FEDERAL INTERSTATE HIGHWAY, A STATE  
19 HIGHWAY OR STATE ROUTE UNDER THE JURISDICTION OF THE DEPARTMENT OF  
20 TRANSPORTATION, A PRIVATE EASEMENT, PROPERTY THAT IS OWNED BY A SPECIAL  
21 TAXING DISTRICT, OR A UTILITY EASEMENT THAT DOES NOT AUTHORIZE THE  
22 DEPLOYMENT SOUGHT BY THE WIRELESS PROVIDER.

23        19. "SMALL WIRELESS FACILITY" MEANS A WIRELESS FACILITY THAT MEETS  
24 BOTH OF THE FOLLOWING QUALIFICATIONS:

25        (a) ALL ANTENNAS ARE LOCATED INSIDE AN ENCLOSURE OF NOT MORE THAN  
26 SIX CUBIC FEET IN VOLUME OR, IN THE CASE OF AN ANTENNA THAT HAS EXPOSED  
27 ELEMENTS, THE ANTENNA AND ALL OF THE ANTENNA'S EXPOSED ELEMENTS COULD FIT  
28 WITHIN AN IMAGINARY ENCLOSURE OF NOT MORE THAN SIX CUBIC FEET IN VOLUME.

29        (b) ALL OTHER WIRELESS EQUIPMENT ASSOCIATED WITH THE FACILITY IS  
30 CUMULATIVELY NOT MORE THAN TWENTY-EIGHT CUBIC FEET IN VOLUME, OR FIFTY  
31 CUBIC FEET IN VOLUME IF THE EQUIPMENT WAS GROUND MOUNTED BEFORE THE  
32 EFFECTIVE DATE OF THIS SECTION. THE FOLLOWING TYPES OF ASSOCIATED  
33 ANCILLARY EQUIPMENT ARE NOT INCLUDED IN THE CALCULATION OF EQUIPMENT  
34 VOLUME PURSUANT TO THIS SUBDIVISION:

- 35        (i) AN ELECTRIC METER.  
36        (ii) CONCEALMENT ELEMENTS.  
37        (iii) A TELECOMMUNICATIONS DEMARCATION BOX.  
38        (iv) GROUNDING EQUIPMENT.  
39        (v) A POWER TRANSFER SWITCH.  
40        (vi) A CUTOFF SWITCH.  
41        (vii) VERTICAL CABLE RUNS FOR THE CONNECTION OF POWER AND OTHER  
42 SERVICES.

43        20. "SPECIAL TAXING DISTRICT" MEANS A SPECIAL DISTRICT FORMED  
44 PURSUANT TO TITLE 48, CHAPTER 11, 12, 17, 18, 19, 20 OR 22.

1           21. "UTILITY POLE" MEANS A POLE OR SIMILAR STRUCTURE THAT IS USED  
2 IN WHOLE OR IN PART FOR COMMUNICATIONS SERVICES, ELECTRIC DISTRIBUTION,  
3 LIGHTING OR TRAFFIC SIGNALS. UTILITY POLE DOES NOT INCLUDE A MONOPOLE.

4           22. "WIRELESS FACILITY":

5           (a) MEANS EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS  
6 COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK,  
7 INCLUDING BOTH OF THE FOLLOWING:

8           (i) EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS.

9           (ii) RADIO TRANSCEIVERS, ANTENNAS, COAXIAL OR FIBER-OPTIC CABLES,  
10 REGULAR AND BACKUP POWER SUPPLIES AND COMPARABLE EQUIPMENT, REGARDLESS OF  
11 TECHNOLOGICAL CONFIGURATION.

12           (b) INCLUDES SMALL WIRELESS FACILITIES.

13           (c) DOES NOT INCLUDE THE STRUCTURE OR IMPROVEMENTS ON, UNDER OR  
14 WITHIN WHICH THE EQUIPMENT IS COLLOCATED, WIRELINE BACKHAUL FACILITIES,  
15 COAXIAL OR FIBER-OPTIC CABLE THAT IS BETWEEN WIRELESS SUPPORT STRUCTURES  
16 OR UTILITY POLES OR COAXIAL OR FIBER-OPTIC CABLE THAT IS OTHERWISE NOT  
17 IMMEDIATELY ADJACENT TO, OR DIRECTLY ASSOCIATED WITH, AN ANTENNA.

18           (d) DOES NOT INCLUDE WI-FI RADIO EQUIPMENT DESCRIBED IN SECTION  
19 9-506, SUBSECTION I OR MICROCELL EQUIPMENT DESCRIBED IN SECTION 9-584,  
20 SUBSECTION E.

21           23. "WIRELESS INFRASTRUCTURE PROVIDER" MEANS ANY PERSON THAT IS  
22 AUTHORIZED TO PROVIDE TELECOMMUNICATIONS SERVICE IN THIS STATE AND THAT  
23 BUILDS OR INSTALLS WIRELESS COMMUNICATIONS TRANSMISSION EQUIPMENT,  
24 WIRELESS FACILITIES, UTILITY POLES OR MONOPOLES BUT THAT IS NOT A WIRELESS  
25 SERVICES PROVIDER. WIRELESS INFRASTRUCTURE PROVIDER DOES NOT INCLUDE A  
26 SPECIAL TAXING DISTRICT.

27           24. "WIRELESS PROVIDER" MEANS A CABLE OPERATOR, WIRELESS  
28 INFRASTRUCTURE PROVIDER OR WIRELESS SERVICES PROVIDER.

29           25. "WIRELESS SERVICES" MEANS ANY SERVICES THAT ARE PROVIDED TO THE  
30 PUBLIC AND THAT USE LICENSED OR UNLICENSED SPECTRUM, WHETHER AT A FIXED  
31 LOCATION OR MOBILE, USING WIRELESS FACILITIES.

32           26. "WIRELESS SERVICES PROVIDER" MEANS A PERSON THAT PROVIDES  
33 WIRELESS SERVICES. WIRELESS SERVICES PROVIDER DOES NOT INCLUDE A SPECIAL  
34 TAXING DISTRICT.

35           27. "WIRELESS SUPPORT STRUCTURE":

36           (a) MEANS:

37           (i) A FREESTANDING STRUCTURE, SUCH AS A MONOPOLE.

38           (ii) A TOWER, EITHER GUYED OR SELF-SUPPORTING.

39           (iii) A SIGN OR BILLBOARD.

40           (iv) ANY OTHER EXISTING OR PROPOSED STRUCTURE DESIGNED TO SUPPORT  
41 OR CAPABLE OF SUPPORTING SMALL WIRELESS FACILITIES.

42           (b) DOES NOT INCLUDE A UTILITY POLE.

1           9-592. Applicability; wireless provider; use of right-of-way;  
2                 rates, fees and terms; right to access; damage and  
3                 repair

4           A. THIS SECTION APPLIES TO THE ACTIVITIES OF A WIRELESS PROVIDER  
5     WITHIN A RIGHT-OF-WAY.

6           B. AN AUTHORITY MAY NOT ENTER INTO AN EXCLUSIVE ARRANGEMENT WITH A  
7     WIRELESS PROVIDER FOR USE OF A RIGHT-OF-WAY FOR ANY OF THE FOLLOWING:

8                 1. THE CONSTRUCTION, INSTALLATION, MAINTENANCE, MODIFICATION,  
9     OPERATION OR REPLACEMENT OF UTILITY POLES OR MONOPOLES.

10                2. THE COLLOCATION OF SMALL WIRELESS FACILITIES ON UTILITY POLES OR  
11     WIRELESS SUPPORT STRUCTURES.

12                3. THE COLLOCATION OF WIRELESS FACILITIES ON MONOPOLES.

13           C. AN AUTHORITY MAY CHARGE A WIRELESS PROVIDER A RATE OR FEE FOR  
14     THE USE OF A RIGHT-OF-WAY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE,  
15     MODIFICATION, OPERATION OR REPLACEMENT OF A UTILITY POLE IN THE  
16     RIGHT-OF-WAY OR THE COLLOCATION OF A SMALL WIRELESS FACILITY IN THE  
17     RIGHT-OF-WAY, ONLY IF THE AUTHORITY CHARGES OTHER COMMUNICATIONS SERVICE  
18     PROVIDERS OR PUBLICLY, COOPERATIVELY OR MUNICIPALLY OWNED UTILITIES FOR  
19     THE USE OF THE RIGHT-OF-WAY AND THE AUTHORITY HAS THE LEGAL AUTHORITY TO  
20     DO SO. IF AN AUTHORITY CHARGES A RATE OR FEE PURSUANT TO THIS SECTION, THE  
21     RATE OR FEE FOR A WIRELESS PROVIDER MUST BE:

22                1. LIMITED TO NOT MORE THAN THE DIRECT AND ACTUAL COST OF MANAGING  
23     THE RIGHT-OF-WAY.

24                2. COMPETITIVELY NEUTRAL IN REGARD TO OTHER USERS OF THE  
25     RIGHT-OF-WAY, INCLUDING INVESTOR-OWNED, AUTHORITY-OWNED OR COOPERATIVELY  
26     OWNED ENTITIES, UNLESS OTHER USERS ARE EXEMPT FROM SUCH RATES OR FEES  
27     UNDER APPLICABLE LAW.

28           D. A RATE OR FEE CHARGED PURSUANT TO SUBSECTION C OF THIS SECTION  
29     MAY NOT DO ANY OF THE FOLLOWING:

30                1. RESULT IN A DOUBLE RECOVERY WHERE EXISTING RATES, FEES OR TAXES  
31     ALREADY RECOVER THE DIRECT AND ACTUAL COSTS OF MANAGING A RIGHT-OF-WAY.

32                2. BE IN THE FORM OF A FRANCHISE OR OTHER FEE BASED ON REVENUE OR  
33     CUSTOMER COUNTS.

34                3. BE UNREASONABLE OR DISCRIMINATORY.

35                4. EXCEED AN ANNUAL AMOUNT EQUAL TO FIFTY DOLLARS MULTIPLIED BY THE  
36     NUMBER OF SMALL WIRELESS FACILITIES THAT ARE IN THE AUTHORITY'S GEOGRAPHIC  
37     JURISDICTION AND THAT ARE PLACED BY THE WIRELESS PROVIDER IN THE  
38     RIGHT-OF-WAY.

39           E. AN AUTHORITY SHALL ESTABLISH AND MAKE AVAILABLE RATES, FEES AND  
40     TERMS FOR ALL OF THE FOLLOWING, WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE  
41     OF THIS SECTION OR THREE MONTHS AFTER RECEIVING THE FIRST REQUEST BY A  
42     WIRELESS PROVIDER, WHICHEVER IS LATER:

43                1. THE CONSTRUCTION, INSTALLATION, MOUNTING, MAINTENANCE,  
44     MODIFICATION, OPERATION OR REPLACEMENT OF A UTILITY POLE OR MONOPOLE BY A  
45     WIRELESS PROVIDER IN A RIGHT-OF-WAY.

1           2. THE COLLOCATION OF A SMALL WIRELESS FACILITY BY A WIRELESS  
2 PROVIDER IN A RIGHT-OF-WAY.

3           3. THE COLLOCATION OF A WIRELESS FACILITY ON OR WITHIN A MONOPOLE  
4 BY A WIRELESS PROVIDER IN A RIGHT-OF-WAY.

5           F. THE RATES, FEES AND TERMS ESTABLISHED PURSUANT TO SUBSECTION E  
6 OF THIS SECTION MUST BE MADE AVAILABLE FOR ACCEPTANCE BY A WIRELESS  
7 PROVIDER. AT THE WIRELESS PROVIDER'S OPTION, A WIRELESS PROVIDER MAY  
8 REQUEST DIFFERENT OR ADDITIONAL TERMS THAT THE PARTIES SHALL NEGOTIATE IN  
9 GOOD FAITH. DOCUMENTS THAT REFLECT RATES, FEES AND TERMS WITH EACH  
10 WIRELESS PROVIDER ARE PUBLIC RECORDS. RATES, FEES AND TERMS MUST COMPLY  
11 WITH THIS ARTICLE, AND THE TERMS:

12           1. MAY NOT BE UNREASONABLE OR DISCRIMINATORY.

13           2. MAY INCLUDE REQUIREMENTS APPLICABLE TO OTHER USERS OF THE  
14 RIGHT-OF-WAY.

15           3. MAY REQUIRE THAT THE WIRELESS PROVIDER'S OPERATION OF THE SMALL  
16 WIRELESS FACILITIES IN THE RIGHT-OF-WAY DOES NOT INTERFERE WITH THE  
17 AUTHORITY'S PUBLIC SAFETY COMMUNICATIONS.

18           4. SUBJECT TO SUBSECTION K OF THIS SECTION AND SECTION 9-593,  
19 SUBSECTION F, MAY NOT REQUIRE THE PLACEMENT OF SMALL WIRELESS FACILITIES  
20 ON ANY SPECIFIC UTILITY POLE OR CATEGORY OF POLES OR REQUIRE MULTIPLE  
21 ANTENNA SYSTEMS ON A SINGLE UTILITY POLE.

22           5. SUBJECT TO SUBSECTION K OF THIS SECTION AND SECTION 9-593,  
23 SUBSECTION F, MAY NOT LIMIT THE PLACEMENT OF SMALL WIRELESS FACILITIES BY  
24 MINIMUM SEPARATION DISTANCES.

