

PRINCE GEORGE'S COUNTY COUNCIL

Chair's COMMITTEE REPORT

2019 Legislative Session

Reference No.: CB-58-2019

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 10/15/2019

Action: FAV(A)

The Prince George's County Council met as the Committee of the Whole on October 15, 2019 to consider CB-58-2019 Proposed Draft 2, An Act Concerning Small Wireless Facilities. CB-58-2019 creates the regulatory framework for the installation of additional Small Wireless Facilities in Prince George's County. The October 15th Committee of the Whole was preceded by two briefings which were also provided by members of the County Executive's Staff, the Office of Law, the Department of Permits Inspections and Enforcement, the Maryland National Capital Park and Planning Commission (MNCPPC) and the Department of Public Works. The first briefing was an overview of the "regulatory and zoning framework" within which the County can act. Specifics about where the technology could potentially be located and the process for addressing unforeseen circumstances. In addition, members were briefed on the "ground rules" that regulate the size, emissions, noise, the inspection process, public notification and fees. The majority of the changes to the county code are found in CB-58 while the companion legislation CB-59 seeks to amend the zoning ordinance and clarifies where future Small Wireless Facilities will be allowed by adding "public utility use" in the Zoning Ordinance. After the briefing the Council members asked questions about the potential community impact and the briefing concluded.

A second briefing occurred on October 8, 2019. Ms. Tara Jackson provided an overview and Ms. Debra Borden representing the MNCPPC reviewed the legislation and explained that after significant thought about how best to address this issue it was determined that a simple solution was the best course. The legislation modifies the definition of a Public Utility and adds the definition for a Small Wireless Facility within the Zoning Ordinance and allows the County to use the existing Zoning Ordinance. A Draft 2 was reviewed, and the changes were discussed. The amendments, first mentioned during an October 1st briefing on the proposed legislation, have been included in the revised draft 2 along with additional amendments suggested at an October 8th briefing. The amendments were discussed in detail during the October 15th meeting and further amendments were proffered.

Amendments:

- Addresses the overlap between "Minor Antenna" and "Micro-wireless" definitions.
- Adds federal and state historical areas to "Protected Area" definitions.
- Addresses the conflict between the co-location requirement and the 150-foot setback requirement.

- Adds an additional (7th) seat to the Telecommunication Transmission Facility Coordinating Committee (TTFCC) and specifies the roles that DPIE members must perform.
- Specifies that TTFCC support will be provided by both DPIE and OIT
- Adds the TTFCC as a party to waiver recommendation decisions and specifies that all waiver requests that are included with an initial application will be addressed in the TTFCC's recommendation.
- The notice requirements were clarified and expanded to include property owners whose property underlies affected County right-of-way.
- Fees have been adjusted in draft 2 based upon re-assessment from technical consultants. After one year an analysis will be performed by an outside expert will be done to ensure the fees are appropriately cost-based.
- Correction to description of existing non-small small wireless fee amount (no operative effect).
- Adds a provision that allows for combined noticing and briefing for applications that are submitted in a batch.
- Specifies that "tree buffer" requirement only applies to new or replacement support structures.
- Specifies that prohibition on attachment to decorative poles only applies to existing decorative poles.
- Modifies the legal standard for co-location to align with U.S. Code, as opposed to FCC Order.
- Clarifies that, for the purposes of a waiver request, a denial by the DPIE director is the final decision of the County for the purposes of FCC "shot clock."
- Staff was directed to create an amendment that addresses municipalities' concern about preemption.

The Committee voted favorably on Draft 2 as amended, 7-0.