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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- WIRELESS
TELECOMMUNICATIONS

Introduced By: Representatives Ruggiero, Bennett, Carson, Morales, McEntee, Craven,
and Batista

Date Introduced: March 24, 2021

Referred To: House Innovation, Internet, & Technology

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 33

4 WIRELESS TELECOMMUNICATIONS ACT

5 **39-33-1. Short title.**

6 This act shall be known and may be cited as the "Wireless Telecommunications Act".

7 **39-33-2. Legislative Intent.**

8 It is the intent of the legislature to preserve and advance universal wireless
9 telecommunication service, to protect the public safety and welfare, ensure the continued quality
10 of telecommunication service, safeguard the rights of consumers, and preserve state and local
11 authority to manage the public rights-of-way.

12 **39-33-3. Definitions.**

13 As used in this chapter:

14 (1) "Antenna" means communications equipment that transmits and receives
15 electromagnetic radio signals used in the provision of all types of wireless communications
16 services.

17 (2) "Application" means a formal request submitted to an authority to construct or modify
18 a wireless support structure or a wireless facility.

1 (3) "Authority" means a city, town, or municipal government subdivision, agency, or
2 governmental entity that is authorized by law to regulate or control the use of the public rights-of-
3 way or the construction or installation of poles or wireless facilities or that owns or controls public
4 property suitable for collocating small wireless facilities; or is responsible for regulation of zoning
5 or land use. The term does not include the state courts.

6 (4)"Authority pole" means a pole regulated by or within the jurisdiction of an authority and
7 includes metal, composite, concrete, or wood poles, as well as decorative poles.

8 (5) "Authority structure" means a building, water tower, or other structure regulated by or
9 within the jurisdiction of an authority, but not an authority pole.

10 (6) "Building permit" means an official administrative authorization issued by an authority
11 to begin construction.

12 (7) "Collocate" or "collocation" means to install, mount, maintain, modify, operate, or
13 replace wireless facilities on a pole, including an authority pole, or on a building, water tower, or
14 other structure, including an authority structure.

15 (8) "Communications service provider" means a cable operator, as defined in 47 U.S.C. §
16 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications
17 carrier, as defined in 47 U.S.C. § 153(51); or a wireless service provider.

18 (9) "Equipment enclosure" means an enclosed structure, cabinet, or shelter used to contain
19 radio or other equipment necessary for the transmission or reception of wireless communication
20 signals.

21 (10) "Fall zone" means the area in which a wireless support structure may be expected to
22 fall in the event of a structural failure, as measured by engineering standards.

23 (11) "Land development plan" means the Rhode Island comprehensive planning and land
24 use act, chapter 22.2 of title 45, and all authority ordinances, regulations, and plans adopted in
25 conformance with the Rhode Island comprehensive planning and land use act.

26 (12) "Person" means an individual, corporation, limited-liability company, partnership,
27 association, trust, or other entity or organization, including an authority.

28 (13) "Pole" means a utility pole, light pole, light standard, or similar structure that is used,
29 in a whole or in part, for telephone service, wireless service, cable television service, information
30 service, electric service, lighting, traffic control, signage, or similar function.

31 (14) "Search ring" means the area within which a wireless facility must be located in order
32 to meet service objectives of the wireless service provider using the wireless facility or wireless
33 support structure.

34 (15) "Small wireless facility" means a wireless facility with an antenna of no more than six

1 cubic feet (6ft³) in volume and associated equipment with a cumulative volume no larger than
2 twenty-eight cubic feet (28ft³). The following types of associated equipment may be located outside
3 the primary enclosure and are not included in the calculation of equipment volume: electric meter,
4 concealment, telecommunications demarcation box, ground-based enclosures, backup power
5 system, grounding equipment, power transfer switch, cut-off switch, and cable and conduit runs for
6 the connection of power and other services. Equipment that is concealed from public view within
7 or behind an existing structure or concealment is not included in the volume calculations.

