

# SMALL WIRELESS FACILITIES DEPLOYMENT ACT - ENACTMENT

Act of Jun. 30, 2021, P.L. 232, No. 50

Cl. 66

## An Act

Providing for small wireless facilities deployment.

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 Small Wireless Facilities Deployment 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:

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

"Applicable codes." Any of the following:

(1) Uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

(2) Local zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances that comply with this act.

"Applicant." A communications service provider that submits an application.

"Application." A request submitted by an applicant to a municipality:

(1) for a permit to collocate small wireless facilities; or

(2) to approve the installation, modification or replacement of a utility pole with small wireless facilities attached.

"Cable facility." Buildings, other structures and equipment used by the owner or operator of a cable television system to provide service. As used in this definition, the term "cable system" shall have the meaning given to it in section 602(6) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(7)).

"Collocation" or "collocate." To install, mount, maintain, modify or replace small wireless facilities on an existing utility pole or other wireless support structure.

"Communications facility." A set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide a communications service.

"Communications service provider." Any of the following:

(1) A cable operator as defined in section 602(4) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(5)).

(2) A provider of information service as defined in section 3(20) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(24)).

(3) A telecommunications carrier as defined in section 3(44) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(51)).

(4) A wireless provider.

"Decorative pole." A municipal pole that is specially designed and placed for aesthetic purposes.

"FCC." The Federal Communications Commission.

"Historic district or building." A building that is or a group of buildings, properties or sites that are:

(1) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register.

(2) Determined to be eligible for listing by the Keeper of the National Register of Historic Places who has been delegated the authority by a Federal agency to list properties and determine their eligibility for the National Register of Historic Places in accordance with section VI.D.1.a.i-v of the Nationwide Programmatic Agreement for Review Regarding the Section 106 National Historic Preservation Act Review Process as specified under 47 CFR Pt. 1, App. C (relating to Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process).

(3) Marked as a historical site by the Pennsylvania Historical and Museum Commission pursuant to 37 Pa.C.S. (relating to historical and museums).

(4) Within a historic district created pursuant to the act of June 13, 1961 (P.L.282, No.167), entitled "An act authorizing counties, cities, boroughs, incorporated towns and townships to create historic districts within their geographic boundaries; providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts."

"Micro wireless facility." A small wireless facility that:

- (1) does not exceed two cubic feet in volume; and
- (2) has an exterior antenna no longer than 11 inches.

"Modification" or "modify." The improvement, upgrade or replacement of a small wireless facility or an existing utility pole that does not substantially change, as defined in 47 CFR 1.6100(b)(7) (relating to wireless facility modifications), the physical dimension of the small wireless facility or utility pole.

"Municipality." Any of the following:

- (1) A city of the first, second, second class A or third class.
- (2) A borough.
- (3) An incorporated town.
- (4) A township of the first or second class.
- (5) A county.
- (6) A home rule municipality.
- (7) A similar general purpose unit of government established by the General Assembly.

"Municipal pole." A utility pole owned, managed or operated by or on behalf of a municipality.

"Right-of-way." The area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement or similar property. The term does not include a Federal interstate highway.

"Small wireless facility." The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications:

(1) Each antenna associated with the deployment is no more than three cubic feet in volume.

(2) The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any equipment used solely for the concealment of the small wireless facility shall not be included in the calculation of equipment volume under this paragraph.

"Technically feasible." By virtue of engineering or spectrum usage, the proposed placement for a small wireless facility or its design or site location can be implemented without a material reduction in the functionality of the small wireless facility.

"Utility facility." Buildings, other structures and equipment owned or operated by a public utility, as defined in 66 Pa.C.S. § 102 (relating to definitions), to provide service.

"Utility pole." A pole or similar structure that is or may be used, in whole or in part, by or for telecommunications, electric distribution, lighting, traffic control, signage or a similar function or for collocation. The term includes the vertical support structure for traffic lights but does not include wireless support structures or horizontal structures to which signal lights or other traffic control devices are attached.

"Wireless facility." As follows:

(1) Equipment at a fixed location that enables wireless service between user equipment and a communications network, including any of the following:

(i) Equipment associated with wireless services.

