

8C.7B Small wireless facilities — violation and removal.

1. A public utility that owns or controls a utility pole on which a small wireless facility is sited in alleged violation of [this chapter](#) or the Iowa electrical safety code shall notify the owner of the small wireless facility of the alleged violation, in writing or by any other method agreed upon by the parties in writing. The notice shall include the following information:

- a. The address and location where the alleged violation occurred.
- b. A description of the alleged violation.
- c. Suggested corrective action.

2. Upon the receipt of notice of an alleged violation, the recipient of such notice shall respond to the public utility within sixty days in writing or by any other method agreed upon by the parties in writing. The response shall include the following information:

- a. A statement disclosing whether or not the recipient of the notice is the owner of the small wireless facility at issue.
- b. A statement disclosing that the owner disputes that the alleged violation has occurred, if applicable.
- c. A plan for corrective action if the owner does not dispute that the violation has occurred.
- d. A statement disclosing whether the violation has been corrected, if the owner does not dispute that the violation has occurred.

3. The owner of a small wireless facility in alleged violation of [this chapter](#) or the Iowa electrical safety code shall correct the alleged violation within one hundred eighty days after receiving notice of the violation unless, for good cause shown, a delay for taking corrective action is appropriate or if the parties otherwise agree in writing to extend the time required to take corrective action. Good cause for a delay in corrective action shall include but is not limited to a dispute over whether the recipient of the notice is the owner of the small wireless facility at issue, a dispute over whether the alleged violation has occurred, or if taking corrective action within the required time frame is not possible due to circumstances which are beyond the control of the owner of the small wireless facility. The public utility and owner of the small wireless facility shall cooperate in determining an efficient and cost-effective solution to correct an alleged violation.

4. a. Notwithstanding [subsections 1 through 3](#), in the event of an emergency, an authority or public utility shall contact the owner of the small wireless facility at issue and provide the owner with a reasonable opportunity, given the nature of the emergency, to alleviate such emergency or participate with the authority or public utility to make any repairs necessary to alleviate such emergency. If the owner of the small wireless facility does not respond in a timely manner, as determined by the authority or public utility given the nature of the emergency, the authority or public utility may remove or make alterations to the small wireless facility as necessary to ensure public safety.

b. For purposes of [this subsection](#), “*emergency*” means exigent and extraordinary circumstances under which the physical or electrical failure of a utility pole, wireless support structure, or small wireless facility threatens imminent physical harm to persons or there is a substantial likelihood of imminent and significant harm to property.

5. If the parties cannot resolve a dispute after following the procedures provided in [this section](#), any party may file an action concerning an alleged violation under [this section](#) in the district court for the county in which the violation is alleged to have occurred, for any appropriate remedy, including the removal of a small wireless facility deemed by the court to be in violation of [this chapter](#) or the Iowa electrical safety code. However, [this section](#) shall not preclude a party from bringing an action pursuant to the Iowa electrical safety code or [47 C.F.R. §1.1401 et seq.](#), or the application of a dispute resolution process set forth in an applicable pole attachment agreement between the parties.

6. Nothing in [this section](#) shall be deemed to limit the ability of a public utility and the owner of a small wireless facility to voluntarily enter into a pole attachment agreement that establishes different terms for the siting of a small wireless facility or the resolution of a dispute regarding such a facility.

[2017 Acts, ch 112, §4](#)

NEW section