CITY OF SURPRISE
Planning and Zoning Commission Agenda
16000 N. Civic Center Plaza
Surprise, AZ 85374

Thursday, December 21, 2017 @ 6:00 PM
COUNCIL CHAMBERS

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CALL TO ORDER.

A. Roll Call

B. Pledge of Allegiance

C. Current Events and Reports – Pursuant to A.R.S. §38-431.02(k) the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, provided that 1) The summary is listed on the agenda; and 2) The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

D. Staff Reports

Planning and Zoning Commission Agenda:

CALL TO THE PUBLIC:

INSTRUCTIONS: In order to address the Board\Commission, you will need to fill out a Call to the Public Form available at the front counter, and then turn it in to the Secretary before the meeting begins.

Note: A.R.S. 38-431.01(H) - During this time members of the public may address the Board\Commission only on issues within the jurisdiction of the Board\Commission which are not an item on the agenda. At the conclusion of the open call, the Board\Commission may respond to criticism, may ask staff to review the matter or may ask that the matter be put on a future agenda. No discussion or action shall take place on any item raised.

E. Approval of items on the Consent Agenda – all items with an asterisk (*) are considered to be routine matters and will be enacted by one motion and one roll call vote to the Board\Commission. There will be no separate discussion on these items unless a board member or commissioner requests, in which event the item will be removed from the consent agenda and considered in its normal sequence on the agenda.

CONSENT AGENDA:

*#1	District Internal	**Consideration and action approving the December 7, 2017 Planning and Zoning Commission Minutes.**	None Lorraine Nevarez - Community Development

REGULAR AGENDA ITEM - PUBLIC HEARING:

ITEM #	DISTRICT #	ITEM DESCRIPTION	STAFF RECOMMENDATION/ PRESENTED BY
#2	District Citywide	**Consideration and action on recommending approval to the Mayor and City Council approving a Zoning Text Amendment for Wireless Facilities.**	Approve Hobart Wingard - Community Developmnet

OTHER BUSINESS:

#3	District Internal	**Discussion and direction pertaining to future agenda items.**	No Action Eric Fitzer - Community Development

ADJOURNMENT:

SHERRY ANN AGUILAR, CITY CLERK, CMC

POSTED: December 14, 2017 at 1:20 PM

SPECIAL NOTE: PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETER, SHOULD CONTACT THE CITY CLERK'S OFFICE @ 623.222.1200 OR TTY 623.222.1002, BY NO LATER THAN 24 HOURS IN ADVANCE OF THE REGULAR SCHEDULED MEETING TIME.

CITY OF SURPRISE
Planning and Zoning Commission

December 21, 2017 @ 6:00:00 PM

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Board Meeting Date:	December 21, 2017	Contact Person:	Lorraine Nevarez - Community Development
Submitting Department:	CD Boards and Commissions	District:	Internal
Staff Recommendations:	None		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action approving the December 7, 2017 Planning and Zoning Commission Minutes.

Motion:

I move to approve the consent agenda as presented.

Background:

Financial Impact Statement:

No Financial Impact

ATTACHMENTS:

Click to download

- Minutes - December 7, 2017

External Attachment Links:

Meeting Requirements:

Powerpoint x Video x White Board x Other x

Presentation Speaker Names (spelling and titles for TV captions):

CITY OF SURPRISE
PLANNING AND ZONING COMMISSION

MEETING MINUTES

December 7, 2017 / 6:00 PM

COUNCIL CHAMBERS
16000 North Civic Center Plaza
Surprise, AZ 85374

CALL TO ORDER.

Chair Ken Chapman called the Planning and Zoning Commission Meeting to order at 6:00 p.m. at Surprise City Hall, 16000 North Civic Center Plaza, Surprise, Arizona 85374, on December 7, 2017.

A. ROLL CALL
In attendance were Chair Ken Chapman, Vice Chair Mitchell Rosenbaum, Commissioners Dennis Smith, Dennis Bash, Matthew Keating, Gisele Norberg and Eric Cultum.

STAFF PRESENT:
Community Development Director Eric Fitzer, Deputy City Attorney Ellen Van Riper, Human Service and Community Vitality Director Seth Dyson, Neighborhood Services Program Supervisor Christina Ramirez, Planner Hobart Wingard, Planner Sergio Angulo and Planning and Zoning Commission Secretary Lorraine Nevarez.

COUNCIL MEMBERS PRESENT:

None.

B. PLEDGE OF ALLEGIANCE

C. CURRENT EVENTS REPORT

D. STAFF REPORT

None.

CALL TO THE PUBLIC:

Chair Chapman opened the call to the public to discuss any items not listed on the agenda.

Hearing no comments, Chair Chapman closed the call to the public.

CONSENT AGENDA:

Item 1 – Internal – Consideration and action approving the November 2, 2017 Planning and Zoning Commission Minutes.

Commissioner Norberg made a motion to approve the November 2, 2017 Planning and Zoning Commission minutes. Vice Chair Rosenbaum seconded the motion. The motion passes with 7 votes in favor.

REGULAR AGENDA ITEMS REQUIRING A PUBLIC HEARING:

Item 2 – District 4 – Consideration and action on a Conditional Use Permit to allow for a new Residential Storage (Mini-Warehouse) in a portion of Parcel 13 of the West Point Towne center PAD generally located north of Greenway Road and east of Litchfield Road.

Shirley Phan, Planner, presented item 2 to the Commission.

The Commission discussed item 2:

- Color of the block fence

Chair Chapman opened the call to the public.

Hearing no comments, Chair Chapman closed the call to the public.

Commissioner Keating made a motion to approve the Conditional Use Permit to allow for a new Residential Storage (Mini-Warehouse) in a portion of Parcel 13 of the West Point Towne Center PAD generally located north of Greenway road and east of Litchfield Road, subject to stipulations 'A' – 'C' as listed in the Staff Report. Commissioner Bash seconded the motion. The motion passes with 7 votes in favor.

Item 3 – District 4 – Consideration and action on the Conditional Use Permit to allow for a new Vehicle Service – Major Repair Facility in a portion of lot 6b of the Bell & Dysart Commerce Center generally located north of Bell Road and east of Dysart Road.

Sergio Angulo, Planner, presented item 3 to the Commission.

The Commission discussed item 3:

- Access points and connectivity

Chair Chapman opened the call to the public.

Hearing no comments, Chair Chapman closed the call to the public.

Commissioner Smith made a motion to approve the Conditional Use Permit to allow for a new Vehicle Service – Major Repair Facility in a portion of lot 6b of the Bell & Dysart Commerce Center generally located north of Bell Road and east of Dysart Road, subject to stipulations 'A' – 'E' as listed in the Staff Report. Commissioner Bash seconded the motion. The motion passes with 7 votes in favor.

Item 4 – District 3 – Consideration and action regarding a Preliminary Plat for the project known as 175th & Sweetwater, generally located at the southeast corner of 175th Avenue and Sweetwater Avenue.

Robert Kuhfuss, Planner, presented item 4 to the Commission.

The Commission discussed item 4:

- Name of the development
- School parking
- Traffic
- Trail system

Chair Chapman opened the call to the public.

Hearing no comments, Chair Chapman closed the call to the public.

Commissioner Norberg made a motion to recommend approval to the Mayor and City Council a Preliminary Plat for the project known as 175th & Sweetwater, generally located at the southeast corner of 175th Avenue and Sweetwater Avenue, subject to stipulations 'A' – 'D' as listed in the Staff Report. Commissioner Smith seconded the motion. The motion passes with 7 votes in favor.

Item 5 – Citywide – Consideration and action on recommending approval to the Mayor and City Council approving a Zoning Text Amendment for Wireless Facilities.

Vice Chair Rosenbaum made a motion to continue this item at the December 21, 2017 Planning and Zoning Commission Meeting. Commissioner Smith seconded the motion. The motion passes with 7 votes in favor.

Item 6 – District 1 – Consideration and action approving a Rezone of the Rio Rancho Estates Residential Development generally located one (1) mile west of the intersection of West Grand Avenue and West Happy Valley Road from Medium Density Residential PAD (R-2-PAD) and Low Density Residential PAD (R1-5-PAD) to Medium Density Residential (RM-6-PUDand RM-9-PUD) and Low Density Residential (RL-1-PUD).

Hobart Wingard, Planner, presented item 6 to the Commission.

The Commission discussed item 6:

- Ingress and egress from Happy Valley Rd
- Ingress and egress from Grand Avenue

Chair Chapman opened the call to the public.

Pete Peterson, resident, shared his concerns about the water system and road access during construction.

Hearing no further comments, Chair Chapman closed the call to the public.

Commissioner Cultum made a motion to recommend approval to the Mayor and City Council a rezone of the Rio Rancho Estates Residential Development subject to stipulations 'A' – 'C' as listed in the staff Report. Commissioner Keating seconded the motion. The motion passes with 7 votes in favor.

REGULAR AGENDA ITEMS NOT REQUIRING A PUBLIC HEARING:

Item 6 – District Internal – Presentation and discussion regarding the 2018 Community Development Block Grant Public Services funding.

Seth Dyson, Director of Human Service and Community Vitality, presented item 6 to the Commission.

The Commission discussed item 6:

- Crisis Assistance Fund
- Utilities through the CAP Program
- Summer Youth Employment
- Partnership with El Mirage
- Outreach programs
- Funding structure
- Allocation of funds
- Advertisement of the program

The Commission requested more information regarding the number of people served through the different nonprofit organizations.

Chair Chapman noted the call to the public for item 3 is closed; however, there is a member of the public that would like to make a comment about item 3.

Don Holmes, Sun City West resident, shared his concerns regarding sound and light abatement.

OTHER BUSINESS:

Item 7 – INTERNAL - Discussion pertaining to future agenda items.

The Commission asked for a work session to discuss the Surprise Center Development. The Commission would like clarity on the documentation, history of the project, zoning requirements and information about the 2035 Plan. The Commission would like to have the developer present at the work session.

The Commission will submit questions that can be addressed in a presentation from staff.

Ms. Van Riper, noted any requested legal opinion would require an executive session.

Commissioner Bash shared he will not be at the December 21st Planning and Zoning Commission meeting.

ADJOURNMENT:

Hearing no further business, Chair Chapman adjourned the Planning and Zoning Commission meeting at 7:47 p.m.

_____
Eric Fitzer
Community Development Director

_____
Ken Chapman
Planning and Zoning Commission Chair

The foregoing instrument is a full, true and correct copy of the original document on file in the office of the City Clerk, City of Surprise, Arizona.

ATTEST BY: _____
Lorraine Nevarez, Commission Secretary

DATE: _____

CITY OF SURPRISE
Planning and Zoning Commission

December 21, 2017 @ 6:00:00 PM

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Board Meeting Date:	December 21, 2017	Contact Person:	Hobart Wingard - Community Developmnet
Submitting Department:	CD Boards and Commissions	District:	Citywide
Staff Recommendations:	Approve		

Consent	Regular	Public Hearing	x	Report/Discussion

Agenda Wording:

Consideration and action on recommending approval to the Mayor and City Council approving a Zoning Text Amendment for Wireless Facilities.

Motion:

I move to recommend approval to the City Council a Zoning Text Amendment for Wireless Facilities.

Background:

The Arizona Legislature adopted House Bill ("HB") 2365 during the 2017 legislative session. See Laws 2017, Chapter 124. HB 2365 added new Article 8 to Arizona Revised Statutes ("ARS") Title 9 entitled "Use of Public Highways by Wireless Providers." The new statutes are ARS Sections 9-591 through 9-598.

Financial Impact Statement:

All activity related to ongoing development of the City of Surprise has an economic and fiscal impact on the city and the region.

ATTACHMENTS:

Click to download

- 00-FS17-483-WF ZTA Staff REport
- 01 - FS17-483 - Wireless Facilities in Rights-Of-Way (ROW) - HB2365
- 02 - FS17-483 - Wireless Facilities in Rights-Of-Way (ROW) - Track Changes
- 03 - FS17-483 - Wireless Facilities in Rights-Of-Way (ROW) - Presentation

External Attachment Links:

Meeting Requirements:

Powerpoint	x	Video	x	White Board	x	Other	x

Presentation Speaker Names (spelling and titles for TV captions):

Hobart Wingard, Planner II

SURPRISE
ARIZONA

WIRELESS FACILITIES

REPORT TO THE PLANNING AND ZONING COMMISSION

Case:	**FS17-483**
Project Name:	Wireless Facilities Zoning Text Amendment
Council District:	Citywide
Meeting Date:	**December 21, 2017**
Planner:	Hobart Wingard, 623-222-3156, hobart.wingard@surpriseaz.gov

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Owner:	City of Surprise
Applicant:	City of Surprise
Request:	Modification of the Surprise Unified Development Code (SUDC) to adopt regulations and fees for Wireless Facilities in compliance with federal and state regulations.
General Plan Conformance:	The proposal is consistent with the Surprise General Plan

DESCRIPTION:

The Arizona Legislature adopted House Bill ("HB") 2365 during the 2017 legislative session. *See* Laws 2017, Chapter 124. HB 2365 added new Article 8 to Arizona Revised Statutes ("ARS") Title 9 entitled "Use of Public Highways by Wireless Providers." The new statutes are ARS Sections 9-591 through 9-598.

HB 2365 requires municipalities to allow what are known as "small wireless facilities" (SWFs) or "small cells" to be installed within the public right-of-way and easements. Small cells are different from typical wireless facilities. As the name implies, they are much smaller and cover limited areas. Small cells are low-powered wireless base stations that typically provide coverage for targeted indoor and outdoor areas of varying sizes (e.g., homes, office buildings, shopping malls, and stadiums). Small wireless facilities allow wireless service providers to add capacity to their networks by providing improved access for cell phone coverage and high-speed wireless data services not being served by traditional cell sites.

Small cells typically are attached to vertical structures within the right-of-way, such as light poles, utility poles, and traffic signal poles, to form a network. HB 2365 allows wireless providers to construct, install, modify, mount, maintain, operate, and replace utility poles

associated with the collocation of small cells and to do the same for monopoles that are associated with the collocation of all wireless facilities, not just small cells.

City staff is proposing modifications to the Surprise Land Development Ordinances to regulate wireless facilities and monopoles within the parameters of HB 2365.

Reorder:

The variety of scenarios presented in HB 2365 provides for a multitude of options including major/minor colocations and modifications to Wireless Facilities. Staff took this opportunity to break the existing section of code into smaller sections to be more manageable sections. Additionally, a Classification and Application matrix was created in Section 122-112.1 to simplify the process of determining options required. The sections are set up as follows:

- Section 122-112. - Definitions
- Section 122-112.1 - Wireless Facilities
- Section 122-112.2 - Monopoles
- Section 122-112.3 - Alternative Wireless Facility Locations
- Section 122-112.4 - Small Wireless Facilities (SWFs)
- Section 122-112.5 - Cellular On Wheels (COWs)
- Section 122-112.6 - Amateur Radio Antennae

Definitions:

The definitions section was revised to ensure that state codified definitions are in harmony with the proposed ordinance.

Wireless Facilities: This section includes a Classification and Application matrix to aid applicants trying to navigate the ordinance. Additionally, this particular section includes regulations common for all Wireless Facilities such as base stations, appeals, and discontinuation of use.

