



# BUILDING CODES COMMITTEE MEETING

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MONDAY, OCTOBER 5, 2020 | 6 PM

3rd committee meeting

The Committee will meet in the Mauldin City Hall at 5 East Butler Road in the 2nd Floor Conference Room at 6 p.m.

Please note that members of the public may attend this meeting in-person but are encouraged to participate remotely. The meeting will be available remotely through Zoom. Please visit the City's website at <https://cityofmauldin.org/your-government/meeting-minutes-agendas/> to access the meeting via audio and videoconferencing. You may also email comments about specific items on the agenda to City Clerk Cindy Miller at [cmiller@mauldincitysc.com](mailto:cmiller@mauldincitysc.com). Comments emailed about specific agenda items prior to 6:00 p.m. on Monday, October 5, 2020 will be read during the Public Comment segment of the meeting.

# Building Codes Committee Agenda October 5, 2020

**Committee Members:** Diane Kuzniar (Chair), Dale Black, Taft Matney

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|---|-----------------------------|
| 1. <b><u>Call to Order</u></b>  | The Honorable Diane Kuzniar |
| 2. <b><u>Public Comment</u></b>   | The Honorable Diane Kuzniar |
| 3. <b><u>Reading and Approval of Minutes</u></b><br>a. Building Codes Committee Meeting:<br>September 14, 2020  | The Honorable Diane Kuzniar |
| 4. <b><u>Reports or Communications from City Officers</u></b><br>a. Building & Development Services Director<br>David Dyrhaug<br>i. Budget Review   | The Honorable Diane Kuzniar |
| 5. <b><u>Unfinished Business</u></b><br>a. An ordinance to establish the standards for<br>the placement of small wireless facilities in<br>covered areas in the City of Mauldin, South<br>Carolina; and for other purposes<br><br>b. Appointments to boards and commissions | The Honorable Diane Kuzniar |
| 6. <b><u>New Business</u></b><br>There is no new business.  | The Honorable Diane Kuzniar |
| 7. <b><u>Public Comment</u></b>   | The Honorable Diane Kuzniar |
| 8. <b><u>Committee Concerns</u></b>   | The Honorable Diane Kuzniar |
| 9. <b><u>Adjournment</u></b>  |                             |

Minutes  
Building Codes Committee  
September 14, 2020  
4<sup>th</sup> committee meeting

Meeting Location: City Hall Upstairs Conference Room

Members present: Chairwoman Diane Kuzniar, Committee members Dale Black and Taft Matney. David Dyrhaug, BDS Director and Brandon Madden, City Administrator were also present.

1. Call to Order- Chairwoman Kuzniar

2. Public Comment- None

3. Reading and Approval of Minutes

a. Building Codes Committee Meeting: August 3, 2020

**Action: Councilman Black made a motion to approve the minutes with Councilman Matney seconding.**

**Vote: The vote was unanimous**

4. Reports or Communications from City Officers

a. Department Reports

5. Unfinished Business

a. An ordinance to establish the standards for the placement of small wireless facilities in covered areas in the City of Mauldin, South Carolina; and for other purposes

In June, the City Council held a workshop with representatives from AT&T and Verizon who were able to present more information about their plans for expansion within the City of Mauldin.

Since that time, City staff has re-examined the draft ordinance and made appropriate revisions in line with comments from wireless providers as well as to make the ordinance a little simpler.

This ordinance regulates two types of small wireless facility installations: (1) placement on an existing pole, and (2) the installation of a new pole. When installed on existing poles, the configuration should generally consist of the antenna housed within a cylindrical shroud that is top mounted to the pole and painted to blend with or match the color of

the pole. Side-mounted installations of the small wireless facility is only allowed if a top-mounted configuration is not possible. New poles are only permissible if there is not an opportunity to install a small wireless facility on an existing pole.

AT&T has requested a few revisions to the draft ordinances and those are that the maximum height of the antenna enclosure mounted on top of an existing pole be increased from 6 feet to 10 feet. They have also requested that maximum diameter of the antenna enclosure mounted on top of an existing pole be increased from 1.25 times the diameter of the pole to 1.75 times the diameter of the pole. AT&T requested that the maximum protrusion of an antenna enclosure mounted on the side of an existing pole be increased from 24 inches to 30 inches from the face of the pole. Lastly, they have requested that the maximum width of the antenna enclosure mounted on the side of an existing pole be increased from 1.25 times the diameter of the pole to 1.75 times the diameter of the pole.

Mr. Dyrhaug asked for feedback on these requests. The City Attorney has not finished looking at this ordinance.

Chairwoman Kuzniar asked what the current diameter of the small cell wireless facilities are. Amanda Taylor from AT&T said it varies regarding the type of pole used. The reasons for a revision on the diameter would be for future needs and for the equipment to be able to fit on different types of poles.

Councilman Matney asked about the 10 feet height request. He said that is a pretty big increase from the proposed 6 feet.

Ms. Taylor said the FCC guidelines have specific measurements wireless providers have to abide by. 10 feet is in the threshold allowed and would not be more than 10 feet.

Councilman Black asked if the 30-foot maximum for towers would be in addition to 10 feet. Mr. Dyrhaug answered 30 feet is the maximum; it would not be 30 feet plus 10 feet.

**Action: Councilman Matney made a motion to hold this in committee with Councilman Black seconding.**

**Vote: The vote was unanimous (3-0).**

b. Appointments to boards and commissions

At its meeting on June 15, 2020, the City Council appointed volunteers to the Planning Commission and the Building and Zoning Board of Appeals. At that time, it was noted that the City had not yet received enough applications for the number of seats available on the Zoning Board of Appeals. As a result, there were still two open seats on the Zoning Board of Appeals after the June 15<sup>th</sup> City Council meeting.

Since that time, the City has received five new applications from volunteers interested in being appointed to the Building and Zoning Board of Appeals. The applicants include (in order of receipt):

Scott Crosby  
Brian Patton  
Brian Sofield  
Samuel Neely  
Dorothy Foxx

Please note that even though Mr. Neely's application states that he is applying for the Planning Commission, he has since indicated that he would like his application to be considered for a seat on the Board of Appeals.

The City recently received the resignation of Michael King on the Planning Commission. Mr. King was appointed to the Planning Commission earlier this year to fill an open seat. Unfortunately, Mr. King's work schedule and obligations have since changed and he is no longer able to meet the obligations of the Planning Commission. The City has just recently begun advertising for this vacancy.

**Action: Councilman Matney made a motion to hold this in committee until there is time to advertise for the Planning Commission vacancy as well. Councilman Black seconded the motion.**

**Vote: The vote was unanimous (3-0).**

Councilman Matney asked if there were specific qualifications we are looking for. Mr. Dyrhaug said there is a requirement that board and commission members live within the City and he thinks the code might address having a mix of experience in planning and development. Councilman Matney said he would like to have someone on the board that has an understanding of zoning.

6. New Business

a. None

7. Public Comment

Amanda Taylor thanked committee and Mr. Dyrhaug for their consideration of the small cell ordinance.

8. Committee Concerns- None

9. Adjourn- Chairwoman Kuzniar adjourned the meeting.

Respectfully Submitted,

Cindy Miller

Municipal Clerk

# BUILDING CODES COMMITTEE AGENDA ITEM

**MEETING DATE:** October 5, 2020

**AGENDA ITEM:** 5a

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**TO:** Building Codes Committee

**FROM:** Business & Development Services Director, David C. Dyrhaug

**SUBJECT:** Small Cell Wireless Facilities Ordinance

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## **BACKGROUND – SEPTEMBER 14 BUILDING CODES COMMITTEE MEETING**

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At its September 14 meeting, the Building Codes Committee reviewed an updated draft ordinance that would permit the installation of small cell wireless facilities within the public right-of-way. At that meeting, staff also presented some comments from AT&T. The Committee directed staff to modify the draft ordinance according to AT&T's comments.

Also at the September 14 meeting, staff indicated that the City Attorney had not yet provided comments on the new updated draft ordinance. The Committee voted to hold the matter in Committee until the City Attorney had concluded his review. Last week, the City Attorney has been able to finish his review. His only recommendation was some minor wording to Section 44-5(A) of the draft ordinance which has since been revised in the draft ordinance.

## **S.C. SMALL WIRELESS FACILITIES DEPLOYMENT ACT**

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On September 24, 2020, the S.C. General Assembly passed the Small Wireless Facilities Deployment Act. This bill will become effective upon signature by the Governor. This Act “supersedes and preempts any enactment by a [municipality] that contradicts, expands, contracts, or otherwise modifies the provisions of this article with respect to the regulation of the placement of small wireless facilities and of support structures and poles for small wireless facilities in the right-of-way (ROW); provided, however, that nothing in this item limits any power granted to any [municipality] under this article including, but not limited to, the power to enforce city-wide compliant provisions in previous enactments, so long as those provisions do not violate federal law.”

The State Act does allow a municipality to adopt its own ordinance, rule, policy, design manual, or equivalently binding measure provided that it adopts compliant provisions in strict compliance with the provisions of the State Act. In the absence of any municipal ordinance, a wireless provider may install and operate small wireless facilities and associated poles and support structures under the requirements of the State Act.

As of the date of this report, the City Attorney is still reviewing the State Act to identify provisions in the City's draft ordinance that may not be compliant with the State Act. He has indicated that he plans to work

to provide a recommendation in time for the Building Codes Committee. In my review of the State Act, I have noted some of the following differences.

<b>General Assembly Bill</b>	<b>City of Mauldin Draft Ordinance</b>
<p>New poles may not exceed the greater of 10 feet in height above the tallest existing pole within 500 feet or 50 feet above the ground level.</p> <p style="text-align: right;"><i>-- Section 58-11-820(E)(1)</i></p>	<p>New poles shall coordinate with the height of existing poles in the same corridor. If a compatible height cannot be determined, then a maximum height of 30 feet above grade shall apply.</p> <p style="text-align: right;"><i>-- Section 44-5(C)(2)</i></p>
<p>A municipality may require height limitations of no less than 40 feet.</p> <p style="text-align: right;"><i>-- Section 58-11-820(H)(1)</i></p>	<p>See above.</p> <p style="text-align: right;"><i>-- Section 44-5(C)(2)</i></p>
<p>Within 10 days of receiving an application, the municipality must determine and notify the applicant in writing whether the application is complete.</p> <p style="text-align: right;"><i>-- Section 58-11-830(E)(8)</i></p>	<p>Shortly after receiving an application, the City will determine and notify the applicant whether the application is complete.</p> <p style="text-align: right;"><i>-- Section 44-4(D)(1)</i></p>
<p>Applicants may submit a single consolidated application, provided that such a consolidated application shall be for a geographic area no more than 2 miles in diameter, for up to 30 small wireless facilities.</p> <p style="text-align: right;"><i>-- Section 58-11-830(E)(12)</i></p>	<p>Applicants may file a consolidated application for up to 20 requests in a single application.</p> <p style="text-align: right;"><i>-- Section 44-4(B)</i></p>
<p>A municipality may not require a permit for ... the replacement of small wireless facilities or the placement of micro wireless facilities that are suspended on cables suspended between poles.</p> <p style="text-align: right;"><i>-- Section 58-11-830(F)(1)</i></p>	<p>This is not addressed in the City's draft ordinance.</p> <p style="text-align: right;"><i>-- Section 44-4(E)</i></p>
<p>A municipality may charge an application fee up to \$1,000 for each new pole installed and up to \$250 for each replacement pole installed.</p> <p style="text-align: right;"><i>-- Section 58-11-850(D)(3)</i></p>	<p>The City's draft ordinance only charges an application fee for each new wireless facility, not for new poles.</p> <p style="text-align: right;"><i>-- Section 44-4(C)(1)</i></p>
<p>A municipality may charge an annual rate up to \$100 per year for each facility for the use of the ROW (and up to \$200 for each facility on a new pole).</p> <p style="text-align: right;"><i>-- Section 58-11-850(E)(3)</i></p>	<p>The City's draft ordinance does not charge annual rates for the use of the ROW. It only charges annual rates for the placement of small wireless facilities on City-owned poles.</p> <p style="text-align: right;"><i>-- Section 44-4(C)(2)</i></p>
<p>A municipality may charge an annual lease rate up to \$50 per year for each facility located on a City-owned pole.</p> <p style="text-align: right;"><i>-- Section 58-11-850(F)(1)</i></p>	<p>The annual rate to place a facility on a City-owned pole shall be \$250 per year for each facility.</p> <p style="text-align: right;"><i>-- Section 44-4(C)(2)</i></p>

## **SUMMARY OF THE MAULDIN DRAFT ORDINANCE**

The revised Mauldin draft ordinance for small wireless facilities can be summarized as follows.

