Summary of the METRO Act, 2002 PA 48

https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-Act-48-of-2002

§ 1: Purpose: to encourage expansion of telecommunication services while allowing some control of public rights-of-way (ROWs) by municipalities.

§ 2: Definitions. The Act only applies to counties with a population of 10,000 or more. § 2(f). Lines Only. Equipment shelters and houses are excluded from "telecommunication facilities or facilities." § 2(j).

§ 3: The Local Community Stabilization Authority (LCSA) coordinates rules for implementation of the Act.

§ 4: Municipality cannot enact or enforce an ordinance or assess fees for access to or use of public ROWs contrary to the Act or in addition to those in the Act. A METRO Act permit does not include use of Muni conduit or utility poles. § 4(3).

§ 5: Provider use of a public ROW for telecommunication facilities requires a permit from the municipality and applicable fees.

§ 6: Standard application and permit forms are approved by the Michigan Public Service Commission (MPSC) See https://www.michigan.gov/mpsc/regulatory/telecommunications/metro. Application fee is one time $500. Route maps required with Application. Some information may be exempt from FOIA disclosure.

§ 7: Dispute resolution between provider and municipality regarding the application: MPSC appoints a mediator, who makes a recommendation within 30 days of being appointed. Within 30 days of the recommendation, either party can request the MPSC review and resolve the dispute.

§ 8: Provider must pay the LCSA an annual maintenance fee. The fee is generally $0.05 per linear foot of public ROW. Cable providers generally exempt. § 8(4), (11).

§ 9: Shared Use Discount: Providers who implement a shared use arrangement are entitled to a fee reduction under certain circumstances.

§ 10–12: The LCSA distributes annual provider maintenance fees to compliant municipalities based on the Act 51 Highway Fund Distribution formulas.

§ 13: Municipality must not assess fees greater than those allowed under the Act or it forfeits distribution under Sec 11-12.

§ 14: Authority for Municipal Broadband for Residents: Municipality may provide telecommunication or cable modem services, if: (1) It does not discriminate against other entities providing the same service and (2) It does not give itself preferential treatment in public ROW access, pole attachments, or rates for pole attachments. Exemptions: (1) Municipal systems used only by a municipality and (2) Grandfathered systems established before December 31, 2001. Municipal systems must also meet the requirements of MCL 484.2252.

§ 15: Shot Clock: Municipality has **45 days** from the date an application is filed to approve or deny access to a public ROW. Bonds may be a condition of the permit.

§ 16: The Act does not alter cable franchise requirements. See Michigan Cable Act, 2006 PA 480.

§ 17: MPSC reviews decisions of the LCSA de novo; MSPC decisions appealed to the Court of Appeals.

§ 18: Complaints for violations of the Act can be filed with the MPSC, and this section establishes various remedies and penalties for violations.

§ 19: Provides alternatives if various provisions of the Act are found invalid or unconstitutional.

§ 20: The Legislature or the Governor may seek an advisory opinion of the Michigan Supreme Court on the constitutionality of the Act.

Summary of Small Wireless Communications Facilities Deployment Act, 2018 PA 365
https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-Act-365-of-2018

§ 1: Purpose: to encourage expansion of wireless networks and access to wireless services while still allowing some control and management of public rights-of-way (ROWs) by municipalities.

§ 3–9: Definitions. Micro wireless facility: no larger than 24"×15"×12"; exterior antenna no longer than 11". § 7(c). **Small cell wireless facility: no larger than 6 ft; wireless equipment limited to 25 ft^3 §7(j).**

§ 11: Municipal regulation and charges for collocation of facilities must comply with the Act.

§ 13: No exclusive arrangement for use of public ROW. § 13(2). Annual collocation fee cap: $20 for poles erected before the Act's effective date; $125 for poles erected on or after; 10% increase every 5 years. § 13(3). Facilities that meet height requirements of § 13(5) are not subject to zoning review or approval.

§ 15: Municipality has **25 days** to determine if application is complete and specify missing documents. § 15(2)(d). Municipality has **10 days** after receiving a supplemental submission to notify of remaining deficiency. § 15(2)(e). Time to approve or deny once application is complete: **60 days** for collocation; **90 days** for a new or replacement pole; two categories of **15-day extensions** that may apply. § 15(2)(h). After that, applications is automatically approved, but applicant must give **7 days**' notice before starting work. Municipality can deny application that meets the height requirements in § 13(5)(a) only for the reasons in § 15(2)(i). Applicant can cure deficiencies identified and resubmit within **30 days** without additional application fee. Municipality has **30 days** to approve or deny revised application; review limited to deficiencies originally cited. § 15(2)(j). Application fees caps: $200 for facility; $300 if new pole is also requested; 10% increase every 5 years. § 15(3).