8 (16) "Wireless facilities" means equipment at a fixed location that enables wireless
9 communications between user equipment and communications network, including, but not limited
10 to:

11 (i) Equipment associated with wireless services, such as private, broadcast, and public
12 safety services, as well as unlicensed wireless services and fixed wireless services, such as
13 microwave backhaul; and

14 (ii) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power
15 supplies, and comparable equipment, regardless of technological configuration. The term "wireless
16 facilities" includes small wireless facilities but does not include the structure or improvements on,
17 under, or within which the equipment is collocated; wireline backhaul facilities; coaxial or fiber-
18 optic cable that is between wireless support structures or poles; or coaxial or fiber-optic cable that
19 is otherwise not immediately adjacent to, or directly associated with, an antenna.

20 (17) "Wireless service" means any services using licensed or unlicensed wireless spectrum,
21 whether at a fixed location or mobile, provided using wireless facilities.

22 (18) "Wireless service provider" means a person who provides wireless service, as well as
23 a person who builds, installs, or maintains wireless communications transmission equipment,
24 wireless facilities, or wireless support structures.

25 (19) "Wireless support structure" means a new or existing structure, such as a monopole,
26 lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities.
27 A utility pole is not a wireless support structure.

28 **39-33-4. Construction of wireless facilities and wireless support structures.**

29 (a) An authority may plan for and regulate the siting or modification of wireless support
30 structures and wireless facilities in accordance with a land development plan and in conformity
31 with this chapter and the provisions of 47 U.S.C. § 332. Except as expressly stated, nothing in this
32 chapter shall limit an authority from regulating applications to construct, modify, or maintain
33 wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a
34 wireless support structure based on consideration of land use, public safety, and zoning

1 considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or
2 state and local building code requirements, consistent with the provisions of the federal
3 Telecommunications Act of 1996, 47 U.S.C. § 332. For purposes of this chapter, public safety shall
4 not include requirements relating to radio frequency emissions of wireless facilities.

5 (b) Any person that proposes to construct or modify a wireless support structure or wireless
6 facility within the planning and land-use jurisdiction of an authority shall:

7 (1) Submit a completed application with the necessary copies and attachments to the
8 appropriate planning authority; and

9 (2) Comply with any local ordinances concerning land use and any applicable permitting
10 processes.

11 (c) An authority's review of an application for the placement, construction, or modification
12 of a wireless facility or wireless support structure shall only address public safety, land use and
13 development, and zoning and building code issues to include aesthetics. In reviewing an
14 application, the authority may not require information on or evaluate an applicant's business
15 decisions about its designed service, customer demand for its service, or quality of its service to or
16 from a particular area or site. In reviewing an application, the authority may review the following:

17 (1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations,
18 including aesthetics, landscaping, land-use based location priorities, structural design, setbacks,
19 and fall zones;

20 (2) Information or materials directly related to an identified public safety, land
21 development, or zoning issue including evidence that no existing or previously approved structure
22 can reasonably be used for the antenna placement instead of the construction of a new tower, that
23 residential, historic, and designated scenic areas cannot be served from outside the area, or that the
24 proposed height of a new tower or initial antenna placement or a proposed height increase of a
25 modified tower, replacement tower, or collocation is necessary to provide the applicant's designed
26 service; and

27 (3) An authority may require applicants for new wireless facilities to evaluate the
28 reasonable feasibility of collocating new antennas and equipment on an existing structure or
29 structures within the applicant's search ring. Collocation on an existing structure is not reasonably
30 feasible if collocation is technically or commercially impractical or the owner of the tower is
31 unwilling to enter into a contract for such use at fair market value. Authorities may require
32 information necessary to determine whether collocation on existing structures is reasonably
33 feasible.

