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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Commonwealth Transportation Board
<b>Virginia Administrative Code (VAC) citation(s)</b>	24 VAC30-151
<b>Regulation title(s)</b>	Land Use Permit Regulations
<b>Action title</b>	CH 0151 Implementation of Ch. 837 of 2018 Acts of Assembly - Right of way use fees for Wireless Infrastructure
<b>Final agency action date</b>	9-18-2018
<b>Date this document prepared</b>	9-19-18

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

Chapter 837 of the 2018 Acts of Assembly established an annual wireless support structure public rights-of-way use fee to replace all fees of general application, except permit processing and other plan review fees. The CTB's Land Use Permit Regulations, adopted in 2009, set out annual fees for the installation and maintenance of communication towers within the right-of-way. The current amendments to the Land Use Permit Regulations have been adopted by the CTB and are necessary to make the annual fees specified in those regulations consistent with the fees specified in Chapter 837.

Under Chapter 837, new wireless communications poles and towers are to be charged fees that vary based upon height (from \$1,000 for poles or towers under 50 feet in height to \$5,000 for towers over 120

feet in height), with a 5-year inflation clause tied to changes in the consumer price index. The Virginia Department of Transportation may continue to enforce existing permits or agreements for wireless communication towers, and the annual fees charged in those permits or agreements, until the current term of those permits or agreements ends.

The Land Use Permit Regulations also specify a \$14,000 annual fee for co-locations of non-small-cell communications equipment on an existing tower. The fees set out in Chapter 837 do not impact co-locations of wireless equipment on communication towers nor fees charged for the occupancy of VDOT-owned towers.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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The Commonwealth Transportation Board approved the proposed amendments to the Land Use Permit Regulations at its regular board meeting on September 18, 2018.