

HOUSE BILL NO. 1948

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RHOADS.

4600H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 67.1830, 67.1846, 67.5090, 67.5092, 67.5094, 67.5102, and 67.5104, RSMo, and to enact in lieu thereof eight new sections relating to wireless communications infrastructure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 67.1830, 67.1846, 67.5090, 67.5092, 67.5094, 67.5102, and 67.5104, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.1830, 67.1846, 67.5090, 67.5092, 67.5094, 67.5101, 67.5102, and 67.5104, to read as follows:

67.1830. As used in sections 67.1830 to 67.1846, the following terms shall mean:

- (1) "Abandoned equipment or facilities", any equipment materials, apparatuses, devices or facilities that are:
 - (a) Declared abandoned by the owner of such equipment or facilities;
 - (b) No longer in active use, physically disconnected from a portion of the operating facility or any other facility that is in use or in service, and no longer capable of being used for the same or similar purpose for which the equipment, apparatuses or facilities were installed; or
 - (c) No longer in active use and the owner of such equipment or facilities fails to respond within thirty days to a written notice sent by a political subdivision;
- (2) "Degradation", the actual or deemed reduction in the useful life of the public right-of-way resulting from the cutting, excavation or restoration of the public right-of-way;
- (3) "Emergency", includes but is not limited to the following:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (a) An unexpected or unplanned outage, cut, rupture, leak or any other failure of a public
14 utility facility that prevents or significantly jeopardizes the ability of a public utility to provide
15 service to customers;

16 (b) An unexpected or unplanned outage, cut, rupture, leak or any other failure of a public
17 utility facility that results or could result in danger to the public or a material delay or hindrance
18 to the provision of service to the public if the outage, cut, rupture, leak or any other such failure
19 of public utility facilities is not immediately repaired, controlled, stabilized or rectified; or

20 (c) Any occurrence involving a public utility facility that a reasonable person could
21 conclude under the circumstances that immediate and undelayed action by the public utility is
22 necessary and warranted;

23 (4) "Excavation", any act by which earth, asphalt, concrete, sand, gravel, rock or any
24 other material in or on the ground is cut into, dug, uncovered, removed, or otherwise displaced,
25 by means of any tools, equipment or explosives, except that the following shall not be deemed
26 excavation:

27 (a) Any de minimis displacement or movement of ground caused by pedestrian or
28 vehicular traffic;

29 (b) The replacement of utility poles and related equipment at the existing general
30 location that does not involve either a street or sidewalk cut; or

31 (c) Any other activity which does not disturb or displace surface conditions of the earth,
32 asphalt, concrete, sand, gravel, rock or any other material in or on the ground;

33 (5) "Management costs" or "rights-of-way management costs", the actual costs a political
34 subdivision reasonably incurs in managing its public rights-of-way, including such costs, if
35 incurred, as those associated with the following:

36 (a) Issuing, processing and verifying right-of-way permit applications;

37 (b) Inspecting job sites and restoration projects;

38 (c) Protecting or moving public utility right-of-way user construction equipment after
39 reasonable notification to the public utility right-of-way user during public right-of-way work;

40 (d) Determining the adequacy of public right-of-way restoration;

41 (e) Restoring work inadequately performed after providing notice and the opportunity
42 to correct the work; and

43 (f) Revoking right-of-way permits.

44

45 Right-of-way management costs shall be the same for all entities doing similar work.
46 Management costs or rights-of-way management costs shall not include payment by a public
47 utility right-of-way user for the use or rent of the public right-of-way, degradation of the public
48 right-of-way or any costs as outlined in paragraphs (a) to (f) of this subdivision which are

49 incurred by the political subdivision as a result of use by users other than public utilities, the
50 attorneys' fees and cost of litigation relating to the interpretation of this section or section
51 67.1832, or litigation, interpretation or development of any ordinance enacted pursuant to this
52 section or section 67.1832, or attorneys' fees and costs in connection with issuing, processing,
53 or verifying right-of-way permits or other applications or agreements, or the political
54 subdivision's fees and costs related to appeals taken pursuant to section 67.1838. In granting or
55 renewing a franchise for a cable television system, a political subdivision may impose a franchise
56 fee and other terms and conditions permitted by federal law;

57 (6) "Managing the public right-of-way", the actions a political subdivision takes, through
58 reasonable exercise of its police powers, to impose rights, duties and obligations on all users of
59 the right-of-way, including the political subdivision, in a reasonable, competitively neutral and
60 nondiscriminatory and uniform manner, reflecting the distinct engineering, construction,
61 operation, maintenance and public work and safety requirements applicable to the various users
62 of the public right-of-way, provided that such rights, duties and obligations shall not conflict
63 with any federal law or regulation. In managing the public right-of-way, a political subdivision
64 may:

65 (a) Require construction performance bonds or insurance coverage or demonstration of
66 self-insurance at the option of the political subdivision or if the public utility right-of-way user
67 has twenty-five million dollars in net assets and does not have a history of permitting
68 noncompliance ~~[within]~~ in the political subdivision as defined by the political subdivision, then
69 the public utility right-of-way user shall not be required to provide such bonds or insurance;

70 (b) Establish coordination and timing requirements that do not impose a barrier to entry;

71 (c) Require public utility right-of-way users to submit, for right-of-way projects
72 commenced after August 28, 2001, requiring excavation within the public right-of-way, whether
73 initiated by a political subdivision or any public utility right-of-way user, project data in the form
74 maintained by the user and in a reasonable time after receipt of the request based on the amount
75 of data requested;

76 (d) Establish right-of-way permitting requirements for street excavation;

77 (e) Establish removal requirements for abandoned equipment or facilities, if the
78 existence of such facilities prevents or significantly impairs right-of-way use, repair, excavation
79 or construction;

80 (f) Establish permitting requirements for towers and other structures or equipment for
81 wireless communications facilities in the public right-of-way, ~~[notwithstanding]~~ **under** the
82 provisions of section 67.1832, **which permitting requirements shall also be consistent with**
83 **sections 67.5090 to 67.5104;**

84 (g) Establish standards for street restoration in order to lessen the impact of degradation
85 to the public right-of-way; and

86 (h) Impose permit conditions to protect public safety;

87 (7) "Political subdivision", a city, town, village, county of the first classification or
88 county of the second classification;