34 (d) A collocation application entitled to streamlined processing under § 39-33-5 shall be

1 deemed complete unless the authority provides notice in writing to the applicant within forty-five
2 (45) days of submission or within some other mutually agreed upon timeframe. The notice shall
3 identify the deficiencies in the application which, if cured, would make the application complete.
4 The application shall be deemed complete on resubmission if the additional materials cure the
5 deficiencies identified.

6 (e) The authorities shall issue a written decision approving or denying an application within
7 forty-five (45) days in the case of collocation applications entitled to streamlined processing under
8 § 39-33-5 and within a reasonable period of time consistent with the issuance of other land-use
9 permits in the case of other applications, each as measured from the time the application is deemed
10 complete. Any decision denying an application shall be supported by substantial evidence
11 contained in a written record.

12 (f) An authority may fix and charge an application fee, consulting fee, or other fee
13 associated with the submission, review, processing, and approval of an application to site or modify
14 wireless support structures or wireless facilities that is based on the costs of the services provided
15 and does not exceed what is usual and customary for such services. Any charges or fees assessed
16 by an authority on account of an outside consultant shall be fixed in advance and incorporated into
17 a permit or application fee and shall be based on the reasonable costs to be incurred by the authority
18 in connection with the regulatory review authorized under this section. The foregoing does not
19 prohibit an authority from imposing additional reasonable and cost based fees for costs incurred
20 should an applicant amend its application. On request, the amount of the consultant charges
21 incorporated into the permit or application fee shall be separately identified and disclosed to the
22 applicant.

23 (g) The authority may condition approval of an application for a new wireless support
24 structure on the provision of documentation prior to the issuance of a building permit establishing
25 the existence of one or more parties, including the owner of the wireless support structure, who
26 intends to locate wireless facilities on the wireless support structure. An authority shall not deny an
27 initial land-use or zoning permit based solely on such documentation. An authority may condition
28 a permit on a requirement to construct facilities within a reasonable period of time, which shall be
29 no less than twenty-four (24) months.

30 (h) The authority may not require the placement of wireless support structures or wireless
31 facilities on authority owned or leased property, but may develop a process to encourage the
32 placement of wireless support structures or facilities on authority owned or leased property,
33 including an expedited approval process.

34 (i) This section shall not be construed to limit the provisions or requirements of any historic

1 district or landmark.

2 (1) A permit for a collocation within a historic district as defined in § 45-24.1-1.1 shall be
3 subject to historic district commission review and approval, in accordance with standards to be
4 adopted by regulation or rule. The standards may include that a collocation meet reasonable design,
5 context, color, and stealth and concealment requirements and make reasonable accommodation for
6 location within the district. The historic district commission may waive one or more standards upon
7 a showing that the standard(s) are not reasonably compatible with the particular location of a small
8 wireless facility, or that the standard(s) impose an excessive expense. The waiver shall be granted
9 or denied within forty-five (45) days after the date of the request for waiver.

10 (2) A permit subject to this subsection may require a collocation on an authority pole that
11 is a decorative pole to meet objective design standards, including that a collocation meet reasonable
12 location, context, color, and stealth and concealment requirements. Such standards shall be adopted
13 by ordinance, regulation, or rule. An authority may waive one or more standards upon a showing
14 that the standard(s) are not reasonably compatible with the particular location of a small wireless
15 facility, or that the standard(s) impose an excessive expense. The waiver shall be granted or denied
16 within forty-five (45) days after the date of the request.

17 (j) At an authority's discretion, an applicant shall be allowed to file a consolidated
18 application and receive a single permit or denial of a permit to collocate small wireless facilities at
19 multiple locations within the jurisdiction of the authority.

20 (k) All permits regarding the collocation of small wireless facilities shall be of unlimited
21 duration.

22 (l) Small wireless facilities may be classified as permitted uses in all zoning districts and
23 may be subject to zoning review or approval.

24 (m) Nothing in this chapter shall be construed to authorize a person to collocate a small
25 wireless facility on a privately owned pole, structure, or other private property without the consent
26 of the property owner.