25           G. AGREEMENTS BETWEEN AUTHORITIES AND WIRELESS PROVIDERS THAT ARE  
26 IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION AND THAT RELATE TO THE  
27 COLLOCATION OF SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY, INCLUDING  
28 THE COLLOCATION OF SMALL WIRELESS FACILITIES ON AUTHORITY UTILITY POLES,  
29 REMAIN IN EFFECT, SUBJECT TO APPLICABLE TERMINATION PROVISIONS. THE  
30 WIRELESS PROVIDER MAY ACCEPT THE RATES, FEES AND TERMS ESTABLISHED UNDER  
31 SUBSECTIONS E AND F OF THIS SECTION FOR SMALL WIRELESS FACILITIES AND  
32 UTILITY POLES THAT ARE THE SUBJECT OF AN APPLICATION SUBMITTED AFTER THE  
33 RATES, FEES AND TERMS BECOME EFFECTIVE.

34           H. SUBJECT TO THIS SECTION AND THE APPROVAL OF AN APPLICATION, IF  
35 REQUIRED, A WIRELESS PROVIDER MAY DO ANY OF THE FOLLOWING:

36           1. COLLOCATE SMALL WIRELESS FACILITIES.

37           2. CONSTRUCT, INSTALL, MODIFY, MOUNT, MAINTAIN, OPERATE AND REPLACE  
38 UTILITY POLES THAT ARE ASSOCIATED WITH THE COLLOCATION OF SMALL WIRELESS  
39 FACILITIES ALONG, ACROSS, ON AND UNDER THE RIGHT-OF-WAY.

40           3. CONSTRUCT, INSTALL, MODIFY, MOUNT, MAINTAIN, OPERATE AND REPLACE  
41 MONOPOLES THAT ARE ASSOCIATED WITH THE COLLOCATION OF WIRELESS FACILITIES  
42 ALONG, ACROSS, ON AND UNDER THE RIGHT-OF-WAY. THE INSTALLATION,  
43 MODIFICATION AND REPLACEMENT OF MONOPOLES ARE SUBJECT TO REVIEW UNDER  
44 SECTION 9-594 REGARDLESS OF THE HEIGHT OF THE MONOPOLE.

1 I. SUBJECT TO SUBSECTION K, PARAGRAPH 2, SUBDIVISION (c) OF THIS  
2 SECTION, A NEW, REPLACEMENT OR MODIFIED UTILITY POLE THAT IS ASSOCIATED  
3 WITH THE COLLOCATION OF SMALL WIRELESS FACILITIES AND THAT IS INSTALLED IN  
4 THE RIGHT-OF-WAY IS NOT SUBJECT TO ZONING REVIEW AND APPROVAL UNDER  
5 SECTION 9-594 IF THE UTILITY POLE DOES NOT EXCEED THE GREATER OF EITHER:

6 1. TEN FEET IN HEIGHT ABOVE THE TALLEST EXISTING UTILITY POLE,  
7 OTHER THAN A UTILITY POLE SUPPORTING ONLY WIRELESS FACILITIES, THAT IS IN  
8 PLACE ON THE EFFECTIVE DATE OF THIS SECTION, THAT IS LOCATED WITHIN FIVE  
9 HUNDRED FEET OF THE NEW, REPLACEMENT OR MODIFIED UTILITY POLE AND THAT IS  
10 IN THE SAME RIGHT-OF-WAY WITHIN THE JURISDICTIONAL BOUNDARY OF THE  
11 AUTHORITY, BUT NOT MORE THAN FIFTY FEET ABOVE GROUND LEVEL.

12 2. FORTY FEET ABOVE GROUND LEVEL.

13 J. NEW SMALL WIRELESS FACILITIES COLLOCATED ON A UTILITY POLE OR  
14 WIRELESS SUPPORT STRUCTURE IN THE RIGHT-OF-WAY ARE NOT SUBJECT TO ZONING  
15 REVIEW AND APPROVAL IF THEY DO NOT EXTEND MORE THAN TEN FEET ABOVE THE  
16 UTILITY POLE OR WIRELESS SUPPORT STRUCTURE AND DO NOT EXCEED FIFTY FEET  
17 ABOVE GROUND LEVEL.

18 K. AN AUTHORITY MAY REQUIRE AN APPLICATION UNDER THIS SECTION FOR  
19 THE INSTALLATION OF NEW, REPLACEMENT OR MODIFIED UTILITY POLES ASSOCIATED  
20 WITH THE COLLOCATION OF SMALL WIRELESS FACILITIES. AN AUTHORITY SHALL  
21 APPROVE AN APPLICATION UNLESS THE AUTHORITY FINDS THAT THE UTILITY POLE  
22 FAILS TO COMPLY WITH ANY OF THE FOLLOWING:

23 1. APPLICABLE CODES.

24 2. LOCAL CODE PROVISIONS OR REGULATIONS THAT CONCERN ANY OF THE  
25 FOLLOWING:

26 (a) PUBLIC SAFETY.

27 (b) OBJECTIVE DESIGN STANDARDS AND REASONABLE STEALTH AND  
28 CONCEALMENT REQUIREMENTS.

29 (c) UNDERGROUNDING REQUIREMENTS THAT PROHIBIT THE INSTALLATION OF  
30 NEW OR THE MODIFICATION OF EXISTING UTILITY POLES OR MONOPOLES IN A  
31 RIGHT-OF-WAY WITHOUT PRIOR APPROVAL, IF SUCH REQUIREMENTS INCLUDE A  
32 WAIVER, ZONING OR ANOTHER PROCESS THAT ADDRESSES REQUESTS TO INSTALL SUCH  
33 NEW UTILITY POLES OR MONOPOLES OR MODIFY SUCH EXISTING UTILITY POLES OR  
34 MONOPOLES AND DO NOT PROHIBIT THE REPLACEMENT OF UTILITY POLES OR  
35 MONOPOLES.

36 3. REQUIREMENTS THAT ARE IMPOSED BY A CONTRACT BETWEEN AN AUTHORITY  
37 AND A PRIVATE PROPERTY OWNER AND THAT CONCERN DESIGN STANDARDS APPLICABLE  
38 TO UTILITY POLES IN THE RIGHT-OF-WAY.

39 4. THE AUTHORITY'S PUBLIC SAFETY AND REASONABLE SPACING  
40 REQUIREMENTS THAT CONCERN THE LOCATION OF NEW UTILITY POLES IN A  
41 RIGHT-OF-WAY.

42 L. AN AUTHORITY SHALL PROCESS APPLICATIONS UNDER SUBSECTION K OF  
43 THIS SECTION IN COMPLIANCE WITH APPLICABLE LAW. IF AN AUTHORITY FAILS TO  
44 APPROVE OR DENY AN APPLICATION WITHIN THE TIME FRAME SPECIFIED BY  
45 APPLICABLE LAW, THE APPLICATION SHALL BE DEEMED APPROVED. ANY APPLICATION

1 FEE IS SUBJECT TO THE REQUIREMENTS PROVIDED IN SECTION 9-593, SUBSECTION  
2 I. THE TOTAL APPLICATION FEE, IF ALLOWED, MAY NOT EXCEED SEVEN HUNDRED  
3 FIFTY DOLLARS.

4 M. THE CONSTRUCTION, INSTALLATION, MOUNTING, MAINTENANCE,  
5 MODIFICATION, OPERATION OR REPLACEMENT FOR WHICH A PERMIT IS GRANTED SHALL  
6 BE COMPLETED WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE PERMIT ISSUANCE  
7 DATE, UNLESS THE AUTHORITY AND WIRELESS PROVIDER AGREE TO EXTEND THIS  
8 PERIOD OR A DELAY IS CAUSED BY A LACK OF COMMERCIAL POWER AT THE  
9 SITE. APPROVAL OF AN APPLICATION BY AN AUTHORITY AUTHORIZES THE APPLICANT  
10 TO DO BOTH OF THE FOLLOWING:

11 1. UNDERTAKE THE REQUESTED DEPLOYMENT.

12 2. SUBJECT TO APPLICABLE RELOCATION REQUIREMENTS, THE AUTHORITY'S  
13 TERMS AS DESCRIBED IN THIS SECTION AND THE WIRELESS PROVIDER'S RIGHT TO  
14 TERMINATE AT ANY TIME, OPERATE AND MAINTAIN THE WIRELESS PROVIDER'S NEW,  
15 MODIFIED OR REPLACEMENT UTILITY POLE FOR A PERIOD OF NOT LESS THAN TEN  
16 YEARS, WHICH MUST BE RENEWED FOR EQUIVALENT DURATIONS UNLESS THE AUTHORITY  
17 MAKES A FINDING THAT THE NEW OR MODIFIED UTILITY POLE DOES NOT COMPLY WITH  
18 THE REQUIREMENTS DESCRIBED IN SUBSECTION K OF THIS SECTION.

19 N. AN AUTHORITY MAY REQUIRE A WIRELESS PROVIDER TO REPAIR ALL  
20 DAMAGE TO THE AUTHORITY'S PROPERTY AND THE RIGHT-OF-WAY THAT IS CAUSED BY  
21 THE ACTIVITIES OF THE WIRELESS PROVIDER OR THE WIRELESS PROVIDER'S  
22 CONTRACTOR WHILE OCCUPYING, INSTALLING, REPAIRING OR MAINTAINING SMALL  
23 WIRELESS FACILITIES, WIRELESS SUPPORT STRUCTURES OR UTILITY POLES IN THE  
24 RIGHT-OF-WAY AND TO RETURN THE DAMAGED PROPERTY TO THE SAME CONDITION AS  
25 BEFORE THE DAMAGE PURSUANT TO THE COMPETITIVELY NEUTRAL, REASONABLE  
26 REQUIREMENTS AND SPECIFICATIONS OF THE AUTHORITY. IF THE WIRELESS  
27 PROVIDER FAILS TO MAKE THE REPAIRS REQUIRED BY THE AUTHORITY WITHIN A  
28 REASONABLE TIME AFTER THE AUTHORITY PROVIDES WRITTEN NOTICE TO THE  
29 WIRELESS PROVIDER, THE AUTHORITY MAY MAKE THE REPAIRS AND CHARGE THE  
30 APPLICABLE PARTY THE REASONABLE, DOCUMENTED COST OF THE REPAIRS.

31 O. THIS ARTICLE DOES NOT RELIEVE A WIRELESS PROVIDER FROM ANY  
32 APPLICABLE REQUIREMENT TO OBTAIN A FRANCHISE, LICENSE OR OTHER PERMISSION  
33 TO PROVIDE COMMUNICATIONS SERVICE OR TO INSTALL, PLACE, MAINTAIN OR  
34 OPERATE FACILITIES OR STRUCTURES THAT ARE NOT AUTHORIZED BY THIS ARTICLE  
35 IN THE RIGHT-OF-WAY TO PROVIDE A COMMUNICATIONS SERVICE.

36 9-593. Applicability; collocation of small wireless  
37 facilities; permits; application; fee

38 A. THIS SECTION APPLIES TO THE ACTIVITIES OF A WIRELESS PROVIDER  
39 WITHIN A RIGHT-OF-WAY.

40 B. EXCEPT AS PROVIDED IN THIS SECTION AND SECTIONS 9-592, 9-594,  
41 9-595, 9-597, 9-598 AND 9-599, AS APPLICABLE, AN AUTHORITY MAY NOT  
42 PROHIBIT, REGULATE OR CHARGE FOR THE COLLOCATION OF SMALL WIRELESS  
43 FACILITIES.

44 C. SUBJECT TO THIS SECTION AND SECTION 9-592, SUBSECTION J, A SMALL  
45 WIRELESS FACILITY IS CLASSIFIED AS A PERMITTED USE AND IS NOT SUBJECT TO

1 ZONING REVIEW OR APPROVAL IF THE SMALL WIRELESS FACILITY IS COLLOCATED IN  
2 A RIGHT-OF-WAY IN ANY ZONE.

3 D. AN AUTHORITY MAY REQUIRE AN APPLICANT TO OBTAIN ONE OR MORE  
4 PERMITS TO COLLOCATE A SMALL WIRELESS FACILITY IF THE PERMIT REQUIREMENT  
5 IS OF GENERAL APPLICABILITY AND DOES NOT APPLY EXCLUSIVELY TO WIRELESS  
6 FACILITIES. AN APPLICANT SEEKING TO COLLOCATE MULTIPLE SMALL WIRELESS  
7 FACILITIES WITHIN THE JURISDICTION OF A SINGLE AUTHORITY MAY FILE A  
8 CONSOLIDATED APPLICATION FOR THE COLLOCATION OF UP TO TWENTY-FIVE SMALL  
9 WIRELESS FACILITIES IF THE COLLOCATIONS EACH INVOLVE SUBSTANTIALLY THE  
10 SAME TYPE OF SMALL WIRELESS FACILITIES AND SUBSTANTIALLY THE SAME TYPE OF  
11 STRUCTURE.

12 E. AN APPLICATION MUST INCLUDE AN ATTESTATION THAT THE SMALL  
13 WIRELESS FACILITIES WILL BE COLLOCATED ON THE UTILITY POLE OR WIRELESS  
14 SUPPORT STRUCTURE AND THAT THE SMALL WIRELESS FACILITIES WILL BE  
15 OPERATIONAL FOR USE BY A WIRELESS SERVICES PROVIDER TO PROVIDE SERVICE  
16 WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE PERMIT ISSUANCE DATE, UNLESS THE  
17 AUTHORITY AND THE WIRELESS PROVIDER AGREE TO EXTEND THIS PERIOD OR A DELAY  
18 IS CAUSED BY A LACK OF COMMERCIAL POWER AT THE SITE.

