

WIRELESS BROADBAND COLLOCATION ACT - ENACTMENT

Act of Oct. 24, 2012, P.L. 1501, No. 191

Cl. 66

An Act

Providing for streamlined procedures for reviewing applications for the modification or collocation of wireless communications facilities and wireless support structures.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Wireless Broadband Collocation Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Accessory equipment." Any equipment serving or being used in conjunction with a wireless telecommunications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

"Antenna." Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services.

"Application." A formal request submitted to the municipality to modify a wireless support structure, equipment compound or a wireless telecommunications facility.

"Base station." A station at a specified site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

"Collocation." The placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless support structures, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers or any other structure not classified as a wireless support structure that can support the placement or installation of wireless telecommunications facilities if approved by the municipality. The term includes the placement, replacement or modification of accessory equipment within a previously approved equipment compound.

"Electrical transmission tower." An electrical transmission structure used to support overhead power lines consisting of 69 kilovolt or greater conducting lines, generally of steel construction and having a height of at least 75 feet. The term shall not include any utility pole having a height of less than 75 feet.

"Equipment compound." An area surrounding or adjacent to a wireless support structure within which base stations, power supplies or accessory equipment are located.

"Judiciary Act Repealer Act." The act of April 28, 1978 (P.L.202, No.53), known as the Judiciary Act Repealer Act.

"Modification" or "modify." The improvement, upgrade or expansion of existing wireless telecommunications facilities or base stations on an existing wireless support structure or the improvement, upgrade or expansion of the wireless telecommunications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or

replacement does not substantially change the physical dimensions of the wireless support structure.

"Municipality." Any city of the first, second, second class A or third class, borough, incorporated town, township of the first or second class, county of the second class through eighth class, home rule municipality or any similar general purpose unit of government which shall hereafter be created by the General Assembly that has adopted land use or zoning regulations.

"Pennsylvania Municipalities Planning Code." The act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

"Replacement." The replacement of existing wireless telecommunications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the wireless telecommunications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support structure.

"Substantial change" or "substantially change."

(1) Any increase in the height of the wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed wireless telecommunications facility may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas.

(2) Any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array in accordance with the provisions of this act shall not occur without municipal approval.

"Water tower." A standpipe or an elevated tank situated on a support structure, both of which shall be constructed of steel, have a height of at least 75 feet and be used as a reservoir or facility to deliver water.

"Wireless support structure." A freestanding structure, such as a guyed or self-supporting monopole or tower, electrical transmission tower, water tower or other structure not classified as a wireless support structure, that could support the placement or installation of wireless telecommunications facilities if approved by the municipality.

"Wireless telecommunications facility." The set of equipment and network components, including antennas, transmitters, receivers, base stations, cabling and accessory equipment, used to provide wireless data and telecommunications services. The term shall not include the wireless support structure.
Section 3. Regulation of wireless support structures.

(a) Limitations.--Municipalities that have adopted zoning ordinances and land use regulations for the placement of wireless support structures may not require any additional requirements on the applicant for the collocation on a wireless support structure or the modification of a wireless telecommunications facility that has the force or effect of:

(1) Regulating the collocation, replacement or modification of antennas, accessory equipment or wireless telecommunications facilities upon an existing wireless support structure or within an existing equipment compound.

(2) Imposing additional costs, except the appropriate and reasonable permit fees, or operating restrictions on an applicant for the replacement, collocation or modification of wireless telecommunications facilities upon existing wireless support structures or within existing equipment compounds.

(3) Requiring payment of a zoning permit fee to accompany any application, the amount of which fee is in excess of the municipality's actual, reasonable costs to review and process the application, or \$1,000, whichever is less.

(4) Requiring an applicant to provide justification for radio frequency need.

(5) Acting to prohibit or have the effect of prohibiting the provision of mobile service as provided in 47 U.S.C. § 332(c)(7)(B)(i) (relating to mobile services).

(6) Requiring an applicant to justify the need for or the technical, business or service characteristics of the proposed wireless telecommunications facilities.

(b) (Reserved).

Section 4. Processing of applications.

