

STATE OF NEW YORK

6446

2025-2026 Regular Sessions

IN ASSEMBLY

March 5, 2025

Introduced by M. of A. WOERNER, EPSTEIN, MILLER, VANEL, SAYEGH, SIMPSON, BLANKENBUSH, STECK -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to enacting the "wireless broadband eligible facility permitting act" providing for uniform municipal regulation of certain wireless facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. The legislature hereby finds and
2 declares that it is the policy of this state to ensure the safe and
3 efficient integration of certain wireless facility modifications neces-
4 sary for the provision of broadband and other advanced wireless services
5 across the entirety of the state. It is the intent of this act to facil-
6 itate the ongoing demand for access to broadband and other advanced
7 wireless services by exempting certain modifications of existing wire-
8 less facilities from the need for municipal zoning, land use or other
9 discretionary siting permits, to eliminate the burdens and resources
10 dedicated by municipal zoning and land use agencies to review certain
11 eligible modifications of such wireless facilities, and create a state-
12 wide uniform process for municipal permitting of such eligible facility
13 modifications. The legislature acknowledges and confirms the authority
14 of local governments to otherwise exercise zoning, land use and permit-
15 ting authority within their territorial boundaries with regard to the
16 placement and construction of wireless facilities in accordance with
17 other laws, rules and requirements that may apply to the siting of wire-
18 less facilities.

19 § 2. Short title. This act shall be known and may be cited as the
20 "wireless broadband eligible facility permitting act".

21 § 3. The general municipal law is amended by adding a new article 13-F
22 to read as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD01396-03-5

ARTICLE 13-F
WIRELESS FACILITIES

Section 305. Definitions.

306. General municipal authority over siting of wireless facilities.

307. Eligible facilities requests.

308. Application to supreme court by aggrieved persons.

309. Preemption.

§ 305. Definitions. For the purposes of this article, the following terms shall have the following meanings unless the context indicates otherwise.

1. "Applicant" shall mean any person who files an application for wireless infrastructure pursuant to a municipal zoning law adopted pursuant to this article or an eligible facilities request with the municipal building inspector.

2. "Application" shall mean a zoning application filed with a municipality for approvals to construct, operate and maintain a wireless facility, an eligible facilities request or an application pursuant to the state uniform fire prevention and building code.

3. "Base station" shall mean a structure or equipment at a fixed location that enables Federal Communications Commission licensed or authorized wireless communications between user equipment and a communications network. Such term shall not encompass a tower or any equipment associated with a tower.

(a) Such term shall include, but not be limited to:

(1) equipment associated with wireless communications services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul;

(2) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks); and

(3) any structure other than a tower that, at the time the relevant permit application is filed with the municipal building inspector, has been reviewed and approved to support or house equipment described in subparagraph one or two of this paragraph under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(b) Such term shall not include any structure that, at the time the relevant permit application is filed with the municipal building inspector, does not support or house equipment described in subparagraph one or two of paragraph (a) of this subdivision.

4. "Collocation" shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

5. "Concealment element" shall mean a feature of a wireless facility intended to make the facility look like something other than a telecommunications tower, such as a pine tree, flag pole or chimney.

6. "Deployment" shall mean the placement, construction or modification of a wireless facility.

7. "Eligible facilities request" shall mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (a) the collocation of new transmission equipment;
(b) the removal of transmission equipment; or
(c) the replacement of transmission equipment.

8. "Eligible support structure" shall mean any tower or base station, provided that it is existing at the time a permit application is filed with a municipal building inspector.

9. "Existing" shall mean that a constructed tower or base station has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved but was lawfully constructed prior to the current applicable zoning or siting process, shall be deemed to be existing.

10. "Modification" shall mean the improvement, upgrade or expansion of an existing wireless facility, base station or wireless support structure that is not a repair, maintenance or in kind replacement of existing transmission equipment.

11. "Municipality" shall mean a city, town or village, including any agent, board, authority, commission, agency, department or other instrumentality thereof.

12. "Municipal building inspector" shall mean the official charged with issuing building permits or enforcing the state uniform fire prevention and building code within a municipality. In the event a municipality does not have a municipal official charged with issuing building permits or enforcing the state uniform fire prevention and building code, such term shall be deemed to refer to the entity charged with enforcing the building code pursuant to subdivision two of section three hundred eighty-one of the executive law.

13. "Municipal zoning law" shall mean any local law, ordinance, rule, regulation, policy or guideline which regulates or governs the location or use of structures or land adopted by a municipality pursuant to this chapter, the general city law, the town law, the village law and/or any other applicable authority, including home rule law.

14. "Site" shall mean, for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment deployed on the ground.