To help encourage wireless infrastructure investment within the City of Mauldin in a context-sensitive manner, this ordinance regulates and permits the installation of small wireless facilities in the public right-of-way within the City. Features of this ordinance include:



1. **Background information.** A summary of the background of the FCC order to accelerate wireless broadband deployment.
2. **Permit required.** A permit will be required for the placement, modification, or replacement of any new small wireless facility within the City. A provider can apply for up to 20 facilities in a single application.
3. **Permit fee.** Unless exempted by a franchise agreement, a permit fee shall accompany each permit application for a small wireless facility. The fee shall be \$100 per each facility for the first five facilities and \$50 per each facility in excess of five up to a maximum of 20 facilities.
4. **Fee for attachment to City-owned poles.** An annual fee of \$250 shall be levied for each small wireless facility attached to a City-owned pole.
5. **Review timeframes.** The City acknowledges the “shot clock” deadlines provided by the FCC order and will take action on each application according to the City’s standard review timeframes (currently 1-2 weeks).
6. **Installation types.** This ordinance regulates two types of small wireless facility installations: (1) placement on an existing pole, and (2) the installation of a new pole.
7. **Placement on existing poles.** When installed on existing poles, the configuration should generally consist of the antenna housed within a cylindrical shroud that is top-mounted to the pole and painted to blend with or match the color of the pole. Side-mounted installations of the small wireless facility is only allowed if a top-mounted configuration is not possible.
8. **Installation of new poles.** New poles are only permissible if there is not an opportunity to install a small wireless facility on an existing pole. New poles are to be constructed of metal, cylindrical in shape, and shall match the color and height of other nearby poles. In the absence of existing metal poles, the color shall be black powder coated finish.
9. **Accessory equipment.** Accessory equipment should generally be installed (1) in an underground equipment vault, (2) entirely concealed inside the pole, or (3) within a cabinet integrated in the base of the pole. If these three opportunities are not possible, then accessory equipment would be permitted to be mounted on the pole. Separate ground-mounted equipment is not permissible except where the equipment is appropriately disguised as public art or street furniture as accepted by the City Council.
10. **Additional standards.** Additional standards pertaining to lighting, noise, and signage apply.

## REQUEST

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Consider forwarding the revised draft ordinance for small wireless facilities to City Council for consideration with modifications recommended by the City Attorney.

## TIMELINE

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On January 7, 2020, the Building Codes Committee forwarded this matter to City Council for consideration. The Building Codes Committee also requested the City Attorney’s legal opinion on this ordinance by the City Council meeting.

On January 21, 2020, the City Council sent this matter back to Committee to allow sufficient time to review the Attorney’s revisions to the proposed ordinance.

On February 10, 2020, the Building Codes Committee reviewed the Attorney’s revisions. Representatives from AT&T attended this meeting and commented about the draft ordinance requesting significant revisions.

On May 4, 2020, the Building Codes Committee reviewed possible directions to consider for the draft ordinance.

On June 12, 2020, the City Council conducted a workshop with representatives from AT&T and Verizon who were able to present information about their planned expansion within the City of Mauldin.

On September 14, 2020, the Building Codes Committee reviewed an updated draft ordinance and received comments from AT&T.

On September 24, the S.C. General Assembly passed the Small Wireless Facilities Deployment Act.

## **ATTACHMENTS**

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Revised draft ordinance

Recently passed S.C. Small Wireless Facilities Deployment Act

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO ESTABLISH THE STANDARDS FOR THE PLACEMENT OF SMALL WIRELESS FACILITIES IN COVERED AREAS IN THE CITY OF MAULDIN, SOUTH CAROLINA; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Mauldin (“City”) encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of Small Wireless Facilities while managing Public Rights-of-Way in a manner that promotes the interests of the public health, safety and welfare; and,

**WHEREAS**, the City recognizes that Small Wireless Facilities including facilities commonly referred to as small cell and distributed antenna systems are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to residences, businesses, and schools within the City; and,

**WHEREAS**, the City recognizes that Small Wireless Facilities together with high capacity transport medium such as fiber optic cabling may be effectively deployed in Public Rights-of-Way; and,

**WHEREAS**, this Ordinance is intended to grant municipal consent to use of Rights-of-Way and establish a standard application process to streamline the issuance of necessary permits in a manner that is not a barrier to competition, and does not unnecessarily delay the implementation and installation of Small Wireless Facilities,

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MAULDIN, SOUTH CAROLINA**, that the Code of Ordinances City of Mauldin, South Carolina, is hereby amended to add Chapter 44 entitled “SMALL WIRELESS FACILITIES WITHIN THE RIGHT-OF-WAY,” to read as follows:

**44-1. Intent.**

A. Background

The next wave of communications technology consisting of 5G technology utilizes higher frequencies with the capability to accommodate significantly higher data needs than current 4G/LTE technologies. The physical limits of the higher frequencies require that the transmitters be installed with much closer spacing than associated with existing 4G/LTE technology.

Relating to the expansion of broadband services, on September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Third Report and Order, FCC 18-133, titled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” (the Order). In this document, the FCC issues guidance and adopts rules to streamline the wireless infrastructure siting review process to

facilitate the deployment of next-generation wireless facilities. Specifically, in the Declaratory Ruling, the Commission identifies specific fee levels for the deployment of small cell wireless facilities. In the Order, the Commission addresses the “shot clocks” governing the review of wireless infrastructure deployments and establishes two new shot clocks for small cell wireless facilities.

Among other things, the Order (as modified by the Ninth Circuit on appeal) provides that municipal aesthetic requirements will not be preempted if they are reasonable and published in advance. The Order also prohibits local government requirements (including aesthetic requirements) that materially inhibit wireless providers from filling coverage gaps, densifying their networks, introducing new service, or otherwise improving service capabilities.

#### B. Intent

The intent of this ordinance is to accommodate the installation of small cell wireless facilities within the public rights-of-way within the City of Mauldin provided that installations are completed in a context-sensitive manner with regard to appropriate standards for aesthetics, location, spacing, accommodation of multiple providers at each location, safety, noise, and equitable allocation of space.

Further, it is the intent of this ordinance to establish procedures and standards for the consideration, permitting, siting, construction, installation, collocation, modification, operation, regulation and removal of small cell wireless facilities in the public rights-of-way within the City of Mauldin. These procedures and standards are intended to comply with, and not conflict with or preempt, all existing and applicable state and federal laws, and all FCC rules and regulations to interpret and implement applicable federal statutes.

#### **44-2. Applicability.**

Subject to applicable state and federal law and approval of an application under this Ordinance, an operator may locate and/or collocate a small cell wireless facility and construct, maintain, modify, operate, or replace utility poles and wireless support structures in, along, across, upon, and under public rights-of-way within the City of Mauldin. In accord with Article VIII, Section 15 of the State Constitution and related municipal code and ordinance provisions, the City consents to the use of public rights-of-way by permit holders acting in compliance with this Ordinance.

An operator shall comply with this Ordinance and any rules, regulations, and design guidelines adopted by the City that are consistent with this Ordinance for the installation and/or collocation of a small cell wireless facility and construction, maintenance, modification, operation, or replacement of utility poles and wireless support structures in, along, across, upon, and under the right-of-way within the City of Mauldin, unless otherwise prohibited by state or federal law.

Except to the extent set forth in this Ordinance or to the extent necessary to comply with applicable state or federal law, nothing in this Ordinance shall preclude the City from

applying generally acceptable health, safety, and welfare regulations when acting on an application for a permit for a small cell wireless facility in the right-of-way within the City of Mauldin.

#### **44-3. Definitions.**

***Antenna*** means communication equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

***Applicable codes*** means uniform building, energy, electrical, plumbing, mechanical, gas, and fire codes in Title 6, Chapter 9, of the South Carolina Code of Laws, local amendments to those codes authorized by state law, and local codes or ordinances which impose requirements defined in this ordinance including objective design and concealment standards to regulate location, context, material, color, stealth, and concealment standards on a uniform and nondiscriminatory basis.

***Applicant*** means any person who submits an application to the City of Mauldin and is a wireless services provider or a wireless infrastructure provider.

***Application*** means a request submitted by an applicant for a permit to (i) install small cell wireless facilities; or, (ii) construct, install, maintain, operate, replace or modify a utility pole or similar support structure relating to small cell wireless facilities.

***City-owned pole*** means a utility pole or similar structure owned or operated by the City of Mauldin.

***Collocate*** means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to an existing wireless support structure or utility pole within the jurisdiction of the City of Mauldin.

***Person*** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

***Right-of-way*** means that area on, below, or above a public roadway, highway, street, sidewalk, alley dedicated to, managed or controlled by the City of Mauldin, Greenville County, or the State of South Carolina.

***Small wireless facility*** or ***small cell wireless facility*** or ***small cell facility*** or ***SWF*** means equipment at a fixed location that enables wireless services at higher transmission speeds but lower ranges between user equipment and a communications network. “Small” refers to the small coverage area, not the physical size of the equipment. This equipment includes radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

***Utility pole*** means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control devices, or a similar function regardless of ownership, including City-owned poles.

***Wireless infrastructure provider*** means any person, including a person authorized to provide telecommunications services in the State, that builds, installs or maintains utility

poles, wireless communication transmission equipment, small wireless facilities or wireless support structures.

*Wireless services* mean any services provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, delivered to the public using small wireless facilities.

*Wireless services provider* means a person who provides wireless services.

*Wireless support structure* or *support structure* or *support structure pole* means a freestanding structure, such as a monopole, or other existing or proposed structure intended to support small wireless facilities.

#### **44-4. Procedures.**

##### **A. Application**

In accordance with federal and state law and City Code, an operator must apply to the City to locate a new small cell wireless facility and/or collocate any portion of a small cell wireless facility on an existing utility pole or wireless support structure or to construct, maintain, modify, operate, or replace wireless support structures in, along, across, upon, and under the public rights-of-way within the City of Mauldin. Except as otherwise provided in this Ordinance, anyone seeking to perform any of these actions shall first duly file a written application with the City, in accordance with the requirements in this Ordinance.

All small cell wireless facility applications filed pursuant to this Ordinance shall be on a form, paper or electronic, as required by the City. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page or section of such materials accordingly, and the City shall endeavor to protect materials so designated from public disclosure to the fullest extent permitted by state law.

Unless otherwise required by state or federal law, all applicants shall submit to the City the materials and information outlined below for the application to be considered complete:

- (1) The applicant’s name, address, telephone number and e-mail address;
- (2) Facility owner’s name, address, telephone number and e-mail address, if different from the applicant;
- (3) The location of each small cell wireless facility installation;
- (4) Intended facility use: owner operated or owner leased capacity;
- (5) The names, addresses, telephone numbers, and e-mail addresses, of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;
- (6) A general description of the proposed scope of work for the location or collocation of the small cell wireless facility;

- (7) A detailed drawing that depicts the installation location and plans that illustrate the facility and equipment to be installed;
- (8) Evidence that the facility has been properly engineered;
- (9) Verification of payment of the annual municipal consent or administrative fee for telecommunications companies to use public rights-of-way pursuant to S.C. Code § 58-9-2230 and acknowledgement of its continuing obligation in accordance with those statutes;
- (10) Verification of municipal business license, if applicable;
- (11) Evidence that the applicant is duly authorized to do business in South Carolina;
- (12) Evidence the applicant complies with all applicable FCC regulations;
- (13) A copy of an approved South Carolina Department of Transportation (SCDOT) encroachment permit and all documents required by SCDOT as part of the encroachment permit application, if the proposed location is within a SCDOT right-of-way; and
- (14) A statement that the applicant has a lease, attachment agreement or other authorization from the owner of the utility pole or structure proposed for collocation.