(ii) Radio transceivers, antennas, coaxial or fiber optic cables, regular and backup power supplies or comparable equipment, regardless of technological configuration.

(2) The term includes a small wireless facility.

(3) The term does not include any of the following:

(i) The structure or improvements on, under or within which the equipment is collocated.

(ii) The coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna.

"Wireless infrastructure provider." A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications service in this Commonwealth that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures but is not a wireless services provider.

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

"Wireless services." Services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the public using wireless facilities.

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

"Wireless support structure." The term shall have the same meaning given to it in the act of October 24, 2012 (P.L.1501, No.191), known as the Wireless Broadband Collocation Act.

### Section 3. Use of right-of-way for small wireless facilities and utility poles with small wireless facilities attached.

(a) Applicability.--The provisions of this section shall only apply to activities of a wireless provider within the right-of-way to deploy small wireless facilities and associated new utility poles with small wireless facilities attached.

(b) Exclusive use prohibited.--A municipality shall not enter into an exclusive arrangement with any person for use of the right-of-way for:

(1) collocation; or

(2) the installation, operation, modification or replacement of utility poles with small wireless facilities attached.

(c) Right-of-way rates and fees.--Subject to the fee adjustment requirements under section 7(c), a municipality shall have the right to charge an annual fee for the use of the right-of-way. An annual right-of-way fee shall not exceed \$270 per small wireless facility or \$270 per new utility pole with a small wireless facility unless a municipality demonstrates all of the following:

(1) The annual right-of-way fee is a reasonable approximation of the municipality's costs to manage the right-of-way.

(2) The municipality's costs under paragraph (1) are reasonable.

(3) The annual right-of-way fee is nondiscriminatory.

(d) Right of access.--

(1) Under the provisions of this act, in accordance with applicable codes, and with the permission of the owner of the structure, a wireless provider shall have the right to perform the following within the right-of-way:

(i) Collocate.

(ii) Replace an existing utility pole or install a new utility pole with attached small wireless facilities.

(2) All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the municipality and utilities.

(e) Size limits.--

(1) Each new or modified small wireless facility installed in the right-of-way shall be installed on an existing utility pole or a new utility pole subject to the following:

(i) The installation of a small wireless facility on an existing utility pole shall not extend more than five feet above the existing utility pole.

(ii) If collocation on an existing utility pole cannot be achieved under section 4(i), a small wireless facility may be installed on a new or replacement utility pole. The maximum permitted height of the facility, which shall include the utility pole and small wireless facility, shall not be taller than 50 feet above ground level.

(2) Subject to the provisions of this act, a wireless provider may collocate or install a new utility pole with small wireless facilities attached that exceeds these height limits by including a height limit waiver request or variances in the application. Height limit waivers or variances shall be processed subject to applicable codes.

(f) Underground district.--A wireless provider shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers from placing or installing structures in the right-of-way in an area designated solely for underground or buried cable facilities and utility facilities if the municipality:

(1) Requires all cable facilities and utility facilities, other than municipal poles and attachments, to be placed underground by a date certain that is three months prior to the submission of the application.

(2) Does not prohibit the replacement of municipal poles in the designated area.

(3) Permits wireless providers to seek a waiver of the underground requirements for the installation of a new utility pole to support small wireless facilities. Upon the submission of a request for a waiver by a wireless provider, the municipality may require a public hearing and, with the approval of the property owner, permit a waiver request. Waivers shall be addressed in a nondiscriminatory manner and in accordance with applicable codes.

(g) Historic district or building.--Except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4) (relating to actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared), a municipality may require reasonable, technically feasible, nondiscriminatory and technologically

neutral design or concealment measures in a historic district or on historic buildings. Any design or concealment measures may not have the effect of prohibiting any provider's technology or be considered a part of the small wireless facility for purposes of the size restrictions of small wireless facilities.

(h) Design guidelines.--A municipality may develop objective design guidelines for a small wireless facility regarding the minimization of aesthetic impact in accordance with the following:

(1) The design guidelines shall be technically feasible.