89 (8) "Public right-of-way", the area on, below or above a public roadway, highway, street
90 or alleyway in which the political subdivision has an ownership interest, but not including:

91 (a) The airwaves above a public right-of-way with regard to cellular or other nonwire
92 telecommunications or broadcast service;

93 (b) Easements obtained by utilities or private easements in platted subdivisions or tracts;

94 (c) Railroad rights-of-way and ground utilized or acquired for railroad facilities; or

95 (d) Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission,
96 collection or exchange of communications, information, substances, data, or electronic or
97 electrical current or impulses utilized by a municipally owned or operated utility pursuant to
98 chapter 91 or pursuant to a charter form of government;

99 (9) "Public utility", every cable television service provider, every pipeline corporation,
100 gas corporation, electrical corporation, rural electric cooperative, telecommunications company,
101 water corporation, heating or refrigerating corporation or sewer corporation under the jurisdiction
102 of the public service commission; every municipally owned or operated utility pursuant to
103 chapter 91 or pursuant to a charter form of government or cooperatively owned or operated
104 utility pursuant to chapter 394; every street light maintenance district; every privately owned
105 utility; and every other entity, regardless of its form of organization or governance, whether for
106 profit or not, which in providing a public utility type of service for members of the general
107 public, utilizes pipes, cables, conduits, wires, optical cables, or other means of transmission,
108 collection or exchange of communications, information, substances, data, or electronic or
109 electrical current or impulses, in the collection, exchange or dissemination of its product or
110 services through the public rights-of-way;

111 (10) "Public utility right-of-way user", a public utility owning or controlling a facility
112 in the public right-of-way; and

113 (11) "Right-of-way permit", a permit issued by a political subdivision authorizing the
114 performance of excavation work in a public right-of-way.

67.1846. 1. Nothing in sections 67.1830 to 67.1846 relieves the political subdivision
2 of any obligations under an existing franchise agreement in effect on May 1, 2001. Nothing in
3 sections 67.1830 to 67.1846 will apply to that portion of any ordinance passed prior to May 1,
4 2001, which establishes a street degradation fee. Nothing in sections 67.1830 to 67.1846 shall
5 be construed as limiting the authority of county highway engineers or relieving public utility

6 right-of-way users from any obligations set forth in chapters 229 to 231. Nothing in sections
7 67.1830 to 67.1846 shall be deemed to relieve a public utility right-of-way user of the provisions
8 of an existing franchise, franchise fees, license or other agreement or permit in effect on May 1,
9 2001. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision or public
10 utility right-of-way user from renewing or entering into a new or existing franchise, as long as
11 all other public utility right-of-way users have use of the public right-of-way on a
12 nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846 shall prevent a grandfathered
13 political subdivision from enacting new ordinances, including amendments of existing
14 ordinances, charging a public utility right-of-way user a fair and reasonable linear foot or antenna
15 fee or from enforcing or renewing existing linear foot ordinances for use of the right-of-way,
16 provided that the public utility right-of-way user either:

- 17 (1) Is entitled under the ordinance to a credit for any amounts paid as business license
18 taxes or gross receipts taxes; or
19 (2) Is not required by the political subdivision to pay the linear foot fee **or antenna fee**
20 if the public utility right-of-way user is paying gross receipts taxes, **business license fees, or**
21 **business license taxes that are not nominal and that are imposed specifically on**
22 **communications-related revenue, services, or equipment.**

23

24 For purposes of this section, a "grandfathered political subdivision" is any political subdivision
25 which has, prior to May 1, 2001, enacted one or more ordinances reflecting a policy of imposing
26 any linear foot fees on any public utility right-of-way user, including ordinances which were
27 specific to particular public right-of-way users. Any existing ordinance or new ordinance passed
28 by a grandfathered political subdivision providing for payment of the greater of a linear foot fee
29 or a gross receipts [fee] **tax** shall be enforceable only with respect to the linear foot fee.

30 2. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision from
31 enacting, renewing or enforcing provisions of an ordinance to require a business license tax, sales
32 tax, occupation tax, franchise tax or franchise fee, property tax or other similar tax, to the extent
33 consistent with federal law. Nothing in sections 67.1830 to 67.1846 shall prohibit a political
34 subdivision from enacting, enforcing or renewing provisions of an ordinance to require a gross
35 receipts tax pursuant to chapter 66, chapter 92, or chapter 94. For purposes of this subsection,
36 the term "franchise fee" shall mean "franchise tax".

67.5090. Sections 67.5090 to 67.5103 shall be known and may be cited as the "Uniform
2 Wireless Communications Infrastructure Deployment Act" and is intended to encourage and
3 streamline the deployment of broadcast and broadband facilities and to help ensure that robust
4 wireless radio-based communication services are available throughout Missouri **by adopting a**
5 **uniform statewide framework for the deployment of wireless infrastructure consistent with**

6 **applicable right-of-way and zoning guidelines. Except as specified herein, nothing in this**
7 **sections 67.5090 to 67.5104 is intended to prevent or otherwise limit the ability of wireless**
8 **communications service providers and wireless communications infrastructure providers**
9 **to deploy wireless infrastructure consistent with this sections 67.5090 to 67.5104 and**
10 **sections 67.1830 to 67.1846, to prevent or otherwise limit an authority's ability to require**
11 **wireless communications service providers and wireless communications infrastructure**
12 **providers to obtain permits for the installation of wireless facilities or wireless support**
13 **structures, or to prevent a municipal utility or municipality from requiring wireless**
14 **communications service providers and wireless communications infrastructure providers**
15 **from collocating small wireless facilities on municipal or municipal utility poles to comply**
16 **with section 67.5104.**

