

Cumberland County Planning Department

Small Wireless Facilities Guidelines

INTRODUCTION

This region is undergoing a transition to the next generation of wireless services known as 5G. The term 5G is short for fifth generation. 5G networks include small cells (or nodes), as well as traditional towers. 5G offers data speeds up to 100 times faster than 4G LTE technology.

Wireless users must have a 5G compatible device to utilize this latest technology. These 5G devices will use 5G when available, and automatically connect to 4G when 5G is not available. However, older devices not designed for 5G service will not utilize the 5G technology when it is available. 3G technology may eventually be phased out depending on the wireless providers. The FCC recommends upgrading older devices that use 3G technology¹.



Example of a Small Wireless Facility

Photo Source: <https://s3.amazonaws.com/bncore/wp-content/uploads/2018/03/Small-Cell-1260x800.png>

When feasible, this technology uses a small cell tower to transmit wireless service (small wireless facility). Small wireless facilities are more discreet, some can be mounted to light posts and traffic signals². The demand for faster wireless service has created a need for these small cell facilities in populated areas where wireless coverage or capacity is challenged.

Act 50

Act 50 goes into effect on August 29, 2021. The Act implements new standards and requirements relating to the deployment of small wireless facilities in the right-of-way. Language in the Act indicates that municipalities have 60 days to amend zoning requirements for small wireless facilities.

This document is based on the Act 50 language. It is intended to provide guidance to the municipalities for regulation of small wireless facilities in the right-of-way. Municipalities should review these guidelines and determine which issues impact the community and which issues should be addressed in the zoning ordinance. The Cumberland County Planning Department recommends that municipalities review the issue of small wireless facilities with their solicitor to determine which regulations, if any, will apply.

¹ Federal Communications Commission-“5G FAQs”. <https://www.fcc.gov/5g-faqs>

² Verizon Wireless-News Center, “5G Nodes: What they are and how they work”. <https://www.verizon.com/about/news/towers-what-they-are-how-they-work>

What is regulated?

This guideline and the language provided in Act 50 is not limited to 5G cell towers, it applies to all small wireless facilities in the right-of-way. A small wireless facility is defined below.

"Small wireless facility." The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meets 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.

It is highly recommended that this definition be included in any ordinance amendment utilizing the language in this guideline.

Guidelines

If a municipality does not adopt an ordinance that complies with the Act 50 requirements within 60 days of the Act, applications seeking permits to collocate, modify or replace existing utility poles or install new utility poles shall be processed in compliance with the Act 50 requirements. Here are some options for municipalities to consider:

- **Do nothing.** Act 50 will apply to all applications submitted after October 28, 2021.
- **Adopt Zoning regulations.** Regulations must be in compliance with Act 50. The municipality will be able to control and monitor small wireless facilities within the requirements of Act 50.
- **Adopt Subdivision and Land Development & Zoning regulations.** The Subdivision and Land Development Ordinance can include many of the provisions in Act 50. This would allow the applicant additional flexibility through waiver and modification requests. *The municipality should still amend the Zoning Ordinance to indicate that a small wireless facility is a use permitted by right in all zoning districts.*



Another example of a Small Wireless Facility

Photo Source:

<https://www.longbeach.gov/globalassets/pw/media->

The following table includes questions that are often asked, and the Act 50 response. All of the information provided is from Act 50, which was designed with input from municipal officials as well as representatives from the wireless service providers to create impartial requirements for small wireless facilities.

Frequent Questions:	Act 50 Requirements	Additional Information
What types of Wireless Communication Facilities are regulated?	The provisions of Act 50 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.	
Is a small wireless facility permitted in all zoning districts?	<p>Yes, the FCC has established language indicating a small wireless facility in the right-of-way should be permitted by right in all zoning districts except as shown below. Small wireless facilities cannot be permitted by Conditional Use or Special Exception.</p> <p>Small wireless facilities are not permitted where cable facilities and utilities are required to be underground.</p>	<p>Underground cable facilities and utility facilities are required if the municipality:</p> <ol style="list-style-type: none"> Requires all cable facilities and utility facilities, other than municipal poles and attachments, to be placed underground by a date that is 3 months prior to the submission of the application. Does not prohibit the replacement of municipal poles in the designated area. Permits wireless providers to seek a waiver of the underground requirements for the installation of a new utility pole to support small wireless facilities (this may require a public hearing).
What is required with the application?	<p>The Application for a small wireless facility shall include the following:</p> <ol style="list-style-type: none"> Construction and engineering drawings. A signed agreement from the owner of the pole. Documentation showing compliance with requirements and design guidelines. A report from a qualified engineer that shows that the small wireless facility will comply with applicable FCC regulations, as amended. <p>The Applicant may submit a consolidated application for multiple small wireless facilities if the following conditions are met:</p> <ol style="list-style-type: none"> The consolidated application shall not exceed 20 small wireless facilities. The denial of one or more small wireless facilities shall not delay the processing of any other small wireless facilities on the same application A single applicant shall not submit more than 1 consolidated application, or 20 single applications in a 30-day period in municipalities with a population less than 50,000. 	