(2) The design guidelines may not have the effect of prohibiting the wireless provider's technology.

(3) The design guidelines may not unreasonably discriminate among wireless providers of functionally equivalent services.

(i) Damage and repair.--A wireless provider shall repair all damage to the right-of-way or any other land so disturbed, directly caused by the activities of the wireless provider or the wireless provider's contractors and return the right-of-way in as good of condition as it existed prior to any work being done in the right-of-way by the wireless provider. If the wireless provider fails to make the repairs required by the municipality within 30 days after written notice, the municipality may perform those repairs and charge the wireless provider the reasonable, documented cost of the repairs plus a penalty not to exceed \$500. The municipality may suspend the ability of an applicant to receive a new permit from the municipality until the applicant has paid the amount assessed for the repair costs and the assessed penalty. The municipality may not suspend the ability of an applicant to receive a new permit that has deposited the amount assessed for the repair costs and the assessed penalty in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(j) Communications services.--The approval of the installation, placement, maintenance or operation of a small wireless facility under this section shall not authorize the provision of any communications services without compliance with all applicable laws or the installation, placement, maintenance or operation of any communications facilities other than wireless facilities and associated utility poles in the right-of-way.

Section 4. Permitting process for small wireless facilities and utility poles within right-of-way.

(a) Applicability.--The provisions of this section shall apply to a municipality's permitting of small wireless facilities by a wireless provider or the installation, modification and replacement of utility poles with small wireless facilities attached by a wireless provider within the right-of-way.

(b) Review.--An application under this section shall be treated as a permitted use in all areas of a municipality, except underground districts in accordance with section 3(f), and reviewed by

municipal staff for conformance with applicable codes. Such applications shall not be subject to discretionary zoning review, including conditional use or special exception requirements.

(c) Permits.--

(1) A municipality may require an applicant to obtain one or more permits of general applicability to perform the following within the right-of-way:

- (i) Collocate, maintain and modify small wireless facilities.
- (ii) Replace existing utility poles for collocation.
- (iii) Install new utility poles with attached small wireless facilities.

(2) Permits of general applicability shall not apply exclusively to small wireless facilities. A municipality shall receive applications for collocation or for installation, modification or replacement of utility poles with small wireless facilities attached and process and issue permits, subject to the requirements of applicable codes. The following apply:

(i) A municipality may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the municipality, including reserving fiber, conduit or pole space for the municipality.

(ii) An applicant shall not be required to provide justification for capacity or radio frequency. An applicant may be required to:

(A) Include documentation with an application that includes construction and engineering drawings, demonstrates compliance with the criteria specified under subsection (f) and includes all necessary approvals from the pole owner.

(B) Self-certify that the filing and approval of the application is required by the wireless provider to provide additional capacity or coverage for wireless services. Nothing in this subsection shall be construed to permit a municipality to require an applicant to submit information about an applicant's business decisions with respect to its service, customer demand for service or quality of service.

(C) Include documentation showing compliance with design guidelines consistent with section 3(h).

(d) Completed application.--Within 10 business days of receiving an application, a municipality must determine and notify the applicant in writing whether the application is incomplete. If an application is incomplete, the notice must specifically identify the missing information. The processing deadline shall restart at zero on the date the applicant provides the



missing information. The processing deadline may be tolled by agreement of the applicant and the municipality.

(e) Deadlines.--An application shall be processed on a nondiscriminatory basis and deemed approved if the municipality fails to approve or deny the application within 60 days of receipt of a complete application to collocate and within 90 days of receipt of a complete application to replace an existing utility pole or install a new utility pole with small wireless facilities attached. A permit associated with an application deemed approved under this subsection shall be deemed approved if the municipality fails to approve or deny the permit within seven business days after the date of filing the permit application with the municipality unless there is a public safety reason for the delay.

(f) Denial.--

(1) A municipality may deny an application under this section only if any of the following apply:

(i) The small wireless facility materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement.

(ii) The small wireless facility fails to comply with applicable codes.

(iii) The small wireless facility fails to comply with the requirements specified under this act.

