

From: David Beebe [REDACTED]
Sent: Monday, August 17, 2026 3:50 PM
To: Becky Regula <bregula@petersburgak.gov>
Subject: Correspondence to Assembly and BoA

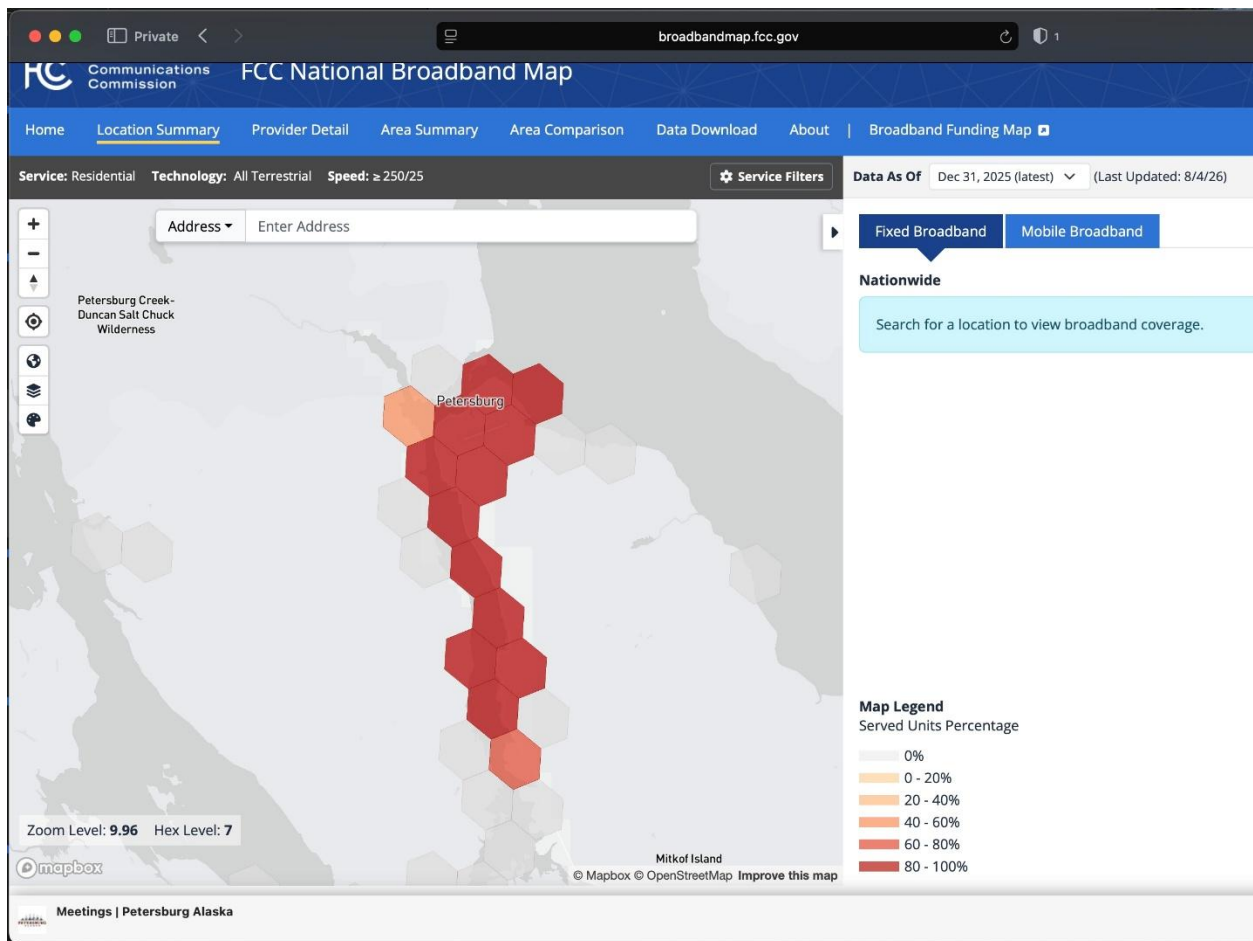
Greetings Board of Adjustment,

Please apprise yourselves of the below documents demonstrating validity to much of the public concerns raised, and many legal dimensions upon which local government and Planning and Zoning Commissioners were never apprised on the matter of Tidal Networks , (et al) applications.

