
A BILL FOR AN ACT

RELATING TO INFRASTRUCTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the efficient
2 deployment of broadband infrastructure and technology is
3 important for Hawaii's future global connectivity and economic
4 viability. Among the benefits afforded by an advanced broadband
5 infrastructure system are increased and enhanced educational
6 opportunities, telehealth capacity, safety and civil defense
7 communications, economic competitiveness, consumer privileges,
8 and tourism services.

9 To ensure that consumers throughout the State may benefit
10 from these services as soon as possible, and to provide a fair
11 and predictable process for the deployment of small wireless
12 facilities, the legislature finds that it is important to
13 regulate the processes for the deployment of small wireless
14 facilities and small wireless facilities networks in a manner
15 that preserves and protects public safety and fairness among
16 competing uses of public space by the state and county
17 governments and private companies.



1 § -2 **Definitions.** For the purposes of this chapter,
2 "collocation", "general applicability", "light standard", "micro
3 wireless facilities", "small wireless facilities", "small
4 wireless facilities network", "utility pole", "wireless
5 facility", "wireless provider", and "wireline backhaul" shall
6 have the same meanings as in section 27-41.1.
7 "Telecommunications service" or "telecommunications" shall have
8 the same meaning as in section 269-1.

9 § -3 **Collocation permits; application; review; approval.**

10 (a) A wireless provider proposing to install broadband
11 infrastructure, small wireless facilities, or small wireless
12 facilities networks on a state-owned or county-owned utility
13 pole, light standard, building, or structure shall submit an
14 application for a permitted use permit to a state or county
15 agency with jurisdiction over utility poles, light standards,
16 buildings, or structures. The application shall include:

- 17 (1) A geographic description of the project area;
- 18 (2) A listing and description of the utility pole, light
19 standard, building, or structure included in the
20 project for the installation, mounting, operation, and



1 placement of broadband infrastructure, including an
2 assessment of the identifying information, location,
3 and ownership of the listed utility pole, light
4 standard, building, or structure and information about
5 any ground disturbance; and

6 (3) A description of the equipment associated with the
7 facilities to be installed in the project area,
8 including radio transceivers, antennas, coaxial or
9 fiber-optic cables, power supplies, and related
10 equipment, and the size and weight of the equipment to
11 be installed on each utility pole, light standard,
12 building, or structure.

13 (b) The appropriate state or county agency shall evaluate
14 the impact of collocating the broadband infrastructure, small
15 wireless facilities, or small wireless facilities networks
16 described in the application to ensure that:

17 (1) The equipment installation on the utility pole, light
18 standard, building, or structure is done in a manner
19 to protect public health, public safety, and safe



1 travel in the public rights-of-way and does not result
2 in any violation of applicable federal requirements;

3 (2) The utility pole or light standard is able to bear the
4 additional weight of the equipment and the equipment
5 is not a hazard or obstruction to the public's use of
6 the right-of-way; and

7 (3) Consistent with Federal Communications Commission
8 regulations, the project equipment, broadband
9 infrastructure, small wireless facilities, or small
10 wireless facilities networks do not interfere with the
11 operability of public safety communications or traffic
12 signals.

13 (c) A state or county agency may adopt rules that concern
14 objective design standards for decorative poles or reasonable,
15 feasible, and objective aesthetic requirements; provided that
16 the standards and requirements do not prevent the collocation of
17 small wireless facilities.

18 (d) No provider may exclude other providers from utilizing
19 state- or county-owned utility poles, light standards, buildings
20 or structures.



1 (e) Providers shall avoid obtaining approvals to attach to
2 utility poles, light standards, buildings, or structures they
3 cannot or will not use within twenty-four months. Once a
4 provider has obtained necessary approvals, if construction is
5 not commenced within twenty-four months, attachment approvals
6 may be rescinded. Nothing in this section restricts a provider
7 from re-applying for approvals.

8 (f) Pursuant to section 27-45(a) for a state agency and
9 section 46-89(a) for a county agency, the appropriate agency
10 shall notify the applicant that:

- 11 (1) The permit is approved;
- 12 (2) The permit is approved with specified modifications;
- 13 (3) The application is returned with a list of specific
14 questions seeking answers, clarification, or
15 additional detailed information and resubmission of
16 the application with answers to the questions is
17 required; or
- 18 (4) The application is denied and the basis for the
19 denial.



1 (g) The State or county may require by rule or within a
2 building or other safety code that if, after proper engineering
3 analysis and supporting field tests, it is determined that
4 project equipment and broadband infrastructure are connected to
5 the cause of inoperability of public safety communications or
6 traffic signals, the provider shall work with the State or
7 county to determine a solution to the cause of the
8 inoperability; provided that the solution is consistent with
9 Federal Communications Commission rules."

