



TOWN OF DEWEY BEACH

www.townofdeweybeach.com

105 Rodney Avenue
Dewey Beach, DE 19971
302-227-6363 (Voice or TDD)
302-227-8319 (Fax)

ORDINANCE NO. 778

AN ORDINANCE TO AMEND CHAPTER 185, SECTION 90A, UTILITIES OF THE CODE OF THE TOWN OF DEWEY BEACH, DELAWARE RELATING TO THE WIRELESS FACILITIES.

Section 1. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A 3(a), by adding a new subparagraph thereto as depicted by the underlined provision below:

3. Wireless Facilities Review.

a. Prohibited on Certain Property.

- i. Wireless Facilities shall not be permitted on any property used for residential purposes.
- ii. Wireless Facilities shall not be permitted on the beach dunes or east of the beach dunes
- iii. Wireless Facilities shall not be permitted on pedestrian sidewalks unless ADA compliance standards can be met.

Section 2. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A. by inserting the following underlined subsections depicted below and by renumbering the existing subsequent subsections accordingly as 9 through 15:

“7. Annual Plan: Every applicant for permit for Wireless Facility must submit to the Town of Dewey Beach a Wireless Facility Location Plan (“Annual Plan”) if a plan from the applicant is not already on file. The Annual Plan must clearly identify the location of every existing facility, and the general location of each proposed facility to be constructed or located within the Town of Dewey Beach. The applicant must update the Annual Plan each year. In the event a proposed facility is not reflected on the applicant's existing Annual Plan, the applicant shall amend the Annual Plan on file to reflect the proposed facility. The Town of Dewey Beach shall not accept an application that includes any Wireless Facility that:

- (1) is not reflected on an applicant's existing Annual Plan, or
- (2) has been submitted by an applicant who does not have an existing and current Annual Plan on record with the Town of Dewey Beach. The Annual Plan should include a map and accompanying database listing of sites which exist and those planned for the future.

8. Fees Related to Applications and Annual Plan:

a. Five Hundred Dollars (\$500.00) at the time of filing an update to the Wireless Facility Location Plan required by the Town of Dewey Beach.

b. Two Hundred Fifty Dollars (\$250.00) for modification or revision of the application and/or plans. The fee shall be a minimum of Two Hundred Fifty Dollars (\$250.00) unless an extensive application and/or plan review is required. The fee shall then be determined by the Town and sufficient to offset the cost of the additional plan review and services.

c. Permit applications filed by a wireless provider will be reviewed by the Town of Dewey Beach including the Town Manager, Town Solicitor and Town Wireless Consultant. All costs of review of the application shall be reimbursed to the Town by the applicant.

d. The Town of Dewey Beach requires all permit applications to include costs of materials and labor to be included in all applications, which would be subject to a 3% permit fee cost, in addition to the above fees.”

Section 3. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A 13, Definitions by inserting the following underlined terms along with their definitions:

“Minor modification” means a modification of an existing wireless facility which does not substantially change the size of the structure or wireless facility.

“New” means a proposal to install a new structure where none exists and to attach wireless facilities on the new structure.

“Replacement” means a proposal to replace an existing structure without wireless facilities with a new structure and to attach wireless facilities on the replacement structure.

Section 4. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A 13, Definitions by revising the existing definition of the term ‘Small Cell Wireless Facility’ to read as follows:

“Small Cell Facility” means

- (1) The wireless support structure on which antenna facilities are mounted shall not exceed the Town’s height restriction of 35 feet unless the wireless company can prove that the 35 feet height is not sufficient for signal, and in this case shall be:
 - (a) 50 feet or less in height including antenna, and
 - (b) no more than 10 percent taller than other adjacent structures in the public right-of-way including antenna, and
 - (c) not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities, whichever is lesser.
- (2) All wireless equipment associated with the Facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume.
- (3) The facilities do not require antenna structure registration under 47 CFR Part 17;
- (4) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b); and
- (5) Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements are cumulatively no more than three cubic feet in volume.

Section 5. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A 13, Definitions by revising the existing definition of the term ‘Substantial Change’ to read as follows:

“Substantial Change” or “Not an Eligible Facilities Request” for small cell facility in ROW means a Proposed Wireless Facilities Modification that meets any of the following criteria:

- (1) The proposed installation increases the height of the structure by: (i) more than 10% or (ii) more than 10 feet, whichever is greater.
- (2) The proposed installation increases the width by adding appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 feet.
- (3) The proposed installation requires excavation or expansion outside the current boundaries of the site.
- (4) The structure or proposed installation would defeat the concealment elements/measures.
- (5) The proposed installation involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure.

