
A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that wireless
2 communications have become an integral part of the daily lives
3 of millions of Americans. They play an important role in
4 enabling community economic development opportunities, improving
5 communications among family and friends, and allowing rapid
6 responses to accidents and emergency situations. Wireless
7 customers demand and deserve adequate coverage and sufficient
8 capacity on wireless networks to keep pace with their needs.
9 Part of the challenge of providing improved services to the
10 public is ensuring an efficient application and approval process
11 for new wireless facilities.

12 The purpose of this Act is to ensure:

- 13 (1) The safe and efficient integration of facilities
14 necessary for the provision of advanced wireless
15 communications services; and
- 16 (2) The ready availability of reliable wireless service to
17 the public and government agencies and first-



1 responders, with the intention of furthering public
2 safety and general welfare.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 § -1 Definitions. As used in this chapter, unless the
8 context clearly requires otherwise:

9 "Antenna" means communications equipment that transmits and
10 receives electromagnetic radio signals used in the provision of
11 all types of wireless communications services.

12 "Application" means a formal request submitted to the local
13 authority to construct or modify a wireless support structure or
14 a wireless facility.

15 "Authority" means any state or county planning commission
16 or any county council that has adopted planning and zoning
17 regulations for all or the majority of land uses within the
18 jurisdiction.

19 "Building permit" means an official administrative
20 authorization issued by the proper authority prior to beginning
21 construction of any new or existing support structure.



1 "Collocation" means the placement or installation of
2 wireless facilities on existing structures, including towers,
3 buildings, and water tanks, in a manner that negates the need to
4 construct a new free-standing support structure such as a tower.

5 "Distributed antenna system" means a group of antennas
6 separated in space to provide coverage over the same area as a
7 single antenna, but with reduced total power.

8 "Existing tower" means a free-standing support structure
9 constructed prior to the enactment of this Act that is used to
10 provide wireless services.

11 "Wireless facility" means the set of equipment and network
12 components, exclusive of the underlying support structure or
13 tower, including but not limited to antennas, transmitters,
14 receivers base stations, power supplies cabling, and associated
15 equipment necessary to provide wireless services to a discrete
16 geographic area.

17 "Wireless support structure" means a free-standing
18 structure, such as a monopole or tower designed to support
19 wireless facilities.

20 **§ -2 Construction of new wireless facilities and support**
21 **structures.** (a) An authority may plan for and regulate the
22 siting of wireless communications facilities in accordance with



1 state and county planning or zoning regulations and in
2 conformity with this chapter.

3 (b) Any entity that is engaged in the business of
4 providing wireless telecommunications services or the wireless
5 telecommunications infrastructure and that proposes to construct
6 a wireless telecommunications support structure shall:

7 (1) Submit to the authority the necessary copies and
8 attachments of the applicant's completed application
9 to construct a wireless telecommunications support
10 structure; and

11 (2) Comply with any state and county laws, ordinances, and
12 rules concerning land use and the appropriate
13 permitting processes, subject to the limitations
14 imposed by this chapter.

15 (c) All application materials are subject to chapter 92F.

16 (d) After an applicant's submission of a completed
17 application to construct a wireless support structure, the
18 authority shall:

19 (1) Review the completed application;

20 (2) Make its final decision to approve or disapprove the
21 application; and



1 (3) Advise the applicant in writing of its final decision
2 within ninety days from the date that the application
3 is deemed complete or by a date certain specified in a
4 written agreement with the applicant.

5 (e) A party aggrieved by the final decision denying an
6 application under this chapter may bring an action for review in
7 any court of competent jurisdiction.

8 § -3 Collocation of antennas and equipment. (a) In
9 deploying or expanding commercial and public safety wireless
10 networks, the collocation of new antennas and equipment on
11 existing support structures, including buildings, water towers,
12 or existing conforming or nonconforming communication towers, is
13 preferred to constructing new towers or support structures.

14 (b) An application for a collocation on an existing
15 structure may be subject to the issuance of a building permit
16 and any fee associated with such a permit.

17 (c) An application to construct a new wireless support
18 structure may be denied based upon the applicant's unwillingness
19 to evaluate the reasonable feasibility of collocating new
20 antennas and equipment on an existing structure or structures;
21 provided that an application may not be denied if evidence is



1 provided that collocation is technically infeasible or unduly
2 economically burdensome to the wireless service provider.

3 **§ -4 Limitations.** A permitting authority shall not:

4 (1) Impose environmental testing, sampling, or monitoring
5 requirements, or other compliance measures for radio
6 frequency emissions on wireless facilities that are
7 categorically excluded under the Federal
8 Communications Commission's rules for radio frequency
9 emissions pursuant to 47 Code of Federal Regulations
10 section 1.1307(b)(1);

11 (2) Institute a moratorium on the construction of new
12 wireless support structures lasting over ninety days
13 or institute any moratorium within six months of the
14 conclusion of any previous moratorium on the
15 construction of wireless support structures;

16 (3) Charge an application fee, consulting fee, or other
17 fee associated with the submission, review,
18 processing, or approval of a permit that is not
19 required for other types of commercial development;
20 provided that any fees imposed for providing review or
21 technical consultation with regard to an application
22 shall not exceed what is usual and customary, and in



1 no case shall total charges and fees exceed
2 \$ for a collocation or \$ for the
3 placement and construction of a new wireless facility
4 or support structure;