10 SECTION 3. Chapter 27, Hawaii Revised Statutes, is amended
11 by adding a new section to part VII to be appropriately
12 designated and to read as follows:

13 "§27- Siting of small wireless facilities and small
14 wireless facilities networks. (a) The State's treatment of and
15 permitting process for the collocation of small wireless
16 facilities or small wireless facilities networks on state-owned
17 utility poles, state-owned light standards, state-owned
18 buildings, and state-owned structures for the deployment of high
19 speed wireless or wireless broadband infrastructure shall be
20 subject to the following provisions:



- 1 (1) Small wireless facilities and small wireless
2 facilities networks shall be a permitted use not
3 subject to zoning review or the standards of a special
4 or conditional use permit in:
- 5 (A) All public rights-of-way and property, except
6 state-owned airport property;
- 7 (B) All land designated as within the rural or
8 agricultural district in accordance with chapter
9 205; provided that permissible uses within the
10 agricultural district conform to the definition
11 of "wireless communication antenna" in accordance
12 with section 205-4.5(a)(18); and
- 13 (C) All land designated as within the urban district;
- 14 (2) Small wireless facilities and small wireless
15 facilities networks may be processed for a special or
16 conditional use permit when the small wireless
17 facilities and small wireless facilities networks are
18 located on land designated as within the conservation
19 district, in accordance with chapter 205;



1 (3) The State shall not deny access to wireless providers
2 to collocate small wireless facilities on state-owned
3 utility poles, light standards, buildings, and
4 structures, except state-owned airport property;
5 provided that this section shall not be construed to
6 obviate or otherwise waive the right of the State to
7 require a license, franchise, or other agreement to
8 access the right-of-way more broadly to install
9 wireline broadband backhaul facilities, or to attach
10 coaxial or fiber-optic cable between poles. The State
11 may require building permits or other non-
12 discretionary permits and approvals for the
13 collocation of small wireless facilities and small
14 wireless facilities networks; provided that the
15 permits and approvals are of general applicability.
16 The State shall receive applications for, and process
17 and issue the permits and approvals in accordance with
18 applicable laws, including section 27-45, and subject
19 to the following requirements:



- 1 (A) An applicant shall not be required to perform any
2 services, including restoration work not directly
3 related to the collocation, to obtain approval of
4 an application;
- 5 (B) An application may be denied if it does not meet
6 applicable laws or rules regarding health and
7 public safety, construction in the public rights-
8 of-way, and building or electrical codes or
9 standards; provided that the codes and standards
10 are of general applicability. The State shall
11 document the basis for any denial, including the
12 specific code provisions or standards on which
13 the denial was based;
- 14 (C) An applicant for a small wireless facilities
15 network of individual facilities that are of
16 substantially similar design being collocated on
17 the same or materially the same type of utility
18 pole, light standard, building, or structure
19 shall be permitted, upon request by the
20 applicant, to file a consolidated application and



1 receive a single permit for the installation,
2 construction, maintenance, and repair of a small
3 wireless facilities network instead of filing
4 separate applications for each individual small
5 wireless facility. The State shall accept either
6 one of the following types of consolidated
7 applications, at the discretion of the applicant:

8 (i) For multiple small wireless facilities in a
9 three-square-mile geographic area; or

10 (ii) Based upon a project; and

11 (D) Applications for permits for the collocation of
12 small wireless facilities and small wireless
13 facilities networks shall be deemed applications
14 for broadband-related permits, as defined in
15 section 27-45(i);

16 (4) The collocation of small wireless facilities and small
17 wireless facilities networks on state-owned utility
18 poles, state-owned light standards, state-owned
19 buildings, and state-owned structures located within
20 the land identified in paragraph (1)(A), (B), and (C),



1 may be subject to reasonable terms, conditions, and
2 cost-based annual recurring rates. Any annual
3 recurring rate to collocate a small wireless facility
4 or small wireless facility network on a state-owned
5 utility pole, state-owned light standard, state-owned
6 building, or state-owned structure shall not exceed
7 the rate produced by applying the formula adopted by
8 the Federal Communications Commission for
9 telecommunications pole attachments in title 47 Code
10 of Federal Regulations section 1.1409(e)(2); provided
11 that when using the formula in title 47 Code of
12 Federal Regulations section 1.1409(e)(2), the State
13 may use, as the net cost of a bare pole, either \$100
14 or the actual net cost of the bare pole; provided
15 further that if the Federal Communications Commission
16 adopts a rate formula for small wireless facilities or
17 small wireless facilities network attachments, that
18 rate formula shall apply;

19 (5) If the state-owned utility pole, light standard,
20 building, or structure is unable to support any of the