67.5092. As used in sections 67.5090 to 67.5103, the following terms mean:

- 2 (1) "Accessory equipment", any equipment serving or being used in conjunction with
3 a wireless communications facility or wireless support structure. The term includes utility or
4 transmission equipment, power supplies, generators, batteries, cables, equipment buildings,
5 cabinets and storage sheds, shelters, or similar structures;
- 6 (2) "Antenna", communications equipment that transmits or receives electromagnetic
7 radio signals used in the provision of any type of wireless communications services;
- 8 (3) "Applicant", any person engaged in the business of providing wireless
9 communications services or the wireless communications infrastructure required for wireless
10 communications services who submits an application;
- 11 (4) "Application", a request submitted by an applicant to an authority to construct a new
12 wireless support structure, for the substantial modification of a wireless support structure, or for
13 collocation of a wireless facility or replacement of a wireless facility on an existing structure;
- 14 (5) "Authority", each state, county, and municipal governing body, board, agency, office,
15 or commission authorized by law and acting in its capacity to make legislative, quasi-judicial,
16 or administrative decisions relative to zoning or building permit review of an application. The
17 term shall not include state courts having jurisdiction over land use, planning, or zoning
18 decisions made by an authority;
- 19 (6) [~~"Base station", a station at a specific site authorized to communicate with mobile~~
20 ~~stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and~~
21 ~~other associated electronics, and includes a structure that currently supports or houses an~~
22 ~~antenna, a transceiver, coaxial cables, power supplies, or other associated equipment;~~
23 ~~——(7)] "Building permit", a permit issued by an authority prior to commencement of work
24 on the collocation of wireless facilities on an existing structure, the substantial modification of
25 a wireless support structure, or the commencement of construction of any new wireless support~~

26 structure, solely to ensure that the work to be performed by the applicant satisfies the applicable
27 building code;

28 ~~[(8)]~~ (7) "Collocation", the placement or installation of a new wireless facility on ~~[a]~~ **an**
29 **existing structure, including associated ground mounted facilities immediately adjacent to**
30 **an existing structure**, that already has an existing wireless facility, including electrical
31 transmission towers, water towers, buildings, **utility poles, existing structures**, and other
32 structures capable of structurally supporting the attachment of wireless facilities in compliance
33 with applicable codes;

34 (8) "Communications facility", the set of equipment and network components,
35 including wires and cables and associated facilities used by a cable operator, as defined in
36 47 U.S.C. Section 522(5); a telecommunications carrier, as defined in 47 U.S.C. Section
37 153(51); a provider of information service, as defined in 47 U.S.C. Section 153(24); or a
38 wireless communications provider, to provide communications services hereby defined to
39 include cable service, as defined in 47 U.S.C. Section 522(6); telecommunications service,
40 as defined in 47 U.S.C. Section 153(53); an information service, as defined in 47 U.S.C.
41 Section 153(24); wireless communications service; or other one-way or two-way
42 communications service;

43 (9) "Electrical transmission tower", an electrical transmission structure used to support
44 high voltage overhead power lines. The term shall not include any utility pole;

45 (10) "Equipment compound", an area surrounding or near a wireless support structure
46 within which are located wireless facilities;

47 (11) "Existing structure", a **wireless support** structure that exists at the time a request
48 to place wireless facilities on a structure is filed with an authority. The term includes any
49 structure that is capable of supporting the attachment of wireless facilities in compliance with
50 applicable building codes, National Electric Safety Codes, and recognized industry standards for
51 structural safety, capacity, reliability, and engineering, including, but not limited to, towers,
52 buildings, ~~[and] water towers~~~~[- The term shall not include any utility pole]~~ , and **utility poles**;

53 (12) "Micro wireless facility", a **small wireless facility that is no larger in dimension**
54 **than twenty-four inches in length, fifteen inches in width, twelve inches in height, and that**
55 **has an exterior antenna, if any, no longer than eleven inches**;

56 (13) "Replacement", includes constructing a new wireless support structure of equal
57 proportions and of equal height or such other height that would not constitute a substantial
58 modification to an existing structure in order to support wireless facilities or to accommodate
59 collocation and includes the associated removal of the preexisting wireless facilities or wireless
60 support structure;

61 ~~[(13)]~~ **(14) "Small wireless facility", a wireless facility with an antenna of no more**
62 **than six cubic feet in volume and associated equipment with a cumulative volume no larger**
63 **than twenty-eight cubic feet. An associated electric meter, concealment, telecommunication**
64 **demarcation box, grounding equipment, power transfer switch, cutoff switch, vertical cable**
65 **runs, and related conduit on a pole for the connection of power and other services may be**
66 **located outside the primary equipment enclosure and are not included in the calculation**
67 **of the equipment volume. Volume shall be a measure of the exterior displacement, not the**
68 **interior volume, of the enclosure. This term shall include a micro wireless facility;**

69 **(15) "Substantial modification", the mounting of a proposed wireless facility on a**
70 **wireless support structure which, as applied to the structure as it was originally constructed:**

71 (a) Increases the existing vertical height of the structure by:

72 a. More than ten percent; or

73 b. The height of one additional antenna array with separation from the nearest existing
74 antenna not to exceed twenty feet, whichever is greater; or

75 (b) Involves adding an appurtenance to the body of a wireless support structure that
76 protrudes horizontally from the edge of the wireless support structure more than twenty feet or
77 more than the width of the wireless support structure at the level of the appurtenance, whichever
78 is greater (except where necessary to shelter the antenna from inclement weather or to connect
79 the antenna to the tower via cable);

80 (c) Involves the installation of more than the standard number of new outdoor equipment
81 cabinets for the technology involved, not to exceed four new equipment cabinets; or

82 (d) Increases the square footage of the existing equipment compound by more than one
83 thousand two hundred fifty square feet;

84 ~~[(14)]~~ **(16) "Utility", any person, corporation, county, municipality acting in its capacity**
85 **as a utility, municipal utility board, or other entity, or department thereof or entity related thereto,**
86 **providing retail or wholesale electric, natural gas, water, waste water, data, cable television, or**
87 **telecommunications, wireless communications service, or internet protocol-related services;**

88 ~~[(15)]~~ **(17) "Utility pole", a structure owned or operated by a utility that is designed**
89 **specifically for and used to carry lines, cables, ~~or~~ wires or wireless facilities for telephony,**
90 **wireless communications service, cable television, or electricity, or to provide lighting, traffic**
91 **control, signage, or similar function;**

92 ~~[(16)]~~ **(18) "Water tower", a water storage tank, or a standpipe or an elevated tank**
93 **situated on a support structure, originally constructed for use as a reservoir or facility to store or**
94 **deliver water;**

95 **(19) "Wireless communications infrastructure provider", a person or entity that**
96 **installs or constructs facilities or structures used to provide wireless communications**
97 **service;**