27 (n) All agreements between authorities and wireless service providers that are in effect on
28 the effective date of this chapter and that relate to the collocation of small wireless facilities in the
29 public right-of-way or on authority poles or structures shall remain in effect, subject to any
30 termination provisions in such agreements.

31 **39-33-5. Streamlined process.**

32 (a) Applications for collocation of wireless facilities are entitled to streamlined processing
33 if the inclusion of the additional wireless facility does not exceed the number of wireless facilities
34 previously approved for the wireless support structure on which the collocation is proposed and

1 meets all the requirements and conditions of the original approval. This provision applies to
2 wireless support structures which are approved on or after December 1, 2021.

3 (b) Applications for collocation entitled to streamlined processing under the provisions of
4 this section shall be reviewed for conformance with applicable site plan and building permit
5 requirements but shall not otherwise be subject to zoning requirements, including design or
6 placement requirements, or public hearing review.

7 (c) The streamlined process set forth under the provisions of this section shall apply to all
8 collocations, in addition to collocations qualified for streamlined processing under subsection (a)
9 of this section, that meet all the following requirements:

10 (1) The collocation does not increase the overall height and width of the tower or wireless
11 support structure to which the wireless facilities are to be attached;

12 (2) The collocation does not increase the ground space area approved in the site plan for
13 equipment enclosures and ancillary facilities;

14 (3) The wireless facilities in the proposed collocation comply with applicable regulations,
15 restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or
16 other wireless support structure;

17 (4) The additional wireless facilities comply with all federal, state and local safety
18 requirements; and

19 (5) The collocation does not exceed the applicable weight limits for the wireless support
20 structure.

21 **39-33-6. Appeals.**

22 (a) An application may be deemed denied for purposes of filing an appeal pursuant to the
23 provisions of subsection (b) of this section, if the authority fails to approve or deny the application
24 within sixty (60) days of a completed submission. If the authority notifies the applicant within
25 forty-five (45) days after the initial submission that the application is incomplete and reasonably
26 identifies at that time the information that is lacking, the time period stated above shall be tolled
27 during the time it takes the applicant to respond. No other request for additional information shall
28 toll such time periods.

29 (b) A person whose application or revised application is denied by an authority may appeal
30 to the superior court within thirty (30) days of the denial. The superior court shall have jurisdiction
31 to determine all disputes arising under this chapter. The superior court shall hear any appeal by a
32 person adversely affected by a final action or failure to act by an authority, on an expedited basis.

33 **39-33-7. Public hearing.**

34 All hearings on permits subject to the provisions of this chapter shall be public hearings

1 and shall be conducted in accordance with the provisions of chapter 46 of title 42 ("open
2 meetings").

3 **39-33-8. Compliance with federal law.**

4 The placement, construction, or modification of wireless communications facilities shall
5 be in conformity with the federal Telecommunications Act of 1996, 47 U.S.C. § 332 as amended,
6 and in accordance with the rules promulgated by the Federal Communications Commission.

7 **39-33-9. Unaffected provisions.**

8 Nothing in this chapter shall be construed to modify or affect:

9 (1) Jurisdiction or authority of the public utilities commission (the "commission") or the
10 division of public utilities and carriers (the "division") over exchange-access rates or the rights or
11 obligations of any carrier pursuant to 47 U.S.C. § 251 or 47 U.S.C. § 252. Nor shall this chapter be
12 construed to modify or affect the authority of the commission to designate eligible
13 telecommunications carriers pursuant to federal law;

14 (2) Jurisdiction or authority of the commission or the division over standalone residential
15 local exchange service, meaning residential service that only provides access to E-911 and voice
16 telephone calling wholly within a local service calling area on a measured or unlimited service
17 basis;

18 (3) The common law or statutory authority of the attorney general to enforce consumer
19 protection or unfair or deceptive trade practice statutes and regulations; and

20 (4) The assessment of nondiscriminatory enhanced 911 fees, telecommunications
21 education access fund fees, or telecommunications relay service fees.

