

REFERENCE TITLE: wireless facilities; collocation; rights-of-way

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

# HB 2365

Introduced by  
Representative Weninger: Senator Smith

## AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Title 11, Arizona Revised Statutes, is amended by adding  
3 chapter 13, to read:

4 CHAPTER 13

5 WIRELESS FACILITIES

6 ARTICLE 1. GENERAL PROVISIONS

7 **11-1801. Definitions**

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

28 6. "AUTHORITY POLE" MEANS:

29 (a) A UTILITY POLE, OTHER THAN A UTILITY POLE FOR DESIGNATED  
30 SERVICES, THAT IS OWNED OR OPERATED BY AN AUTHORITY AND THAT IS IN A  
31 RIGHT-OF-WAY, INCLUDING A UTILITY POLE THAT PROVIDES LIGHTING OR TRAFFIC  
32 CONTROL FUNCTIONS SUCH AS LIGHT POLES, TRAFFIC SIGNALS AND STRUCTURES FOR  
33 SIGNAGE.

34 (b) A POLE OR SIMILAR STRUCTURE THAT IS OWNED OR OPERATED BY AN  
35 AUTHORITY, THAT IS IN A RIGHT-OF-WAY AND THAT SUPPORTS ONLY WIRELESS  
36 FACILITIES.

37 7. "BASE STATION" MEANS WIRELESS FACILITIES OR A WIRELESS SUPPORT  
38 STRUCTURE OR UTILITY POLE THAT CURRENTLY SUPPORTS WIRELESS FACILITIES.  
39 BASE STATION DOES NOT INCLUDE A TOWER AS DEFINED IN 47 CODE OF FEDERAL  
40 REGULATIONS SECTION 1.40001(b)(9) OR ASSOCIATED WIRELESS FACILITIES.

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

44 9. "COMMUNICATIONS SERVICE PROVIDER" MEANS A CABLE OPERATOR AS  
45 DEFINED IN 47 UNITED STATES CODE SECTION 522(5), A PROVIDER OF INFORMATION  
46 SERVICE AS DEFINED IN 47 UNITED STATES CODE SECTION 153(24), A

1 TELECOMMUNICATIONS CARRIER AS DEFINED IN 47 UNITED STATES CODE  
2 SECTION 153(51) OR A WIRELESS PROVIDER.

3 10. "FEE" MEANS A ONE-TIME CHARGE.

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

6 12. "PERMIT" MEANS A WRITTEN AUTHORIZATION REQUIRED BY AN AUTHORITY  
7 TO PERFORM AN ACTION OR INITIATE, CONTINUE OR COMPLETE A PROJECT.

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

11 14. "RATE" MEANS A RECURRING CHARGE.

12 15. "RIGHT-OF-WAY" MEANS THE AREA ON, BELOW OR ABOVE A PUBLIC  
13 ROADWAY, HIGHWAY, STREET, SIDEWALK, ALLEY, UTILITY EASEMENT OR SIMILAR  
14 PROPERTY. RIGHT-OF-WAY DOES NOT INCLUDE A FEDERAL INTERSTATE HIGHWAY.

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

17 (a) EACH ANTENNA IS LOCATED INSIDE AN ENCLOSURE OF NOT MORE THAN  
18 SIX CUBIC FEET IN VOLUME OR, IN THE CASE OF AN ANTENNA THAT HAS EXPOSED  
19 ELEMENTS, THE ANTENNA AND ALL OF THE ANTENNA'S EXPOSED ELEMENTS COULD FIT  
20 WITHIN AN IMAGINARY ENCLOSURE OF NOT MORE THAN SIX CUBIC FEET IN VOLUME.

21 (b) ALL OTHER WIRELESS EQUIPMENT ASSOCIATED WITH THE FACILITY IS  
22 CUMULATIVELY NOT MORE THAN TWENTY-EIGHT CUBIC FEET IN VOLUME. THE  
23 FOLLOWING TYPES OF ASSOCIATED ANCILLARY EQUIPMENT ARE NOT INCLUDED IN THE  
24 CALCULATION OF EQUIPMENT VOLUME PURSUANT TO THIS SUBDIVISION:

25 (i) AN ELECTRIC METER.

26 (ii) CONCEALMENT ELEMENTS.

27 (iii) A TELECOMMUNICATIONS DEMARCATON BOX.

28 (iv) GROUND-BASED ENCLOSURES.

29 (v) GROUNDING EQUIPMENT.

30 (vi) A POWER TRANSFER SWITCH.

31 (vii) A CUT-OFF SWITCH.

32 (viii) VERTICAL CABLE RUNS FOR THE CONNECTION OF POWER AND OTHER  
33 SERVICES.

34 17. "SUBSTANTIAL MODIFICATION" MEANS A PROPOSED MODIFICATION TO AN  
35 EXISTING WIRELESS SUPPORT STRUCTURE OR BASE STATION THAT WILL  
36 SUBSTANTIALLY CHANGE THE PHYSICAL DIMENSIONS OF THE WIRELESS SUPPORT  
37 STRUCTURE OR BASE STATION UNDER THE OBJECTIVE STANDARD FOR SUBSTANTIAL  
38 CHANGE ADOPTED BY THE FEDERAL COMMUNICATIONS COMMISSION PURSUANT TO 47  
39 CODE OF FEDERAL REGULATIONS SECTION 1.40001.