98 ~~[(17)]~~ **(20) "Wireless communications service", includes the wireless facilities of all**
99 **services licensed to use radio communications pursuant to Section 301 of the Communications**
100 **Act of 1934, 47 U.S.C. Section 301, and fixed or mobile communication transmission**
101 **services including, but not limited to, data or voice transmissions provided using wireless**
102 **facilities, including both one-way and two-way communications services, and services using**
103 **licensed or unlicensed spectrum including the use of wi-fi; provided that, using wireless**
104 **facilities does not include wireline backhaul facilities;**

105 **(21) "Wireless communications service provider", a provider of wireless**
106 **communications service;**

107 ~~[(18)]~~ **(22) "Wireless facility", the set of equipment and network components, [exclusive**
108 **of the underlying wireless support structure,] including, but not limited to, antennas, accessory**
109 **equipment, transmitters, receivers, power supplies, cabling, small wireless facilities, and**
110 **associated equipment necessary to provide wireless communications services. The term shall**
111 **not include:**

112 **(a) The underlying wireless support structure;**

113 **(b) Wireline backhaul facilities; or**

114 **(c) Coaxial or fiber-optic cable that is not immediately adjacent to or directly**
115 **associated with a particular collocation;**

116 ~~[(19)]~~ **(23) "Wireless support structure", a freestanding structure, such as a monopole,**
117 **tower, ~~or~~ electrical transmission tower, water tower, utility pole, building, or other existing**
118 **or proposed structure capable of supporting wireless facilities[. This definition does not**
119 **include utility poles.] ;**

120 **(24) "Wireline backhaul facility", a facility used for the transport of**
121 **communication data by wire from wireless facilities to a network.**

67.5094. In order to ensure uniformity across the state of Missouri with respect to the
2 consideration of every application, an authority shall not:

3 (1) Require an applicant to submit information about, or evaluate an applicant's business
4 decisions with respect to its designed service, customer demand for service, or quality of its
5 service to or from a particular area or site;

6 (2) Evaluate an application based on the availability of other potential locations for the
7 placement of wireless support structures or wireless facilities, including without limitation the
8 option to collocate instead of construct a new wireless support structure or for substantial
9 modifications of a support structure, or vice versa; provided, however, that solely with respect

10 to an application for a new wireless support structure, an authority may require an applicant to
11 state in such applicant's application that it conducted an analysis of available collocation
12 opportunities on existing wireless towers within the same search ring defined by the applicant,
13 solely for the purpose of confirming that an applicant undertook such an analysis. For
14 collocation to any certified historic structure as defined in section 253.545, in addition to all
15 other applicable time requirements, there shall be a thirty-day time period before approval of an
16 application. During such time period, an authority shall hold one or more public hearings on
17 collocation to a certified historic structure;

18 (3) Dictate the type of wireless facilities, infrastructure or technology to be used by the
19 applicant, including, but not limited to, requiring an applicant to construct a distributed antenna
20 system in lieu of constructing a new wireless support structure;

21 (4) Require the removal of existing wireless support structures or wireless facilities,
22 wherever located, as a condition for approval of an application, **unless such structures or**
23 **facilities owned by the applicant are abandoned and subject to rules adopted under section**
24 **67.5101(7);**

25 (5) With respect to radio frequency emissions, impose environmental testing, sampling,
26 or monitoring requirements or other compliance measures on wireless facilities that are
27 categorically excluded under the Federal Communication Commission's rules for radio frequency
28 emissions under 47 CFR 1.1307(b)(1) or other applicable federal law, as the same may be
29 amended or supplemented;

30 (6) Establish or enforce regulations or procedures for RF signal strength or the adequacy
31 of service quality;

32 (7) Establish or enforce regulations or procedures for environmental safety for any
33 wireless communications facility that is inconsistent with or in excess of those required by **the**
34 **Office of Engineering and Technology (OET)** Bulletin 65, entitled Evaluating Compliance
35 with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields, Edition
36 97-01, released August, 1997, and Supplement A: Additional Information for Radio and
37 Television Broadcast Stations;

38 (8) In conformance with 47 U.S.C. Section 332(c)(7)(b)(4), reject an application, in
39 whole or in part, based on perceived or alleged environmental effects of radio frequency
40 emissions;

41 (9) Impose any restrictions with respect to objects in navigable airspace that are greater
42 than or in conflict with the restrictions imposed by the Federal Aviation Administration;

43 (10) Prohibit the placement of emergency power systems that comply with federal and
44 state environmental requirements;

45 (11) Charge an application fee, consulting fee, or other fee associated with the
46 submission, review, processing, and approval of an application that is not required for similar
47 types of commercial development within the authority's jurisdiction. Fees imposed by an
48 authority for or directly by a third-party entity providing review or technical consultation to the
49 authority must be based on actual, direct, and reasonable administrative costs incurred for the
50 review, processing, and approval of an application. Except when mutually agreeable to the
51 applicant and the authority, total charges and fees shall not exceed five hundred dollars for a
52 collocation application or one thousand five hundred dollars for an application for a new wireless
53 support structure or for a substantial modification of a wireless support structure.
54 Notwithstanding the foregoing, in no event shall an authority or any third-party entity include
55 within its charges any travel expenses incurred in a third-party's review of an application and in
56 no event shall an applicant be required to pay or reimburse an authority for consultation or other
57 third-party fees based on a contingency or result-based arrangement;

58 (12) Impose surety requirements, including bonds, escrow deposits, letters of credit, or
59 any other type of financial surety, to ensure that abandoned or unused facilities can be removed
60 unless the authority imposes similar requirements on other permits for other types of commercial
61 development or land uses;

62 (13) Condition the approval of an application on the applicant's agreement to provide
63 space on or near the wireless support structure for authority or local governmental services at less
64 than the market rate for space or to provide other services via the structure or facilities at less
65 than the market rate for such services;

66 (14) Limit the duration of the approval of an application, **except that an authority may**
67 **require an applicant for a small wireless facility to act upon the approved application**
68 **within eighteen months. If an authority so requires and an application is not acted upon**
69 **within such time, the application shall be considered withdrawn by the applicant, and the**
70 **approval shall be null and void;**

71 (15) Discriminate or create a preference on the basis of the ownership, including
72 ownership by the authority, of any property, structure, or tower when promulgating rules or
73 procedures for siting wireless facilities or for evaluating applications;

