
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1620 Session of
2017

INTRODUCED BY MICCARELLI, FARRY, D. COSTA, SNYDER, DIGIROLAMO
AND MURT, JUNE 26, 2017

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 26, 2017

AN ACT

1 Amending the act of October 24, 2012 (P.L.1501, No.191),
2 entitled "An act providing for streamlined procedures for
3 reviewing applications for the modification or collocation of
4 wireless communications facilities and wireless support
5 structures," further providing for short title, for
6 definitions, for regulation of wireless support structures,
7 for processing of applications, for enforcement and for
8 preservation of local governing authority and providing for
9 use of public rights-of-way, for access to municipal poles,
10 for indemnification and for prohibitions.

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

13 Section 1. Sections 1, 2, 3, 4, 5 and 6 of the act of
14 October 24, 2012 (P.L.1501, No.191), known as the Wireless
15 Broadband Collocation Act, are amended to read:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Wireless
18 Broadband Infrastructure Deployment and Collocation Act.

19 Section 2. Definitions.

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

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

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

10 "Applicable codes." Uniform building, fire, electrical,
11 plumbing or mechanical codes adopted by a recognized national
12 code organization or local amendments to those codes enacted
13 solely to address imminent threats of destruction of property or
14 injury to persons to the extent not inconsistent with the terms
15 of this act.

16 "Applicant." Any person who submits an application and is a
17 wireless provider.

18 "Application." A formal request submitted to the
19 municipality to collocate, replace, modify or install a wireless
20 support structure, equipment compound or a wireless
21 [telecommunications] facility.

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

26 "Collocation." [The placement or installation of new
27 wireless telecommunications facilities on previously approved
28 and constructed wireless support structures, including self-
29 supporting or guyed monopoles and towers, electrical
30 transmission towers, water towers or any other structure not

1 classified as a wireless support structure that can support the
2 placement or installation of wireless telecommunications
3 facilities if approved by the municipality. The term includes
4 the placement, replacement or modification of accessory
5 equipment within a previously approved equipment compound.] To
6 install, mount, maintain, modify, operate or replace wireless
7 facilities on or adjacent to a wireless support structure or
8 utility pole.

9 "Communications service provider." As follows:

10 (1) a cable operator, as defined in 47 U.S.C. § 522(5)
11 (relating to definitions);

12 (2) a provider of information service, as defined in 47
13 U.S.C. § 153(24) (relating to definitions);

14 (3) a telecommunications carrier, as defined in 47
15 U.S.C. § 153(51); or

16 (4) a wireless provider.

17 "Distributed antenna system." A network that distributes
18 radio frequency signals and consists of:

19 (1) remote communications or antenna nodes deployed
20 throughout a desired coverage area, including at least one
21 antenna for transmission and receptions;

22 (2) a high capacity signal transport medium that is
23 connected to a central communications hub site; and

24 (3) radio transceivers located at the hub site to
25 process or control the communications signals transmitted and
26 received through the antennas to provide wireless or mobile
27 service within a geographic area or structure.

28 "Electrical transmission tower." An electrical transmission
29 structure used to support overhead power lines consisting of 69
30 kilovolt or greater conducting lines, generally of steel

1 construction and having a height of at least 75 feet. The term
2 shall not include any utility pole having a height of less than
3 75 feet.

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

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

9 "Modification" or "modify." The improvement, upgrade or
10 expansion of existing wireless [telecommunications] facilities
11 or base stations on an existing wireless support structure or
12 the improvement, upgrade or expansion of the wireless
13 [telecommunications] facilities located within an existing
14 equipment compound, if the improvement, upgrade, expansion or
15 replacement does not substantially change the physical
16 dimensions of the wireless support structure.

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

24 "Municipal pole."

25 (1) The term shall include:

26 (i) A utility pole owned or operated in the ROW by a
27 municipality or a public utility district that is
28 designed, or used in whole or in part, for the purpose of
29 carrying electric distribution lines or cables or wires
30 for telecommunications, cable or electric service,

1 including a utility pole that provides lighting or
2 traffic control functions, including light poles, traffic
3 signals and structures for signage.

4 (ii) A pole or similar structure owned or operated
5 by a municipality in the ROW that supports only wireless
6 facilities.

