



MUNICIPAL STRATEGIES FOR REGULATING SMALL CELL WIRELESS FACILITIES

AN OVERVIEW OF FINDINGS FROM THE
WESTCOG LAND USE PLANNING FOR WIRELESS
TELECOMMUNICATIONS TASK FORCE

SUMMER PLANNERS' LUNCH

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OVERVIEW

❖ Benefits of a Regional Telecommunications Strategy

❖ Jurisdictional Issues

❖ Review of the Strategic Options

- Municipal Ordinance
- Right of Way Ordinance
- Zoning for Small Cell Wireless Facilities (SWF)
- License Agreement

❖ Public Participation Considerations

WHY IS THIS IMPORTANT?



- FCC and Telecoms have expedited mass deployment of small wireless facilities
 - Likely will focus development in urban centers and along major transportation corridors
- Many of these installations will shift from towers where CSC or PURA have primary authority to municipalities for primary authority
 - More telecommunications facilities will be on billboards, chimneys, silos, church steeples, the sides and roofs of buildings, gas station and hotel signs, signalized intersection equipment, flag poles, etc.

JURISDICTIONAL ISSUES

The authority to regulate telecommunication facilities revolve around a complex set of federal and state laws, case law, state regulations, State Agency Docket decisions and municipal authorities.

JURISDICTION OVER SWF AND DISTRIBUTED ANTENNA SYSTEMS (DAS) IN CONNECTICUT

Scenarios of How Small Wireless Facilities (SWF) and Distributed Antenna Systems (DAS) are Regulated in the State of Connecticut

P=Primary Regulatory Authority(ies) A=Advisory Authority

FCC= Federal Communications Commission; CSC= CT Siting Council; PURA = Public Utilities Regulatory Auth.

	FCC	CSC	PURA	Municipality	CT DOT
Licensing of Mobile Broadband Services	P				
Radio Frequency (RF) Exposure Standards	P				
Radio Frequency (RF) Certification for SWF	P				
Radio Frequency Exposure Validation Assessment (CSC jurisdiction)		P			
Radio Frequency Exposure Validation Assessment (Local jurisdiction)				P	
Siting SWF on Towers		P		A	
Siting SWF on Monopoles		P		A	
Siting SWF on Towers above Bldgs. where antenna is high relative to its surroundings and owned by Public Service Company (PSC)		P		A	
Siting SWF on Electric Transmission Lines		P		A	
SWF on Bldgs. or other structures whose primary purpose is a tower		P		A	


CONTINUED

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P=Primary Regulatory Authority(ies) A=Advisory Authority

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	FCC	CSC	PURA	Municipality	CT DOT
SWF on Electric Distribution Lines			P	A	
SWF on support poles for Electric Distribution Lines			P	A	
SWF on the sides of occupied buildings not owned by PSC				P	
SWF on buildings where antenna is not high relative to its surroundings not owned by PSC				P	
SWF on structures whose principal purpose is not a tower (e.g., functioning water tanks) and not owned by PSC				P	
SWF associated equipment in state road right of way on Utility Pole			P		P
SWF associated equipment in state road right of way on Monopole		P			P
SWF associated equipment in local road right of way on Utility Pole			P	P	
SWF associated equipment in local road right of way on Monopole		P		P	



Four Major Options to Manage Deployment of Small Cell Wireless Facilities

1. Municipal Ordinance
2. Right of Way Ordinance
3. Zoning Ordinance
4. License Agreement

THE MUNICIPAL ORDINANCE OPTION

Task Force Process

- Reviewed over 20 Municipal Telecommunications Ordinances Nationwide
- Prepared Technical Evaluation of the 13 Best Municipal Ordinances
 - Identified 92 discrete elements within these ordinances
 - Consulted with Staff from CT OPM, City of Boston & Mobile Broadband Industry

Resources Available from WestCOG

- Model Municipal Ordinance
- **Memo:** *Scope of Municipal Authority over Small Cell Wireless Facilities*
- **Memo:** *Strategies for Managing the Deployment of 5G Small Cell Facilities*
- Presentation on the Elements of the Model Municipal Ordinance
- Resource Document with links to 13 SWF Municipal Ordinances

THE RIGHT OF WAY ORDINANCE OPTION

Task Force Process

- Reviewed 10+ Municipal Right of Way Ordinances Nationwide
- Reviewed Existing Road Encroachment Ordinances in WestCOG Region
- Prepared Technical Evaluation of the Best ROW Ordinances
 - Identified 16 discrete elements unique to Small Cells within these ordinances
- Prepared Technical Evaluation of Municipal ROW Authorities

Resources Available from WestCOG

- Model Right of Way Ordinance
- **Memo:** *The Case for a Municipal Right of Way Ordinance for Wireless Telecommunication Facilities*

THE ZONING AMENDMENT OPTION

Task Force Process

- Reviewed over 20 Municipal Zoning Ordinances Nationwide
- Reviewed & evaluated 120 (all) Telecommunication Regulations Statewide
 - Prepared Technical Evaluation of Connecticut's Zoning Regulations vis a vis Small Cells
- Reviewed Federal and State Laws, Regulations and Case Law on SWF

Resources Available from WestCOG

- **Memo:** *Ten Things Local Zoning Commissions Can Do to Comply with 2018 Federal Communications Commission Regulations and Public Concerns*
- **Memo:** *The Case for Small Cell Wireless Facility Zoning Regulations: Challenges and Opportunities*

THE MUNICIPAL LICENSING OPTION

Task Force Process

- Reviewed over 20 Municipal Licensing Agreements Nationwide
- Prepared Technical Evaluation of the 10 Best Licensing Agreements
 - Identified 101 discrete elements within these Licensing Agreements
- Consulted with Cities of Boston, Baltimore, Stamford & New York on their licensing strategies

Resources Available from WestCOG

- **Memo:** *Scope of Municipal Authority over Small Cell Wireless Facilities*
- **Memo:** *Strategies for Managing the Deployment of 5G Small Cell Facilities*
- Copies of Model Municipal Licensing Agreements Available upon Request
- Resource Document with weblinks to 19 License Agreements

PUBLIC PARTICIPATION CONSIDERATIONS

Background Information: Shot clock to review applications and issue necessary permits (Building, Electrical, ROW, Public Hearings/Meetings) – batch or single

- 60 days for a SWF on an existing structure or 90 days on a new structure = very short time frame
- 10 days to review for completeness

Question: When does the public process come in to play?

- Prior to adopting a zoning or municipal ordinance?
- Online forum with maps?
- Public notice to neighbors or within properties ~100 feet of an installment with 14-day comment period?