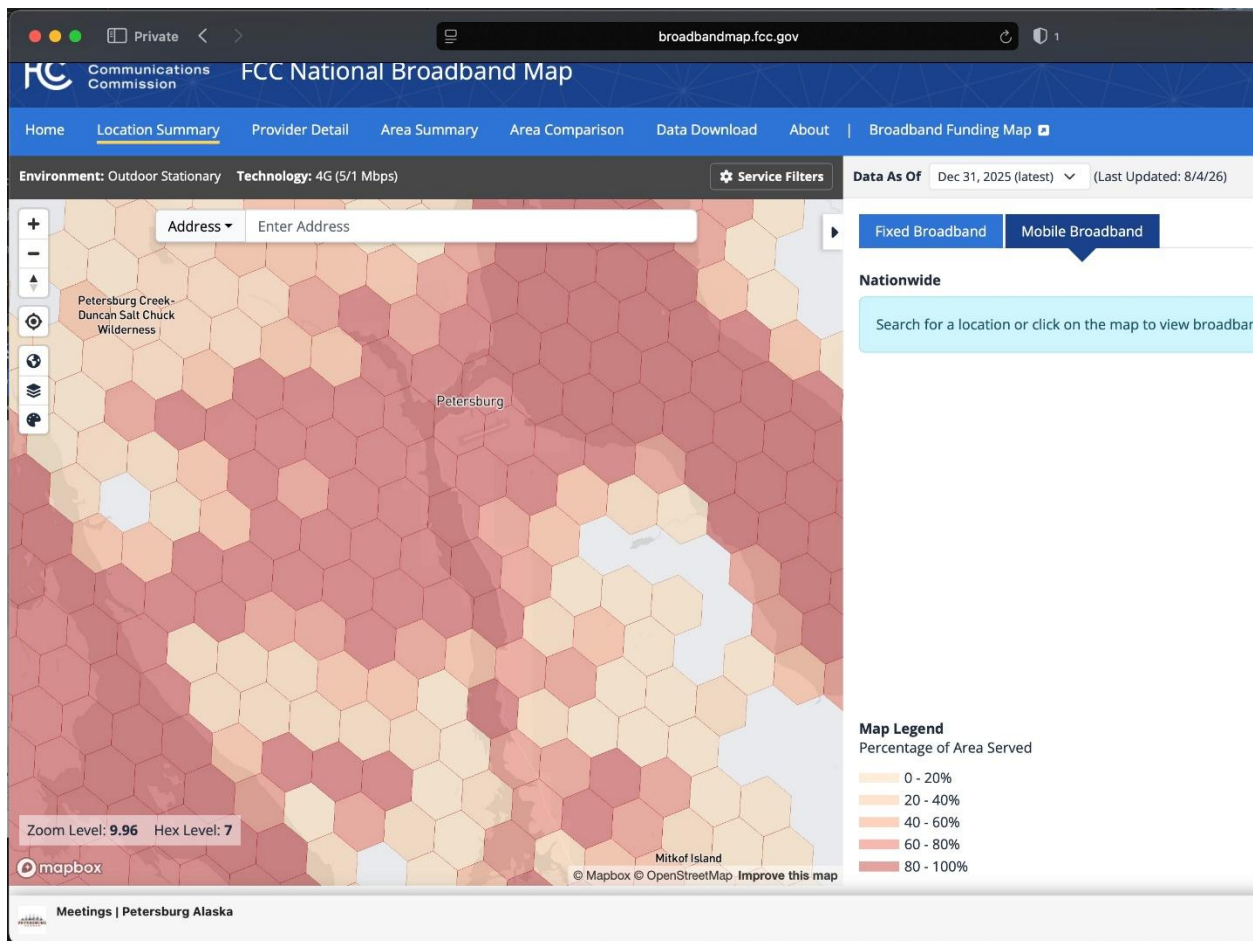
On FCC Broadband Coverage maps please note “Speed: 250/25 Mbps” — whether "Fixed Broadband" or “Mobile Broadband”; “Last Updated: 8/4/2026)” “Location Summary”; and "Map Legend