7 (2) The term shall not include a utility pole owned or
8 operated in the ROW by an electric membership corporation or
9 a rural electric cooperative.

10 "Pennsylvania Municipalities Planning Code." The act of July
11 31, 1968 (P.L.805, No.247), known as the Pennsylvania
12 Municipalities Planning Code.

13 "Permit." A written authorization required by a municipality
14 to perform an action or initiate, continue or complete a
15 project.

16 "Person." An individual, corporation, limited liability
17 company, partnership, association, trust or other entity or
18 organization, including a municipality.

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

28 "Rights-of-way" or "ROW." The area on, below or above a
29 public roadway, highway, street, sidewalk, alley, utility
30 easement, or similar property, but not including a Federal

1 interstate highway.

2 "Small wireless facility." A wireless facility where each
3 antenna is located inside an enclosure of no more than six cubic
4 feet in volume or, in the case of an antenna that has exposed
5 elements, the antenna and all of its exposed elements fit within
6 an imaginary enclosure of no more than six cubic feet and all
7 other wireless equipment associated with the facility is
8 cumulatively no more than 28 cubic feet in volume. Electric
9 meters, concealment elements, telecommunications demarcation
10 boxes, ground-based enclosures, grounding equipment, power
11 transfer switches, cut-off switches and vertical cable runs for
12 the connection of power and other services shall not be included
13 in the calculation of equipment volume.

14 "Substantial change" or "substantially change."

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

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

29 "Utility pole."

30 (1) A pole or similar structure that is used in whole or

1 in part by a communications service provider or for electric
2 distribution, lighting, traffic control, signage or a similar
3 function.

4 (2) The term shall not include:

5 (i) A structure supporting only wireless facilities.

6 (ii) A pole or similar structure described under
7 paragraph (1) that is owned or operated by an electric
8 membership corporation or a rural electric cooperative.

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

13 "Wireless facility." Equipment at a fixed location that
14 enables wireless communications between user equipment and a
15 communications network, including equipment associated with
16 wireless communications and radio transceivers, antennas,
17 coaxial or fiber-optic cable, regular and backup power supplies
18 and comparable equipment, regardless of technological
19 configuration, including small wireless facilities and
20 distributed antenna systems. The term shall not include the
21 structure or improvements on, under or within which the
22 equipment is collocated.

23 "Wireless infrastructure provider." Any person, including a
24 person authorized to provide telecommunications service in this
25 Commonwealth, that builds or installs wireless communication
26 transmission equipment, wireless facilities or wireless support
27 structures but that is not a wireless services provider.

28 "Wireless provider." A wireless infrastructure provider or a
29 wireless services provider.

30 "Wireless services." Any services, whether at a fixed

1 location or mobile, provided using wireless facilities.

2 "Wireless services provider." A person who provides wireless
3 services.

4 "Wireless support structure." A freestanding structure, such
5 as a guyed or self-supporting monopole or tower, electrical
6 transmission tower, water tower, a structure used for lighting,
7 traffic control, signage or a similar function, or other
8 structure not classified as a wireless support structure, that
9 could support the placement or installation of wireless
10 [telecommunications] facilities if approved by the municipality.

11 ["Wireless telecommunications facility." The set of
12 equipment and network components, including antennas,
13 transmitters, receivers, base stations, cabling and accessory
14 equipment, used to provide wireless data and telecommunications
15 services. The term shall not include the wireless support
16 structure.]

17 Section 3. Regulation of wireless facilities and wireless
18 support structures.

19 (a) Limitations.--Municipalities that have adopted zoning
20 ordinances and land use regulations for the placement of
21 wireless facilities and wireless support structures may not
22 require any additional requirements on the applicant for the
23 collocation of wireless facilities on a wireless support
24 structure or the modification of a wireless [telecommunications]
25 facility or the installation of a new wireless facility that has
26 the force or effect of:

27 (1) Regulating the installation of new wireless
28 facilities or a collocation, replacement or modification of
29 antennas, accessory equipment or wireless
30 [telecommunications] facilities upon an existing wireless

1 support structure or within an existing equipment compound.