(iv) The applicant fails to submit a report by a qualified engineering expert which shows that the small wireless facility will comply with applicable FCC regulations.

(2) Within the time frame established under subsection (e), the municipality shall document the basis for a denial, including the specific provisions of applicable codes on which the denial was based, and send the documentation to the applicant within five business days of the denial.

(3) The applicant may cure the deficiencies identified by the municipality and resubmit the application within 30 days of receiving the written basis for the denial without being required to pay an additional application fee. The municipality shall approve or deny the revised application within 30 days of the application being resubmitted for review or the resubmitted application shall be deemed approved 30 days after resubmission. Any subsequent review shall be limited to the deficiencies cited in the denial. If the resubmitted application addresses or changes other sections of the application that were not previously denied, the municipality shall be given an additional 15 days to review the resubmitted application and may charge an additional fee for the review.

(g) Consolidated application.--An applicant seeking to collocate within the jurisdiction of a single municipality shall be allowed at the applicant's discretion to file a consolidated application for collocation of multiple small wireless facilities as follows:

(1) The consolidated application does not exceed 20 small wireless facilities.

(2) The denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same consolidated application.

(3) A single applicant may not submit more than one consolidated or 20 single applications in a 30-day period in a municipality with a population of less than 50,000. If a municipality with a population of less than 50,000 receives more than one consolidated application or 20 single applications within a 45-day period, the processing deadline shall be extended 15 days in addition to the processing deadline specified under subsection (d) to allow the municipality to complete its initial review under subsection (d).

(4) The following apply:

(i) For the purpose of counting the number of small wireless facilities each applicant has before a single municipality at a given time, small wireless facilities and poles that a wireless provider applicant has requested a third party to deploy and that are included in a pending application by the third party shall be counted as pending requests by the wireless provider applicant.

(ii) An application tolled under paragraph (3) shall count towards the total number of applications included in a consolidated application unless the application is withdrawn by the applicant. As the processing of applications is completed, the municipality shall begin processing previously tolled applications in the order in which the tolled applications were submitted, unless the applicant specifies a different order.

(h) Time limit for work.--The proposed collocation, the modification or replacement of a utility pole or the installation of a new utility pole with small wireless facilities attached for which a permit is granted under this section shall be completed within one year of the permit issuance date unless the municipality and the applicant agree in writing to extend the period.

(i) Utility poles.--When applying to install a new utility pole under this act, the municipality may require the wireless provider to demonstrate that it cannot meet the service reliability and functional objectives of the application by collocating on an existing utility pole or municipal pole instead of installing a new utility pole. The municipality may require the wireless provider to self-certify that the wireless provider has made this determination in good faith and to provide a documented summary of the basis for the determination. The wireless provider's determination shall be based on whether the wireless provider can meet the service objectives of the application by collocating on an existing utility pole or municipal pole on which:

(1) The wireless provider has the right to collocation.

(2) The collocation is technically feasible and would not impose substantial additional cost.

(3) The collocation would not obstruct or hinder travel or have a negative impact on public safety.

(j) Approval.--Approval of an application authorizes the applicant to:

(1) Collocate on an existing utility pole, modify or replace a utility pole or install a new utility pole with small wireless facilities attached as identified in the initial application.

(2) Subject to the permit requirements and the applicant's right to terminate at any time, operate and maintain small wireless facilities and any associated equipment on a utility pole covered by the permit for a period of not less than five years, which shall be renewed for two additional five-year periods if the applicant is in compliance with the criteria set forth in this act or applicable codes consistent with this act and the applicant has obtained all necessary consent from the utility pole owner.

(k) Removal of equipment.--

(1) Within 60 days of suspension or revocation of a permit due to noncompliance with this act or applicable codes consistent with this act, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole, after receiving adequate notice and an opportunity to cure any noncompliance.

(2) Within 90 days of the end of a permit term or an extension of the permit term, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole.

(l) Moratorium prohibited.--A municipality may not institute, either expressly or de facto, a moratorium on:

(1) filing, receiving or processing applications; or

(2) issuing permits for:

(i) collocation;

(ii) modification or replacement of utility poles to support small wireless facilities; or

(iii) installation of new utility poles to support small wireless facilities.