Section 6. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A 13, Definitions by revising the existing definition of the term ‘Town Standards’ to read as depicted below by a series of underlined insertions and strikeouts:

“Town Standards” means the Town’s Design Standards for Wireless Facilities and Telecommunications Towers ~~Attachments on Municipal Utility Poles and Non-Utility Municipal Structures~~ as may be amended from time to time.

Section 7. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A by adding thereto a new subsection 14 as follows:

“14. Penalties. Any violation of 185-90A of the Code of Ordinances of the Town of Dewey Beach shall be subject to fines in the amount of \$500.00 per day.”

Section 8. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the provisions of this Act are severable if the invalidity does not affect the other provisions of this Act that can be given effect without the invalid provision or the application of this Act that can be given effect without the invalid application

Section 9. This Act shall become effective upon the date of its enactment.

Date: December 2, 2021


William Stevens, Mayor


Bill Zolper, Town Manager

Design Standards for Small Cell Wireless Facilities and Telecommunications Towers

Purpose: The Town of Dewey Beach has a small beach town aesthetic that is important to retain. The installation of small cell technology will enhance wireless capabilities while harmoniously blending into the existing character and context of the Town. Installation of the technology shall take into consideration the area in which it will be placed to ensure Dewey Beach's small-town character is maintained when development occurs in any form. Public safety shall also be considered when locating small cell wireless facilities

General Requirements for Small Cell Wireless Facilities

Applicant will utilize the best available technology economically feasible (BATEA) that not only reduces equipment size but allows minimal visual impact through the use of stealth technology without significant negative impact on performance of the facility. This technological improvement may require reasonable incremental operating and capital costs and must still adhere to the FCC guidelines governing small wireless facilities.

Type of Applications

There are four categories, in order of placement preference, of wireless siting applications for attachments in the right of way (ROW):

- Collocation – means and refers to the mounting or installation of transmission equipment on a wireless support structure, or utility pole, for the purpose of transmitting and/or receiving radio frequency signals for communication purposes. This definition includes the first placement of transmission equipment on a Tower or base station. Collocation also refers to a proposal to locate transmission equipment on a wireless support structure, or utility pole, on which wireless facilities already exist.
- Minor Modification – A proposal to modify an existing wireless facility that does not substantially change the size of the structure or wireless facility.
- Replacement – A proposal to replace an existing structure, without wireless facilities with a new structure, and to attach wireless facilities on the replacement structure.
- New – A proposal to install a new structure where none exists and to attach wireless facilities on the new structure.

Antenna

- The antenna shall appear as a seamless extension of the existing structure.
- Antenna shall be equal to or less diameter of the tower/structure.
- Antenna shall appear as a seamless extension of the new tower/structure.
- The antenna shall match the color, texture of the tower/structure it will be a part of.

- 35 • When antennas are placed in line with the pole, they should have a smooth, cylindrical shape,
36 such as a single canister.
- 37 • Multiple separate antennas must be located inside an antenna enclosure of no more than three
38 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and
39 all of its exposed elements are cumulatively no more than three cubic feet in volume.
- 40 • Total height of the antenna shroud/ canister shall not exceed 3 feet.
- 41 • Antennas on small wireless facilities should be of the type and operate at frequency such that it
42 will not cause unacceptable interference with a public safety agency's communications
43 equipment. Applicant must submit certification, from a licensed Professional Engineer in the
44 State of Delaware, that the facility will adhere to and operate within FCC guidelines regarding
45 non-interference with the Town's public safety communication systems.

46 **Backup Power and Power Connections**

47 Battery backup-power devices shall be installed with a transfer switch to prevent back feeding into the
48 electrical system.

49 All utility lines required to power wireless communication must be buried underground. Overhead wires
50 are prohibited.

