

HOUSE BILL 1767

C5, L6

8lr3713
CF SB 1188

By: **Delegate Davis**

Introduced and read first time: February 23, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

AN ACT concerning

Wireless Facilities – Permitting and Siting

FOR the purpose of prohibiting a local government from entering into certain types of exclusive agreements under certain circumstances; authorizing a local government to impose certain rates and fees for certain purposes under certain circumstances; authorizing a wireless provider to collocate certain wireless facilities and poles in certain places under certain circumstances; providing that certain uses of land are permitted uses as of right and are not subject to local zoning review or approval; setting height limitations on certain poles and small wireless facilities under certain circumstances; requiring a local government to authorize a wireless provider to take certain actions; authorizing a local government to prohibit a wireless provider from taking certain actions; authorizing a local government to require a wireless provider to use certain design or concealment measures when collocating wireless service facilities in certain areas; requiring a local government to be neutral and nondiscriminatory in the administration and regulation of uses and users of certain rights-of-way; authorizing a local government to require certain wireless providers to take certain actions under certain circumstances; setting forth certain permitting processes for the collocation of certain wireless facilities and installation, maintenance, operation, and removal of poles and structures in certain areas under certain circumstances; prohibiting a local government from instituting a moratorium on the receipt of, the processing of applications for, or the issuance of certain permits; prohibiting a local government from requiring a permit for certain activities; prohibiting a local government from requiring an applicant for a certain permit to provide certain information; setting forth certain limits on the requirements a local government may impose for the purposes of issuing a certain permit; prohibiting a certain person from entering into a certain exclusive agreement under certain circumstances; requiring a local government to provide a good faith estimate for and complete certain make-ready work within certain time periods; limiting the amount of certain make-ready work that a certain person may require; providing for fees for certain make-ready work; prohibiting a certain fee or rate from including certain costs and expenses; setting certain fees and rates; providing that the District Court

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



shall have jurisdiction over certain disputes; requiring the District Court to adjudicate certain cases within a certain time period; providing that a certain person may charge a certain annual rate for the use of a pole during the period of a certain dispute; prohibiting a local government from requiring a wireless provider to indemnify and hold harmless the local government and its officers and employees except under certain circumstances; authorizing a local government to require a wireless provider to carry certain insurance and provide proof of insurance at a certain time under certain circumstances; authorizing a local government to adopt certain surety bonding requirements for a certain purpose up to a certain amount; authorizing a local government to enact a local law to implement certain requirements; providing that certain provisions shall prevail over a local law under certain circumstances; prohibiting a local government from having authority over certain aspects of a small wireless facility except to ensure compliance with certain codes; requiring a local government to evaluate a certain structure classification under a certain code; providing that certain provisions do not authorize the State or a local government to require wireless facility deployment or regulate wireless services; providing that a certain law may not be construed or interpreted to authorize any person to provide certain services without complying with certain laws or to impose any new requirements on cable providers for a certain purpose; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to the permitting and siting of wireless facilities and associated poles.

BY adding to

Article – Local Government

Section 1–1501 through 1–1511 to be under the new subtitle “Subtitle 15. Wireless Facilities”

Annotated Code of Maryland

(2013 Volume and 2017 Supplement)

Preamble

WHEREAS, Encouraging the deployment of small wireless facilities and other next-generation wireless and broadband network facilities will attract new investment in wireless infrastructure technology that supports enhanced network and next-generation smart cities and other solutions and is a matter of statewide concern and interest; and

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

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

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

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

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

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

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

Article – Local Government

SUBTITLE 15. WIRELESS FACILITIES.

1-1501.

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

(B) (1) “BASE STATION” MEANS A WIRELESS FACILITY OR A WIRELESS SUPPORT STRUCTURE OR POLE THAT SUPPORTS A WIRELESS FACILITY.

(2) “BASE STATION” DOES NOT INCLUDE A TOWER, AS DEFINED IN 47 C.F.R. § 1.40001(B)(9), OR ANY WIRELESS FACILITY ASSOCIATED WITH A TOWER.

(C) “COLLOCATE” MEANS TO INSTALL, MOUNT, MAINTAIN, MODIFY, OPERATE, OR REPLACE A WIRELESS FACILITY ON OR ADJACENT TO A WIRELESS SUPPORT STRUCTURE OR POLE.

(D) “DECORATIVE POLE” MEANS A LOCAL GOVERNMENT POLE THAT IS SPECIALLY DESIGNED AND PLACED FOR AESTHETIC PURPOSES AND ON WHICH NO ATTACHMENTS ARE PLACED OR ALLOWED TO BE PLACED ACCORDING TO NONDISCRIMINATORY LOCAL LAWS, OTHER THAN:

- (1) A SMALL WIRELESS FACILITY;**
- (2) SPECIALLY DESIGNED INFORMATIONAL OR DIRECTIONAL SIGNAGE; OR**
- (3) A TEMPORARY HOLIDAY OR SPECIAL EVENT ATTACHMENT.**

(E) “LOCAL GOVERNMENT” MEANS A COUNTY OR A MUNICIPAL CORPORATION.