#### B. Consolidated Application for Multiple Small Cell Wireless Facilities

Applicants seeking to construct, modify, collocate, or replace more than one small cell wireless facility, may file, at the applicant's discretion, a consolidated application for up to 20 requests in a single application and receive a single permit for the construction, modification, collocation, or replacement of the small cell wireless facility subject to the following:

- (1) This single application may be filed for multiple small cell wireless facilities only if they are of substantially the same type.
- (2) The City will separately address small cell wireless facilities for which incomplete information has been received or which are denied and it will grant a permit for any and all sites in a single application that it does not deny subject to the requirements of this Ordinance.
- (3) In the case of a consolidated application, the fees shall be cumulative.

#### C. Fees and Costs

- (1) *Application processing costs.* Unless otherwise provided by law, including without limitation S.C. Code § 58-9-2230, all applications for permits pursuant to this Ordinance shall be accompanied by an application processing cost of \$100.00. Application costs for small cell wireless facilities applied for in a consolidated application shall be \$100.00 each for the first 5 small wireless facilities and \$50.00 each for each additional small wireless facility.

For clarity, any applicant that pays either a franchise, consent fee, or administrative fee pursuant to the requirements of S.C. Code § 58-9-2230 shall not be required to pay any application or permit fees or any other fee assessed on a telecommunications provider for its occupation of or work within the right-of-way.

- (2) *Annual rate for attachments to City-owned poles.* The annual rate to place a small cell wireless facility on a City-owned pole shall be \$250.00 for each small wireless facility per year. The City reserves the right to require a pole attachment to further define the terms and conditions of attachments to City-owned poles.

The applicant shall reimburse the City for expenses for any reasonable make-ready work. The City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested small cell wireless facility, including pole replacement if necessary, within 60 days after a receipt of a completed request. Make-ready work including any pole replacement shall be completed within 60 days of written acceptance of the good faith estimate by the wireless services provider or the wireless infrastructure provider.

- (3) *Lawful fees and taxes.* In addition to the applicable fees as specified above, every permit shall include as a condition the applicant's agreement to pay such lawful franchise fees, business license taxes, administrative fees and consent fees as are permitted under applicable ad valorem taxes, service fees, sales taxes, or other taxes and fees as may now or hereafter be lawfully imposed on other businesses within the City.
- (4) *Cease payment following removal.* A wireless services provider is authorized to remove its facilities at any time from a City-owned pole and cease paying the annual rate to the City as of the next due date for payment following the removal, provided, however, the provider pay its pro-rata share of the remaining term and expenses, if any.
- (5) *Tax liabilities and assessments not applicable.* Placement of a small cell wireless facility in the public rights-of-way or attachment of any portion of a small cell wireless facility to a wireless support structure and any fees associated therewith shall not subject the City to any state or local tax liabilities or assessments.

#### D. Application Review

- (1) *Application completeness.* Shortly after receiving an application, the City will determine and notify the applicant whether the application is complete; or if an application is incomplete, the City will specifically identify the missing information.
- (2) *Application review.* Absent an arrangement to the contrary between the City and the applicant that is confirmed by e-mail or other writing, the City shall grant or deny an application according to its typical review timeframes.



- (3) *Application denial.* If an application is denied, the City will provide in writing its reasons for denying the request, including, if applicable, specific references to any applicable law supporting the denial.
- (4) *Application resubmittal.* Notwithstanding an initial denial, the applicant may cure the deficiencies identified by the City and resubmit the application to the City for further review.
- (5) *Review timeframes.* The City recognizes the “shot clock” deadlines provided by FCC 18-133. Namely, this Order offers a 60-day shot clock for reviewing the placement of small cell wireless facilities on existing poles and a 90-day shot clock for reviewing the installation of new poles for small cell wireless facilities, among other shot clock guidelines. The City’s typical review timeframes are much shorter than these FCC shot clock guidelines and the City will make every effort not to exceed the FCC shot clock guidelines, notwithstanding any reasonable delays due to unforeseen circumstances.
- (6) *Removal of a small cell wireless facility.* The City shall act on requests to remove wireless support structures associated with a small cell wireless facility from the public rights-of-way in accordance with its typical review timeframes for the general right-of-way permit required for this activity.

E. Routine Maintenance

An application shall not be required for routine maintenance.

**44-5. Installation Guidelines**

The following standards shall apply to all small cell wireless facilities within the public right-of-way throughout the City of Mauldin, unless otherwise noted.

A. Installation Types

Two types of installation of small cell wireless facilities are permissible within the public right-of-way within the City of Mauldin: (1) placement on existing poles and (2) installation of new poles. Existing poles may include utility poles, light poles, poles used for traffic control devices, or similar structures. In order to minimize clutter and congestion of structures within the public right-of-way, applicants shall consider placing facilities on existing poles prior to installing any new poles or similar support structures.

Pursuant to its evaluation of a permit for the installation of a small cell wireless facility, the City may require, in its discretion, the additional use of reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening to avoid significant negative impacts on the character and visual aesthetics of the area; provided, however, that an applicant may request a waiver from City Council of any such requirement if the applicant believes the small cell wireless facility does not warrant stealth or concealment treatment or imposes an excessive expense. Such request for waiver must be made in writing and will be reviewed by the appropriate standing committee of City Council at their next scheduled meeting after a request has been received. The standing

committee will consider, but is not required, forwarding the request to City Council for its approval.

#### B. Placement on Existing Poles

Antennas associated with small cell wireless facilities may be placed on an existing pole, provided the antenna is placed in as unobtrusive manner as technically feasible and appropriately concealed. To the extent technically feasible, antenna shall be placed as follows.

- (1) *Enclosed shroud.* Antennas shall be completely housed within a shroud, cantenna, or similar enclosure. The enclosure shall generally be cylindrical or curved in shape.
- (2) *Maximum size.* The enclosure shall not exceed 3 cubic feet in volume and shall not exceed a height of 10 feet above the top of the existing pole.
- (3) *Color.* The color of the enclosure shall reasonably blend with the color of the support structure pole and should match the color where feasible.
- (4) *Top-mounted specifications.* Unless otherwise required by the owner of the pole, the enclosure shall be top mounted to the top of the support structure pole, aligned with the centerline of the structure and flush to the top of the support structure pole.

The circumference of the enclosure should generally match the circumference of the support structure pole. If the circumference of the enclosure differs from the circumference of the support structure pole, the enclosure should be tapered to meet the top of the pole. In no case shall the diameter of the enclosure be wider than 1.75 times the diameter of the top of the pole.

- (5) *Side-mounted specifications.* Where the antenna cannot be placed at the top of the pole, it may be mounted on the side of the pole. The enclosure shall extend perpendicular from the pole and parallel to the adjacent roadway, positioned opposite to the direction of oncoming vehicular traffic in the closest travel lane.

The enclosure shall provide a minimum clearance of 10 feet above the established grade and shall not protrude more than 30 inches beyond the face of the pole to the outermost portion of the enclosure.

The enclosure shall be installed as flush to the pole as possible. Metal flaps or “wings” shall extend from the enclosure to the pole to conceal any gap between the enclosure and the pole. The width of the enclosure should generally match the diameter of the pole to which it is attached. In no case shall the width of the enclosure be wider than 1.75 times the diameter of the pole.



Figure 1 - Example of an antenna enclosure with a curved shape side-mounted to a pole

### C. Installation of New Poles

New poles to support small cell wireless facilities should generally be installed only when the it is not technically feasible or there is no available opportunity for the applicant to use an existing pole. New poles may be installed as follows.

- (1) *Design.* New poles shall be constructed of metal and shall be cylindrical in shape. The design of the pole shall accommodate the installation of accessory equipment inside the pole at its base, or otherwise concealed inside the pole.
- (2) *Maximum size.* New poles shall coordinate with the height of existing poles in the same corridor to the maximum extent practicable. If a compatible height cannot be clearly determined, then a maximum pole height of 30 feet above grade shall apply. The diameter of the pole shall be consistent with existing poles in the same corridor.
- (3) *Color.* New poles shall match the color of existing metal poles in the same corridor to the maximum extent practicable. In the absence of existing metal poles, the color shall be a black powder coated finish.
- (4) *Placement.* New poles shall be located in alignment with existing trees, utility poles, street lights, and similar objects, and should be spaced evenly between these objects.

New poles should be aligned as close as practicable with adjacent side property lines or with shared wall locations in adjacent multi-tenant buildings. In no case shall a new pole be placed directly in front of an adjacent building entrance or storefront. Special care should be taken to avoid placing new poles in conflict with business signs.

The placement of new poles shall not obstruct or be hazardous to pedestrians, cyclists, or motorists. New poles shall not be placed in conflict with required intersection sight distance triangles.

Additionally, new poles shall be placed as follows.

- (a) New poles shall be set back at least 20 feet from driveway aprons.
- (b) New poles shall be set back at least 15 feet from any tree to prevent disturbance within the critical root zone of the tree.
- (c) New poles shall be set back at least 2 feet from any sidewalk edge or other walkway.
- (d) New poles shall be set back at least 4 feet from any road pavement edge.
- (e) New poles shall be set back at least 8 feet from any fire hydrant.

#### D. Accessory Equipment

Accessory equipment should generally be installed in an underground equipment vault, entirely concealed inside the pole, or placed within a cabinet integrated in the base of the pole. Equipment cabinets integrated in the base of the pole shall be cylindrical in shape and should match the color of the pole where feasible. The integrated cabinet shall not exceed the diameter of the pole by more than 18 inches, and the transition between the integrated cabinet and the pole shall be tapered.

Accessory equipment should not be attached to the exterior of the pole or placed in a separate ground-mounted cabinet unless no other placement is feasible or less intrusive. When equipment must be attached to the exterior of the pole or placed in a ground-mounted cabinet, it shall be installed as follows.

- (1) *Pole-mounted equipment.* Pole-mounted equipment shall be mounted in as unobtrusive a manner as technically feasible and incorporate concealment elements. Equipment should be flush-mounted to the pole, with all cabling neat and concealed. The color of the equipment, or the color of any cabinets or similar enclosures in which it is concealed, shall reasonably blend with the color of the support structure pole and should match the color where feasible.
- (2) *Ground-mounted equipment.* Separate ground-mounted equipment is generally not permissible except where the equipment is appropriately disguised as public art or street furniture as accepted by the City Council.

### 44-6. General Standards

#### A. City-Owned Support Structures

- (1) *Agreement.* The City, in its proprietary capacity, retains sole and absolute discretion over whether and on what terms it may allow small cell facilities on its structures. Applicants shall provide a valid and fully executed agreement to use any City-owned support structure.
- (2) *Power supply.* Small cell facilities located on City-owned structures shall not use the same power or communication source providing power and/or communication for the existing facility original to the purposes of the structure. The independent

power source must be contained within a separate conduit inside the support structure. The applicant shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.

- (3) *Power disconnect.* The City reserves the right to disconnect power to the radio when working on the structure. The applicant shall provide a disconnect so the City has the ability to easily shut off radio signals and power while working on the structure.

#### B. Removal of Small Cell Facilities and Wireless Support Structures

- (1) *General area.* Applicants shall restore and repair all areas of the right-of-way impacted by the small cell facilities and/or wireless support structure installation and/or removal to equal or better condition.
- (2) *City-owned structures.* All City-owned support structures shall be returned to an equal or better state, upon removal of small cell facilities. All mounting hardware and equipment shall be removed from the site. All holes left in the pole shall be neatly sealed from any moisture intrusion and painted to match the pole.
- (3) *Repairs.* If the applicant fails to make repairs required by the City within 30 days after written notice, unless the applicant and the City agree in writing to a longer time period, the City may undertake those repairs and charge the applicant the reasonable and documented cost of the repairs. The City may maintain an action to recover the costs of the repairs.