Monopoles: This section includes regulations for camouflaged structures such as monopalms, monocactus, and mono evergreen Wireless Facilities. In an industrial setting, camouflaging is unnecessary. This section, while relocated, remains as currently written.

Alternative Wireless Facility Locations: This section regulates the location of Wireless Facilities in alternative locations such as building roofs, recreational light poles, water tank facilities and sides of buildings. This section, while relocated, remains as currently written.

Small Wireless Facilities (SWFs): Previously listed in the SUDC as small cells, the language of this section was modified to meet recently approved state legislation under HB 2365. Timing, submittal requirements, design standards, and review process have been modified for SWFs located within the ROW.

Cellular On Wheels (COWs): COWs are utilized in situations such as when wireless facilities are under construction, Special events such as concerts and sporting events, and emergency situations. This section, while relocated, remains as currently written.

Amateur Radio Antennae: Contrary to popular opinion, operation of amateur radio antennae is an activity that is enjoyed by some residents. Code language for these types of facilities currently does not exist in the SUDC. The proposed language allows for 35 foot high antennae. Any larger facility would require a Conditional Use Permit (CUP) to allow public input.

PROPOSED TIMELINE:

December 5, 2017: Discussion with Mayor and City Council during workshop on implementing HB 2365 and the fees required for Small Wireless Facilities in the ROW.

December 18, 2017: A Citizen Review meeting was held at City Hall regarding subject Zoning Text Amendment.

December 19, 2017: Discussion with Mayor and City Council during workshop on HB 2365, technical information about the SWF technology, the Zoning Text Amendment, and the Master License Agreement.

December 21, 2017: Presentation with public hearing to the Planning and Zoning Commission regarding the Zoning Text Amendment for Wireless Facilities followed by written recommendation to the City Council.

January 16, 2018: Discussion with the Mayor and City Council and action on the Zoning Text Amendment, Master License Agreement, and Terms and Conditions for small wireless facilities.

February 5, 2018: Discussion with the Mayor and City Council and action on the fee schedule for wireless facilities in the ROW to be enacted as an emergency measure due to the statutory deadline imposed by HB 2365.

February 9, 2018: The new statute becomes effective.

February 15, 2018: The Zoning Text Amendment becomes effective.

CONFORMANCE WITH ADOPTED REGULATIONS:

Surprise General Plan 2035: The Land Use element of the General Plan 2035 recognizes the significance of properly designed wireless facilities for community design and economic development. The proposed modifications to the code will be in compliance with the General Plan.

Federal Law: Section 6409 (the "Spectrum Act") of the Middle Class Tax Relief and Job Creation Act of 2012 , and implementing regulations adopted by the Federal Communications Commission ("FCC"), mandate that states and local governments approve certain wireless broadband facility siting requests for modifications and collocations of wireless transmission equipment on existing towers or base stations that do not result in a substantial change to the physical dimensions of the tower or base station. The proposed modifications to the code will be in compliance with the Spectrum Act.

Arizona State Law: HB 2365 establishes a statewide policy surrounding the deployment of small wireless facilities – more commonly known as "small cells" – that will enhance the existing 4G LTE network, accelerate investment in mobile broadband infrastructure, and ready the State of Arizona for the next wave of economic development in the digital economy via 5G technology. The proposed modifications to the code will be in compliance with HB 2365.

SUMMARY:

The proposed Zoning Text Amendment for wireless facilities will provide opportunity for the city to expand wireless services to the residents and businesses that are located within the city while conforming to federal and state law.

FINDINGS:

- The proposed Zoning Text Amendment demonstrates compliance with the General Plan.
- The proposed Zoning Text Amendment demonstrates compliance with Federal regulations.
- The proposed Zoning Text Amendment demonstrates compliance with State Regulations.
- The reviewing agencies and city staff have indicated no objections to the request.

RECOMMENDATION:

Based on the findings noted above, staff recommends the Commission recommend **approval** to the Mayor and City Council the subject Zoning Text Amendment.

However, should the Commission wish to deny the request, the Commission should make its own findings and base its decision on those alternative findings.

Attachments:

01 – House Bill 2365
02 – Proposed Zoning Text Amendment

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)

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

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

ARTICLE 8. USE OF PUBLIC HIGHWAYS BY WIRELESS PROVIDERS

9-591. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. "RATE" MEANS A RECURRING CHARGE.

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

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

(a) ALL ANTENNAS ARE LOCATED INSIDE AN ENCLOSURE OF NOT MORE THAN SIX 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 CUBIC FEET IN VOLUME.

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

(i) AN ELECTRIC METER.

(ii) CONCEALMENT ELEMENTS.

(iii) A TELECOMMUNICATIONS DEMARCATION BOX.

(iv) GROUNDING EQUIPMENT.

(v) A POWER TRANSFER SWITCH.

(vi) A CUTOFF SWITCH.

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

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

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

22. "WIRELESS FACILITY":

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

(i) EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS.

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

(b) INCLUDES SMALL WIRELESS FACILITIES.

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

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

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

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

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

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

27. "WIRELESS SUPPORT STRUCTURE":

(a) MEANS:

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

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

(iii) A SIGN OR BILLBOARD.

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

(b) DOES NOT INCLUDE A UTILITY POLE.

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

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

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

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

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

3. THE COLLOCATION OF WIRELESS FACILITIES ON MONOPOLES.

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

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

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

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

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

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

3. BE UNREASONABLE OR DISCRIMINATORY.

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

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

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

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

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

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

1. MAY NOT BE UNREASONABLE OR DISCRIMINATORY.

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

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

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

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

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

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

1. COLLOCATE SMALL WIRELESS FACILITIES.

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

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

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

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

2. FORTY FEET ABOVE GROUND LEVEL.

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

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

1. APPLICABLE CODES.

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

(a) PUBLIC SAFETY.

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

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

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

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

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

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

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

1. UNDERTAKE THE REQUESTED DEPLOYMENT.

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

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

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

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

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

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

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

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

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

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

F. AN AUTHORITY:

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

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

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

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

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

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

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

G. AN AUTHORITY MAY NOT:

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

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

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

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

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

1. COLLOCATE THE SMALL WIRELESS FACILITIES.

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

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

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

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

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

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

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

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

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

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

2. THE COLLOCATION OF WIRELESS FACILITIES.

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

C. AN AUTHORITY SHALL:

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

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

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

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

D. AN AUTHORITY MAY NOT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9-596. Scope of local authority

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

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

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

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

9-597. Dispute resolution

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

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

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

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

9-599. Applicability

THIS ARTICLE DOES NOT:

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

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

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

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

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

CHAPTER 13

WIRELESS STRUCTURES AND FACILITIES

ARTICLE 1. GENERAL PROVISIONS

11-1801. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) ALL ANTENNAS ARE LOCATED INSIDE AN ENCLOSURE OF NOT MORE THAN SIX 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 CUBIC FEET IN VOLUME.

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

(i) AN ELECTRIC METER.

(ii) CONCEALMENT ELEMENTS.

(iii) A TELECOMMUNICATIONS DEMARCATION BOX.

(iv) GROUNDING EQUIPMENT.

(v) A POWER TRANSFER SWITCH.

(vi) A CUTOFF SWITCH.

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

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

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

20. "WIRELESS FACILITY":

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

(i) EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS.

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

(b) INCLUDES SMALL WIRELESS FACILITIES.

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

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

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

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

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

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

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

25. "WIRELESS SUPPORT STRUCTURE":

(a) MEANS:

(i) A FREESTANDING STRUCTURE.

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

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

(b) DOES NOT INCLUDE A UTILITY POLE.

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

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

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

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

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

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

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

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

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

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

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

E. A COUNTY SHALL:

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

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

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

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

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

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

(a) MAY NOT BE UNREASONABLE OR DISCRIMINATORY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11-1804. Collocation of small wireless facilities; permits

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

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

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

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

11-1805. Applicability; location outside of a county-owned right-of-way

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

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

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

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

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

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

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

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

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

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

11-1806. Application processing

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

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

C. A COUNTY MAY NOT:

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

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

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

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

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

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

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

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

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

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

11-1808. Scope of local authority

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

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

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

11-1809. Dispute resolution

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

11-1810. Applicability

THIS ARTICLE DOES NOT:

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

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

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

APPROVED BY THE GOVERNOR MARCH 31, 2017.

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

Zoning Text Amendment

FS17-483

Update From:

Section 122-112 - Wireless Telecommunications Facilities (WTF)

To:

Section 122-112. – Definitions

Section 122-112.1 - Wireless Facilities

Section 122.112.2 – Monopoles

Section 122.112.3 – Alternative Wireless Facility Locations

Section 122-112.4 - Small Wireless Facilities (SWF)

Section 122-122.5 – Cellular on Wheels (COW)

Section 122-122.6 – Amateur Radio Antennae

December 6, 2017 Draft

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Sec. 122-112. - Wireless telecommunications facilities (WTF).

The purpose of the wireless telecommunications facility ("WTF") regulations is to encourage and promote wireless communications coverage for all areas of the city while minimizing the visual, environmental, and neighborhood impacts. WTFs are allowed in all zoning districts, but the preferred WTF locations include locations having the least amount of visual and neighborhood impact. The wireless communications service providers will adhere to all applicable federal regulations.

(a) *Definitions.* The following definitions will apply in the interpretation and enforcement of this section, unless the context clearly requires otherwise. Any term or phrase not defined herein will be defined by the city manager or designee. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words "will" and "shall" will always be mandatory and not merely directory and the word "may" is always discretionary. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law, regulation or rule referred to herein be renumbered or amended, then the reference will be read to refer to the renumbered or amended provision.

(1) *Alternative tower structure.* An innovative wireless telecommunications tower design such as a clock tower, grain silo, bell tower, false chimney, steeple, light pole, flag pole, windmill, and similar design mounting structures that camouflage or conceal the presence of wireless telecommunications antennas or towers. Alternative tower structures may also include utilization of a traffic signal streetlight pole or similar structure, or freestanding structure within a public right-of-way as approved by the engineering department on a case-by-case basis.

(2) *Authorized person.* The person, employees, agents, consultants, and contractors, authorized in writing by applicant to complete and submit a WTF application, to include an eligible facilities (EF) application on behalf of applicant and who is authorized to receive any notices on behalf of applicant of any action taken by the city regarding the WTF application.

(3) *Backhaul.* The connection from a WTF base station to the core network of the Internet.

(4) *Base station.* The structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.

a. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services.

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b. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).

c. The term includes any structure other than a tower that, at the time the relevant WTF application is filed with the city under this chapter, supports or houses equipment, and that has been reviewed and approved under the applicable zoning or siting process, or under another state, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

d. The term does not include any structure that, at the time the relevant WTF application is filed with the city under this chapter, does not support or house equipment described in paragraphs a. and/or b. above.

(5) *Cell on wheels (COW).* A mobile cell site that consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or a trailer, designed to be part of a cellular network and temporary in nature.

(6) *Collocation.* The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(7) *Conceal* or *concealment.* WTFs designed to look like some feature other than a wireless tower or base station.

(8) *Deemed approved.* An EF modification application that has been deemed approved upon the city's failure to act, and has become effective, as provided pursuant the FCC eligible facilities request rules and this chapter.

(9) *EF modification application.* Unless the context clearly requires otherwise, a written document submitted to the city pursuant to this chapter for review and approval of a proposed facilities modification.

(10) *EF modification.* Any proposed facilities modification that has been determined pursuant to the provisions of this chapter to be subject to this chapter and which does not result in a substantial change in the physical dimensions of an eligible support structure.

(11) *EF modification permit* or *permit.* Unless the context clearly requires otherwise, a written document issued by the approval authority pursuant to this chapter approving an EF modification application.

(12) *Eligible support structure.* Any existing tower or base station, provided that it is in existence at the time the EF modification application is filed with the city under this chapter.

(13) *Existing.* For purposes of this chapter and as applied to a tower or base station, a constructed tower or base station that has been reviewed and

approved under the applicable zoning or siting process, provided that, a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

(14) *EF request.* A proposal submitted by an applicant to modify an eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act on grounds that it does not substantially change the physical dimensions of such tower or base station, and involving:

a. Collocation of new transmission equipment;

b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

(15) *FCC.* The Federal Communications Commission or its successor.

(16) *FCC EF Request Rules.* 47 C.F.R. Part One (1) (Part One (1) - Practice and Procedure), Subpart CC § 1.40001 as established pursuant to its report and order in, In Re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, or as may be thereafter amended.

(17) *Monopole.* A structure composed of a single spire used to support telecommunications equipment having no guy wires or ground anchors.

(18) *Rooftop-mounted WTF.* A wireless telecommunication facility with the antennas located on the roof of a building or on top of a structure and consisting of antennas, support structures and accessory equipment, but are adequately screened so as not to appear as stand-alone devices above the top of the roof line.

(19) *Site.* For towers other than towers in the public rights-of-way, will mean and refer to the current boundaries of the property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, will mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

(20) *Small cell facility.* A wireless telecommunication facility that may consist of one or more radio receivers, antennas, interconnecting cables, power supply, other associated electronics, and accessory equipment, which are attached to a structure and meet the parameters in subsections a. and b. below. For purposes of these definitions, volume is a measure of the exterior displacement, not the interior volume of the enclosures. Antennas or accessory equipment concealed from public view in or behind an otherwise approved structure or concealment are not included in calculating volume.

a. All antennas are located inside an antenna enclosure of no more than 12 cubic feet in volume or, in the case of antennas that have exposed elements, the antennas and all of its exposed elements could fit within an imaginary enclosure of no more than 12 cubic feet; and

b. Primary equipment enclosures are no larger than 50 cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

(21) *Small cell network.* A collection of interrelated small cell facilities designed to deliver personal wireless services.

(22) *Spectrum Act.* The Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96; codified at 47 U.S.C. § 1455(a)).

(23) *Structure-mounted wireless telecommunication facility.* A wireless telecommunication facility with the antennas located on the wall or roof of a building or on the side or top of a structure, including co-locating on an existing freestanding wireless telecommunication facility and consisting of antennas, support structures and accessory equipment.

(24) *Substantial change*. That combination of factors described in section 122-12(b) of this chapter, entitled classifications and application processes.

(25) *Transmission equipment.* Equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and back-up power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(26) *Tower.* Any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(27) *Wireless telecommunication facility (WTF).* Any facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service, and paging service. A WTF can consist of one or more antennas, accessory equipment, support structures and a base station.

(b) *Classifications and application processes.*

(1) *WTF collocation and modification requests governed by Section 6409 of the Spectrum Act ("Act").* Requests for collocation or modification that fall within the Act include qualifying modifications to existing towers, base stations and related facilities that do not substantially change the physical dimensions of the structure.

a. A requested change is "substantial" if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater.

i. Changes in height will be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Act;

2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;

4. It entails any excavation or deployment outside the current site;

5. It would defeat the concealment elements of the eligible support structure; or

6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in §§ 1.40001(B)(7)(I) through (IV).

7. All changes will be measured cumulatively to preserve the limits established by federal law.

8. The baseline for measuring changes for antennas on a building or structure will be the original building height, pre-antenna.

b. Review criteria: The community development director or designee shall approve an application for modifications to an existing wireless tower or base station that does not substantially change, as defined above, the physical dimensions of such tower or base station upon his determination that the application is both complete and compliant with this chapter.

c. Timing: An applicant seeking collocation or modification of an eligible support structure will file a proposed facilities modification application for review by the community development director or designee. Said decision will be rendered within 60 days of the filing of the application, unless tolled by mutual agreement. If the application is granted, an EF modification permit will be issued to the applicant.

d. Appeals: The decision of the community development director or designee may be appealed to the planning and zoning commission, whose decision will be final. The community development director or designee shall use the same criteria used to review the original application.