19 F. AN AUTHORITY:

20 1. SHALL ACCEPT APPLICATIONS FOR, PROCESS AND ISSUE PERMITS TO  
21 COLLOCATE SMALL WIRELESS FACILITIES.

22 2. WITHIN TWENTY DAYS AFTER RECEIVING AN APPLICATION, SHALL  
23 DETERMINE AND NOTIFY THE APPLICANT WHETHER THE APPLICATION IS COMPLETE.  
24 IF AN APPLICANT IS NOT NOTIFIED WITHIN THE TWENTY-DAY PERIOD, THE  
25 APPLICATION IS DEEMED COMPLETE. IF AN APPLICATION IS INCOMPLETE, THE  
26 AUTHORITY MUST SPECIFICALLY IDENTIFY THE INFORMATION MISSING FROM THE  
27 APPLICATION.

28 3. SHALL PROCESS EACH APPLICATION ON A NONDISCRIMINATORY BASIS. A  
29 COMPLETE APPLICATION IS DEEMED APPROVED IF THE AUTHORITY FAILS TO APPROVE  
30 OR DENY THE APPLICATION WITHIN SEVENTY-FIVE DAYS AFTER RECEIVING A  
31 COMPLETE APPLICATION.

32 4. SHALL APPROVE AN APPLICATION UNLESS THE APPLICATION DOES NOT  
33 MEET THE APPLICABLE CODES, LOCAL CODE PROVISIONS OR REGULATIONS THAT  
34 CONCERN PUBLIC SAFETY, OBJECTIVE DESIGN STANDARDS FOR DECORATIVE UTILITY  
35 POLES OR REASONABLE STEALTH AND CONCEALMENT REQUIREMENTS OR PUBLIC SAFETY  
36 AND REASONABLE SPACING REQUIREMENTS CONCERNING THE LOCATION OF  
37 GROUND-MOUNTED EQUIPMENT IN A RIGHT-OF-WAY. IF AN AUTHORITY DETERMINES  
38 THAT APPLICABLE CODES OR LOCAL CODE PROVISIONS OR REGULATIONS REQUIRE THAT  
39 THE UTILITY POLE OR WIRELESS SUPPORT STRUCTURE BE REPLACED BEFORE THE  
40 REQUESTED COLLOCATION, APPROVAL MAY BE CONDITIONED ON SUCH REPLACEMENT OF  
41 THE UTILITY POLE OR WIRELESS SUPPORT STRUCTURE. THE WIRELESS PROVIDER'S  
42 REQUEST FOR A REPLACEMENT UTILITY POLE OR WIRELESS SUPPORT STRUCTURE WILL  
43 BE PROCESSED PURSUANT TO SECTION 9-592.

44 5. IF AN APPLICATION IS DENIED, SHALL DOCUMENT THE BASIS FOR THE  
45 DENIAL, INCLUDING THE SPECIFIC CODE PROVISIONS, REGULATIONS OR

1 REQUIREMENTS ON WHICH THE DENIAL WAS BASED, AND SEND THE DOCUMENTATION TO  
2 THE APPLICANT ON OR BEFORE THE DATE THAT THE APPLICATION IS DENIED. THE  
3 APPLICANT MAY CURE THE DEFICIENCIES IDENTIFIED BY THE AUTHORITY AND  
4 RESUBMIT THE APPLICATION WITHIN THIRTY DAYS AFTER THE DENIAL WITHOUT  
5 PAYING AN ADDITIONAL APPLICATION FEE. THE AUTHORITY SHALL APPROVE OR DENY  
6 THE REVISED APPLICATION WITHIN THIRTY DAYS AFTER RECEIVING THE REVISED  
7 APPLICATION. ANY SUBSEQUENT REVIEW IS LIMITED TO THE DEFICIENCIES CITED  
8 IN THE DENIAL.

9 6. IF AN APPLICATION INCLUDES MULTIPLE SMALL WIRELESS FACILITIES,  
10 MAY REMOVE SMALL WIRELESS FACILITY COLLOCATIONS FROM THE APPLICATION AND  
11 TREAT SEPARATELY SMALL WIRELESS FACILITY COLLOCATIONS FOR WHICH INCOMPLETE  
12 INFORMATION HAS BEEN PROVIDED OR THAT DO NOT QUALIFY FOR CONSOLIDATED  
13 TREATMENT OR THAT ARE DENIED. THE AUTHORITY MAY ISSUE SEPARATE PERMITS  
14 FOR EACH COLLOCATION THAT IS APPROVED IN A CONSOLIDATED APPLICATION.

15 G. AN AUTHORITY MAY NOT:

16 1. DIRECTLY OR INDIRECTLY REQUIRE AN APPLICANT TO PERFORM SERVICES  
17 THAT ARE UNRELATED TO THE COLLOCATION FOR WHICH APPROVAL IS SOUGHT, SUCH  
18 AS IN-KIND CONTRIBUTIONS TO THE AUTHORITY, INCLUDING RESERVING FIBER,  
19 CONDUIT OR POLE SPACE ON THE WIRELESS PROVIDER'S MONOPOLE OR UTILITY POLE  
20 FOR THE AUTHORITY.

21 2. REQUIRE AN APPLICANT TO PROVIDE MORE INFORMATION TO OBTAIN A  
22 PERMIT THAN THE AUTHORITY REQUIRES OF A COMMUNICATIONS SERVICE PROVIDER  
23 THAT IS NOT A WIRELESS PROVIDER AND THAT REQUESTS TO ATTACH FACILITIES TO  
24 A STRUCTURE. AN AUTHORITY MAY REQUIRE THE APPLICANT TO CERTIFY THAT THE  
25 SMALL WIRELESS FACILITIES TO BE COLLOCATED COMPLY WITH THE FEDERAL  
26 COMMUNICATIONS COMMISSION'S REGULATIONS CONCERNING RADIO FREQUENCY  
27 EMISSIONS REFERENCED IN 47 UNITED STATES CODE SECTION 332(c)(7)(B)(iv).

28 3. INSTITUTE, EITHER EXPRESSLY OR DE FACTO, A MORATORIUM ON FILING,  
29 RECEIVING OR PROCESSING APPLICATIONS OR ISSUING PERMITS OR OTHER  
30 APPROVALS, IF ANY, FOR THE COLLOCATION OF A SMALL WIRELESS FACILITY.

31 4. REQUIRE AN APPLICATION FOR ROUTINE MAINTENANCE OR THE  
32 REPLACEMENT OF SMALL WIRELESS FACILITIES WITH SMALL WIRELESS FACILITIES  
33 THAT ARE SUBSTANTIALLY SIMILAR OR THE SAME SIZE OR SMALLER. AN AUTHORITY  
34 MAY REQUIRE A PERMIT TO WORK WITHIN A RIGHT-OF-WAY FOR SUCH ACTIVITIES, IF  
35 APPLICABLE. A PERMIT ISSUED PURSUANT TO THIS PARAGRAPH IS SUBJECT TO THE  
36 REQUIREMENTS OF THIS SECTION.

37 H. COLLOCATION FOR WHICH A PERMIT IS GRANTED SHALL BE COMPLETED  
38 WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE PERMIT ISSUANCE DATE, UNLESS THE  
39 AUTHORITY AND THE WIRELESS PROVIDER AGREE TO EXTEND THIS PERIOD OR A DELAY  
40 IS CAUSED BY THE LACK OF COMMERCIAL POWER AT THE SITE. APPROVAL OF AN  
41 APPLICATION BY AN AUTHORITY ALLOWS THE APPLICANT TO DO BOTH OF THE  
42 FOLLOWING:

43 1. COLLOCATE THE SMALL WIRELESS FACILITIES.

44 2. SUBJECT TO APPLICABLE RELOCATION REQUIREMENTS, THE WIRELESS  
45 PROVIDER'S RIGHT TO TERMINATE AT ANY TIME AND THE AUTHORITY'S TERMS

1 DESCRIBED IN SECTION 9-592, OPERATE AND MAINTAIN THE SMALL WIRELESS  
2 FACILITIES FOR A PERIOD OF NOT LESS THAN TEN YEARS, WHICH MUST BE RENEWED  
3 FOR EQUIVALENT DURATIONS UNLESS THE AUTHORITY MAKES A FINDING THAT THE  
4 SMALL WIRELESS FACILITIES DO NOT COMPLY WITH THE APPLICABLE CODES OR LOCAL  
5 CODE PROVISIONS OR REGULATIONS DESCRIBED IN SUBSECTION F, PARAGRAPH 4 OF  
6 THIS SECTION.

7 I. AN AUTHORITY MAY CHARGE AN APPLICATION FEE THAT IS LIMITED TO  
8 THE ACTUAL, DIRECT AND REASONABLE COSTS THAT ARE INCURRED BY THE AUTHORITY  
9 AND THAT RELATE TO THE GRANTING OR PROCESSING OF AN APPLICATION. AN  
10 APPLICATION FEE SHALL BE REASONABLY RELATED IN TIME TO THE INCURRING OF  
11 SUCH COSTS. IF SUCH COSTS ARE ALREADY RECOVERED BY EXISTING FEES, RATES  
12 OR TAXES THAT ARE PAID BY A WIRELESS PROVIDER, AN AUTHORITY MAY NOT CHARGE  
13 AN APPLICATION FEE TO RECOVER SUCH COSTS. AN APPLICATION FEE MAY NOT  
14 INCLUDE:

15 1. THIRD-PARTY TRAVEL EXPENSES THAT ARE INCURRED TO REVIEW AN  
16 APPLICATION.

17 2. THE DIRECT PAYMENT OR REIMBURSEMENT OF THIRD-PARTY RATES OR FEES  
18 THAT ARE CHARGED ON A CONTINGENCY BASIS OR PURSUANT TO A RESULT-BASED  
19 ARRANGEMENT.

20 J. THE TOTAL APPLICATION FEE, IF ALLOWED, MAY NOT EXCEED ONE  
21 HUNDRED DOLLARS EACH FOR UP TO FIVE SMALL WIRELESS FACILITIES ADDRESSED IN  
22 AN APPLICATION AND FIFTY DOLLARS FOR EACH ADDITIONAL SMALL WIRELESS  
23 FACILITY ADDRESSED IN THE APPLICATION.

24 K. THIS ARTICLE DOES NOT ALLOW A PERSON TO COLLOCATE SMALL WIRELESS  
25 FACILITIES ON A PRIVATELY OWNED UTILITY POLE, A PRIVATELY OWNED WIRELESS  
26 SUPPORT STRUCTURE OR PRIVATE PROPERTY WITHOUT THE CONSENT OF THE PROPERTY  
27 OWNER.

28 9-594. Structures subject to zoning; time frames;  
29 application; fees

30 A. THE FOLLOWING ACTIVITIES THAT TAKE PLACE INSIDE OF A  
31 RIGHT-OF-WAY ARE SUBJECT TO THIS SECTION AND ALL OF THE AUTHORITY'S CODES  
32 AND REGULATIONS, INCLUDING THE AUTHORITY'S ZONING CODES AND OTHER  
33 REGULATORY PROCESSES GOVERNING USE OF THE RIGHTS-OF-WAY, UNLESS THE  
34 ACTIVITIES ARE EXEMPT FROM ZONING REVIEW AND APPROVAL UNDER SECTION 9-592,  
35 SUBSECTION I OR J OR SECTION 9-593, SUBSECTION C:

36 1. THE INSTALLATION OF NEW MONOPOLES, UTILITY POLES OR WIRELESS  
37 FACILITIES.

38 2. THE COLLOCATION OF WIRELESS FACILITIES.

39 B. NOTWITHSTANDING ANY PROVISION IN THIS ARTICLE TO THE CONTRARY,  
40 THE CONSTRUCTION, INSTALLATION, MAINTENANCE, MODIFICATION, OPERATION OR  
41 REPLACEMENT OF A MONOPOLE OR ASSOCIATED WIRELESS FACILITY IN A RIGHT-  
42 OF-WAY IS SUBJECT TO ALL OF THE AUTHORITY'S CODES AND REGULATIONS,  
43 INCLUDING THE AUTHORITY'S ZONING CODES AND OTHER REGULATORY PROCESSES  
44 GOVERNING USE OF THE RIGHTS-OF-WAY.

45 C. AN AUTHORITY SHALL:

1           1. ACCEPT AND PROCESS APPLICATIONS FOR THE MODIFICATION OF EXISTING  
2 OR THE INSTALLATION OF NEW MONOPOLES, UTILITY POLES OR WIRELESS FACILITIES  
3 AND THE COLLOCATION OF WIRELESS FACILITIES.

4           2. WITHIN THIRTY DAYS AFTER RECEIVING AN APPLICATION, NOTIFY THE  
5 APPLICANT WHETHER THE APPLICATION IS COMPLETE. IF AN APPLICATION IS  
6 INCOMPLETE, THE AUTHORITY MUST SPECIFICALLY IDENTIFY THE INFORMATION  
7 MISSING FROM THE APPLICATION.