(F) “LOCAL GOVERNMENT POLE” MEANS A POLE THAT IS OWNED, MANAGED, OR OPERATED BY OR ON BEHALF OF A LOCAL GOVERNMENT.

(G) “LOCAL GOVERNMENT WIRELESS SUPPORT STRUCTURE” MEANS A WIRELESS SUPPORT STRUCTURE THAT IS OWNED, MANAGED, OR OPERATED BY OR ON BEHALF OF A LOCAL GOVERNMENT.

(H) “MICRO WIRELESS FACILITY” MEANS A SMALL WIRELESS FACILITY THAT:

- (1) IS NOT LARGER THAN 24 INCHES LONG, 15 INCHES WIDE, AND 12 INCHES HIGH; AND**
- (2) HAS AN EXTERIOR ANTENNA, IF ANY, NOT MORE THAN 11 INCHES LONG.**

(I) “SMALL WIRELESS FACILITY” MEANS A WIRELESS FACILITY OF A SIZE ACCOMMODATING:

- (1) ANY ANTENNA WITHIN AN ENCLOSURE OF NOT MORE THAN 6 CUBIC FEET IN VOLUME; AND**
- (2) ALL OTHER WIRELESS EQUIPMENT ASSOCIATED WITH THE FACILITY, WHETHER GROUND-MOUNTED OR POLE-MOUNTED, THAT IS CUMULATIVELY NOT MORE THAN 28 CUBIC FEET IN VOLUME, NOT INCLUDING ANY ASSOCIATED ANCILLARY EQUIPMENT SUCH AS ELECTRIC METERS, CONCEALMENT ELEMENTS, TELECOMMUNICATIONS DEMARCATION BOXES, GROUNDING EQUIPMENT, POWER TRANSFER SWITCHES, CUT-OFF SWITCHES, OR VERTICAL**

CABLE RUNS FOR POWER CONNECTIONS OR OTHER SERVICES.

(J) “SUBSTANTIAL MODIFICATION” MEANS:

(1) A MODIFICATION OR EQUIPMENT REPLACEMENT TO AN EXISTING WIRELESS SUPPORT STRUCTURE OR BASE STATION THAT WILL SUBSTANTIALLY ALTER THE PHYSICAL DIMENSIONS OF THE STRUCTURE OR STATION UNDER THE OBJECTIVE STANDARD FOR SUBSTANTIAL CHANGE ADOPTED BY THE FEDERAL COMMUNICATIONS COMMISSION UNDER 47 C.F.R. § 1.40001; OR

(2) A MODIFICATION OF EQUIPMENT COMPOUND BOUNDARIES IN EXCESS OF THE SITE DIMENSIONS SPECIFIED IN SECTION III.B OF 47 C.F.R., PART 1, APPENDIX C.

(K) (1) “WIRELESS FACILITY” MEANS EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK.

(2) “WIRELESS FACILITY” INCLUDES:

(I) EQUIPMENT ASSOCIATED WITH WIRELESS COMMUNICATIONS; AND

(II) ANY RADIO TRANSCEIVER, ANTENNA, COAXIAL OR FIBER–OPTIC CABLE, REGULAR OR BACKUP POWER SUPPLY, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION.

(3) “WIRELESS FACILITY” DOES NOT INCLUDE:

(I) THE STRUCTURE OR IMPROVEMENTS ON, UNDER, OR WITHIN WHICH THE EQUIPMENT IS LOCATED; OR

(II) COAXIAL OR FIBER–OPTIC CABLE THAT IS:

1. LOCATED BETWEEN WIRELESS STRUCTURES OR UTILITY POLES; OR

2. NOT OTHERWISE IMMEDIATELY ADJACENT TO OR DIRECTLY ASSOCIATED WITH A PARTICULAR ANTENNA.

(L) (1) “WIRELESS INFRASTRUCTURE PROVIDER” MEANS A PERSON THAT BUILDS OR INSTALLS WIRELESS COMMUNICATIONS TRANSMISSION EQUIPMENT, A WIRELESS FACILITY, OR A WIRELESS SUPPORT STRUCTURE.

(2) “WIRELESS INFRASTRUCTURE PROVIDER” DOES NOT INCLUDE A WIRELESS PROVIDER.

(M) “WIRELESS PROVIDER” MEANS A PERSON THAT PROVIDES TO THE PUBLIC ANY SERVICES THAT USE WIRELESS FACILITIES.

(N) (1) “WIRELESS SUPPORT STRUCTURE” MEANS A STRUCTURE THAT IS DESIGNED TO SUPPORT OR BE CAPABLE OF SUPPORTING WIRELESS FACILITIES.

(2) “WIRELESS SUPPORT STRUCTURE” DOES NOT INCLUDE:

(I) A POLE; OR

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

1-1502.

THIS SUBTITLE MAY NOT BE CONSTRUED OR INTERPRETED TO:

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

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

1-1503.

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

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

(1) THE COLLOCATION OF SMALL WIRELESS FACILITIES; OR

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

(C) IF A LOCAL GOVERNMENT IMPOSES A RATE OR FEE FOR THE USE OF A

RIGHT-OF-WAY FOR UTILITY PURPOSES, THE LOCAL GOVERNMENT MAY IMPOSE A RATE OR FEE FOR THE USE OF A RIGHT-OF-WAY IN ACCORDANCE WITH THIS SECTION.