40 18. "UTILITY POLE" MEANS A POLE OR SIMILAR STRUCTURE THAT IS USED  
41 IN WHOLE OR IN PART BY A COMMUNICATIONS SERVICE PROVIDER OR FOR ELECTRIC  
42 DISTRIBUTION, LIGHTING, TRAFFIC CONTROL OR SIGNAGE OR A SIMILAR FUNCTION.  
43 UTILITY POLE DOES NOT INCLUDE STRUCTURES SUPPORTING ONLY WIRELESS  
44 FACILITIES.

45 19. "UTILITY POLE FOR DESIGNATED SERVICES" MEANS A UTILITY POLE IN  
46 A RIGHT-OF-WAY THAT IS OWNED OR OPERATED BY AN AUTHORITY, PUBLIC UTILITY

1 DISTRICT, ELECTRIC MEMBERSHIP CORPORATION OR RURAL ELECTRIC COOPERATIVE  
2 AND THAT IS DESIGNED TO CARRY, OR USED IN WHOLE OR IN PART FOR THE PURPOSE  
3 OF CARRYING, ELECTRIC DISTRIBUTION LINES OR CABLES OR WIRES FOR  
4 TELECOMMUNICATIONS, CABLE OR ELECTRIC SERVICE.

5 20. "WIRELESS FACILITY":

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

9 (i) EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS.

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

13 (b) INCLUDES SMALL WIRELESS FACILITIES.

14 (c) DOES NOT INCLUDE THE STRUCTURE OR IMPROVEMENTS ON, UNDER OR  
15 WITHIN WHICH THE EQUIPMENT IS COLLOCATED.

16 21. "WIRELESS INFRASTRUCTURE PROVIDER" MEANS ANY PERSON, INCLUDING  
17 A PERSON THAT IS AUTHORIZED TO PROVIDE TELECOMMUNICATIONS SERVICE IN THIS  
18 STATE, THAT BUILDS OR INSTALS WIRELESS COMMUNICATIONS TRANSMISSION  
19 EQUIPMENT, WIRELESS FACILITIES OR WIRELESS SUPPORT STRUCTURES BUT THAT IS  
20 NOT A WIRELESS SERVICES PROVIDER.

21 22. "WIRELESS PROVIDER" MEANS A WIRELESS INFRASTRUCTURE PROVIDER OR  
22 A WIRELESS SERVICES PROVIDER.

23 23. "WIRELESS SERVICES" MEANS ANY SERVICES, WHETHER AT A FIXED  
24 LOCATION OR MOBILE, THAT ARE PROVIDED USING WIRELESS FACILITIES.

25 24. "WIRELESS SERVICES PROVIDER" MEANS A PERSON THAT PROVIDES  
26 WIRELESS SERVICES.

27 25. "WIRELESS SUPPORT STRUCTURE":

28 (a) MEANS:

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

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

31 (iii) A BILLBOARD.

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

34 (b) DOES NOT INCLUDE A UTILITY POLE.

35 11-1802. Applicability: wireless provider; use of  
36 right-of-way; rates and fees; right to access;  
37 damage and repair of the right-of-way

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

40 B. AN AUTHORITY MAY NOT ENTER INTO AN EXCLUSIVE ARRANGEMENT WITH  
41 ANY PERSON FOR USE OF A RIGHT-OF-WAY FOR THE CONSTRUCTION, OPERATION,  
42 MARKETING OR MAINTENANCE OF WIRELESS FACILITIES OR WIRELESS SUPPORT  
43 STRUCTURES OR THE COLLOCATION OF SMALL WIRELESS FACILITIES.

44 C. AN AUTHORITY MAY CHARGE A WIRELESS PROVIDER A RATE OR FEE FOR  
45 THE USE OF A RIGHT-OF-WAY FOR THE CONSTRUCTION, INSTALLATION, MOUNTING,  
46 MAINTENANCE, MODIFICATION, OPERATION OR REPLACEMENT OF A WIRELESS FACILITY

1 OR WIRELESS SUPPORT STRUCTURE IN THE RIGHT-OF-WAY, INCLUDING COLLOCATION  
2 IN THE RIGHT-OF-WAY, ONLY IF THE AUTHORITY CHARGES OTHER COMMUNICATIONS  
3 SERVICE PROVIDERS OR PUBLICLY, COOPERATIVELY OR MUNICIPALLY OWNED  
4 UTILITIES FOR THE USE OF THE RIGHT-OF-WAY. IF AN AUTHORITY CHARGES A RATE  
5 OR FEE PURSUANT TO THIS SECTION, THE RATE OR FEE FOR A WIRELESS PROVIDER  
6 MUST BE:

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

9 2. COMPETITIVELY NEUTRAL IN REGARD TO OTHER USERS OF THE  
10 RIGHT-OF-WAY, INCLUDING INVESTOR, AUTHORITY OR COOPERATIVELY OWNED  
11 ENTITIES.

