

Topic	Existing Provisions (Senate Bill 331)	Sub. House Bill 478														
APPLICATION PROCESSING TIMELINE AND TOLLING																
Application Fee	Fee cannot exceed \$250 <u>or</u> the fee charged for a building permit for other types of development, whichever is less. §4939.0319	A municipality may charge up to \$250 to process an application, at its discretion, and may adjust the fee up to 10% every 5 years. §4939.0316.														
Application Processing Time	Municipality must grant or deny an application for collocation or for a new pole within 90 days of receipt of a complete application, unless the time is tolled or extended pursuant to another provision. §4939.031	Collocation is unchanged, but the initial time to review and decide upon a new pole would increase to 120 days. §4939.031(B)														
Consolidated Applications	No limit on the number of consolidated requests. §4939.0313 (A)	Requests for new poles and applications to place antennas on existing poles cannot be filed together (intermingled) but may be filed simultaneously. An operator may file an application for up to 30 antennas or up to 30 poles/support structure together as long as the antenna or new poles are substantially similar. §4939.0312														
Tolling	Beyond the initial 90 days, an extension for up to an additional 90 days is permitted for an “extraordinary number” of pending requests for consent. §4939.035 (A)(3)	From the initial 90 or 120 day timetables, an extension of 21 days would be available to the municipality as provided below. §4939.036(A)(3)(a). Further, even if an application is consolidated, each facility or support structure in the consolidated application is counted toward tolling. §4939.0312(C)														
<table border="1"> <thead> <tr> <th>Population</th> <th>Number of Requests</th> </tr> </thead> <tbody> <tr> <td>30,000 or less</td> <td>15 requests</td> </tr> <tr> <td>30,001-40,000</td> <td>20</td> </tr> <tr> <td>40,001-50,000</td> <td>25</td> </tr> <tr> <td>50,001-60,000</td> <td>30</td> </tr> <tr> <td>60,001-100,000</td> <td>60</td> </tr> <tr> <td>Over 100,000</td> <td>90</td> </tr> </tbody> </table>			Population	Number of Requests	30,000 or less	15 requests	30,001-40,000	20	40,001-50,000	25	50,001-60,000	30	60,001-100,000	60	Over 100,000	90
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<i>Comment: The tolling provisions have been revised from up to 90 days for an “extraordinary” number (undefined) to an initial period of 21 days when a specific number of requests have been submitted, subject to further tolling.</i>																

Additional Tolling	No similar existing provision.	For every 15 applications above the threshold for municipalities with populations of 100,000 or less, and every 30 applications above the threshold for municipalities over 100,000, an additional 15 days may be taken, up to a maximum of 90 days beyond the initial 90 or 120 days. §4939.036(A)(3)(b).
Tolling for Incompleteness	Upon providing written notice of the deficiency in the application within 30 days of receipt, a municipality may toll until the necessary information is provided to complete the application. If a supplemental submission is inadequate, the municipality has 10 days to provide notice of the deficiency. §4939.035. This is consistent with federal law (Spectrum Act).	No change. §4939.036(A)(2).
Eligible Facilities Requests (Federal Law)	Pursuant to the Spectrum Act, municipality has 60 days to approve and may not deny an insubstantial modification. §4939.039	No change. §4939.038.
ATTACHMENT TO MUNICIPAL SUPPORT STRUCTURES		
Provider Entitled to Attach to Municipal Support Structure	Municipality must permit attachment to a wireless support structure owned or operated by the municipal corporation and located in the public way. §4939.0325	The right to attach to municipal support structures (owned by a municipality) is conditioned upon operator compliance with design guidelines. §4939.0322. This provision continues to permit mandatory attachment of small cell facilities to municipal support structure. The legislation also imposes requirements that structures and small cells be constructed in a manner that does not impede public safety, travel, or municipal and other public utility use of the public way. §4939.031(A).
<p><i>Comment: Sub. H.B. 478 continues to provide a “right” to place small cell facilities on municipal support structures in the public ROW. The new language requires that an operator comply with municipal design guidelines and provides that the operator may be required, at its cost, to replace or modify/harden/fortify a municipal pole if necessary to support the new facilities.</i></p>		

