

1 **AN ORDINANCE TO AMEND CHAPTER 185, SECTION 90A, UTILITIES OF THE CODE OF THE**
2 **TOWN OF DEWEY BEACH, DELAWARE RELATING TO THE WIRELESS FACILITIES.**
3

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

6 3. Wireless Facilities Review.

7 a. Prohibited on Certain Property.

- 8 i. Wireless Facilities shall not be permitted on any property used for residential purposes.
9 ii. Wireless Facilities shall not be permitted on the beach dunes or east of the beach dunes
10 iii. Wireless Facilities shall not be permitted on pedestrian sidewalks.
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12 Section 2. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A. by
13 inserting the following underlined subsections depicted below and by renumbering the existing subsequent
14 subsections accordingly as 9 through 15:
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16 “7. Annual Plan: Every applicant for permit for Wireless Facility must submit to the Town of
17 Dewey Beach a Wireless Facility Location Plan (“Annual Plan”) if a plan from the applicant is not
18 already on file. The Annual Plan must clearly identify the location of every existing facility, and the
19 general location of each proposed facility to be constructed or located within the Town of Dewey Beach.
20 The applicant must update the Annual Plan each year. In the event a proposed facility is not reflected on
21 the applicant's existing Annual Plan, the applicant shall amend the Annual Plan on file to reflect the
22 proposed facility. The Town of Dewey Beach shall not accept an application that includes any Wireless
23 Facility that:

24 (1) is not reflected on an applicant's existing Annual Plan, or

25 (2) has been submitted by an applicant who does not have an existing and current Annual
26 Plan on record with the Town of Dewey Beach. The Annual Plan should include a map and
27 accompanying database listing of sites which exist and those planned for the future.

28 8. Fees Related to Applications and Annual Plan:

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

31 b. Two Hundred Fifty Dollars (\$250.00) for modification or revision of the application and/or
32 plans. The fee shall be a minimum of Two Hundred Fifty Dollars (\$250.00) unless an extensive
33 application and/or plan review is required. The fee shall then be determined by the Town and sufficient
34 to offset the cost of the additional plan review and services.
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36 c. Permit applications filed by a wireless provider will be reviewed by the Town of Dewey
37 Beach including the Town Manager, Town Solicitor and Town Wireless Consultant. All costs of review
38 of the application shall be reimbursed to the Town by the applicant.
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40 d. The Town of Dewey Beach requires all permit applications to include costs of materials and
41 labor to be included in all applications, which would be subject to a 3% permit fee cost, in addition to
42 the above fees.”
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48 Section 3. Amend the Code of Ordinances of the Town of Dewey Beach, Chapter 185, Section 90A 13,
49 Definitions by inserting the following underlined terms along with their definitions:
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51 “Minor modification” means a modification of an existing wireless facility which does not substantially
52 change the size of the structure or wireless facility.

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

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

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

59 “Small Cell Facility” means

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

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

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

- 82 (1) The proposed installation increases the height of the structure by: (i) more than 10% or (ii) more
83 than 10 feet, whichever is greater.
- 84 (2) The proposed installation increases the width by adding appurtenance to the body of the structure
85 that would protrude from the edge of the structure by more than 6 feet.
- 86 (3) The proposed installation requires excavation or expansion outside the current boundaries of the
87 site.
- 88 (4) The structure or proposed installation would defeat the concealment elements/measures.

89 (5) The proposed installation involves installation of any new equipment cabinets on the ground if
90 there are no preexisting ground cabinets associated with the structure.

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

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

97 Section 7. This Act shall become effective upon the date of its enactment.
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102 William Stevens, Mayor
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106 Bill Zolper, Town Manager
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