22 **39-33-10. No prohibition on wireless telecommunication services.**

23 (a) No provision of this chapter shall be construed to authorize any authority to adopt any
24 rule, regulation, ordinance or procedure that operates as a prohibition on wireless
25 telecommunication services.

26 (b) Any rule, regulation, ordinance or procedure adopted by an authority which operates as
27 a prohibition on wireless telecommunication services shall be void.

28 **39-33-11. Violations -- and penalties.**

29 (a) Any person, subject to the provisions of this chapter, who shall knowingly or willfully
30 cause to be done any act prohibited by this chapter or the terms of any permit issued pursuant to
31 the provisions of this chapter, shall be subject to a civil penalty not to exceed five thousand dollars
32 (\$5,000).

33 (b) Notwithstanding any inconsistent law to the contrary, the municipal court shall have
34 concurrent jurisdiction with the district court to hear and adjudicate violations under this chapter.

1 SECTION 2. Chapter 39-32 of the General Laws entitled "Rhode Island Small Cell Siting
2 Act" is hereby repealed in its entirety.

3 ~~CHAPTER 39-32~~

4 ~~Rhode Island Small Cell Siting Act~~

5 ~~39-32-1. Definitions.~~

6 ~~As used in this chapter:~~

7 ~~(1) "Authority" means a city, town, or any other state or municipal government subdivision,~~
8 ~~agency, or entity that is authorized by law to regulate or control the use of the public rights of way~~
9 ~~or the construction or installation of poles or wireless facilities or that owns or controls property~~
10 ~~suitable for collocating small wireless facilities. The term does not include the state courts.~~

11 ~~(2) "Authority pole" means a pole owned or controlled by an authority and includes metal,~~
12 ~~composite, concrete, or wood poles, as well as decorative poles.~~

13 ~~(3) "Authority structure" means a building, water tower, or other structure owned or~~
14 ~~controlled by an authority, but not an authority pole.~~

15 ~~(4) "Collocate" means to install, mount, maintain, modify, operate, or replace wireless~~
16 ~~facilities on a pole, including an authority pole, or on a building, water tower, or other structure,~~
17 ~~including an authority structure. "Collocation" has a corresponding meaning.~~

18 ~~(5) "Communications service provider" means a cable operator, as defined in 47 U.S.C. §~~
19 ~~522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications~~
20 ~~carrier, as defined in 47 U.S.C. § 153(51); or a wireless service provider.~~

21 ~~(6) "Person" means an individual, corporation, limited liability company, partnership,~~
22 ~~association, trust, or other entity or organization, including an authority.~~

23 ~~(7) "Pole" means a utility pole, light pole, light standard, or similar structure that is used,~~
24 ~~in whole or in part, for telephone service, wireless service, cable television service, information~~
25 ~~service, electric service, lighting, traffic control, signage, or similar function.~~

26 ~~(8) "Small wireless facility" means a wireless facility with an antenna of no more than six~~
27 ~~cubic feet (6 cu. ft.) in volume and associated equipment with a cumulative volume no larger than~~
28 ~~twenty-eight cubic feet (28 cu. ft.). The following types of associated equipment may be located~~
29 ~~outside the primary enclosure and are not included in the calculation of equipment volume: electric~~
30 ~~meter, concealment, telecommunications demarcation box, ground-based enclosures, backup~~
31 ~~power system, grounding equipment, power transfer switch, cut-off switch, and cable and conduit~~
32 ~~runs for the connection of power and other services. Equipment that is concealed from public view~~
33 ~~within or behind an existing structure or concealment is not included in the volume calculations.~~

34 ~~(9) "Wireless facilities" means equipment at a fixed location that enables wireless~~

1 ~~communications between user equipment and a communications network, including, but not~~
2 ~~limited to:~~