51 **Cabinets and Equipment**

- 52 • All equipment/cabinets associated with small cell wireless facilities shall comply with the Town's
53 floodplain regulations.
- 54 • If equipment needs to be located on the tower/structure other than the antenna the equipment
55 shall not protrude more than 12" from any tower/structure.
- 56 • All equipment/cabinets shall comply with any wind restrictions.
- 57 • All equipment/cabinets shall match the color and texture of the tower/structure it is to be
58 placed with the exception of wood utility poles.
- 59 • All wires shall be shrouded and shall match the color and texture of the structure it is to be
60 attached.
- 61 • All wires, cables, and other equipment shall be firmly attached to the structure.
- 62 • Any and all wiring (including cabling) must be covered with an appropriate cover or placed
63 inside the pole/ wireless support structure.
- 64 • Ground mounted cabinets shall be integrated into the structure.
- 65 • Any pole mounted cabinet shall not exceed 12 cubic feet in volume, shall not exceed 3 ft. in
66 height and 2ft. in width
- 67 • Any round mounted cabinet shall not exceed 28 cubic feet in volume.,
- 68 • Any pole mounted equipment, excluding the power meter and disconnect, to be mounted on
69 the tower/structure shall have a clear height of 10 ft (above ground level).
- 70 • No equipment or structure shall interfere with the pedestrian or bicycle traffic.
- 71 • Street trees shall not be removed to allow for cabinets or equipment.

72 **Noise and Lighting**

73 a. Illumination is not permitted for the small cell wireless facilities, unless it is part of a streetlight or
74 where required by the FCC.

75 b. All equipment shall comply with the Town’s noise regulation.

76 **Power Disconnect**

77 Each approved small wireless facility shall have a clearly marked power-disconnect switch adjacent to
78 the electronics cabinet and located outside areas that exceed radio-frequency exposure limits.

79 The power meter and disconnect should be mounted at a minimum height of 7 feet and a maximum
80 height of 10 feet above ground level.

81 **Signage**

82 Signage shall be for notification purposes of the wireless carrier, identification of equipment, contact
83 information etc. and shall not exceed 2 SF unless otherwise required by applicable law.

84 **Small Cell Wireless Facilities Locations**

85 Small cell facilities shall not be installed:

- 86 • In any location where they will interfere with or detract from traffic control devices
- 87 • On a wireless support structure which is less than 50 ft. from the midpoint of any beach access
88 location at the end of any ocean side street.

89 Preferred placement of small wireless facilities shall depend on application types. The order of priority
90 from most preferable to least preferable, is:

- 91 • Along Route 1, including collocation
- 92 • Beach front Hotel/Motel Rooftop collocation
- 93 • Minor modification or collocation on wireless support structure
- 94 • Replacement
- 95 • New

96 If the Wireless Service Provider (WSP) is unable to collocate on an existing wireless support structure;
97 the WSP needs to provide other pole locations considered within 300’ of the proposed
98 New/Replacement pole location and provide justification as to why the other pole locations weren't
99 suitable for collocation.

100 **Placement and Siting of Small Wireless Facilities**

101 This section refers to the placement of small cell antenna and wireless equipment. Co-location on an
102 existing structure is the preferred method for placement of small cell antenna and wireless equipment.
103 If collocation on an existing building or structure is not feasible, the construction of a new pole is
104 permitted.

105 Documentation shall be required if collocation cannot be complied with.

- 106 a. There shall be a 10 ft. clear height (above ground level).
107 b. Preferential siting in designated beach block areas will be for collocation on existing structures
108 up to 50'. A new structure in a designated beach block area will be limited to 35' unless the
109 applicant can demonstrate that the height limit will not generate enough signal sufficient for
110 capacity and coverage requirements.

111 Maximum height of the existing pole/structure, plus collocated enclosure, shall not exceed 50ft or
112 increase existing pole/structure height by more than 10%, as a result of the collocated SWF, whichever
113 is lesser.

114 c. Collocation on a building.

- 115 1. Antenna and wireless equipment/cabinets shall be stealth and concealed by the building.
116 2. Antenna and wireless equipment/cabinets shall not exceed more than 3 feet above the roof
117 line.

118 3. Collocation is encouraged to use the existing structures. If a new structure is proposed, it shall
119 match the character of the area that it will be placed. The intent for new structures is to match the
120 character of the area and have the structures fit in.