1 additional equipment sought to be installed, and the
2 wireless provider would like to collocate small
3 wireless facilities or small wireless facilities
4 networks on the state-owned utility pole, light
5 standard, building, or structure, the wireless
6 provider, at its sole cost, may install an upgraded
7 utility pole, light standard, building, or structure
8 subject to approval by the state agency; provided that
9 the wireless provider shall be responsible for the
10 maintenance and repairs to its facilities on the
11 utility pole, light standard, building, or structure
12 and for the costs of any damage caused to the utility
13 pole, light standard, building, or structure by the
14 wireless provider or its facilities until all of the
15 equipment is removed and all damage is repaired;
16 provided further that the State shall continue to own
17 the upgraded utility pole, light standard, building,
18 or structure;

19 (6) The State may reserve space for up to twelve months on
20 its light standards and utility poles where:



- 1 (A) Prior to a request for access having been made,
2 it had a bona fide development plan in place and
3 that the specific reservation of attachment
4 capacity is reasonably and specifically needed
5 for its planned use within one year of the
6 request;
- 7 (B) There is no available technological means of
8 increasing the capacity of the light standard or
9 utility pole for additional attachments; and
- 10 (C) It has attempted to negotiate a cooperative
11 solution to the capacity problem in good faith
12 with the party seeking the attachment;
- 13 (7) Except as necessary to protect the public safety, the
14 State shall not require a permit holder to:
 - 15 (A) Maintain, repair, or replace the provider's small
16 wireless facilities with facilities that are
17 substantially the same, or smaller, in size,
18 weight, volume, and height as the existing
19 facilities; or



1 (B) Install, place, maintain, operate, or replace
2 micro wireless facilities that are suspended on
3 messenger cables that are strung between existing
4 utility poles in compliance with national safety
5 codes; provided that nothing in this paragraph
6 prohibits a requirement for a traffic mitigation
7 plan;

8 provided that micro wireless facilities, small
9 wireless facilities, and small wireless facilities
10 networks installed on any state-owned utility pole,
11 light standard, building, or structure shall be
12 decommissioned if no longer in use, and providers
13 shall remove from state-owned utility poles, light
14 standards, buildings, and structures such micro
15 wireless facilities, small wireless facilities, and
16 small wireless facilities networks that are no longer
17 used to provide service. The owner of the micro
18 wireless facilities, small wireless facilities, or
19 small wireless facilities network shall bear the costs
20 of the removal.



1 In rendering a decision on an application for multiple
2 small wireless facilities, the State may approve the application
3 as to certain individual small wireless facilities while denying
4 it as to others. The State's denial of any individual small
5 wireless facility or subset of small wireless facilities within
6 an application is not a basis to deny the application as a
7 whole.

8 (b) Nothing in this section shall be construed to:

9 (1) Provide state-based access rights to poles or
10 structures solely-owned by an investor-owned electric
11 utility or telephone utility;

12 (2) Impair access rights provided under title 47 United
13 States Code section 224 or its implementing
14 regulations;

15 (3) Relieve wireless infrastructure providers from
16 existing requirements attached to private investor-
17 owned utility poles, including but not limited to
18 compliance with the applicable provisions of Hawaii
19 Administrative Rules chapter 6-73; or



1 (4) Limit the right of the State to require an
2 indemnification agreement as a condition of a
3 provider's facilities attaching to a state-owned
4 utility pole, light standard, building, or structure."

5 SECTION 4. Chapter 46, Hawaii Revised Statutes, is amended
6 by adding a new section to part V to be appropriately designated
7 and to read as follows:

8 "§46- **Siting of small wireless facilities and small**
9 **wireless facilities networks.** The county's treatment of and
10 permitting process for the collocation of small wireless
11 facilities or small wireless facilities networks on county-owned
12 utility poles, county-owned light standards, county-owned
13 buildings, and county-owned structures for the deployment of
14 high speed broadband infrastructure shall be subject to the
15 following provisions:

16 (1) Small wireless facilities and small wireless
17 facilities networks shall be a permitted use not
18 subject to zoning review or to the standards of a
19 special or conditional use permit in:

20 (A) All public rights-of-way and property;



1 (B) All land designated as within the rural or
2 agriculture district in accordance with chapter
3 205; provided that for the purposes of this
4 subparagraph, permissible uses within the
5 agricultural district conforms to the definition
6 of "wireless communication antenna" in accordance
7 with section 205-4.5(a)(18); and

8 (C) All land designated as within the urban district;

9 (2) Small wireless facilities and small wireless
10 facilities networks may be processed for a special or
11 conditional use permit when the small wireless
12 facilities and small wireless facilities networks are
13 located on land designated as within the conservation
14 district, in accordance with chapter 205;

15 (3) The county shall not deny access to wireless providers
16 to collocate small wireless facilities on county-owned
17 utility poles, light standards, buildings and
18 structures; provided that this section shall not be
19 construed to obviate or otherwise waive the right of
20 the county to require a license, franchise, or other



1 agreement to access the right-of-way more broadly to
2 install wireline broadband backhaul facilities, or to
3 attach coaxial or fiber-optic cable between poles.