(D) (1) IN ACCORDANCE WITH THIS SECTION, A WIRELESS PROVIDER MAY COLLOCATE SMALL WIRELESS FACILITIES AND INSTALL, OPERATE, MODIFY, MAINTAIN, AND REPLACE POLES ALONG, ACROSS, ON, AND UNDER A RIGHT-OF-WAY.

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

(I) THE USUAL TRAVEL OR PUBLIC SAFETY ON THE RIGHT-OF-WAY; OR

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

(3) THE COLLOCATION OF SMALL WIRELESS FACILITIES AND THE INSTALLATION, OPERATION, MODIFICATION, MAINTENANCE, AND REPLACEMENT OF POLES ASSOCIATED WITH SMALL WIRELESS FACILITIES UNDER THIS SECTION IS A PERMITTED USE AS OF RIGHT AND IS NOT SUBJECT TO LOCAL ZONING REVIEW OR APPROVAL.

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

(I) 10 FEET IN HEIGHT ABOVE THE TALLEST EXISTING POLE IN PLACE AS OF OCTOBER 1, 2018, THAT IS LOCATED WITHIN 500 FEET OF THE NEW OR MODIFIED POLE IN THE SAME RIGHT-OF-WAY; OR

(II) 50 FEET IN HEIGHT ABOVE GROUND LEVEL.

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

(3) UNLESS OTHERWISE AUTHORIZED BY A LOCAL GOVERNMENT, A SMALL WIRELESS FACILITY UNDER THIS SECTION MAY NOT EXTEND HIGHER THAN THE HIGHER OF:

(I) 10 FEET ABOVE THE HEIGHT OF THE POLE IF THE SMALL WIRELESS FACILITY IS INSTALLED ON AN EXISTING POLE IN PLACE ON OCTOBER 1,

2018; OR

(II) 50 FEET ABOVE THE GROUND.

(F) A LOCAL GOVERNMENT SHALL AUTHORIZE A WIRELESS PROVIDER TO REPLACE A DECORATIVE POLE WHEN NECESSARY TO COLLOCATE A SMALL WIRELESS FACILITY IF THE REPLACEMENT POLE REASONABLY CONFORMS TO THE DESIGN AESTHETICS OF THE DECORATIVE POLE BEING REPLACED.

(G) A LOCAL GOVERNMENT MAY PROHIBIT A WIRELESS PROVIDER FROM INSTALLING A STRUCTURE IN A RIGHT-OF-WAY LOCATED IN AN AREA DESIGNATED SOLELY FOR UNDERGROUND CABLE AND UTILITY FACILITIES IF:

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

(2) THE LOCAL GOVERNMENT DOES NOT PROHIBIT THE REPLACEMENT OF POLES OWNED BY THE LOCAL GOVERNMENT IN THE DESIGNATED AREA; AND

(3) THE LOCAL GOVERNMENT PROVIDES FOR A NONDISCRIMINATORY WAIVER PROCESS FOR THE PLACEMENT OF A NEW POLE TO SUPPORT A SMALL WIRELESS FACILITY IN THE DESIGNATED AREA.

(H) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, A LOCAL GOVERNMENT MAY REQUIRE A WIRELESS PROVIDER TO USE TECHNICALLY FEASIBLE, NONDISCRIMINATORY, AND TECHNOLOGICALLY NEUTRAL DESIGN OR CONCEALMENT MEASURES WHEN COLLOCATING WIRELESS SERVICE FACILITIES IN A DESIGNATED HISTORIC DISTRICT.

(2) THE DESIGN OR CONCEALMENT MEASURES MAY NOT:

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

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

(I) A LOCAL GOVERNMENT SHALL BE NEUTRAL AND NONDISCRIMINATORY IN THE EXERCISE OF ITS ADMINISTRATION AND REGULATION OF THE USES AND USERS OF RIGHTS-OF-WAY IN ITS JURISDICTION.

(J) A LOCAL GOVERNMENT MAY REQUIRE A WIRELESS PROVIDER TO:

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

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

1-1504.

(A) THIS SECTION APPLIES TO:

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

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

(B) EXCEPT AS PROVIDED IN THIS SUBTITLE, A LOCAL GOVERNMENT MAY NOT PROHIBIT, REGULATE, OR IMPOSE A RATE OR FEE FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES.

(C) THE COLLOCATION OF SMALL WIRELESS FACILITIES UNDER THIS SECTION IS NOT SUBJECT TO LOCAL ZONING REVIEW AND APPROVAL IF THE FACILITIES ARE COLLOCATED:

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

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

(D) IF A PERMIT IS NOT EXCLUSIVELY APPLIED TO WIRELESS FACILITIES, A LOCAL GOVERNMENT MAY REQUIRE A PERSON TO OBTAIN A PERMIT TO COLLOCATE A SMALL WIRELESS FACILITY OR INSTALL A NEW, MODIFIED, OR REPLACEMENT POLE ASSOCIATED WITH THE SMALL WIRELESS FACILITY.