(2) *WTF, collocation, and modification requests not governed by Section 6409 of the Spectrum Act.* Requests to modify or collocate a WTF that fall outside Section 6409 of the Act are generally those requests that will substantially change the physical dimensions of the structure as described in the previous section.

a. *Review process.* Requests to modify or collocate a WTF that fall outside Section 6409 of the Act will be processed as a Type 1 site plan design review found in article XII of this chapter, if they meet the criteria contained in these regulations.

b. *Timing.* Applications processed pursuant to this subsection will be acted upon within 90 days of submittal of a complete application.

c. *Waiver.* Applicants may file for a formal written request for waiver of the requirements for a site plan with the community development director. It is the responsibility of the applicant to establish evidence in support of the waiver criteria required by this section. The community

development director may waive the requirements for a site plan and instead require a facilities modification application for collocations and modifications that meet the following criteria:

1. The proposed facility or equipment is collocated on or adjoining an existing WTF;

2. The facility is located on a property or commercial center developed predominantly with commercial land uses;

3. The WTF is designed in conformance with the design standards found in this section;

4. The existing WTF was subject to CUP approval and complies with the current City of Surprise policies and regulations.

d. *Appeals.* The decision of the community development director or designee may be appealed to the planning and zoning commission, whose decision will be final. The community development director or designee shall use the same criteria used to review the original application.

(3) *[Type I site plan design review.]* The following types of WCF applications will be processed as a type I administrative site plan design review, found in article XII of this chapter, if they meet the criteria contained in these regulations. Applications processed pursuant to this subsection will be acted upon within 90 days of submittal of a complete application:

a. Small cell facilities.

b. Structures located on city properties or rights-of-way.

c. Building or structure mounted facilities.

d. Rooftop-mounted facilities.

(4) *[Type II site plan design review.]* The following types of WCF applications will be processed as a type II site plan design review, found in article XII of this chapter, if they meet the criteria contained in these regulations. Applications processed pursuant to this subsection will be acted upon within 90 days of submittal of a complete application:

a. Monopalms.

b. Monocactus.

c. Monopine.

d. Broadleaf tree.

e. Recreation field light poles, located in a district that allows recreation fields with light poles.

f. Water towers or tanks, located in a district that allows water towers or tanks.

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g. Public utility poles.

h. Alternative tower structure, located in a district that allows the alternative tower that is the subject of the application.

(5) *[Type III CUP process.]* All other WTF facilities that do not fall under subsections (1), (2), (3), or (4) will follow the type III CUP process found in article XII of this chapter. In addition to complying with the CUP criteria, any application under this subsection will comply with the following criteria:

Aesthetics standards.

Number and height restrictions.

Safety concerns [fall zones, etc.].

Environmental.

Setbacks and other protections for residential areas and historic areas.

Protections of property values.

Timing: Applications processed pursuant to this subsection will be acted upon within 150 days of submittal of a complete application.

(6) *Exceptions from regulations regarding legal nonconforming uses:* Notwithstanding this chapter, towers or base stations that received express city zoning approval at the time they were constructed, or were built prior to annexation into the city, are deemed approved and therefore are not nonconforming so long as they comply with the provisions of this section.

(c) *Design standards.*

(1) All WTFs will be designed to blend into the architecture and landscape of the zone in which it is placed.

(2) All WTF antennas, mounting hardware, and cabling shall be covered or painted to match the color and texture of the building, tower, or pole on which it is mounted. When required, base stations will be screened by solid walls, landscaping, or berms. Screening shall blend with or enhance the surrounding context in terms of scale, form, texture, materials, and color.

(3) The height of freestanding WTFs shall be measured from natural grade to the top of all appurtenances.

(4) The setback of all WTFs shall meet the yard development standards and setback requirements of the underlying zoning district, except as otherwise permitted herein. The setback shall be measured from the lot line to the WCF facility. Additionally, all towers shall be set back from any residential lot lines a distance equal to twice the height of the tower.

(5) Lighting of WTFs is only allowed when required by the Federal Aviation Administration (FAA) or other federal regulation.

(6) WTF identification. Each WTF shall be identified by a permanently installed plaque or marker on the door of the base station, no larger than four inches by six inches, clearly identifying the wireless communications service provider's name, address, e-mail contact, and emergency phone number. The plaque or marker required by this section shall be revised within 30 days of any change in the required information/content.

(7) Industrial zoning districts.

a. The stand-off mounting arm apparatus of the antenna array will not extend, in any direction, more than 30 inches from the structure to which it is attached.

1. The diameter of the pole structure will not exceed 26 inches at its widest point.

2. All cables will be concealed within the pole structure.

3. The maximum height of the pole structure, excluding antennae, will be limited to 65 feet above the finished grade of the site. The maximum height of the antennae attached to a WTF (entire WTF) will not exceed 80 feet above the finished grade of the site.

4. No more than two microwave dishes will be permitted on each WTF. Microwave dishes will be limited to two square feet in size.

5. Climbing pegs are prohibited on the pole structure.

6. When installing the WTF, installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced. Any change in site landscape must be consistent with a city-approved landscape plan as required by this chapter.

(8) Residential, mixed use, commercial and business park zoning districts.

a. *Small cell facility.*

1. The antenna or power-radiating components of a small cell or wireless mesh network facility must be mounted a minimum of 12 feet above ground.

2. Wireless small cell or wireless mesh networking facilities may not extend more than six feet above the facility or structure on which they are mounted.

3. Small cell facilities may not be installed on traffic signal poles or mast arms and may not utilize traffic signal pull boxes, vaults, conduit, cabinets, or other traffic signal infrastructure. Small cell facilities are permitted on mast arms only as long as they do not interfere with city communication equipment. Approval of these facilities on traffic signal poles or mast arms will be determined on a case-by-case basis by the public works department.

b. *WTFs located on city property or within rights-of-way.*

1. Base stations, towers, or facilities located within the street right-of-way will not be allowed on local residential streets.

2. Are exempt from all setback requirements of the underlying zoning district and are instead subject to those requirements found in this section.

3. The maximum allowable width of an antenna array is four feet.

4. The antenna, whether or not part of an array, will not extend more than 24 inches from the structure to which it is attached. This restriction shall not apply to recreation field light poles, monopalms, monopines, broadleaf trees, or alternative tower structures located on city property.

5. The addition of an antenna or WTF to a utility pole will not increase the height of the utility pole by more than ten feet.

6. All cables will be concealed within the public utility pole or a cable shroud.

7. Microwave dishes will be limited to two square feet in size.

8. No more than two external microwave dishes are permitted on each structure.

9. All microwave dishes, antennas, cable shrouds, and attaching apparatus will be painted to match the structure.

c. *Building- or structure-mounted facility.*

1. Antennas will be mounted on a building wall or side of a structure to the maximum extent practicable. If the applicant demonstrates that it is not feasible to mount the antennas on a building wall or side of a structure, the antennas may be mounted on the roof or top of the structure, provided the facility complies with all other applicable standards.

2. A building- or structure-mounted wireless telecommunication facility shall not be located on a building with primarily residential uses.

3. Antennas may encroach into a side or rear setback a maximum of two feet, but will not extend over a property line.

4. Antennas mounted on a building wall or side of a structure shall comply with the following standards:

i. Antennas will be mounted flush to the building wall or side of a structure to the maximum extent practicable unless technical reasons dictate another type of installation and will not extend above the roof line or parapet of the building or top of the structure.

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ii. Support structures, accessory equipment including equipment cabinets, and all other appurtenances shall be fully screened from view and not visible from the ground.

iii. Antennas shall be painted a color to match the building or structure to which they are mounted or will be camouflaged as part of the building architecture in a city-approved building elevation.

d. *Rooftop-mounted facilities.*

1. Rooftop-mounted WTFs are not permitted on portions of buildings with pitched roofs.

2. A rooftop-mounted WTF shall not be located on a building with primarily residential uses.

3. A WTF located on a building roof or top of structure shall comply with the following standards:

i. Antennas, support structures, accessory equipment, and all other appurtenance shall be fully screened from view through the use of architecturally compatible features, screening materials and colors that match the building or structure to which the facility is mounted.

ii. Antennas shall extend no more than ten feet above the parapet of the roof or the structure to which they are mounted.

iii. Panel and microwave antennas shall extend no more than ten feet above the parapet of the roof or the structure to which they are mounted.

iv. Accessory equipment structures shall extend no more than eight feet above any parapet of the roof or the structure to which they are mounted and must be fully screened from view.

e. *Monopalms.*

1. Will contain a minimum of 55 palm fronds that disguise the length of the antenna.

2. The stand-off mounting arm apparatus of the antenna array will not extend more than 30 inches from the structure to which it is attached.

3. The pole structure will be clad with faux bark that begins at the base of the pole structure and continues to the height of the first palm frond attachment. The balance of the pole structure and the attachments will be painted to blend with the palm fronds.

4. The diameter of the pole structure will not exceed 26 inches at its widest point.

5. All cables will be concealed within the pole structure.

6. The maximum height of the pole structure, excluding antennae, will be limited to 65 feet above the finished grade of the site. The maximum height of the antennae attached to a wireless communication monopalm will not exceed 80 feet above the finished grade of the site.

7. No more than two microwave dishes will be permitted on each monopalm. Microwave dishes will be limited to one square foot in size and will be concealed within the monopalm, trimmed leaf cluster, or palm fronds.

8. The trimmed leaf cluster will be mounted directly below the palm fronds and will be painted to blend with the pole structure.

9. Climbing pegs are prohibited on the pole structure.

10. When installing the monopalm, installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced. Any change in site landscape must be consistent with a city-approved landscape plan as required by this chapter.

f. *Monocactus.*

1. The monocactus structure will be clad with a faux finish that resembles a saguaro cactus from the base of the structure and continue to the top of the structure.

2. The diameter of the monocactus structure will not exceed 34 inches at its widest point and will have a natural appearing taper from the bottom to the top.

3. The height of the monocactus structure will not exceed 30 feet in height.

4. All antenna and cables will be concealed within the monocactus structure.

5. External microwave dishes and climbing pegs are prohibited on the monocactus structure.

6. When installing the monocactus, installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced. Any change in site landscape must be consistent with a city-approved landscape plan as required by this chapter.

g. *Monopine or broadleaf tree.*

1. The pole structure will be clad with faux bark. The faux bark will start at the base of the pole structure and continue to the height of the first branch attachment. The balance of the pole structure and the attachments will be painted to blend with the branches.

2. The diameter of the pole structure will not exceed 36 inches at the base and will taper to no greater than 28 inches at the top of the pole structure.

3. All cables will be concealed within the pole structure.

4. The maximum height of the pole structure will be limited to 65 feet above the finished grade of the site. The maximum height of the antennae attached the pole structure will not exceed 80 feet above the finished grade of the site.

5. Branches:

   i. Will be constructed to a density of no less than two and one-half branches for each one vertical foot of pole.

   ii. Will start no less than 15 feet above finished grade and continue to the top of the pole structure.

   iii. Will be a minimum of eight feet long around the circumference of the lower level and will taper as the branches progress upward, consistent with the species of tree imitated by the structure. The branches will approximate the appearance of a particular tree species grown in the vicinity of the site and that grows to approximately the height of the monopine or broadleaf tree WTF.

   iv. The entire length of all antennae and their attaching apparatus will be disguised by the branches and the stand-off mounting arm apparatus of the antenna array will not extend more than 30 inches from the pole structure to which it is attached.

6. Microwave dishes will be limited to one square foot in size. Dishes and attaching apparatus will be painted to blend with the branches.

7. No more than four microwave dishes are permitted per monopine or broadleaf tree.

8. Climbing pegs are prohibited on the pole structure.

9. When installing the monopine or broadleaf tree, installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced. Any change in site landscape must be consistent with a city-approved landscape plan as required by this chapter.

h. *Recreation field light poles.*

1. The maximum allowable width of an antenna array is four feet.

2. The stand-off mounting arm apparatus of the antenna array will not extend more than 30 inches from the structure to which it is attached.

3. The maximum allowable length of each antenna is ten feet.

4. The diameter of the pole structure will not exceed 36 inches.

5. The addition of a WTF to a recreation field light will not increase the height of the light structure by more than ten feet.

6. All cables will be concealed within the pole structure.

7. Microwave dishes will be limited to two square feet in size.

8. No more than two external microwave dishes are permitted on each recreation field light pole.

9. All microwave dishes, antennas, and attaching apparatus will be painted to match the recreation field light pole.

10. Installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced.

i. *Water towers/tanks.*

1. The maximum allowable width of an antenna array is four feet. There is no width limit for antenna arrays installed inside a faux water tower/tank.

2. The antenna will not extend more than 18 inches from the structure to which it is attached. This restriction does not apply to antennas installed inside a faux water tower/tank.

3. The maximum allowable length of each antenna array is ten feet.

4. The addition of a WTF will not increase the height of the water tower/tank structure.

5. All cables will be concealed within the support structure or fully enclosed within a cable shroud.

6. Microwave dishes will be limited to two square feet in size.

7. No more than two microwave dishes will be permitted on each water tower or water tank.

8. All microwave dishes, antennas, cable shrouds, and attaching apparatus will be painted to match the water tower or water tank.

9. Installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced.

j. *Alternative tower structure.*

1. The maximum allowable width of an antenna array is four feet. There is no width limit for antenna arrays installed inside an alternative tower structure.

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2. The antenna will not extend more than 18 inches from the structure to which it is attached. This restriction does not apply to antenna arrays installed inside an alternative tower structure.

3. The maximum allowable length of each antenna array is ten feet.

4. All cables will be concealed within the support structure or fully enclosed within a cable shroud.

5. Microwave dishes will be limited to two square feet in size.

6. No more than two microwave dishes will be permitted on each alternative tower structure.

7. All microwave dishes, antennas, cable shrouds, and attaching apparatus will be painted to match the alternative tower structure.

8. Installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced.

k. *Base station(s) will be located inside buildings, screened behind walls, pole mounted, or buried underground.*

1. Will comply with the height and yard development standards of the underlying zoning district, except as provided below:

i. Base stations located outside the right-of-way will not exceed eight feet tall and 300 cubic feet, measured above ground level.

ii. All equipment cabinets that are located within the right-of-way or completely underground are exempt from yard development standards, but must be located as far away from the street as possible.

(d) *Submittal requirements.*

(1) A site plan showing the subject property and adjacent properties; all existing and proposed buildings on the subject property and their purpose; the specific placement of the base station and cell tower, including type and extent and point of entry on the site; all proposed changes to the existing site, including grading, vegetation, roads, sidewalks and driveways signed and sealed by a professional registrant from the State of Arizona including expiration date;

(2) A landscape plan showing specific placement of existing and proposed vegetation, trees, shrubs, identified by species and size of specimen at installation in accordance with city landscape guidelines;

(3) A grading and drainage plan of the entire project site as determined by the public works department.