12 3. D. A RATE OR FEE CHARGED PURSUANT TO THIS SECTION MAY NOT DO ANY OF  
13 THE FOLLOWING:

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

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

18 3. BE UNREASONABLE OR DISCRIMINATORY.

19 4. VIOLATE ANY APPLICABLE LAW.

20 5. EXCEED AN ANNUAL AMOUNT EQUAL TO TWENTY DOLLARS TIMES THE NUMBER  
21 OF UTILITY POLES OR WIRELESS SUPPORT STRUCTURES IN THE AUTHORITY'S  
22 GEOGRAPHIC JURISDICTION ON WHICH THE WIRELESS PROVIDER HAS COLLOCATED A  
23 SMALL WIRELESS FACILITY ANTENNA.

24 6. E. IN RECOGNITION OF THE PUBLIC BENEFITS OF THE DEPLOYMENT OF  
25 WIRELESS SERVICES, AN AUTHORITY, ON A NONDISCRIMINATORY BASIS, MAY REFRAIN  
26 FROM CHARGING ANY RATE OR FEE TO A WIRELESS PROVIDER FOR THE USE OF THE  
27 RIGHT-OF-WAY.

28 7. F. IF AN AUTHORITY HAS AN EXISTING RATE OR FEE TO CONSTRUCT,  
29 INSTALL, MOUNT, MAINTAIN, MODIFY, OPERATE OR REPLACE A WIRELESS FACILITY  
30 OR WIRELESS SUPPORT STRUCTURE IN A RIGHT-OF-WAY CONTROLLED BY THE  
31 AUTHORITY, INCLUDING COLLOCATION IN THE RIGHT-OF-WAY, AND THE RATE OR FEE  
32 DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION, NOT LATER THAN SIX  
33 MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL RESET  
34 THE RATE OR FEE IN COMPLIANCE WITH THIS SECTION FOR ALL AFFECTED PERSONS.

35 8. G. SUBJECT TO THIS SECTION AND THE APPROVAL OF AN APPLICATION, IF  
36 REQUIRED, A WIRELESS PROVIDER SHALL HAVE THE RIGHT, AS A PERMITTED USE  
37 THAT IS NOT SUBJECT TO ZONING REVIEW OR APPROVAL, TO COLLOCATE WIRELESS  
38 FACILITIES AND CONSTRUCT, MODIFY, MAINTAIN AND OPERATE UTILITY POLES,  
39 WIRELESS SUPPORT STRUCTURES, CONDUIT, CABLE AND RELATED APPURTENANCES AND  
40 FACILITIES ALONG, ACROSS, ON AND UNDER THE RIGHT-OF-WAY. SUCH STRUCTURES  
41 AND FACILITIES SHALL BE CONSTRUCTED AND MAINTAINED AS TO NOT OBSTRUCT OR  
42 HINDER THE USUAL TRAVEL OR PUBLIC SAFETY ON THE RIGHT-OF-WAY OR OBSTRUCT  
43 THE LEGAL USE OF THE RIGHT-OF-WAY BY OTHER UTILITIES. EACH NEW OR  
44 MODIFIED UTILITY POLE AND WIRELESS SUPPORT STRUCTURE INSTALLED IN THE  
45 RIGHT-OF-WAY MAY NOT EXCEED THE GREATER OF TEN FEET IN HEIGHT ABOVE THE  
46 TALLEST EXISTING UTILITY POLE THAT IS IN PLACE AS OF THE EFFECTIVE DATE OF

1 THIS SECTION, THAT IS LOCATED WITHIN FIVE HUNDRED FEET OF THE NEW UTILITY  
2 POLE AND THAT IS IN THE SAME RIGHT-OF-WAY OR FIFTY FEET ABOVE GROUND  
3 LEVEL. NEW WIRELESS FACILITIES IN THE RIGHT-OF-WAY MAY NOT EXTEND MORE  
4 THAN TEN FEET ABOVE AN EXISTING UTILITY POLE OR WIRELESS SUPPORT STRUCTURE  
5 IN PLACE AS OF THE EFFECTIVE DATE OF THIS SECTION OR ABOVE THE HEIGHT  
6 PERMITTED FOR A NEW UTILITY POLE OR WIRELESS SUPPORT STRUCTURE UNDER THIS  
7 SECTION.

8 H. NOTWITHSTANDING SUBSECTION G OF THIS SECTION:

9 1. A WIRELESS PROVIDER HAS THE RIGHT TO CONSTRUCT, MODIFY AND  
10 MAINTAIN A UTILITY POLE, WIRELESS SUPPORT STRUCTURE OR WIRELESS FACILITY  
11 THAT EXCEEDS THE SIZE LIMITS PROVIDED IN SUBSECTION G OF THIS SECTION  
12 ALONG, ACROSS, ON AND UNDER A RIGHT-OF-WAY, SUBJECT TO APPLICABLE ZONING  
13 REGULATIONS.