(a) General rule.--Notwithstanding the Pennsylvania Municipalities Planning Code or other land use or zoning ordinances or regulations, an application for replacement, collocation or modification of a wireless telecommunications facility or wireless support structure entitled to processing under this section shall be reviewed for conformance with the municipality's applicable building permit requirements, including requirements applicable to the added structural loading of the proposed antennas and accessory equipment, but shall not be subject to the issuance of new zoning or land use approvals or review beyond the initial zoning or land use approvals issued for the previously approved wireless support structure or wireless telecommunications facility. Replacement of wireless telecommunications facilities on existing wireless support structures or within existing equipment compounds may be performed by the applicant without obtaining building or zoning permits from the municipality.

(b) Applications.--An application shall be deemed complete when all documents, information and fees specifically enumerated in the municipality's regulations, ordinances and forms pertaining to the location, modification or operation of wireless telecommunications facilities are submitted by the applicant to the municipality. The following shall apply:

(1) Within 30 calendar days of the date an application for modification or collocation is filed with the municipality, the municipality shall notify the applicant in writing of any information required to complete the application. If additional information is required to complete the application, the time required by the applicant to provide the information shall not be counted toward the 90-calendar-day review period under paragraph (2).

(2) Within 90 calendar days of the date an application for modification or collocation of a wireless telecommunications facility is filed with the municipality, unless another date is specified in a written agreement between the municipality and the applicant, the municipality shall do all of the following:

(i) Make its final decision to approve the application.

(ii) Advise the applicant in writing of its final decision.

(3) If the municipality fails to act upon an application for the modification or collocation of wireless telecommunications facilities within 90 calendar days as provided under paragraph (2), the application shall be deemed approved. If a municipality has advised the applicant in writing that additional information is required to complete the application pursuant to paragraph (1), the time required by the applicant to provide the information shall not be counted toward the 90-day period within which the municipality's failure to act shall result in a deemed approval.

(c) Requirements.--The process under this section shall apply to all applications for modification, replacement and collocation that meet all of the following requirements:

(1) The proposed collocation, modification or replacement may not substantially change the physical dimensions of the wireless support structure to which the wireless telecommunications facilities are to be attached.

(2) The proposed collocation, modification or replacement may not further increase the height of a wireless support structure which had already been extended by more than 10% of its originally approved height or by the height of one additional antenna array, provided, however, that nothing herein shall preclude an applicant from further increasing the height of a wireless support structure which had already been extended by more than 10% of its originally approved height or by the height of one additional antenna array if permitted and approved by the municipality.

(3) The proposed collocation, modification or replacement may not increase the dimensions of the equipment compound approved by the municipality.

(4) The proposed collocation, modification or replacement complies with applicable conditions of approval applied to the initial wireless telecommunications facilities, equipment compound and wireless support structure.

(5) The proposed collocation, modification or replacement may not exceed the applicable wind loading and structural loading requirements for the wireless support structure.

Section 5. Enforcement.

(a) Appeal.--Any person adversely affected by any final action or failure to act by a municipality that is inconsistent with the provisions of this act may, within 30 days after the action or failure to act, commence an action or an appeal in the court of common pleas of the county where the wireless support structure and wireless telecommunications facility is located.

(b) Hearing.--The court shall hear and decide the action on an expedited basis and in accordance with the procedures established by the Pennsylvania Municipalities Planning Code, 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action) or the Judiciary Act Repealer Act, as the case may be, for the disposition of land use appeals.

Section 6. Preservation of local governing authority.

Notwithstanding any other law, nothing in this act shall be construed to:

(1) Limit or preempt the scope of a municipality's review of zoning, land use or permit applications for the siting of wireless support structures.

(2) Prevent a municipality from exercising its zoning power, as provided for under the Pennsylvania Municipalities Planning Code, municipal charter, municipal enabling act or other zoning or land use ordinance or regulation.

(3) Prevent a municipality from regulating any modification or collocation that substantially changes an existing wireless support structure that is inconsistent with this act.

Section 7. Effective date.

This act shall take effect in 60 days.