4 The county may require building permits or other non-
5 discretionary permits for the collocation of small
6 wireless facilities and small wireless facilities
7 networks; provided that the permits and approvals are
8 of general applicability. The county shall receive
9 applications for, and process and issue the permits
10 and approvals in accordance with applicable laws,
11 including section 46-89, and subject to the following
12 requirements:

13 (A) An applicant shall not be required to perform any
14 services, including restoration work not directly
15 related to the collocation, to obtain approval of
16 applications;

17 (B) An application may be denied if it does not meet
18 applicable laws or rules regarding health and
19 public safety, construction in the public rights-
20 of-way, and building or electrical codes or



1 standards; provided that the codes and standards
2 are of general applicability. The county shall
3 document the basis for any denial, including the
4 specific code provisions or standards on which
5 the denial was based;

6 (C) An applicant for a small wireless facilities
7 network of individual facilities that are of
8 substantially similar design being collocated on
9 the same or materially the same type of utility
10 pole, light standard, building, or structure
11 shall be permitted, upon request by the
12 applicant, to file a consolidated application and
13 receive a single permit for the installation,
14 construction, maintenance, and repair of a small
15 wireless facilities network instead of filing
16 separate applications for each individual small
17 wireless facility. The county shall accept
18 either one of the following types of consolidated
19 applications, at the discretion of the applicant:



- 1 (i) For multiple small wireless facilities in a
- 2 three-square-mile geographic area; or
- 3 (ii) Based upon a project; and
- 4 (D) Applications for permits for the collocation of
- 5 small wireless facilities and small wireless
- 6 facilities networks shall be deemed applications
- 7 for broadband-related permits, as defined in
- 8 section 46-89(h);
- 9 (4) The collocation of small wireless facilities and small
- 10 wireless facilities networks on county-owned utility
- 11 poles, county-owned light standards, county-owned
- 12 buildings, and county-owned structures located within
- 13 the land identified in paragraph (1)(A), (B), and (C),
- 14 may be subject to reasonable terms, conditions, and
- 15 cost-based annual recurring rates. Any annual
- 16 recurring rate to collocate a small wireless facility
- 17 or small wireless facility network on a county-owned
- 18 utility pole, county-owned light standard, county-
- 19 owned building, or county-owned structure shall not
- 20 exceed the rate produced by applying the formula



1 adopted by the Federal Communications Commission for
2 telecommunications pole attachments in title 47 Code
3 of Federal Regulations section 1.1409(e) (2); provided
4 that when using the formula in title 47 Code of
5 Federal Regulations section 1.1409(e) (2), the county
6 may use, as the net cost of a bare pole, either \$100
7 or the actual net cost of the bare pole; provided
8 further that if the Federal Communications Commission
9 adopts a rate formula for small wireless facilities or
10 small wireless facilities network attachments, that
11 rate formula shall apply;

12 (5) If the county-owned utility pole, light standard,
13 building, or structure is unable to support any of the
14 additional equipment sought to be installed, and the
15 wireless provider would like to collocate small
16 wireless facilities or small wireless facilities
17 networks on the county-owned utility pole, light
18 standard, building, or structure, the wireless
19 provider, at its sole cost, may install an upgraded
20 utility pole, light standard, building, or structure



1 subject to approval by the appropriate agency;
2 provided that the wireless provider shall be
3 responsible for the maintenance and repairs to its
4 facilities on the utility pole, light standard,
5 building, or structure and for any damage caused to
6 the utility pole, light standard, building, or
7 structure by the wireless provider or its facilities
8 until all of the equipment is removed and all damage
9 is repaired; provided further that the county shall
10 continue to own the upgraded utility pole, light
11 standard, building, or structure;

12 (6) The county may reserve space for up to twelve months
13 on its light standards and utility poles where:

14 (A) Prior to a request for access having been made,
15 it had a bona fide development plan in place and
16 that the specific reservation of attachment
17 capacity is reasonably and specifically needed
18 for its planned use within one year of the
19 request;