(4) Photographs, diagrams, photosimulations and sight line representations as listed below:

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a. Sight line representation unless deemed unnecessary by the community development director or designee;

b. Existing (before condition) photographs and proposed (after condition) photosimulations of the proposed facility from residential properties or buildings, private roads and public rights-of-way adjacent to the site. Such photosimulations shall include, but not be limited to, superimposed representations of the proposed base station and tower to show what will be seen from residential buildings, properties, private roads and rights-of way adjacent to the site;

c. Aerial photograph(s).

(5) Elevations from all directions (north, south, east, and west) for a 50-foot radius around the proposed base station and tower. Elevations shall be at one-quarter inch equals one foot scale and show the following:

a. Materials of the base station and security barrier, if any, specified by generic type and specific treatment, such as brick, masonry with stucco finish, anodized aluminum, stained wood, etc.;

b. Colors represented by samples or a color board showing actual colors proposed;

c. Dimensions of all equipment specified for all three dimensions: height, width and depth;

(6) Market and service maps. Except for those application covered by Section 6409(a) of the Spectrum Act, the applicant must submit the following market and service maps:

a. A map showing the service area of the proposed facility and the explanation of the need for that facility;

b. A map showing the locations and service areas of other base stations and tower sites operated by the applicant and those that are proposed by the applicant which are within a two-mile radius of the limits of the site;

(7) Collocation submittals, including signed statements indicating:

a. The applicant agrees to allow for the potential collocation of additional WTFs by other wireless services and carriers on the applicant's structure or facility or within the same site;

b. That the applicant agrees to remove the WTF as required by this section;

c. That the applicant has made a good faith effort to achieve collocation with other carriers and facilities as required in this section, and if collocation is not feasible for this application for a substantial technical or other reason(s), a written statement of the reasons for the infeasibility.

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(8) An executed lease agreement with the owner or landholder that:

a. Allows the landholder to enter into leases with other providers;

b. Specifies that if the carrier fails to remove the base station and tower when required by this section, the responsibility for removal falls upon the landholder; and

c. Allows entry by the city and its agent for the purpose of inspection and compliance with city codes.

(9) The city manager or designee may require additional information or may waive submittal requirements determined unnecessary for appropriate review of the project.

(e) *Cellular on wheels (COW):*

(1) COWs are allowed during:

a. Construction of a permanent WTF not to exceed duration of one year.

1. Utilization of the COW will require a type I administrative site review as per article XII of this chapter.

b. Maintenance or replacement of equipment.

1. Utilization of a COW will be included with the building permit associated with the WTF maintenance or replacement of equipment.

c. Special events.

1. Utilization of the COW for a special event will require a temporary use permit as per article VII of this chapter. COW placement will be limited to a duration not to exceed 30 days unless approved by the city manager or designee.

d. An emergency or disaster as determined by the city manager or designee.

(2) COWs will be set back from all residential lot lines a minimum distance equal to the fully extended height of the COW.

(3) COWs are permitted on a utility trailer with a maximum width of ten feet and maximum length of 35 feet.

(4) Permitted power sources:

a. A generator or other utility source will be used that emits an average noise level not to exceed 60 dB, measured at any property line that is zoned or used for residential purposes.

b. Use of on-site utility services will require a building permit.

(f) *Continued monitoring.* Every five years, each wireless communications service provider shall submit to the city a written report verifying that, at its maximum load, including cumulative effects of multiple facilities, each WTF was tested

~~and certified to meet or exceed the FCC's radio frequency safety standards. The five years will be from the most recent approval of the respective WTF or from the effective date of this section, whichever is earlier, and every five years thereafter.~~

~~(g) *Discontinuation of use.*~~

~~(1) In the event the use of any WTF has been discontinued for a period of 90 consecutive days, the WTF will be deemed to be abandoned. Upon such abandonment, the owner and/or operator of the tower and/or property owner will have an additional 90 days to:~~

~~a. Reactivate the use of the WTF or transfer the WTF to another owner/operator who makes active use of the WTF; or~~

~~b. Dismantle and remove the WTF. Upon removal of the wireless service facility, the site will be returned to its built or natural state and topography and vegetated consistent with the natural surroundings.~~

SEC. 122-112. - DEFINITIONS.

DEFINITIONS. THE FOLLOWING DEFINITIONS WILL APPLY IN THE INTERPRETATION AND ENFORCEMENT OF THIS SECTION, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE. ANY TERM OR PHRASE NOT DEFINED HEREIN WILL BE DEFINED BY THE CITY MANAGER OR DESIGNEE. WHEN NOT INCONSISTENT WITH THE CONTEXT, WORDS USED IN THE PRESENT TENSE INCLUDE THE FUTURE, WORDS IN THE PLURAL INCLUDE THE SINGULAR, AND WORDS IN THE SINGULAR INCLUDE THE PLURAL. THE WORDS "WILL" AND "SHALL" ARE MANDATORY AND NOT MERELY DIRECTORY AND THE WORD "MAY" IS DISCRETIONARY. REFERENCES TO GOVERNMENTAL ENTITIES (WHETHER PERSONS OR ENTITIES) REFER TO THOSE ENTITIES OR THEIR SUCCESSORS IN AUTHORITY. IF SPECIFIC PROVISIONS OF LAW, REGULATION OR RULE REFERRED TO HEREIN BE RENUMBERED OR AMENDED, THEN THE REFERENCE WILL BE READ TO REFER TO THE RENUMBERED OR AMENDED PROVISION.

(a) *ALTERNATIVE TOWER STRUCTURE.* AN INNOVATIVE WIRELESS TOWER DESIGN SUCH AS A CLOCK TOWER, GRAIN SILO, BELL TOWER, FALSE CHIMNEY, STEEPLE, LIGHT POLE, FLAG POLE, WINDMILL, AND SIMILAR

DESIGN MOUNTING STRUCTURES THAT CAMOUFLAGE OR CONCEAL THE PRESENCE OF WIRELESS ANTENNAS OR TOWERS. ALTERNATIVE TOWER STRUCTURES MAY ALSO INCLUDE UTILIZATION OF A TRAFFIC SIGNAL STREETLIGHT POLE OR SIMILAR STRUCTURE, OR FREESTANDING STRUCTURE WITHIN A PUBLIC RIGHT-OF-WAY AS APPROVED BY THE CITY MANAGER OR DESIGNEE ON A CASE-BY-CASE BASIS.

(b) *AMATEUR RADIO ANTENNAE.* A FREESTANDING OR BUILDING-MOUNTED STRUCTURE, INCLUDING ANY BASE, TOWER, POLE, ANTENNA, AND APPURTANCES, INTENDED FOR AIRWAY TELECOMMUNICATIONS PURPOSES BY A PERSON HOLDING A VALID AMATEUR RADIO (HAM) LICENSE ISSUED BY THE FEDERAL TELECOMMUNICATIONS COMMISSION (FCC).

(c) *ANTENNA.* COMMUNICATIONS EQUIPMENT THAT TRANSMITS OR RECEIVES ELECTROMAGNETIC RADIO FREQUENCY SIGNALS AND THAT IS USED IN PROVIDING WIRELESS SERVICES.

(d) *AUTHORIZED PERSON.* THE PERSON(S), EMPLOYEES, AGENTS, CONSULTANTS, AND CONTRACTORS, AUTHORIZED IN WRITING BY APPLICANT TO COMPLETE AND SUBMIT A WIRELESS FACILITY APPLICATION ON BEHALF OF APPLICANT AND WHO IS AUTHORIZED TO RECEIVE ANY NOTICES ON BEHALF OF APPLICANT OF ANY ACTION TAKEN BY THE CITY REGARDING THE WIRELESS FACILITY APPLICATION.

(e) *BACKHAUL*. THE CONNECTION FROM A WIRELESS FACILITY BASE STATION TO THE CORE NETWORK OF THE INTERNET.

(f) *BASE STATION.* THE STRUCTURE OR EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS LICENSED OR AUTHORIZED BY THE FCC, BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK. THE TERM DOES NOT ENCOMPASS A

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TOWER OR MONOPOLE AS DEFINED IN THIS CHAPTER OR ANY EQUIPMENT ASSOCIATED WITH A TOWER OR MONOPOLE:

a. THE TERM INCLUDES, BUT IS NOT LIMITED TO, EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS SERVICES SUCH AS PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES, AS WELL AS UNLICENSED WIRELESS SERVICES AND FIXED WIRELESS SERVICES.

b. THE TERM INCLUDES, BUT IS NOT LIMITED TO, RADIO TRANSCEIVERS, ANTENNAS, COAXIAL OR FIBER-OPTIC CABLE, REGULAR AND BACKUP POWER SUPPLIES, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION (INCLUDING DISTRIBUTED ANTENNA SYSTEMS AND SMALL-CELL NETWORKS).

c. THE TERM INCLUDES ANY STRUCTURE OTHER THAN A TOWER OR MONOPOLE THAT, AT THE TIME THE RELEVANT WIRELESS FACILITY APPLICATION IS FILED WITH THE CITY UNDER THIS CHAPTER, SUPPORTS OR HOUSES EQUIPMENT, AND THAT HAS BEEN REVIEWED AND APPROVED UNDER THE APPLICABLE ZONING OR SITING PROCESS, OR UNDER ANOTHER STATE, COUNTY OR LOCAL REGULATORY REVIEW PROCESS, EVEN IF THE STRUCTURE WAS NOT BUILT FOR THE SOLE OR PRIMARY PURPOSE OF PROVIDING SUCH SUPPORT.

d. THE TERM DOES NOT INCLUDE ANY STRUCTURE THAT, AT THE TIME THE RELEVANT WIRELESS FACILITY APPLICATION IS FILED WITH THE CITY UNDER THIS CHAPTER, DOES NOT SUPPORT OR HOUSE EQUIPMENT DESCRIBED IN SUBSECTIONS A. AND/OR B. ABOVE.

(g) *CELL ON WHEELS (COW).* A MOBILE CELL SITE THAT CONSISTS OF A CELLULAR ANTENNA TOWER AND ELECTRONIC RADIO TRANSCEIVER EQUIPMENT ON A TRUCK OR A TRAILER, DESIGNED TO BE PART OF A CELLULAR NETWORK AND TEMPORARY IN NATURE.

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(h) *COLLOCATE OR COLLOCATION.* TO INSTALL, MOUNT, MAINTAIN, MODIFY, OPERATE, OR REPLACE WIRELESS FACILITIES ON, WITHIN, OR ADJACENT TO A WIRELESS SUPPORT STRUCTURE OR UTILITY POLE.

(i) *COLLOCATION, MINOR.* A COLOCATION OF A WIRELESS FACILITY WHERE THE PROPOSED WIRELESS FACILITY EQUIPMENT DOES NOT EXCEED TEN (10) FEET ABOVE THE SUPPORTING STRUCTURE AND DOES NOT EXCEED 50 FEET ABOVE GROUND LEVEL.

(j) *COLLOCATION, MAJOR*. A COLOCATION OF A WIRELESS FACILITY WHERE THE PROPOSED WIRELESS FACILITY EQUIPMENT EXCEEDS TEN (10) FEET ABOVE THE SUPPORTING STRUCTURE AND/OR EXCEEDS 50 FEET ABOVE GROUND LEVEL.

(k) *CONCEAL OR CONCEALMENT.* WIRELESS FACILITIES DESIGNED OR DISGUISED TO LOOK LIKE SOMETHING OTHER THAN A WIRELESS FACILITY OR BASE STATION.

(l) *DEEMED APPROVED.* A WIRELESS FACILITY MODIFICATION OR BUILDING PERMIT APPLICATION THAT HAS BEEN DEEMED APPROVED UPON THE CITY'S FAILURE TO ACT, AND HAS BECOME EFFECTIVE, AS PROVIDED PURSUANT THE FCC, THE STATE OF ARIZONA, AND THIS CHAPTER.

(m)*EXISTING.* FOR PURPOSES OF THIS CHAPTER AND AS APPLIED TO WIRELESS FACILITIES THAT HAVE BEEN REVIEWED AND APPROVED UNDER THE APPLICABLE ZONING OR SITING PROCESS, PROVIDED THAT, A TOWER THAT HAS NOT BEEN REVIEWED AND APPROVED BECAUSE IT WAS NOT IN A ZONED AREA WHEN IT WAS BUILT, BUT WAS LAWFULLY CONSTRUCTED, IS EXISTING FOR PURPOSES OF THIS DEFINITION.

(n) *FCC.* THE FEDERAL COMMUNICATIONS COMMISSION OR ITS SUCCESSOR.

(o) *MICROCELL.* A DEVICE THAT IS CONNECTED TO AERIAL FACILITIES AND USED SOLELY FOR TRANSMITTING, PROCESSING AND RECEIVING VOICE AND DATA WIRELESS TELECOMMUNICATIONS SERVICES, WITHOUT ANY

ASSOCIATED GROUND MOUNTED EQUIPMENT. THE DEVICE IS OFTEN REFERRED TO AS AN ASME (AERIAL STRAND MOUNTED EQUIPMENT).

(p) *MONOPOLE.* A WIRELESS SUPPORT STRUCTURE COMPOSED OF A SINGLE SPIRE USED TO SUPPORT COMMUNICATIONS EQUIPMENT AND HAVING NO GUY WIRES OR GROUND ANCHORS. A MONOPOLE SHALL NOT BE GREATER THAN FORTY (40) INCHES IN DIAMETER AT GROUND LEVEL AND HAVE ALL OF THE WIRELESS FACILITIES MOUNTED ON THE POLE AND WIRING CONTAINED INSIDE OF THE POLE. INCLUDES MONOPALMS, MONOCACTUS, MONOPINES, AND MONOBROADLEAF WIRELESS TOWERS.

(q) *PUBLIC RIGHT-OF-WAY* (ROW). AN AREA DEDICATED TO PUBLIC USE FOR MULTIMODAL MOVEMENT, AND MAY INCLUDE PULIC AND PRIVATE UTILITIES.

(r) *ROOFTOP-MOUNTED WIRELESS FACILITY.* A WIRELESS FACILITY WITH THE ANTENNAS LOCATED ON THE ROOF OF A BUILDING OR ON TOP OF A STRUCTURE AND CONSISTING OF ANTENNAS, SUPPORT STRUCTURES AND ACCESSORY EQUIPMENT WHICH ARE ADEQUATELY SCREENED SO AS NOT TO APPEAR AS STAND-ALONE DEVICES ABOVE THE TOP OF THE ROOF LINE.

(s) *SITE.* FOR WIRELESS FACILITES OTHER THAN WIRELESS FACILITES IN THE PUBLIC RIGHTS-OF-WAY, WILL MEAN, AND REFER TO, THE CURRENT BOUNDARIES OF THE PROPERTY SURROUNDING THE WIRELESS FACILITY AND ANY ACCESS OR UTILITY EASEMENTS CURRENTLY RELATED TO THE SITE, AND, FOR OTHER WIRELESS SUPPORT STRUCTURES, WILL MEAN AND BE FURTHER RESTRICTED TO, THAT AREA IN PROXIMITY TO THE STRUCTURE AND TO OTHER TRANSMISSION EQUIPMENT ALREADY DEPLOYED ON THE GROUND.

(t) *SITE PLAN.* A REQUIRED PLAN, TO SCALE, OF A PROJECT AREA SHOWING USES AND STRUCTURES BOTH EXISTING AND PROPOSED.