3 ~~(i) Equipment associated with wireless services, such as private, broadcast, and public~~
4 ~~safety services, as well as unlicensed wireless services and fixed wireless services, such as~~
5 ~~microwave backhaul; and~~

6 ~~(ii) Radio transceivers, antennas, coaxial or fiber optic cable, regular and backup power~~
7 ~~supplies, and comparable equipment, regardless of technological configuration. The term "wireless~~
8 ~~facilities" includes small wireless facilities but does not include the structure or improvements on,~~
9 ~~under, or within which the equipment is collocated; wireline backhaul facilities; coaxial or fiber-~~
10 ~~optic cable that is between wireless support structures or poles; or coaxial or fiber optic cable that~~
11 ~~is otherwise not immediately adjacent to, or directly associated with, an antenna.~~

12 ~~(10) "Wireless service" means any services using licensed or unlicensed wireless spectrum,~~
13 ~~whether at a fixed location or mobile, provided using wireless facilities.~~

14 ~~(11) "Wireless service provider" means a person who provides wireless service, as well as~~
15 ~~a person who builds, installs, or maintains wireless communications transmission equipment,~~
16 ~~wireless facilities, or wireless support structures.~~

17 **39-32-2. Regulation of small wireless facilities.**

18 ~~(a) A wireless service provider authorized to do business in this state or a contractor acting~~
19 ~~on its behalf may collocate small wireless facilities within, along, across, upon, and under any~~
20 ~~public right of way in this state, including state highways and freeways, and may construct conduit,~~
21 ~~cables, and facilities between such small wireless facility and other equipment or services located~~
22 ~~on or adjacent to the supporting pole or other structure, subject to the provisions of this chapter.~~

23 ~~(b) Except as provided in this chapter, an authority shall not prohibit, regulate, or charge~~
24 ~~for the collocation of small wireless facilities.~~

25 ~~(c) Small wireless facilities shall be classified as permitted uses in all zoning districts and~~
26 ~~shall not be subject to zoning review or approval.~~

27 ~~(d) Nothing in this chapter shall be construed to authorize a person to collocate a small~~
28 ~~wireless facility on a privately owned pole, structure, or other private property without the consent~~
29 ~~of the property owner.~~

30 ~~(e) All agreements between authorities and wireless service providers that are in effect on~~
31 ~~the effective date of this chapter [September 27, 2017] and that relate to the collocation of small~~
32 ~~wireless facilities in the public right of way or on authority poles or structures shall remain in~~
33 ~~effect, subject to any termination provisions in such agreements. Notwithstanding the foregoing, at~~
34 ~~the election of a wireless service provider, the rates, fees, terms, and conditions established pursuant~~

1 to this chapter shall apply to small wireless facilities that are the subject of an application submitted
2 after the effective date of this chapter.

3 ~~**39-32-3. Collocation of small wireless facilities on authority poles and authority**~~
4 ~~**structures.**~~

5 An authority may require a person to obtain a building, electrical, or a public right of way
6 use or work permit to collocate small wireless facilities on authority poles or authority structures,
7 provided such permits are of general applicability and do not apply exclusively to wireless facilities.

8 An authority may not require a permit, other than a public right of way work permit, for routine
9 maintenance on a previously approved small wireless facility or to replace a small wireless facility
10 with a facility of substantially similar or smaller size and weight. An authority shall accept an
11 application for, process, and issue a permit allowed under this chapter as follows:

12 (1) ~~An authority shall receive applications for, and process and issue permits for,~~
13 ~~collocating small wireless facilities on a nondiscriminatory basis and in substantially the same~~
14 ~~manner as the permitting of other applicants within the jurisdiction of the authority. An applicant~~
15 ~~for a collocation permit shall not be required to provide more information to obtain a permit than~~
16 ~~communications service providers that are not wireless providers. If consistent with the preceding~~
17 ~~sentence, an authority may require an application to include information sufficient to determine~~
18 ~~whether the collocation meets applicable building or electrical codes or, if applicable, standards for~~
19 ~~construction in the right of way, provided such codes and standards are of general applicability.~~