- 1 (B) There is no available technological means of
- 2 increasing the capacity of the light standard or
- 3 utility pole for additional attachments; and
- 4 (C) It has attempted to negotiate a cooperative
- 5 solution to the capacity problem in good faith
- 6 with the party seeking the attachment;
- 7 (7) Except as necessary to protect public safety, the
- 8 county shall not require a permit holder to:
- 9 (A) Maintain, repair, or replace the provider's small
- 10 wireless facilities and small wireless facilities
- 11 networks with facilities that are substantially
- 12 the same, or smaller, in size, weight, volume,
- 13 and height as the existing facilities; or
- 14 (B) Install, place, maintain, operate, or replace
- 15 micro wireless facilities that are suspended on
- 16 messenger cables that are strung between existing
- 17 utility poles in compliance with national safety
- 18 codes; provided that nothing in this paragraph
- 19 prohibits a requirement for a traffic mitigation
- 20 plan;



1 provided that micro wireless facilities, small
2 wireless facilities, and small wireless facilities
3 networks installed on any county-owned utility pole,
4 light standard, building, or structure shall be
5 decommissioned if no longer in use. Providers shall
6 remove from county-owned utility poles, light
7 standards, buildings, or structures such micro
8 wireless facilities, small wireless facilities, and
9 small wireless facilities networks that are no longer
10 used to provide service. The owner of the micro
11 wireless facilities, small wireless facilities, or
12 small wireless facilities network shall bear the costs
13 of the removal.

14 In rendering a decision on an application for multiple
15 small wireless facilities, the county may approve the
16 application as to certain individual small wireless facilities
17 while denying it as to others. A county's denial of any
18 individual small wireless facility or subset of small wireless
19 facilities within an application is not a basis to deny the
20 application as a whole.



- 1 (b) Nothing in this section shall be construed to:
- 2 (1) Provide county-based access rights to poles or
- 3 structures solely-owned by an investor-owned electric
- 4 utility or telephone utility;
- 5 (2) Impair access rights provided under title 47 United
- 6 States Code section 224 or its implementing
- 7 regulations;
- 8 (3) Relieve wireless infrastructure providers from
- 9 existing requirements attached to private investor-
- 10 owned utility poles, including but not limited to
- 11 compliance with the applicable provisions of Hawaii
- 12 Administrative Rules chapter 6-73; or
- 13 (4) Limit the right of the county to require an
- 14 indemnification agreement as a condition of a
- 15 provider's facilities attaching to a county-owned
- 16 utility pole, light standard, building, or structure."

17 SECTION 5. Section 27-41.1, Hawaii Revised Statutes, is
 18 amended by adding fourteen new definitions to be appropriately
 19 inserted and to read as follows:

1 "Antenna" means communications equipment that transmits or
2 receives electromagnetic radio frequency signals used in the
3 provision of wireless services.

4 "Collocation" means the installation, mounting,
5 maintenance, modification, operation, or replacement of wireless
6 or wireless broadband service equipment on a tower, utility
7 pole, light standard, building, or other existing structure.

8 Collocation and co-location have the same meaning. Collocating
9 is the act of causing a collocation.

10 "General applicability" means laws, regulations, or
11 processes that apply objective requirements to all persons or
12 services in a nondiscriminatory manner.

13 "Light standard" means a street light, light pole, lamp
14 post, street lamp, lamp standard, or other raised source of
15 light located inside the right-of-way of a public road or
16 highway, or utility easement.

17 "Micro wireless facilities" means small wireless facilities
18 that are no larger in dimension than twenty-four inches long,
19 fifteen inches in width, twelve inches in height, and that has
20 an exterior antenna, if any, no longer than eleven inches.



1 "Public property" means property owned or controlled by the
2 State, state agencies, or a county and includes buildings, water
3 tanks, decorative poles, and light standards.

4 "Rights-of-way" means the areas on, below, or above a
5 public roadway, highway, street, sidewalk, alley, utility
6 easement, or similar property.

7 "Small wireless facilities" means a wireless facility that
8 meets the following qualifications:

9 (1) Each individual antenna, excluding the associated
10 equipment, is individually no more than three cubic
11 feet in volume, and all antennas on the structure
12 total no more than six cubic feet in volume; and

13 (2) All other wireless equipment associated with the
14 structure, excluding cable runs for the connection of
15 power and other services, do not cumulatively exceed:

16 (A) Twenty-eight cubic feet for collocations on all
17 non-pole structures, including buildings and
18 water tanks, that can support fewer than three
19 providers;



1 (B) Twenty-one cubic feet for collocations on all
2 pole structures, including light poles, traffic
3 signal poles, and utility poles, that can support
4 fewer than three providers;

5 (C) Thirty-five cubic feet for non-pole collocations
6 that can support at least three providers; or

7 (D) Twenty-eight cubic feet for pole collocations
8 that can support at least three providers.

9 "Small wireless facilities network" means a group of
10 interrelated small wireless facilities designed to deliver
11 wireless communications service. "Small wireless facilities
12 network" does not include wires or cables used for wireline
13 backhaul or coaxial or fiber-optic cable between utility poles,
14 or that is otherwise not adjacent to or directly associated with
15 a particular antenna.