14 2. APPLICANTS SHALL COMPLY WITH NONDISCRIMINATORY UNDERGROUNDING  
15 REQUIREMENTS THAT PROHIBIT COMMUNICATIONS SERVICE PROVIDERS FROM  
16 INSTALLING STRUCTURES IN A RIGHT-OF-WAY WITHOUT PRIOR ZONING APPROVAL IN  
17 AREAS THAT ARE ZONED FOR SINGLE-FAMILY RESIDENTIAL USE, IF THE  
18 REQUIREMENTS DO NOT PROHIBIT THE REPLACEMENT OF EXISTING STRUCTURES.

19 I. AN AUTHORITY MUST BE COMPETITIVELY NEUTRAL IN REGARD TO OTHER  
20 USERS OF A RIGHT-OF-WAY IN THE ADMINISTRATION AND REGULATION RELATED TO  
21 THE MANAGEMENT OF THE RIGHT-OF-WAY, INCLUDING THAT TERMS MAY NOT BE  
22 UNREASONABLE OR DISCRIMINATORY AND MAY NOT VIOLATE ANY APPLICABLE LAW.

23 J. AN AUTHORITY MAY REQUIRE A WIRELESS PROVIDER TO REPAIR ALL  
24 DAMAGE TO A RIGHT-OF WAY THAT IS DIRECTLY CAUSED BY THE ACTIVITIES OF THE  
25 WIRELESS PROVIDER WHILE OCCUPYING, INSTALLING, REPAIRING OR MAINTAINING  
26 WIRELESS FACILITIES, WIRELESS SUPPORT STRUCTURES OR UTILITY POLES IN THE  
27 RIGHT-OF-WAY AND TO RETURN THE RIGHT-OF-WAY TO THE RIGHT-OF-WAY'S  
28 FUNCTIONAL EQUIVALENCE BEFORE THE DAMAGE PURSUANT TO THE COMPETITIVELY  
29 NEUTRAL, REASONABLE REQUIREMENTS AND SPECIFICATIONS OF THE AUTHORITY. IF  
30 THE WIRELESS PROVIDER FAILS TO MAKE THE REPAIRS REQUIRED BY THE AUTHORITY  
31 WITHIN A REASONABLE TIME AFTER WRITTEN NOTICE, THE AUTHORITY MAY MAKE THE  
32 REPAIRS AND CHARGE THE APPLICABLE PARTY THE REASONABLE, DOCUMENTED COST OF  
33 THE REPAIRS.

34 11-1803. Applicability; collocation of small wireless  
35 facilities; permits; application; fee; application  
36 fee limitations

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

39 B. EXCEPT AS PROVIDED IN THIS SECTION AND SECTIONS 11-1802, 11-1804  
40 AND 11-1805, AN AUTHORITY MAY NOT PROHIBIT, REGULATE OR CHARGE FOR THE  
41 COLLOCATION OF SMALL WIRELESS FACILITIES.

42 C. A SMALL WIRELESS FACILITY IS CLASSIFIED AS A PERMITTED USE AND  
43 IS NOT SUBJECT TO ZONING REVIEW OR APPROVAL IF THE SMALL WIRELESS FACILITY  
44 IS COLLOCATED IN A RIGHT-OF-WAY IN ANY ZONE OR OUTSIDE OF A RIGHT-OF-WAY  
45 IN PROPERTY THAT IS NOT ZONED EXCLUSIVELY FOR SINGLE-FAMILY RESIDENTIAL  
46 USE.

1       D. AN AUTHORITY MAY REQUIRE AN APPLICANT TO OBTAIN ONE OR MORE  
2 PERMITS TO COLLOCATE A SMALL WIRELESS FACILITY IF THE PERMIT REQUIREMENT  
3 IS OF GENERAL APPLICABILITY AND DOES NOT APPLY EXCLUSIVELY TO WIRELESS  
4 FACILITIES. AN APPLICANT SEEKING TO COLLOCATE MULTIPLE SMALL WIRELESS  
5 FACILITIES WITHIN THE JURISDICTION OF A SINGLE AUTHORITY MAY FILE A  
6 CONSOLIDATED APPLICATION AND RECEIVE A SINGLE PERMIT FOR THE COLLOCATION  
7 OF MULTIPLE SMALL WIRELESS FACILITIES.

8       E. AN AUTHORITY SHALL:

9        1. ACCEPT APPLICATIONS FOR, PROCESS AND ISSUE PERMITS TO COLLOCATE  
10 A SMALL WIRELESS FACILITY.

11        2. WITHIN TEN DAYS AFTER RECEIVING AN APPLICATION, DETERMINE AND  
12 NOTIFY THE APPLICANT WHETHER THE APPLICATION IS COMPLETE. IF AN  
13 APPLICATION IS INCOMPLETE, THE AUTHORITY MUST SPECIFICALLY IDENTIFY THE  
14 INFORMATION MISSING FROM THE APPLICATION.

15        3. PROCESS EACH APPLICATION ON A NONDISCRIMINATORY BASIS. AN  
16 APPLICATION IS DEEMED APPROVED IF THE AUTHORITY FAILS TO APPROVE OR DENY  
17 THE APPLICATION WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION.

18        4. APPROVE AN APPLICATION UNLESS THE APPLICATION DOES NOT MEET THE  
19 APPLICABLE CODES.

