



## **MODEL STATE WIRELESS TELECOMMUNICATIONS FACILITY SITING LEGISLATION**

**PCIA--THE WIRELESS INFRASTRUCTURE ASSOCIATION**  
**[www.pcia.com](http://www.pcia.com)**

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**An Act** creating a process to encourage and streamline the collocation of wireless antennas on existing structures so as to minimize the number of new wireless support structures while ensuring that robust wireless communication services, including wireless broadband connectivity, are available to residents and businesses of [STATE].

**Be It Enacted:**

In the regulation of the placement, construction, and modification of any wireless facility, in conjunction with section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012<sup>1</sup> and notwithstanding [STATE STATUE XX] or any other provision of [STATE] or local law, a local government or instrumentality thereof shall not require:

(a) any justification for radio frequency need; and/or

(b) for approval of any eligible facilities request that does not substantially change the size of such existing wireless facility, (i) zoning or land use or similar review, and/or (ii) imposition of any condition.

Eligible facilities requests for collocation on existing or replacement utility poles owned and/or operated by a public utility where the poles are located in the public right-of-way will not be subject to any zoning, land use, or regulatory process when the height of the pole will not be increased by (i) more than the minimum separation safety zone required by the pole owner or operator or (ii) 25% of the height of the existing pole, whichever is greater.

***For the purposes of these provisions, the following definitions shall apply:***

***Antenna*** means wireless communications equipment that transmits and receives electromagnetic radio signals used in the provision of any type of wireless communications services.

***Collocation*** means the mounting or installation of wireless communications equipment on an existing wireless facility without the need to construct an additional wireless communications

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<sup>1</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 (2012), available at <http://www.gpo.gov/fdsys/pkg/BILLS-112hr3630enr/pdf/BILLS-112hr3630enr.pdf>; see also H.R. Rep. No. 112-399 at 132-33 (2012) (Conf. Rep.), available at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt399/pdf/CRPT-112hrpt399.pdf>.

support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes.<sup>2</sup>

**Local government** means any city, township, or county municipality or other legally authorized political subdivision or public agency recognized by [STATE].

**Eligible facilities request** means request for modification of existing wireless facilities that involves (1) collocation; (2) the removal of wireless communications equipment; (3) the replacement of wireless communications equipment; or (4) structural enhancement.

**Structural enhancement** means the enhancement of an existing wireless facility for the purposes of accommodating collocation including, but not limited to, the replacement of the existing wireless facility.

**Substantially change the size** means (1) the mounting or installation of the proposed antenna on the existing wireless facility would increase the existing height of the existing wireless facility by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed such size limits if necessary to avoid interference with existing wireless communications equipment; (2) the mounting of the proposed antenna would involve adding an appurtenance to the body of the existing wireless facility that would protrude from the edge of the existing wireless facility more than twenty feet, or more than the width of the existing wireless facility at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed such size limits if necessary to shelter the proposed antenna from inclement weather or to connect the proposed antenna to the existing wireless facility via cable; or (3) expansion of the boundaries of the leased or owned property surrounding the existing wireless facility by more than 30 feet

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<sup>2</sup> See Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (2001), 47 C.F.R. Part I, Appendix B, available at <http://wireless.fcc.gov/releases/da010691a.pdf> ("Collocation Agreement"); see also *Petition for Declaratory Ruling To Clarify Provisions of Section 332(C)(7)(B) To Ensure Timely Siting Review and To Preempt Under Section 253 State and Local Ordinances That Classify All Wireless Siting Proposals as Requiring a Variance*, Declaratory Ruling, 24 FCC Rcd 13994, 14021 ¶ 71 (2009) ("*Shot Clock Ruling*"), *recon. denied*, 25 FCC Rcd 11157 (2010), *aff'd*, *City of Arlington, Tex., et al. v. FCC*, 2012 U.S. App. LEXIS 1252 (5th Cir. 2012), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-09-99A1\\_Rcd.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-99A1_Rcd.pdf). See also Federal Communications Commission, Wireless Telecommunications Bureau and Mass Media Bureau, Fact Sheet, Antenna Collocation Programmatic Agreement, at 4 (January 10, 2002) ("*NPA Guidance*"), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-02-28A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-02-28A1.pdf).

in any direction or excavation outside such expanded boundaries or outside any existing access or utility easement related to the existing wireless facility.<sup>3</sup>

**Wireless communications equipment** means any equipment and network components used in the provision of wireless communications services including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cabling, and coaxial and fiber optic cable, and ancillary and accessory equipment. This definition includes equipment constructed prior to the enactment of this statute, but excludes wireless communications support structures.

**Wireless communications support structure** means any structure established for the purpose of facilitating or supporting wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service that is designed to support, or is capable of supporting, wireless communications equipment, including, but not limited to, a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building, including support structures constructed prior to the enactment of this statute that is used to provide wireless services.

**Wireless Facility** means wireless communications support structure or wireless communications equipment.

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<sup>3</sup> Cf. *Collocation Agreement* at 3; *Shot Clock Ruling* at ¶146; Nationwide Programmatic Agreement for Review of Effects on Historic Properties by the Federal Communications Commission, FCC 04-222, at 8 (Sept. 2004), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-04-222A3.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-222A3.pdf); NPA Guidance at 4-5. See also Jeffery Steinberg, Deputy Chief, Spectrum & Competition Pol’y Division, Wireless Telecommunications Bureau, Fed. Comm’n’s Comm’n, FCC Presentation: The Legal Framework at the FCC Workshop: Promoting Mobile Broadband in your Community by Collocating Wireless Antennas on Communications Towers and other Structures (May 1, 2012) (available at <http://www.fcc.gov/events/collocation-workshop>).