16 "Telecommunications service" or "telecommunications" shall
17 have the same meaning as in section 269-1.

18 "Utility pole" means a pole or similar structure that is
19 used in whole or in part for communications service, electric



1 service, lighting, traffic control, signage, or similar
2 functions.

3 "Wireless facility":

4 (1) Means equipment at a fixed location that enables
5 wireless communications between user equipment and a
6 communications network, including:

7 (A) Equipment associated with wireless
8 communications; and

9 (B) Radio transceivers, antennas, coaxial or fiber-
10 optic cable, regular and backup power supplies,
11 and comparable equipment, regardless of
12 technological configuration; and

13 (2) Does not include:

14 (A) The structure or improvements on, under, or
15 within which the equipment is collocated;

16 (B) Wireline backhaul facilities; or

17 (C) Coaxial or fiber-optic cable between utility
18 poles or that is otherwise not adjacent to or
19 directly associated with a particular antenna.

20 "Wireless provider" means a person or entity that is:



- 1 (1) A provider as defined in section 440J-1;
- 2 (2) A provider of wireless telecommunications service; or
- 3 (3) Authorized in accordance with chapter 269 to provide
- 4 facilities-based telecommunications services in the
- 5 State and builds, installs, operates, or maintains
- 6 facilities and equipment used to provide fixed or
- 7 mobile services through small wireless facilities.

8 "Wireline backhaul" means the transport of communications
 9 or information by wire from small wireless facilities to a
 10 network."

11 SECTION 6. Section 46-15.6, Hawaii Revised Statutes, is
 12 amended by adding thirteen new definitions to be appropriately
 13 inserted and to read as follows:

14 "Antenna" means communications equipment that transmits or
 15 receives electromagnetic radio frequency signals used in the
 16 provision of wireless services.

17 "Collocation" means the installation, mounting,
 18 maintenance, modification, operation, or replacement of wireless
 19 or wireless broadband service equipment on a tower, utility
 20 pole, light standard, building, or other existing structure.



1 Collocation and co-location have the same meaning. Collocating
2 is the act of causing a collocation.

3 "General applicability" means laws, regulations, or
4 processes that apply objective requirements to all persons or
5 services in a nondiscriminatory manner.

6 "Light standard" means a street light, light pole, lamp
7 post, street lamp, lamp standard, or other raised source of
8 light located inside the right-of-way of a public road or
9 highway, or utility easement.

10 "Micro wireless facilities" means small wireless facilities
11 that are no larger in dimension than twenty-four inches long,
12 fifteen inches in width, twelve inches in height, and that has
13 an exterior antenna, if any, no longer than eleven inches.

14 "Public property" means property owned or controlled by the
15 State, state agencies, or a county and includes buildings, water
16 tanks, decorative poles, and light standards.

17 "Rights-of-way" means the areas on, below, or above a
18 public roadway, highway, street, sidewalk, alley, utility
19 easement, or similar property.



1 "Small wireless facilities" means a wireless facility that
2 meet the following qualifications:

3 (1) Each individual antenna, excluding the associated
4 equipment, is individually no more than three cubic
5 feet in volume, and all antennas on the structure
6 total no more than six cubic feet in volume; and

7 (2) All other wireless equipment associated with the
8 structure, excluding cable runs for the connection of
9 power and other services, do not cumulatively exceed:

10 (A) Twenty-eight cubic feet for collocations on all
11 non-pole structures, including buildings and
12 water tanks, that can support fewer than three
13 providers;

14 (B) Twenty-one cubic feet for collocations on all
15 pole structures, including light poles, traffic
16 signal poles, and utility poles, that can support
17 fewer than three providers;

18 (C) Thirty-five cubic feet for non-pole collocations
19 that can support at least three providers; or



1 (D) Twenty-eight cubic feet for pole collocations
2 that can support at least three providers;
3 "Small wireless facilities network" means a group of
4 interrelated small wireless facilities designed to deliver
5 wireless communications service. "Small wireless facilities
6 network" does not include wires or cables used for wireline
7 backhaul or coaxial or fiber-optic cable between utility poles,
8 or that is otherwise not adjacent to or directly associated with
9 a particular antenna.

10 "Utility pole" means a pole or similar structure that is
11 used in whole or in part for communications service, electric
12 service, lighting, traffic control, signage, or similar
13 functions.