20 (2) ~~An authority may charge a fee to process an application to collocate a small wireless~~
21 ~~facility. The fee shall be no greater than the reasonable, direct and actual costs incurred by the~~
22 ~~authority to process the application, excluding any fees for review of an application charged by~~
23 ~~third parties on a contingency basis or a result based arrangement, and further excluding any costs~~
24 ~~already recovered by existing fees, rates, or taxes paid by a wireless provider. The application~~
25 ~~processing fee shall be no greater than the application processing fee, if any, charged by the~~
26 ~~authority to persons seeking to place a pole in the public way. Except as provided in § 39-32-5, an~~
27 ~~applicant shall not be required to pay any additional fees or charges, or perform or provide any~~
28 ~~services not directly related to the collocation, in order to collocate small wireless facilities.~~

29 (3) ~~At its discretion, an applicant shall be allowed to file a consolidated application and~~
30 ~~receive a single permit to collocate small wireless facilities at multiple locations within the~~
31 ~~jurisdiction of the authority.~~

32 (4) ~~An authority may not institute a moratorium on filing, receiving, or processing~~
33 ~~applications or issuing permits or approvals for the collocation of small wireless facilities.~~

34 (5) ~~All permits regarding the collocation of small wireless facilities shall be of unlimited~~

1 duration but initial construction shall be completed within one hundred eighty (180) days after the
2 permit issuance date, unless the authority and wireless provider agree to extend this period or a
3 delay is caused by a lack of commercial power at the site.

4 (6) ~~Notwithstanding the provisions of § 39-32-2(c), a permit for a collocation within a~~
5 ~~historic district as defined in § 45-24.1-1.1 shall be subject to historic district commission review~~
6 ~~and approval, in accordance with standards to be adopted by regulation or rule. The standards may~~
7 ~~include that a collocation meet reasonable design, context, color, and stealth and concealment~~
8 ~~requirements and make reasonable accommodation for location within the district. The historic~~
9 ~~district commission may waive one or more standards upon a showing that the standard(s) are not~~
10 ~~reasonably compatible with the particular location of a small wireless facility, or that the standard(s)~~
11 ~~impose an excessive expense. The waiver shall be granted or denied within forty five (45) days~~
12 ~~after the date of the request for waiver.~~

13 (7) ~~A permit may require a collocation on an authority pole that is a decorative pole to meet~~
14 ~~objective design standards, including that a collocation meet reasonable location, context, color,~~
15 ~~and stealth and concealment requirements. Such standards shall be adopted by ordinance,~~
16 ~~regulation, or rule. An authority may waive one or more standards upon a showing that the~~
17 ~~standard(s) are not reasonably compatible with the particular location of a small wireless facility,~~
18 ~~or that the standard(s) impose an excessive expense. The waiver shall be granted or denied within~~
19 ~~forty five (45) days after the date of the request.~~

20 **39-32-4. Action on permit applications.**

21 (a) ~~An authority shall approve an application for a permit under this chapter unless the~~
22 ~~collocation does not meet applicable building or electrical codes or, if applicable, standards for~~
23 ~~construction in the right of way, provided such codes and standards are of general applicability.~~
24 ~~The authority must document the basis for any denial, including the specific code provisions or~~
25 ~~standards on which the denial was based, and send the documentation to the applicant on or before~~
26 ~~the day the authority denies an application. The applicant may cure the deficiencies identified by~~
27 ~~the authority and resubmit the application within thirty (30) days of the denial without paying an~~
28 ~~additional processing fee. The authority shall approve or deny the revised application within thirty~~
29 ~~(30) days. Any subsequent denial shall be limited to the deficiencies cited in the original denial.~~
30 ~~Where one or more locations addressed in a consolidated application do not meet the criteria of this~~
31 ~~section, the authority shall allow the application as to all other locations.~~