8           3. PROCESS EACH COMPLETE APPLICATION ON A NONDISCRIMINATORY BASIS.  
9 A COMPLETE APPLICATION IS DEEMED APPROVED IF THE AUTHORITY FAILS TO  
10 APPROVE OR DENY THE APPLICATION WITHIN ONE HUNDRED FIFTY DAYS AFTER  
11 RECEIPT OF AN APPLICATION FOR THE MODIFICATION OF EXISTING OR THE  
12 INSTALLATION OF NEW MONOPOLES, UTILITY POLES OR WIRELESS FACILITIES OR  
13 WITHIN NINETY DAYS AFTER RECEIPT OF A COMPLETE APPLICATION FOR THE  
14 COLLOCATION OF WIRELESS FACILITIES. THE TIME PERIOD FOR APPROVAL MAY BE  
15 TOLLED TO ACCOMMODATE TIMELY REQUESTS FOR INFORMATION REQUIRED TO COMPLETE  
16 THE APPLICATION OR MAY BE EXTENDED BY MUTUAL AGREEMENT BETWEEN THE  
17 APPLICANT AND AUTHORITY.

18           4. IF A COMPLETE APPLICATION IS DENIED, NOTIFY THE APPLICANT IN  
19 WRITING AND PROVIDE SUBSTANTIAL SUPPORTING EVIDENCE OF THE REASON FOR  
20 DENIAL IN THE WRITTEN RECORD. THE WRITTEN NOTIFICATION OF THE DENIAL AND  
21 THE SUPPORTING EVIDENCE SHALL BE PUBLICLY RELEASED  
22 CONTEMPORANEOUSLY. THERE MUST BE A REASONABLE BASIS FOR THE DENIAL OF AN  
23 APPLICATION. AN AUTHORITY MAY NOT DENY AN APPLICATION IF THE DENIAL IS  
24 DISCRIMINATORY AGAINST THE APPLICANT WITH RESPECT TO THE PLACEMENT OF THE  
25 FACILITIES OF OTHER WIRELESS PROVIDERS.

26           D. AN AUTHORITY MAY NOT:

27           1. REQUIRE AN APPLICANT TO SUBMIT INFORMATION ABOUT THE APPLICANT'S  
28 BUSINESS DECISIONS REGARDING THE NEED FOR THE MONOPOLE, UTILITY POLE OR  
29 WIRELESS FACILITIES.

30           2. REQUIRE AN APPLICANT TO SUBMIT INFORMATION ABOUT, OR EVALUATE AN  
31 APPLICANT'S BUSINESS DECISIONS REGARDING, THE APPLICANT'S SERVICE,  
32 CUSTOMER DEMAND FOR SERVICE OR QUALITY OF SERVICE.

33           3. INSTITUTE, EITHER EXPRESSLY OR DE FACTO, A MORATORIUM ON FILING,  
34 RECEIVING OR PROCESSING APPLICATIONS OR ISSUING DECISIONS FOR  
35 MODIFICATIONS OR INSTALLATIONS THAT ARE NOT A PERMITTED USE.

36           E. AN AUTHORITY, IN ADDITION TO OTHER RIGHTS THE AUTHORITY HAS  
37 UNDER FEDERAL, STATE OR LOCAL LAW, MAY:

38           1. ADOPT REASONABLE REQUIREMENTS REGARDING THE APPEARANCE AND  
39 CONCEALMENT OF FACILITIES, INCLUDING THOSE RELATING TO MATERIALS USED FOR  
40 ARRANGING, SCREENING OR LANDSCAPING.

41           2. ADOPT SETBACK OR FALL ZONE REQUIREMENTS THAT ARE SUBSTANTIALLY  
42 SIMILAR TO SETBACK OR FALL ZONE REQUIREMENTS THAT ARE IMPOSED ON OTHER  
43 TYPES OF COMMERCIAL STRUCTURES OF A SIMILAR HEIGHT.

44           3. CHARGE AN APPLICATION FEE. ANY APPLICATION FEE IS SUBJECT TO  
45 THE REQUIREMENTS PROVIDED IN SECTION 9-593, SUBSECTION I. THE TOTAL

1 APPLICATION FEE, IF ALLOWED, MAY NOT EXCEED ONE THOUSAND DOLLARS FOR THE  
2 MODIFICATION OF EXISTING OR THE INSTALLATION OF NEW MONOPOLES OR UTILITY  
3 POLES OR FOR THE COLLOCATION OF WIRELESS FACILITIES.

4 4. CHARGE A RATE OR FEE FOR THE USE OF THE RIGHT-OF-WAY FOR THE  
5 INSTALLATION OF A MONOPOLE AND ASSOCIATED WIRELESS FACILITY THAT IS  
6 LIMITED TO NOT MORE THAN THE DIRECT AND ACTUAL COSTS OF MANAGING THE  
7 RIGHT-OF-WAY AND THAT IS NOT IN THE FORM OF A FRANCHISE OR OTHER FEE BASED  
8 ON REVENUE OR CUSTOMER COUNTS.

9 F. AN APPLICANT'S BUSINESS DECISIONS REGARDING THE TYPE AND  
10 LOCATION OF WIRELESS FACILITIES, MONOPOLES OR UTILITY POLES OR THE  
11 TECHNOLOGY TO BE USED ARE PRESUMED TO BE REASONABLE. THIS PRESUMPTION  
12 DOES NOT APPLY TO THE HEIGHT OR APPEARANCE OF WIRELESS FACILITIES,  
13 MONOPOLES OR UTILITY POLES. AN AUTHORITY MAY CONSIDER THE HEIGHT OF SUCH  
14 STRUCTURES IN THE ZONING OR OTHER REGULATORY REVIEW, PROVIDED THAT THE  
15 AUTHORITY DOES NOT UNREASONABLY DISCRIMINATE BETWEEN THE APPLICANT AND  
16 OTHER COMMUNICATIONS SERVICE PROVIDERS THAT INSTALL WIRELESS FACILITIES.

17 G. SUBJECT TO APPLICABLE RELOCATION REQUIREMENTS, THE AUTHORITY'S  
18 TERMS DESCRIBED IN SECTION 9-592 AND THE WIRELESS PROVIDER'S RIGHT TO  
19 TERMINATE AT ANY TIME, THE APPROVAL TERM OF AN APPLICATION SHALL BE FOR A  
20 PERIOD OF NOT LESS THAN TEN YEARS, WHICH MUST BE RENEWED FOR EQUIVALENT  
21 DURATIONS UNLESS THE AUTHORITY MAKES A FINDING THAT THE STRUCTURE OR  
22 FACILITIES DO NOT COMPLY WITH THE APPLICABLE CODES OR TERMS OF THE ZONING  
23 OR OTHER REGULATORY PROCESS APPROVAL. CONSTRUCTION OF THE APPROVED  
24 STRUCTURE OR FACILITIES SHALL BE COMPLETED WITHIN ONE HUNDRED EIGHTY DAYS  
25 AFTER THE PERMIT ISSUANCE DATE, UNLESS THE AUTHORITY AND THE WIRELESS  
26 PROVIDER AGREE TO EXTEND THIS PERIOD OR A DELAY IS CAUSED BY THE LACK OF  
27 COMMERCIAL POWER AT THE SITE.

28 9-595. Access to authority utility poles; rates and fees;  
29 collocations for other commercial projects or uses

30 A. AN AUTHORITY MAY NOT ENTER INTO AN EXCLUSIVE ARRANGEMENT WITH  
31 ANY PERSON FOR THE RIGHT TO ATTACH TO AUTHORITY UTILITY POLES.

32 B. THE RATES AND FEES FOR THE COLLOCATION OF SMALL WIRELESS  
33 FACILITIES ON AUTHORITY UTILITY POLES SHALL BE NONDISCRIMINATORY  
34 REGARDLESS OF THE SERVICES PROVIDED BY THE COLLOCATING PERSON.

35 C. THE RATE TO COLLOCATE SMALL WIRELESS FACILITIES ON AUTHORITY  
36 UTILITY POLES MAY NOT EXCEED FIFTY DOLLARS PER AUTHORITY UTILITY POLE, PER  
37 YEAR.

38 D. AN AUTHORITY SHALL ESTABLISH AND MAKE AVAILABLE RATES, FEES AND  
39 TERMS FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES ON AUTHORITY  
40 UTILITY POLES WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION  
41 OR THREE MONTHS AFTER RECEIVING A REQUEST TO COLLOCATE THE FIRST SMALL  
42 WIRELESS FACILITY ON SUCH POLES, WHICHEVER IS LATER. THE RATES, FEES AND  
43 TERMS SHALL BE MADE AVAILABLE FOR ACCEPTANCE BY A WIRELESS PROVIDER. AT  
44 THE WIRELESS PROVIDER'S OPTION, A WIRELESS PROVIDER MAY REQUEST DIFFERENT  
45 OR ADDITIONAL TERMS THAT THE PARTIES SHALL NEGOTIATE IN GOOD

1 FAITH. DOCUMENTS REFLECTING RATES, FEES AND TERMS WITH EACH WIRELESS  
2 PROVIDER SHALL BE MADE PUBLICLY AVAILABLE. THE RATES, FEES AND TERMS  
3 SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

4 1. THE RATES, FEES AND TERMS MUST BE NONDISCRIMINATORY,  
5 COMPETITIVELY NEUTRAL AND COMMERCIALY REASONABLE AND COMPLY WITH THIS  
6 SECTION AND SECTION 9-592, SUBSECTIONS E AND F. REQUESTS FOR COLLOCATING  
7 A SMALL WIRELESS FACILITY ON AN AUTHORITY UTILITY POLE WILL BE PROCESSED  
8 PURSUANT TO SECTION 9-593. THE AUTHORITY MAY REQUIRE A WIRELESS PROVIDER  
9 TO REPLACE THE AUTHORITY UTILITY POLE IF THE AUTHORITY DETERMINES THAT  
10 APPLICABLE CODES OR LOCAL CODE OR REGULATORY PROVISIONS THAT CONCERN  
11 PUBLIC SAFETY REQUIRE REPLACEMENT OF THE AUTHORITY UTILITY POLE. THE  
12 WIRELESS PROVIDER'S REQUEST TO INSTALL A REPLACEMENT UTILITY POLE WILL BE  
13 PROCESSED PURSUANT TO SECTION 9-592. THE AUTHORITY SHALL RETAIN OWNERSHIP  
14 OF THE UTILITY POLE.

15 2. TERMS MUST REASONABLY ACCOMMODATE POWER SUPPLY AND ELECTRIC  
16 METERING FOR THE SMALL WIRELESS FACILITY.

17 E. AN AUTHORITY MAY PROHIBIT, REGULATE AND CHARGE FOR THE  
18 COLLOCATION OF A WIRELESS FACILITY ON A WIRELESS SUPPORT STRUCTURE OWNED  
19 BY THE AUTHORITY.

20 9-596. Scope of local authority

21 A. SUBJECT TO THIS ARTICLE AND APPLICABLE FEDERAL LAW, AN AUTHORITY  
22 MAY EXERCISE ZONING, LAND USE, PLANNING AND PERMITTING AUTHORITY AND THE  
23 AUTHORITY'S POLICE POWER WITHIN THE AUTHORITY'S TERRITORIAL BOUNDARIES,  
24 INCLUDING FOR THE INSTALLATION, MODIFICATION AND REPLACEMENT OF WIRELESS  
25 SUPPORT STRUCTURES AND UTILITY POLES.

26 B. AN AUTHORITY DOES NOT HAVE ANY JURISDICTION OR AUTHORITY OVER  
27 THE DESIGN, ENGINEERING, CONSTRUCTION, INSTALLATION OR OPERATION OF ANY  
28 SMALL WIRELESS FACILITY LOCATED IN AN INTERIOR STRUCTURE OR ON THE SITE OF  
29 ANY CAMPUS, STADIUM OR ATHLETIC FACILITY THAT IS NOT OWNED OR CONTROLLED  
30 BY THE AUTHORITY, OTHER THAN TO REQUIRE COMPLIANCE WITH APPLICABLE CODES.

31 C. THIS ARTICLE DOES NOT AUTHORIZE THIS STATE OR ANY POLITICAL  
32 SUBDIVISION OF THIS STATE, INCLUDING AN AUTHORITY, TO REQUIRE SMALL  
33 WIRELESS FACILITY DEPLOYMENT OR TO REGULATE WIRELESS SERVICES.

34 D. IF AN AUTHORITY DETERMINES THAT A UTILITY POLE, MONOPOLE OR  
35 WIRELESS SUPPORT STRUCTURE OF A WIRELESS PROVIDER WILL BE RELOCATED TO  
36 ACCOMMODATE A PUBLIC PROJECT, ALL WIRELESS FACILITIES DEPLOYED ON SUCH  
37 UTILITY POLE, MONOPOLE OR WIRELESS SUPPORT STRUCTURE SHALL BE RELOCATED AT  
38 NO COST TO THE AUTHORITY.