20        5. IF AN APPLICATION IS DENIED, DOCUMENT THE BASIS FOR A DENIAL,  
21 INCLUDING THE SPECIFIC CODE PROVISIONS ON WHICH THE DENIAL WAS BASED, AND  
22 SEND THE DOCUMENTATION TO THE APPLICANT ON OR BEFORE THE DATE THAT THE  
23 APPLICATION IS DENIED. THE APPLICANT MAY CURE THE DEFICIENCIES IDENTIFIED  
24 BY THE AUTHORITY AND RESUBMIT THE APPLICATION WITHIN THIRTY DAYS AFTER THE  
25 DENIAL WITHOUT PAYING AN ADDITIONAL APPLICATION FEE. THE AUTHORITY SHALL  
26 APPROVE OR DENY THE REVISED APPLICATION WITHIN THIRTY DAYS AFTER RECEIVING  
27 THE REVISED APPLICATION. ANY SUBSEQUENT REVIEW IS LIMITED TO THE  
28 DEFICIENCIES CITED IN THE DENIAL.

29       F. AN AUTHORITY MAY NOT:

30        1. DIRECTLY OR INDIRECTLY REQUIRE AN APPLICANT TO PERFORM SERVICES  
31 THAT ARE UNRELATED TO THE COLLOCATION FOR WHICH APPROVAL IS SOUGHT, SUCH  
32 AS IN-KIND CONTRIBUTIONS TO THE AUTHORITY, INCLUDING RESERVING FIBER,  
33 CONDUIT OR POLE SPACE FOR THE AUTHORITY.

34        2. REQUIRE AN APPLICANT TO PROVIDE MORE INFORMATION TO OBTAIN A  
35 PERMIT THAN THE AUTHORITY REQUIRES OF A COMMUNICATIONS SERVICE PROVIDER  
36 THAT IS NOT A WIRELESS PROVIDER.

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

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

1       G. COLLOCATION FOR WHICH A PERMIT IS GRANTED SHALL BEGIN WITHIN ONE  
2 YEAR AFTER THE APPROVAL DATE AND BE PURSUED TO COMPLETION. ANY TIME  
3 LIMITATION PLACED ON A PERMIT IS VOID UNLESS THE APPLICANT SUBSEQUENTLY  
4 AND VOLUNTARILY REQUESTS THAT THE PERMIT BE TERMINATED.

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

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

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

19       I. THE TOTAL APPLICATION FEE, IF ALLOWED, MAY NOT EXCEED THE LESSER  
20 OF THE AMOUNT CHARGED BY THE AUTHORITY FOR A BUILDING PERMIT FOR ANY  
21 SIMILAR COMMERCIAL CONSTRUCTION, ACTIVITY OR LAND USE DEVELOPMENT OR ONE  
22 HUNDRED DOLLARS EACH FOR UP TO FIVE SMALL WIRELESS FACILITIES ADDRESSED IN  
23 AN APPLICATION AND FIFTY DOLLARS FOR EACH ADDITIONAL SMALL WIRELESS  
24 FACILITY ADDRESSED IN THE APPLICATION.

25       J. IN ANY CONTROVERSY CONCERNING THE APPROPRIATENESS OF AN  
26 APPLICATION FEE, THE AUTHORITY HAS THE BURDEN OF PROOF THAT THE  
27 APPLICATION FEE IS REASONABLY RELATED TO THE ACTUAL, DIRECT AND REASONABLE  
28 COSTS INCURRED BY THE AUTHORITY.

29       11-1804. Applicability; structures subject to zoning; time  
30                    frames; application; fees

31       A. THIS SECTION APPLIES TO THE FOLLOWING:

32       1. ZONING REVIEWS FOR:

33            (a) A SUBSTANTIAL MODIFICATION OUTSIDE OF A RIGHT-OF-WAY.

34            (b) THE MODIFICATION OF EXISTING OR THE INSTALLATION OF NEW  
35 WIRELESS SUPPORT STRUCTURES, UTILITY POLES AND WIRELESS FACILITIES THAT  
36 ARE SUBJECT TO ZONING REVIEW AND APPROVAL AND NOT A PERMITTED USE UNDER  
37 SECTION 11-1802, SUBSECTIONS G AND H OR SECTION 11-1803, SUBSECTION C.

38       2. ACTIVITIES OF THE WIRELESS PROVIDER WITHIN OR OUTSIDE OF A  
39 RIGHT-OF-WAY.

40       B. AN AUTHORITY SHALL:

41       1. ACCEPT AND PROCESS APPLICATIONS FOR A SUBSTANTIAL MODIFICATION  
42 OUTSIDE OF A RIGHT-OF-WAY OR THE MODIFICATION OF EXISTING OR THE  
43 INSTALLATION OF NEW WIRELESS SUPPORT STRUCTURES, UTILITY POLES OR WIRELESS  
44 FACILITIES.