5 (4) Permit third-party consultants to charge wireless
6 telecommunications service providers for any travel
7 expenses incurred in the consultant's review of
8 wireless telecommunications permits;

9 (5) Establish or enforce rules, or procedures for radio
10 frequency signal strength or the adequacy of service
11 quality in the consideration of any application for
12 the construction, modification, maintenance, or
13 operation of a wireless facility or support structure;

14 (6) Impose surety requirements, including bonds, escrow
15 deposits, or any other type of financial surety, to
16 ensure that abandoned or unused facilities can be
17 removed unless similar requirements are allowed for
18 permits for other types of commercial development or
19 land use. If surety requirements are imposed, they
20 shall be competitively neutral, nondiscriminatory,
21 reasonable in amount, and commensurate with the
22 historical record for similar requirements;



- 1 (7) Prohibit the placement of emergency power systems that
2 comply with federal and state environmental
3 requirements;
- 4 (8) Discriminate on the basis of the ownership of any
5 property, structure, or tower when adopting rules or
6 procedures for siting wireless facilities or for
7 evaluating applications for collocations or new
8 wireless facilities or support structures;
- 9 (9) Condition the approval of a new wireless support
10 structure or collocation on the agreement of the
11 structure owner to provide space on the structure for
12 governmental services at less than the market rate;
- 13 (10) Limit the duration of any permit for a wireless
14 facility or support structure when evaluating an
15 application for a wireless facility or collocation; or
- 16 (11) Require an applicant to construct a distributed
17 antenna system instead of constructing a new wireless
18 support structure or collocating on an existing
19 structure, such as an existing tower or building."

20 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Within the agricultural district, all lands with soil
2 classified by the land study bureau's detailed land
3 classification as overall (master) productivity rating class A
4 or B shall be restricted to the following permitted uses:

5 (1) Cultivation of crops, including but not limited to
6 flowers, vegetables, foliage, fruits, forage, and
7 timber;

8 (2) Game and fish propagation;

9 (3) Raising of livestock, including but not limited to
10 poultry, bees, fish, or other animal or aquatic life
11 that are propagated for economic or personal use;

12 (4) Farm dwellings, employee housing, farm buildings, or
13 activities or uses related to farming and animal
14 husbandry. "Farm dwelling", as used in this
15 paragraph, means a single-family dwelling located on
16 and used in connection with a farm, including clusters
17 of single-family farm dwellings permitted within
18 agricultural parks developed by the State, or where
19 agricultural activity provides income to the family
20 occupying the dwelling;

21 (5) Public institutions and buildings that are necessary
22 for agricultural practices;



- 1 (6) Public and private open area types of recreational
2 uses, including day camps, picnic grounds, parks, and
3 riding stables, but not including dragstrips,
4 airports, drive-in theaters, golf courses, golf
5 driving ranges, country clubs, and overnight camps;
- 6 (7) Public, private, and quasi-public utility lines and
7 roadways, transformer stations, communications
8 equipment buildings, solid waste transfer stations,
9 major water storage tanks, and appurtenant small
10 buildings such as booster pumping stations, but not
11 including offices or yards for equipment, material,
12 vehicle storage, repair or maintenance, treatment
13 plants, corporation yards, or other similar
14 structures;
- 15 (8) Retention, restoration, rehabilitation, or improvement
16 of buildings or sites of historic or scenic interest;
- 17 (9) Roadside stands for the sale of agricultural products
18 grown on the premises;
- 19 (10) Buildings and uses, including but not limited to
20 mills, storage, and processing facilities, maintenance
21 facilities, and vehicle and equipment storage areas
22 that are normally considered directly accessory to the



1 above mentioned uses and are permitted under section
2 205-2(d);

3 (11) Agricultural parks;

4 (12) Plantation community subdivisions, which as used in
5 this paragraph means a subdivision or cluster of
6 employee housing, community buildings, and acreage
7 established on land currently or formerly owned,
8 leased, or operated by a sugar or pineapple plantation
9 and in residential use by employees or former
10 employees of the plantation; provided that the
11 employees or former employees shall have a property
12 interest in the land;

13 ~~[(13)]~~ Agricultural tourism conducted on a working farm, or
14 a farming operation as defined in section 165-2, for
15 the enjoyment, education, or involvement of visitors;
16 provided that the agricultural tourism activity is
17 accessory and secondary to the principal agricultural
18 use and does not interfere with surrounding farm
19 operations; and provided further that this paragraph
20 shall apply only to a county that has adopted
21 ordinances regulating agricultural tourism under
22 section 205-5; ~~[e]~~



1 ~~(14)~~ Wind energy facilities, including the appurtenances
2 associated with the production and transmission of
3 wind generated energy; provided that such facilities
4 and appurtenances are compatible with agriculture uses
5 and cause minimal adverse impact on agricultural
6 land~~[-]~~; or

7 (15) Wireless communication antennas; as defined in section
8 -1."

9 SECTION 4. If any provision of this Act or the application
10 thereof to any person or circumstance is held invalid, the
11 invalidity does not affect other provisions or applications of
12 the Act that can be given effect without the invalid provision
13 or application, and to this end the provisions of this Act are
14 severable.

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Telecommunications; Wireless Communications Antenna Placement

Description:

Creates a streamlined application process for wireless telecommunications facilities and encourages the placement of antennas on existing structures. Establishes the construction and operation of wireless communications antennas as a permitted use in the state agricultural district. (SD1)