74 (16) Impose any requirements or obligations regarding the presentation or appearance
75 of facilities, including, but not limited to, those relating to the kind or type of materials used and
76 those relating to arranging, screening, or landscaping of facilities if such regulations or
77 obligations are unreasonable;

78 (17) Impose any requirements that an applicant purchase, subscribe to, use, or employ
79 facilities, networks, or services owned, provided, or operated by an authority, in whole or in part,

80 or by any entity in which an authority has a competitive, economic, financial, governance, or
81 other interest;

82 (18) Condition the approval of an application on, or otherwise require, the applicant's
83 agreement to indemnify or insure the authority in connection with the authority's exercise of its
84 police power-based regulations, **except that an authority may require an applicant for a**
85 **small wireless facility to indemnify the authority in the same manner and to the same**
86 **extent as utilities using the right-of-way;** or

87 (19) Condition or require the approval of an application based on the applicant's
88 agreement to permit any wireless facilities provided or operated, in whole or in part, by an
89 authority or by any entity in which an authority has a competitive, economic, financial,
90 governance, or other interest, to be placed at or collocated with the applicant's wireless support
91 structure.

67.5101. Notwithstanding sections 67.5090 to 67.5103, the following provisions shall
2 **apply to applications relating to small wireless facilities:**

3 (1) **An authority shall not require an application, nor any permits or fees, for the**
4 **following work:**

5 (a) **Routine maintenance on previously permitted small wireless facilities;**

6 (b) **The replacement of previously permitted small wireless facilities with small**
7 **wireless facilities that are the same or smaller in size, weight, and height, except the**
8 **replacement shall be in accordance with applicable requirements under subsection 1 of**
9 **section 67.5100; or**

10 (c) **The installation, placement, maintenance, or replacement of micro wireless**
11 **facilities suspended on cables strung between existing utility poles in compliance with the**
12 **National Electric Safety Code;**

13 (2) **Nothing in this section shall prevent an authority from requiring a permit for**
14 **work in a right-of-way that will involve excavation, affect traffic patterns or obstruct**
15 **vehicular traffic in the right-of-way, or, for work described in paragraph (b) of subdivision**
16 **(1) of this section that involves different equipment than that being replaced, a description**
17 **of such new equipment so that the authority may maintain an accurate inventory of the**
18 **small wireless facilities at that location;**

19 (3) **An authority shall process an application for the collocation or replacement or**
20 **installation of small wireless facilities on a nondiscriminatory basis, and an application**
21 **may include up to twenty-five separate small wireless facilities, provided that they are for**
22 **the same or materially same design of small wireless facility being collocated on the same**
23 **or materially the same type of utility pole or wireless support structure. If an authority**
24 **receives applications for approval of more than seventy-five small wireless facilities within**

25 a fourteen-day period, whether from a single or multiple applicants, the authority may,
26 upon its own request, obtain an automatic thirty-day extension for any additional
27 collocation or replacement or installation application submitted during that fourteen-day
28 period or in the fourteen-day period immediately following the prior fourteen-day period.
29 An authority shall promptly communicate its request to each and any affected applicant.
30 In rendering a decision on an application for multiple small wireless facilities, the authority
31 may approve the application as to certain individual small wireless facilities while denying
32 it as to others based on applicable requirements and standards including those identified
33 in subsection 1 of section 67.5100. The authority's denial of any individual small wireless
34 facility or subset of small wireless facilities within an application is not a basis to deny the
35 application as a whole;

36 (4) Notwithstanding any provision of law to the contrary, an authority shall not
37 require that an existing structure have an existing wireless facility before a small wireless
38 facility or micro wireless facility may be placed, attached, or installed upon such existing
39 structure;

40 (5) An authority shall authorize the collocation or replacement that does not meet
41 the standards of paragraph (b) or (c) of subdivision (1) of this section of a small wireless
42 facility on a wireless support structure not located within the public right-of-way to the
43 same extent the authority has granted access, whether by lease or other rights granted, to
44 such wireless support structures for other wireless communications infrastructure
45 providers, and may at the authority's sole discretion, authorize the collocation or
46 replacement that does not meet the standards of paragraph (b) or (c) of subdivision (1) of
47 this section even if the authority has not previously authorized such access, provided the
48 required permits are obtained under applicable standards and requirements including
49 those identified under subsection 1 of section 67.5100. Except in single-family residential
50 or areas zoned as historic, an applicant may install a replacement or modified utility pole
51 or wireless support structure in the public right-of-way for small wireless facilities as
52 authorized by this section, and subject to no greater zoning or permitting requirements
53 than for small wireless facilities, so long as the utility pole or wireless support structure
54 meets the authority's requirements under this section, including subdivision (10) of this
55 section, and does not exceed the greater of the following:

56 (a) Ten feet above the tallest existing utility pole already in the public right-of-way.
57 For purposes of this paragraph, "existing utility pole" means a utility pole already in the
58 same public right-of-way as of August 28, 2018, and which is located within five hundred
59 feet of the applicant's proposed utility pole or wireless support structure; or

60 (b) Fifty feet above ground level;

61 **(6) If an application for the collocation of small wireless facilities is denied, the**
62 **authority shall document the basis for the denial, including the specific standards on which**
63 **the denial was based, and send the documentation to the applicant on or before the day the**
64 **authority denies an application. The applicant may cure the deficiencies identified by the**
65 **authority and resubmit the application within thirty days of the denial without paying a**
66 **new application fee. The authority shall approve or deny the revised application within**
67 **thirty days and shall not raise new deficiencies that were not identified in the original**
68 **denial;**

69 **(7) Once an application for the collocation of small wireless facilities is approved,**
70 **the applicant may maintain the small wireless facility in the permitted location for at least**
71 **ten years, and such period shall be extended automatically for at least three five-year**
72 **periods unless the applicant requests that the permit be terminated or unless the applicant**
73 **and the authority agree to an extension term of less than ten years. During the initial and**
74 **renewal periods, there shall be no requirement for the applicant to reapply to collocate in**
75 **an approved location. Nothing herein precludes the authority from adopting reasonable**
76 **rules with respect to the removal of abandoned small wireless facilities;**

77 **(8) An authority shall not institute a moratorium, whether directly through a**
78 **written policy or indirectly through action or inaction, on:**

79 **(a) Filing, receiving, or processing applications for the collocation of small wireless**
80 **facilities; or**