(E) A LOCAL GOVERNMENT MAY NOT REQUIRE AN APPLICANT FOR A PERMIT UNDER THIS SECTION TO:

(1) PERFORM SERVICES OR PROVIDE GOODS UNRELATED TO THE PERMIT, INCLUDING RESERVING FIBER, CONDUIT, OR POLE SPACE FOR THE LOCAL GOVERNMENT;

(2) PROVIDE INFORMATION IN ADDITION TO THAT REQUIRED OF COMMUNICATIONS SERVICES PROVIDERS OTHER THAN WIRELESS PROVIDERS;

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

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

(F) A LOCAL GOVERNMENT MAY REQUIRE AN APPLICANT FOR A PERMIT TO INCLUDE CONSTRUCTION AND ENGINEERING DRAWINGS AND INFORMATION DEMONSTRATING THAT THE SMALL WIRELESS FACILITY OR ASSOCIATED POLE:

(1) WILL NOT MATERIALLY INTERFERE WITH:

(I) THE SAFE OPERATION OF TRAFFIC CONTROL EQUIPMENT;

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

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

(2) SHALL COMPLY WITH:

(I) ANY LOCAL REQUIREMENTS FOR THE REASONABLE AND NONDISCRIMINATORY SPACING OF GROUND-MOUNTED EQUIPMENT AND NEW POLES SO LONG AS THE SPACING REQUIREMENTS DO NOT PREVENT A WIRELESS PROVIDER FROM SERVING ANY LOCATION; AND

(II) APPLICABLE LOCAL BUILDING, FIRE, ELECTRICAL, PLUMBING, AND MECHANICAL CODES.

(G) A LOCAL GOVERNMENT MAY REQUIRE AN APPLICANT FOR A PERMIT TO ATTEST THAT THE SMALL WIRELESS FACILITY FOR WHICH A PERMIT IS APPLIED

WILL BE OPERATIONAL FOR USE BY A WIRELESS PROVIDER WITHIN 1 YEAR AFTER THE DATE THE PERMIT IS ISSUED, UNLESS:

(1) THE LOCAL GOVERNMENT AND THE APPLICANT AGREE TO EXTEND THE PERIOD; OR

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

(H) (1) WITHIN 10 DAYS AFTER RECEIVING THE APPLICATION FOR A PERMIT, THE LOCAL GOVERNMENT SHALL VERIFY THAT THE APPLICATION IS COMPLETE.

(2) IF THE APPLICATION IS NOT COMPLETE, THE LOCAL GOVERNMENT SHALL NOTIFY THE APPLICANT IN WRITING IDENTIFYING THE PARTS OF THE APPLICATION THAT ARE INCOMPLETE.

(3) (I) WITHIN 60 DAYS AFTER RECEIVING A COMPLETE APPLICATION, THE LOCAL GOVERNMENT SHALL EITHER APPROVE OR DENY THE PERMIT.

(II) IF A LOCAL GOVERNMENT FAILS TO ACT ON A COMPLETE PERMIT APPLICATION WITHIN 60 DAYS AFTER RECEIPT OF THE COMPLETE APPLICATION, THE PERMIT SHALL BE DEEMED TO BE APPROVED.

(4) (I) IF A LOCAL GOVERNMENT DENIES A PERMIT, THE LOCAL GOVERNMENT SHALL NOTIFY THE APPLICANT IN WRITING OF THE BASIS FOR THE DENIAL, INCLUDING ANY DOCUMENTATION REGARDING THE DENIAL.

(II) AN APPLICANT SHALL HAVE 30 DAYS AFTER RECEIVING A DENIAL OF A PERMIT TO REVISE THE APPLICATION TO CURE THE DEFICIENCIES NOTED BY THE LOCAL GOVERNMENT FOR THE DENIAL.

(III) A LOCAL GOVERNMENT MAY NOT CHARGE AN ADDITIONAL APPLICATION FEE FOR A REVISED APPLICATION RECEIVED WITHIN 30 DAYS AFTER A DENIAL OF THE ORIGINAL APPLICATION.

(IV) WITHIN 30 DAYS AFTER RECEIVING A REVISED APPLICATION, A LOCAL GOVERNMENT SHALL APPROVE OR DENY THE PERMIT.

(5) (I) AN APPLICANT MAY FILE A CONSOLIDATED APPLICATION FOR ALL SMALL WIRELESS FACILITIES TO BE COLLOCATED WITHIN THE

JURISDICTION OF A LOCAL GOVERNMENT.

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

(I) A LOCAL GOVERNMENT MAY DENY AN APPLICATION FOR A PERMIT TO COLLOCATE A SMALL WIRELESS FACILITY OR FOR THE INSTALLATION, MODIFICATION, OR REPLACEMENT OF A POLE ONLY IF THE SUBJECT OF THE APPLICATION:

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

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

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

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

(5) FAILS TO COMPLY WITH ANY APPLICABLE LOCAL BUILDING, FIRE, ELECTRICAL, PLUMBING, OR MECHANICAL CODE.

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

(K) A LOCAL GOVERNMENT MAY NOT INSTITUTE A MORATORIUM ON:

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

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

(L) (1) A LOCAL GOVERNMENT MAY NOT REQUIRE A PERMIT UNDER THIS SECTION FOR:

(I) ROUTINE MAINTENANCE;

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

(III) THE COLLOCATION OF MICRO WIRELESS FACILITIES THAT ARE STRUNG ON CABLES BETWEEN EXISTING POLES IN COMPLIANCE WITH THE NATIONAL ELECTRICAL SAFETY CODE.