Sincerely,

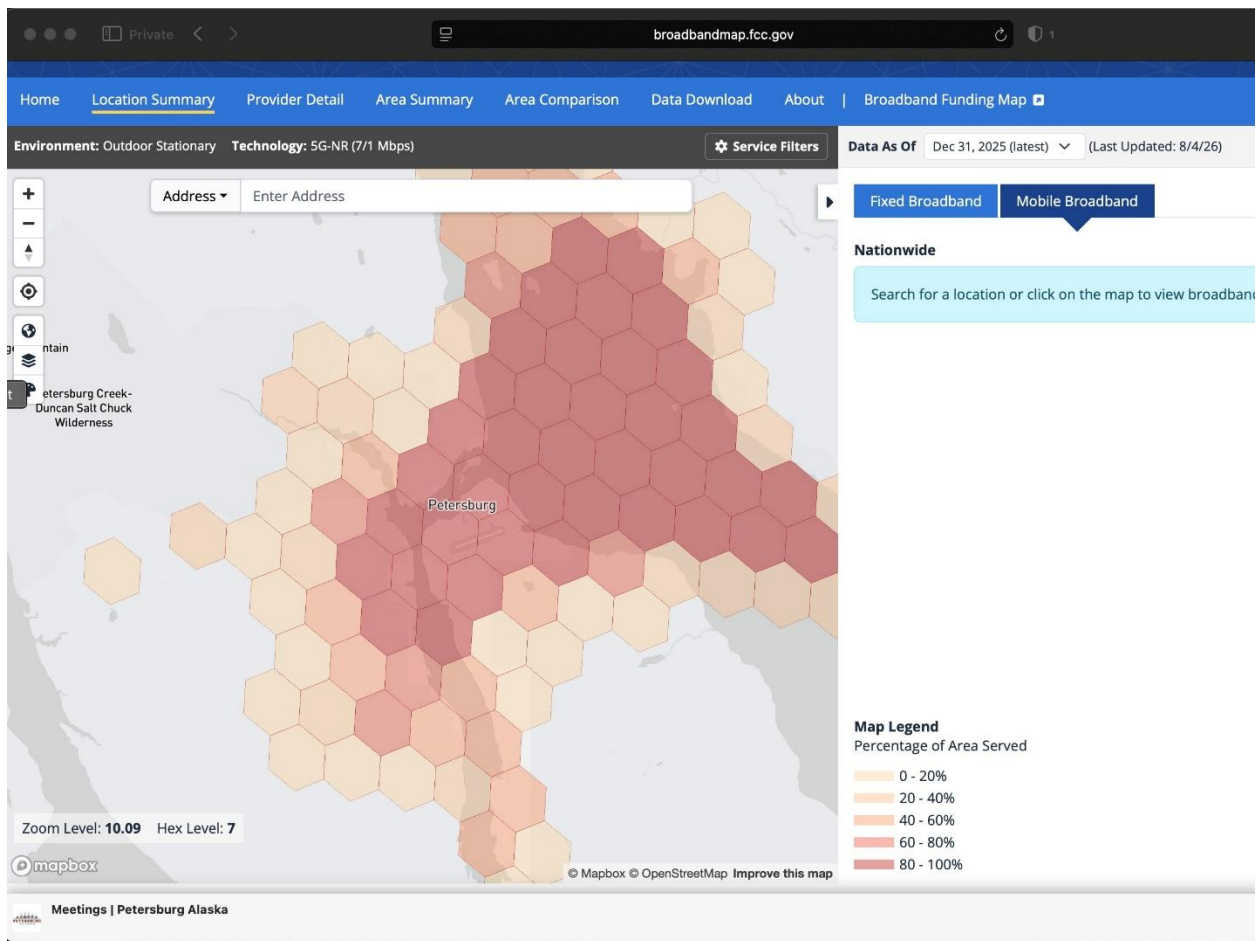
David Beebe



https://broadbandmap.fcc.gov/location-summary/fixed?version=dec2025&zoom=9.96&vlon=-132.988186&vlat=56.759079&theme=f4-70_m4-40&br=r&speed=250_25&tech=1_2_3_6_7