(m) When applications not required.--

(1) A municipality shall not require an application for:

(i) Routine maintenance or repair work.

(ii) The replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller and still qualify as a small wireless facility.

(iii) The installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles by or for a communications service provider authorized to occupy the right-of-way, in compliance with the National Electrical Safety Code.

(2) A municipality may require a permit to perform work within the right-of-way for the activities under paragraph (1) or subsection (c), if applicable for work that involves excavation, closure of a sidewalk or closure of a vehicular lane. Permits shall be subject to the requirements provided in this act or applicable codes consistent with this act.

(n) Application fees.--Subject to the fee adjustment requirements under section 7(c), a municipality shall have the right to charge an application fee for the review of a permit application and plans submitted for the work to be done within the right-of-way. A municipality may charge a one-time application fee of up to the following:

(1) Five hundred dollars for an application seeking approval for no more than five collocated small wireless facilities and up to \$100 for each collocated small wireless facility beyond five.

(2) One thousand dollars for an application seeking approval of a small wireless facility that requires the installation of a new or replacement utility pole.

Section 5. Access to municipal poles within right-of-way.

(a) Applicability.--The provisions of this section shall apply to activities of the wireless provider within a right-of-way.

(b) Exclusive use prohibited.--A municipality may not enter into an exclusive arrangement with any person for the right to collocate on municipal poles.

(c) Collocation.--A municipality shall allow collocation on municipal poles using the process required under this act and applicable codes unless the small wireless facility would cause structural or safety deficiencies to the municipal pole, in which case the municipality and applicant shall work together for any make-ready work or modifications or replacements that are

needed to accommodate the small wireless facility. All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way.

(d) Rates.--Subject to the fee adjustment requirements under section 7(c), a municipality shall not charge a wireless provider a fee to collocate on municipal poles.

(e) Implementation and make-ready work.--

(1) The rates, fees and terms and conditions for the make-ready work to collocate on a municipal pole must be nondiscriminatory, competitively neutral and commercially reasonable and must comply with this act.

(2) The municipality shall provide a good faith estimate for any make-ready work necessary to enable the municipal pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the applicant. A municipality may require replacement of the municipal pole only if the municipality demonstrates that the collocation would make the municipal pole structurally unsound.

(3) The municipality shall not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work on a nonreplacement municipal pole shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including replacement, shall not exceed actual costs or the amount charged to other similarly situated communications service providers for similar work and shall not include any consultant fees or expenses that are charged on a contingency basis.

(f) Future use.--A municipality may reserve space on an existing municipal pole for future public safety or transportation uses in a documented and approved plan as adopted at the time an application is filed. A reservation of space shall not preclude collocation, the replacement of an existing utility pole or the installation of a new utility pole. If the replacement of a municipal pole is necessary to accommodate collocation and the reserved future use, the wireless provider shall pay for the replacement municipal pole and the municipal pole shall accommodate the future use.

## Section 6. Local authority.

Subject to the provisions of this act and applicable Federal and State laws and regulations, nothing in this act shall be construed to:

(1) Limit or preempt the scope of a municipality's zoning, land use, planning, streets and sidewalks, rights-of-way and permitting authority as it relates to small wireless facilities.

(2) Grant the authority to a municipality to exercise zoning jurisdiction over the design, engineering, construction, installation or operation of a small wireless facility located in an interior structure or on the site of a campus, stadium or athletic facility not owned or controlled by the municipality. Nothing in this act authorizes the Commonwealth or any municipality to require small wireless facility deployment or to regulate wireless services.

## Section 7. Implementation.

(a) Ordinances.--A municipality may adopt ordinances that comply with this act and shall amend existing ordinances as necessary to comply with this act. If a municipality does not adopt an ordinance that complies with this act within 60 days of the effective date of this section, applications seeking permits to collocate, modify or replace existing utility poles or install new utility poles shall be processed in compliance with this act. A municipality shall not require a wireless provider to enter into an agreement to implement this act. Nothing in this subsection shall be construed to prohibit an agreement between a municipality and a wireless provider to implement this act if nondiscriminatory and entered into voluntarily.