15. "Substantial change" shall mean a modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(a) For towers other than towers in the public rights-of-way, it increases the height of the tower 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; and for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater. For the purpose of this paragraph for measuring height of such additional antenna array, separation from the nearest existing antenna shall be measured as the distance from the top of the highest existing antenna on the tower to the bottom of the proposed new antenna to be deployed above it. For the purpose of this paragraph, other changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; and in other circumstances, changes in height shall be measured from the dimensions of the tower or base station, inclusive

1 of originally approved appurtenances and any modifications that were
2 approved prior to the enactment of section 1455(1) of title forty-seven
3 of the United States Code;

4 (b) For towers other than towers in the public rights-of-way, it
5 involves adding an appurtenance to the body of the tower that would
6 protrude from the edge of the tower more than twenty feet, or more than
7 the width of the tower structure at the level of the appurtenance,
8 whichever is greater. For other eligible support structures, a substan-
9 tial change shall mean an appurtenance is added to the body of the
10 structure that would protrude from the edge of the structure by more
11 than six feet;

12 (c) For any eligible support structure, it involves installation of
13 more than the standard number of new equipment cabinets for the technol-
14 ogy involved, but not to exceed four cabinets; or, for towers in the
15 public rights-of-way and base stations, it involves installation of any
16 new equipment cabinets on the ground if there are no pre-existing ground
17 cabinets associated with the structure, or else involves installation of
18 ground cabinets that are more than ten percent larger in height or over-
19 all volume than any other ground cabinets associated with the structure;

20 (d) It entails any excavation or deployment outside the current site
21 except that for towers other than towers located in the public rights-
22 of-way, it entails any excavation or deployment of transmission equip-
23 ment outside of the current site by more than thirty feet in any direc-
24 tion, excluding any access or utility easements currently related to the
25 site;

26 (e) It would defeat the concealment elements of the eligible support
27 structure, provided that there is evidence on the record that the muni-
28 cipality considered such concealment element in its approval of the
29 original facility; or

30 (f) It does not comply with conditions associated with the siting
31 approval of the construction or modification of the eligible support
32 structure or base station equipment; provided, however, that this limi-
33 tation shall not apply to any modification that is non-compliant only in
34 a manner that would not exceed the thresholds identified in paragraphs
35 (a) through (d) of this subdivision.

36 16. "Transmission equipment" shall mean equipment that facilitates
37 transmission for any Federal Communications Commission licensed or
38 authorized wireless communications services including, but not limited
39 to, radio transceivers, antennas, coaxial or fiber-optic cable, and
40 regular and backup power supply. Such term shall include equipment asso-
41 ciated with wireless communications services including, but not limited
42 to, private, broadcast and public safety services, as well as unlicensed
43 wireless services and fixed wireless services such as microwave back-
44 haul.

45 17. "Tower" shall mean any structure built for the sole or primary
46 purpose of supporting any Federal Communications Commission licensed or
47 authorized antennas and their associated facilities, including struc-
48 tures that are constructed for wireless communications services includ-
49 ing, but not limited to, private, broadcast and public safety services,
50 as well as unlicensed wireless services and fixed wireless services such
51 as microwave backhaul, and the associated site.

52 18. "Wireless facility" shall mean the wireless services equipment
53 including transmission equipment, base station, tower and accessory
54 equipment, utilities and other site development components.

55 19. "Wireless services" shall mean the use of any wireless technology,
56 including without limitation, commercial mobile services, commercial

1 mobile radio services, unlicensed wireless services, common carrier
2 wireless exchange access services, cellular radiotelephone, specialized
3 mobile radio systems, personal communications services, advanced wire-
4 less services, two-way personal wireless services, and any such other
5 wireless technologies that may from time to time be utilized, in order
6 to transmit and/or receive radio waves.

7 § 306. General municipal authority over siting of wireless facilities.

8 1. A municipality may enact municipal zoning laws regulating the siting
9 and installation of base stations and towers provided that such munici-
10 pal zoning laws comply with federal laws, including the provisions of
11 sections 332(c)(7) and 1455(1) of title forty-seven of the United States
12 Code, sections 1.6001 et seq. of title forty-seven of the code of feder-
13 al regulations and the provisions of this article.

14 2. Every municipality shall approve, or issue a written decision deny-
15 ing, an application for an eligible facilities request within sixty days
16 of receipt of the application being filed with the municipality, as set
17 forth in section three hundred seven of this article.

18 § 307. Eligible facilities requests. 1. Notwithstanding any other
19 provision of law to the contrary, a municipality may not deny and shall
20 approve any eligible facilities request for a modification of an exist-
21 ing wireless tower or base station that does not substantially change
22 the physical dimensions of such tower or base station. A municipality
23 shall not require review pursuant to any municipal zoning law or other
24 discretionary permits for any eligible facilities request.

25 2. All eligible facilities requests shall be submitted to the munici-
26 pal building inspector for review with any application or applications
27 for permits that may be required by the state uniform fire prevention
28 and building code, and shall not otherwise be subject to any municipal
29 zoning law which may otherwise apply to wireless facilities.