Frequent Questions:	Act 50 Requirements	Additional Information
What fees can the municipality charge?	One-time Application fee of \$500	Application seeking approval for no more than 5 collocated small wireless facilities and up to \$100 for each collocated small wireless facility beyond 5.
	One-time application fee of \$1,000	Application seeking approval of a small wireless facility that requires the installation of a new or replacement utility pole.
	No fee if a provider collocates on a municipal pole	
	Annual Fee of \$270 per small wireless facility	Such compensation for ROW use shall be directly related to the municipality's actual ROW management costs. ³
	Annual Fee of \$270 per utility pole with a small wireless facility	
Does the Applicant need to prove capacity and coverage needs?	<p>The municipality may request a statement from the applicant indicating that the filing and approval of the small wireless facility is required by the wireless provider to provide additional capacity or coverage for wireless service.</p> <p>When applying to install a new utility pole, the wireless provider may be required 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.</p> <p>Municipalities cannot ask information about the applicant's business decisions</p>	
What height requirements apply to a small wireless facility?⁴	Small wireless facility on an existing utility pole.	Height shall not extend more than 5 feet above the existing utility pole.
	Small wireless facility installed on a new or replacement utility pole.	Height, including the utility pole and the small wireless facility, shall not exceed 50 feet above ground level.

³ The municipality should be prepared to justify any additional fee. Cost analysis or other applicable studies may be necessary. In addition, the following should be demonstrated:

- a. The annual right-of-way fee is a reasonable approximation of the municipality's cost to manage the right-of-way.
- b. The municipality's cost under (a) above are reasonable.
- c. The annual right-of-way fee is nondiscriminatory.

⁴ Proposed small wireless facilities that exceed these heights may apply for a variance request that shall be processed according to applicable codes.

Frequent Questions:	Act 50 Requirements	Additional Information	
<p>Can the municipality require stealth and aesthetics?</p>	<p>The municipality may develop design guidelines for small wireless facilities.</p> <p>The municipality may require concealment measures when proposing a small wireless facility in a historic district or on historic buildings.</p>	<p>Design guidelines should provide a detailed description of all stealth and concealment regulations required by the municipality. These design guidelines should be available to the applicant prior to the application process. Additional stealth or concealment requirements may not be added during the application and approval process. Guidelines must be feasible and not prohibit small wireless facilities or discriminate among wireless providers.</p> <p>These design guidelines may be adopted as a stand-alone document.</p>	
<p>What are the approval timeframes?</p>	<p>Within 10 business days of receiving the Application</p> <p>Within 60 days of receipt of a complete application to collocate a small wireless facility</p> <p>Within 90 days of receipt of a complete application to replace or install a utility pole with a small wireless facility</p>	<p>Municipality must determine if the application is complete and notify the Applicant of any deficiencies.</p> <p>Municipality must approve or deny⁵ the application. If no action is taken, the application is approved.</p>	<p>Notification must identify the missing information. The processing deadline (below) restarts at zero when the missing information is provided</p> <p>Within 5 business days of a denial, the municipality shall send the applicant documentation of the denial including a reference to specific provisions from applicable codes.⁶</p>

⁵ The municipality may deny an application only if any of the following apply:

- a. The small wireless facility materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or pedestrians or the Americans with Disabilities Act.
- b. The small wireless facility fails to comply with applicable codes or Federal/State Regulations.
- c. The applicant fails to submit a report by a qualified engineer which shows that the small wireless facility will comply with applicable FCC regulations.

⁶ The Applicant may address the deficiencies identified by the municipality and resubmit the application within 30 days to avoid paying an additional application fee. If the application is resubmitted, the Township shall approve or deny the revised application within 30 days.