https://broadbandmap.fcc.gov/location-summary/mobile?version=dec2025&zoom=9.96&vlon=-132.988186&vlat=56.759079&theme=f4-70_m4-40&env=0&tech=tech4g



https://broadbandmap.fcc.gov/location-summary/mobile?version=dec2025&zoom=10.09&vlon=-132.983448&vlat=56.805914&theme=f4-70_m4-40&env=0&tech=tech5g_spd1

Chapter 1: Introduction



This is video number three, the Telecommunications Act of 1996, what local governments need to know in plain English. Once again, contrary to what you may have heard or been told when congress enacted the Telecommunications Act of 1996 (TCA).

Its very first significant provision:

(This is explicitly reserved to local governments the powers to control the placement of wireless facilities including cell towers small cells and dos systems.)

Subparagraph “a” of the provision which reserves that general authority to local governments is followed by five essentially

procedural requirements contained in paragraph “b.” This is very easy to understand — it’s not rocket science.

I assure you, so I’m going to explain them to you today so let's talk about the first restriction the first procedural requirement. The first procedural requirement says:

Local governments cannot unreasonably discriminate between providers of equivalent services. What does that mean? Well in general terms it means a town can come in and say, “okay we're gonna let AT&T come in and provide wireless service and build cell towers, but we're not gonna let Verizon come in.”

That would be unreasonable discrimination but again, the code only prohibits unreasonable discrimination. That does not mean that if you let AT&T go build a tower in a commercial zone that you automatically have to let Verizon build one.

You must actually discriminate under the code. You must analyze each case based upon its own merits just like any other type of zoning application so you can grant one tower application for one carrier, and deny another one because the circumstances of its application are different, *it may inflict a significantly greater adverse aesthetic impact have a more dramatic adverse impact on property values even the increased density of wireless facilities can justify a denial of a tower*. Again, they have to be addressed on a case-by-case basis so again there are five rules. That's rule number one. Rule number two the shot clock you've heard about it.

Chapter 3: Procedural Requirement 2

Most local zoning attorneys really don't understand it. I'm going to give you the general rule there are many variations based upon the type of facility and where you are but here's the general rule if

an applicant files an application for a new cell tower you have to make a decision on their application within a reasonable time, which is typically 150 days from when the application is filed, the 150 days starts to run.

When the application is filed irrespective of whether or not the application is in is complete or incomplete, if the local government wants to claim the application is incomplete you must notify the applicant in writing within 30 days telling them why it's incomplete.

That will total the shock clock if the applicant then refiles something else and now claims it's complete you then only have 10 days if you want to reject it as incomplete again there are many traps in the shot clock. First, i want to make this crystal clear adopting a moratorium does not stop the shock clock from running so how can you stop the shot clock from running. Well, if you rejected application as incomplete within the time periods i mentioned, that'll stop the clock. You can also however told the clock by an agreement between the local government board and the applicant be very careful here:

Make sure that if you do agree to extend the shot clock, you extend the shot clock with sufficient time to enable you to close whatever public hearing you have and allow you a sufficient period of time after the close of the public hearing to render your decision. So that's the shot clock. That's rule number two. Again, these things are actually pretty simple.

Chapter 4: Procedural Requirement 3

Now, rule number three. Written decision substantial evidence.

What does it mean? It means your written decision on any application for a wireless facility. Number one, must be issued in

a separate writing, and number two, based upon must be based upon substantial evidence.

This is not as difficult a standard as it may sound. The written decision is pretty simple. The written decision must be issued within the period of the shock clock as far as substantial evidence. I'm going to point out that in the context of any zoning application. It is you, the local zoning boards, who get to decide what evidence you will require an applicant to produce, and what weight is to be given to any evidence that's been submitted. So, what is the standard when can you say you have substantial evidence?

