

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

I move to amend Senate Bill No. 1099 by deleting Section 1 of the bill, inserting a new Section 1 to read as follows, and amending the title to conform:

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

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

B. Except as provided in this act, an authority may not prohibit, regulate or charge for the collocation of small wireless facilities classified as permitted uses in subsection C of this section.

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

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

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

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

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

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

5. The authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one (1) year after the

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permit issuance date, unless the authority and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site;

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

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

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

- a. materially interferes with the safe operation of traffic control equipment or emergency management systems or devices,
- b. materially interferes with sight lines or clear zones for transportation or pedestrians,
- c. materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement,
- d. materially interferes with Federal Aviation Administration requirements or the operation of an airport or air traffic,

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- e. fails to comply with reasonable and nondiscriminatory spacing requirements of general application adopted by ordinance that concern the location of new utility poles. Such spacing requirements shall not prevent a wireless provider from serving any location,
- f. with respect to ground-mounted equipment, fails to comply with reasonable and nondiscriminatory requirements of general application adopted by ordinance that concern spacing of the ground-mounted equipment; interference with sight lines, clear zones or pedestrian access or movement; unhindered use of the right-of-way by other right-of-way occupants, including the authority; or design or concealment measures in a historic district required under subsection I of Section 3 of this act,
- g. fails to comply with applicable codes, including without limitation the most recent version of the National Electrical Safety Code,
- h. fails to comply with subsections D, G, H and I of Section 3 of this act,
- i. causes the utility pole or wireless support structure to become structurally unsound, unless the applicant demonstrates that it will address the problem adequately, such as by modifying or replacing the structure, or
- j. materially interferes with the intended use of an authority pole;

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

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10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed at the applicant's discretion to file a consolidated application for the collocation of up to twenty-five small wireless facilities and receive a single permit; provided, however, the denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same batch;

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

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

12. Wireless providers shall comply with relocation requirements that apply to similarly situated occupants of the right-of-way; and

13. An authority may not institute, either expressly or de facto, a moratorium on:

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

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

- 1. Routine maintenance;

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2. The replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller; or

3. For the installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code.

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

Submitted by:

Senator Treat

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