45       2. WITHIN THIRTY DAYS AFTER RECEIVING AN APPLICATION, NOTIFY THE  
46 APPLICANT WHETHER THE APPLICATION IS COMPLETE. IF AN APPLICATION IS

1 INCOMPLETE, THE AUTHORITY MUST SPECIFICALLY IDENTIFY THE INFORMATION  
2 MISSING FROM THE APPLICATION.

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

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

20 C. AN AUTHORITY MAY NOT:

21 1. REQUIRE AN APPLICANT TO SUBMIT INFORMATION ABOUT THE APPLICANT'S  
22 BUSINESS DECISIONS REGARDING THE NEED FOR THE WIRELESS SUPPORT STRUCTURE,  
23 UTILITY POLE OR WIRELESS FACILITIES.

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

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

30 D. AN AUTHORITY MAY:

31 1. ADOPT REASONABLE REQUIREMENTS REGARDING THE APPEARANCE OF  
32 FACILITIES, INCLUDING THOSE RELATING TO MATERIALS USED OR ARRANGING,  
33 SCREENING OR LANDSCAPING.

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

37 3. CHARGE AN APPLICATION FEE. ANY APPLICATION FEE IS SUBJECT TO  
38 THE REQUIREMENTS PROVIDED IN SECTION 11-1803, SUBSECTIONS H AND J. THE  
39 TOTAL APPLICATION FEE, IF ALLOWED, MAY NOT EXCEED THE LESSER OF THE AMOUNT  
40 CHARGED BY THE AUTHORITY FOR A BUILDING PERMIT FOR ANY SIMILAR COMMERCIAL  
41 CONSTRUCTION, ACTIVITY OR LAND USE DEVELOPMENT OR ONE THOUSAND DOLLARS FOR  
42 THE MODIFICATION OF EXISTING OR THE INSTALLATION OF NEW WIRELESS SUPPORT  
43 STRUCTURES, UTILITY POLES OR WIRELESS FACILITIES OR A SUBSTANTIAL  
44 MODIFICATION OF A WIRELESS SUPPORT STRUCTURE.

45 E. AN APPLICANT'S BUSINESS DECISIONS REGARDING THE TYPE AND  
46 LOCATION OF WIRELESS FACILITIES, WIRELESS SUPPORT STRUCTURES OR UTILITY

1       POLES OR THE TECHNOLOGY TO BE USED ARE PRESUMED TO BE REASONABLE. THIS  
2       PRESUMPTION DOES NOT APPLY TO THE HEIGHT OF WIRELESS FACILITIES, WIRELESS  
3       SUPPORT STRUCTURES OR UTILITY POLES. AN AUTHORITY MAY CONSIDER THE HEIGHT  
4       OF SUCH STRUCTURES IN THE ZONING REVIEW, PROVIDED THAT IT DOES NOT  
5       UNREASONABLY DISCRIMINATE BETWEEN THE APPLICANT AND OTHER COMMUNICATIONS  
6       SERVICE PROVIDERS.

7       F. THE APPROVAL TERM OF AN APPLICATION DOES NOT EXPIRE, EXCEPT THAT  
8       CONSTRUCTION OF THE APPROVED STRUCTURE OR FACILITIES SHALL BEGIN WITHIN  
9       TWO YEARS AFTER FINAL APPROVAL AND BE DILIGENTLY PURSUED TO COMPLETION.

10       11-1805. Access to authority poles or utility poles for  
11       designated services; rates and fees; collocations  
12       for other commercial projects or uses

13       A. A PERSON THAT OWNS OR CONTROLS AUTHORITY POLES OR UTILITY POLES  
14       FOR DESIGNATED SERVICES MAY NOT ENTER INTO AN EXCLUSIVE ARRANGEMENT WITH  
15       ANY PERSON FOR THE RIGHT TO ATTACH TO SUCH POLES.

16       B. THE RATES AND FEES FOR COLLOCATION ON AUTHORITY POLES OR UTILITY  
17       POLES FOR DESIGNATED SERVICES SHALL BE NONDISCRIMINATORY REGARDLESS OF THE  
18       SERVICES PROVIDED BY THE COLLOCATING PERSON.

19       C. THE RATE TO COLLOCATE ON UTILITY POLES FOR DESIGNATED SERVICES  
20       MAY NOT EXCEED THE ANNUAL RECURRING RATE THAT WOULD BE PERMITTED UNDER  
21       RULES ADOPTED BY THE FEDERAL COMMUNICATIONS COMMISSION UNDER 47 UNITED  
22       STATES CODE SECTION 224(e) IF THE RATES WERE REGULATED BY THE FEDERAL  
23       COMMUNICATIONS COMMISSION OR TWENTY DOLLARS PER YEAR PER UTILITY POLE FOR  
24       DESIGNATED SERVICES, WHICHEVER IS LESS.