(2) (I) A LOCAL GOVERNMENT MAY REQUIRE A PERMIT TO WORK WITHIN A RIGHT-OF-WAY FOR THE ACTIVITIES LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

(II) A PERMIT REQUIRED UNDER THIS PARAGRAPH SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

1-1505.

(A) THIS SECTION APPLIES TO THE FOLLOWING WORK CONDUCTED OUTSIDE A RIGHT-OF-WAY IN AN AREA THAT IS ZONED EXCLUSIVELY FOR SINGLE FAMILY RESIDENTIAL USE:

(1) THE COLLOCATION OF WIRELESS FACILITIES;

(2) THE INSTALLATION, MODIFICATION, OR REPLACEMENT OF WIRELESS SUPPORT STRUCTURES OR POLES; AND

(3) SUBSTANTIAL MODIFICATIONS.

(B) IF THE PERMIT IS NOT EXCLUSIVELY REQUIRED FOR WIRELESS FACILITIES, A LOCAL GOVERNMENT MAY REQUIRE A PERSON TO OBTAIN A PERMIT UNDER THIS SECTION TO:

(1) COLLOCATE A WIRELESS FACILITY;

(2) INSTALL A NEW, MODIFIED, OR REPLACEMENT WIRELESS

SUPPORT STRUCTURE OR POLE ASSOCIATED WITH A WIRELESS FACILITY; OR

(3) PERFORM A SUBSTANTIAL MODIFICATION.

(C) A COLLOCATION OR REPLACEMENT OF WIRELESS FACILITIES, WIRELESS SUPPORT STRUCTURES, OR POLES THAT DOES NOT CONSTITUTE A SUBSTANTIAL MODIFICATION IS A PERMITTED USE AS OF RIGHT AND IS NOT SUBJECT TO ZONING REVIEW OR APPROVAL.

(D) A LOCAL GOVERNMENT MAY NOT CONSIDER OR REQUIRE AN APPLICANT FOR A PERMIT TO PROVIDE INFORMATION ABOUT THE APPLICANT'S BUSINESS DECISIONS WITH RESPECT TO THE TYPE OF, LOCATION OF, OR NEED FOR THE POLE, WIRELESS SUPPORT STRUCTURE, OR WIRELESS FACILITIES.

(E) FOR THE PURPOSES OF ISSUING A PERMIT:

(1) ANY REQUIREMENTS OF THE LOCAL GOVERNMENT REGARDING THE APPEARANCE OF FACILITIES, INCLUDING THOSE RELATING TO MATERIALS USED OR ARRANGING, SCREENING, OR LANDSCAPING MUST BE REASONABLE; AND

(2) ANY SETBACK OR FALL ZONE REQUIREMENTS MUST BE SUBSTANTIALLY SIMILAR TO THOSE REQUIREMENTS THE LOCAL GOVERNMENT IMPOSES ON OTHER TYPES OF COMMERCIAL STRUCTURES OF A SIMILAR HEIGHT.

(F) (1) WITHIN 30 DAYS AFTER RECEIVING AN APPLICATION FOR A PERMIT, THE LOCAL GOVERNMENT SHALL VERIFY THAT THE APPLICATION IS COMPLETE.

(2) IF THE APPLICATION IS NOT COMPLETE, THE LOCAL GOVERNMENT SHALL NOTIFY THE APPLICANT IN WRITING IDENTIFYING THE PARTS OF THE APPLICATION THAT ARE INCOMPLETE.

(3) (I) THE LOCAL GOVERNMENT SHALL EITHER APPROVE OR DENY THE PERMIT:

1. WITHIN 150 DAYS AFTER THE RECEIPT OF A COMPLETE APPLICATION FOR A NEW WIRELESS SUPPORT STRUCTURE; AND

2. WITHIN 90 DAYS AFTER THE RECEIPT OF A COMPLETE APPLICATION FOR:

A. THE INSTALLATION, MODIFICATION, OR REPLACEMENT OF POLES OR WIRELESS FACILITIES; OR

B. A SUBSTANTIAL MODIFICATION OF EXISTING FACILITIES.

(II) IF A LOCAL GOVERNMENT FAILS TO ACT ON A COMPLETE PERMIT APPLICATION WITHIN THE TIME PERIODS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERMIT SHALL BE DEEMED TO BE APPROVED.

(4) (I) A LOCAL GOVERNMENT MAY DENY AN APPLICATION FOR A PERMIT UNDER THIS SECTION ONLY IF THERE IS A REASONABLE, NONDISCRIMINATORY BASIS FOR THE DENIAL SUPPORTED BY SUBSTANTIAL EVIDENCE CONTAINED IN THE WRITTEN RECORD.

(II) IF A LOCAL GOVERNMENT DENIES A PERMIT, THE LOCAL GOVERNMENT SHALL NOTIFY THE APPLICANT IN WRITING OF THE BASIS FOR THE DENIAL, INCLUDING ANY DOCUMENTATION REGARDING THE DENIAL.