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(u) *SMALL WIRELESS FACILITY (SWF).* A WIRELESS FACILITY THAT MEETS BOTH OF THE FOLLOWING QUALIFICATIONS:

a. ALL ANTENNAS ARE LOCATED INSIDE AN ANTENNA ENCLOSURE OF NO MORE THAN SIX (6) CUBIC FEET IN VOLUME OR, IN THE CASE OF ANTENNA'S THAT HAVE EXPOSED ELEMENTS, THE ANTENNAS AND ALL OF ITS EXPOSED ELEMENTS COULD FIT WITHIN AN IMAGINARY ENCLOSURE OF NO MORE THAN SIX (6) CUBIC FEET; AND

b. 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 THE EFFECTIVE DATE OF THIS SECTION. THE FOLLOWING TYPES OF ASSOCIATED ANCILLARY EQUIPMENT ARE NOT INCLUDED IN THE CALCULATION OF EQUIPMENT VOLUME PURSUANT TO THIS SUBDIVISION:

1. AN ELECTRIC METER.
2. CONCEALMENT ELEMENTS.
3. A TELECOMMUNICATIONS DEMARCATION BOX.
4. GROUNDING EQUIPMENT.
5. A POWER TRANSFER SWITCH.
6. A CUTOFF SWITCH.
7. VERTICAL CABLE RUNS FOR THE CONNECTION OF POWER AND OTHER SERVICES.

(v) *SMALL CELL NETWORK.* A COLLECTION OF INTERRELATED SMALL CELL FACILITIES DESIGNED TO DELIVER PERSONAL WIRELESS SERVICES.

(w) *STRUCTURE-MOUNTED WIRELESS FACILITY.* A WIRELESS FACILITY WITH THE ANTENNAS LOCATED ON THE WALL OR ROOF OF A BUILDING OR ON THE SIDE OR TOP OF A STRUCTURE, INCLUDING CO-LOCATING ON AN

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EXISTING FREESTANDING WIRELESS FACILITY AND CONSISTING OF ANTENNAS, SUPPORT STRUCTURES AND ACCESSORY EQUIPMENT.

(x) *TRANSMISSION EQUIPMENT.* EQUIPMENT THAT FACILITATES TRANSMISSION FOR ANY WIRELESS COMMUNICATION SERVICE LICENSED OR AUTHORIZED BY THE FCC, INCLUDING, BUT NOT LIMITED TO, RADIO TRANSCEIVERS, ANTENNAS, COAXIAL OR FIBER-OPTIC CABLE, AND REGULAR AND BACK-UP POWER SUPPLY. THE TERM INCLUDES EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS SERVICES INCLUDING, BUT NOT LIMITED TO, PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES, AS WELL AS UNLICENSED WIRELESS SERVICES AND FIXED WIRELESS SERVICES SUCH AS MICROWAVE BACKHAUL.

(y) *TOWER.* ANY STRUCTURE BUILT FOR THE SOLE OR PRIMARY PURPOSE OF SUPPORTING ANY ANTENNAS AND THEIR ASSOCIATED FACILITIES, LICENSED OR AUTHORIZED BY THE FCC, INCLUDING STRUCTURES THAT ARE CONSTRUCTED FOR WIRELESS COMMUNICATIONS SERVICES INCLUDING, BUT NOT LIMITED TO, PRIVATE, BROADCAST, AND PUBLIC SAFETY SERVICES, AS WELL AS UNLICENSED WIRELESS SERVICES AND FIXED WIRELESS SERVICES SUCH AS MICROWAVE BACKHAUL, AND THE ASSOCIATED SITE.

(z) WIRELESS FACILITY.

a. EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK, INCLUDING BOTH OF THE FOLLOWING:

1. EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS.

2. RADIO TRANSCEIVERS, ANTENNAS, COAXIAL OR FIBER-OPTIC CABLES, REGULAR AND BACKUP POWER SUPPLIES AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION.

b. INCLUDES SMALL WIRELESS FACILITIES.

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

d. DOES NOT INCLUDE WI-FI RADIO EQUIPMENT DESCRIBED IN ARS REVISED STATUTES, SECTION 9-506, SUBSECTION I OR MICROCELL EQUIPMENT DESCRIBED IN ARS REVISED STATUTES, SECTION 9-584, SUBSECTION E.

(aa) *WIRELESS FACILITY MONOPOLE MODIFICATION, MINOR.* A MODIFICATION OF AN EXISTING *WIRELESS FACILITY MONOPOLE* WHERE THE PROPOSED MONOPOLE AND BASE STATION DOES NOT EXCEED THE GREATER OF EITHER:

a. AN INCREASE IN HEIGHT OF THE MONOPOLE LESS THAN TEN (10) FEET; OR

b. AN INCREASE OF BASE STATION AREA LESS THAN TEN (10) PERCENT OF THE EXISTING FACILITY.

(bb) *WIRELESS FACILITY MONOPOLE MODIFICATION, MAJOR.* A MODIFICATION OF AN EXISTING *WIRELESS FACILITY MONOPOLE* WHERE THE PROPOSED MONOPOLE AND BASE STATION EXCEEDS THE GREATER OF EITHER:

a. AN INCREASE IN HEIGHT OF THE TOWER GREATER THAN TEN (10) FEET; OR

b. AN INCREASE OF BASE STATION AREA GREATER THAN TEN (10) PERCENT OF THE EXISTING FACILITY.

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(cc) *WIRELESS SUPPORT STRUCTURE.*

a. MEANS:

1. A FREESTANDING STRUCTURE, SUCH AS A MONOPOLE.
2. A TOWER, EITHER GUYES OR SELF-SPPORTING.
3. A SIGN OR BILLBOARD.
4. ANY OTHER EXISTING OR PROPOSED STRUCTURE DESIGNED TO SUPPORT, OR CAPABLE OF SUPPORTING, SMALL WIRELESS FACILITIES (SWS).

b. DOES NOT INCLUDE A UTILITY POLE.

SEC. 122-112.1 - WIRELESS FACILITIES.

THE PURPOSE OF THE WIRELESS FACILITY REGULATIONS IS TO ENCOURAGE AND PROMOTE WIRELESS COMMUNICATIONS COVERAGE FOR ALL AREAS OF THE CITY WHILE MINIMIZING THE VISUAL, ENVIRONMENTAL, AND NEIGHBORHOOD IMPACTS. WIRELESS FACILITES ARE ALLOWED IN ALL ZONING DISTRICTS, BUT THE PREFERRED WIRELESS FACILITY LOCATIONS INCLUDE LOCATIONS HAVING THE LEAST AMOUNT OF VISUAL AND NEIGHBORHOOD IMPACT. THE WIRELESS COMMUNICATIONS SERVICE PROVIDERS WILL ADHERE TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS.

(a) CUMLATIVE CLASSIFICATIONS AND APPLICATION PROCESS MATRIX.

SECTION	REQUEST	PROCESS TYPE	MAXIMUM REVIEW TIME (DAYS)
122-112.2	NEW MONOPOLE	2	150
	MONOPOLE	1	90

	COLLOCATION		
	MINOR MONOPOLE MODIFICATION	BUILDING PERMIT	75
	MAJOR MONOPOLE MODIFICATION	1	90
	MONOPOLE ON CITY PROPERTY	1	90
122-112.3	ALTERNATIVE FACILITY LOCATION	1	150
	ALTERNATIVE FACILITY LOCATION COLLOCATION	1	90
	MINOR ALTERNATIVE FACILITY LOCATION MODIFICATION	BUILDING PERMIT	75
	MAJOR ALTERNATIVE FACILITY LOCATION MODIFICATION	1	90
	ALTERNATIVE FACILITY LOCATION ON CITY PROPERTY	1	90
122-112.4	SWF IN RIGHT-OF-WAY	ROW ENCROACHMENT PERMIT	75
	SWF OUTSIDE OF	1	90

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	RIGHT-OF-WAY		
122-112.2	WIRELESS FACILITIES OTHER THAN DEFINED HEREIN	3	150
122-112.5	CELL ON WHEELS (COW)	1	90
122-112.5	AMATEUR RADIO ANTENNAE	BUILDING PERMIT	75
	AMATEUR RADIO ANTENNAE GREATER THAN 35 FEET	3	150

(b) ALL CHANGES WILL BE MEASURED CUMULATIVELY TO PRESERVE THE LIMITS ESTABLISHED BY FEDERAL, STATE, AND LOCAL LAW.

(c) ALL WIRELESS FACILITES WILL IDENTIFY A SINGLE PARKING SPACE FOR THE FACILITY. IF THE LOCATION IS ON A SEPARATE PARCEL, OWNER AUTHORIZATION WILL BE REQUIRED.

(d) BASE STATIONS:

(1) BASE STATIONS AND ALL GROUND MOUNTED EQUIPMENT WITH INTEGRATED AIR CONDITIONING WILL BE ENCLOSED BY A SOLID DECORATIVE WALL WITH A HEIGHT EQUAL TO OR EXCEEDING THE HEIGHT OF THE BASE STATION.

(2) UNLESS ALLOWED BY FEDERAL, STATE, OR LOCAL LAW, NO ADVERTSEMENTS OR IDENTIFYING LOGOS WILL BE PLACED ON ANY STRUCTURE IN THE ROW.

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(3) LOCATED OUTSIDE THE ROW:

a. WILL COMPLY WITH THE HEIGHT AND YARD DEVELOPMENT STANDARDS OF THE UNDERLYING ZONING DISTRICT, EXCEPT AS PROVIDED HEREIN;

b. WILL BE LOCATED UNDERGROUND, INSIDE BUILDINGS, OR BEHIND SCREEN WALLS;

c. ENCLOSURES FOR BASE STATIONS, OTHER THAN THOSE FOR SWFS, WILL BE CONSTRUCTED WITH DECORATIVE CMU BLOCK AND UTILIZE AN OPAQUE DOOR.

d. SWF BASE STATIONS WILL BE LOCATED UNDERGROUND, BEHIND REMOVABLE SCREENING, OR PAINTED OR WRAPPED TO PROVIDE AN ARTISTIC RENDERING. ANY IMAGE WILL BE APPROVED BY STAFF DURING DESIGN REVIEW.

e. AN ENCLOSED BASE STATION WILL OCCUPY NO MORE THAN 600 SQUARE FEET.

(4) LOCATED IN THE ROW:

a. ARE EXEMPT FROM YARD DEVELOPMENT STANDARDS, BUT WILL BE LOCATED AS FAR AWAY FROM THE STREET AS POSSIBLE.

b. WILL BE LOCATED UNDERGROUND, BEHIND REMOVABLE SCREENING, OR PAINTED OR WRAPPED TO PROVIDE AN ARTISTIC RENDERING. ANY IMAGE WILL BE APPROVED BY STAFF DURING DESIGN REVIEW.

c. ENCLOSURES ARE LIMITED TO SIX (6) CUBIC FEET.

d. WILL BE LOCATED OUTSIDE THE SIGHT VISIBILITY TRIANGLE.

(e) WHEN INSTALLING THE WIRELESS FACILITY, INSTALLATION WILL MINIMIZE THE REMOVAL OF EXISTING MATURE VEGETATION AT THE SITE OR SUCH VEGETATION WILL BE REPLACED. ANY CHANGE IN SITE

DRAFT

LANDSCAPE MUST BE CONSISTENT WITH A CITY APPROVED LANDSCAPE PLAN AS REQUIRED BY THIS CHAPTER.

(f) *APPEALS*:

(1) THE DECISION OF THE COMMUNITY DEVELOPMENT DIRECTOR OR DESIGNEE MAY BE APPEALED TO THE PLANNING AND ZONING COMMISSION, WHOSE DECISION WILL BE FINAL. THE COMMUNITY DEVELOPMENT DIRECTOR OR DESIGNEE SHALL USE THE SAME CRITERIA USED TO REVIEW THE ORIGINAL APPLICATION.

(2) THE DECISION OF THE PLANNING AND ZONING COMMISSION MAY BE APPEALED TO THE MAYOR AND CITY COUNCIL, WHOSE DECISION WILL BE FINAL. THE THE PLANNING AND ZONING COMMISSION SHALL USE THE SAME CRITERIA USED TO REVIEW THE ORIGINAL APPLICATION.

(g) *DISCONTINUATION OF USE*.

(1) IN THE EVENT THE USE OF ANY WIRELESS FACILITY HAS BEEN DISCONTINUED FOR A PERIOD OF 90 CONSECUTIVE DAYS, THE WIRELESS FACILITY WILL BE DEEMED TO BE ABANDONED. UPON SUCH ABANDONMENT, THE OWNER AND/OR OPERATOR OF THE TOWER AND/OR PROPERTY OWNER WILL HAVE AN ADDITIONAL 90 DAYS TO:

a. REACTIVATE THE USE OF THE WIRELESS FACILITY OR TRANSFER THE WIRELESS FACILITY TO ANOTHER OWNER/OPERATOR WHO MAKES ACTIVE USE OF THE WIRELESS FACILITY; OR

b. DISMANTLE AND REMOVE THE WIRELESS FACILITY. UPON REMOVAL OF THE WIRELESS SERVICE FACILITY, THE SITE WILL BE RETURNED TO ITS BUILT OR NATURAL STATE AND TOPOGRAPHY AND VEGETATED CONSISTENT WITH THE NATURAL SURROUNDINGS.

DRAFT

SEC. 122-112.2 MONOPOLES.

MONOPOLE INSTALLATIONS, MODIFICATIONS, COLLOCATIONS.

(a) *TIMING:* AN APPLICANT SEEKING A NEW MONOPOLE INSTALLATIONS, MODIFICATIONS, COLLOCATIONS WILL BE RENDERED WITHIN THE FOLLOWING AMOUNT OF DAYS OF THE FILING OF THE APPLICATION, UNLESS TOLLED BY MUTUAL AGREEMENT:

(1) NEW MONOPOLE – MAXIMUM OF 150 DAYS.

(2) COLLOCATIONS OR MAJOR MODIFICATION – MAXIMUM OF 90 DAYS.

(3) MINOR MODIFICATION – MAXIMUM OF 75 DAYS.

(4) MAJOR MONOPOLE MODIFICATION – MAXIMUM OF 90 DAYS.

(5) NEW MONOPOLE ON CITY PROPERTY - MAXIMUM OF 90 DAYS.

(b) *SUBMITTAL REQUIREMENTS:*

(1) NARRATIVE DESCRIBING THE PROPOSED WIRELESS FACILITY SITE;

(2) A SITE PLAN SHOWING THE SUBJECT PROPERTY AND ADJACENT PROPERTIES; ALL EXISTING AND PROPOSED BUILDINGS ON THE SUBJECT PROPERTY AND THEIR PURPOSE; THE SPECIFIC PLACEMENT OF THE BASE STATION AND CELL TOWER, INCLUDING TYPE AND EXTENT AND POINT OF ENTRY ON THE SITE; ALL PROPOSED CHANGES TO THE EXISTING SITE, INCLUDING GRADING, VEGETATION, ROADS, SIDEWALKS AND DRIVEWAYS SIGNED AND SEALED BY A PROFESSIONAL REGISTRANT FROM THE STATE OF ARIZONA INCLUDING EXPIRATION DATE;

(3) A LANDSCAPE PLAN SHOWING SPECIFIC PLACEMENT OF EXISTING AND PROPOSED VEGETATION, TREES, SHRUBS, IDENTIFIED BY SPECIES AND SIZE OF SPECIMEN AT INSTALLATION IN ACCORDANCE WITH CITY LANDSCAPE GUIDELINES;

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(4) A GRADING AND DRAINAGE PLAN OF THE PROJECT SITE AS DETERMINED BY THE CITY MANAGER OR DESIGNEE.

