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December 27, 2018

Renee Lauber, DCTA Planner
Dane County Towns Association
1252 Morrison Court
Madison, WI 53703

**Re: Telecommunications Facilities
Small Wireless Facilities Siting
New FCC Regulations
Recommendations**

Dear Ms. Lauber:

Effective January 14, 2019, new rules adopted by the Federal Communications Commission will take effect regarding state and local government regulation of the placement, construction and modification of personal wireless service facilities. These federal regulations will add to the already existing federal preemptions and state preemptions of local authority concerning telecommunications facilities. I am writing to offer an update on the state of the law in this area, and to offer certain recommendations.

Unfortunately, there is no simple summary that can be provided of the current laws that apply because the State of Wisconsin has already regulated this area significantly, and these new federal regulations add a new layer of complexity. Municipalities must comply with the state laws and also with the federal laws, of course. To help navigate the issue, we have prepared a series of tables showing the state and federal requirements that apply to various issues, which are attached, and are summarized as follows:

1. Exhibit A: Application Review Deadlines; Collocation on Existing Structures. This table shows the laws that apply for collocation on existing structures, whether the collocation is a traditional large cell antenna array or the new small wireless technology under federal and state laws.
2. Exhibit B: Definitions of Substantial Change. This table outlines the state and federal definitions of what constitutes a substantial change to an existing facility. This is significant because if it is a substantial change, the telecommunications provider must comply with the new structure requirements rather the collocation requirements.
3. Exhibit C: Application Review Deadlines; New Structures. This exhibit outlines the state and federal review deadlines for traditional cell tower construction, and

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for structures that will house the new small cell technology under state and federal laws.

4. Exhibit D: Application Fees for Large and Small Cell Siting of New Structures and Collocations. This table outlines the maximum fees that can be charged for large and small cell siting applications.
5. Exhibit E: Aesthetic Considerations for Large and Small Cell Siting of New Structures and Collocations. This table outlines the extent to which you are allowed to consider aesthetic issues under state and federal law, both for new structures and for collocations.

RECOMMENDATIONS:

In light of these new laws, I recommend that your members consider whether their telecommunications ordinance, and their right-of-way regulation ordinance, should be revisited. I mention both of these issues because the location of telecommunications facilities within a right-of-way is subject to additional considerations, and telecommunications providers are actively pursuing that option. We recommend that your members have appropriate regulations that apply to both issues, telecommunications generally and regulation of the right-of-way secondarily.

In addition to having appropriate updated ordinances, it is very important that your members act within the time required by these new laws to avoid facilities being deemed approved. Your members have a very short time to consider whether an application is complete, and your members must act within the times required as described within the attached exhibits.

If you should have any questions or concerns regarding these matters, please do not hesitate to contact me. I would be happy to assist in drafting the necessary documents to accomplish your members' intent on request.

Yours very truly,

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

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EJL/egm
Enclosures