§ 17: Certain actions subject to zoning review and approval. Municipality has **30 days** to determine if application is complete and specify missing documents. § 17(2)(a). Municipality has **10 days** after receiving a supplemental submission to notify of remaining deficiency. § 17(2)(b). Time to approve or deny once application is complete: **90 days** for modification of support structure or installation of facility; **150 days** for new support structure. § 17(2)(d). After that, applications is automatically approved, but applicant must give **15 days**' notice before starting work. Review of application is subject to requirements in § 17(3). Application fees caps: $1,000 for support structure; $500 for facility. § 17(4).

§ 19: No exclusive arrangement for right to attach to poles. Rate for collocation capped at $30 per year per pole (in addition to rate for ROW use); 10% increase every 5 years. Make-ready work: municipality must provide estimate within **60 days** of application; complete work within **60 days** of applicant's acceptance of estimate.

§ 21: Municipality with municipally owned electric utility: No exclusive arrangement to attach to its poles. Must allow collocation on nondiscriminatory basis. Fee cap: $100 per pole to process a collocation request; additional $100 processing fee per pole if modification or maintenance requires engineering analysis; $50 annual collocation rate per pole; increases 10% every 5 years. § 21(4).

§ 23: Attaching entity must comply with reliability, safety, and engineering standards.

§ 25: No municipal authority over facilities in certain interior structures, campuses, stadiums, or athletic facilities.

§ 27: Circuit court has jurisdiction; venue is circuit where municipality or municipal electric utility is located.

§ 29: Municipality may require indemnification and to be named as an additional insured.

§ 31: Municipality may establish fees and rates less than those in the Act.

§ 33: Municipality may adopt bonding requirements up to $1,000 per facility if certain conditions are met.

§ 35: Facility must be labeled with provider's name, emergency contact number, and identifying information.

§ 37: Provider is responsible for arranging and paying for electricity.

§ 39: The Act does not apply to certain investor-owned utilities.

Summary of Telecommunication Services Offered by Public Entity 2005 PA 235; MCL 484.2252
https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-484-2252

§ 1: Public Entity may provide Telecommunications Services within its boundaries but must comply with Metro Act 2002 PA 48, MCL 484.3114, and:

a. Issue an RFP
b. Receive less than 3 "qualified" bids
c. Wait at least 60 days from the date the RFP was issued
d. Comply with RFP terms in providing the services

§§ 2–3: Public Entity can provide beyond its borders if the other affected public entities comply with this Act.

§ 4: No independent Boards

§ 5. This Act does not apply to:

a. Public safety systems
b. System used by public entities only
c. Grandfathered Systems effective by November 1, 2005
d. System currently operating in another public entity
e. Services offered by a public entity to the public within a facility owned and operated by the public entity
f. Systems or services to advance public health, safety, and e-government services

§ 6: Municipal Electric is exempt if energy service related

§ 7: "Public entity" = County, City, Village, Township, or a related agency

Summary of Uniform Video Services Local Franchise Act 2006 PA 480; MCL 484.3301 et seq
https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-act-480-of-2006

§ 1: Definitions. § 1(2)(a)-(r). "Video service" means video programming, cable services, IPTV, or OVS provided through facilities located at least in part in the public rights-of-way without regard to delivery technology, including internet protocol technology . . . ." § 1(2)(p).

§ 2: 10 Year franchise required. Form set by State. Issued by Municipality. See *Detroit v Comcast*, 879 F Supp 2d 680 (ED Mich, 2012).

§ 3: Application: **15 business days** to notify applicant if incomplete. **30 days to approve** a complete application. Franchise transferable, modified or terminated with notice to franchisor. No in-kind demands permitted.

§ 4. Public Access, Education and Government (PEG) Channels: Maintain same number and quality of channels.

§ 5. Franchise Renewal: At discretion of Provider. See *Dearborn v Comcast*.

§ 6. Franchise Fee: Up to **5% of Gross Revenue** derived from all sales within a franchisor's boundaries. § 6(1)-(7). PEG Fees: Up to 2% of Gross Revenue. § 6(8)-(10). See FCC § 621 Orders.

§ 7: Audits: Franchisor may request a **24 month look back** audit. **3-year Statute of Limitation**. § 7(3)-(4). Fees may be itemized on subscriber bills.

§ 8: Free Access to ROW and public places and buildings.

§ 9: Anti-Redline Provision: Of limited value. See Federal Cable Act Requirements.

§ 10: Customer Service Rules for Providers and Dispute Resolution: Failure to resolve disputes prior to MPSC Final Ruling shall result in loser paying opposition's actual costs.

§ 11: Trade Secrets including Areas of Coverage are FOIA exempt.

§ 12: MPSC to issues Annual Report on state of competition.

§ 13: Voluntary Franchise: Different Terms Permitted. All Providers to be provided same terms.

§ 14: Violations of Act: May result in fines up to $40,000, revocation of franchise, and award of fees and costs for frivolous claims.

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