39 9-597. Dispute resolution

40 A COURT OF COMPETENT JURISDICTION IN THIS STATE SHALL DETERMINE ALL  
41 DISPUTES ARISING UNDER THIS ARTICLE.

42 9-598. General requirements for use of the right-of-way

43 STRUCTURES AND FACILITIES DEPLOYED BY WIRELESS PROVIDERS PURSUANT TO  
44 THIS ARTICLE SHALL BE CONSTRUCTED, MAINTAINED AND LOCATED AS TO NOT  
45 OBSTRUCT, ENDANGER OR HINDER THE USUAL TRAVEL OR PUBLIC SAFETY ON THE

1 RIGHT-OF-WAY, DAMAGE OR INTERFERE WITH ANY OTHER UTILITY FACILITIES IN THE  
2 RIGHT-OF-WAY OR INTERFERE WITH A UTILITY'S USE OF THE UTILITY'S FACILITIES  
3 IN THE RIGHT-OF-WAY. CONSTRUCTION AND MAINTENANCE BY THE WIRELESS  
4 PROVIDER SHALL COMPLY WITH THE NATIONAL ELECTRICAL SAFETY CODE AND ALL  
5 APPLICABLE LAWS AND REGULATIONS FOR THE PROTECTION OF UNDERGROUND AND  
6 OVERHEAD UTILITY FACILITIES. AN AUTHORITY SHALL TREAT A WIRELESS  
7 PROVIDER'S FACILITIES LOCATED WITHIN A RIGHT-OF-WAY ON AN EQUAL BASIS WITH  
8 OTHER UTILITY FACILITIES, EXCEPT THAT AN AUTHORITY MAY ADOPT REASONABLE  
9 REGULATIONS TO ADDRESS THE SEPARATION OF THE WIRELESS PROVIDER'S  
10 FACILITIES FROM THE OTHER UTILITY FACILITIES WITHIN THE RIGHT-OF-WAY TO  
11 PREVENT ANY DAMAGE TO OR INTERFERENCE WITH SUCH OTHER UTILITY FACILITIES  
12 OR INTERFERENCE WITH A UTILITY'S USE OF THE UTILITY'S FACILITIES LOCATED  
13 OR TO BE LOCATED WITHIN THE RIGHT-OF-WAY.

14 9-599. Applicability

15 THIS ARTICLE DOES NOT:

16 1. AFFECT THE AUTHORITY OF A SPECIAL TAXING DISTRICT,  
17 INVESTOR-OWNED ELECTRIC UTILITY OR ELECTRIC COOPERATIVE THAT OWNS,  
18 CONTROLS OR OPERATES UTILITY POLES OR WIRELESS SUPPORT STRUCTURES TO DENY,  
19 LIMIT, RESTRICT OR DETERMINE THE RATES, FEES, TERMS AND CONDITIONS FOR THE  
20 USE OF OR ATTACHMENT TO ITS UTILITY POLES OR WIRELESS SUPPORT STRUCTURES  
21 BY A WIRELESS PROVIDER.

22 2. CONFER ON ANY AUTHORITY ANY ZONING, LAND USE, PLANNING,  
23 PERMITTING OR OTHER REGULATORY AUTHORITY OVER THE UTILITY POLES, WIRELESS  
24 SUPPORT STRUCTURES OR SMALL WIRELESS FACILITIES OWNED, CONTROLLED OR  
25 OPERATED BY A SPECIAL TAXING DISTRICT, INVESTOR-OWNED ELECTRIC UTILITY OR  
26 ELECTRIC COOPERATIVE OR THE INSTALLATION OF SUCH UTILITY POLES, WIRELESS  
27 SUPPORT STRUCTURES OR SMALL WIRELESS FACILITIES BY A SPECIAL TAXING  
28 DISTRICT, INVESTOR-OWNED ELECTRIC UTILITY OR ELECTRIC COOPERATIVE.

29 3. AMEND, MODIFY OR OTHERWISE AFFECT ANY PRIVATE EASEMENT. ANY AND  
30 ALL RIGHTS FOR THE USE OF A RIGHT-OF-WAY ARE SUBJECT TO THE RIGHTS GRANTED  
31 PURSUANT TO ANY PRIVATE EASEMENT.

32 4. APPLY TO ANY AUTHORITY WITHIN TEN MILES OF THE BORDER OF MEXICO  
33 THAT IS NEGOTIATING A CONTRACT OR HAS A CONTRACT IN PLACE ON OR BEFORE  
34 JULY 1, 2018 AND THAT CONTRACT ASSISTS AND SUPPORTS NATIONAL SECURITY  
35 OBJECTIVES ALONG THE BORDER OF THE UNITED STATES AND MEXICO.

36 Sec. 2. Title 11, Arizona Revised Statutes, is amended by adding  
37 chapter 13, to read:

38 CHAPTER 13

39 WIRELESS STRUCTURES AND FACILITIES

40 ARTICLE 1. GENERAL PROVISIONS

41 11-1801. Definitions

42 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

43 1. "ANTENNA" MEANS COMMUNICATIONS EQUIPMENT THAT TRANSMITS OR  
44 RECEIVES ELECTROMAGNETIC RADIO FREQUENCY SIGNALS AND THAT IS USED IN  
45 PROVIDING WIRELESS SERVICES.

1           2. "APPLICABLE CODES" MEANS UNIFORM BUILDING, FIRE, ELECTRICAL,  
2 PLUMBING OR MECHANICAL CODES THAT ARE ADOPTED BY A RECOGNIZED NATIONAL  
3 CODE ORGANIZATION OR LOCAL AMENDMENTS TO THOSE CODES THAT ARE ENACTED TO  
4 ADDRESS THREATS OF DESTRUCTION OF PROPERTY OR INJURY TO PERSONS AND TO AN  
5 EXTENT THAT IS NOT INCONSISTENT WITH THIS ARTICLE.

6           3. "APPLICANT" MEANS ANY PERSON THAT SUBMITS AN APPLICATION AND  
7 THAT IS A WIRELESS PROVIDER.

8           4. "APPLICATION" MEANS A REQUEST THAT IS SUBMITTED BY AN APPLICANT  
9 TO A COUNTY ON A FORM PROVIDED BY THE COUNTY FOR A PERMIT TO COLLOCATE  
10 SMALL WIRELESS FACILITIES OR TO APPROVE THE INSTALLATION, MODIFICATION OR  
11 REPLACEMENT OF A UTILITY POLE.

12           5. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION  
13 9-505. CABLE OPERATOR DOES NOT INCLUDE A SPECIAL TAXING DISTRICT.

14           6. "COLLOCATE" OR "COLLOCATION" MEANS TO INSTALL, MOUNT, MAINTAIN,  
15 MODIFY, OPERATE OR REPLACE WIRELESS FACILITIES ON, WITHIN OR ADJACENT TO A  
16 WIRELESS SUPPORT STRUCTURE OR UTILITY POLE.

17           7. "COMMUNICATIONS SERVICE" MEANS CABLE SERVICE AS DEFINED IN  
18 47 UNITED STATES CODE SECTION 522(6), INFORMATION SERVICE AS DEFINED IN  
19 47 UNITED STATES CODE SECTION 153(24), TELECOMMUNICATIONS SERVICE AS  
20 DEFINED IN 47 UNITED STATES CODE SECTION 153(53) OR WIRELESS SERVICE.

21           8. "COMMUNICATIONS SERVICE PROVIDER" MEANS A CABLE OPERATOR, A  
22 PROVIDER OF INFORMATION SERVICE AS DEFINED IN 47 UNITED STATES CODE  
23 SECTION 153(24), A TELECOMMUNICATIONS CARRIER AS DEFINED IN 47 UNITED  
24 STATES CODE SECTION 153(51) OR A WIRELESS SERVICES PROVIDER.

25           9. "COUNTY UTILITY POLE" MEANS A UTILITY POLE THAT IS OWNED OR  
26 OPERATED BY A COUNTY AND THAT IS IN A RIGHT-OF-WAY.

27           10. "FEE" MEANS A ONE-TIME CHARGE TO PROCESS AN APPLICATION AND  
28 INSPECT ANY WORK PERFORMED BY AN APPLICANT PURSUANT TO A PERMIT ISSUED BY  
29 THE COUNTY.

30           11. "LAW" MEANS ANY FEDERAL, STATE OR LOCAL LAW, STATUTE, COMMON  
31 LAW, CODE, RULE, REGULATION, ORDER OR ORDINANCE.

32           12. "PERMIT" MEANS WRITTEN PERMISSION ISSUED BY A COUNTY TO  
33 INSTALL, MOUNT, MAINTAIN, MODIFY, OPERATE OR REPLACE A UTILITY POLE OR TO  
34 COLLOCATE A SMALL WIRELESS FACILITY ON A UTILITY POLE OR WIRELESS SUPPORT  
35 STRUCTURE.

36           13. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY  
37 COMPANY, PARTNERSHIP, ASSOCIATION, TRUST OR OTHER ENTITY OR ORGANIZATION,  
38 INCLUDING A COUNTY.

39           14. "PRIVATE EASEMENT" MEANS AN EASEMENT OR OTHER REAL PROPERTY  
40 RIGHT THAT IS ONLY FOR THE BENEFIT OF THE GRANTOR AND GRANTEE AND THE  
41 GRANTOR'S OR GRANTEE'S SUCCESSORS AND ASSIGNS.

42           15. "RATE" MEANS A ONE-TIME CHARGE FOR THE GRANTING OF A RIGHT TO  
43 USE A PORTION OF A RIGHT-OF-WAY AS SPECIFIED IN A PERMIT OR TO COLLOCATE A  
44 SMALL WIRELESS FACILITY ON OR ADJACENT TO A UTILITY POLE OR TO INSTALL,  
45 MODIFY OR REPLACE A UTILITY POLE AS SPECIFIED IN A PERMIT.

1        16. "RIGHT-OF-WAY" MEANS THE AREA ON, BELOW OR ABOVE A COUNTY  
2 ROADWAY, HIGHWAY, STREET, SIDEWALK, ALLEY OR UTILITY EASEMENT.  
3 RIGHT-OF-WAY DOES NOT INCLUDE A FEDERAL INTERSTATE HIGHWAY, A STATE  
4 HIGHWAY OR STATE ROUTE UNDER THE JURISDICTION OF THE DEPARTMENT OF  
5 TRANSPORTATION, A PRIVATE EASEMENT, PROPERTY THAT IS OWNED BY A SPECIAL  
6 TAXING DISTRICT, OR A UTILITY EASEMENT THAT DOES NOT AUTHORIZE THE  
7 DEPLOYMENT SOUGHT BY THE WIRELESS PROVIDER.

8        17. "SMALL WIRELESS FACILITY" MEANS A WIRELESS FACILITY THAT MEETS  
9 BOTH OF THE FOLLOWING QUALIFICATIONS:

10        (a) ALL ANTENNAS ARE LOCATED INSIDE AN ENCLOSURE OF NOT MORE THAN  
11 SIX CUBIC FEET IN VOLUME OR, IN THE CASE OF AN ANTENNA THAT HAS EXPOSED  
12 ELEMENTS, THE ANTENNA AND ALL OF THE ANTENNA'S EXPOSED ELEMENTS COULD FIT  
13 WITHIN AN IMAGINARY ENCLOSURE OF NOT MORE THAN SIX CUBIC FEET IN VOLUME.

14        (b) ALL OTHER WIRELESS EQUIPMENT ASSOCIATED WITH THE FACILITY IS  
15 CUMULATIVELY NOT MORE THAN TWENTY-EIGHT CUBIC FEET IN VOLUME, OR FIFTY  
16 CUBIC FEET IN VOLUME IF THE EQUIPMENT WAS GROUND MOUNTED BEFORE THE  
17 EFFECTIVE DATE OF THIS SECTION. THE FOLLOWING TYPES OF ASSOCIATED  
18 ANCILLARY EQUIPMENT ARE NOT INCLUDED IN THE CALCULATION OF EQUIPMENT  
19 VOLUME PURSUANT TO THIS SUBDIVISION:

20            (i) AN ELECTRIC METER.

21            (ii) CONCEALMENT ELEMENTS.

22            (iii) A TELECOMMUNICATIONS DEMARCATION BOX.

23            (iv) GROUNDING EQUIPMENT.

24            (v) A POWER TRANSFER SWITCH.

25            (vi) A CUTOFF SWITCH.

26            (vii) VERTICAL CABLE RUNS FOR THE CONNECTION OF POWER AND OTHER  
27 SERVICES.

28        18. "SPECIAL TAXING DISTRICT" MEANS A SPECIAL DISTRICT FORMED  
29 PURSUANT TO TITLE 48, CHAPTER 11, 12, 17, 18, 19, 20 OR 22.

30        19. "UTILITY POLE" MEANS A POLE OR SIMILAR STRUCTURE THAT IS USED  
31 IN WHOLE OR IN PART FOR COMMUNICATIONS SERVICES, ELECTRIC DISTRIBUTION,  
32 LIGHTING OR TRAFFIC SIGNALS OR A SIMILAR FUNCTION.

33        20. "WIRELESS FACILITY":

34            (a) MEANS EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS  
35 COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK,  
36 INCLUDING BOTH OF THE FOLLOWING:

37            (i) EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS.

38            (ii) RADIO TRANSCEIVERS, ANTENNAS, COAXIAL OR FIBER-OPTIC CABLES,  
39 REGULAR AND BACKUP POWER SUPPLIES AND COMPARABLE EQUIPMENT, REGARDLESS OF  
40 TECHNOLOGICAL CONFIGURATION.

41            (b) INCLUDES SMALL WIRELESS FACILITIES.