(5) EXISTING (BEFORE CONDITION) PHOTOGRAPHS AND PROPOSED (AFTER CONDITION) PHOTOSIMULATIONS OF THE PROPOSED WIRELESS FACILITY FROM PUBLIC RIGHTS-OF-WAY ADJACENT TO THE SITE. SUCH PHOTOSIMULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, SUPERIMPOSED REPRESENTATIONS OF THE PROPOSED BASE STATION AND TOWER TO SHOW WHAT WILL BE SEEN FROM RIGHTS-OF WAY ADJACENT TO THE SITE;

(6) ELEVATIONS WILL SHOW THE FOLLOWING:

a. DIMENSIONS OF ALL EQUIPMENT AND POLES SPECIFIED FOR ALL THREE DIMENSIONS: HEIGHT, WIDTH AND DEPTH; AND

b. MATERIALS OF THE BASE STATION AND SECURITY BARRIER, IF ANY, SPECIFIED BY GENERIC TYPE AND SPECIFIC TREATMENT, SUCH AS BRICK, MASONRY WITH STUCCO FINISH, ANODIZED ALUMINUM, STAINED WOOD, ETC.

(7) COLLOCATION SUBMITTALS, INCLUDING SIGNED STATEMENTS INDICATING:

a. THE APPLICANT AGREES TO ALLOW FOR THE POTENTIAL COLLOCATION OF ADDITIONAL WIRELESS FACILITIES BY OTHER WIRELESS SERVICES AND CARRIERS ON THE APPLICANT'S STRUCTURE OR FACILITY OR WITHIN THE SAME SITE; ANDTHAT THE APPLICANT HAS MADE A GOOD FAITH EFFORT TO ACHIEVE COLLOCATION WITH OTHER CARRIERS AND FACILITIES AS REQUIRED IN THIS SECTION, AND IF COLLOCATION IS NOT FEASIBLE FOR THIS APPLICATION FOR A SUBSTANTIAL TECHNICAL OR OTHER REASON(S), A WRITTEN STATEMENT OF THE REASONS FOR THE INFEASIBILITY.

DRAFT

(8) AN EXECUTED LEASE AGREEMENT WITH THE OWNER OR LANDHOLDER THAT:

a. ALLOWS THE LANDHOLDER TO ENTER INTO LEASES WITH OTHER PROVIDERS;

b. SPECIFIES THAT IF THE CARRIER FAILS TO REMOVE THE BASE STATION AND TOWER WHEN REQUIRED BY THIS CHAPTER, THE RESPONSIBILITY FOR REMOVAL FALLS UPON THE LANDHOLDER; AND

c. ALLOWS ENTRY BY THE CITY AND ITS AGENT FOR THE PURPOSE OF INSPECTION AND COMPLIANCE WITH CITY CODES.

(c) *REVIEW:*

(1) NEW MONOPOLE APPLICATIONS WILL BE PROCESSED AS A TYPE II SITE PLAN DESIGN REVIEW, FOUND IN ARTICLE XII OF THIS CHAPTER.

(2) COLLOCATIONS, MAJOR MODIFICATIONS, AND MONOPOLES ON CITY PROPERTY WILL BE PROCESSED AS AN ADMINISTRATIVE TYPE I SITE PLAN DESIGN REVIEW, FOUND IN ARTICLE XII OF THIS CHAPTER.

(3) MINOR MODIFICATIONS WILL BE PROCESSED AS A BUILDING PERMIT.

(d) *DESIGN STANDARDS:*

(1) ALL WIRELESS FACILITIES WILL BE DESIGNED TO BLEND INTO THE ARCHITECTURE AND LANDSCAPE OF THE AREA IN WHICH IT IS PLACED;

(2) ALL WIRELESS FACILITY ANTENNAE, MOUNTING HARDWARE, AND CABLING SHALL BE COVERED OR PAINTED TO MATCH THE COLOR, MONOPOLE ON WHICH IT IS MOUNTED;

(3) *SETBACKS.* THE SETBACK OF ALL WIRELESS FACILITIES MONOPOLES SHALL MEET THE YARD DEVELOPMENT STANDARDS AND SETBACK REQUIREMENTS OF THE UNDERLYING ZONING DISTRICT, EXCEPT AS OTHERWISE PERMITTED HEREIN. THE SETBACK SHALL BE

DRAFT

MEASURED FROM THE LOT LINE TO THE WIRELESS FACILITY TOWER. ADDITIONALLY, ALL TOWERS SHALL BE SET BACK FROM ANY RESIDENTIAL LOT LINES A DISTANCE EQUAL TO TWICE THE HEIGHT OF THE TOWER AND FROM ANY NONRESIDENTIALLY LOT LINE A DISTANCE EQUAL TO THE HEIGHT OF THE WIRELESS FACILITY STRUCTURE; AND

(4) *WIRELESS FACILITY IDENTIFICATION*. EACH WIRELESS FACILITY SHALL BE IDENTIFIED BY A PERMANENTLY INSTALLED PLAQUE OR MARKER ON THE DOOR OF THE BASE STATION, NO LARGER THAN FOUR (4) INCHES BY SIX (6) INCHES, CLEARLY IDENTIFYING THE WIRELESS SERVICE PROVIDER'S NAME, ADDRESS, E-MAIL CONTACT, AND EMERGENCY PHONE NUMBER. THE PLAQUE OR MARKER REQUIRED BY THIS SECTION SHALL BE REVISED WITHIN 30 DAYS OF ANY CHANGE IN THE REQUIRED INFORMATION/CONTENT.

(5) *MONOPALM*:

a. WILL CONTAIN A MINIMUM OF 55 PALM FRONDS THAT DISGUISE THE LENGTH OF THE ANTENNA;

b. THE STAND-OFF MOUNTING ARM APPARATUS OF THE ANTENNA ARRAY WILL NOT EXTEND MORE THAN 30 INCHES FROM THE STRUCTURE TO WHICH IT IS ATTACHED;

c. THE POLE STRUCTURE WILL BE CLAD WITH FAUX BARK THAT BEGINS AT THE BASE OF THE POLE STRUCTURE AND CONTINUES TO THE HEIGHT OF THE FIRST PALM FROND ATTACHMENT. THE BALANCE OF THE POLE STRUCTURE AND THE ATTACHMENTS WILL BE PAINTED TO BLEND WITH THE PALM FRONDS;

d. THE DIAMETER OF THE POLE STRUCTURE WILL NOT EXCEED 26 INCHES AT ITS WIDEST POINT;

e. ALL CABLES WILL BE CONCEALED WITHIN THE POLE STRUCTURE;

DRAFT

f. THE MAXIMUM HEIGHT OF THE POLE STRUCTURE, EXCLUDING ANTENNAE, WILL BE LIMITED TO 65 FEET ABOVE THE FINISHED GRADE OF THE SITE. THE MAXIMUM HEIGHT OF THE ANTENNAE ATTACHED TO A MONOPALM WILL NOT EXCEED 80 FEET ABOVE THE FINISHED GRADE OF THE SITE;

g. NO MORE THAN TWO (2) MICROWAVE DISHES WILL BE PERMITTED ON EACH MONOPALM. MICROWAVE DISHES WILL BE LIMITED TO ONE (1) SQUARE FOOT IN SIZE AND WILL BE CONCEALED WITHIN THE MONOPALM, TRIMMED LEAF CLUSTER, OR PALM FRONDS;

h. THE TRIMMED LEAF CLUSTER WILL BE MOUNTED DIRECTLY BELOW THE PALM FRONDS AND WILL BE PAINTED TO BLEND WITH THE POLE STRUCTURE; AND

i. CLIMBING PEGS ARE PROHIBITED ON THE POLE STRUCTURE.

(6) *MONOCACTUS*.

a. THE MONOCACTUS STRUCTURE WILL BE CLAD WITH A FAUX FINISH THAT RESEMBLES A SAGUARO CACTUS FROM THE BASE OF THE STRUCTURE AND CONTINUE TO THE TOP OF THE STRUCTURE;

b. THE DIAMETER OF THE MONOCACTUS STRUCTURE WILL NOT EXCEED 34 INCHES AT ITS WIDEST POINT AND WILL HAVE A NATURAL APPEARING TAPER FROM THE BOTTOM TO THE TOP;

c. THE HEIGHT OF THE MONOCACTUS STRUCTURE WILL NOT EXCEED 30 FEET IN HEIGHT;

d. ALL ANTENNA AND CABLES WILL BE CONCEALED WITHIN THE MONOCACTUS STRUCTURE; AND

e. EXTERNAL MICROWAVE DISHES AND CLIMBING PEGS ARE PROHIBITED ON THE MONOCACTUS STRUCTURE.

(7) MONOPINE OR MONOBROADLEAF.

DRAFT

a. THE POLE STRUCTURE WILL BE CLAD WITH FAUX BARK. THE FAUX BARK WILL START AT THE BASE OF THE POLE STRUCTURE AND CONTINUE TO THE HEIGHT OF THE FIRST BRANCH ATTACHMENT. THE BALANCE OF THE POLE STRUCTURE AND THE ATTACHMENTS WILL BE PAINTED TO BLEND WITH THE BRANCHES;

b. THE DIAMETER OF THE POLE STRUCTURE WILL NOT EXCEED 36 INCHES AT THE BASE AND WILL TAPER TO NO GREATER THAN 28 INCHES AT THE TOP OF THE POLE STRUCTURE;

c. ALL CABLES WILL BE CONCEALED WITHIN THE POLE STRUCTURE;

d. THE MAXIMUM HEIGHT OF THE POLE STRUCTURE WILL BE LIMITED TO 65 FEET ABOVE THE FINISHED GRADE OF THE SITE. THE MAXIMUM HEIGHT OF THE ANTENNAE ATTACHED THE POLE STRUCTURE WILL NOT EXCEED 80 FEET ABOVE THE FINISHED GRADE OF THE SITE;

1. *BRANCHES*:

i. WILL BE CONSTRUCTED TO A DENSITY OF NO LESS THAN TWO AND ONE-HALF (1 ½) BRANCHES FOR EACH ONE (1) VERTICAL FOOT OF POLE;

ii. WILL START NO LESS THAN 15 FEET ABOVE FINISHED GRADE AND CONTINUE TO THE TOP OF THE POLE STRUCTURE; AND

iii. WILL BE A MINIMUM OF EIGHT (8) FEET LONG AROUND THE CIRCUMFERENCE OF THE LOWER LEVEL AND WILL TAPER AS THE BRANCHES PROGRESS UPWARD, CONSISTENT WITH THE SPECIES OF TREE IMITATED BY THE STRUCTURE. THE BRANCHES WILL APPROXIMATE THE APPEARANCE OF A PARTICULAR DECIDUOUS TREE SPECIES GROWN IN THE VICINITY OF THE SITE AND THAT GROWS TO

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APPROXIMATELY THE SAME HEIGHT OF THE MONOPINE OR MONOBROADLEAF.

e. THE ENTIRE LENGTH OF ALL ANTENNAE AND THEIR ATTACHING APPARATUS WILL BE DISGUISED BY THE BRANCHES AND THE STAND-OFF MOUNTING ARM APPARATUS OF THE ANTENNA ARRAY WILL NOT EXTEND MORE THAN 30 INCHES FROM THE POLE STRUCTURE TO WHICH IT IS ATTACHED;

f. MICROWAVE DISHES WILL BE LIMITED TO ONE (1) SQUARE FOOT IN SIZE. DISHES AND ATTACHING APPARATUS WILL BE PAINTED TO BLEND WITH THE BRANCHES;

g. NO MORE THAN FOUR (4) MICROWAVE DISHES ARE PERMITTED PER MONOPINE OR BROADLEAF TREE; AND

h. CLIMBING PEGS ARE PROHIBITED ON THE POLE STRUCTURE.

(8) ALTERNATIVE MONOPOLE STRUCTURE:

a. THE MAXIMUM ALLOWABLE WIDTH OF AN ANTENNA ARRAY IS FOUR (4) FEET. THERE IS NO WIDTH LIMIT FOR ANTENNA ARRAYS INSTALLED INSIDE AN ALTERNATIVE TOWER STRUCTURE.

b. THE ANTENNA WILL NOT EXTEND MORE THAN 18 INCHES FROM THE STRUCTURE TO WHICH IT IS ATTACHED. THIS RESTRICTION DOES NOT APPLY TO ANTENNA ARRAYS INSTALLED INSIDE AN ALTERNATIVE TOWER STRUCTURE.

c. THE MAXIMUM ALLOWABLE LENGTH OF EACH ANTENNA ARRAY IS TEN (10) FEET.

d. ALL CABLES WILL BE CONCEALED WITHIN THE SUPPORT STRUCTURE OR FULLY ENCLOSED WITHIN A CABLE SHROUD.

e. NO MORE THAN TWO (2) MICROWAVE DISHES, LIMITED TO TWO (2) SQUARE FEET IN SIZE EACH, WILL BE PERMITTED ON EACH ALTERNATIVE TOWER STRUCTURE.

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f. ALL MICROWAVE DISHES, ANTENNAS, CABLE SHROUDS, AND ATTACHING APPARATUS WILL BE PAINTED TO MATCH THE ALTERNATIVE TOWER STRUCTURE.

(e) *INDUSTRIAL ZONING DISTRICTS.*

(1) THE STAND-OFF MOUNTING ARM APPARATUS OF THE ANTENNA ARRAY WILL NOT EXTEND, IN ANY DIRECTION, MORE THAN 30 INCHES FROM THE STRUCTURE TO WHICH IT IS ATTACHED.

a. THE DIAMETER OF THE MONOPOLE STRUCTURE WILL NOT EXCEED 26 INCHES AT ITS WIDEST POINT;

b. ALL CABLES WILL BE CONCEALED WITHIN THE MONOPOLE STRUCTURE;

c. THE MAXIMUM HEIGHT OF THE MONOPOLE STRUCTURE, EXCLUDING ANTENNAE, WILL BE LIMITED TO 65 FEET ABOVE THE FINISHED GRADE OF THE SITE. THE MAXIMUM HEIGHT OF THE ANTENNAE ATTACHED TO A MONOPOLE WILL NOT EXCEED 80 FEET ABOVE THE FINISHED GRADE OF THE SITE;

d. NO MORE THAN TWO (2) MICROWAVE DISHES WILL BE PERMITTED ON EACH MONOPOLE. MICROWAVE DISHES WILL BE LIMITED TO TWO (2) SQUARE FEET IN SIZE; AND

e. CLIMBING PEGS ARE PROHIBITED ON THE POLE STRUCTURE.

(f) ALL OTHER WIRELESS FACILITIES THAT DO NOT FALL UNDER ANY OF THE SUBSECTIONS REGARDING WIRELESS FACILITIES WILL FOLLOW THE TYPE III CONDITIONAL USE PERMIT PROCESS FOUND IN ARTICLE XII OF THIS CHAPTER. IN ADDITION TO COMPLYING WITH THE CUP CRITERIA, ANY APPLICATION UNDER THIS SUBSECTION WILL COMPLY WITH THE FOLLOWING CRITERIA:

a. AESTHETICS STANDARDS;

b. SETBACK AND HEIGHT RESTRICTIONS;

DRAFT

c. SAFETY CONCERNS INCLUDING, BUT NOT LIMINTED TO, FALL ZONES, AND BUFFERING;

d. ENVIRONMENTAL;

e. PROTECTIONS OF PROPERTY VALUES; AND

f. *TIMING*: APPLICATIONS PROCESSED PURSUANT TO THIS SUBSECTION WILL BE ACTED UPON WITHIN 150 DAYS OF SUBMITTAL OF A COMPLETE APPLICATION.