2 (2) Imposing additional costs, except the appropriate
3 and reasonable permit fees, or operating restrictions on an
4 applicant for the installation of a new wireless facility or
5 for the replacement, collocation or modification of wireless
6 [telecommunications] facilities upon existing wireless
7 support structures or within existing equipment compounds.

8 (3) [Requiring] With regard to wireless facilities and
9 wireless support structures other than small wireless
10 facilities, requiring payment of a zoning permit fee to
11 accompany any application, the amount of which fee is in
12 excess of the municipality's actual, reasonable costs to
13 review and process the application, or \$1,000, whichever is
14 less.

15 (3.1) With regard to small wireless facilities,
16 requiring payment of a zoning permit fee to accompany any
17 application, the amount of which fee is in excess of the
18 municipality's actual, reasonable costs to review and process
19 the application, or \$100, whichever is less.

20 (4) Requiring an applicant to provide justification for
21 the installation, collocation or modification of wireless
22 facilities, including the radio frequency need, or requiring
23 more information from a wireless provider than what is
24 required from a communications service provider.

25 (5) Acting to prohibit or have the effect of prohibiting
26 the provision of mobile service as provided in 47 U.S.C. §
27 332 (c) (7) (B) (i) (relating to mobile services).

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

1 (b) (Reserved).

2 Section 4. Processing of applications.

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

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

26 (1) Within 10 calendar days of the filing date of an
27 application for the installation, modification, collocation
28 or replacement of a small wireless facility or within 30
29 calendar days of the [date] filing date of an application for
30 the installation, modification [or], collocation [is filed

1 with the municipality] or replacement of another wireless
2 facility, wireless support structure or a substantial
3 modification to an existing wireless support structure, the
4 municipality shall notify the applicant in writing of any
5 information required to complete the application. If
6 additional information is required to complete the
7 application, the time required by the applicant to provide
8 the information shall not be counted toward the [90-calendar-
9 day] calendar-day review period under paragraph (2).

10 (2) Within [90 calendar days of the date an application
11 for modification or collocation of a wireless
12 telecommunications facility is filed with the municipality]
13 60 calendar days of the filing date of an application for the
14 installation, modification, collocation or replacement of a
15 small wireless facility, within 90 calendar days of the
16 filing date of an application for the modification,
17 collocation or replacement of any other wireless facility or
18 a nonsubstantial modification to an existing wireless support
19 structure, or within 150 calendar days for the installation
20 of a new wireless support structure or a substantial
21 modification to an existing wireless support structure,
22 unless another date is specified in a written agreement
23 between the municipality and the applicant, the municipality
24 shall do all of the following:

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

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

29 (3) If the municipality fails to act [upon an
30 application for the modification or collocation of wireless

1 telecommunications facilities] on the application within 60,
2 90 or 150 calendar days as provided under paragraph (2), the
3 application shall be deemed approved. If a municipality has
4 advised the applicant in writing that additional information
5 is required to complete the application pursuant to paragraph
6 (1), the time required by the applicant to provide the
7 information shall not be counted toward the [90-day]
8 calendar-day period within which the municipality's failure
9 to act shall result in a deemed approval.

10 (4) If a municipality denies an application, the
11 municipality shall document the basis for the denial in
12 writing and provide the applicant with the specific code
13 provision, regulation or standard on which the denial was
14 based within the periods specified in this section. Within 30
15 days of a municipality's denial of an application, an
16 applicant may cure any deficiency identified by the
17 municipality and resubmit the application to the municipality
18 without paying an additional processing fee. The municipality
19 shall process and approve or deny a revised application
20 within 30 calendar days.

21 (c) Requirements.--[The process under this section shall
22 apply to all applications for] Applications for the
23 modification, replacement and collocation [that] of wireless
24 facilities shall meet all of the following requirements:

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

29 (2) The proposed collocation, modification or
30 replacement may not further increase the height of a wireless

1 support structure which had already been extended by more
2 than 10% of its originally approved height or by the height
3 of one additional antenna array, provided, however, that
4 nothing herein shall preclude an applicant from further
5 increasing the height of a wireless support structure which
6 had already been extended by more than 10% of its originally
7 approved height or by the height of one additional antenna
8 array if permitted and approved by the municipality.