Annual Fee (attachment to municipal pole)	A municipality may charge up to \$200 per year <u>or</u> the actual, direct, and reasonable costs related to the use of the municipal support structure, whichever is less. §4939.0325	A municipality may charge up to \$200 per year, at its discretion, for attachment to municipal poles, with no necessity for “proving” municipal costs. The municipality may adjust the fee up to 10% every 5 years. §4939.0322(B)
	<p><i>Comment: The capped fee is now discretionary, with no burden of proof on the municipality, and it can be adjusted for inflation.</i></p>	
MUNICIPAL AUTHORITY REGARDING SMALL CELL FACILITIES		
Design Guidelines	No similar existing provision.	Municipality may adopt reasonable written design guidelines based on objective criteria regarding: (1) the location of ground-mounted small cell facilities; (2) the location of a small cell facility on a wireless support structure; (3) the appearance and concealment of the small cell facilities, including those relating to materials used for arranging, screening, or landscaping; and (4) the design and appearance of a wireless support structure including height requirements. §4939.0314(C)
	<p><i>Comment: Municipalities must have design guidelines in place in order to apply them to an application. H.B. 478 will take effect 90 days after it is signed by the Governor.</i></p>	
Height Limitations	Increased height cannot be more than an additional ten feet or the overall resulting height cannot be more than fifty feet. 4939.01(N)(b)(2)	New poles can be up to 40 feet above ground level. <i>Page 25, lines 693-696.</i> A collocation of an antenna on an existing pole is permitted to increase the height of the pole by up to 5 feet. Using design guidelines, a municipality may cap the height as low as 35 feet in areas that have shorter poles and are subject to building height restrictions. §4939.0314(F). <i>However, an operator may exceed the size limits unless the municipality has regulations preventing the operator from doing so.</i> §4939.0329.
Protections for Designated Undergrounding Areas	No similar existing provision.	Municipality may require a wireless operator to comply with undergrounding requirements, subject to certain conditions, and the municipality must permit the operator to seek a waiver if the operator is unable to service the area due to undergrounding requirements. §4939.0313(G)

	<i>Comment: The undergrounding protections are only applicable if certain conditions are met, such as a requirement that all structures and facilities requires to be buried, including those owned by a municipal electric company. See §4939.0313(G) for detailed requirements.</i>	
Protections for Historic Districts	No similar existing provision.	Any new pole or attachment to be placed in areas designated by federal or state law as historic districts can be subject to specific design requirements. §4939.0314(H)
	<i>Comment: Municipalities should ensure that historic districts are registered as such under federal or state law.</i>	
Relocation Request by Municipalities	No similar existing provision.	Operator will relocate or adjust its facilities, at no cost to the municipality, if the municipality requests the relocation for purposes of completing construction and maintenance activities. §4939.08
Spacing Requirements for New Poles	Municipalities shall not impose any separation requirements. § 4939.0315 (P)	Municipality may impose reasonable and nondiscriminatory spacing requirements for new poles. §4939.0314(I)
Proposed Alternative Locations	Municipality may propose an alternate location within fifty feet of the proposed location. §4939.0315(D)	A municipality may require the operator to utilize an alternate location for a new pole/wireless support structure within 100 feet of the proposed location, or the width of the public ROW, provided no technical problems or additional costs. §4939.0314(D)
Abandoned Poles or Equipment	Municipality may adopt reasonable rules intended to ensure the public health, safety, and welfare with respect to the removal of an abandoned wireless support structure or abandoned wireless facilities. §4939.0315 (E)	Municipalities may require an operator to remove a small cell facility or support structure that has been unused for a year and may impose financial obligations on the operator to ensure their removal. §4939.0314(J) and §4939.0313(D)
Permits for Collocation	Municipality shall not limit the duration of any permit that is granted, except the municipality may require that construction commence within two years. §4939.0315 (L)	An approved municipal permit to collocate a small cell to a wireless support structure must be valid for at least ten years, with presumed renewal for additional five-year terms. §4939.0317. A municipality may void a permit if the collocation does not occur within 180 days of issuance, although the operator may get up to 365 days to complete the collocation under certain circumstances. §4939.0314(E)