#### C. Lighting

Lighting associated with small cell facilities is prohibited. Any internal lights associated with electronic equipment shall be shielded from public view. This provision shall not prohibit the installation of street lights on poles.

#### D. Noise

Noise produced by small cell facilities shall not exceed 5dBA above ambient sound. Other noise regulations may apply.

#### E. Labels and Signage

- (1) *Owner identification.* A maximum 4-inch by 6-inch plate or label with the Carrier's name, location, identifying information, and emergency telephone number shall be permanently affixed to the small cell equipment enclosure on the side of the enclosure opposite the direction of vehicular traffic of the adjacent roadway. ID labels shall use background colors that match the color of the enclosure to which the label is affixed.
- (2) *RF warning sticker.* A maximum 4-inch by 6-inch sticker shall be affixed to the small cell facility on the side of the facility opposite the direction of the adjacent roadway as may be required by government or utility regulations. Stickers shall use background colors that match the color of the facility to which the label is affixed.

- (3) *Signage.* Signage is prohibited on all small cell facilities and wireless support structures, including stickers, logos, text, and other non-essential graphics and information other than the owner identification unless required by FCC.

#### F. Prohibited Wireless Facilities

Microwave, macro towers, and other wireless backhaul facilities are not permitted within the right-of-way, except where permitted by franchise agreement or applicable law.

#### G. Engineering

- (1) All small cell facilities and wireless support structures can have a significant structural, wind and other loading impact. All small cell facilities attachments and new wireless support structures shall be properly engineered to assure safety.
- (2) All structural components of small cell facilities and wireless support structures shall be designed for a minimum of 115 MPH wind velocity in accordance with applicable standards.

#### H. Health and Safety

All small cell wireless facilities shall comply with all applicable FCC regulations and shall provide certification of such compliance.

### **44-7. Effect of Permit**

#### A. Authority Granted

*No Property Right or Other Interest Created.* A permit from the City authorizes an applicant to undertake only certain activities in accordance with the Ordinance, and does not create a property right or grant any authority whatsoever to the applicant to impinge upon the rights of others who may already have an interest in the covered area.

#### B. Duration

Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than 12 months unless both City and applicant agree to a reasonable extension and all required fees are paid for the term regardless of construction. The inability of the applicant to obtain electrical power or backhaul transport services to serve the wireless facility such that it is operational within the 12 months due to the action or inaction of third-party utility providers shall not result in the invalidity of the permit.

### **44-8. Removal, Relocation or Modification of a Small Wireless Facility in the ROW**

#### A. Notice

Within 90 days following written notice from the City, an applicant shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small cell wireless facilities within the rights-of-way whenever the City, in its reasonable discretion, has determined that such removal, relocation, change

or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

**B. Emergency Removal or Relocation of Facilities**

The City retains the right to cut or move any small cell wireless facilities or support structure located within its rights-of-way as the City, in its reasonable discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the applicant and provide opportunity to move its own small cell wireless facilities or support structure prior to the City cutting or removing a small cell wireless facility and the City shall notify the applicant after cutting or removing a wireless facility.

**C. Abandonment of Facilities**

Upon abandonment of a small cell wireless facility within the City rights-of-way, the applicant shall notify the City within 90 days of such abandonment. Following receipt of such notice the City may direct the applicant to remove all or any portion of the small cell wireless facility if the City, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

**D. Abandonment by Inaction**

At any point when an applicant fails to pay any required fee, or annual payment to the City, and fails to respond within 60 days to a written inquiry from the City as to whether the applicant intends to continue to operate a small cell wireless facility, for whatever reason, the small cell wireless facility shall be deemed abandoned and the City may, at its sole option, remove all or any portion of the small cell wireless facility, or take other action as authorized by law, including recovery of actual costs incurred in removing the small cell wireless facility.

**44-9. Severability**

In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

**44-10. Effective Date**

This Ordinance shall be effective upon second reading.

This ordinance shall become effective upon and after its final passage.

Passed on First Reading: \_\_\_\_\_

Passed on Second Reading \_\_\_\_\_

CITY OF MAULDIN, SOUTH CAROLINA

BY: \_\_\_\_\_

Terry Merritt, Mayor

ATTEST:

\_\_\_\_\_

Cindy Miller, Municipal Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

John Duggan, City Attorney



**South Carolina General Assembly**  
123rd Session, 2019-2020

**R190, H4262**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Simrill, Rutherford, Sandifer, Forrester, West, Jefferson, R. Williams, Anderson, Weeks, G.R. Smith, S. Williams and Gilliard

Document Path: I:\council\bill\cc\15546zw19.docx

Companion/Similar bill(s): 638

Introduced in the House on March 19, 2019

Introduced in the Senate on April 4, 2019

Last Amended on September 23, 2020

Passed by the General Assembly on September 24, 2020

Summary: Small Wireless Facilities Deployment Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
3/19/2019	House	Introduced and read first time ( <a href="#">House Journal-page 39</a> )
3/19/2019	House	Referred to Committee on <b>Labor, Commerce and Industry</b> ( <a href="#">House Journal-page 39</a> )
3/20/2019	House	Member(s) request name added as sponsor: West
3/21/2019	House	Member(s) request name added as sponsor: Jefferson, R.Williams
3/26/2019	House	Member(s) request name added as sponsor: Anderson
3/26/2019	House	Committee report: Favorable with amendment <b>Labor, Commerce and Industry</b> ( <a href="#">House Journal-page 40</a> )
3/27/2019	House	Member(s) request name added as sponsor: Weeks
3/27/2019	House	Requests for debate-Rep(s). Sandifer, G.M. Smith, Hiott, Clary, Felder, Stavrinakis, Fry, Crawford, Anderson, Simrill, Rose, Thayer, West, Alexander ( <a href="#">House Journal-page 60</a> )
3/27/2019		Scrivener's error corrected
3/28/2019	House	Member(s) request name added as sponsor: G.R.Smith, S.Williams
4/3/2019	House	Member(s) request name added as sponsor: Gilliard
4/3/2019	House	Amended ( <a href="#">House Journal-page 70</a> )
4/3/2019	House	Read second time ( <a href="#">House Journal-page 70</a> )
4/3/2019	House	Roll call Yeas-108 Nays-2 ( <a href="#">House Journal-page 131</a> )
4/4/2019	House	Read third time and sent to Senate ( <a href="#">House Journal-page 40</a> )
4/4/2019	Senate	Introduced and read first time ( <a href="#">Senate Journal-page 4</a> )
4/4/2019	Senate	Referred to Committee on <b>Judiciary</b> ( <a href="#">Senate Journal-page 4</a> )
4/4/2019		Scrivener's error corrected
4/10/2019	Senate	Referred to Subcommittee: Gambrell (ch), Hutto, Massey, Sabb, Climer
1/28/2020	Senate	Referred to Subcommittee: Gambrell (ch), Hutto, Goldfinch, Sabb, Climer
9/23/2020	Senate	Recalled from Committee on <b>Judiciary</b> ( <a href="#">Senate Journal-page 24</a> )
9/23/2020	Senate	Amended ( <a href="#">Senate Journal-page 24</a> )
9/23/2020	Senate	Read second time ( <a href="#">Senate Journal-page 24</a> )

9/23/2020 Senate Roll call Ayes-32 Nays-6 ([Senate Journal-page 24](#))  
9/23/2020 Senate Unanimous consent for third reading on next legislative day ([Senate Journal-page 24](#))  
9/24/2020 Senate Read third time and returned to House with amendments ([Senate Journal-page 4](#))  
9/24/2020 House Concurred in Senate amendment and enrolled  
9/24/2020 House Roll call Yeas-104 Nays-1  
9/25/2020 Ratified R 190

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## VERSIONS OF THIS BILL

[3/19/2019](#)  
[3/26/2019](#)  
[3/27/2019](#)  
[4/3/2019](#)  
[4/4/2019](#)  
[9/23/2020](#)

**NOTE: THIS IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL FINAL APPROVAL BY THE LEGISLATIVE COUNCIL.**

(R190, H4262)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 11, TITLE 58 SO AS TO, AMONG OTHER THINGS, ENACT THE “SOUTH CAROLINA SMALL WIRELESS FACILITIES DEPLOYMENT ACT”; TO MAKE LEGISLATIVE FINDINGS; TO DEFINE RELEVANT TERMS; TO MAKE PROVISIONS FOR CERTAIN AGREEMENTS OR ENACTMENTS ADDRESSING THE DEPLOYMENT OF SMALL WIRELESS FACILITIES ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THIS ACT; TO PROVIDE, AMONG OTHER THINGS, GUIDELINES AND PROCEDURES TO UNITS OF LOCAL GOVERNMENT REGARDING ENACTMENTS ADDRESSING DECORATIVE POLES, UNDERGROUND DISTRICTS, DESIGN DISTRICTS, AND HISTORIC DISTRICTS; TO AFFIRM THE POWERS OF UNITS OF LOCAL GOVERNMENT WITH RESPECT TO WIRELESS FACILITIES THAT ARE NOT SMALL WIRELESS FACILITIES LOCATED WITHIN RIGHTS OF WAY; TO PROVIDE, AMONG OTHER THINGS, GUIDELINES AND PROCEDURES TO WIRELESS PROVIDERS AND UNITS OF LOCAL GOVERNMENT WITH CONTROL OVER RIGHTS OF WAY REGARDING THE COLLOCATION OF CERTAIN SMALL WIRELESS FACILITIES WITHIN RIGHTS OF WAY; TO MAKE PROVISIONS FOR APPLICATIONS, FEES, APPLICATION REVIEW, AND THE ISSUANCE OF PERMITS FOR THE COLLOCATION OF SMALL WIRELESS FACILITIES; TO REQUIRE THAT APPLICATIONS TO COLLOCATE SMALL WIRELESS FACILITIES PURSUANT TO THIS ARTICLE MUST BE PROCESSED ON A NONDISCRIMINATORY BASIS; TO ENUMERATE THE CONDITIONS UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY DENY AN APPLICANT’S PROPOSED COLLOCATION OF A SMALL WIRELESS FACILITY, AND TO PROVIDE THAT SUBJECT TO THE ABILITY OF A UNIT OF LOCAL GOVERNMENT TO DENY AN APPLICATION, THE COLLOCATION OF SMALL WIRELESS FACILITIES MUST BE ALLOWED ON NONDISCRIMINATORY TERMS AND CONDITIONS; TO PROVIDE THAT THE ADMINISTRATIVE LAW COURT HAS CONTESTED CASE JURISDICTION TO DETERMINE ALL DISPUTES ARISING UNDER**



**THIS ACT; AND TO PROHIBIT A UNIT OF LOCAL GOVERNMENT FROM REQUIRING A WIRELESS PROVIDER TO INDEMNIFY AND HOLD THE AUTHORITY AND ITS OFFICERS AND EMPLOYEES HARMLESS AGAINST ANY CLAIMS, LAWSUITS, JUDGMENTS, COSTS, LIENS, LOSSES, EXPENSES, OR FEES, EXCEPT WHEN A COURT OF COMPETENT JURISDICTION HAS FOUND THAT THE NEGLIGENCE OF THE WIRELESS PROVIDER WHILE INSTALLING, REPAIRING, OR MAINTAINING FACILITIES, POLES, OR SUPPORT STRUCTURES PURSUANT TO THIS ACT CAUSED THE HARM THAT CREATED SUCH CLAIMS, LAWSUITS, JUDGMENTS, COSTS, LIENS, LOSSES, EXPENSES, OR FEES.**

Be it enacted by the General Assembly of the State of South Carolina:

**Small Wireless Facilities Deployment Act**

SECTION 1. Chapter 11, Title 58 of the 1976 Code is amended by adding:

“Article 5

Small Wireless Facilities Deployment Act

Section 58-11-800. (A) This article must be known and may be cited as the ‘South Carolina Small Wireless Facilities Deployment Act’.

