

# WIRELESS CONSUMER ADVANCED INFRASTRUCTURE INVESTMENT ACT

## AN ACT RELATING TO THE USE OF THE PUBLIC RIGHT-OF-WAYS FOR THE DEPLOYMENT OF SMALL WIRELESS FACILITIES

**Purpose:** Allows wireless providers to collocate small wireless facilities in the public right-of-way (“ROW”) and install, modify, replace and operate utility poles in the public ROW. Establishes rates, fees, and time frames for applications.

**Definitions:** The purpose of this section provides definitions of terms necessary to describe the wireless build including accessory equipment.

**Use of Public Rights of Way:** Allows the use of the public right-of-way for the deployment of small wireless facilities.

Requires authorities (cities, towns, counties, special districts, and political subdivisions) to establish rates, fees and terms for collocation of small wireless facilities in the ROW.

Prevents an authority from entering into an exclusive arrangement with a wireless provider for the use of a right-of-way.

Permits an authority to charge a rate or fee to a wireless provider for the use of the right-of-way and requires rates or fees to be competitively neutral;

- Charges may not exceed direct and actual cost of managing the right-of-way;
- May not duplicate amounts received from other sources for ROW management;
- May not be unreasonable or discriminatory;
- May not exceed \$50 per structure per year.

Permits authority to require a wireless provider to apply to obtain access to the ROW. Once an application is approved, a wireless provider may deploy structures and facilities in the ROW that do not hinder travel, public safety or other utilities.

**Collocation of Small Wireless Facilities:** Permits a wireless provider to collocate small wireless facilities in the ROW subject to certain requirement including the application for permits.

Classifies small wireless facilities as a permitted use and as such are not subject to zoning review or approval if they do not extend more than 10 feet above the utility pole or wireless support structure.

Permits authority to require a wireless provider to obtain one or more permits to collocate small wireless facilities within the ROW. Authority must process applications in a nondiscriminatory way and issues permits to collocate small wireless facilities as follows:

- Deem application complete if applicant not notified within 20 days of receipt
- Deem the application approved if not processed within 60 days after receipt
- Provide documentation of denial of an application

Requires applications to meet applicable code provisions and/or regulation concerning public safety, and objective design standards

Requires collocation to begin within 180 days after the permit issuance date, unless agreed otherwise or unless the delay is caused by a lack of commercial power at the site.

Limits application fee to \$100 each for up to five small wireless facilities and fifty dollars for each additional small wireless facility.

Stipulates the provisions do not allow any person to collocate small wireless facilities on privately owned utility poles, wireless support structures or private property without the owner's consent.

**Installation, Replacement or Modification of Utility Poles:** Allows a wireless provider to construct, install, modify, maintain or replace utility poles associated with the collocation of small wireless facilities along, across, or under the ROW.

States that each new, replacement or modified utility pole associated with the collocation of small wireless facilities installed in the ROW, is not subject to zoning review and approval if the utility pole does not exceed the greater of the:

- 10 feet in height above the tallest existing utility pole; other than a utility pole supporting only wireless facilities that is in place on the effective date of this legislation that is located within 500 feet of the new replacement or modified utility pole in the same ROW within the authority's jurisdiction but not more than 50 feet above ground level
- 50 feet above ground level

Permits authority to require an application for the installation of new or modified utility poles or wireless support structures. Applications must comply with all applicable codes relating to public safety, objective design standards undergrounding requirements. Any allowable application fee is limited to \$750.

Requires installation, modification or replacement for which a permit is granted to begin within 180 days after the permit issuance date, unless agreed otherwise or unless the delay is caused by a lack of commercial power or fiber at the site.

**Access to Authority Utility Poles:** Prevents authority from entering into an exclusive arrangement with any person for the right to attach to authority utility poles.

Requires that rates and fees for the collocation of small wireless facilities on authority utility poles be nondiscriminatory regardless of the services provided by collocating person.

Caps the rate to collocate small wireless facilities at a maximum \$50 per authority utility pole per year.

**Establishment of Rates, Fees and Terms:** Directs authority to establish and make available the rates, fees and terms for use of ROW and access to authority utility poles within three months after the effective date of this legislation.

Permits wireless provider to request a different or additional set of terms that the parties shall negotiate in good faith.

States that existing agreement between authorities and wireless providers remain in effect as outlined subject to applicable termination provisions.

**Scope of Local Authority:** Outlines the scope of the local authority for exercising zoning, land use, planning and permitting within its boundaries and excludes certain small wireless facilities located on a campus, stadium or athletic facility.