42            (c) DOES NOT INCLUDE THE STRUCTURE OR IMPROVEMENTS ON, UNDER OR  
43 WITHIN WHICH THE EQUIPMENT IS COLLOCATED, WIRELINE BACKHAUL FACILITIES,  
44 COAXIAL OR FIBER-OPTIC CABLE THAT IS BETWEEN WIRELESS SUPPORT STRUCTURES

1 OR UTILITY POLES OR COAXIAL OR FIBER-OPTIC CABLE THAT IS OTHERWISE NOT  
2 IMMEDIATELY ADJACENT TO, OR DIRECTLY ASSOCIATED WITH, AN ANTENNA.

3 (d) DOES NOT INCLUDE WI-FI RADIO EQUIPMENT DESCRIBED IN SECTION  
4 9-506, SUBSECTION I OR MICROCELL EQUIPMENT DESCRIBED IN SECTION 9-584,  
5 SUBSECTION E.

6 21. "WIRELESS INFRASTRUCTURE PROVIDER" MEANS ANY PERSON THAT IS  
7 AUTHORIZED TO PROVIDE TELECOMMUNICATIONS SERVICE IN THIS STATE AND THAT  
8 BUILDS OR INSTALLS WIRELESS COMMUNICATIONS TRANSMISSION EQUIPMENT,  
9 WIRELESS FACILITIES OR UTILITY POLES BUT THAT IS NOT A WIRELESS SERVICES  
10 PROVIDER. WIRELESS INFRASTRUCTURE PROVIDER DOES NOT INCLUDE A SPECIAL  
11 TAXING DISTRICT.

12 22. "WIRELESS PROVIDER" MEANS A CABLE OPERATOR, WIRELESS  
13 INFRASTRUCTURE PROVIDER OR WIRELESS SERVICES PROVIDER.

14 23. "WIRELESS SERVICES" MEANS ANY SERVICES THAT ARE PROVIDED TO THE  
15 PUBLIC AND THAT USE LICENSED OR UNLICENSED SPECTRUM, WHETHER AT A FIXED  
16 LOCATION OR MOBILE, USING WIRELESS FACILITIES.

17 24. "WIRELESS SERVICES PROVIDER" MEANS A PERSON THAT PROVIDES  
18 WIRELESS SERVICES. WIRELESS SERVICES PROVIDER DOES NOT INCLUDE A SPECIAL  
19 TAXING DISTRICT.

20 25. "WIRELESS SUPPORT STRUCTURE":

21 (a) MEANS:

22 (i) A FREESTANDING STRUCTURE.

23 (ii) A TOWER, EITHER GUYED OR SELF-SUPPORTING.

24 (iii) ANY OTHER EXISTING OR PROPOSED STRUCTURE DESIGNED TO SUPPORT  
25 OR CAPABLE OF SUPPORTING SMALL WIRELESS FACILITIES.

26 (b) DOES NOT INCLUDE A UTILITY POLE.

27 11-1802. Exclusive arrangements prohibited; permit; rates,  
28 fees and terms; access and use of county  
29 structures

30 A. A COUNTY MAY NOT ENTER INTO AN EXCLUSIVE ARRANGEMENT WITH ANY  
31 WIRELESS PROVIDER FOR USE OF A RIGHT-OF-WAY FOR THE CONSTRUCTION,  
32 OPERATION OR MAINTENANCE OF UTILITY POLES OR THE COLLOCATION OF SMALL  
33 WIRELESS FACILITIES ON UTILITY POLES OR WIRELESS SUPPORT STRUCTURES.

34 B. SUBJECT TO SUBSECTION C OF THIS SECTION, A COUNTY MAY REQUIRE A  
35 PERMIT AND CHARGE A FEE FOR PROCESSING AN APPLICATION BY A WIRELESS  
36 PROVIDER AND CONDUCTING ASSOCIATED INSPECTIONS FOR THE INSTALLATION,  
37 MODIFICATION OR REPLACEMENT OF A UTILITY POLE OR THE COLLOCATION OF A  
38 SMALL WIRELESS FACILITY ON A UTILITY POLE OR A WIRELESS SUPPORT STRUCTURE  
39 IN A RIGHT-OF-WAY. ANY FEE CHARGED PURSUANT TO THIS SECTION MUST BE  
40 REASONABLE AND CONFORM TO AUTHORIZED AND PUBLISHED FEES FOR SIMILAR  
41 PERMITS ISSUED BY THE COUNTY AND MAY NOT EXCEED ONE HUNDRED DOLLARS PER  
42 COLLOCATION OR INSTALLATION.

43 C. FOR THE COLLOCATION OF A SMALL WIRELESS FACILITY ON A UTILITY  
44 POLE OR WIRELESS SUPPORT STRUCTURE IN THE RIGHT-OF-WAY THAT IS NOT OWNED  
45 BY THE COUNTY AND THAT DOES NOT INCLUDE GROUND-MOUNTED EQUIPMENT, THE

1 COUNTY MAY NOT CHARGE A WIRELESS PROVIDER A RATE OR FEE AND MAY NOT  
2 REQUIRE A PERMIT.

3 D. A COUNTY MAY CHARGE A WIRELESS PROVIDER A RATE FOR THE WIRELESS  
4 PROVIDER'S USE OF A RIGHT-OF-WAY IN ACCORDANCE WITH THIS SECTION. THE  
5 COUNTY MAY:

6 1. FOR THE COLLOCATION OF A SMALL WIRELESS FACILITY ON A UTILITY  
7 POLE OR WIRELESS SUPPORT STRUCTURE THAT IS NOT OWNED BY THE COUNTY THAT  
8 INCLUDES GROUND-MOUNTED EQUIPMENT, CHARGE A RATE FOR THE GROUND-MOUNTED  
9 EQUIPMENT USING THE METHODOLOGY DESCRIBED IN PARAGRAPH 5 OF THIS  
10 SUBSECTION, REQUIRE AN APPLICATION AND CHARGE A FEE. THE RATE FOR  
11 GROUND-MOUNTED EQUIPMENT MAY NOT EXCEED ONE HUNDRED SEVENTY-FIVE DOLLARS.

12 2. FOR THE COLLOCATION OF A SMALL WIRELESS FACILITY ON A COUNTY  
13 UTILITY POLE THAT DOES NOT INCLUDE GROUND-MOUNTED EQUIPMENT, CHARGE A RATE  
14 USING THE METHODOLOGY DESCRIBED IN PARAGRAPH 5 OF THIS SUBSECTION THAT  
15 DOES NOT EXCEED TWENTY DOLLARS. IF THE COLLOCATION INCLUDES  
16 GROUND-MOUNTED EQUIPMENT, THE COUNTY MAY CHARGE AN ADDITIONAL RATE USING  
17 THE METHODOLOGY DESCRIBED IN PARAGRAPH 5 OF THIS SUBSECTION. THE RATE FOR  
18 GROUND-MOUNTED EQUIPMENT MAY NOT EXCEED ONE HUNDRED SEVENTY-FIVE DOLLARS.

19 3. FOR THE INSTALLATION OF A UTILITY POLE, TOGETHER WITH THE  
20 COLLOCATION OF SMALL WIRELESS FACILITIES, THAT WILL NOT BE OWNED BY THE  
21 COUNTY, CHARGE A WIRELESS PROVIDER A RATE USING THE METHODOLOGY DESCRIBED  
22 IN PARAGRAPH 5 OF THIS SUBSECTION. THE RATE MAY NOT EXCEED ONE HUNDRED  
23 SEVENTY-FIVE DOLLARS. AN ADDITIONAL RATE MAY NOT BE CHARGED FOR  
24 COLLOCATED SMALL WIRELESS FACILITIES, INCLUDING GROUND-MOUNTED EQUIPMENT  
25 THAT IS REQUESTED IN THE APPLICATION.

26 4. FOR THE REPLACEMENT OF A UTILITY POLE OWNED BY THE COUNTY,  
27 REQUIRE THE APPLICANT TO COMPLY WITH THE COUNTY'S PROCESSES AND  
28 REQUIREMENTS FOR INSTALLING SUCH STRUCTURES. THE COUNTY MAY NOT CHARGE A  
29 RATE FOR THE REPLACED UTILITY POLE.

30 5. CHARGE A RATE THAT HAS BEEN LAWFULLY ADOPTED AND PUBLISHED. THE  
31 RATE SHALL BE BASED ON THE AVERAGE FAIR MARKET VALUE OF THE COUNTY  
32 RIGHT-OF-WAY THAT IS SUITABLE FOR THE DEPLOYMENT OF WIRELESS FACILITIES  
33 AND UTILITY POLES. ALL MATERIALS USED TO DERIVE THESE VALUES SHALL BE  
34 READILY AVAILABLE TO THE PUBLIC AT LEAST NINETY DAYS BEFORE THE ADOPTION  
35 OF THE RATE. THE RATE ADOPTED SHALL BE BASED ON NINETY PERCENT OF THE  
36 AVERAGE FAIR MARKET VALUES THAT HAVE BEEN DETERMINED AND ARE SUBJECT TO  
37 THE APPLICABLE RATE CAPS IN PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION.

38 E. A COUNTY SHALL:

39 1. ADOPT AN ORDINANCE ESTABLISHING RATES, FEES AND TERMS FOR THE  
40 FOLLOWING:

41 (a) THE INSTALLATION, MODIFICATION OR REPLACEMENT BY A WIRELESS  
42 PROVIDER OF A UTILITY POLE LOCATED IN A RIGHT-OF-WAY.

43 (b) THE COLLOCATION BY A WIRELESS PROVIDER OF A SMALL WIRELESS  
44 FACILITY IN A RIGHT-OF-WAY.

1 (c) THE COLLOCATION BY A WIRELESS PROVIDER OF A SMALL WIRELESS  
2 FACILITY ON A COUNTY UTILITY POLE.

3 2. ADOPT THE ORDINANCE DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION  
4 WITHIN THE TIME PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION AND  
5 ENDING AFTER THE TIME ALLOWED UNDER THE COUNTY'S PROCEDURES ADOPTED UNDER  
6 SECTION 11-1605 FOR THE ADOPTION OF AN ORDINANCE, OR NINETY DAYS AFTER  
7 RECEIVING THE FIRST REQUEST BY A WIRELESS PROVIDER, WHICHEVER IS LATER.

8 3. ESTABLISH RATES, FEES AND TERMS THAT COMPLY WITH THIS SECTION.  
9 THE TERMS:

10 (a) MAY NOT BE UNREASONABLE OR DISCRIMINATORY.

11 (b) MAY INCLUDE REQUIREMENTS APPLICABLE TO OTHER USERS OF THE  
12 RIGHT-OF-WAY.

13 (c) MAY REQUIRE THAT THE WIRELESS PROVIDER'S OPERATION OF THE SMALL  
14 WIRELESS FACILITIES AND WIRELESS FACILITIES IN THE RIGHT-OF-WAY DOES NOT  
15 INTERFERE WITH THE COUNTY'S PUBLIC SAFETY COMMUNICATIONS.

16 (d) MAY NOT REQUIRE THE PLACEMENT OF SMALL WIRELESS FACILITIES ON  
17 ANY SPECIFIC UTILITY POLE OR CATEGORY OF UTILITY POLES OR REQUIRE MULTIPLE  
18 ANTENNA SYSTEMS ON A SINGLE UTILITY POLE.

19 (e) MAY NOT LIMIT THE PLACEMENT OF POLE-MOUNTED SMALL WIRELESS  
20 FACILITIES BY MINIMUM SEPARATION DISTANCES BUT MAY REQUIRE REASONABLE  
21 SPACING REQUIREMENTS THAT CONCERN THE LOCATION OF GROUND-MOUNTED  
22 EQUIPMENT.

23 F. AGREEMENTS THAT ARE IN EFFECT ON THE EFFECTIVE DATE OF THIS  
24 SECTION BETWEEN COUNTIES AND WIRELESS PROVIDERS AND THAT RELATE TO THE  
25 COLLOCATION OF SMALL WIRELESS FACILITIES IN THE RIGHT-OF-WAY, INCLUDING  
26 THE COLLOCATION OF SMALL WIRELESS FACILITIES ON COUNTY UTILITY POLES,  
27 REMAIN IN EFFECT, SUBJECT TO APPLICABLE TERMINATION PROVISIONS. THE  
28 WIRELESS PROVIDER MAY ELECT TO PAY THE RATES AND FEES PROVIDED UNDER  
29 SUBSECTION D OF THIS SECTION FOR SMALL WIRELESS FACILITIES AND UTILITY  
30 POLES THAT ARE THE SUBJECT OF AN APPLICATION SUBMITTED AFTER THE RATES,  
31 FEES AND TERMS BECOME EFFECTIVE, IF THE WIRELESS PROVIDER NOTIFIES THE  
32 COUNTY OF THE WIRELESS PROVIDER'S ELECTION AND AGREEMENT TO COMPLY WITH  
33 THE TERMS ADOPTED BY THE COUNTY UNDER SUBSECTION E OF THIS SECTION.

34 G. THIS CHAPTER DOES NOT RELIEVE A WIRELESS PROVIDER FROM ANY  
35 APPLICABLE REQUIREMENT TO OBTAIN A FRANCHISE, LICENSE OR OTHER PERMISSION  
36 TO PROVIDE COMMUNICATIONS SERVICE OR TO INSTALL, PLACE, MAINTAIN OR  
37 OPERATE FACILITIES OR STRUCTURES THAT ARE NOT AUTHORIZED BY THIS CHAPTER  
38 IN THE RIGHT-OF-WAY TO PROVIDE A COMMUNICATIONS SERVICE.