SEC. 122-112.3 ALTERNATIVE WIRELESS FACILITY LOCATIONS.

ALTERNATIVE WIRELESS FACILITIES INCLUDE LOCATIONS SUCH AS BUILDING/STRUCTURE MOUNTED, ROOF MOUNTED, RECREATIONAL LIGHT POLES, AND WATER TOWER/TANK FACILITIES. DESIGN OF THE MOUNTING STRUCTURES WILL CAMOUFLAGE OR CONCEAL THE PRESENCE OF A WIRELESS FACILITY.

(a) *TIMING:* AN APPLICANT SEEKING A NEW ALTERNATIVE WIRELESS FACILITY INSTALLATION, MODIFICATIONS, COLLOCATIONS WILL BE RENDERED WITHIN THE FOLLOWING AMOUNT OF DAYS OF THE FILING OF THE APPLICATION, UNLESS TOLLED BY MUTUAL AGREEMENT:

(1) NEW ALTERNATIVE WIRELESS FACILITY – MAXIMUM OF 150 DAYS

(2) MINOR ALTERNATIVE WIRELESS FACILITY MODIFICATION – MAXIMUM OF 75 DAYS

(3) COLLOCATIONS OR MAJOR MODIFICATION OF ALTERNATIVE WIRELESS FACILITY – MAXIMUM OF 90 DAYS.

(4) NEW ALTERNATIVE WIRELESS FACILITY ON CITY PROPERTY - MAXIMUM OF 90 DAYS

(b) *SUBMITTAL REQUIREMENTS:*

(1) NARRATIVE DESCRIBING THE PROPOSED WIRELESS FACILITY SITE;

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(2) A SITE PLAN SHOWING THE SUBJECT PROPERTY AND ADJACENT PROPERTIES; ALL EXISTING AND PROPOSED BUILDINGS ON THE SUBJECT PROPERTY AND THEIR PURPOSE; THE SPECIFIC PLACEMENT OF THE BASE STATION AND CELL TOWER, INCLUDING TYPE AND EXTENT AND POINT OF ENTRY ON THE SITE; ALL PROPOSED CHANGES TO THE EXISTING SITE, INCLUDING GRADING, VEGETATION, ROADS, SIDEWALKS AND DRIVEWAYS SIGNED AND SEALED BY A PROFESSIONAL REGISTRANT FROM THE STATE OF ARIZONA INCLUDING EXPIRATION DATE;

(3) A LANDSCAPE PLAN SHOWING SPECIFIC PLACEMENT OF EXISTING AND PROPOSED VEGETATION, TREES, SHRUBS, IDENTIFIED BY SPECIES AND SIZE OF SPECIMEN AT INSTALLATION IN ACCORDANCE WITH CITY LANDSCAPE GUIDELINES;

(4) A GRADING AND DRAINAGE PLAN OF THE PROJECT SITE AS DETERMINED BY THE CITY MANAGER OR DESIGNEE.

(5) EXISTING (BEFORE CONDITION) PHOTOGRAPHS AND PROPOSED (AFTER CONDITION) PHOTOSIMULATIONS OF THE PROPOSED WIRELESS FACILITY FROM PUBLIC RIGHTS-OF-WAY ADJACENT TO THE SITE. SUCH PHOTOSIMULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, SUPERIMPOSED REPRESENTATIONS OF THE PROPOSED BASE STATION AND TOWER TO SHOW WHAT WILL BE SEEN FROM RIGHTS-OF WAY ADJACENT TO THE SITE;

(6) ELEVATIONS WILL SHOW THE FOLLOWING:

c. DIMENSIONS OF ALL EQUIPMENT AND POLES SPECIFIED FOR ALL THREE DIMENSIONS: HEIGHT, WIDTH AND DEPTH; AND

d. MATERIALS OF THE BASE STATION AND SECURITY BARRIER, IF ANY, SPECIFIED BY GENERIC TYPE AND SPECIFIC TREATMENT, SUCH AS BRICK, MASONRY WITH STUCCO FINISH, ANODIZED ALUMINUM, STAINED WOOD, ETC.

DRAFT

(7) COLLOCATION SUBMITTALS, INCLUDING SIGNED STATEMENTS INDICATING:

b. THE APPLICANT AGREES TO ALLOW FOR THE POTENTIAL COLLOCATION OF ADDITIONAL WIRELESS FACILITIES BY OTHER WIRELESS SERVICES AND CARRIERS ON THE APPLICANT'S STRUCTURE OR FACILITY OR WITHIN THE SAME SITE; AND

c. THAT THE APPLICANT HAS MADE A GOOD FAITH EFFORT TO ACHIEVE COLLOCATION WITH OTHER CARRIERS AND FACILITIES AS REQUIRED IN THIS SECTION, AND IF COLLOCATION IS NOT FEASIBLE FOR THIS APPLICATION FOR A SUBSTANTIAL TECHNICAL OR OTHER REASON(S), A WRITTEN STATEMENT OF THE REASONS FOR THE INFEASIBILITY.

(8) AN EXECUTED LEASE AGREEMENT WITH THE OWNER OR LANDHOLDER THAT:

a. ALLOWS THE LANDHOLDER TO ENTER INTO LEASES WITH OTHER PROVIDERS;

b. SPECIFIES THAT IF THE CARRIER FAILS TO REMOVE THE BASE STATION AND TOWER WHEN REQUIRED BY THIS CHAPTER, THE RESPONSIBILITY FOR REMOVAL FALLS UPON THE LANDHOLDER; AND

c. ALLOWS ENTRY BY THE CITY AND ITS AGENT FOR THE PURPOSE OF INSPECTION AND COMPLIANCE WITH CITY CODES;

(c) REVIEW:

(1) NEW ALTERNATIVE WIRELESS FACILITIES, COLLOCATIONS, MAJOR MODIFICATIONS, AND ALTERNATIVE WIRELESS FACILITIES ON CITY PROPERTY WILL BE PROCESSED AS AN ADMINISTRATIVE TYPE I SITE PLAN DESIGN REVIEW, FOUND IN ARTICLE XII OF THIS CHAPTER.

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(2) MINOR MODIFICATIONS OF AN ALTERNATIVE WIRELESS FACILITY WILL BE PROCESSED AS A BUILDING PERMIT.

(d) DESIGN STANDARDS:

(1) *BUILDING- OR STRUCTURE-MOUNTED FACILITIES*:

a. ANTENNAS WILL BE MOUNTED ON A BUILDING WALL OR SIDE OF A STRUCTURE TO THE MAXIMUM EXTENT PRACTICABLE. IF THE APPLICANT DEMONSTRATES THAT IT IS NOT FEASIBLE TO MOUNT THE ANTENNAS ON A BUILDING WALL OR SIDE OF A STRUCTURE, THE ANTENNAS MAY BE MOUNTED ON THE ROOF OR TOP OF THE STRUCTURE, PROVIDED THE FACILITY COMPLIES WITH ALL OTHER APPLICABLE STANDARDS;

b. A BUILDING- OR STRUCTURE-MOUNTED WIRELESS FACILITY SHALL NOT BE LOCATED ON A BUILDING WITH PRIMARILY RESIDENTIAL USES;

c. ANTENNAS MAY ENCROACH INTO A SIDE OR REAR SETBACK A MAXIMUM OF TWO (2) FEET, BUT WILL NOT EXTEND OVER A PROPERTY LINE; AND

d. ANTENNAS MOUNTED ON A BUILDING WALL OR SIDE OF A STRUCTURE SHALL COMPLY WITH THE FOLLOWING STANDARDS:

1. ANTENNAS WILL BE MOUNTED FLUSH TO THE BUILDING WALL OR SIDE OF A STRUCTURE TO THE MAXIMUM EXTENT PRACTICABLE UNLESS TECHNICAL REASONS DICTATE ANOTHER TYPE OF INSTALLATION AND WILL NOT EXTEND ABOVE THE ROOF LINE OR PARAPET OF THE BUILDING OR TOP OF THE STRUCTURE;

2. SUPPORT STRUCTURES, ACCESSORY EQUIPMENT INCLUDING EQUIPMENT CABINETS, AND ALL OTHER APPURTENANCES

DRAFT

SHALL BE FULLY SCREENED FROM VIEW AND NOT VISIBLE FROM THE GROUND; AND

3. ANTENNAS SHALL BE PAINTED A COLOR TO MATCH THE BUILDING OR STRUCTURE TO WHICH THEY ARE MOUNTED OR WILL BE CAMOUFLAGED AS PART OF THE BUILDING ARCHITECTURE IN A CITY-APPROVED BUILDING ELEVATION.

(2) *ROOFTOP-MOUNTED FACILITIES*:

a. ROOFTOP-MOUNTED WIRELESS FACILITIES ARE NOT PERMITTED ON PORTIONS OF BUILDINGS WITH PITCHED ROOFS.

1. A ROOFTOP-MOUNTED WIRELESS FACILITY SHALL NOT BE LOCATED ON A BUILDING WITH PRIMARILY RESIDENTIAL USES.

2. A WIRELESS FACILITY LOCATED ON A BUILDING ROOF OR TOP OF STRUCTURE SHALL COMPLY WITH THE FOLLOWING STANDARDS:

i. ANTENNAS, SUPPORT STRUCTURES, ACCESSORY EQUIPMENT, AND ALL OTHER APPURTENANCES SHALL BE FULLY SCREENED FROM VIEW THROUGH THE USE OF ARCHITECTURALLY COMPATIBLE FEATURES, SCREENING MATERIALS AND COLORS THAT MATCH THE BUILDING OR STRUCTURE TO WHICH THE FACILITY IS MOUNTED.

i. ANTENNAS SHALL NOT EXTEND ABOVE THE PARAPET OF THE ROOF OR THE STRUCTURE TO WHICH THEY ARE MOUNTED.

(3) *RECREATION FIELD LIGHT POLES:*

a. THE MAXIMUM ALLOWABLE WIDTH OF AN ANTENNA ARRAY IS FOUR (4) FEET;

DRAFT

b. THE STAND-OFF MOUNTING ARM APPARATUS OF THE ANTENNA ARRAY WILL NOT EXTEND MORE THAN 30 INCHES FROM THE STRUCTURE TO WHICH IT IS ATTACHED.

c. THE MAXIMUM ALLOWABLE LENGTH OF EACH ANTENNA IS TEN (10) FEET.

d. THE DIAMETER OF THE POLE STRUCTURE WILL NOT EXCEED 36 INCHES.

e. THE ADDITION OF A WIRELESS FACILITY TO A RECREATION FIELD LIGHT WILL NOT INCREASE THE HEIGHT OF THE LIGHT STRUCTURE BY MORE THAN TEN (10) FEET.

f. ALL CABLES WILL BE CONCEALED WITHIN THE POLE STRUCTURE.

g. NO MORE THAN TWO (2) EXTERNAL MICROWAVE DISHES, LIMITED TO TWO (2) SQUARE FEET EACH, ARE PERMITTED ON EACH RECREATION FIELD LIGHT POLE.

h. ALL MICROWAVE DISHES, ANTENNAS, AND ATTACHING APPARATUS WILL BE PAINTED TO MATCH THE RECREATION FIELD LIGHT POLE.

(4) *WATER TOWERS/TANKS:*

a. THE MAXIMUM ALLOWABLE WIDTH OF AN ANTENNA ARRAY IS FOUR (4) FEET. THERE IS NO WIDTH LIMIT FOR ANTENNA ARRAYS INSTALLED INSIDE A FAUX WATER TOWER/TANK.

b. THE ANTENNA WILL NOT EXTEND MORE THAN 18 INCHES FROM THE STRUCTURE TO WHICH IT IS ATTACHED. THIS RESTRICTION DOES NOT APPLY TO ANTENNAS INSTALLED INSIDE A FAUX WATER TOWER/TANK.

c. THE MAXIMUM ALLOWABLE LENGTH OF EACH ANTENNA ARRAY IS TEN (10) FEET.

DRAFT

d. THE ADDITION OF A WIRELESS FACILITY WILL NOT INCREASE THE HEIGHT OF THE WATER TOWER/TANK STRUCTURE GREATER THAN TEN (10) FEET.

e. ALL CABLES WILL BE CONCEALED WITHIN THE SUPPORT STRUCTURE OR FULLY ENCLOSED WITHIN A CABLE SHROUD.

f. NO MORE THAN TWO (2) MICROWAVE DISHES, LIMITED TO TWO (2) SQUARE FEET IN SIZE WILL BE PERMITTED ON EACH WATER TOWER OR WATER TANK.

g. ALL MICROWAVE DISHES, ANTENNAS, CABLE SHROUDS, AND ATTACHING APPARATUS WILL BE PAINTED TO MATCH THE WATER TOWER OR WATER TANK.

SEC. 122-112.4 SMALL WIRELESS FACILITY (SWF).

SMALL WIRELESS FACILITIES PROVIDE INCREASED DATA DISTRIBUTION BY CREATING AN INCREASED NUMBER OF SMALLER WIRELESS FACILITIES.

(a) *GENERAL REQUIRMENTS:*

(1) SWFS IN ROW REQUIRE A MASTER LICENSE AGREEMENT.

(b) *TIMING:* AN APPLICANT SEEKING A NEW SWF INSTALLATION OR MODIFICATIONS TO AN EXISTING SWF WILL BE RENDERED WITHIN THE FOLLOWING AMOUNT OF DAYS OF THE FILING OF THE APPLICATION, UNLESS TOLLED BY MUTUAL AGREEMENT:

(1) SWFS IN RIGHT-OF-WAY – MAXIMUM OF 75 DAYS.

(2) SWFS OUTSIDE RIGHT-OF-WAY – MAXIMUM OF 90 DAYS.

(c) *SUBMITTAL REQUIREMENTS:*

(1) SWS IN ROW:

a. COMPLETED SWS ROW ENCROACHMENT FORM;

b. COMPLETED BUILDING PERMIT;

c. SITE PLAN;

DRAFT

d. BEFORE AND AFTER ELEVATIONS OF THE FACILITY; AND

e. ADDITIONAL INFORMATION MAY BE REQUIRED BY THE CITY MANAGER OR DESIGNEE TO DETERMINE COMPLIANCE WITH FEDERAL, STATE, AND CITY CODE.

(2) SWS OUTSIDE OF ROW:

a. COMPLETED SWS FORM;

b. SITE PLAN;

c. BEFORE AND AFTER ELEVATIONS OF THE FACILITY; AND

(3) ADDITIONAL INFORMATION MAY BE REQUIRED BY THE CITY MANAGER OR DESIGNEE TO DETERMINE COMPLIANCE WITH FEDERAL, STATE, AND CITY CODE.

(d) *REVIEW:*

(1) REVIEW OF SWF INSTALLATIONS AND MODIFICATIONS WITHIN THE RIGHT-OF-WAY WILL BE PROCESSED AS A BUILDING PERMIT.