121 **New/ Replacement Small Cell Wireless Structure Requirements**

122 a. New structures shall comply with the following:

- 123 • The new structure shall not interfere with or obstruct light poles, traffic signals.
124 • New structure shall be 100 ft. from existing structures/poles/streetlights, excluding Coastal
125 Highway (Rt 1).
126 • The new/ replacement structure shall be a minimum of 10 ft. from any building face.
127 • The new/ replacement structure shall be 12 ft. from driveway aprons to ensure access.
128 • The new/ replacement structure shall be 10 ft. from permanent objects in the ROW and out of
129 the sight triangle at intersections. (a permanent object may be defined as an object placed in
130 the right-of-way with the legal consent of the Town, with the expectation it will not be removed
131 such as bus depots, permanent benches, and street signs)
132 • Avoid placement in front of residential and business entrances, windows, signs, etc. New/
133 replacement structures shall be sited in the vicinity of lot corners.
134 • The new/ replacement wireless support structure on which antenna facilities are mounted on
135 should be no taller than 35 feet above the grade including the antenna. If it is technically

- 136 infeasible for the wireless service provider to operate within the 35 ft. limit, the wireless service
137 provider must provide documentation justifying the technical infeasibility.
- 138 • Maximum height of a new/replacement structure shall be 50 ft from grade including antenna
139 and any enclosure, or not exceed by more than 10% the height of the closest streetlight/pole
140 within 100 ft on the same side of the street, whichever is smaller.
 - 141 • Under no circumstances will a wireless support structure taller than 50' including antenna and
142 enclosure be approved.
 - 143 • The new/ replacement structure shall match the aesthetic, color, texture of the structures
144 within the immediate area and street.
 - 145 • The new/ replacement structure shall comply with the floodplain regulations.
 - 146 • Small wireless facilities on replacement structures must be located within 2 feet of the existing
147 structure to be replaced, where collocation is not proven to be viable.
 - 148 • Until preferred pole designs have been determined, the new or replacement pole must be
149 approved by the Town Manager.

150 **Setback Requirements**

- 151 • Small wireless facilities must be at a minimum set back distance of 20 feet from the nearest
152 residential dwelling.
- 153 • Small wireless facilities must be at a minimum set back distance of 10 feet from the nearest
154 commercial dwelling.
- 155 • Small wireless facilities must be at a minimum set back distance of 250 feet from any
156 playground.
- 157 • Small wireless facilities must be at a minimum set back distance of 300 feet from another small
158 wireless facility from the same WSP, and 100 feet from another small wireless facility from
159 different WSP, unless they are collocating on the same wireless support structure.
- 160 • Small wireless facilities must be at a minimum distance of 3.5 feet from the curb, or 6 feet from
161 the edge of the paved roadway section if no curb exists.
- 162 • Small wireless facilities must be at a minimum set back distance of 8 feet from the nearest tree.
163 Excluding Route 1, and King Charles.
- 164 • Small wireless facilities must be at a minimum set back distance of 250 feet from the nearest
165 park.
- 166 • Small wireless facilities must be at a minimum set back distance of 50 feet from the midpoint of
167 any beach access location at the end of any ocean side or bay side street.
- 168 • Small wireless facilities shall have adequate fall zones reflecting the required setback
169 requirements, and those governing structures within the right-of-way (ROW).

170 **Removal**

171 The removal of all structures and/or equipment and repair of the structures shall be done by and at the
172 expense of the wireless company.

- 173 a. Structure shall be returned in equal or better state.
- 174 b. All equipment and mounting hardware shall be removed.
- 175 c. Holes shall be patched and painted to match the color and texture of the structure.

176 **Waivers**

177 The Town Manager, upon recommendation from the Building Official, may grant waivers from the
178 Design Standards where strict enforcement would prohibit deployment, or where deviation from the
179 Standards would serve the public interest. Waivers shall not be granted for any standards or
180 requirements governed by any federal or state laws or regulations.

181 **Application Requirements**

182 The chart below indicates the required submittals that must accompany an application for a Small Cell
183 Facility. The submittal requirements are identified for each application type.

Field Name	Description	New	Replacement	Minor modification	Collocation
COMPLETE APPLICATION	Checklist	x	x	x	x
CONSTRUCTION DRAWING	Stamped by a Delaware P.E.	x	x	x	x
MAP	Attach map of the general area, calling out the location of the site	x	x	x	x
MANUFACTURER SPECIFICATIONS	Upload manufacturer's cut-sheets for all proposed radios, antennas and accessories listed in application	x	x	x	X
STRUCTURAL ANALYSIS	Stamped by a Delaware P.E., and calculated wind speed loads are utilized that are inherent to coastal areas	x	x	x	x
RF PROPAGATION STUDIES	<ol style="list-style-type: none"> 1. Provide copy of RF propagation contour maps showing site with/without calculated signal levels in color at the target signal level, and \pm 5 dB 2. Include a legend that shows what signal each color represents 3. Include maps showing coverage at the proposed antenna elevation and at 10 ft below the proposed elevation 4. Maps must be legible and in sufficient detail 	x	x		
PROPERTY OWNER CONSENT	<ol style="list-style-type: none"> 1. Attach evidence that the owner has provided consent to use their structure for the proposed Small Cell Facility 2. Include unique pole number 3. If the proposed wireless support structure is located along a State road or in the State right-of-way, documentation of tentative or firm approval by DelDot must be submitted. 	x	x		x