81 **(b) Issuing permits or approvals for the collocation of small wireless facilities;**

82 **(9) Notwithstanding subdivision (8) of this section, an authority may impose a**
83 **temporary moratorium on applications for small wireless facilities and the collocation**
84 **thereof for the duration of a federal or state-declared natural disaster or for no more than**
85 **thirty days in the event of a major and protracted staffing shortage that reduces the**
86 **number of personnel necessary for the receipt, review, processing, and approval or denial**
87 **of applications for the collocation of small wireless facilities by more than fifty percent;**

88 **(10) An authority may require that an application for a permit for a small wireless**
89 **facility, to replace a utility pole, or for a support structure to accommodate such a facility**
90 **demonstrate that the small wireless facility or the replacement pole or structure reasonably**
91 **matches the aesthetics of a utility pole or wireless support structure with decorative**
92 **elements to which it will be attached, or an authority may subject small wireless facilities**
93 **to reasonable and cost-efficient concealment requirements;**

94 **(11) No approval for the installation, placement, maintenance, or operation of a**
95 **small wireless facility under this section shall be construed to confer authorization for the**
96 **provision of cable television service or installation, placement, maintenance, or operation**

97 of a wireline backhaul facility or communications facility, other than a small wireless
98 facility, in the right-of-way;

99 (12) Nothing in sections 67.5090 to 67.5103 shall be interpreted to exempt an
100 applicant, or any entity which acquires the rights to any portion of a small wireless facility,
101 which is located in a right-of-way under the exclusive control of an authority from the
102 exclusive financial responsibility for the movement of the small wireless facility, equipment
103 compound, wireless facility, wireless support structure, or any associated equipment being
104 moved as a result of a public project undertaken by an authority. If the project
105 necessitating movement of the small wireless facility, equipment compound, wireless
106 facility, wireless support structure, or any associated equipment is a private commercial
107 project, the entity undertaking the private commercial project shall make an advance
108 payment for the movement of the subject facilities before the applicant\ or any entity which
109 acquires the rights to any portion of a small wireless facility which is located in the right-
110 of-way under the exclusive control of an authority is obligated to move the subject
111 facilities; and

112 (13) A new wireless support structure shall not be placed in the public right-of-way
113 unless such placement is approved by the process set forth in section 67.5096. A new utility
114 pole that is to be placed in the public right-of-way for the purpose of supporting small
115 wireless facilities and is not replacing an existing utility pole as described in subdivision
116 (5) of this section shall be subject to the same municipal approval process as other utility
117 poles. For the purpose of this subdivision, a structure shall be considered a wireless
118 support structure, and not a utility pole, if it exceeds the greater of:

119 (a) Ten feet above the tallest existing utility pole already in the public right-of-way
120 as of August 28, 2018, located within five hundred feet of the applicant's proposed
121 structure; or

122 (b) Fifty feet above ground level.

67.5102. 1. This section shall govern an authority's rates and fees for the placement
2 of a wireless facility, wireless support structure, or utility pole.

3 2. In accordance with the policies of this state to further the deployment of wireless
4 communications infrastructure:

5 (1) [~~An authority~~] Except as provided under subdivision (9) of section 67.5101, an
6 authority may not institute any moratorium on the permitting, construction, or issuance of
7 approval of new wireless support structures, substantial modifications of wireless support
8 structures, or collocations if such moratorium exceeds six months in length and if the legislative
9 act establishing it fails to state reasonable grounds and good cause for such moratorium. No such
10 moratorium shall affect an already pending application;

11 (2) To encourage applicants to request construction of new wireless support structures
12 on public lands and to increase local revenues:

13 (a) An authority ~~may~~ **shall** not charge a wireless service provider or wireless
14 infrastructure provider any rental, license, or other fee to locate a wireless facility or wireless
15 support structure on an authority's property in excess of the current market rates for rental or use
16 of similarly situated property. If the applicant and the authority do not agree on the applicable
17 market rate for any such public land and cannot agree on a process by which to derive the
18 applicable market rate for any such public land, then the market rate will be determined by a
19 state-certified general real estate appraiser licensed under chapter 339 mutually agreed upon by
20 the parties at the applicant's cost. The appraisal process shall be concluded within ninety
21 calendar days from the date the applicant first tenders its proposed lease rate to the authority.
22 In the event either party is dissatisfied with the value determined by the appraiser, such party may
23 bring an action for review in any court of competent jurisdiction. The court shall rule on any
24 such petition for review in an expedited manner. Nothing in this paragraph shall bar an applicant
25 and an authority from agreeing to reasonable, periodic reviews and adjustments of current market
26 rates during the term of a lease or contract to use an authority's property; ~~and~~

27 (b) An authority ~~may~~ **shall** not offer a lease or contract to use public lands to locate a
28 wireless support structure **or wireless facility** on an authority's property that is less than fifteen
29 years in duration unless the applicant agrees to accept a lease or contract of less than fifteen years
30 in duration;

31 (3) Nothing in subdivision (2) of this section is intended to limit an authority's lawful
32 exercise of zoning, land use, or planning and permitting authority with respect to applications
33 for new wireless support structures on an authority's property under subsection 1 of section
34 67.5096.

35 **3. An authority may not require a wireless provider to pay any rates, fees, or**
36 **compensation to the authority or other person other than what is expressly authorized by**
37 **this sections 67.5090 to 67.5104 for the right to use or occupy a right-of-way, for collocation**
38 **of small wireless facilities on utility poles in the ROW, or for the installation, maintenance,**
39 **modification, operation and replacement of utility poles in the right-of-way;**

40 **4. Application fees shall be subject to the following requirements:**

41 **(1) An authority may charge an application fee only if such fee is required for**
42 **similar types of commercial development or constructions within the authority's**
43 **jurisdiction;**

44 **(2) Where costs to be recovered by an application fee are already recovered by**
45 **existing fees, rates, licenses, or taxes paid by a wireless provider, no application fee shall**
46 **be assessed;**

47 **(3) An application fee may not include travel expenses incurred by a third party in**
48 **its review of an application or direct payment or reimbursement of third party rates or fees**
49 **charged on a contingency basis or a result-based arrangement;**