14 "Wireless facility":

15 (1) Means equipment at a fixed location that enables
16 wireless communications between user equipment and a
17 communications network, including:

18 (A) Equipment associated with wireless
19 communications; and



1 (B) Radio transceivers, antennas, coaxial or fiber-
2 optic cable, regular and backup power supplies,
3 and comparable equipment, regardless of
4 technological configuration; and

5 (2) Does not include:

6 (A) The structure or improvements on, under, or
7 within which the equipment is collocated;

8 (B) Wireline backhaul facilities; or

9 (C) Coaxial or fiber-optic cable between utility
10 poles or that is otherwise not adjacent to or
11 directly associated with a particular antenna.

12 "Wireless provider" means a person or entity that is:

13 (1) A provider as defined in section 440J-1;

14 (2) A provider of wireless telecommunications service; or

15 (3) Authorized in accordance with chapter 269 to provide
16 facilities-based telecommunications services in the
17 State and builds, installs, operates, or maintains
18 facilities and equipment used to provide fixed or
19 mobile services through small wireless facilities.



1 "Wireline backhaul" means the transport of communications
2 or information by wire from small wireless facilities to a
3 network."

4 SECTION 7. Section 205-2, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) Rural districts shall include activities or uses as
7 characterized by low density residential lots of not more than
8 one dwelling house per one-half acre, except as provided by
9 county ordinance pursuant to section 46-4(c), in areas where
10 "city-like" concentration of people, structures, streets, and
11 urban level of services are absent, and where small farms are
12 intermixed with low density residential lots except that within
13 a subdivision, as defined in section 484-1, the commission for
14 good cause may allow one lot of less than one-half acre, but not
15 less than eighteen thousand five hundred square feet, or an
16 equivalent residential density, within a rural subdivision and
17 permit the construction of one dwelling on such lot; provided
18 that all other dwellings in the subdivision shall have a minimum
19 lot size of one-half acre or 21,780 square feet. Such petition
20 for variance may be processed under the special permit



1 procedure. These districts may include contiguous areas which
2 are not suited to low density residential lots or small farms by
3 reason of topography, soils, and other related characteristics.
4 Rural districts shall also include golf courses, golf driving
5 ranges, and golf-related facilities.

6 In addition to the uses listed in this subsection, rural
7 districts shall include geothermal resources exploration and
8 geothermal resources development, as defined under section
9 182-1, and wireless communication antenna, as defined under
10 section 204-4.5(a)(18), as permissible uses."

11 SECTION 8. Section 205-4.5, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Within the agricultural district, all lands with soil
14 classified by the land study bureau's detailed land
15 classification as overall (master) productivity rating class A
16 or B and for solar energy facilities, class B or C, shall be
17 restricted to the following permitted uses:

18 (1) Cultivation of crops, including crops for bioenergy,
19 flowers, vegetables, foliage, fruits, forage, and
20 timber;



- 1 (2) Game and fish propagation;
- 2 (3) Raising of livestock, including poultry, bees, fish,
3 or other animal or aquatic life that are propagated
4 for economic or personal use;
- 5 (4) Farm dwellings, employee housing, farm buildings, or
6 activities or uses related to farming and animal
7 husbandry. "Farm dwelling", as used in this
8 paragraph, means a single-family dwelling located on
9 and used in connection with a farm, including clusters
10 of single-family farm dwellings permitted within
11 agricultural parks developed by the State, or where
12 agricultural activity provides income to the family
13 occupying the dwelling;
- 14 (5) Public institutions and buildings that are necessary
15 for agricultural practices;
- 16 (6) Public and private open area types of recreational
17 uses, including day camps, picnic grounds, parks, and
18 riding stables, but not including dragstrips,
19 airports, drive-in theaters, golf courses, golf
20 driving ranges, country clubs, and overnight camps;



- 1 (7) Public, private, and quasi-public utility lines and
2 roadways, transformer stations, communications
3 equipment buildings, solid waste transfer stations,
4 major water storage tanks, and appurtenant small
5 buildings such as booster pumping stations, but not
6 including offices or yards for equipment, material,
7 vehicle storage, repair or maintenance, treatment
8 plants, corporation yards, or other similar
9 structures;
- 10 (8) Retention, restoration, rehabilitation, or improvement
11 of buildings or sites of historic or scenic interest;
- 12 (9) Agricultural-based commercial operations as described
13 in section 205-2(d)(15);
- 14 (10) Buildings and uses, including mills, storage, and
15 processing facilities, maintenance facilities,
16 photovoltaic, biogas, and other small-scale renewable
17 energy systems producing energy solely for use in the
18 agricultural activities of the fee or leasehold owner
19 of the property, and vehicle and equipment storage
20 areas that are normally considered directly accessory



1 to the above-mentioned uses and are permitted under
2 section 205-2(d);

3 (11) Agricultural parks;