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

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

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

21 (d) Setbacks, fall zones and aesthetics requirement.--
22 Setback, fall zone or aesthetic requirements must be
23 substantially similar to requirements imposed on other types of
24 commercial structures of a similar height.

25 (e) Prohibition.--A municipality may not institute, either
26 expressly or de facto, a moratorium on filing, receiving or
27 processing applications.

28 (f) Small cell facilities.--In addition to the limitations
29 and requirements in this section, the following requirements and
30 limitations apply to an application for the installation,

1 replacement, collocation or modification of small wireless
2 facilities:

3 (1) A municipality may not require the placement of
4 small wireless facilities on a specific utility pole or
5 category of poles or require multiple antenna systems on a
6 single utility pole.

7 (2) A municipality may not limit the placement of small
8 wireless facilities by minimum separation distances or a
9 maximum height limitation; however, a municipality may limit
10 the height of a small wireless facility under subsection (c)
11 (2) and section 6.1(e).

12 (3) An application seeking to replace, modify, collocate
13 or install small wireless facilities within the jurisdiction
14 of a single municipality may, at the applicant's discretion,
15 file a consolidated application and receive a single permit
16 for the collocation of multiple small wireless facilities.
17 The applicant shall be permitted to submit up to 50 permit
18 requests for small wireless facilities on a single
19 application.

20 (4) No municipality shall have or exercise jurisdiction
21 or authority over the design, engineering, construction,
22 installation or operation of any small wireless facility
23 located in an interior structure or upon the site of any
24 campus, stadium or athletic facility not otherwise owned or
25 controlled by the municipality, other than to comply with
26 applicable codes.

27 (5) Permits or agreements for small wireless facilities
28 issued on or after the effective date of this subsection
29 shall be for an initial term of at least 10 years, with at
30 least three options for renewal for terms of five years,

1 subject to terms providing for earlier termination for cause
2 or by mutual agreement.

3 Section 5. Enforcement.

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

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

18 Section 6. Preservation of local governing authority.

19 (a) Construction.--Notwithstanding any other law, nothing in
20 this act shall be construed to:

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

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

28 (3) Prevent a municipality from regulating any
29 modification or collocation that substantially changes an
30 existing wireless support structure that is inconsistent with

1 this act.

2 (b) Scope.--Nothing in this act authorizes the
3 Commonwealth or any political subdivision, including a
4 municipality, to require wireless facility deployment or to
5 regulate wireless services.

6 Section 2. The act is amended by adding sections to read:

7 Section 6.1. Use of public rights-of-way.

8 (a) Applicability.--The provisions of this section shall
9 apply to activities of a wireless provider within the ROW.

10 (b) Exclusive use prohibited.--A municipality may not enter
11 into an exclusive arrangement with any person for use of the ROW
12 for the construction, operation, marketing or maintenance of
13 wireless facilities or wireless support structures or the
14 collocation of small wireless facilities.

15 (c) ROW rates and fees.--The following apply:

16 (1) A municipality may charge a wireless provider the
17 same rate or fee it charges communications service providers
18 or publicly, cooperatively or municipally owned utilities for
19 the use of the ROW for the construction, installation,
20 collocation, mounting, maintenance, modification, operation
21 or replacement of a wireless facility or wireless support
22 structure. Any rate or fee charged must be limited to the
23 direct and actual cost of managing the ROW and competitively
24 neutral with regard to other occupants of the ROW. Rates or
25 fees may not:

26 (i) Result in a double recovery where existing
27 rates, fees or taxes already recover the direct and
28 actual costs of managing the rights-of-way.

29 (ii) Be in the form of a franchise or other fee
30 based on revenue or customer counts.

1 (iii) Be unreasonable or discriminatory.

2 (iv) Violate any applicable law.

3 (v) Exceed an annual amount equal to \$20 times the
4 number of utility poles or wireless support structures in
5 the municipality's geographic jurisdiction on which the
6 wireless provider has collocated a small wireless
7 facility antenna.

8 (2) A rate or fee schedule inconsistent with paragraph
9 (1) shall be reset to comply with the requirements of
10 paragraph (1) within 180 days of the effective date of this
11 section.

12 (d) Additional requirements and limitations.--The following
13 requirements and limitations apply to fees for installation,
14 replacement, collocation or modification of wireless facilities:

15 (1) A municipality may not require approval or require
16 fees or other charges for routine maintenance of small
17 wireless facilities or replacement of existing small wireless
18 facilities with wireless facilities that are substantially
19 similar, the same size or smaller.

20 (2) Notwithstanding any other provision of this act,
21 application fees for the installation, replacement,
22 collocation or modification of wireless facilities in the ROW
23 shall be as follows:

24 (i) For wireless facilities and wireless support
25 structures other than small wireless facilities, the
26 application fee shall not be in excess of the actual
27 reasonable costs to review and process the application,
28 or \$1,000, whichever is less.

29 (ii) For small wireless facilities, the application
30 fee shall not be in excess of the actual, reasonable

1 costs to review and process the application, or \$100,
2 whichever is less.

3 (3) A municipality is permitted, on a nondiscriminatory
4 basis, to not charge a rate or fee for the use of the ROW for
5 the installation, replacement, collocation or modification of
6 a wireless facility or wireless support structure.

7 (e) Right-of-access.--

8 (1) Wireless providers shall have the right as a
9 permitted use not subject to zoning review or approval to
10 collocate wireless facilities and construct, modify, maintain
11 and operate utility poles, wireless support structures,
12 conduits, cables and related appurtenances and facilities:

13 (i) along, across, upon and under the ROW;

14 (ii) in the ROW in any zone; or

15 (iii) outside the ROW in property not zoned
16 exclusively for single-family residential use.

17 (2) The structures and facilities shall be constructed
18 and maintained as not to obstruct or hinder the usual travel
19 or public safety on the ROW or obstruct the legal use of the
20 ROW by other occupants. Notwithstanding subsection (f), each
21 new or modified utility pole and wireless support structure
22 installed in the ROW shall not:

23 (i) Exceed the greater of 10 feet in height above
24 the tallest existing utility pole in place as of the
25 effective date of this section in a location within 500
26 feet of the new pole in the same ROW or 50 feet above
27 ground level.

28 (ii) Extend more than 10 feet above an existing
29 utility pole or wireless support structure in place as of
30 the effective date of this section or above the height

1 permitted for a new utility pole or wireless support
2 structure under this section.

3 (f) Expansion subject to zoning approval.--Wireless
4 providers shall have the right to construct, modify and maintain
5 a utility pole, wireless support structure or wireless facility
6 that exceeds these size limits along, across, upon and under the
7 ROW, subject to applicable zoning regulations and this act.

8 (g) Undergrounding requirements.--Applicants shall comply
9 with nondiscriminatory undergrounding requirements that are in
10 effect by June 1, 2017, to prohibit communications service
11 providers from installing structures in the ROW without prior
12 zoning approval in areas zoned for single-family residential
13 use, except that the requirements shall not prohibit the
14 replacement of existing structures.

15 (h) Discrimination.--The municipality, in the exercise of
16 its administration and regulation related to the management of
17 the ROW, must be competitively neutral to other users of the
18 ROW. Terms may not be unreasonable or discriminatory and may not
19 violate any applicable law.

20 (i) Damage and repair.--A municipality may require a
21 wireless provider to repair all damage to the ROW directly
22 caused by the activities of the wireless provider while
23 occupying, installing, repairing or maintaining a wireless
24 facility, wireless support structures or utility poles in the
25 ROW and to return the ROW to its functional equivalence. If the
26 wireless provider fails to make the repairs required by the
27 municipality within a reasonable time and after written notice,
28 the municipality may effect those repairs and charge the
29 wireless provider the documented cost of the repairs.

30 Section 6.2. Access to municipal poles.

1 (a) Exclusive use prohibited.--A person owning or
2 controlling a municipal pole may not enter into an exclusive
3 arrangement with a person for the right to attach to utility
4 poles for the installation, replacement, collocation or
5 modification of wireless facilities.

6 (b) Rates for access to municipal poles.--The following
7 apply:

8 (1) Rates and fees shall be nondiscriminatory regardless
9 of the services provided by the wireless provider.

10 (2) Rates and fees shall recover the actual, direct and
11 reasonable costs related to the applicant's application for
12 and use of space on the municipal pole. The total annual rate
13 shall not exceed the lesser of actual, direct and reasonable
14 costs related to the collocation on the pole or \$20 per year
15 per municipal pole. Municipal pole owners shall have the
16 burden of proving that the rates are reasonably related to
17 the actual, direct and reasonable costs incurred for use of
18 space on the pole.

19 (3) Utility pole owners with existing pole attachment
20 rates, fees or other terms inconsistent with this section
21 shall reform such rate, fee or term in compliance with this
22 subsection within 180 days of the effective date of this
23 section.

24 (c) Make-ready work.--The following apply:

25 (1) Owners of municipal poles shall comply with the
26 process for make-ready work under 47 U.S.C. § 224 relating to
27 pole attachments) and implementing regulations and shall make
28 a good faith estimate for any make-ready work necessary,
29 including pole replacement if necessary, within 60 days of
30 receipt of a completed application to install or collocate

1 wire facilities.

2 (2) Owners of municipal poles are prohibited from
3 requiring more make-ready work than required to meet
4 applicable codes or industry standards.

5 (3) Fees for make-ready work shall not:

6 (i) Include costs related to preexisting or prior
7 damage or noncompliance.

8 (ii) Exceed actual costs or the amount charged to
9 other communications service providers for similar work.

10 (iii) Include consultant fees or expenses.

11 (d) Collocation on wireless support structures or utility
12 poles outside the ROW.--A municipality shall authorize the
13 collocation of wireless facilities on utility poles or wireless
14 support structures owned by the municipality which are not
15 located within the ROW to the same extent the municipality
16 permits access to the same type of poles or structures for other
17 commercial projects or uses. The rates, terms and conditions for
18 agreements shall be just and reasonable, cost-based,
19 nondiscriminatory and competitively neutral and shall comply
20 with all applicable Federal and State laws as provided in an
21 agreement between the municipality and the wireless provider.

22 (e) Surety.--A locality shall not impose surety
23 requirements, including bonds, escrow deposits, letters of
24 credit or any other type of financial surety to ensure that
25 abandoned or unused facilities can be removed, unless the
26 authority imposes similar requirements on other permits for
27 other types of commercial development or land uses and the
28 instrument does not exceed a reasonable estimate of the direct
29 cost of the removal of the facility. If surety requirements are
30 imposed, the requirements must be competitively neutral,

1 nondiscriminatory, reasonable in amount and commensurate with
2 the historical record for local facilities and structures that
3 are abandoned and shall not exceed \$25,000 per surety
4 requirement.

5 Section 6.3. Indemnification.

6 A municipality may not require a wireless provider to:

7 (1) indemnify and hold the municipality and its officers
8 and employees harmless against any claims, lawsuits,
9 judgments, costs, liens, losses, expenses or fees, except
10 when a court of competent jurisdiction has found that the
11 negligence of the wireless provider while installing,
12 repairing or maintaining caused the harm that created claims,
13 lawsuits, judgments, costs, liens, losses, expenses or fees;
14 or

15 (2) require a wireless provider to obtain insurance
16 naming the municipality or its officers and employees an
17 additional insured against any of the foregoing.

18 Section 6.4. Prohibitions.

19 (a) General rule.--Municipalities are prohibited from
20 adopting new zoning ordinances or revising existing zoning
21 ordinances with provisions that have the force or effect of
22 requiring an applicant to pay rates or fees to a third-party
23 vendor contracted by the municipality to assist with the
24 application process or make-ready work for the installation,
25 collocation, replacement or modification of wireless facilities.
26 Existing municipal ordinances that contain a provision requiring
27 an applicant to pay rates or fees to a third-party vendor shall
28 be modified to remove the provision within 60 calendar days of
29 the effective date of this act.

30 (b) Third-party vendors.--Any third-party vendor contracted

1 by a municipality to assist with the drafting of a new ordinance
2 or modification of an existing ordinance enacted by the
3 municipality that violates any provision of this act or Federal
4 law shall be subject to a fine not to exceed \$10,000 per
5 violation.

6 Section 3. This act shall take effect in 60 days.