Work Permits	Municipality may require a work permit for routine maintenance and unsubstantial modifications to the pole or small cell. §4939.0311(B)	A municipality may require an operator obtain a work permit for any construction on the public right-of-way, including for routine maintenance, activities related to strand-mounted micro wireless facilities, and unsubstantial modifications to the pole or small cell. §4939.0311(B). A municipality may charge a fee for the work permit. §4939.0311(C).
Reserved Space	No similar existing provision.	A municipality may put a plan in place to reserve space in the right of way and on municipal structures for future safety or transportation uses. If a structure needs to be replaced to accommodate both a planned future use and collocation, the operator must pay for the replacement. §4939.0314(A).
Environmental Protections	A municipality may impose requirements that do not exceed federal law. §4939.0315(N)	A municipality may impose requirements that do not exceed <u>state</u> or federal law. §4939.0313(J).
RESTRICTIONS ON MUNICIPAL AUTHORITY TO REGULATE SMALL CELL FACILITIES		
Information about business decisions, demand, capacity, propagation maps, etc.	Municipality shall not require information related to business decisions, the operator's service, customer demand, quality of service to or from a particular area or site, need for additional wireless coverage, capacity, increased speeds, and may not require operator to submit strategy documents, propagation maps, or telecommunications traffic studies. §4939.0315 (A)(B)(C)	May request the information, but not as a condition of approval of the request. §4939.0313(A)(B)(C).
Removal of existing structures or small cells	Municipality shall not require removal of small cell facilities or support structures as a condition of approval. §4939.0315 (E)	Municipality may require removal as a condition of the approval of the request when the facility to be removed has been unused or abandoned. §4939.0313(D).
Air Space Regulations	Municipality cannot impose restrictions on navigable airspace that are stricter or in conflict with federal regulations. §4939.0315 (F)	No change. §4939.0313(E).
Unreasonable Discrimination Among Providers	Municipality shall not unreasonably discriminate among providers of functionally equivalent services. §4939.0315 (H)	No change. §4939.0313(F).

Lease Agreements	Municipality shall not require that the operator purchase, lease, or use facilities, networks, or services owned or operated by the municipal corporation. §4939.0315 (J)	No change. §4939.0313(G).
Requiring Operators to Collocate Together	Municipality shall not condition the grant of consent on the requestor's agreement to permit other wireless facilities to be placed at, attached to, or located on the associated wireless support structure. §4939.0315(K)	No change. §4939.0313(H).
Unique setback and fall-zone	Municipality cannot impose setback or fall-zone requirements different from requirements imposed on other types of structures. §4939.0315(M)	Fall-zone and set back requirements may not be different from other similar types of structures. §4939.0313(I).
Radio Frequency Regulations	Municipality cannot impose any regulations pertaining to radio frequency emissions or exposure to such emissions that are contrary to or exceed rules of the federal communications commission. §4939.0315 (O)	No change. §4939.0313(K).
Moratorium Prohibited	A municipality may not impose a moratorium on the filing, acceptance, consideration, or approval of requests. §4939.0317	No change. §4939.0315.

MISCELLANEOUS		
Small Cell Facility Operators	A public utility or cable operator that operates a micro wireless facility. §4939.01(G)	Limits the entities that can avail themselves of most of the provisions of Chapter 4939 to the big carriers -- AT&T, Sprint, Verizon, and T-Mobile, or their designated agents. Cable operators and their designated agents and video service providers and their designated agents are also included. §4939.031. Entities that are not operators, such as Crown Castle, may apply for consent, but a municipality is not required to grant its consent. §4939.033.
Structures Exempt From Attachment	Excludes a utility pole or other facility owned or operated by a municipal electric utility. §4939.01(R)	Municipal electric utility poles are not considered wireless support structures, nor are street signs under fifteen feet tall, and equipment used to supply power to public transportation. §4939.01(V).

Indemnification of Municipalities by Operators	No similar existing provision.	A small cell facility operator must indemnify the municipality for any damage arising out of the operator's negligence. §4939.039
Size of Facilities	Antenna is within, or could fit within, an enclosure of not more than six cubic feet in volume. All other associated equipment is cumulatively not more than twenty-eight cubic feet in volume. §4939.01(N)(1)	No change. §4939.01(P)
Strand-Mounted Facilities	No similar existing provision.	A cable company or video service provider does not need to obtain consent from a municipality or pay small cell fees before it installs, maintains, or replaces "micro wireless facilities" strung between wireless support structures. §4939.0311(C). Micro wireless facilities are no more than 24 inches long, fifteen inches wide, and twelve inches high, and its exterior antenna, if any, must be eleven inches tall or shorter. Micro wireless facilities may only be strung between wireless support structures. §4939.01(H)
"Savings" Clause for Investor-Owned Electric Utilities	No similar existing provision.	Provision stating that Chapter 4939 will not affect or supersede any tariff, contractual obligation or right, or federal or state law currently applicable to investor-owned electric utilities. §4939.0322(E)

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