

1 ENGROSSED SENATE  
2 BILL NO. 1099

By: Treat of the Senate  
and  
McCall of the House

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7 An act relating to the Small Wireless Facilities  
8 Deployment Act; amending 11 O.S. 2021, Section 36-  
9 504, which relates to permitting of small wireless  
10 facilities; modifying approval process of certain  
11 applications; updating statutory references; and  
12 providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 11 O.S. 2021, Section 36-504, is  
15 amended to read as follows:

16 Section 36-504. A. The provisions of this section shall apply  
17 to the permitting of small wireless facilities by a wireless  
18 provider in or outside the right-of-way as specified in subsection C  
19 of this section and to the permitting of the installation,  
20 modification and replacement of utility poles by a wireless provider  
21 inside the right-of-way.

22 B. Except as provided in ~~this act~~ the Oklahoma Small Wireless  
23 Facilities Deployment Act, an authority may not prohibit, regulate  
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1 or charge for the collocation of small wireless facilities  
2 classified as permitted uses in subsection C of this section.

3 C. Small wireless facilities shall be classified as permitted  
4 uses and not subject to zoning review or approval if they comply  
5 with the height requirements in subsection E of Section ~~3~~ 36-503 of  
6 this ~~act~~ title and are collocated in the right-of-way in any zone or  
7 outside the right-of-way in property not zoned exclusively for  
8 residential single-family or duplex use. Utility poles installed to  
9 support small wireless facilities shall be classified as permitted  
10 uses and not subject to zoning review or approval if they comply  
11 with the height requirements in subsection E of Section ~~3~~ 36-503 of  
12 this ~~act~~ title and are collocated in the right-of-way in any zone.

13 D. An authority may require an applicant to obtain one or more  
14 permits to collocate a small wireless facility or install a new,  
15 modified or replacement utility pole associated with a small  
16 wireless facility as provided in Section ~~3~~ 36-503 of this ~~act~~ title,  
17 provided such permits are of general applicability for  
18 nongovernmental users of the right-of-way and do not apply  
19 exclusively to wireless facilities. An authority shall receive  
20 applications for, process and issue such permits subject to the  
21 following requirements:

22 1. An authority may not directly or indirectly require an  
23 applicant to perform services or provide goods unrelated to the  
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1 permit, such as in-kind contributions to the authority including  
2 reserving fiber, conduit or pole space for the authority;

3 2. An applicant shall not be required to provide more  
4 information to obtain a permit than communications service providers  
5 that are not wireless providers, provided that an applicant may be  
6 required to include construction and engineering drawings and  
7 information demonstrating compliance with the criteria in paragraph  
8 8 of this subsection and, for an application to collocate on an  
9 authority pole, a wireless provider may be required to provide at  
10 its expense engineering analysis demonstrating compliance with  
11 applicable standards and codes, construction drawings stamped by a  
12 professional engineer registered in Oklahoma and a description of  
13 any recommended make-ready work, including any modification or  
14 replacement of the authority pole;

15 3. An authority may not require the placement of small wireless  
16 facilities on any specific utility pole or category of poles or  
17 require multiple antenna systems on a single utility pole;

18 4. Subject to subparagraphs e and f of paragraph 8 of this  
19 subsection, an authority may not limit the placement of small  
20 wireless facilities by minimum separation distances;

21 5. The authority may require an applicant to include an  
22 attestation that the small wireless facilities will be operational  
23 for use by a wireless services provider within one (1) year after  
24 the permit issuance date, unless the authority and the applicant

1 agree to extend this period or delay is caused by lack of commercial  
2 power or communications transport facilities to the site;

3 6. Within twenty (20) days of receiving an application, an  
4 authority must determine and notify the applicant in writing whether  
5 the application is complete. If an application is incomplete, an  
6 authority must specifically identify the missing information in  
7 writing. The processing deadline in paragraph 7 of this subsection  
8 is tolled from the time the authority sends the notice of  
9 incompleteness to the time the applicant provides the missing  
10 information. That processing deadline also may be tolled by  
11 agreement of the applicant and the authority;

12 7. An application shall be processed on a nondiscriminatory  
13 basis and ~~deemed approved if the authority fails to approve or deny~~  
14 ~~the application within seventy-five (75) days of receipt of the~~  
15 ~~application~~ in a time frame established by the Federal  
16 Communications Commission pursuant to 47 C.F.R. 1.6003(c);

17 8. An authority may deny a proposed collocation of a small  
18 wireless facility or installation, modification or replacement of a  
19 utility pole that meets the height requirements in subsection E of  
20 Section ~~3~~ 36-503 of this ~~act~~ title only if the proposed application:

- 21 a. materially interferes with the safe operation of  
22 traffic control equipment or emergency management  
23 systems or devices,  
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- 1           b. materially interferes with sight lines or clear zones  
2           for transportation or pedestrians,
- 3           c. materially interferes with compliance with the  
4           Americans with Disabilities Act or similar federal or  
5           state standards regarding pedestrian access or  
6           movement,
- 7           d. materially interferes with Federal Aviation  
8           Administration requirements or the operation of an  
9           airport or air traffic,
- 10          e. fails to comply with reasonable and nondiscriminatory  
11          spacing requirements of general application adopted by  
12          ordinance that concern the location of new utility  
13          poles. Such spacing requirements shall not prevent a  
14          wireless provider from serving any location,
- 15          f. with respect to ground-mounted equipment, fails to  
16          comply with reasonable and nondiscriminatory  
17          requirements of general application adopted by  
18          ordinance that concern spacing of the ground-mounted  
19          equipment; interference with sight lines, clear zones  
20          or pedestrian access or movement; unhindered use of  
21          the right-of-way by other right-of-way occupants,  
22          including the authority; or design or concealment  
23          measures in a historic district required under  
24          subsection I of Section ~~3~~ 36-503 of this ~~act~~ title,

- 1           g. fails to comply with applicable codes, including  
2           without limitation the most recent version of the  
3           National Electrical Safety Code,  
4           h. fails to comply with subsections D, G, H and I of  
5           Section ~~3~~ 36-503 of this ~~act~~ title,  
6           i. causes the utility pole or wireless support structure  
7           to become structurally unsound, unless the applicant  
8           demonstrates that it will address the problem  
9           adequately, such as by modifying or replacing the  
10          structure, or  
11          j. materially interferes with the intended use of an  
12          authority pole;

13          9. The authority shall document the basis for a denial,  
14 including the specific code provisions on which the denial was  
15 based, and send the documentation to the applicant on or before the  
16 day the authority denies an application. The applicant may cure the  
17 deficiencies identified by the authority and resubmit the  
18 application within thirty (30) days of the denial without paying an  
19 additional application fee. The authority shall approve or deny the  
20 revised application within thirty (30) days. Any subsequent review  
21 shall be limited to the deficiencies cited in the denial;

22          10. An applicant seeking to collocate small wireless facilities  
23 within the jurisdiction of a single authority shall be allowed at  
24 the applicant's discretion to file a consolidated application for

1 the collocation of up to twenty-five small wireless facilities and  
2 receive a single permit; provided, however, the denial of one or  
3 more small wireless facilities in a consolidated application shall  
4 not delay processing of any other small wireless facilities in the  
5 same batch;

6 11. Installation or collocation for which a permit is granted  
7 pursuant to this section shall be completed within one (1) year  
8 after the permit issuance date, unless the authority and the  
9 applicant agree to extend this period, or a delay is caused by the  
10 lack of commercial power or communications facilities at the site.

11 Approval of an application authorizes the applicant to:

- 12 a. undertake the installation or collocation, and
- 13 b. subject to applicable relocation requirements and the  
14 applicant's right to terminate at any time, operate  
15 and maintain the small wireless facilities and any  
16 associated utility pole covered by the permit for a  
17 period of not less than ten (10) years, which must be  
18 renewed for equivalent durations so long as they are  
19 in compliance with the criteria set forth in paragraph  
20 8 of this subsection;

21 12. Wireless providers shall comply with relocation  
22 requirements that apply to similarly situated occupants of the  
23 right-of-way; and  
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1 13. An authority may not institute, either expressly or de  
2 facto, a moratorium on:

- 3 a. filing, receiving or processing applications, or
- 4 b. issuing permits or other approvals, if any, for the  
5 collocation of small wireless facilities or the  
6 installation, modification or replacement of utility  
7 poles to support small wireless facilities.

8 E. An authority shall not require an application for the  
9 following:

- 10 1. Routine maintenance;
- 11 2. The replacement of small wireless facilities with small  
12 wireless facilities that are substantially similar or the same size  
13 or smaller; or
- 14 3. For the installation, placement, maintenance, operation or  
15 replacement of micro wireless facilities that are strung on cables  
16 between existing utility poles, in compliance with the National  
17 Electrical Safety Code.

18 An authority may, however, require a permit to work within the  
19 right-of-way for such activities, if applicable. Any such permits  
20 shall not be subject to the requirements provided in subsections C  
21 and D of this section.

22 SECTION 2. This act shall become effective November 1, 2023.  
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