(B) The General Assembly finds that:

(1) the deployment of small wireless facilities and other next-generation wireless and broadband network facilities is a matter of statewide concern and interest;

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

(3) rapid deployment of small wireless facilities serves numerous important statewide goals and public policy objectives including, but not limited to, meeting growing consumer demand for wireless data, 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;

(4) small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, are deployed most effectively in the right of way (ROW);

(5) to meet the key objectives of this article, wireless providers must have access to the ROW and the ability to attach to infrastructure in the ROW to densify their networks and provide next generation wireless services;

(6) uniform rates and fees for the permitting and deployment of small wireless facilities in the ROW and on authority infrastructure, including poles, throughout the State is reasonable and encourages the development of robust next-generation wireless and broadband networks for the benefit of citizens throughout the State;

(7) the procedures, rates, and fees in this article are fair and reasonable when viewed from the perspective of the state’s citizens and the state’s interest in 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 authorities in recovering their costs of managing access to the ROW and the attachment space provided on authority infrastructure in the ROW; and

(8) this article supersedes and preempts any enactment by an authority that contradicts, expands, contracts, or otherwise modifies the provisions of this article with respect to the regulation of the placement of small wireless facilities and of support structures and poles for small wireless facilities in the ROW



provided; however, that nothing in this item limits any power granted to any authority under this article including, but not limited to, the power to enforce city-wide compliant provisions in previous enactments, so long as those provisions do not violate federal law.

Section 58-11-810. For purposes of this article:

- (1) 'Antenna' means:
  - (a) communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services; and
  - (b) similar equipment used for the transmission or reception of surface waves.
- (2) 'Applicable codes' means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, or local amendments to those codes that are of general application, address public safety, and are consistent with this article.
- (3) 'Applicant' means any person that submits an application.
- (4) 'Application' means a request submitted by an applicant to an authority:
  - (a) for a permit to collocate small wireless facilities; or
  - (b) to approve the installation, modification, or replacement of a pole.
- (5) 'Authority' means any county, municipality, or consolidated government or any agency, district, subdivision or instrumentality thereof.
- (6) 'Authority pole' means a pole owned, managed, or operated by or on behalf of an authority, provided however, that an authority pole shall not include any pole, support structure, electric transmission structure, or equipment of any type that is part of a municipally owned or municipally controlled electric plant or system for furnishing of electricity to the public for compensation.
- (7) 'Collocate or collocation' means to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a support structure or pole.
- (8) 'Communications facility' means the set of equipment and network components, including wires, cables, surface wave couplers, and associated facilities used by a cable operator, as defined in 47 U.S.C. Section 522(5); a provider of 'video service' as defined in Section 58-12-300(10); a telecommunications carrier, as defined in 47 U.S.C. Section 153(51); a provider of information service, as defined in 47 U.S.C. Section 153(24); or a wireless services provider to provide communications services, including cable service, as defined in 47 U.S.C. Section 522(6); telecommunications service, as defined in 47 U.S.C. Section 153(53); an information service, as defined in 47 U.S.C. Section 153(24); wireless service; surface wave communication, or other one-way or two-way communications service.
- (9) 'Communications network' means a network used to provide communications service.
- (10) 'Communications service' means cable service as defined in 47 U.S.C. Section 522(6), information service as defined in 47 U.S.C. Section 153(24), telecommunications service as defined in 47 U.S.C. Section 153(53), or wireless service.
- (11) 'Communications service provider' means a cable operator, as defined in 47 U.S.C. Section 522(5); a provider of information service, as defined in 47 U.S.C. Section 153(24); a telecommunications carrier, as defined in 47 U.S.C. Section 153(51); or a wireless provider.
- (12) 'Compliant provision' means a provision or regulation in an enactment applicable to poles, support structures, replacement poles, and small wireless facilities that:
  - (a) addresses only: aesthetics, design, concealment, or stealth requirements that are technically feasible and technologically neutral; decorative poles; underground districts; design districts, or historical districts;
  - (b) is reasonable;
  - (c) is published within thirty days prior to becoming applicable with regard to any wireless provider; and
  - (d) is not an effective prohibition of service that is prohibited by federal law.
- (13) 'Decorative pole' means an authority pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, public safety



devices, or specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal rules or codes.

(14) ‘Design district’ means a discrete area within the jurisdiction of the authority that is clearly defined in an enactment published at least thirty days before it becomes effective, and for which the authority maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis among all occupants of the ROW, on the grounds that the characteristics of the discrete area warrant design and aesthetic standards that differ from those that apply to the vast majority of the areas within the jurisdiction of the authority.

(15) ‘Design manual’ means a binding measure adopted by an authority that sets forth examples of small wireless facility deployments that the authority deems to comply with this article.

(16) ‘Enactment’ means any ordinance, rule, policy, design manual, or equivalently binding measure adopted by an authority.

(17) ‘FCC’ means the Federal Communications Commission of the United States.

(18) ‘Fee’ means a one-time, nonrecurring charge.

(19) ‘Historic district’ means a group of buildings, properties, or sites that is either:

(a) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or

(b) a registered historic district pursuant to state law at the time the permit for the small wireless facility or pole is submitted; or

(c) an overlay zone, as defined in and limited by Section 6-29-720(C)(5):

(i) that has been established by the authority with regulatory control of zoning within the specified geographic area at least sixty days prior to the relevant application;

(ii) for which the special public interest to be protected is the preservation and protection of historic and architecturally valuable districts and neighborhoods or archaeologically significant resources according to uniform design standards; and

(iii) for which the authority maintains and enforces objective standards that are published in advance and applied on a uniform and nondiscriminatory basis.

(20) ‘Law’ means an enactment or a federal or state law, statute, common law, code, rule, regulation, or order.

(21) ‘Micro wireless facility’ means a small wireless facility that meets the following qualifications:

(a) is not larger in dimension than twenty-four inches in length, fifteen inches in width, and twelve inches in height; and

(b) any exterior antenna that is no longer than eleven inches.

(22) ‘Network interface device’ means the telecommunications demarcation device and cross connect point demarcating the boundary with any wireline backhaul facility and which is on or adjacent to the pole or support structure supporting the small wireless facility.

(23) ‘Permit’ means a written authorization, in electronic or hard copy format, required to be issued by an authority to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole upon which a small wireless facility is to be collocated.

(24) ‘Person’ means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

(25) ‘Pole’ means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way including, but not limited to, a replacement pole and an authority pole. A ‘pole’ shall not include a support structure or electric transmission structure.

(26) ‘Rate’ means a recurring charge.



(27) ‘Right of way’ or ‘ROW’ means the area through, upon, over, or under a road, highway, street, sidewalk, alley, or similar property provided; however, that such term shall apply only to property or any interest therein that is under the ownership or control of an authority and shall not include property or any interest therein acquired for or devoted to a federal interstate highway.

(28) ‘Small wireless facility’ means radio transceivers; surface wave couplers; antennas; coaxial or fiber optic cable located on a pole or support structure, immediately adjacent to a pole or support structure, or directly associated with equipment located on a pole or support structure and within a one hundred-foot radius of the pole or support structure; regular and backup power supplies and rectifiers; and associated ancillary equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meets both of the following qualifications:

(a) each wireless provider’s antenna could fit within an enclosure of no more than six cubic feet in volume; and

(b) all other wireless equipment associated with the small wireless facility, whether ground or pole mounted, is cumulatively no more than twenty-eight cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters, concealment elements, network interface devices, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services. The term ‘small wireless facility’ does not include: the pole, support structure, or improvements on, under, or within which the equipment is located or collocated or to which the equipment is attached; wireline backhaul facilities; or coaxial or fiber optic cable that is between small wireless facilities, poles, or support structures or that is otherwise not immediately adjacent to or directly associated with a particular antenna. For purposes of this subsection, in order to be considered directly associated with equipment located on a pole or support structure, coaxial or fiber optic cable must not extend more than one hundred feet in radial circumference from the base of the pole or support structure to which the small wireless facility antenna is attached. No portion of a small wireless facility as defined in this subsection may be used as a wireline backhaul facility.

(29) ‘Support structure’ means a building, billboard, or any other structure in the ROW to which a small wireless facility is or may be attached. A ‘support structure’ shall not include an electric transmission structure or pole.

(30) ‘Technically feasible’ means that by virtue of engineering or spectrum usage the proposed placement for a small wireless facility, or its design, concealment measures, or site location can be implemented without a material reduction in the functionality of the small wireless facility.

(31) ‘Underground district’ means a group of buildings, properties, or sites:

(a) that has been established by the authority with regulatory control of zoning within the specified geographic area;

(b) in which the authority, at least sixty days prior to the relevant application, has required all communications and electric lines in the specified geographic area to be placed underground; and

(c) for which the authority maintains and enforces objective standards that are published in advance and applied on a uniform and nondiscriminatory basis.

(32) ‘Wireless communications’ means any communications using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public.

(33) ‘Wireless infrastructure provider’ means any person, including a person authorized to provide telecommunications service in the State, acting to build or install wireless communication transmission equipment, wireless facilities or support structures, but that is not a wireless services provider.

(34) ‘Wireless provider’ means a wireless infrastructure provider or a wireless services provider.

(35) ‘Wireless services’ means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public.

(36) ‘Wireless services provider’ means a person who provides wireless services.



(37) ‘Wireline backhaul facility’ means an above-ground or underground wireline facility used to transport communications between a small wireless facility network interface device and a network or another small wireless network interface device.

Section 58-11-815. (A) If an authority and a wireless provider entered into a written agreement addressing the subject matter of this article prior to the effective date of this act:

(1) this article shall not apply until such agreement expires or is terminated pursuant to its terms with regard to poles, support structures, replacement poles, and small wireless facilities installed pursuant to such agreement prior to the effective date of this act; otherwise,

(2) the provisions of this article shall apply to poles, support structures, replacement poles, and small wireless facilities installed in the ROW on or after the effective date of this act.

(B) With regard to any enactment that was adopted prior to the effective date of this article and that addresses the subject matter of this article:

(1) any compliant provisions in such enactment remain in effect and, to the extent that such compliant provisions apply to decorative poles, underground districts, design districts, or historic districts, shall apply in lieu of Section 58-11-820(F)(2), (G)(1), and (H); and

(2) all other provisions of any such enactment are invalid, and all other provisions of this article apply in lieu thereof.

(C) An authority may adopt an enactment that:

(1) adopts compliant provisions, which to the extent that such compliant provisions apply to decorative poles, underground districts, design districts, or historic districts, shall apply in lieu of the provisions of Section 58-11-820(F)(2), (G)(1), and (H);

(2) authorizes wireless providers to install and operate small wireless facilities and associated poles and support structures in strict compliance with all other provisions of this article; and

(3) if the authority is a municipality, grants any consent that has not previously been granted, either expressly or otherwise, for wireless providers to install and operate small wireless facilities and associated poles and support structures in compliance with items (1) and (2).

(D) An enactment that strictly complies with subsection (B) or (C) complies with this article and shall be fully applicable within the territorial jurisdiction of such authority. In the absence of such an enactment, and until such an enactment is adopted, if at all, a wireless provider may install and operate small wireless facilities and associated poles and support structures under the requirements of this article on and after the effective date of this act.

(E)(1) Other than an agreement provided for in Section 58-11-815(G), an authority must not require a wireless provider to enter into an agreement including, but not limited to, a franchise agreement whether memorialized in an enactment or in any other manner, to implement this article, but nothing in this article prohibits an authority and a wireless provider from voluntarily entering one or more such agreements after the effective date of this article, including such agreements with rates, fees, and other terms that differ from those in this article provided; however, that the authority must make each such agreement available for public inspection and available for adoption upon the same terms and conditions to any requesting wireless provider.