50 **(4) An application fee for a collocation shall be limited to the cost of granting a**
51 **building permit for similar types of commercial development or construction within the**
52 **authority's jurisdiction. The total fee for any application for collocation of small wireless**
53 **facilities on existing or replacement authority poles shall not exceed five hundred dollars**
54 **per application; and**

55 **(5) The application fees for the installation, modification, or replacement of a non-**
56 **authority utility pole and the collocation of an associate small wireless facility that are**
57 **permitted uses in accordance with the specifications in section 67.5101 shall not exceed two**
58 **hundred and fifty dollars per pole for access to the right-of-way.**

59 **5. Rates shall be subject to the following requirements:**

60 **(1) The rate for collocation of a small wireless facility to an authority pole shall not**
61 **exceed twenty dollars per authority pole per year;**

62 **(2) An authority may not charge a wireless provider any fee, tax other than a tax**
63 **authorized by subdivision (3) of this subsection, or other charge, or require any other form**
64 **of payment or compensation, to locate a wireless facility or wireless support structure on**
65 **privately-owned property, or on a wireless support structure not owned by the authority;**

66 **(3) No authority nor any other political subdivision shall demand any fees, rentals,**
67 **licenses, charges, payments, or assessments from any applicant or wireless provider for,**
68 **or in any way relating to or arising from, the construction, deployment, installation,**
69 **mounting, modification, operation, use, replacement, maintenance, or repair of small**
70 **wireless facilities, except for the following:**

71 **(a) As otherwise expressly provided in this sections 67.5090 to 67.5104; and**

72 **(b) Right-of-way permit fees established under 67.1840 for the recovery of actual,**
73 **substantiated right-of-way management costs.**

74

75 **Right-of-way permit fees imposed on applicants and wireless providers shall be**
76 **competitively neutral with regard to all other users of the right-of-way, shall not be in the**
77 **form of a franchise fee or tax, or other fee based on non-cost related factors such as**
78 **revenue, sales, profits, lines, subscriptions or customer counts, and shall not result in**
79 **double recovery where existing charges already recover the direct and actual costs of**
80 **managing the right-of-way. This paragraph precludes the imposition of business license**
81 **taxes, business license fees, or gross receipts taxes on wireless providers, whether based on**
82 **gross receipts or other factors, except that this paragraph allows the imposition of such**

83 **taxes and fees that are also imposed on wireline telecommunications businesses operating**
84 **within the jurisdiction of the authority, or as mutually agreed to by the authority and the**
85 **wireless provider.**

67.5104. 1. As used in this section, "pole attachment" means an attachment by an
2 attaching entity, including a video service provider, a telecommunications provider, **a wireless**
3 **communications service provider, as defined in section 67.5092, a wireless communications**
4 **infrastructure provider, as defined in section 67.5092,** or other communications-related
5 service provider to a pole owned or controlled by a municipal utility or municipality [~~but not a~~
6 ~~wireless antenna attachment or an attachment by a wireless communications provider to a pole~~].
7 As used in this section, "pole" means a utility pole which is owned or controlled by a municipal
8 utility or municipality [~~but shall not include poles that are not associated with the transmission~~
9 ~~or distribution of electric power, communications, broadband, or video services~~] **that is**
10 **designed for or used to carry lines, cables, wires, wireless facilities for telephony, wireless**
11 **communications services as defined in section 67.5092, electricity, to provide lighting,**
12 **traffic control, signage, or other similar function.** A municipal utility or municipality may
13 only deny an attaching entity access to the utility's poles on a nondiscriminatory basis **with**
14 **respect to particular poles or support structures** if there is insufficient capacity or for reasons
15 of safety and reliability, **or generally applicable engineering standards or, for application**
16 **under subdivision (10) of section 67.5101, for reasonably objective and documented**
17 **aesthetic considerations under subdivision (1) of section 67.5101,** and if the attaching entity
18 will not resolve the issue **at its own expense.** **In determining whether sufficient capacity**
19 **exists to accommodate the attachment of a new small wireless facility as defined in section**
20 **67.5092, a municipality or municipal utility may grant access subject to a reservation to**
21 **reclaim such space, if needed to meet the pole owner's core utility purpose that was**
22 **projected at the time of the application pursuant to a bona fide development plan.** If a
23 municipal utility or municipality does not find any capacity, safety, or reliability issues, such
24 municipal utility or municipality shall issue the attaching entity a permit to attach to the
25 municipal utility's or municipality's poles. Nothing in this section shall be construed to prohibit
26 a municipal utility or municipality from requiring an attaching entity to enter into a pole
27 attachment agreement consistent with this section; **except that, wireless communications**
28 **infrastructure providers or wireless communications service providers may collocate small**
29 **wireless facilities on municipal utility or municipally owned poles located within public**
30 **roads or right-of-ways without being required to apply for, or enter into, any individual**
31 **license or franchise with the municipal utility, municipality, or other entity, but subject to**
32 **nondiscriminatory, competitively neutral, and commercially reasonable terms and**
33 **conditions as may be set forth in a pole attachment agreement with the municipal utility**

34 or municipality, which terms and conditions shall comply with this section and federal pole
35 attachment requirements under 47 U.S.C. Section 224 and corresponding regulations in
36 effect as of January 1, 2018. Within the latter of six months after August 28, 2018, or three
37 months after receiving a request by a wireless communications service provider or wireless
38 communications infrastructure provider, each municipal utility and municipality shall,
39 acting in good faith, prepare and make available a standard wireless pole attachment
40 agreement that complies with the requirements of sections 67.5092 to 67.5104. A standard
41 wireless pole attachment agreement shall be in a form that is substantially complete so that
42 a wireless communications service provider or wireless communications infrastructure
43 provider, acting in good faith, may accept it with little substantive negotiation.
44 Notwithstanding any provision of law to the contrary, nothing shall preclude the
45 contractual parties to a standard pole attachment agreement, if mutually agreeable, from
46 negotiating terms beyond those contemplated by the standard pole attachment agreement.
47 All pole attachment agreements with wireless communications service providers and
48 wireless communications infrastructure providers shall be considered a public record as
49 defined under chapter 610.