4 (12) Plantation community subdivisions, which as used in
5 this chapter means an established subdivision or
6 cluster of employee housing, community buildings, and
7 agricultural support buildings on land currently or
8 formerly owned, leased, or operated by a sugar or
9 pineapple plantation; provided that the existing
10 structures may be used or rehabilitated for use, and
11 new employee housing and agricultural support
12 buildings may be allowed on land within the
13 subdivision as follows:

14 (A) The employee housing is occupied by employees or
15 former employees of the plantation who have a
16 property interest in the land;

17 (B) The employee housing units not owned by their
18 occupants shall be rented or leased at affordable
19 rates for agricultural workers; or



1 (C) The agricultural support buildings shall be
2 rented or leased to agricultural business
3 operators or agricultural support services;

4 (13) Agricultural tourism conducted on a working farm, or a
5 farming operation as defined in section 165-2, for the
6 enjoyment, education, or involvement of visitors;
7 provided that the agricultural tourism activity is
8 accessory and secondary to the principal agricultural
9 use and does not interfere with surrounding farm
10 operations; and provided further that this paragraph
11 shall apply only to a county that has adopted
12 ordinances regulating agricultural tourism under
13 section 205-5;

14 (14) Agricultural tourism activities, including overnight
15 accommodations of twenty-one days or less, for any one
16 stay within a county; provided that this paragraph
17 shall apply only to a county that includes at least
18 three islands and has adopted ordinances regulating
19 agricultural tourism activities pursuant to section
20 205-5; provided further that the agricultural tourism



1 activities coexist with a bona fide agricultural
2 activity. For the purposes of this paragraph, "bona
3 fide agricultural activity" means a farming operation
4 as defined in section 165-2;

5 (15) Wind energy facilities, including the appurtenances
6 associated with the production and transmission of
7 wind generated energy; provided that the wind energy
8 facilities and appurtenances are compatible with
9 agriculture uses and cause minimal adverse impact on
10 agricultural land;

11 (16) Biofuel processing facilities, including the
12 appurtenances associated with the production and
13 refining of biofuels that is normally considered
14 directly accessory and secondary to the growing of the
15 energy feedstock; provided that biofuel processing
16 facilities and appurtenances do not adversely impact
17 agricultural land and other agricultural uses in the
18 vicinity.

19 For the purposes of this paragraph:



1 "Appurtenances" means operational infrastructure
2 of the appropriate type and scale for economic
3 commercial storage and distribution, and other similar
4 handling of feedstock, fuels, and other products of
5 biofuel processing facilities.

6 "Biofuel processing facility" means a facility
7 that produces liquid or gaseous fuels from organic
8 sources such as biomass crops, agricultural residues,
9 and oil crops, including palm, canola, soybean, and
10 waste cooking oils; grease; food wastes; and animal
11 residues and wastes that can be used to generate
12 energy;

13 (17) Agricultural-energy facilities, including
14 appurtenances necessary for an agricultural-energy
15 enterprise; provided that the primary activity of the
16 agricultural-energy enterprise is agricultural
17 activity. To be considered the primary activity of an
18 agricultural-energy enterprise, the total acreage
19 devoted to agricultural activity shall be not less
20 than ninety per cent of the total acreage of the



1 agricultural-energy enterprise. The agricultural-
2 energy facility shall be limited to lands owned,
3 leased, licensed, or operated by the entity conducting
4 the agricultural activity.

5 As used in this paragraph:

6 "Agricultural activity" means any activity
7 described in paragraphs (1) to (3) of this subsection.

8 "Agricultural-energy enterprise" means an
9 enterprise that integrally incorporates an
10 agricultural activity with an agricultural-energy
11 facility.

12 "Agricultural-energy facility" means a facility
13 that generates, stores, or distributes renewable
14 energy as defined in section 269-91 or renewable fuel
15 including electrical or thermal energy or liquid or
16 gaseous fuels from products of agricultural activities
17 from agricultural lands located in the State.

18 "Appurtenances" means operational infrastructure
19 of the appropriate type and scale for the economic
20 commercial generation, storage, distribution, and



1 other similar handling of energy, including equipment,
2 feedstock, fuels, and other products of agricultural-
3 energy facilities;

4 (18) Construction and operation of wireless communication
5 antennas[+], including small wireless facilities or
6 small wireless facilities networks; provided that, for
7 the purposes of this paragraph, "wireless
8 communication antenna" means communications equipment
9 that is either freestanding or placed upon or attached
10 to an already existing structure and that transmits
11 and receives electromagnetic radio signals used in the
12 provision of all types of wireless communications
13 services; provided further that nothing in this
14 paragraph shall be construed to permit the
15 construction of any new structure that is not deemed a
16 permitted use under this subsection; provided further
17 that "small wireless facilities" shall have the same
18 meaning as set forth in sections 27-41.1 and 46-15.6;

19 (19) