

Revised Zoning Provisions Per Acts 365 and 366.

A. General

The co-location of a small cell wireless facility and associated support structure within a public right of way (“ROW”) is not subject to zoning reviews or approvals under this ordinance to the extent exempt from such reviews under Act 365 of 2018, as amended (“Act 365”). In such case, a utility pole in the ROW may not exceed 40 feet above ground level without special land use approval and a small cell wireless facility in the ROW shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

Co-location of a small cell wireless facility or installation of an associated support structure shall require that the wireless provider apply for and obtain a permit from the \_\_\_\_\_ consistent with the \_\_\_\_\_ Code.

Small cell wireless facilities and associated support structures not exempt from zoning reviews are only permitted in accordance with the provisions of this zoning ordinance and Act 365, and upon application for and receipt from the \_\_\_\_\_ of a permit consistent with the \_\_\_\_\_ Code.

B. Definitions

Wireless Communication Equipment: the set of equipment and network components used in the provision of wireless communication services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, coaxial and fiber optic cables, but excluding wireless communications support structures.

Wireless Communication Support Structure: a structure that is designed to support, or is capable of supporting, wireless communication equipment. A wireless communication support structure may include a monopole, lattice tower, guyed tower, water tower, utility pole or building.

Small Cell Wireless Facility: a wireless facility that meets both of the following requirements:

(i) Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.

(ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

### C. Wireless communications equipment

Wireless communication equipment (but not a wireless communication support structures) is a permitted use and allowed in all zoning districts. Wireless communication equipment does not have to be related to the principal use of the site. Wireless communications equipment is not subject to zoning review and approval if all of the following requirements are met:

(a) The wireless communications equipment will be co-located on an existing wireless communications support structure or in an existing equipment compound.

(b) The existing wireless communications support structure or existing equipment compound is in compliance with the \_\_\_\_\_'s zoning ordinance or was approved by the appropriate zoning body or official for the \_\_\_\_\_.

(c) The proposed collocation will not do any of the following:

(i) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

(ii) Increase the width of the wireless communications support structure by more than the minimum necessary to permit co-location.

(iii) Increase the area of the existing equipment compound to greater than 2,500 square feet.

(d) The proposed co-location complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of the \_\_\_\_\_.

Notwithstanding the foregoing, wireless communications equipment otherwise exempt must still comply with all other applicable \_\_\_\_\_ codes including a requirement that the building inspector determines that the co-location will not adversely impact the structure to which it is attached.

A co-location that meets the requirements of subsections (a) and (b), above, but which does not meet subsections (c) or (d), is subject to special land use review by the Planning Commission in accordance with \_\_\_\_\_ of the zoning ordinance and Section 514 (2-6) of Act 366 of 2018, as amended ("Act 366"). Any equipment placed in a residential district shall not be erected at a height that requires lighting. Any equipment placed adjacent to a residential district or use that requires lighting shall be a continuous red beacon at night.

Wireless communications equipment that is not attached to an existing structure (thus requiring the installation of a new wireless communications support structure), is subject to special land use review consistent with the \_\_\_\_\_ zoning ordinance and consistent with the \_\_\_\_\_ Master Plan.

### D. Special Land Use Standards for Wireless Communication Facilities

1. Wireless communications support structures must be installed on a lawful lot for the zoning district in which it is located, either as a principal use, or as an accessory use related to the principal use.

2. (Existing wireless support structure requirements of each community (if any))

3. \_\_\_\_\_

4. \_\_\_\_\_

E. Special Land Use Standards for Non-Exempt Small Cell Wireless Facilities

The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with Act 365 shall be subject to special land use review and approval in accordance with the following procedures and standards:

1. The processing of an application is subject to all of the following requirements:

(a) Within 30 days after receiving an application under this section, the \_\_\_\_\_ shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 30-day period.

(b) The running of the time period tolled under subdivision (a) resumes when the applicant makes a supplemental submission in response to the \_\_\_\_\_'s notice of incompleteness.

(c) The \_\_\_\_\_ shall approve or deny the application and notify the applicant in writing within 90 days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or 150 days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and \_\_\_\_\_.

2. The Planning Commission shall base its review of the special land use request on the standards contained in Section \_\_\_\_; provided, however that a denial shall comply with all of the following:

(a) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.

(b) There is a reasonable basis for the denial.

(c) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

3. In addition to the provisions set forth in Section 2, in the Planning Commission's review:

(a) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.

(b) An applicant shall not be required to submit information about its business decisions with respect to any of the following:

(i) The need for a wireless support structure or small cell wireless facilities.

(ii) The applicant's service, customer demand for the service, or the quality of service.

(c) The Planning Commission may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping.

(d) The Planning Commission may impose spacing, setback, and fall zone requirements substantially similar to spacing, setback, and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.

4. The fee for zoning review of a special land use and associated site plan shall be as established by the \_\_\_\_\_ by resolution from time to time.

5. Within 1 year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the \_\_\_\_\_ and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required the zoning approval is void.