(G) A LOCAL GOVERNMENT MAY NOT INSTITUTE A MORATORIUM ON:

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

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

(H) A LOCAL GOVERNMENT MAY REQUIRE AN APPLICANT FOR A PERMIT TO BEGIN CONSTRUCTION OF THE APPROVED STRUCTURE OR FACILITY WITHIN 2 YEARS AFTER ISSUANCE OF THE PERMIT AND TO DILIGENTLY PURSUE THE PROJECT TO COMPLETION UNLESS:

(1) THE LOCAL GOVERNMENT AND THE APPLICANT AGREE TO EXTEND THE PERIOD; OR

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

(I) A LOCAL GOVERNMENT MAY REQUIRE A WIRELESS PROVIDER TO:

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

(2) RETURN A RIGHT-OF-WAY TO THE CONDITION THAT EXISTED BEFORE ANY DAMAGE WAS INCURRED IN ACCORDANCE WITH THE NEUTRAL, REASONABLE REQUIREMENTS AND SPECIFICATIONS OF THE LOCAL GOVERNMENT.

1-1506.

(A) THIS SECTION APPLIES ONLY TO THE COLLOCATION OF WIRELESS FACILITIES ON LOCAL GOVERNMENT POLES AND LOCAL GOVERNMENT WIRELESS SUPPORT STRUCTURES THAT ARE LOCATED:

(1) ON PROPERTY OWNED BY THE LOCAL GOVERNMENT; AND

(2) OUTSIDE A RIGHT-OF-WAY.

(B) A LOCAL GOVERNMENT SHALL AUTHORIZE A PERSON THAT OBTAINS A PERMIT UNDER § 1-1504 OF THIS SUBTITLE TO COLLOCATE SMALL WIRELESS FACILITIES ON LOCAL GOVERNMENT POLES THAT DO NOT EXCEED 50 FEET IN HEIGHT ABOVE THE GROUND.

(C) (1) IF A LOCAL GOVERNMENT AUTHORIZES THE USE OF LOCAL GOVERNMENT POLES AND LOCAL GOVERNMENT WIRELESS SUPPORT STRUCTURES THAT EXCEED 50 FEET IN HEIGHT ABOVE THE GROUND FOR ANY COMMERCIAL PROJECTS OR USES, THE LOCAL GOVERNMENT SHALL AUTHORIZE THE COLLOCATION OF SMALL WIRELESS FACILITIES ON THOSE POLES AND WIRELESS SUPPORT STRUCTURES TO THE SAME EXTENT THAT THE COMMERCIAL PROJECTS OR USES ARE AUTHORIZED.

(2) A LOCAL GOVERNMENT MAY IMPOSE A RATE, FEE, OR TERM OF USE FOR POLES AND WIRELESS SUPPORT STRUCTURES UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE RATE, FEE, OR TERM IS REASONABLE AND NONDISCRIMINATORY, TAKING INTO ACCOUNT RELEVANT FACTS INCLUDING:

(I) ALTERNATIVE FINANCING OR SERVICE REMUNERATION;

(II) THE CHARACTERISTICS OF THE PROPOSED EQUIPMENT OR INSTALLATION;

(III) STRUCTURAL LIMITATIONS OF THE EQUIPMENT OR THE POLE OR WIRELESS SUPPORT STRUCTURE; AND

(IV) OTHER COMMERCIAL OR UNIQUE FEATURES OR COMPONENTS OF THE EQUIPMENT USED.

(D) A LOCAL GOVERNMENT MAY NOT ENTER INTO AN EXCLUSIVE AGREEMENT WITH A WIRELESS PROVIDER CONCERNING LOCAL GOVERNMENT POLES THAT EXCEED 50 FEET IN HEIGHT OR LOCAL GOVERNMENT WIRELESS SUPPORT STRUCTURES UNLESS THE AGREEMENT REQUIRES THE WIRELESS PROVIDER, ON REASONABLE AND NONDISCRIMINATORY RATES AND TERMS:

(1) TO PROVIDE SERVICE USING A SHARED NETWORK OF WIRELESS FACILITIES THAT THE WIRELESS PROVIDER MAKES AVAILABLE FOR ACCESS BY OTHER WIRELESS PROVIDERS; OR

(2) TO ALLOW OTHER WIRELESS PROVIDERS TO COLLOCATE SMALL WIRELESS FACILITIES.

1-1507.

(A) IN THIS SECTION, “MAKE-READY WORK” MEANS ANY REARRANGEMENT OF EXISTING POLE ATTACHMENTS OR POLE REPLACEMENTS THAT MUST BE COMPLETED BEFORE A PERSON COLLOCATES NEW WIRELESS FACILITIES ON A POLE IN ORDER TO ENSURE THE PROPER SPACING OF EQUIPMENT AND COMPLIANCE WITH APPLICABLE SAFETY AND ELECTRICAL CODES.

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

(C) A PERSON THAT OWNS, MANAGES, OR CONTROLS LOCAL GOVERNMENT POLES IN A RIGHT-OF-WAY MAY NOT ENTER INTO AN EXCLUSIVE AGREEMENT WITH ANY PERSON FOR THE RIGHT TO ATTACH EQUIPMENT TO THE LOCAL GOVERNMENT POLES.