(2) Agreements entered into pursuant to item (1) are public-private arrangements and are matters of legitimate and significant statewide concern.

(F) Nothing in this article limits an authority’s powers with respect to wireless facilities that are not small wireless facilities in the ROW, or poles that are used for purposes other than installation of small wireless facilities in the ROW.

(G) Nothing in this article prevents an authority from requiring a provider seeking to collocate small wireless facilities on authority poles to enter an agreement establishing the terms and conditions for use of those authority poles. Upon request by a wireless provider, the authority must make available such an agreement with terms and conditions that are just, reasonable, nondiscriminatory, and compliant with the



provisions of this article. If the wireless provider requests additional or different terms and conditions, the parties shall seek to negotiate an agreement expeditiously and in good faith.

(H) Nothing in this article permits a wireless provider to use public property outside the ROW or private property without the consent of the property owner.

Section 58-11-820. (A) The provisions of this section shall apply only to activities of a wireless provider within the ROW to deploy small wireless facilities and associated poles.

(B) An authority may not enter into an exclusive arrangement with any person for use of the ROW for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of poles.

(C)(1) Subject to the exceptions in Section 58-11-830(F)(1), an authority may charge a wireless provider a rate or fee for the use of the ROW with respect to the collocation of small wireless facilities or the installation, maintenance, modification, operation, or replacement of a pole in the ROW only if such rate or fee is nondiscriminatory and only if the authority charges other similarly situated entities for use of the ROW.

(2) Notwithstanding the provisions of item (1) of this subsection, an authority is permitted, on a nondiscriminatory basis, to refrain from charging any rate or fee to a wireless provider for the use of the ROW. The rates or fees for such use of the ROW and associated applications and attachments to authority poles are provided in Section 58-11-850.

(D) Subject to the provisions of this section, a wireless provider shall have the right, as a permitted use subject only to administrative review pursuant to Section 58-11-830, to collocate small wireless facilities and install, maintain, modify, operate, and replace poles in the ROW. These structures and facilities must be installed and maintained so as not to: create a safety hazard; obstruct or hinder the usual travel in or the public's safe use of the ROW; or obstruct the legal use of the ROW by utilities.

(E)(1) Each new or modified pole installed in the ROW may not exceed the greater of ten feet in height above the tallest existing pole in place as of the effective date of this article located within five hundred feet of the new pole in the same ROW, or fifty feet above ground level provided; however, that for applications to place poles in residential zoning districts to deploy small wireless facilities, the authority may propose an alternate location in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(2) New small wireless facilities in the ROW may not extend more than ten feet above an existing pole in place as of the effective date of this article; or for small wireless facilities on a new pole, above the height permitted for a new pole pursuant to this section.

(3) To the extent permitted by and approved under applicable zoning or other regulations, a wireless provider shall have the right to collocate a small wireless facility on and install, maintain, modify, operate, and replace poles in the ROW that exceed the height limits set forth in item (1).

(F)(1) Subject to an authority's ability to deny the proposal as set forth in this article, a wireless provider must be permitted to collocate on or replace decorative poles when necessary to deploy a small wireless facility.

(2) An authority may require the collocation on a decorative pole or the replacement of a decorative pole to reasonably conform to the design aesthetics of the original decorative pole, provided these requirements are technically feasible.

(3)(a) For applications to replace decorative poles to deploy small wireless facilities, the authority may propose an alternate location in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall





certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(b) For applications to collocate small wireless facilities on decorative poles, the authority may propose collocation on a new pole or on an existing pole or structure in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternative unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(G)(1) A wireless provider shall comply with reasonable and nondiscriminatory requirements that prohibit the installation of poles in the ROW in an underground district where:

(a) no less than sixty days prior to the submission of the application, the authority has required all such lines to be placed underground;

(b) poles the authority allows to remain are made available to wireless providers for the collocation of small wireless facilities and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities in compliance with this article; and

(c) a wireless provider is allowed to install a new pole when it is not able to provide wireless service by collocating on a remaining pole or support structure provided; however, that for any such application to install a new pole, the authority may propose an alternate location in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(2) For small wireless facilities installed before an authority adopts requirements that comply with subsection (G)(1), an authority adopting such requirements shall:

(a) permit a wireless provider to maintain the small wireless facilities in place subject to any applicable pole attachment agreement with the pole owner; or

(b) permit the wireless provider to replace the associated pole within fifty feet of the prior location, provided that the wireless provider shall allow communications service providers with attachments on the existing pole to place those attachments on the replacement pole under the same or reasonably similar fees, rates, terms, and conditions as applied to those attachments on the existing pole.

(H)(1) Subject to Section 58-11-830(D), an authority may require reasonable, technically feasible, nondiscriminatory, and technologically neutral design requirements, height limitations of no less than forty feet, or concealment measures in a design district or historic district. These design requirements, height limitations, or concealment measures may not have the effect of prohibiting any provider's technology or the provision of wireless services; nor may any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

(2) For applications to place poles in a design district or a historic district to deploy small wireless facilities, the authority may propose an alternate location in the ROW within one hundred fifty feet of the location set forth in the application, and the wireless provider shall use the authority's proposed alternate location unless the location is not technically feasible or imposes significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and it shall provide a written summary of the basis for such determination.

(I) The authority, in the exercise of its administration and regulation related to the management of the ROW, must be reasonable, competitively neutral, nondiscriminatory with regard to all users of the ROW, and compliant with applicable law.

(J) A wireless provider shall repair all damage to the ROW directly caused by the activities of the wireless provider in the ROW and shall restore the ROW to its condition before the damage occurred



pursuant to the competitively neutral and reasonable requirements and specifications of the authority. If within thirty calendar days after written notice the wireless provider fails to the extent practicable in the reasonable judgment of the authority to restore the ROW to its condition prior to the damage in compliance with this subsection, the authority may, at the sole discretion of the authority, restore the ROW to such condition and charge the applicable party the reasonable, documented cost of the restoration, plus a penalty not to exceed five hundred dollars provided; however, that the wireless provider may request additional time to make such repairs, and the authority shall not unreasonably deny such a request. The authority may suspend the ability of the wireless provider to receive any new permits from the authority until the wireless provider has paid the amount assessed for such restoration costs, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

(K) A wireless provider must not be required to replace or upgrade an existing pole except for reasons of structural necessity, compliance with applicable codes, or compliance with this article. A wireless provider may, with the permission of the pole owner, replace or modify existing poles, but any such replacement or modification must be consistent with the design aesthetics of the poles being modified or replaced.

(L) A wireless provider shall notify the authority in writing as soon as practicable, but no later than thirty days before its abandonment of a small wireless facility. Following receipt of such notice, the authority may direct the wireless provider to remove all or any portion of the small wireless facility if the authority determines that such removal is in the best interest of the public safety and public welfare. If the wireless provider fails to remove the abandoned facility within ninety days after such notice, the authority may undertake to do so and recover the actual and reasonable expenses of doing so from the wireless provider, its successors or assigns, plus a penalty not to exceed five hundred dollars. The authority may suspend the ability of the wireless provider, its successors, or its assigns, as applicable, to receive any new permits from the authority until the wireless provider, its successors, or its assigns, as applicable, have paid the amount assessed for such removal costs, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

(M) If the authority determines that a wireless provider's activity in a ROW pursuant to this article creates an imminent risk to public safety, the authority may provide written notice to the wireless provider and demand that the wireless provider address such risk. If the wireless provider fails to reasonably address the risk within twenty-four hours of the written notice, the authority may take or cause to be taken action to reasonably address such risk and charge the wireless provider the reasonable documented cost of such actions.

(N) Nothing in this article relieves any person including, but not limited to, any wireless provider, of any applicable obligation to pay business license taxes including, but not limited to, those provided for in Article 20, Chapter 9, Title 58, or franchise fees. Any entity that uses the ROW, directly or indirectly, including through leased facilities, to provide services in a municipality is responsible for all applicable taxes and fees related to the services provided.

Section 58-11-830. (A) The provisions of this section shall apply to the permitting of the collocation of small wireless facilities by a wireless provider in the ROW and to the permitting of the installation, modification, and replacement of associated poles by a wireless provider inside the ROW.

(B) Except as provided in this article, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities and associated poles described in subsection (A).

(C) An authority may require an applicant to obtain a permit to collocate a small wireless facility or to install a new, modified, or replacement pole associated with a small wireless facility as provided in Section 58-11-830(E). An authority also may require an applicant to obtain additional permits for such activity, provided that: such additional permits are of general applicability and do not apply exclusively to wireless facilities; an applicant shall not be required to obtain or pay any fees for a building permit, as the permit



issued pursuant to this article serves as a building permit for the applicable poles and small wireless facilities; and any applications for any such additional permits, once submitted, must be acted upon within the same number of days as an application for permit under this article. An authority requiring additional permits pursuant to this subsection must publish and keep current a list of each additional permit that is required, and the authority must make the list available to any person upon request.

(D) An authority may adopt a design manual for an applicant's installation and construction of small wireless facilities and new poles to support such facilities in the public ROW that allows for, but does not require, preapproval of designs in addition to those that may be authorized in compliance with this article.

(E) An authority shall receive applications for, process, and issue such permits subject to the following requirements:

(1) The application shall be made by the applicable wireless provider or its duly authorized representative and shall contain the following:

(a) the applicant's name, address, telephone number, and email address, including emergency contact information for the applicant;

(b) the names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;

(c) a general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;

(d) detailed construction drawings regarding the proposed use of the ROW;

(e) to the extent the proposed facility involves collocation on a pole, decorative pole, or support structure, a structural report performed by a duly licensed engineer in South Carolina evidencing that the pole, decorative pole, or support structure will structurally support the collocation, or that the pole, decorative pole, or support structure may and will be modified to meet structural requirements, in accordance with applicable codes;

(f) for any new aboveground facilities, visual depictions or representations if such are not included in the construction drawings; and

(g) information indicating the approximate horizontal and vertical locations, relative to the boundaries of the ROW, of the small wireless facility for which the application is being submitted;

(h) if the application is for the installation of a new pole or replacement of a decorative pole, a certification that the wireless provider has determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:

(i) the wireless provider has the right to collocate subject to reasonable terms and conditions; and

(ii) such collocation would be technically feasible and would not impose significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of an engineer licensed in South Carolina, and shall provide a written summary of the basis for such determination;

(i) if the small wireless facility will be collocated on a pole or support structure owned by a third party, other than an authority pole, a certification that the wireless provider has permission from the owner to collocate on the pole or support structure;

(j) an affirmation that the applicant is, on the same date, submitting applications for the permits identified in the list the authority maintains pursuant to Section 58-11-830(C); and

(k) any additional information reasonably necessary to demonstrate compliance with the criteria set forth in item (10).

(2) An applicant must not be required to provide more information to obtain a permit than is set forth in item (1).



(3) An authority may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the authority including, but not limited to, reserving fiber, conduit, or pole space for the authority.

(4) Except as expressly permitted by this article, an authority may not require:

(a) the collocation of small wireless facilities on a specific pole or category of poles or require multiple antenna systems on a single pole;

(b) the use of specific pole types or configurations when installing new or replacement poles provided; however, that nothing in this subitem prohibits an authority from enforcing the provisions of Section 58-11-820(F)(2), (G)(1), and (H) or any compliant provisions adopted pursuant to Section 58-11-815(B) or (C); or

(c) except as authorized by Section 58-11-820(G)(1) or any compliant provisions adopted pursuant to Section 58-11-815(B) or (C), the underground placements of small wireless facilities that are or are designated in an application to be pole-mounted or ground-mounted.

(5) Without limiting an authority's ability to adopt spacing requirements for ground-mounted equipment and new poles in accordance with this article, an authority may not limit the collocation of small wireless facilities by minimum horizontal separation distance requirements between small wireless facilities and: (a) existing small wireless facilities; (b) poles; or (c) other structures.