50 2. (1) Notwithstanding sections 67.1830 to 67.1846, any pole attachment fees, terms,
51 and conditions, including those related to the granting or denial of access, demanded by a
52 municipal utility pole owner or controlling authority of a municipality shall be
53 nondiscriminatory, just, and reasonable and shall not be subject to any required franchise
54 authority or government entity permitting, except as provided in this section. A pole attachment
55 rental fee shall be calculated on an annual, per-pole basis. Such rental fee shall be considered
56 nondiscriminatory, just, and reasonable if it is agreed upon by the parties or, in the absence of
57 such an agreement, based on cost but in no such case shall such fee so calculated be greater than
58 the fee which would apply if it were calculated in accordance with the cable service **pole**
59 **attachment** rate formula referenced in 47 U.S.C. [~~See.~~] **Section** 224(d) as applied by the Federal
60 Communications Commission. In addition, a municipal pole owner may be authorized to exceed
61 the rate of return cost components of the Federal Communications Commission formula
62 referenced in this section if necessary to comply with Article X of the Missouri Constitution.
63 In the event of a dispute between the parties, either party may bring an action for review in any
64 court of competent jurisdiction. The court shall rule on any such petition for review in an
65 expedited manner by moving the petition to the head of the docket consistent with [~~subsection~~
66 ~~2-0f~~] this section. Nothing shall deny any party the right to a hearing before the court.

67 (2) **Make-ready work shall be addressed as follows, unless the parties agree to**
68 **different terms in a pole attachment agreement:**

69 **(a) For municipal utility or municipality owned poles that support aerial cables**
70 **used for video, communications, or electric service, the parties shall comply with the**
71 **process for make-ready work under 47 U.S.C. Section 224 and implementing regulations.**
72 **The good faith estimate of the entity owning or controlling the pole for any make-ready**
73 **work necessary to enable the pole to support the requested collocation shall include pole**
74 **replacement, if necessary;**

75 **(b) For municipal utility or municipality owned poles that do not support aerial**
76 **cables used for video, communications, or electric service, the municipal utility or**
77 **municipality shall provide a good faith estimate for any make-ready work necessary to**
78 **enable the pole to support the requested collocation, including pole replacement, if**
79 **necessary, within sixty days after receipt of a complete application. Make-ready work,**
80 **including any pole replacement, shall be completed within sixty days of written acceptance**
81 **of the good faith estimate and advance payment, if required, by the applicant; and**

82 **(c) Make-ready work shall not require more work than required to meet applicable**
83 **codes or industry standards. Charges for make-ready work, including any pole**
84 **replacement, shall not exceed actual costs or the amount charged to other communications**
85 **service providers for similar work and shall not include third-party fees, charges, or**
86 **expenses, except for amounts charged by licensed contractors actually performing the**
87 **make-ready work.**

88 **3. Small wireless facility pole attachments completed on or after August 28, 2018,**
89 **shall not interfere with or impair the operation of existing utility facilities or preexisting**
90 **third-party attachments.**

91 ~~[3-]~~ **4.** Where no pole attachment agreement exists between an attaching entity and the
92 municipal utility pole owner or controlling authority of a municipality, and a dispute between
93 a municipal utility pole owner or controlling authority of a municipality and an attaching entity
94 exclusively concerns the per-pole fee or any requirement or issue not directly related to pole
95 attachments consistent with this section or both, then the attaching entity may proceed with its
96 attachments during the pendency of the dispute under the agreed-upon terms and conditions at
97 a rental rate of no more than as set forth in subsection 2 of this section. The attaching entity shall
98 comply with applicable and reasonable engineering, safety, and reliability standards and shall
99 hold the municipal pole owner or controlling authority of the municipality harmless for any
100 liabilities or damages incurred that are caused by the attaching entity.

101 ~~[4-]~~ **5.** The provisions of this section shall not supersede existing pole attachment
102 agreements established prior to August 28, ~~[2014]~~ **2018.**

103 ~~[5-]~~ **6.** Nothing in this section shall be construed as conferring any jurisdiction or
104 authority to the public service commission or any state agency to regulate either the fees, terms,

105 or conditions for pole attachments, or for any state agency to assert any jurisdiction over
106 attachments to poles regulated by 47 U.S.C. [~~See:~~] **Section 224.**

107 [~~6-~~] **7.** A municipal utility or municipality may, after reasonable written notice and an
108 opportunity to cure, as provided in the applicable pole attachment agreement between a
109 municipal utility or municipality and an attaching entity, revoke a pole attachment permit granted
110 to an attaching entity and require removal of the attachment with or without fee refund for breach
111 of the pole attachment agreement or permit until the breach is cured, but only in the event of a
112 substantial breach of material terms and conditions of the pole attachment agreement or permit.
113 A substantial breach by an attaching entity shall be limited to:

114 (1) A material violation of a material provision of the applicable pole attachment
115 agreement or permit;

116 (2) An evasion or attempt to evade any material provision of the applicable pole
117 attachment agreement or permit;

118 (3) A material misrepresentation of fact in the applicable pole attachment agreement or
119 permit application;

120 (4) A failure to complete work by the date and in accordance with the terms specified
121 in the applicable pole attachment agreement or permit, unless an extension is obtained or unless
122 the failure to complete the work is due to reasons beyond the attaching entity's control; or

123 (5) A failure to correct, within the time and in accordance with the terms specified by
124 the municipal utility or municipality in the applicable pole attachment agreement or permit, work
125 by the attaching entity that does not conform to applicable national safety codes, industry
126 construction standards, or local safety codes that are not more stringent than national safety
127 codes, upon inspection and notification by the municipal utility or municipality of the faulty
128 condition. If the time for correction is not specified in the applicable pole attachment agreement
129 or permit, the time for correction shall be reasonable under the particular circumstances, and in
130 no event less than thirty days.

131 [~~7-~~] **8.** Unless otherwise provided for in an applicable pole attachment agreement, in the
132 event of an imminent threat to public health, life, or safety, a municipal utility or municipality
133 shall, upon notice to the attaching entity, request the attaching entity rearrange, relocate, or
134 remove a pole attachment from a pole or absent action from the attaching entity, have the
135 authority to rearrange, relocate, or remove a pole attachment consistent with industry practices.
136 The attaching entity shall be notified as soon as practicable upon the cessation of the threat to
137 public health, life, or safety, or upon restoration of the attachment by the municipal utility or
138 municipality.

139 **9. Nothing in this section grants any wireless communications service provider or**
140 **wireless communications infrastructure provider the power of eminent domain.**

✓