(D) A LOCAL GOVERNMENT SHALL AUTHORIZE THE COLLOCATION OF SMALL WIRELESS FACILITIES ON LOCAL GOVERNMENT POLES IN ACCORDANCE WITH § 1-1504 OF THIS SUBTITLE.

(E) THE RATE TO COLLOCATE WIRELESS FACILITIES ON LOCAL GOVERNMENT POLES SHALL BE:

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

(2) AS PROVIDED UNDER § 1-1508 OF THIS SUBTITLE.

(F) (1) ALL RATES, FEES, AND TERMS AND CONDITIONS FOR MAKE-READY WORK ON A LOCAL GOVERNMENT POLE SHALL BE

NONDISCRIMINATORY, COMPETITIVELY NEUTRAL, AND COMMERCIALY REASONABLE.

(2) WITHIN 60 DAYS AFTER RECEIVING A COMPLETE APPLICATION FOR A PERMIT IN ACCORDANCE WITH § 1-1504(D) OF THIS SUBTITLE, A LOCAL GOVERNMENT SHALL PROVIDE A GOOD FAITH ESTIMATE FOR ANY MAKE-READY WORK, INCLUDING POLE REPLACEMENT, IF NECESSARY.

(3) WITHIN 60 DAYS AFTER AN APPLICANT RECEIVES A GOOD FAITH ESTIMATE UNDER PARAGRAPH (2) OF THIS SUBSECTION, A LOCAL GOVERNMENT SHALL COMPLETE ALL NECESSARY MAKE-READY WORK, INCLUDING REPLACEMENT OF A LOCAL GOVERNMENT POLE IF THE LOCAL GOVERNMENT DEMONSTRATES THAT THE COLLOCATION WILL RENDER THE POLE STRUCTURALLY UNSOUND.

(4) A PERSON OWNING, MANAGING, OR CONTROLLING A LOCAL GOVERNMENT POLE MAY NOT REQUIRE MORE MAKE-READY WORK THAN IS REQUIRED TO SATISFY ANY APPLICABLE CODES OR INDUSTRY STANDARDS.

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

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

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

(III) INCLUDE ANY CONSULTANT FEES OR EXPENSES.

1-1508.

(A) A LOCAL GOVERNMENT MAY NOT REQUIRE A WIRELESS PROVIDER TO PAY ANY RATE, FEE, OR OTHER COMPENSATION TO THE LOCAL GOVERNMENT OR ANY OTHER PERSON EXCEPT AS AUTHORIZED BY THIS SUBTITLE FOR:

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

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

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

(B) (1) A LOCAL GOVERNMENT MAY CHARGE A FEE FOR A PERMIT ISSUED UNDER THIS SUBTITLE ONLY IF:

(I) THE FEE IS THE SAME AS THAT REQUIRED FOR SIMILAR TYPES OF COMMERCIAL DEVELOPMENT OR CONSTRUCTION IN THE LOCAL GOVERNMENT'S JURISDICTION; AND

(II) THE COSTS TO BE RECOVERED BY THE APPLICATION FEE ARE NOT ALSO RECOVERED BY EXISTING FEES, RATES, LICENSES, OR TAXES PAID BY THE APPLICANT.

(2) A FEE FOR A PERMIT ISSUED UNDER THIS SUBTITLE MAY NOT INCLUDE:

(I) TRAVEL EXPENSES INCURRED BY A THIRD PARTY IN ITS REVIEW OF THE APPLICATION; OR

(II) DIRECT PAYMENT OR REIMBURSEMENT OF THIRD-PARTY RATES OR FEES CHARGED ON A CONTINGENCY BASIS OR A RESULT-BASED ARRANGEMENT.

(C) A FEE FOR A PERMIT ISSUED UNDER THIS SUBTITLE FOR:

(1) A COLLOCATION OF WIRELESS FACILITIES SHALL BE LIMITED TO THE COST OF GRANTING A BUILDING PERMIT FOR SIMILAR TYPES OF COMMERCIAL DEVELOPMENT OR CONSTRUCTION WITHIN THE LOCAL GOVERNMENT'S JURISDICTION;

(2) THE COLLOCATION OF SMALL WIRELESS FACILITIES ON AN EXISTING OR REPLACEMENT LOCAL GOVERNMENT POLE MAY NOT EXCEED \$100 EACH FOR THE FIRST FIVE SMALL WIRELESS FACILITIES ON THE SAME APPLICATION AND \$50 EACH FOR EACH SUBSEQUENT SMALL WIRELESS FACILITY ON THE SAME APPLICATION;

(3) THE INSTALLATION, MODIFICATION, OR REPLACEMENT OF A POLE AND THE COLLOCATION OF AN ASSOCIATED SMALL WIRELESS FACILITY THAT ARE PERMITTED USES AS OF RIGHT UNDER § 1-1503 OF THIS SUBTITLE MAY NOT EXCEED \$250 PER POLE FOR ACCESS TO THE RIGHT-OF-WAY; AND

(4) THE INSTALLATION, MODIFICATION, OR REPLACEMENT OF A NEW WIRELESS SUPPORT STRUCTURE, A SUBSTANTIAL MODIFICATION, OR A NEW POLE ASSOCIATED WITH A SMALL WIRELESS FACILITY THAT IS NOT A PERMITTED USE AS OF RIGHT UNDER § 1-1503 OF THIS SUBTITLE MAY NOT EXCEED \$1,000.

