

New State Law allows wireless telecommunications networks in right-of-way

On May 2, 2018, Gov. Kasich signed House Bill 478, which regulates small cell facilities in the public right-of-way (ROW). Effective August 1, 2018, the law defines what cell companies can and cannot build and what cities can and cannot regulate in the ROW.

This law was approved by the 131st General Assembly as part of an Omnibus Bill passed by the State Legislature in December 2016. In this form, the legislation would have allowed carriers to unilaterally install small cell facilities in the public ROW without regard for safety, existing infrastructure, aesthetics and other considerations. Municipalities across the State of Ohio contested its legality and joined together to appeal the Law. Over the time period since its inception, and at significant expense to local governments across the State of Ohio, the law has been modified to ensure that local government would be allowed, on a limited basis, to administer the placement of the antenna equipment in the public's ROW.

What does the law mean? This new law allows eligible companies to install wireless telecommunication networks to deliver 5G speed. The law also sets rules and regulations that cities must follow in granting or limiting permission for these companies to install their equipment near and/or in front of your property.

What are eligible companies? Per the language in the law, eligible companies are AT&T, Sprint, Verizon and T-Mobile. These companies are eligible to serve as "Operators" as a wireless service provider, cable operator or a video service provider that operates a small cell facility and provides wireless service and information services as defined in the Telecommunications Act of 1996.

Where can eligible companies install telecommunications networks? Small cell facilities may be placed on cell towers, utility poles, the top of a streetlight pole, a new pole with overhead wires, or boxes and other equipment on new or existing poles or on the ground within the public right-of-way. These photos show examples.



Does this mean I will see more equipment in front of my property? It is possible that a new "facility" or antenna could be placed within the public right-of-way in front of your residence or business. In no instance may a small cell facility be placed on private property without your consent.

Are there restrictions on what a company can place within the public right-of-way in front of my property? The City of Centerville has design standards to regulate the look of the equipment and conform to the provisions of the State law. The City has also defined areas within Centerville where facilities and /or power lines must be buried underground. However, State law specifically prohibits the City of Centerville from using local laws to prevent the deployment of small cell facilities within the public right-of-way.

What is 5G? 5G is 5th-generation mobile. It will supplement 4G networks, vastly improving bandwidth, capacity and reliability of mobile broadband.

What is the right-of-way? Section 402.34 of the Codified Ordinances of the City of Centerville, Ohio generally defines “right of way” as: a “general term denoting land, property or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, “right-of-way” includes the roadway, shoulders or berm, ditch and slopes extending to the right-of-way limits under the control of the State or local authority. (Ohio Revised Code §4511.01(UU)). Typically, the right-of-way includes the street, curb, curb lawn and sidewalk. If no sidewalk is present, the right-of-way generally extends up to 10 feet behind the back of the curb.

I mow and maintain the area up to the back of the curb. Do I own that property? The City of Centerville – along with most Ohio municipalities – requires property owners maintain the area within public right-of-way area adjacent to their property. However, this area remains under the ownership and control of the City for transportation purposes. Under State law, utility companies are granted permission to also operate within this area for the provision of utility services.

What are the City’s responsibilities for the implementation of small cell facilities? City staff is responsible to:

- Receive applications and approve permits for all small cell facilities
- Ensure compliance with Centerville design standards
- Require associated facilities and service lines to be buried in designated areas in the City, where possible (typically where utilities are currently buried)
- Require maintenance of the small cell facility in a neat and clean manner
- Ensure removal of the small cell facility if the use is discontinued

Where can I find more information? The City of Centerville will continue to provide updated information. [Click here](#) to read a summary of HB 478. You may also contact Wayne Davis, City Manager, 433-7151.