(6) The authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless: the authority and the applicant agree to extend this period; or delay is caused by lack of commercial power or by the lack of communications transport facilities to be provided to the site by an entity that is not an affiliate, as that term is defined in 47 U.S.C. Section 153(2), of the applicant.

(7) An authority may require an applicant that is not a wireless services provider to include an attestation that a wireless services provider has requested in writing that the applicant collocate the small wireless facilities or install, modify, or replace the pole at the requested location, and the authority may require the applicant to submit proof that such wireless services provider is licensed by the FCC or otherwise authorized to provide wireless services within the geographic jurisdiction of the authority.

(8) Within ten days of receiving an application, an authority must determine and notify the applicant in writing whether the application is complete. If an application is incomplete, an authority shall specifically identify the missing information in writing. The processing deadline in item (9) is tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information. That processing deadline also may be tolled by agreement of the applicant and the authority, confirmed in writing.

(9) An application must be processed on a nondiscriminatory basis. The authority shall make its final decision to approve or deny the application within sixty days of receipt of a complete application for collocation of small wireless facilities and within ninety days of receipt of a complete application for the installation, modification, or replacement of a pole and the collocation of associated small wireless facilities on the installed, modified, or replaced pole. If the authority fails to act on an application within the applicable time period, the applicant may provide the authority written notice that the time period for acting has lapsed, and the authority shall then have twenty days after receipt of such notice to render its written decision. The application shall be deemed to have been approved by passage of time and operation of law if the authority does not render its written decision within the noticed twenty days.

(10) An authority may deny an applicant's proposed collocation of a small wireless facility or a proposed installation, modification, or replacement of a pole that meets the requirements in Section 58-11-820(E) only if the proposed collocation, installation, modification, or replacement:

(a) interferes with the safe operation of traffic control or public safety equipment;

(b) interferes with sight lines or clear zones for transportation or pedestrians;

(c) interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;



(d) requests that ground-mounted small wireless facility equipment be located more than seven and one half feet in radial circumference from the base of the pole, decorative pole, or support structure to which the small wireless facility antenna is to be attached, provided that the authority shall not deny the application if a greater distance from the base of the pole, decorative pole, or support structure is necessary to avoid interfering with sight lines or clear zones for transportation or pedestrians or to otherwise protect public safety;

(e) fails to comply with the height limitations permitted by this article or with reasonable and nondiscriminatory horizontal spacing requirements of general application adopted by an enactment that concern the location of ground-mounted equipment and new poles. These spacing requirements may not be applied in a manner that constitutes an effective prohibition of service that is prohibited by federal law;

(f) designates the location of a new pole for the purpose of collocating a small wireless facility within seven feet in any direction of an electrical conductor, unless the wireless provider obtains the written consent of the power supplier that owns or manages the electrical conductor;

(g) fails to comply with applicable codes;

(h) fails to comply with Section 58-11-820(F), (G)(1), or (H) or any compliant provisions adopted in accordance with Section 58-11-815(B) or (C);

(i) fails to comply with laws of general applicability that address pedestrian and vehicular traffic and safety requirements; or

(j) fails to comply with laws of general applicability that address the occupancy or management of the ROW and that are not otherwise inconsistent with this article.

(11) The authority shall document the basis for a denial, including the specific provisions of this article on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within thirty days of the denial without paying an additional application fee. The authority shall approve or deny the revised application within thirty days of resubmission and limit its review to the deficiencies cited in the denial. If the authority fails to act on a revised application within this thirty-day period, the applicant may provide the authority written notice that the time period for acting has lapsed, and the authority shall then have five days after receipt of such notice to render its written decision approving or denying the revised application. The revised application shall be deemed to have been approved by passage of time and operation of law if the authority does not render its written decision within the noticed five days.

(12) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may submit a single consolidated application, provided that such a consolidated application shall be for a geographic area no more than two miles in diameter, for up to thirty small wireless facilities and receive a single permit for the collocation of multiple small wireless facilities provided; however, the denial of one or more small wireless facilities in a consolidated application must not delay processing of any other small wireless facilities in the same consolidated application. Solely for purposes of calculating the number of small wireless facilities in a consolidated application, a small wireless facility includes any pole on which such small wireless facility will be collocated.

(13) Installation or collocation for which a permit is granted pursuant to this section must be completed within one year of the permit issuance date unless: the authority and the applicant agree to extend this period, or a delay is caused by the lack of commercial power or by the lack of communications facilities to be provided to the site by an entity that is not an affiliate, as that term is defined in 47 U.S.C. Section 153(2), of the applicant. Approval of an application authorizes the applicant to:

(a) undertake the installation or collocation; and

(b) subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of no less than ten years, which must be renewed for equivalent durations so long as the installation or collocation is in compliance with the criteria set forth in item (10).



(14) An authority may not 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 small wireless facilities or the installation, modification, or replacement of poles to support small wireless facilities.

(15) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this section neither constitutes an authorization nor affects any authorization a provider may have to provide a communication service or to install, place, maintain, or operate any other communications facility, including a wireline backhaul facility, in a ROW.

(F)(1) Subject to item (2), an authority may not require a permit or any other approval or charge fees or rates for:

- (a) routine maintenance;
- (b) the replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller; or
- (c) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are suspended between poles or support structures in compliance with applicable codes.

(2) Notwithstanding the provisions of item (1), an authority may require that prior to performing the activities described in item (1), an applicant must apply for and receive a permit for work that requires excavation or closure of sidewalks or vehicular lanes within the ROW for the activities described in item (1). Such a permit must be issued to the applicant on a nondiscriminatory basis upon terms and conditions that are consistent with applicable codes and that apply to the activities of any other person in the ROW that require excavation or the closing of sidewalks or vehicular lanes.

(G) No wireless provider shall collocate any small wireless facility in the ROW or install, modify, or replace a pole or decorative pole for collocation of a small wireless facility in the ROW without first filing an application and obtaining a permit therefor, except as otherwise expressly provided in subsection (F). Any failure to comply with this subsection by a wireless provider shall allow the applicable authority, at the sole discretion of the authority, to restore the ROW, to the extent practicable in the reasonable judgment of the authority, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider its reasonable, documented cost of restoration, plus a penalty not to exceed one thousand dollars. The authority may suspend the ability of the wireless provider to receive any new permits from the authority until the wireless provider has paid the amount assessed for such restoration costs, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

(H) If, in the reasonable exercise of police powers, an authority requires widening, repair, reconstruction, or relocation of a public road or highway, or relocation of poles, support structures, or small wireless facilities as a result of a public project, a wireless provider shall relocate poles and support structures that such wireless provider has installed in the ROW for the collocation of small wireless facilities pursuant to this article at no cost to the authority if such poles and support structures are found by the authority to unreasonably interfere with the widening, repair, reconstruction, or relocation project or the public project. If widening, repair, reconstruction, or relocation is required as a condition or result of a project by a person other than an authority, such person shall bear the cost of relocating such poles or support structures and any communications facilities on such poles or support structures.

Section 58-11-840. (A) The provisions of this section apply to the collocation of small wireless facilities on an authority pole in the ROW by a wireless provider.

(B) A person owning, managing, or controlling authority poles in the ROW may not enter into an exclusive arrangement with any person for the right to attach to such poles. A person who purchases or otherwise acquires an authority pole is subject to the requirements of this section.



(C) Subject to an authority's ability to deny a permit application as set forth in this article, an authority shall allow the collocation of small wireless facilities on authority poles on nondiscriminatory terms and conditions in compliance with this article.

(D) The rates to collocate on authority poles must be nondiscriminatory regardless of the services provided by the collocating wireless provider and must be as set forth in Section 58-11-850.

(E)(1) The rates, fees, terms, and conditions for make-ready work to collocate on an authority pole must be nondiscriminatory, competitively neutral, commercially reasonable, and in compliance with this article.

(2)(a) The authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within sixty days after receipt of a complete application. Alternatively, the authority may require the wireless provider to perform the make-ready work and notify the wireless provider of such within the sixty-day period. If the wireless provider or its contractor performs the make-ready work, the wireless provider shall indemnify the authority for any negligence by the wireless provider or its contractor in the performance of such make-ready work and the work shall otherwise comply with applicable law.

(b) Make-ready work performed by or on behalf of an authority, including any pole replacement, must be completed within sixty days of written acceptance of the good faith estimate by the applicant. An authority may require replacement of the authority pole only if it demonstrates that the collocation would make the authority pole structurally unsound.

(3) The person owning, managing, or controlling the authority pole must not require more make-ready work than required to meet applicable codes or industry standards. Fees assessed by or on behalf of an authority for make-ready work, including any pole replacement, must not:

(a) include costs related to preexisting or prior damage or noncompliance;

(b) exceed either actual costs or the amount charged to other communications service providers for similar work on similar types of authority poles; or

(c) include any revenue or contingency-based consultant's fees or expenses of any kind.

(4) A wireless provider collocating on an authority pole pursuant to this article is responsible for reimbursing third parties for their actual and reasonable costs of any make-ready work reasonably required by the third party to accommodate the collocation. If the authority includes such costs of a third party in the good faith estimate provided pursuant to item (2), payment of that estimate to the authority constitutes reimbursement of the third party by the wireless provider. Otherwise, the third party may bill the wireless provider for such reimbursement within six months of the completion of the third party's make-ready work.

Section 58-11-850. (A) Except as provided in Section 58-11-830(F), this section governs an authority's rates and fees for the collocation of a small wireless facility and the installation, modification or replacement of an associated pole.

(B) Except to the extent permitted by this article or otherwise specifically authorized by state or federal law including, but not limited to, Article 20, Chapter 9, Title 58 and Chapter 12, Title 58, an authority may not:

(1) adopt or enforce any regulations or requirements on the placement or operation of communications facilities in a ROW by a communications service provider authorized by federal, state, or local law to operate in a ROW;

(2) regulate any communications services; or

(3) impose or collect any tax, fee, or charge for the provision of any communications service over the communications service provider's communications facilities in a ROW.

(C) Without limiting the foregoing, a wireless provider is authorized to deploy small wireless facilities and associated poles in a ROW in compliance with this article regardless of whether the provider has sought or obtained any certificate or other authority from the Public Service Commission of South Carolina provided; however, that nothing in this article prohibits an authority from requiring proof that a wireless services provider is licensed by the FCC or otherwise authorized to provide service within the geographic jurisdiction of the authority.

Building Codes Committee Meeting



(D)(1) A municipality may charge an application fee to a wireless provider regardless of whether the provider is subject to a business license tax that is or may be imposed upon it pursuant to Section 58-9-2220 and a franchise, consent, or administrative fee that is or may be imposed upon it pursuant to Section 58-9-2230.

(2) A municipality may charge an application fee to a communications service provider regardless of whether the provider is subject to a franchise fee that is or may be imposed upon it pursuant to Section 58-12-330.

(3) An authority may charge an application fee, so long as the fee is reasonable, nondiscriminatory, and recovers no more than an authority's direct costs for processing an application provided; however, the fee may not exceed:

(a) for applications to collocate small wireless facilities on existing poles or structures, one hundred dollars each for the first five small wireless facilities in the same application and fifty dollars for each additional small wireless facility in the same application; or

(b) for applications to collocate small wireless facilities on new poles, one thousand dollars for each pole, which fee covers both the installation of the new pole and the collocation on the new pole of associated small wireless facilities that are a permitted use in accordance with the specifications in Section 58-11-820(D); and

(c) for applications to collocate small wireless facilities on modified or replacement poles, two hundred fifty dollars for each pole, which fee covers both the modification or replacement of the pole and the collocation on the pole of associated small wireless facilities that are permitted uses in accordance with the specifications in Section 58-11-820(D).