PHOTOS / PHOTO SIMULATIONS	For all applications, photo simulations from at least three reasonable line-of-site locations near the proposed project site must be included. The photo simulations must be taken from the viewpoints of the greatest pedestrian or vehicular traffic. Angle of photo simulation separation must be at least 90 degrees or greater and provide a full profile depiction. Photos/Photo SIMS must be date/time stamped and no older than 90 days	x	x	x	x
RF ANALYSIS (EME REPORT)	Required for all applications	x	x	x	x
FCC NEPA and NHPA	Determine compliance with FCC rules implementing the National Environmental Policy Act. Provide proof of an Environmental Assessment (EA) and the issuance of a Finding of No Significant Effect (FONSI) as applicable by category listed by the FCC as well as historical review, as applicable per the National Historical Preservation Act (NHPA).	x	x		x

Radio Frequency (RF) Analysis

As a condition of approval for small cell wireless facilities, Applicants must provide an evaluation of proposed wireless equipment being installed to prove its compliance with FCC guidelines for human exposure to radio frequency fields. Evaluations shall include uncontrolled exposure in the near-field and far-field regions. The Town shall have the right to conduct a five-year recertification of such compliance, by a qualified RF engineer, and all reasonable and applicable costs shall be paid by the permittee. With any minor modification, the applicant would be required to recertify their RF(EME) report.

At a minimum, evaluations of proposed wireless equipment must contain the following:

1. A statement of compliance.
2. Date of the report.
3. Date of statement of compliance.
4. Location proposed for the Small Wireless Facility installation.

5. Applicant site or identification number for the Small Wireless Facility installation.
6. GPS coordinates of the existing or proposed Pole.
7. Calculation of radio frequency power at the radios or other electronics.
8. Calculation of radio frequency power at the Antennas.
9. Calculation of radio frequency power within 6 ft. of ground level, and at ground level.
10. Calculation of radio frequency power at windows of residences and businesses in closest proximity to the Small Wireless Facility.
11. Calculation of radio frequency power of the closest area that can be occupied by the general public in the main lobe of the Antenna, if within 50 ft.
12. Location of the applicable signage with above-ground-level height listed.

TELECOMMUNICATIONS TOWER STANDARDS

The following standards apply to all Tower sites above 50 ft.:

Maximum Height Standards

- a. The maximum height of a Tower shall be 150 feet including any lighting rod.
- b. The height of any Tower shall include the support structure and any attached Antennas proposed at the time of application.

Tower Design

- a. Lattice Towers and any guyed wires are prohibited.
- b. The proposed Tower shall be designed to allow for collocation of two (2) other carriers.
- c. All Towers and required fencing shall be equipped with appropriate anti-climbing devices.
- d. The perimeter of the Tower and anchors shall be enclosed by a fence or wall at least six feet in height.
- e. The tower and equipment shall comply with the floodplain regulations.

Painting

Towers shall be painted or finished in a manner which blends with the dominant color of the background except where otherwise required by the FAA. The applicant and/or operator of the facility shall have a continuing duty to maintain such paint or finish.

Setbacks

A Tower located in nonresidential zoning districts shall be set back a minimum of the height of the tower from any other zoning district boundaries. A Tower located within a residential zoning district shall be set back a minimum of twice the height of the tower from any existing dwelling unit.

View Protection

A Tower shall not be located in such a fashion as to negatively impact views from public parks and recreation areas.

Site

- a. A Site Plan shall be submitted for the compound with the placement of the Tower, cabinets and any other equipment.
- b. All equipment, Tower, cabinet, etc. shall be located within the compound.

c. The compound shall be large enough to allow for the co-location of at least two (2) other carriers.

Lighting

- a. All lighting shall comply with FAA requirements.

APPENDIX A: Preferred Pole Designs

[[TO BE ADDED WHEN DETERMINED BY TOWN OF DEWEY]]