



RESOLUTION: R-2020-03

**A RESOLUTION BY THE BOARD OF MAYOR AND ALDERMEN OF
THE TOWN OF FARRAGUT IN SUPPORT OF HOUSE BILL 2150
(ZACHARY) AND SENATE BILL 2133 (BRIGGS) OF THE 111TH
TENNESSEE GENERAL ASSEMBLY**

WHEREAS, it is the primary duty of the Board of Mayor and Aldermen of the Town of Farragut to represent the interests of the community; and

WHEREAS, there is a possibility for the proliferation of small cell support structures throughout the Town; and

WHEREAS, many of the Town's citizens have expressed concerns regarding the Town's lack of control in relation to the placement, appearance, colocation, and justification for small cell support structures, particularly in residential areas and near schools; and

WHEREAS, prior to April 28, 2018, the Town adopted local rules, regulations, ordinances, and procedures to allow for the uniform, non-discriminatory processing and approval of applications for small cell support structures; and

WHEREAS, the Town has historically required all utility projects, including small cell support structures and fiber installation, to be presented to and approved by the Municipal Planning Commission, according to their established rules and procedures, consistent with State Law; and

WHEREAS, the Town has historically required all utilities to be placed underground for coordination and aesthetic purposes, consistent with State law; and

WHEREAS, the 111th Tennessee General Assembly will consider legislation during the 2020 session to amend the Competitive Wireless Broadband Investment, Deployment, and Safety Act of 2018 to restore these appropriate and reasonable controls; and

WHEREAS, the proposed amendments uniquely impact The Town of Farragut; and

WHEREAS, the Farragut Board of Mayor and Aldermen support House Bill 2150 and Senate Bill 2133 of the 111th General Assembly of the State of Tennessee, and find them necessary and beneficial to our community; and

NOW, THEREFORE, be it resolved by the Board of Mayor and Aldermen of the Town of Farragut that we ask all members of the General Assembly of the State of Tennessee to vote in favor of House Bill 2150 and Senate Bill 2133.

This resolution is duly adopted by the Board of Mayor and Aldermen of the Town of Farragut on March 3, 2020.

Ron Williams, Mayor

Allison Myers, Town Recorder

Amendment No. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 2133

House Bill No. 2150*

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 13-24-402(19)(A)(i), is amended by deleting the language "six (6)" and substituting the language "three (3)".

SECTION 2. Tennessee Code Annotated, Section 13-24-402, is amended by adding the following as a new subdivision:

"Stealth technology":

(A) Means design techniques applied to telecommunication structures that will help conceal them or make them less visible to the casual observer. As used in this subdivision, "design techniques" include, but are not limited to, facilities constructed to resemble light poles, trees, flag poles, steeples, or other streetscape elements; and

(B) Includes concealment wrap and similar technologies and placing applicable structures underground;

SECTION 3. Tennessee Code Annotated, Section 13-24-404(b), is amended by deleting the word "Any" and substituting the language "Except as provided in § 13-24-405, any".

SECTION 4. Tennessee Code Annotated, Section 13-24-405, is amended by adding the following as a new subdivision:

Prohibit a local authority from the nondiscriminatory enforcement of local rules, regulations, and ordinances that were in effect on April 24, 2018, that require:



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(A) The antenna of an applicant to be co-located on an existing PSS, or placed on a new PSS that will accommodate the antenna of a minimum of two (2) wireless providers or communications service providers;

(B) All equipment related to the wireless facility except the PSS, the antenna, and the wire or cable connecting the antenna to the equipment be placed underground;

(C) All wiring or cable connecting the antenna to the equipment be concealed within the pole or, where that is not possible, that the wiring be concealed within the most stealth conduit possible that matches the color of the pole;

(D) Stealth technology be used with respect to the antenna and new or replacement PSS;

(E) The applicant provide the data necessary for the authority to verify the certification of the applicant that the proposed design complies with the FCC's radio frequency emissions standards; and

(F) The applicant provide a map on other documentation, illustrating the coverage area, the capacity, and the capacity objective for each proposed PSS and the coverage area and the capacity of each small cell wireless facility adjacent to the coverage area.

SECTION 5. Tennessee Code Annotated, Section 13-24-408(a)(1), is amended by deleting the subdivision and substituting the following:

(1) No local authority shall restrict the size, height, or otherwise regulate the appearance or placement of small wireless facilities, or prohibit collocation on PSSs, except a local authority shall require that:

(A) A new PSS installed or an existing PSS replaced in the ROW not exceed the greater of:

(i) A height ten percent (10%) taller than the tallest existing PSS, except a PSS owned or maintained by the Tennessee Valley authority, in place as of April 24, 2018, that is located within five hundred feet (500') of the new PSS in the ROW and, in residential neighborhoods, the tallest existing PSS, except a PSS owned or maintained by the Tennessee Valley authority, that is located within five hundred feet (500') of the new PSS and is also located within the same residential neighborhood as the new PSS in the ROW;

(ii) Fifty feet (50') above ground level; or

(iii) For a PSS installed in a residential neighborhood, forty feet (40') above ground level; and

(B) Small wireless facilities deployed in the ROW after April 24, 2018

shall not extend:

(i) More than a height ten percent (10%) taller than an existing PSS in place as of April 24, 2018, except a PSS owned by the Tennessee Valley authority; or

(ii) On a new PSS, a height ten percent (10%) taller than the height permitted for a new PSS under this section.

SECTION 6. Tennessee Code Annotated, Section 13-24-409(b)(3)(D)(iv), is amended by deleting the subdivision and substituting the following:

(iv) Alternative design options that may enable collocation on an existing PSS instead of deployment of a new PSS or opportunities and potential benefits of alternative design that would incorporate other features or elements of benefit to the local authority. However, the existence of alternatives does not constitute a basis for denial of an application that otherwise satisfied all generally applicable local standards for construction in the ROW, and the requirements of local regulations governing installations of small wireless facilities in the ROW that are permitted by this part;

SECTION 7. Tennessee Code Annotated, Section 13-24-411, is amended by deleting the language "Consistent with the limitations in this part, an" and substituting the word "An".

SECTION 8. Tennessee Code Annotated, Section 13-24-411(1), is amended by adding the following as a new subdivision:

When based on the authority's practices and procedures that were in effect on April 24, 2018, requiring the approval of the location and extent of proposed new PSS and wireless facilities, or the replacement of existing PSS, to be reviewed by the local planning commission or the authority's chief legislative body. When following those preexisting practices and procedures, the authority is not subject to the time limits of § 13-24-409(b) when a PSS has been denied by the planning commission, and, pursuant to the preexisting practices and procedures, an applicant appeals the denial of a new or replacement PSS to the chief legislative body.

SECTION 9. Tennessee Code Annotated, Section 13-24-411(3), is amended by deleting the subdivision and substituting the following:

(3) In residential neighborhoods, deploy new PSS in a ROW to be located within fifteen feet (15') from the property boundaries separating residential lots larger than three-quarters of an acre in size and may require new PSS deployed in a ROW to be located within five feet (5') from the property boundaries separating residential lots three-quarters of an acre in size or smaller;

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.