32 (b) ~~An application shall be deemed approved if the authority fails to approve or deny the~~
33 ~~application within sixty (60) days of submission. If the authority notifies the applicant within~~
34 ~~fourteen (14) days after the initial submission that the application is incomplete and reasonably~~

1 ~~identifies at that time the information that is lacking, the time period stated above shall be tolled~~
2 ~~during the time it takes the applicant to respond. No other request for additional information shall~~
3 ~~toll such time periods.~~

4 ~~(c) A person whose application or revised application is denied by an authority may appeal~~
5 ~~to the superior court within thirty (30) days of the denial. The superior court shall have jurisdiction~~
6 ~~to determine all disputes arising under this chapter.~~

7 **39-32-5. Additional terms for collocation on authority poles and structures.**

8 ~~(a) Within six (6) months of receiving its first request to collocate small wireless facilities~~
9 ~~on authority poles located within the public rights of way, but in no event later than April 1, 2018,~~
10 ~~an authority shall establish, by ordinance, regulation, or rule, nondiscriminatory, competitively~~
11 ~~neutral, and commercially reasonable rates, terms, and conditions for such collocation that are~~
12 ~~consistent with the provisions of this chapter. Aside from the application processing fee allowed~~
13 ~~under § 39-32-3, an authority shall not charge on an annual recurring basis more for such a~~
14 ~~collocation than one hundred and fifty dollars (\$150) or the rate produced by applying the formula~~
15 ~~adopted by the Federal Communications Commission for telecommunications attachments under~~
16 ~~47 U.S.C. § 224(e). The fee limitation shall not apply to authority structures.~~

17 ~~(b) An authority shall authorize the collocation of small wireless facilities on authority~~
18 ~~poles not located within the public rights of way and on authority structures to the same extent the~~
19 ~~authority permits access to the poles and structures for other commercial projects or uses, and may~~
20 ~~authorize the collocation if the authority has not previously permitted access. The collocation shall~~
21 ~~be subject to reasonable and nondiscriminatory rates, terms, and conditions as provided by~~
22 ~~ordinance or in one or more agreements between the wireless provider and the authority. An~~
23 ~~authority may not charge on an annual recurring basis more for such a collocation than the amount~~
24 ~~charged for similar commercial projects or uses to occupy or use the same amount of space on~~
25 ~~similarly situated property.~~

26 **39-32-6. Collocation of small wireless facilities on private poles and structures.**

27 ~~(a) An authority may not prohibit, regulate, or charge for the collocation of small wireless~~
28 ~~facilities on poles or structures other than authority poles and authority structures.~~

29 ~~(b) A wireless service provider may install poles in the public rights of way in order to~~
30 ~~collocate small wireless facilities, subject to request and authority approval. An authority shall~~
31 ~~receive, process, and approve such requests on a nondiscriminatory basis and in substantially the~~
32 ~~same manner and on substantially the same terms and conditions as the authority applies to similar~~
33 ~~requests by other persons seeking to place poles in the public ways.~~

1 SECTION 3. This act shall take effect upon passage.

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LC002200
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS -- WIRELESS
TELECOMMUNICATIONS

1 This act would authorize the municipalities and/or authorized government entities to
2 regulate wireless telecommunication service providers construction and modification of equipment
3 to provide for the public safety and welfare including land use, zoning, and aesthetics. The public
4 utilities commission would be authorized to promulgate rules and regulations. Violation of the
5 provision of this chapter or the rules and regulations would be a misdemeanor punishable by a fine
6 not to exceed one thousand dollars (\$1,000) or imprisonment not to exceed one year, or both.

7 This act would also repeal the "Rhode Island Small Cell Siting Act", chapter 32 of title 39.

8 This act would take effect upon passage.

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LC002200
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