

Proposed Sandy Lake Zoning Changes

Adopted version Needs to Add Small Wireless Facilities to use chart Allowable in all districts

Correction Section 1003.6 2) Should read "Article VII Parking not IX

Correction Need to add Section 1008 Not included in Adopted version

Definitions to Add:

Antenna- Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services.

Cable Facility- Buildings, other structures, and equipment used by the owner or operator of a cable television system to provide services.

Cable System- As used in this Zoning Ordinance, shall have the meaning given to it in Section 602(6) of the Cable Communications Policy Act of 1984, as may be amended from time-to-time.

Collocation- To install, mount, maintain, modify, or replace small wireless facilities on an existing utility pole or other wireless support structure.

Communications Facility- A set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide a communications service.

Communications Service Provider- Any of the following:

1. A cable operator as defined in Section 602(4) of the Cable Communications Policy Act of 1984, as may be amended from time-to-time.
2. A provider of information service as defined in Section 3(20) of the Communications Act of 1934, 47 U.S.C. 153(24), as may be amended from time-to-time.
3. A telecommunications carrier as defined in Section 3(44) of the Communications Act of 1934.
4. A wireless provider

Decorative Pole- A municipal pole that is specifically designed and placed for aesthetic purposes.

Historic Building- A building located within the Borough that is:

1. Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register;
2. Determined to be eligible for listing by the Keeper of the National Register of Historic Places in accordance with the National Historic Preservation Act and its associated Review Process;
3. Marked as a historical site by the Pennsylvania Historical and Museum Commission; and/or
4. Has its location within a Historic District as defined within this Ordinance.

Historic District- A group of buildings, properties or sites that are:

1. Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register;
2. Determined to be eligible for listing by the Keeper of the National Register of Historic Places in accordance with the National Historic Preservation Act and its associated Review Process;

3. Marked as historical sites by the Pennsylvania Historical and Museum Commission; and/or
4. Have been designated as such by PL. 282, No. 167, as amended

Modify- The improvement, upgrade, or replacement of a small wireless facility or an existing utility pole that does not substantially change the physical dimension of the small wireless facility or utility pole.

Municipal Pole- A utility pole, owned, managed, or operated by or on behalf of the Borough.

Right-of-Way- The area on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property. The term does not include a Federal interstate highway.

Small Wireless Facility- The equipment and network components, including antennas, transmitters, and receiver, used by a wireless provider that meets the following qualifications:

1. Each antenna associated with the deployment is no more than three (3) cubic feet in volume.
2. The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than twenty-eight (28) cubic feet.
3. Any equipment used solely for the concealment of the small wireless facility shall not be included in the calculation of equipment volume under this paragraph.

Underground District- A group of properties within the Borough wherein the Borough requires that all cable facilities and utility facilities, with the exception of municipal poles and attachments, are placed underground.

Utility Pole- A pole or similar structure that is or may be used, in whole or in part, by or for telecommunications service, electric, distribution, lighting, traffic control, signage or a similar function or for collocation. The term includes the vertical support structure for traffic lights but does not include wireless support structures or horizontal structures to which signal lights or other traffic control devices are attached.

Wireless Provider:

1. A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications services in the Commonwealth of Pennsylvania that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures.
2. A person who provides wireless services.

SECTION 1008- SMALL WIRELESS FACILITIES –

- a. The installation of small wireless facilities shall be a permitted use in all Zoning Districts of the Borough.
- b. The Borough shall permit wireless providers, with the permission of the owners of the structure and subsequent to the issuance of a proper Zoning Permit, to:
 - 1) Collocate small wireless facilities within its right-of-way.
 - 2) Replace an existing utility pole to install small wireless facilities within its right-of-way.