39 11-1803. Access to right-of-way by wireless providers

40 A. SUBJECT TO THIS SECTION AND SECTIONS 11-1802, 11-1804, 11-1806,  
41 11-1807, 11-1809 AND 11-1810, A WIRELESS PROVIDER MAY CONSTRUCT, INSTALL,  
42 MODIFY, MOUNT, MAINTAIN, OPERATE AND REPLACE UTILITY POLES ALONG, ACROSS,  
43 ON AND UNDER THE RIGHT-OF-WAY AND COLLOCATE SMALL WIRELESS FACILITIES ON  
44 UTILITY POLES AND WIRELESS SUPPORT STRUCTURES.

1           B. THE FOLLOWING REQUIREMENTS APPLY TO THE CONSTRUCTION,  
2 INSTALLATION, MOUNTING, MAINTENANCE, MODIFICATION, OPERATION OR  
3 REPLACEMENT OF UTILITY POLES BY A WIRELESS PROVIDER IN THE RIGHT-OF-WAY  
4 AND THE COLLOCATION OF SMALL WIRELESS FACILITIES ON UTILITY POLES OR  
5 WIRELESS SUPPORT STRUCTURES BY WIRELESS PROVIDERS IN THE RIGHT-OF-WAY:

6           1. A COUNTY SHALL ISSUE A PERMIT FOR THE COLLOCATION OF SMALL  
7 WIRELESS FACILITIES ON OR ADJACENT TO A COUNTY UTILITY POLE OR THE  
8 COLLOCATION OF SMALL WIRELESS FACILITIES WITH GROUND-MOUNTED EQUIPMENT  
9 ADJACENT TO ANY OTHER PARTY'S UTILITY POLE OR WIRELESS SUPPORT STRUCTURE  
10 IF BOTH OF THE FOLLOWING APPLY:

11           (a) THE APPLICANT PROVIDES THE SEALED STATEMENT OF A REGISTERED  
12 ENGINEER DEMONSTRATING THAT THE UTILITY POLE OR WIRELESS SUPPORT STRUCTURE  
13 IS STRUCTURALLY SOUND AND ABLE TO SUPPORT THE PROPOSED SMALL WIRELESS  
14 FACILITY.

15           (b) THE COLLOCATION COMPLIES WITH APPLICABLE CODES AND THE TERMS  
16 FOR COLLOCATION ADOPTED UNDER SECTION 11-1802, SUBSECTION E.

17           2. THE COLLOCATION OF SMALL WIRELESS FACILITIES PURSUANT TO  
18 PARAGRAPH 1 OF THIS SUBSECTION IS A PERMITTED USE IN ALL ZONING DISTRICTS  
19 AND ZONING REVIEW AND APPROVAL IS NOT REQUIRED. IF THE APPLICANT FAILS TO  
20 DEMONSTRATE THAT A COUNTY UTILITY POLE IS STRUCTURALLY SOUND AND ABLE TO  
21 SUPPORT THE PROPOSED SMALL WIRELESS FACILITY, THE COUNTY MAY CONDITION A  
22 PERMIT ON REPLACEMENT OF THE COUNTY UTILITY POLE AT THE APPLICANT'S  
23 EXPENSE. THE WIRELESS PROVIDER'S REQUEST TO INSTALL A REPLACEMENT UTILITY  
24 POLE WILL BE PROCESSED UNDER SECTION 11-1802, SUBSECTION D, PARAGRAPH  
25 4. THE COUNTY SHALL OWN THE REPLACEMENT UTILITY POLE.

26           3. A COUNTY SHALL ISSUE A PERMIT FOR THE INSTALLATION, MODIFICATION  
27 OR REPLACEMENT OF A UTILITY POLE IF ALL OF THE FOLLOWING APPLY:

28           (a) THE APPLICANT PROVIDES THE SEALED STATEMENT OF A REGISTERED  
29 ENGINEER DEMONSTRATING THAT THE UTILITY POLE IS STRUCTURALLY SOUND AND  
30 ABLE TO SUPPORT THE PROPOSED SMALL WIRELESS FACILITY.

31           (b) THE PROPOSED LOCATION OF THE UTILITY POLE COMPLIES WITH  
32 REASONABLE RESTRICTIONS ADOPTED BY THE COUNTY THAT REQUIRE DISTANCES OF  
33 SEPARATION BETWEEN UTILITY POLES, GROUND-MOUNTED EQUIPMENT AND WIRELESS  
34 SUPPORT STRUCTURES.

35           (c) THE INSTALLATION, MODIFICATION OR REPLACEMENT COMPLIES WITH THE  
36 APPLICABLE CODES AND TERMS FOR INSTALLATION, MODIFICATION OR REPLACEMENT  
37 ADOPTED UNDER SECTION 11-1802, SUBSECTION E.

38           4. THE INSTALLATION, MODIFICATION OR REPLACEMENT OF A UTILITY POLE  
39 APPROVED PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION IS A PERMITTED USE IN  
40 ALL ZONING DISTRICTS AND SUBJECT TO ONLY ADMINISTRATIVE ZONING REVIEW AND  
41 APPROVAL UNLESS THE INSTALLATION, MODIFICATION OR REPLACEMENT WOULD NOT  
42 COMPLY WITH THE HEIGHT REQUIREMENTS OF PARAGRAPH 5 OF THIS SUBSECTION, AN  
43 UNDERGROUNDING REQUIREMENT DESCRIBED IN PARAGRAPH 6 OF THIS SUBSECTION OR  
44 A POLE SPACING REQUIREMENT DESCRIBED IN PARAGRAPH 7 OF THIS SUBSECTION.

1           5. A PROPOSED OR MODIFIED UTILITY POLE INSTALLED IN A COUNTY  
2 RIGHT-OF-WAY MAY NOT EXCEED THE GREATER OF TEN FEET IN HEIGHT ABOVE THE  
3 TALLEST UTILITY POLE, OTHER THAN A UTILITY POLE SUPPORTING ONLY WIRELESS  
4 FACILITIES, THAT IS IN PLACE ON THE EFFECTIVE DATE OF THIS SECTION AND  
5 THAT IS LOCATED WITHIN FIVE HUNDRED FEET OF THE PROPOSED UTILITY POLE IN  
6 THE SAME RIGHT-OF-WAY OR FIFTY FEET ABOVE GROUND LEVEL. AN APPLICANT MAY  
7 APPLY FOR AN ADMINISTRATIVE WAIVER TO EXCEED THESE HEIGHT LIMITATIONS.

8           6. WIRELESS PROVIDERS MUST COMPLY WITH UNDERGROUNDING REQUIREMENTS  
9 THAT PROHIBIT THE INSTALLATION OF NEW STRUCTURES IN A RIGHT-OF-WAY WITHOUT  
10 PRIOR APPROVAL IF SUCH REQUIREMENTS DO NOT PROHIBIT THE REPLACEMENT OF  
11 EXISTING STRUCTURES AND FACILITIES. AN APPLICANT MAY APPLY FOR AN  
12 ADMINISTRATIVE WAIVER TO INSTALL A UTILITY POLE IN A RIGHT-OF-WAY WHERE  
13 SUCH UNDERGROUNDING REQUIREMENTS APPLY.

14           7. WIRELESS PROVIDERS SHALL COMPLY WITH REASONABLE REQUIREMENTS  
15 CONCERNING SPACING BETWEEN UTILITY POLES AND GROUND-MOUNTED EQUIPMENT IN  
16 THE RIGHT-OF-WAY. AN APPLICANT MAY APPLY FOR AN ADMINISTRATIVE WAIVER TO  
17 INSTALL A UTILITY POLE IN CLOSER PROXIMITY TO ANOTHER POLE OR  
18 GROUND-MOUNTED EQUIPMENT THAN THESE SPACING REQUIREMENTS WOULD PERMIT.

19           C. A COUNTY SHALL ADOPT AN ADMINISTRATIVE WAIVER PROCESS FOR  
20 SUBSECTION B, PARAGRAPHS 5, 6 AND 7 OF THIS SECTION THAT COMPLIES WITH  
21 SECTION 11-1605. THE APPLICATION PROCESS AND TIME FRAMES SHALL BE ADOPTED  
22 WITHIN THE TIME PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION AND  
23 ENDING AFTER THE TIME ALLOWED UNDER THE COUNTY'S PROCEDURES ADOPTED  
24 PURSUANT TO SECTION 11-1605 FOR THE ADOPTION OF AN ORDINANCE, OR NINETY  
25 DAYS AFTER RECEIVING A REQUEST BY A WIRELESS PROVIDER, WHICHEVER IS LATER.  
26 AN APPLICANT IS ENTITLED TO ALL OF THE RIGHTS GRANTED IN CHAPTER 11,  
27 ARTICLE 1 OF THIS TITLE.

28           11-1804. Collocation of small wireless facilities; permits

29           A. EXCEPT AS PROVIDED IN THIS SECTION AND SECTIONS 11-1802,  
30 11-1803, 11-1806, 11-1807, 11-1809 AND 11-1810, A COUNTY MAY NOT PROHIBIT,  
31 REGULATE OR CHARGE FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES INSIDE  
32 A RIGHT-OF-WAY.

33           B. FOR COLLOCATIONS FOR WHICH AN APPLICATION IS REQUIRED, AN  
34 APPLICANT SEEKING TO COLLOCATE MULTIPLE SMALL WIRELESS FACILITIES WITHIN  
35 THE JURISDICTION OF A SINGLE COUNTY MAY FILE A CONSOLIDATED APPLICATION  
36 FOR THE COLLOCATION OF UP TO THIRTY-FIVE SMALL WIRELESS FACILITIES WITHIN  
37 A RIGHT-OF-WAY IF THE COLLOCATIONS EACH INVOLVE SUBSTANTIALLY THE SAME  
38 TYPE OF SMALL WIRELESS FACILITIES AND SUBSTANTIALLY THE SAME TYPE OF  
39 UTILITY POLE OR WIRELESS SUPPORT STRUCTURE. THE COUNTY MAY REMOVE FROM THE  
40 CONSOLIDATED APPLICATION AND TREAT SEPARATELY SMALL WIRELESS FACILITY  
41 COLLOCATIONS FOR WHICH INCOMPLETE INFORMATION HAS BEEN PROVIDED, THAT DO  
42 NOT QUALIFY FOR CONSOLIDATED TREATMENT OR THAT ARE DENIED. THE COUNTY MAY  
43 ISSUE SEPARATE PERMITS FOR EACH COLLOCATION THAT IS APPROVED IN A  
44 CONSOLIDATED APPLICATION. APPLICATION FEES, IF REQUIRED, SHALL BE CAPPED  
45 AT ONE HUNDRED DOLLARS FOR EACH SMALL WIRELESS FACILITY FOR UP TO FIVE

1 SMALL WIRELESS FACILITIES ADDRESSED IN A SINGLE APPLICATION AND SIXTY-FIVE  
2 DOLLARS FOR EACH ADDITIONAL SMALL WIRELESS FACILITY ADDRESSED IN THE  
3 APPLICATION.

4 C. AN APPLICATION SHALL INCLUDE AN ATTESTATION THAT THE SMALL  
5 WIRELESS FACILITIES WILL BE COLLOCATED ON THE UTILITY POLE OR WIRELESS  
6 SUPPORT STRUCTURE AND THAT THE SMALL WIRELESS FACILITIES WILL BE  
7 OPERATIONAL FOR USE BY A WIRELESS SERVICES PROVIDER TO PROVIDE SERVICE  
8 WITHIN ONE YEAR AFTER THE DATE ON WHICH THE PERMIT IS ISSUED.

9 11-1805. Applicability: location outside of a county-owned  
10 right-of-way

11 A. THIS SECTION APPLIES TO THE INSTALLATION, MODIFICATION OR  
12 REPLACEMENT BY A WIRELESS PROVIDER OF A UTILITY POLE OR THE COLLOCATION BY  
13 A WIRELESS PROVIDER OF A SMALL WIRELESS FACILITY ON A UTILITY POLE OR A  
14 WIRELESS SUPPORT STRUCTURE OUTSIDE OF THE RIGHT-OF-WAY.

15 B. THE INSTALLATION, MODIFICATION OR REPLACEMENT OF A UTILITY POLE  
16 OR THE COLLOCATION OF A SMALL WIRELESS FACILITY ON A UTILITY POLE OR A  
17 WIRELESS SUPPORT STRUCTURE IS A PERMITTED USE IN EVERY ZONING DISTRICT IN  
18 THE COUNTY EXCEPT FOR SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS.

19 C. THE INSTALLATION, MODIFICATION OR REPLACEMENT OF A UTILITY POLE  
20 OR THE COLLOCATION OF A SMALL WIRELESS FACILITY ON A UTILITY POLE OR A  
21 WIRELESS SUPPORT STRUCTURE IS NOT A PROHIBITED USE IN ANY ZONING DISTRICT  
22 IN THE COUNTY.

23 D. IN ANY ZONING DISTRICT IN WHICH THE INSTALLATION, MODIFICATION  
24 OR REPLACEMENT OF A UTILITY POLE OR THE COLLOCATION OF A SMALL WIRELESS  
25 FACILITY ON A UTILITY POLE OR A WIRELESS SUPPORT STRUCTURE IS NOT A  
26 PERMITTED USE, THE COUNTY SHALL ESTABLISH A PROCEDURE BY WHICH AN  
27 APPLICANT MAY SEEK TO INSTALL, MODIFY OR REPLACE A UTILITY POLE OR  
28 COLLOCATE A SMALL WIRELESS FACILITY ON A UTILITY POLE OR A WIRELESS  
29 SUPPORT STRUCTURE.