25       D. THE RATE TO COLLOCATE ON AUTHORITY POLES SHALL RECOVER THE  
26       ACTUAL, DIRECT AND REASONABLE COSTS RELATED TO THE APPLICANT'S APPLICATION  
27       FOR AND USE OF SPACE ON THE AUTHORITY POLE. THE TOTAL ANNUAL RATE FOR  
28       COLLOCATIONS AND ANY ACTIVITIES RELATED TO SUCH COLLOCATIONS MAY NOT  
29       EXCEED THE LESSER OF THE ACTUAL, DIRECT AND REASONABLE COSTS RELATED TO  
30       THE COLLOCATION ON THE AUTHORITY POLE OR TWENTY DOLLARS PER YEAR PER  
31       AUTHORITY POLE. IN ANY CONTROVERSY CONCERNING THE APPROPRIATENESS OF A  
32       RATE FOR AN AUTHORITY POLE, THE AUTHORITY HAS THE BURDEN OF PROVING THAT  
33       THE RATES ARE REASONABLY RELATED TO THE ACTUAL, DIRECT AND REASONABLE  
34       COSTS THAT ARE INCURRED FOR THE USE OF SPACE ON THE AUTHORITY POLE FOR THE  
35       PERIOD.

36       E. IF AN AUTHORITY, MUNICIPALLY OWNED OR OPERATED PERSON, PUBLIC  
37       UTILITY DISTRICT OR COOPERATIVE HAS AN EXISTING POLE ATTACHMENT RATE, FEE  
38       OR OTHER TERM THAT DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION,  
39       THE AUTHORITY, MUNICIPALLY OWNED OR OPERATED PERSON, PUBLIC UTILITY  
40       DISTRICT OR COOPERATIVE SHALL CHANGE THE RATE, FEE OR TERM IN COMPLIANCE  
41       WITH THIS SECTION NOT LATER THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF  
42       THIS SECTION.

43       F. A PERSON THAT OWNS OR CONTROLS AUTHORITY POLES AND UTILITY POLES  
44       FOR DESIGNATED SERVICES THAT ARE OWNED OR CONTROLLED BY AN AUTHORITY SHALL  
45       ESTABLISH AND MAKE AVAILABLE RATES, FEES AND TERMS FOR THE COLLOCATION OF  
46       SMALL WIRELESS FACILITIES ON SUCH POLES WITHIN THE LATER OF SIX MONTHS

1 AFTER THE EFFECTIVE DATE OF THIS SECTION OR THREE MONTHS AFTER RECEIVING A  
2 REQUEST TO COLLOCATE THE FIRST SMALL WIRELESS FACILITY ON SUCH POLES. THE  
3 RATES, FEES AND TERMS SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

4 1. THE RATES, FEES AND TERMS MUST BE NONDISCRIMINATORY,  
5 COMPETITIVELY NEUTRAL AND COMMERCIALY REASONABLE AND COMPLY WITH THIS  
6 SECTION.

7 2. FOR AUTHORITY POLES THAT SUPPORT AERIAL CABLES USED FOR VIDEO,  
8 COMMUNICATIONS OR ELECTRIC SERVICE AND FOR UTILITY POLES FOR DESIGNATED  
9 SERVICES, THE PARTIES SHALL COMPLY WITH THE PROCESS FOR MAKE-READY WORK  
10 UNDER 47 UNITED STATES CODE SECTION 224 AND THE IMPLEMENTING REGULATIONS.  
11 THE GOOD FAITH ESTIMATE OF THE PERSON THAT OWNS OR CONTROLS THE POLE FOR  
12 ANY MAKE-READY WORK NECESSARY TO ENABLE THE POLE TO SUPPORT THE REQUESTED  
13 COLLOCATION SHALL INCLUDE POLE REPLACEMENT, IF NECESSARY.

14 3. FOR AUTHORITY POLES THAT DO NOT SUPPORT AERIAL CABLES USED FOR  
15 VIDEO, COMMUNICATIONS OR ELECTRIC SERVICE, THE AUTHORITY SHALL PROVIDE A  
16 GOOD FAITH ESTIMATE FOR ANY MAKE-READY WORK NECESSARY TO ENABLE THE POLE  
17 TO SUPPORT THE REQUESTED COLLOCATION, INCLUDING POLE REPLACEMENT, IF  
18 NECESSARY, WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE APPLICATION.  
19 MAKE-READY WORK, INCLUDING ANY POLE REPLACEMENT, SHALL BE COMPLETED WITHIN  
20 SIXTY DAYS AFTER THE WRITTEN ACCEPTANCE OF THE GOOD FAITH ESTIMATE BY THE  
21 APPLICANT.

22 4. THE PERSON THAT OWNS OR CONTROLS THE AUTHORITY POLE OR UTILITY  
23 POLE FOR DESIGNATED SERVICES MAY NOT REQUIRE MORE MAKE-READY WORK THAN IS  
24 REQUIRED TO MEET THE REQUIREMENTS OF APPLICABLE CODES OR INDUSTRY  
25 STANDARDS. FEES FOR MAKE-READY WORK MAY NOT INCLUDE COSTS RELATED TO  
26 PREEXISTING OR PRIOR DAMAGE OR NONCOMPLIANCE. FEES FOR MAKE-READY WORK,  
27 INCLUDING ANY POLE REPLACEMENT, MAY NOT EXCEED ACTUAL COSTS OR THE AMOUNT  
28 CHARGED TO OTHER COMMUNICATIONS SERVICE PROVIDERS FOR SIMILAR WORK AND MAY  
29 NOT INCLUDE ANY CONSULTANT FEES OR EXPENSES.