- 3) Install a new utility pole with attached small wireless facilities within its right-of-way.
- c. A wireless provider who wishes to install a small wireless facility shall apply to the Borough's Zoning Officer for a Zoning Permit. The Borough will develop and distribute a Small Wireless Facility Application for Zoning Permits. General permit applications shall not be permitted for small wireless facilities installation.
- d. Zoning Permits shall not be required for the following actions:
 - 1) Routine repair or maintenance work on existing small wireless facilities.
 - 2) The replacement of existing small wireless facilities with substantially similar or smaller small wireless facilities.
 - 3) The installation of micro-wireless facilities that are placed on cables between existing utility poles.
- e. The Borough Council shall establish a Zoning Permit Application fee by duly-adopted Resolution of the Borough Council.
- f. The Borough is obligated to inform a small wireless facilities applicant if their Zoning Permit Application is incomplete within ten (10) days of receipt of a Zoning Permit Application. The notice must specifically identify the missing information provided on the initial Zoning Permit Application. In the event that the applicant corrects the errors in the Zoning Permit Application, the time period for rendering a decision on the Zoning Permit Application will reset.
- g. An applicant seeking to collocate multiple small wireless facilities within the Borough may be permitted to file a consolidated Zoning Permit Application for collocation of multiple small wireless facilities in accordance with the following:
 - 1) The consolidated Zoning Permit Application shall not exceed twenty (20) small wireless facilities.
 - 2) The denial of one or more small wireless facilities in a consolidated Zoning Permit Application shall not delay processing of any other small wireless facilities in the same consolidated Zoning Permit Application.
 - 3) A single applicant may not submit more than one (1) consolidated or twenty (20) individual Zoning Permit Applications within a thirty (30) day period.
- h. The Borough shall make a decision on the Small Wireless Facility Zoning Permit Application within:
 - 1) Sixty (60) days for an application to collocate a small wireless facility on an existing utility pole.
 - 2) Ninety (90) days for an application to replace a utility pole or install a new utility pole for small wireless facilities installation.
 - 3) In the event that the Borough receives more than one (1) consolidated Zoning Permit Application or more than twenty (20) individual Zoning Permit Applications for small wireless facilities within a single forty-five (45) day period, the time periods above shall be extended to seventy-five (75) days and one hundred and five (105) days.
- i. The Borough shall be permitted to deny a Zoning Permit Application or a consolidated Zoning Permit Application for small wireless facilities only if any of the following shall apply:
 - 1) The small wireless facility materially interferes with the safe operation of traffic control equipment, sight lines, or clear zones for transportation or pedestrians, fails to comply with the Americans with Disabilities Act of 1990, as amended, or fails to comply with similar federal or Pennsylvania standards regarding pedestrian access or movement.
 - 2) The small wireless facility fails to comply with applicable codes.
 - 3) The small wireless facility fails to comply with the requirements under this Zoning Ordinance and/or the Small Wireless Facilities Deployment Act, as amended.

- 4) The applicant fails to submit a report by a qualified engineering expert which shows that the small wireless facility will comply with applicable FCC regulations.
- j. In the event that the Borough denies a Small Wireless Facility Zoning Permit Application, the Borough must provide the applicant a notice of denial, including the basis for the denials, within five (5) days of the decision.
- k. In the event that the Borough denies a Zoning Permit Application, the applicant may attempt to cure the deficiency and re-submit the Zoning Permit Application within thirty (30) days of the date of denial. Upon receiving the re-submitted application, the Borough shall be given thirty (30) additional days to either accept the re-submitted Zoning Permit Application or deny the same.
- l. Zoning Permits for the installation of small wireless facilities shall be valid for a one (1) year period subject to extension or renewal at the Borough's sole discretion.
- m. All small wireless facilities will be installed so as not to hinder travel, hinder public safety, or obstruct the legal use of the right-of-way by the Borough and/or authorized users.
- n. Each new small wireless facility in the Borough's right-of-way shall be subject to the following:
 - 1) The installation of a small wireless facility on an existing utility pole shall not extend more than five (5) feet above the existing utility pole.
 - 2) If collocation on an existing utility pole cannot be achieved, a small wireless facility may be installed on a new or replacement utility pole. The maximum permitted height of the utility pole and installed small wireless facility shall not be taller than Fifty Feet (50ft) above ground level.
 - 3) A wireless provider may request a height limit waiver or variance in its permit application, with said request requiring the approval of the Zoning Hearing Board.
- o. As a condition of permitting an applicant to locate a small wireless facility in a Historic District and/or on a Historic Building, the Borough may require reasonable, technically feasible, nondiscriminatory and technologically neutral design or concealment measures. These measures shall not have the effect of prohibiting the applicant's technology or be considered a part of the small wireless facility for purposes of size restrictions of small wireless facilities.
- p. Wireless providers shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers from placing or installing structures in the right-of-way in an Underground District if the Borough:
 - 1) Requires all cable facilities and utility facilities, other than municipal poles and attachments, to be placed underground by a date certain that is three months prior to the submission of the Zoning Permit Application;
 - 2) Does not prohibit the replacement of municipal poles in the Underground District; and
 - 3) Permits wireless providers to seek a waiver of the underground requirements for the installation of a new utility pole to support small wireless facilities. Upon the submission of a request for a waiver of the Zoning Ordinance requirements for an Underground District, the Zoning Hearing Board will hold a public hearing and make a determination on said request.
- q. The Borough shall establish fees, by Resolution of the Borough Council, for the use of its rights-of-way for the installation of small wireless facilities. Said fee shall not exceed Two Hundred and Seventy Dollars (\$270) unless the Borough establishes the following:
 - 1) The Borough's fee is a reasonable approximation of the costs to manage the right-of-way.
 - 2) The Borough's fee set by Resolution is reasonable.
 - 3) The Borough's fee is not discriminatory.
- r. A wireless provider shall repair any and all damage to the right-of-way or any other land that is disturbed or damaged directly by the activities of the wireless provider and/or their contractors during the installation of small wireless facilities.

