

Small Cell Legislation

11/28/2018 | Hillsborough County



Locating Wireless Infrastructure in Florida

- June 23, 2017: HB 687 signed into law, authorizing “Wireless Services Providers” to collocate small wireless facilities (a.k.a., Small Cells) on county utility poles located in the right-of-way (ROW).
- The law extends this authority to “Wireless Infrastructure Providers,” who are third-party providers (i.e., non telecoms).
- NOTE: Small Cells ≠ Traditional Cell Towers

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Prior to HB 687:

- The law **allowed** (and still allows) Communication Service Providers to locate traditional communication services infrastructure (i.e., poles, lines, etc.) within and along county rights-of-way, subject to local rules and regulations.
- In turn, and for the privilege of using taxpayer property, these companies charge and remit back to the local government communication services tax (CST) revenue.

Effect of New Law

- Prohibits a locality from regulating the collocation of Small Cells in public ROWs using traditional zoning.
- Small Cells may be no more than 10' feet above the height of the utility pole or support structure.
- New poles and replacements of existing poles cannot be greater than:
 - 10' above the tallest existing utility pole within 500'; or,
 - 50' above ground level if there are no other poles.

Effect of New Law

- Review Timeline (Shot Clock)
- Collocations Applications: County's have 60-90 days to approve collocation application
- New Pole Applications: County's have 90 days to approve new poles.

What Counties Can Regulate

- Locals may enforce historic preservation zoning regulations.
- Locals may enforce local codes, administrative rules, or regulations adopted by ordinance in effect on April 1, 2017, which are applicable to a historic area.
- Locals may require objective design standards that require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements.

County Denials

- If the Proposed Collocation:
 - Materially interferes with the safe operation of traffic control equipment.
 - Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes;
 - Materially interferes with compliance with the Americans with Disabilities Act or similar law;
 - Materially fails to comply with the 2010 edition of the DOT Utility Accommodation Manual; or,
 - Fails to comply with “applicable codes” as defined in law (e.g., Uniform building, fire, electrical, plumbing, or mechanical codes)
- Applicants may cure deficiencies

Other Provisions

- Applicants may bundle applications to include up to 30 Small Cells.
- Locals may charge reasonable permit fees
- Locals may charge a collocation fee not exceed \$150 annually