WEST VIRGINIA CODE: §31H-1-2

§31H-1-2. Definitions.

As used in this chapter, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;

(2) "Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code;

(3) "Applicant" means any person who submits an application and is a wireless provider;

(4) "Application" means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities or to approve the installation, modification, or replacement of a utility pole or wireless support structure;

(5) "Authority" means the State of West Virginia or a political subdivision that has jurisdiction and control for use of public rights-of-way as provided by this code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way;

(6) "Authority utility pole" means a utility pole owned or operated by an authority in a public right-of-way;

(7) "Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole;

(8) "Commissioner" means the Commissioner of the West Virginia Division of Highways;

(9) "Communications facilities" means the set of equipment and network components, including wires, cables, antennas, and associated facilities, used by a communications service provider to provide communications service;

(10) "Communications service" means cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(33), as amended; or wireless service other than mobile service;

(11) "Communications service provider" means any entity that provides communications service;

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(12) "Decorative pole" means an authority utility pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, or specially designed informational, or directional signage, or temporary holiday or special event attachments have been placed, or are permitted to be placed, according to nondiscriminatory municipal rules or codes;

(13) "Division" means the West Virginia Division of Highways;

(14) "FCC" means the Federal Communications Commission of the United States;

(15) "Fee" means a one-time, nonrecurring charge;

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

(17) "Law" means a federal or state statute, common law, code, rule, regulation, order, or a local ordinance or resolution;

(18) "Micro wireless facility" means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, that is no longer than 11 inches;

(19) "Permit" means a written authorization required by an authority to perform an action or initiate, continue, or complete a project;

(20) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority;

(21) "Rate" means a recurring charge;

(22) "Right-of-way" means the area on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property, but not including a federal interstate highway;

(23) "Small wireless facility" means a wireless facility that meets both of the following qualifications:

(A) Each antenna could fit within an imaginary enclosure of no more than 6 cubic feet; and

(B) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: Electric meter, concealment elements,

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telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and communications services;

(24) "Utility pole" means a pole or similar structure that is or may be used, in whole or in part, by a communication services provider or for electric distribution, lighting, traffic control, signage (if the pole is 15 feet or taller), or a similar function, or for the collocation of small wireless facilities. However, "utility pole" does not include wireless support structures or electric transmission structures;

(25) "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(A) Equipment associated with wireless communications; and

(B) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. "Wireless facility" includes small wireless facilities. "Wireless facility" does not include:

(i) The structure or improvements on, under, or within which the equipment is collocated; or

(ii) Wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles, or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna;

(26) "Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles, but that is not a wireless provider;

(27) "Wireless provider" means a wireless infrastructure provider or a wireless provider;

(28) "Wireless services" means any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile location, provided to the public using wireless facilities;

(29) "Wireless service provider" means a person who provides wireless services;

(30) "Wireless support structure" means a structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include a utility pole; and

(31) "Wireline backhaul facility" is a facility used for the transport of communications service or any other electronic communications by coaxial, fiber-optic cable, or any other wire.

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