(4)(a) Beginning on the effective date of this section and ending upon completion of the fourth year immediately following the effective date of this section, a municipality with a need for consultation in the review of a permit application may engage an outside consultant for consultation, review, and processing of the application and may charge the applicant the fees described in subitem (b) for such engagement. The fee the authority charges the applicant for such review shall not be used for:

(i) travel expenses incurred in the review of a collocation application by an outside consultant or other third party; or

(ii) direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

(b) The fee the municipality charges an applicant pursuant to subitem (a) may not exceed the lesser of:

(i) the amount the municipality pays the outside consultant for engagements that are consistent with subitem (a); or

(ii) the following amounts:

(aa) for applications to collocate small wireless facilities on existing poles or structures: seventy dollars each for the first five small wireless facilities in the same application and thirty-five dollars for each additional small wireless facility in the same application during the first year immediately following the effective date of this section; sixty dollars each for the first five small wireless facilities in the same application and thirty dollars for each additional small wireless facility in the same application during the second year immediately following the effective date of this section; fifty dollars each for the first five small wireless facilities in the same application and twenty-five dollars for each additional small wireless facility in the same application during the third year immediately following the effective date of this section; and forty dollars each for the first five small wireless facilities in the same application and twenty dollars for each additional small wireless facility in the same application during the fourth year immediately following the effective date of this section;

(bb) for applications to collocate small wireless facilities on new poles: six hundred fifty dollars during the first year immediately following the effective date of this section; five hundred twenty dollars during the second year immediately following the effective date of this section; four hundred fifty-five





dollars during the third year immediately following the effective date of this section; and three hundred ninety-nine dollars during the fourth year immediately following the effective date of this section; and

(cc) for applications to collocate small wireless facilities on modified or replacement poles: two hundred dollars during the first year immediately following the effective date of this section; one hundred eighty-five dollars during the second year immediately following the effective date of this section; one hundred fifty dollars during the third year immediately following the effective date of this section; and one hundred twenty-five dollars during the fourth year immediately following the effective date of this section.

(c) In any dispute concerning the appropriateness of a fee under this subitem, the municipality has the burden of proving that the fee meets the requirements of this subitem.

(E)(1) A municipality may charge a rate for the occupancy and use of the ROW to a wireless provider regardless of whether the provider is subject to a business license tax that is or may be imposed upon it pursuant to Section 58-9-2220 and a franchise, consent, or administrative fee that is or may be imposed upon it pursuant to Section 58-9-2230.

(2) A municipality may charge a rate for the occupancy and use of the ROW to a communications service provider regardless of whether the provider is subject to a franchise fee that is or may be imposed upon it pursuant to Section 58-12-330.

(3) An authority may charge a wireless provider for the occupancy and use of the ROW, so long as such rate is reasonable, nondiscriminatory, and does not exceed: one hundred dollars per year for each small wireless facility collocated on any existing or replacement pole, including an existing or replacement authority pole; or two hundred dollars per year for each small wireless facility collocated on a new pole, other than a replacement pole, which two hundred dollar rate shall cover the new pole and the small wireless facility collocated on it.

(F)(1) An authority may charge a rate for collocation of a small wireless facility on an authority pole, but any such rate must be reasonable, nondiscriminatory, and recover no more than the authority's direct costs associated with such collocation, not to exceed fifty dollars per authority pole per year.

(2) Other than requiring a wireless provider to pay attachment rates as permitted by item (1), an authority may not require any person or entity with facilities installed on a pole or support structure to pay any additional attachment rates or fees as a result of the granting of an application for a permit under this article.

(G) The applicant or the person that owns or operates the small wireless facility collocated in the ROW may remove its small wireless facilities at any time from the ROW upon not less than thirty days' prior written notice to the authority and may cease paying to the authority any applicable fees and rates for such use, as of the date of the actual removal of the small wireless facilities. In the event of such removal, the ROW shall be, to the extent practicable in the reasonable judgment of the authority, restored to its condition prior to the removal. If the applicant fails, to the extent practicable in the reasonable judgment of the authority, to return the ROW to its condition prior to the removal within ninety days of the removal, the authority may, at the sole discretion of the authority, restore the ROW to such condition and charge the applicant the authority's reasonable, documented cost of removal and restoration, plus a penalty not to exceed five hundred dollars. The authority may suspend the ability of the applicant to receive any new permits from the authority until the applicant has paid the amount assessed for such restoration, if any provided; however, that the authority shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by the Administrative Law Court.

Section 58-11-853. The construction, installation, maintenance, modification, operation, and replacement of wireline backhaul facilities in the ROW are not addressed by this article, and any such activity shall comply with the applicable provisions of the 1976 Code including, but not limited to, Section 58-9-280(A) and (B) and Chapter 12, Title 58.



Section 58-11-857. An applicant in the ROW must not install, maintain, modify, operate, repair, or replace any small wireless facilities, support structures, or poles in a manner that interferes with any existing infrastructure, equipment, or service including, but not limited to, infrastructure, equipment, or service used to provide communications, electric, gas, water, sewer, or public safety services.

Section 58-11-860. The provisions of this section apply only to activities in the ROW. Nothing in this article must be interpreted to:

- (1) allow an entity to provide services regulated pursuant to 47 U.S.C. Sections 521 to 573, without compliance with all laws applicable to such providers; or
- (2) impose any new requirements on cable providers for the provision of such service in this State.

Section 58-11-870. Pursuant to the provisions of this article and applicable federal law, an authority may continue to exercise zoning, land use, planning and permitting authority within its territorial boundaries with respect to small wireless facilities, poles, and support structures outside of the ROW, including the enforcement of applicable codes. An authority does not have and may not exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of a small wireless facility located in an interior structure or upon the site of a campus, stadium, or athletic facility not owned or controlled by the authority, other than to require compliance with applicable codes. Nothing in this article authorizes the State or any agency, department, or instrumentality thereof, including an authority, to require any wireless facility deployment or to regulate wireless services.

Section 58-11-880. This article does not apply to poles owned by an investor-owned utility, except as it concerns a wireless provider's access to the ROW and permits for the collocation of small wireless facilities on such poles.

Section 58-11-900. The Administrative Law Court has contested case jurisdiction to determine all disputes arising under this article between an applicant and an authority or any person or entity acting on behalf of an authority. Any request filed with the Administrative Law Court pursuant to this article must be filed in accordance with its Rules of Procedure. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority poles, the person owning or controlling the pole must allow the collocating person to collocate on its poles at annual rates of no more than fifty dollars, with the actual rate to be settled upon final resolution of the dispute. Disputes subject to this section must be adjudicated pursuant to accelerated docket or complaint procedures including, but not limited to, procedures in Section 1-23-600(B), if available.

Section 58-11-910. (A) Subject to the requirements of this section, an authority may adopt reasonable indemnification, insurance, and bonding requirements related to facilities, poles, or support structures that are subject to this article.

(B) With regard to facilities, poles, and support structures that are subject to this article, an authority may not require a wireless provider to indemnify and hold the authority and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses, or fees, except when a court of competent jurisdiction has found that the negligence of the wireless provider while siting, installing, maintaining, repairing replacing, relocating, permitting, operating, or locating facilities, poles, or support structures pursuant to this article caused the harm that created such claims, lawsuits, judgments, costs, liens, losses, expenses, or fees. In no event shall any authority or any officer, employee, or agent affiliated therewith, while in the performance of its or his or her official duties, be liable for any claim related to the siting, installation, maintenance, repair, replacement, relocation, permitting, operation or location of facilities, poles, or support structures that are subject to this article. An authority is immune under the laws of South Carolina against any claim of violating a private deed when enforcing the terms of this article for the deployment of small wireless facilities and associated poles and support structures in the ROW.



(C) An authority may require a wireless provider to have in effect insurance coverage consistent with this section, so long as the authority imposes similar requirements on other ROW users and such requirements are reasonable and nondiscriminatory.

(1) An authority may not require a wireless provider to obtain insurance naming the authority or its officers and employees as additional insureds.

(2) An authority may require a wireless provider to furnish proof of insurance, if required, prior to the effective date of a permit issued for a small wireless facility.

(D) An authority may adopt bonding requirements for small wireless facilities if the authority imposes similar requirements in connection with permits issued for other ROW users.

(1) The purpose of such bonds must be to provide for the:

(a) removal of abandoned or improperly maintained small wireless facilities, including those that an authority determines must be removed to protect public health, safety, or welfare;

(b) restoration of the ROW as provided in Section 58-11-820(J); and

(c) recoupment of rates or fees that have not been paid by a wireless provider in over twelve months, so long as the wireless provider has received reasonable notice from the authority of any of the noncompliance listed in this subitem and given an opportunity to cure.

(2) Bonding requirements may not exceed two hundred dollars per small wireless facility. For wireless providers with multiple small wireless facilities within the jurisdiction of a single authority, the total bond amount across all facilities may not exceed ten thousand dollars and that amount may be combined into one bond instrument.

Section 58-11-920. (A) Neither the State nor any agency, department, or instrumentality thereof may condition a wireless provider's access to any ROW or a wireless provider's deployment of small wireless facilities and associated poles in any ROW on the wireless provider's seeking or obtaining any certificate or other authority from the Public Service Commission of South Carolina.

(B) Without limiting the provisions of subsection (A):

(1) a wireless services provider seeking access to a ROW as described in subsection (A) may be required to provide proof that it is licensed by the FCC or otherwise authorized to provide wireless services within the State; and

(2) a wireless provider seeking access to a ROW as described in subsection (A) that is not also a wireless services provider may be required to submit an attestation that a wireless services provider has requested in writing that the wireless provider deploy small wireless facilities or associated poles at the requested location and provide proof that such wireless services provider is licensed by the FCC or otherwise authorized to provide service within the State.

(C) To the extent that an authority is otherwise authorized to address a wireless provider's deployment of small wireless facilities and associated poles in the ROW of the State or of any agency, department, or instrumentality thereof, the authority must do so in strict compliance with the provisions of this article.

Section 58-11-930. (A) Within thirty days after written request by any authority with a population of greater than twenty-seven thousand according to the official 2010 United States Decennial Census and with which the applicant has not previously held a meeting that complies with this section, an applicant shall meet with the requesting authority to inform the authority in good faith:

(1) when the applicant expects to commence deployment of small wireless facilities and poles within the authority pursuant to this article;

(2) the number of small wireless facilities and poles it expects to deploy during the twenty-four months after commencement; and

(3) the expected timing of such deployments.

(B) All documents or other information provided by the applicant in the course of, or in association with, any meetings provided for in this section:

(1) are presumed to be 'trade secrets' as defined in Section 30-4-40(a)(1);



(2) are not public information under the Freedom of Information Act; and

(3) are not subject to public disclosure.

(C) The pendency of a meeting requested pursuant to this section shall not relieve an authority from reviewing and acting upon applications that have been or are submitted as set forth in this article.”

**Severability**

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Building Codes Committee Meeting



Ratified the 25<sup>th</sup> day of September, 2020.

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*President of the Senate*

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*Speaker of the House of Representatives*

Approved the \_\_\_\_\_ day of \_\_\_\_\_ 2020.

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*Governor*

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# BUILDING CODES COMMITTEE AGENDA ITEM

**MEETING DATE:** October 5, 2020

**AGENDA ITEM:** 5b

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**TO:** Building Codes Committee

**FROM:** Business & Development Services Director, David C. Dyrhaug

**SUBJECT:** Vacancies on Boards and Commissions

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## Current Vacancies

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The City of Mauldin currently has one open seat on the Planning Commission and two open seats on the Building & Zoning Board of Appeals. Staff has received volunteer applications from the following citizens. After each name I have marked which board they are interested in, or both where applicable. These applicants are listed in order of receipt.

	<u>Planning Commission</u>	<u>Zoning Board of Appeals</u>
• Scott Crosby	✓	✓
• Brian Patton		✓
• Brian Sofield	✓	✓
• Samuel Neely	✓	✓
• Dorothy Foxx		✓

Please note that although some applications may only indicate one board or the other, some applications have since expressed interest in either board as indicated above.

## Request

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This information is being presented to the Building Codes Committee for consideration of forwarding this item to City Council for review.

## ATTACHMENTS

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Volunteer Applications