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

(E) A RATE FOR THE COLLOCATION OF A SMALL WIRELESS FACILITY ATTACHED TO A LOCAL GOVERNMENT POLE SHALL BE SET AT \$20 PER YEAR FOR EACH SMALL WIRELESS FACILITY CONNECTED TO A LOCAL GOVERNMENT POLE.

1-1509.

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

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

(C) IF THERE IS A DISPUTE CONCERNING THE RATE FOR COLLOCATION OF SMALL WIRELESS FACILITIES ON LOCAL GOVERNMENT POLES, UNTIL THE MATTER IS RESOLVED BY THE DISTRICT COURT, THE PERSON OWNING OR CONTROLLING THE POLE MAY CHARGE AN ANNUAL RATE NOT EXCEEDING \$20, TO BE ADJUSTED ON FINAL RESOLUTION OF THE DISPUTE.

1-1510.

(A) A LOCAL GOVERNMENT MAY NOT REQUIRE A WIRELESS PROVIDER TO INDEMNIFY AND HOLD HARMLESS THE LOCAL GOVERNMENT AND ITS OFFICERS AND EMPLOYEES AGAINST ANY LOSS, DAMAGE, OR LIABILITY, EXCEPT WHEN A COURT OF COMPETENT JURISDICTION HAS FOUND THAT THE LOSS, DAMAGE, OR LIABILITY WAS DIRECTLY CAUSED BY THE NEGLIGENCE OF THE WIRELESS PROVIDER WHEN INSTALLING, REPAIRING, OR MAINTAINING SMALL WIRELESS FACILITIES AND ASSOCIATED POLES.

(B) (1) A LOCAL GOVERNMENT MAY REQUIRE A WIRELESS PROVIDER TO CARRY INSURANCE TO COVER ANY LOSS, DAMAGE, OR LIABILITY CAUSED BY A WIRELESS PROVIDER WHEN INSTALLING, REPAIRING, OR MAINTAINING SMALL WIRELESS FACILITIES AND ASSOCIATED POLES ONLY IF:

(I) THE LOCAL GOVERNMENT IMPOSES SIMILAR REQUIREMENTS ON OTHER USERS OF A RIGHT-OF-WAY; AND

(II) THE INSURANCE REQUIREMENTS ARE REASONABLE AND NONDISCRIMINATORY.

(2) A LOCAL GOVERNMENT MAY NOT REQUIRE THE INSURANCE COVERAGE OF A WIRELESS PROVIDER TO NAME THE LOCAL GOVERNMENT, ITS OFFICIALS, OR EMPLOYEES AS ADDITIONAL INSUREDS.

(3) IF A LOCAL GOVERNMENT REQUIRES A WIRELESS PROVIDER TO CARRY INSURANCE UNDER THIS SUBSECTION, THE LOCAL GOVERNMENT MAY REQUIRE A WIRELESS PROVIDER TO PROVIDE PROOF OF INSURANCE BEFORE THE EFFECTIVE DATE OF A PERMIT ISSUED UNDER THIS SUBTITLE.

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

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

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

(II) RECOUP RATES OR FEES THAT HAVE NOT BEEN PAID BY A WIRELESS PROVIDER IN MORE THAN 12 MONTHS, AS LONG AS THE LOCAL GOVERNMENT HAS GIVEN REASONABLE NOTICE TO THE WIRELESS PROVIDER AND THE OPPORTUNITY TO PAY THE RATES OR FEES OUTSTANDING.

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

1-1511.

(A) (1) A LOCAL GOVERNMENT MAY ENACT A LOCAL LAW TO CARRY OUT THE REQUIREMENTS OF THIS SUBTITLE.

(2) IF A LOCAL GOVERNMENT DOES NOT ENACT A LOCAL LAW TO CARRY OUT THE REQUIREMENTS OF THIS SUBTITLE, A WIRELESS PROVIDER MAY INSTALL AND OPERATE SMALL WIRELESS FACILITIES AND POLES IN ACCORDANCE WITH THIS SUBTITLE.

(B) TO THE EXTENT THAT THIS SUBTITLE CONFLICTS WITH A LOCAL LAW THAT APPLIES TO SMALL WIRELESS FACILITIES AND ASSOCIATED POLES, THIS SUBTITLE SHALL PREVAIL OVER THE LOCAL LAW.

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

(2) A LOCAL GOVERNMENT SHALL EVALUATE THE STRUCTURE CLASSIFICATION FOR WIRELESS SUPPORT STRUCTURES UNDER THE LATEST VERSION OF ANSI/TIA-222.

(D) NOTHING IN THIS SUBTITLE AUTHORIZES THE STATE OR A LOCAL GOVERNMENT TO:

- (1) REQUIRE WIRELESS FACILITY DEPLOYMENT; OR**
- (2) REGULATE WIRELESS SERVICES.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.