30 G. AN AUTHORITY SHALL AUTHORIZE THE COLLOCATION OF SMALL WIRELESS  
31 FACILITIES ON WIRELESS SUPPORT STRUCTURES AND UTILITY POLES THAT ARE OWNED  
32 OR CONTROLLED BY AN AUTHORITY AND THAT ARE NOT LOCATED WITHIN A  
33 RIGHT-OF-WAY TO THE SAME EXTENT THE AUTHORITY PERMITS ACCESS TO SUCH  
34 STRUCTURES FOR OTHER COMMERCIAL PROJECTS OR USES. COLLOCATIONS FOR OTHER  
35 COMMERCIAL PROJECTS OR USES ARE SUBJECT TO REASONABLE AND  
36 NONDISCRIMINATORY RATES, FEES AND TERMS AS PROVIDED IN AN AGREEMENT  
37 BETWEEN THE AUTHORITY AND THE WIRELESS PROVIDER.

38 11-1806. Scope of local authority

39 A. SUBJECT TO THIS ARTICLE AND APPLICABLE FEDERAL LAW, AN AUTHORITY  
40 MAY EXERCISE ZONING, LAND USE, PLANNING AND PERMITTING AUTHORITY WITHIN  
41 THE AUTHORITY'S TERRITORIAL BOUNDARIES, INCLUDING FOR WIRELESS SUPPORT  
42 STRUCTURES AND UTILITY POLES.

43 B. AN AUTHORITY DOES NOT HAVE ANY JURISDICTION OR AUTHORITY OVER  
44 THE DESIGN, ENGINEERING, CONSTRUCTION, INSTALLATION OR OPERATION OF ANY  
45 SMALL WIRELESS FACILITY LOCATED IN AN INTERIOR STRUCTURE OR ON THE SITE OF

1 ANY CAMPUS, STADIUM OR ATHLETIC FACILITY NOT OWNED OR CONTROLLED BY THE  
2 AUTHORITY, OTHER THAN TO COMPLY WITH APPLICABLE CODES.

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

6 11-1807. Dispute resolution

7 A. A COURT OF COMPETENT JURISDICTION SHALL DETERMINE ALL DISPUTES  
8 ARISING UNDER THIS ARTICLE. COMPLAINTS SHALL BE RESOLVED NOT LATER THAN  
9 ONE HUNDRED DAYS AFTER A COMPLAINT OR PETITION IS FILED.

10 B. UNLESS AGREED OTHERWISE AND PENDING RESOLUTION OF A RIGHT-OF-WAY  
11 ACCESS RATE DISPUTE, THE AUTHORITY CONTROLLING ACCESS TO AND USE OF THE  
12 RIGHT-OF-WAY SHALL ALLOW THE PLACEMENT OF A WIRELESS FACILITY OR WIRELESS  
13 SUPPORT STRUCTURE AT A TEMPORARY RATE OF ONE-HALF OF THE  
14 AUTHORITY-PROPOSED ANNUAL RATE OR TWENTY DOLLARS, WHICHEVER IS LESS, WITH  
15 RATES TO BE TRUED UP ON FINAL RESOLUTION OF THE DISPUTE.

16 C. PENDING RESOLUTION OF A DISPUTE CONCERNING RATES FOR COLLOCATION  
17 OF SMALL WIRELESS FACILITIES ON POLES OWNED BY THE AUTHORITY OR UTILITY  
18 POLES FOR DESIGNATED SERVICES, THE PERSON OWNING OR CONTROLLING THE POLE  
19 SHALL ALLOW THE COLLOCATION OF SMALL WIRELESS FACILITIES ON THE PERSON'S  
20 POLES AT AN ANNUAL RATE OF NOT MORE THAN TWENTY DOLLARS PER YEAR PER  
21 UTILITY POLE, WITH RATES TO BE TRUED UP ON FINAL RESOLUTION OF THE  
22 DISPUTE.

23 11-1808. Indemnification

24 AN AUTHORITY MAY NOT REQUIRE A WIRELESS PROVIDER TO DO EITHER OF THE  
25 FOLLOWING:

26 1. INDEMNIFY AND HOLD THE AUTHORITY AND THE AUTHORITY'S OFFICERS  
27 AND EMPLOYEES HARMLESS AGAINST ANY CLAIMS, LAWSUITS, JUDGMENTS, COSTS,  
28 LIENS, LOSSES, EXPENSES OR FEES EXCEPT WHEN A COURT OF COMPETENT  
29 JURISDICTION HAS FOUND THAT THE NEGLIGENCE OF THE WIRELESS PROVIDER WHILE  
30 INSTALLING, REPAIRING OR MAINTAINING CAUSED THE HARM THAT CREATED SUCH  
31 CLAIMS, LAWSUITS, JUDGMENTS, COSTS, LIENS, LOSSES, EXPENSES OR FEES.

32 2. OBTAIN INSURANCE NAMING THE AUTHORITY OR THE AUTHORITY'S  
33 OFFICERS AND EMPLOYEES AS AN ADDITIONAL INSURED AGAINST ANY CLAIMS,  
34 LAWSUITS, JUDGMENTS, COSTS, LIENS, LOSSES, EXPENSES OR FEES.