Here's the test: Your decision must be based upon such evidence that might support a reasonable mind arriving at the decision you made. That's the standard and it's very deferential. If you make fact-finding determinations federal judges are loath to overturn them. They don't want to be zoning boards of appeals. **The biggest problem here is that local zoning codes do not provide guidance so that local boards don't know what if it what decisions they have to make.**

For example, let's say somebody wants to build a cell tower and it's 20 feet from Mary Smith's house, and you're going to deny the application because it's going to destroy the value of a property but the applicant has alleged they have a significant gap in personal wireless services and that their proposed cell tower is the least intrusive means of remedying that service.

The board makes a decision and denies it based upon the reduction of value of the person's house but they make no factual determinations as to whether or not the applicant proved they have a significant gap in service or least intrusive means. Well you just lost the case within 30 days from your decision.

They're going to file a federal lawsuit. **They're going to win for no fault for the planning board because the planning board wasn't provided procedural guidance.**

Your code did not tell them what fact finding determinations they have to make and if your code doesn't do that you're basically throwing your planning board to the wolves, and you're zoning board to the walls.

You have to amend your code to have those guidelines in there so they know how to comply with rule number three.

Chapter 5: Procedural Requirement 4

Rule number four: environmental concerns or health effects. This is the one that most people want to talk about so what does the rule say the rule says that local governments cannot regulate wireless facilities based upon environmental concerns which many courts have interpreted to mean health concerns to the extent that a facility is FCC compliant.

What does that mean? Generally it means that when built the facility is not going to expose members of the general public to radiation levels which exceed what are known as the general population exposure limits.

Here are the biggest problems. Number one. **How do you know before it's built if the facility is going to exceed the FCC's limits?**

Well, most applicants will submit an FCC compliance report one of the problems is many of these reports are false. **But when your local code doesn't give guidance to your planning board to recognize a false compliance report that report might as**

well be written in sanskrit because your planning board members have no way to figure out if it's false. Making matters worse, is that in reality when these facilities go up for the most part **the FCC will have no idea whether it is and have no idea what level of radiation it's exposing members of your citizenry to the reason is the fcc essentially never tests the radiation** coming off these facilities.

In reality, what that means is that local governments are their first and only line of defense against their citizens being exposed to illegally excessive levels of rf radiation recognizing this fact sophisticated governments across the country have started adopting testing requirements and it's a battle going on every day so those are the environmental concerns

The health issue: that's rule number four rule number five here's the one that's really taking hold

Chapter 6: Procedural Requirement 5

In battles across the country rule number five says you can't prohibit or effectively prohibit the providing of personal wireless services. What does it mean? Well not prohibiting is easy. You can't ban all cell towers in all wireless facilities.

The big battle is when an applicant claims we want to put in a cell tower and you have to grant it to us, even if it violates your local zoning code because if you turn us down and don't let us build it you will be effectively prohibiting a specific carrier from providing personal wireless services. Now when the act was adopted in 1996 it only took two years for lawsuits to be filed and for these

cases to go up to the United States Circuit Courts of Appeals across the country, and the circuit courts of appeals came up with standards which are pretty much uniform across the country. And here's what they've said if an applicant wants to claim that a denial of their application would be an effective prohibition in violation of federal law.

The applicant has to prove two things. Number one, they have to prove that they suffer from a significant gap in personal wireless services. And number two, they have to prove that the proposed installation at the specific site they want it, at the specific height they want it, is the least intrusive means of remedying that gap.

if your board is fully informed and knows how to analyze these cases it is extremely difficult for applicants to meet that burden.

The problem is, local boards have no idea how to decide these cases what evidence to ask for how to recognize false evidence that's been submitted to you.

So again, it all goes back to your zoning code.

If you don't have an updated code which takes into account TCA compliance, they're going to be able to run rough shod over you.

The only reason local governments get sued under the TCA is because their local board didn't understand.

Number one, they weren't aware of the procedural requirements of the TCA, so obviously they couldn't know how to comply with them. So again you need to adopt amendments to your code to provide procedural guidance to your local zone.