SMALL WIRELESS FACILITIES

SUMMARY

In 2018 the Utah State Legislature passed the Small Wireless Facilities Deployment Act ("Act") which allows wireless providers to locate small wireless facilities to existing poles or install new poles in Right of Way (ROW) areas. The law does not allow cities to prohibit the placement of the devices or poles but they can create installation standards. The proposed ordinance is intended to provide the process, applicable fees and standards for the placement of small wireless facilities within the City's ROW as allowed by the Act. Small wireless facilities differ from the typical large cell towers, which are usually placed on private property and are subject to zoning regulations. Small wireless facilities are smaller antennae and support equipment that are installed on utility, light, traffic or stand alone poles and are meant to supplement the larger wireless system. Small wireless facilities, including antennae and support structures, such as ground equipment and power meters, may be placed within public rights-of-way as per the state code and are not subject to zoning regulations.

As the use of cell phones increases, particularly data usage, the need for additional wireless facilities and data capacity also increases. For years wireless providers have relied on larger, taller antenna arrays, or cell phone towers, to provide the needed coverage. These towers, which typically range from 60 to 100 or more feet, provide coverage for a large area and often times host more than one carrier's equipment. As data usage demand has increased and as technology improved, wireless carriers have found the need to increase the capacity of their facilities. This means either installing more large towers, which are subject to private property negotiations and zoning regulations, or deploying smaller, supplemental wireless facilities in denser, higher demand areas. Each device will have an antenna installed at the top of the pole and a radio antenna, power line, and meter that may be attached to the pole or near it.

The following summary of the Act was provided by the Utah League of Cities and Towns:

- A small wireless facility consists of:
  - An antenna of 6 cubic feet or less;
  - Ground equipment of 28 cubic feet or less;
  - It is collocated or installed on a utility pole no taller than 50 feet (with a potential increase of 10 feet for antennae)
- Cities may adopt reasonable, non-discriminatory design standards.
- Cities may limit new utility poles in rights-of-way that are 60 feet wide or less and adjacent to residential property [residential streets]
- Cities may adopt non-discriminatory police-power-based regulations for management of rights-of-way.
- Cities may deny applications for articulable public safety reasons.

- Cities may require agreements dealing with indemnification, insurance, and bonding before right-of-way work. Compensation
- Annual Right-of-Way Access Rate [revenue to the city]
  - 3.5% of gross revenue under the Municipal Telecommunications License Tax; or the greater of 3.5% of gross revenue or $250 per small wireless facility
- Annual Authority Pole Attachment Rate [revenue to the city if on a city owned pole]
  - $50 per collocated small wireless facility per authority pole.
- Application Fees [maximum cities can charge]
  - $100 per collocated small wireless facility.
  - $250 per utility pole with a small wireless facility.
  - $1,000 per non-permitted use.
- Other applicable permit fees Application Limits
- Consolidated application: up to 25 small wireless facilities of substantially the same type.
- Category One Authority: Population of 65,000 or greater o Up to 75 small wireless facility (3 consolidated) applications per 30 days.
- Category Two Authority: Population 64,999 or less
  - Up to 25 small wireless facility (1 consolidated) applications per 30 days.
- Time Periods [for approval]
- Completion: 30 days [determination that the application is complete]
- Collocation: 60 days (including completion review)
- New, modified, or replacement utility pole: 105 days (including completion review)
- One additional extension of 10 business days.
- Deemed completed and/or granted if municipality does not meet deadline.
- If no city ordinance is in place, applications can be made under the state law standards

The proposed ordinance would be a new chapter dealing with small wireless facilities within Title 11, Public Ways and Property.