(b) Agreements.--All agreements between municipalities and wireless service providers that are in effect on the effective date of this act shall remain in effect, subject to any termination provisions in the agreements. When an application is submitted after the effective date of this act, a wireless provider may elect to have the rates, fees, terms and conditions established under this act apply to the small wireless facility or utility pole installed after the effective date of this act.

(c) Rate or fee adjustments.--

(1) If the FCC adjusts its levels for fees for small wireless facilities, a municipality may adjust any impacted rate or fee under sections 3(c), 4(n) or 5(d), on a pro rata basis, and consistent with the FCC's adjustment.

(2) If, in a final adjudication not subject to further appeal or to review by the United States Supreme Court, a Federal court reviewing Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, et al., Declaratory Ruling and Third Report and Order, WT Docket No. 17-79 and WC Docket No. 17-84, FCC 18-133 (released September 27, 2018), reverses or repeals the rates outlined in that FCC order, then the monetary caps under sections (3)(c), (4)(n) and (5)(d) may increase 3% annually beginning January 1, 2021, at the discretion of a municipality.

## Section 8. Indemnification.

Except for a wireless provider with an existing agreement to occupy and operate in a right-of-way, a wireless provider shall fully indemnify and hold the municipality and its officers, employees and agents harmless against any claims, lawsuits, judgments, costs, liens, expenses or fees or any other damages caused by the act, error or omission of the wireless provider or its officers, agents, employees, directors, contractors or subcontractors while installing, repairing or

maintaining small wireless facilities or utility poles within the right-of-way. A wireless provider shall not be required to indemnify for an act of negligence or willful misconduct by the municipality, its elected and appointed officials, employees and agents.

#### Section 9. General requirements for uses of rights-of-way.

The following apply:

(1) Structures and facilities deployed by a wireless provider under this act shall be constructed, maintained and located in a manner as to not obstruct, endanger or hinder the usual travel or public safety on a right-of-way, damage or interfere with other utility facilities located within a right-of-way or interfere with the other utility's use of the utility's facilities located or to be located within the right-of-way.

(2) The construction and maintenance of structures and facilities by the wireless provider shall comply with the 2017 National Electrical Safety Code and all applicable laws, ordinances and regulations for the protection of underground and overhead utility facilities.

(3) An applicant or the applicant's affiliate shall ensure that a contractor or subcontractor performing construction, reconstruction, demolition, repair or maintenance work on a small wireless facility deployed under this act meets and attests to all of the following requirements:

(i) Maintain all valid licenses, registrations or certificates required by the Federal Government, the Commonwealth or a local government entity that is necessary to do business or perform applicable work.

(ii) Maintain compliance with the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, and bonding and liability insurance requirements as specified in the contract for the project.

(iii) Has not defaulted on a project, declared bankruptcy, been debarred or suspended on a project by the Federal Government, the Commonwealth or a local government entity within the previous three years.

(iv) Has not been convicted of a misdemeanor or felony relating to the performance or operation of the business of the contractor or subcontractor within the previous 10 years.

(v) Has completed a minimum of the United States Occupational Safety and Health Administration's 10-hour safety training course or similar training sufficient to prepare workers for any hazards that may be encountered during their work on the small wireless facility.

#### Section 10. Construction.

(a) Obligations.--Nothing in this act shall be construed to impact, modify or supersede any construction standard, engineering practice, tariff provision, collective bargaining agreement, contractual obligation or right, Federal or State law or regulation relating to facilities or equipment owned or controlled by an electric distribution company or its affiliate, a telecommunications carrier, an electric cooperative or an independent transmission company that is not a wireless provider.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Electric distribution company." As defined in 66 Pa.C.S. § 2803 (relating to definitions).

"Facilities." As defined in 66 Pa.C.S. § 102 (relating to definitions).

"Telecommunications carrier." As defined in 66 Pa.C.S. § 3012 (related to definitions).

Section 11. Effective date.

This act shall take effect in 60 days.