30 3. All eligible facilities requests shall be exempt from environmental
31 quality review pursuant to article eight of the environmental conserva-
32 tion law on the basis that administrative review of an eligible facili-
33 ties request is an official act of a ministerial nature involving no
34 exercise of discretion, and the issuance of any associated administra-
35 tive approval by the municipal building inspector predicated solely on
36 compliance or noncompliance with this section. No environmental assess-
37 ment form shall be required for review of an eligible facilities review.

38 4. When a person files an eligible facilities review and asserts in
39 writing that a request for modification is covered by this section, the
40 municipal building inspector may only require documentation or informa-
41 tion customarily required in a building permit application and such
42 other information reasonably related to determining whether the request
43 meets the requirements of this article. A municipal building inspector
44 may adopt a form for use in assessing eligible facilities review filings
45 in addition to any other customary forms used for the processing of
46 building permit applications.

47 5. The municipal building inspector shall review and approve an appli-
48 cation of eligible facilities review and issue any necessary building
49 and/or electrical permits within sixty days of the submission, subject
50 to tolling as set forth in subdivision seven of this section, unless the
51 municipal building inspector determines that the modification does not
52 meet the criteria for an eligible facilities review in which case a
53 written denial thereof shall be transmitted within sixty days of the
54 filing date. If the municipal building inspector determines that the
55 modification does not meet the criteria for an eligible facilities
56 review, the reasons shall be stated in the written denial and include a

1 determination of what if any application shall be required under any
2 municipal zoning law.

3 6. A municipality shall not impose on an applicant any fees or charg-
4 es, including but not limited to escrow fees, municipal consultant fees,
5 or any third-party fees incurred by the municipal building inspector in
6 reviewing the eligible facilities request application, that exceed five
7 hundred dollars per application, unless otherwise limited by federal,
8 state or local law.

9 7. The sixty-day review period begins to run when the application for
10 an eligible facilities review and application for any necessary permits
11 are filed, and may be tolled only (a) by mutual agreement of the munici-
12 pal building inspector and the applicant or (b) where the municipal
13 building inspector determines that the eligible facilities review and/or
14 any necessary permit applications are incomplete and provides written
15 notice to the applicant within thirty days of receipt of such permit
16 applications specifically delineating all missing supporting information
17 or documentation that is required. The timeframe for review begins
18 running again when the applicant makes a supplemental submission in
19 response to any notice of incompleteness. Any notice of incompleteness
20 must comply with the provisions of federal law and regulation. To toll
21 the timeframe for incompleteness, the reviewing municipality must
22 provide written notice to the applicant within thirty days of receipt of
23 the application, clearly and specifically delineating all missing docu-
24 ments or information. A municipality may require the applicant to
25 provide documentation or information only to the extent reasonably
26 related to determining whether the request meets the requirements of
27 this section and of relevant federal law and regulation. A municipality
28 may not require an applicant to submit any other documentation, includ-
29 ing but not limited to documentation intended to illustrate the need for
30 such wireless facilities or to justify the business decision to modify
31 such wireless facilities. Following a supplemental submission, the
32 municipal building inspector shall notify the applicant within ten days
33 if the supplemental submission did not provide the information identi-
34 fied in the original notice delineating missing information and these
35 tolling procedures. Second or subsequent notices of incompleteness shall
36 only toll the timeframe for review to the extent they request documents
37 or information that were delineated in the original notice of incom-
38 pleteness.

39 8. In the event the municipal building inspector fails to approve or
40 deny an application for eligible facilities review and issue any neces-
41 sary permits within the timeframe set forth in subdivision five of this
42 section, subject to tolling set forth in subdivision seven of this
43 section, the eligible facilities review and any necessary permits shall
44 be deemed granted. The deemed grant approval will become effective when
45 the applicant notifies the municipal building inspector in writing that
46 the sixty-day period, and any applicable tolling, has expired and the
47 permits have been deemed granted by operation of law. The municipality
48 shall issue any necessary permits within fifteen days of the date the
49 municipality receives notice of the deemed grant approval.

50 § 308. Application to supreme court by aggrieved persons. Any person
51 or persons, jointly or severally aggrieved by any act of a municipality
52 that is inconsistent with the provisions of this article or a failure to
53 act in a manner consistent therewith, may, within thirty days after such
54 action or failure to act, commence an action pursuant to article seven-
55 ty-eight of the civil practice law and rules in the supreme court for

1 the county in which such municipality is situate. The supreme court
2 shall hear and decide such action on an expedited basis.
3 § 309. Preemption. The provisions of this article shall supersede any
4 inconsistent provision of law relating to the placement, collocation,
5 modification or maintenance of wireless facilities.
6 § 4. This act shall take effect on the thirtieth day after it shall
7 have become a law.