- s. The Borough shall allow collocation on municipal poles using the process required under this Zoning Ordinance unless the small wireless facility would cause structural or safety deficiencies to the municipal pole. In the case that structural or safety deficiencies are present on a municipal pole, the Borough and the applicant will work together to provide make-ready work or modifications or replacements that are needed to accommodate the small wireless facility.
 - t. In the event that the Borough and applicant are required to provide make-ready work, modifications, or replacement of municipal poles in accordance with Section 1008(s), the Borough must provide a good faith estimate for any make-ready work necessary to support the collocation and the fees will be paid for solely by the applicant. The make-ready work on the municipal pole shall be completed within sixty (60) days of the acceptance of the good-faith estimate by the applicant.
 - u. In the event a wireless provider fails to repair any damage caused by the wireless provider during small wireless facilities installation after thirty (30) days' written notification by the Borough, the Borough may repair the damages and charge the wireless provider the reasonable documented cost of repairs at an amount not to exceed Five Hundred Dollars (\$500.00).
 - v. Failure to pay the penalty outlined above in Section 1008(u) may result in the Borough suspending the offending wireless provider from receiving further Zoning Permits for small wireless facilities installation.
 - w. In the event that a wireless provider is not in compliance with any of the provisions of the Small Wireless Facilities Deployment Act or this Section 1008, the Borough shall provide a Notice of Non-Compliance and give the wireless provider thirty (30) days to cure all noncompliance:
 - 1) If a wireless provider fails to comply in bringing its facilities into compliance after thirty (30) days, the Zoning Officer may revoke the Zoning Permit and the wireless provider has sixty (60) days to remove their facilities from the Borough after the date of revocation.
 - 2) In the event a wireless provider allows a Zoning Permit to expire, without extension or non-renewal, the wireless provider shall be accorded ninety (90) days to remove their facilities from the Borough from the date of the Zoning Permit's expiration.
 - x. In the event the Borough's Zoning Officer revokes a Zoning Permit for a small wireless facility, the wireless provider shall remove the small wireless facility, and any associated equipment, including but not limited to the utility pole and any support structures.
 - y. Wireless providers shall fully indemnify and hold the Borough, its officers, employees, and agents harmless against any claims, lawsuits, judgments, costs, liens, expenses, fees, or any other damages caused by the wireless provider while installing, repairing, or maintaining small wireless facilities or utility poles within the Borough's right-of-way.
 - z. The Borough may not institute a moratorium on filing, receiving, processing applications, or issuing permits for the collocation or installation of small wireless facilities within the Borough.
- In the event of a conflict between this Zoning Ordinance and the Small Wireless Facilities Deployment Act, at 53 P.S. 11704.1 et seq, as amended, the provisions of the Small Wireless Facilities Deployment Act will apply.