30 E. EXCEPT AS PROVIDED IN THIS SECTION, ALL ZONING REQUIREMENTS OF  
31 THE ZONING DISTRICT IN WHICH THE APPLICANT SEEKS TO INSTALL, MODIFY OR  
32 REPLACE A UTILITY POLE OR COLLOCATE A SMALL WIRELESS FACILITY ON A UTILITY  
33 POLE OR A WIRELESS SUPPORT STRUCTURE OUTSIDE THE RIGHT-OF-WAY THAT ARE  
34 GENERALLY APPLICABLE TO ALL APPLICANTS WITHIN THAT ZONING DISTRICT APPLY  
35 TO THE APPLICANT.

36 F. THE COUNTY MAY ADOPT REASONABLE ZONING REQUIREMENTS THAT ARE  
37 APPLICABLE ONLY TO THE INSTALLATION, MODIFICATION OR REPLACEMENT OF A  
38 UTILITY POLE OR THE COLLOCATION OF A SMALL WIRELESS FACILITY ON A UTILITY  
39 POLE OR A WIRELESS SUPPORT STRUCTURE AND THAT REFLECT SOUND ZONING AND  
40 PLANNING.

41 G. A FEE FOR A ZONING APPLICATION AND APPROVAL REQUIRED UNDER THIS  
42 SECTION SHALL CONFORM TO THE FEES APPLICABLE TO SIMILAR APPLICATIONS  
43 WITHIN THE COUNTY.

44 H. FOR ZONING APPLICATIONS REQUIRED UNDER THIS SECTION, A COUNTY  
45 SHALL EITHER:

1           1. INCORPORATE THE APPLICATION PROCESS AND TIME FRAMES FOR THE  
2 INSTALLATION, MODIFICATION OR REPLACEMENT OF A UTILITY POLE OR WIRELESS  
3 SUPPORT STRUCTURES, OR FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES,  
4 INTO PROCESSES AND TIME FRAMES PREVIOUSLY ADOPTED BY THE COUNTY PURSUANT  
5 TO SECTION 11-1605.

6           2. ADOPT AN APPLICATION PROCESS AND TIME FRAMES FOR THE  
7 INSTALLATION, MODIFICATION OR REPLACEMENT OF UTILITY POLES OR WIRELESS  
8 SUPPORT STRUCTURES, OR FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES,  
9 THAT COMPLY WITH SECTION 11-1605. THE APPLICATION PROCESS AND TIME FRAMES  
10 SHALL BE ADOPTED WITHIN THE PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS  
11 SECTION AND ENDING AFTER THE TIME ALLOWED UNDER THE COUNTY'S PROCEDURES  
12 ADOPTED UNDER SECTION 11-1605 FOR THE ADOPTION OF AN ORDINANCE, OR NINETY  
13 DAYS AFTER RECEIVING A REQUEST BY A WIRELESS PROVIDER, WHICHEVER IS LATER.

14           11-1806. Application processing

15           A. A COUNTY SHALL ADOPT AN APPLICATION PROCESS AND TIME FRAMES FOR  
16 THE INSTALLATION, MODIFICATION OR REPLACEMENT OF UTILITY POLES OR WIRELESS  
17 SUPPORT STRUCTURES INSIDE OF THE RIGHT-OF-WAY OR FOR THE COLLOCATION OF  
18 SMALL WIRELESS FACILITIES INSIDE OF THE RIGHT-OF-WAY THAT COMPLY WITH  
19 SECTION 11-1605. THE APPLICATION PROCESS AND TIME FRAMES SHALL BE ADOPTED  
20 WITHIN THE TIME PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION AND  
21 ENDING AFTER THE TIME ALLOWED UNDER THE COUNTY'S PROCEDURES ADOPTED  
22 PURSUANT TO SECTION 11-1605 FOR THE ADOPTION OF AN ORDINANCE, OR NINETY  
23 DAYS AFTER RECEIVING THE FIRST REQUEST BY A WIRELESS PROVIDER, WHICHEVER  
24 IS LATER.

25           B. AN APPLICANT IS ENTITLED TO ALL OF THE RIGHTS GRANTED IN CHAPTER  
26 11, ARTICLE 1 OF THIS TITLE.

27           C. A COUNTY MAY NOT:

28           1. DIRECTLY OR INDIRECTLY REQUIRE AN APPLICANT TO PERFORM SERVICES  
29 THAT ARE UNRELATED TO THE APPLICATION, SUCH AS IN-KIND CONTRIBUTIONS TO  
30 THE COUNTY, INCLUDING RESERVING FIBER, CONDUIT OR POLE SPACE ON THE  
31 WIRELESS PROVIDER'S POLE FOR THE COUNTY.

32           2. REQUIRE AN APPLICANT TO PROVIDE MORE INFORMATION TO OBTAIN A  
33 PERMIT THAN THE COUNTY REQUIRES OF A COMMUNICATIONS SERVICE PROVIDER THAT  
34 IS NOT A WIRELESS PROVIDER AND THAT REQUESTS TO ATTACH FACILITIES TO A  
35 STRUCTURE.

36           3. INSTITUTE, EITHER EXPRESSLY OR DE FACTO, A MORATORIUM ON FILING,  
37 RECEIVING OR PROCESSING APPLICATIONS OR ISSUING PERMITS OR OTHER  
38 APPROVALS, IF ANY, FOR THE COLLOCATION OF A SMALL WIRELESS FACILITY.

39           4. REQUIRE AN APPLICATION FOR ROUTINE MAINTENANCE OR THE  
40 REPLACEMENT OF SMALL WIRELESS FACILITIES WITH SMALL WIRELESS FACILITIES  
41 THAT ARE SUBSTANTIALLY SIMILAR OR THE SAME SIZE OR SMALLER. A COUNTY MAY  
42 REQUIRE A PERMIT TO WORK WITHIN A RIGHT-OF-WAY FOR SUCH ACTIVITIES, IF  
43 APPLICABLE. A PERMIT ISSUED PURSUANT TO THIS PARAGRAPH IS SUBJECT TO THE  
44 REQUIREMENTS OF THIS SECTION.

1 D. ISSUANCE OF A PERMIT BY A COUNTY SHALL ALLOW THE APPLICANT TO DO  
2 BOTH OF THE FOLLOWING:

3 1. COLLOCATE THE SMALL WIRELESS FACILITIES OR CONSTRUCT, INSTALL,  
4 MOUNT, MAINTAIN, MODIFY, OPERATE OR REPLACE THE UTILITY POLE OR WIRELESS  
5 SUPPORT STRUCTURE, AS SPECIFIED IN THE PERMIT.

6 2. ON FINAL INSPECTION OF ALL WORK COMPLETED PURSUANT TO THE  
7 PERMIT, SUBJECT TO APPLICABLE RELOCATION REQUIREMENTS AND THE WIRELESS  
8 PROVIDER'S RIGHT TO TERMINATE AT ANY TIME, OPERATE AND MAINTAIN THE SMALL  
9 WIRELESS FACILITIES. A PERMIT MAY NOT STATE A DURATION PERIOD FOR  
10 OPERATION AND MAINTENANCE.

11 E. THIS ARTICLE DOES NOT ALLOW A PERSON TO COLLOCATE SMALL WIRELESS  
12 FACILITIES ON A PRIVATELY OWNED UTILITY POLE, A PRIVATELY OWNED WIRELESS  
13 SUPPORT STRUCTURE OR PRIVATE PROPERTY WITHOUT THE CONSENT OF THE PROPERTY  
14 OWNER.

15 11-1807. General requirements concerning use of the  
16 right-of-way by wireless providers

17 UTILITY POLES, WIRELESS SUPPORT STRUCTURES AND WIRELESS FACILITIES  
18 DEPLOYED BY WIRELESS PROVIDERS PURSUANT TO THIS ARTICLE SHALL BE  
19 CONSTRUCTED AND MAINTAINED AS TO NOT OBSTRUCT, ENDANGER OR HINDER THE  
20 USUAL TRAVEL OR PUBLIC SAFETY ON THE RIGHT-OF-WAY, DAMAGE OR INTERFERE  
21 WITH ANY OTHER UTILITY FACILITIES IN THE RIGHT-OF-WAY OR INTERFERE WITH A  
22 UTILITY'S USE OF THE UTILITY'S FACILITIES IN THE RIGHT-OF-WAY.  
23 CONSTRUCTION AND MAINTENANCE BY THE WIRELESS PROVIDER SHALL COMPLY WITH  
24 THE NATIONAL ELECTRICAL SAFETY CODE AND ALL APPLICABLE LAWS AND  
25 REGULATIONS FOR THE PROTECTION OF UNDERGROUND AND OVERHEAD UTILITY  
26 FACILITIES. A COUNTY SHALL TREAT A WIRELESS PROVIDER'S UTILITY FACILITIES  
27 LOCATED WITHIN A RIGHT-OF-WAY ON AN EQUAL BASIS WITH OTHER UTILITY  
28 FACILITIES, EXCEPT THAT A COUNTY MAY ADOPT REASONABLE REGULATIONS TO  
29 ADDRESS THE SEPARATION OF THE WIRELESS PROVIDER'S UTILITY FACILITIES FROM  
30 THE OTHER UTILITY FACILITIES WITHIN THE RIGHT-OF-WAY TO PREVENT ANY DAMAGE  
31 TO OR INTERFERENCE WITH OTHER UTILITY FACILITIES OR INTERFERENCE WITH A  
32 UTILITY'S USE OF THE UTILITY'S FACILITIES LOCATED OR TO BE LOCATED WITHIN  
33 THE RIGHT-OF-WAY.

34 11-1808. Scope of local authority

35 A. SUBJECT TO THIS ARTICLE AND APPLICABLE FEDERAL LAW, A COUNTY MAY  
36 EXERCISE ZONING, LAND USE, PLANNING AND PERMITTING AUTHORITY AND THE  
37 COUNTY'S POLICE POWER WITHIN THE COUNTY'S TERRITORIAL BOUNDARIES,  
38 INCLUDING FOR THE INSTALLATION, MODIFICATION AND REPLACEMENT OF WIRELESS  
39 SUPPORT STRUCTURES AND UTILITY POLES.

40 B. A COUNTY DOES NOT HAVE ANY JURISDICTION OR AUTHORITY OVER THE  
41 DESIGN, ENGINEERING, CONSTRUCTION, INSTALLATION OR OPERATION OF ANY SMALL  
42 WIRELESS FACILITY LOCATED IN AN INTERIOR STRUCTURE OR ON THE SITE OF ANY  
43 CAMPUS, STADIUM OR ATHLETIC FACILITY THAT IS NOT OWNED OR CONTROLLED BY  
44 THE COUNTY OTHER THAN TO COMPLY WITH APPLICABLE CODES.

1 C. THIS ARTICLE DOES NOT AUTHORIZE THIS STATE OR ANY POLITICAL  
2 SUBDIVISION OF THIS STATE, INCLUDING A COUNTY, TO REQUIRE SMALL WIRELESS  
3 FACILITY DEPLOYMENT OR TO REGULATE WIRELESS SERVICES.

4 11-1809. Dispute resolution

5 A COURT OF COMPETENT JURISDICTION IN THIS STATE SHALL DETERMINE ALL  
6 DISPUTES ARISING UNDER THIS ARTICLE.

7 11-1810. Applicability

8 THIS ARTICLE DOES NOT:

9 1. AFFECT THE AUTHORITY OF A SPECIAL TAXING DISTRICT,  
10 INVESTOR-OWNED ELECTRIC UTILITY OR ELECTRIC COOPERATIVE THAT OWNS,  
11 CONTROLS OR OPERATES UTILITY POLES OR WIRELESS SUPPORT STRUCTURES TO DENY,  
12 LIMIT, RESTRICT OR DETERMINE THE RATES, FEES, TERMS AND CONDITIONS FOR THE  
13 USE OF OR ATTACHMENT TO ITS UTILITY POLES OR WIRELESS SUPPORT STRUCTURES  
14 BY A WIRELESS PROVIDER.

15 2. CONFER ON ANY COUNTY ANY ZONING, LAND USE, PLANNING, PERMITTING  
16 OR OTHER REGULATORY AUTHORITY OVER THE UTILITY POLES, WIRELESS SUPPORT  
17 STRUCTURES OR SMALL WIRELESS FACILITIES OWNED, CONTROLLED OR OPERATED BY A  
18 SPECIAL TAXING DISTRICT OR THE INSTALLATION OF SUCH UTILITY POLES,  
19 WIRELESS SUPPORT STRUCTURES OR SMALL WIRELESS FACILITIES BY A SPECIAL  
20 TAXING DISTRICT.

21 3. AMEND, MODIFY OR OTHERWISE AFFECT ANY PRIVATE EASEMENT. ANY AND  
22 ALL RIGHTS FOR THE USE OF A RIGHT-OF-WAY ARE SUBJECT TO THE RIGHTS GRANTED  
23 PURSUANT TO ANY PRIVATE EASEMENT.

APPROVED BY THE GOVERNOR MARCH 31, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2017.