(2) NEW SWFS LOCATED ON PROPERTY OTHER THAN RIGHTS-OF-WAY WILL BE PROCESSED AS AN ADMINISTRATIVE TYPE I SITE PLAN DESIGN REVIEW, FOUND IN ARTICLE XII OF THIS CHAPTER.

(e) *DESIGN STANDARDS:*

(1) THE COMPONENTS OF A SWF WILL BE MOUNTED A MINIMUM OF 12 FEET ABOVE THE EXISTING GRADE OF THE WIRELESS SUPPORT STRUCTURE IT IS ATTACHED TO;

(2) A REPLACEMENT OR NEW POLE IS ALLOWED A TEN (10) PERCENT HEIGHT INCREASE, NOT TO EXCEED 50 FEET TOTAL.

(3) ALL CABLES WILL BE CONCEALED WITHIN THE PUBLIC UTILITY POLE OR A CABLE SHROUD.

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ALL ANTENNA MOUNTING HARDWARE, CABLE SHROUDS, AND OTHER EQUIPMENT WILL BE PAINTED TO MATCH THE STRUCTURE ON WHICH IT IS MOUNTED.

SEC. 122-112.5 - CELLULAR ON WHEELS (COW).

(1) COWS ARE ALLOWED DURING:

a. CONSTRUCTION OF A PERMANENT WIRELESS FACILITY NOT TO EXCEED DURATION OF ONE (1) YEAR

b. MAINTENANCE OR REPLACEMENT OF EQUIPMENT.

1. UTILIZATION OF A COW WILL BE INCLUDED WITH THE BUILDING PERMIT ASSOCIATED WITH THE WIRELESS FACILITY MAINTENANCE OR REPLACEMENT OF EQUIPMENT.

c. SPECIAL EVENTS.

1. UTILIZATION OF THE COW FOR A SPECIAL EVENT WILL REQUIRE A TEMPORARY USE PERMIT AS PER ARTICLE VII OF THIS CHAPTER. COW PLACEMENT WILL BE LIMITED FOR A DURATION NOT TO EXCEED 30 DAYS UNLESS APPROVED BY THE CITY MANAGER OR DESIGNEE.

d. AN EMERGENCY OR DISASTER AS DETERMINED BY THE CITY MANAGER OR DESIGNEE.

(2) COWS WILL BE SET BACK FROM ALL RESIDENTIAL LOT LINES A MINIMUM DISTANCE EQUAL TO THE FULLY EXTENDED HEIGHT OF THE COW.

(3) PERMITTED POWER SOURCES:

a. A GENERATOR OR OTHER UTILITY SOURCE WILL BE USED THAT EMITS AN AVERAGE NOISE LEVEL NOT TO EXCEED 60 DB,

DRAFT

MEASURED AT ANY PROPERTY LINE THAT IS ZONED OR USED FOR RESIDENTIAL PURPOSES.

b. USE OF ON-SITE UTILITY SERVICES WILL REQUIRE A BUILDING PERMIT.

SEC. 122-112.6 - AMATEUR RADIO ANTENNAS.

AMATEUR RADIO ANTENNAS FOR NON-COMMERCIAL USE.

(a) ANTENNAS PERMITTED. AMATEUR RADIO ANTENNAS ARE PERMITTED IN ALL ZONING DISTRICTS SUBJECT TO THE FOLLOWING STANDARDS:

(1) ANTENNA STRUCTURES ARE ALLOWED UP TO THIRTY-FIVE (35) FEET IN HEIGHT;

(2) ANTENNA STRUCTURES SHALL COMPLY WITH SETBACK STANDARDS FOR THE ZONING DISTRICT IN WHICH IT IS LOCATED;

(3) ANTENNA STRUCTURES SHALL BE LOCATED IN THE REAR HALF OF THE LOT;

(4) ANTENNAS, INCLUDING SUPPORT STRUCTURES, SHALL NOT EXTEND BEYOND THE PROPERTY LINE; AND

(5) WHEN A FEDERALLY LICENSED RADIO AMATEUR NO LONGER OCCUPIES THE SUBJECT PROPERTY, THE ANTENNA STRUCTURE SHALL BE REMOVED.

(6) AMATEUR RADIO ANTENNAS WITH A CONDITIONAL USE PERMIT - ALL AMATEUR RADIO ANTENNAS THAT EXCEED THIRTY-FIVE (35) FEET IN HEIGHT SHALL REQUIRE APPROVAL OF A CONDITIONAL USE PERMIT. SUCH ANTENNAS SHALL BE OF TELESCOPING DESIGN AND LOWERED TO A HEIGHT OF NO MORE THAN THIRTY-FIVE (35) FEET WHEN NOT IN USE. IN NO EVENT SHALL AN AMATEUR RADIO ANTENNA EXCEED THE HEIGHT OF SEVENTY-FIVE (75) FEET.

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WIRELESS FACILITIES ZONING TEXT AMENDMENT

PLANNING AND ZONING COMMISSION – DECEMBER 21, 2017

BACKGROUND

2004 – City Adopts First Wireless Ordinance

2015 – Revision to Accommodate Spectrum Act

2017 – House Bill 2365 Adopted

HB 2365

- Allows Wireless Providers to Install and Operate Wireless Facilities in City Rights-Of-Way (ROW)
- Sets Maximum Fees for Wireless Facilities in ROW
- Provides Application Process for Said Facilities
- Requires Establishment of Terms and Conditions for Wireless Providers

APPLICATION PROCESS

- Most Applications are Exempt From Zoning Review
- Provides Time Frames for Completeness and Action on Applications
- Allows City to Require **Reasonable** Appearance and Concealment Requirements

TEXT AMENDMENT

Definitions:

The definitions section was revised to ensure that state codified definitions are in harmony with the proposed ordinance.

TEXT AMENDMENT

Definitions:

The definitions section was revised to ensure that state codified definitions are in harmony with the proposed ordinance.

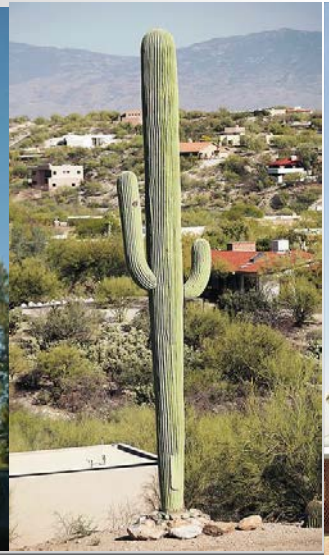
- Wireless Facility
- Collocation
- Small Wireless Facility

TEXT AMENDMENT

- **<u>Wireless Facilities:</u>** This section includes regulations common for all Wireless Facilities such as base stations, appeals, and discontinuation of use.

TEXT AMENDMENT

Monopoles: These facilities include regulations for camouflaged structures such as monopalms, monocactus, and monoevergreen Facilities.



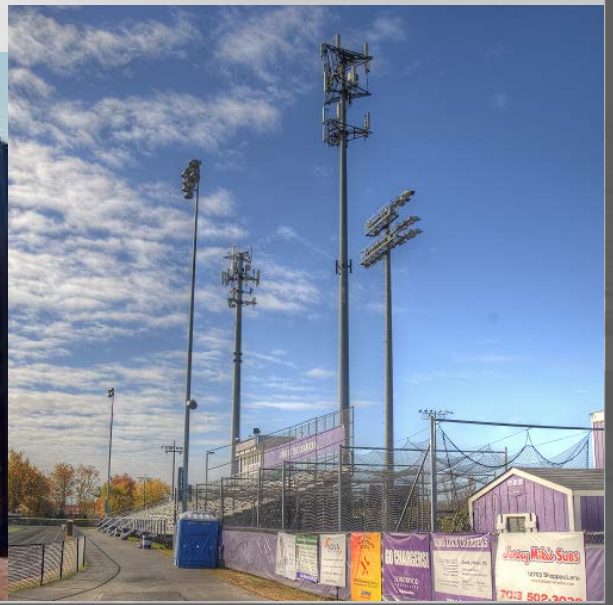
TEXT AMENDMENT

Alternative Wireless Facility Locations:

This section regulates the location of Wireless Facilities in alternative locations such as building roofs, recreational light poles, water tank facilities.

TEXT AMENDMENT

Alternative Wireless Facility Locations:



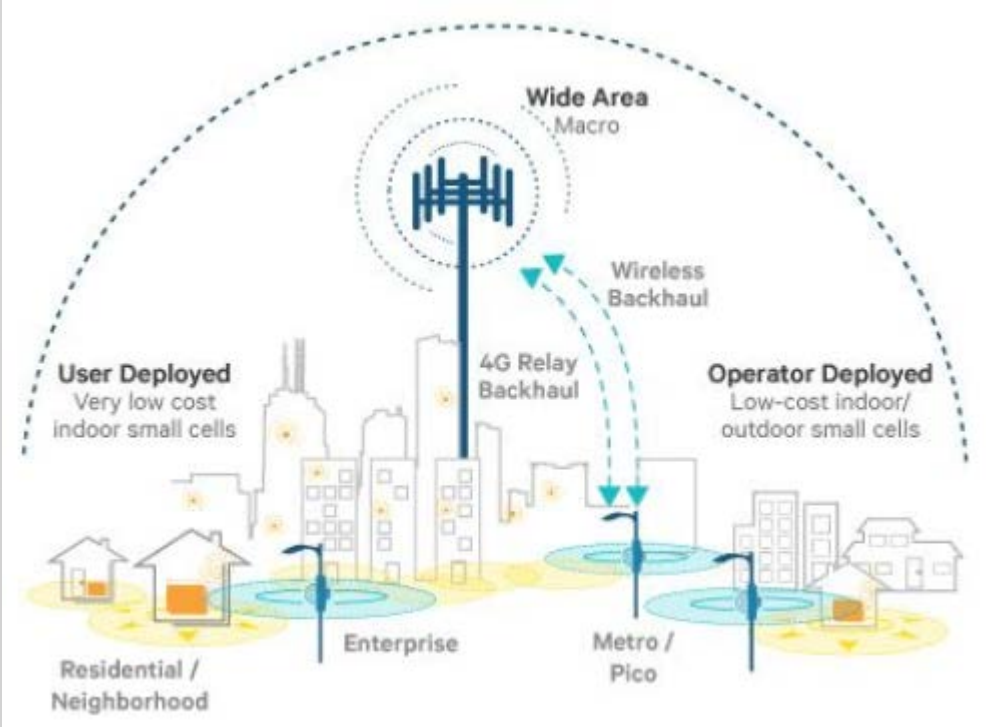
TEXT AMENDMENT

Small Wireless Facilities (SWFs):

Previously listed in the SUDC as small cells, the language of this section was modified to meet recently approved state legislation under HB 2365. Timing, submittal requirements, design standards, and review process have been modified for SWFs located within the ROW.

TEXT AMENDMENT

Small Wireless Facilities (SWFs):



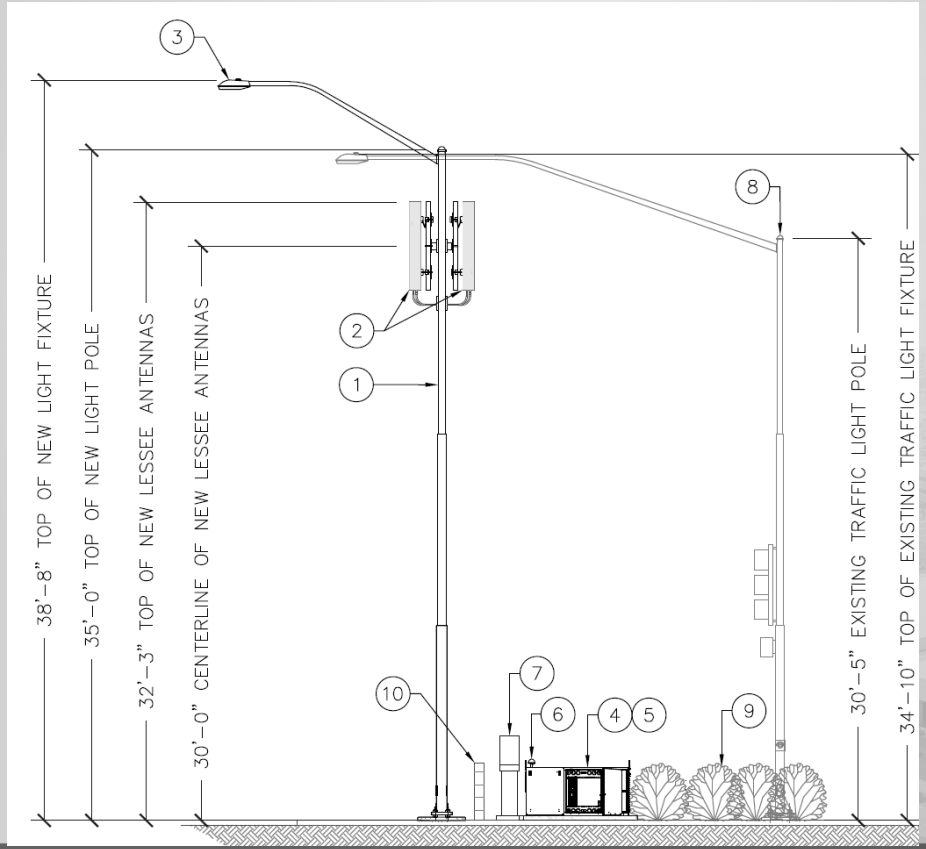
TEXT AMENDMENT

SWF: Previous Aesthetics

TEXT AMENDMENT

SWF: Current Aesthetics

TEXT AMENDMENT



TEXT AMENDMENT

Cellular On Wheels (COWs):

COWs are utilized in situations such as when wireless facilities are under construction, Special events such as concerts and sporting events, and emergency events.

TEXT AMENDMENT

Amateur Radio Antennae: The Proposed Language Allows for 35 foot high antennae. Larger Antennae would require a Conditional Use Permit (CUP) to allow public input.

NEXT STEPS

December 18, 2017: A Citizen Review meeting was held at City Hall

December 19, 2017: Discussion with Mayor and City Council during workshop on HB 2365, technical information about SWF technology, the Zoning Text Amendment, and Terms and Conditions.

January 21, 2017: Presentation with public hearing to the Planning and Zoning Commission regarding the Zoning Text Amendment for Wireless Facilities

January 16, 2018: Discussion and action on Zoning Text Amendment, Master License Agreement, and Terms and Conditions for small wireless facilities.

February 5, 2018: Discussion and action on the fee schedule for wireless facilities in the ROW to be enacted as an emergency measure due to the statutory deadline imposed by HB 2365

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QUESTIONS OR COMMENTS?

Thank You

CITY OF SURPRISE
Planning and Zoning Commission

December 21, 2017 @ 6:00:00 PM

Back Print

Board Meeting Date:	December 21, 2017	Contact Person:	Eric Fitzer - Community Development
Submitting Department:	CD Boards and Commissions	District:	Internal
Staff Recommendations:	No Action		

Consent	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Discussion and direction pertaining to future agenda items.

Motion:

Background:

Financial Impact Statement:

No Financial Impact

ATTACHMENTS:

Click to download

No Attachments Available

External Attachment Links:

Meeting Requirements:

Powerpoint x Video x White Board x Other x

Presentation Speaker Names (spelling and titles for TV captions):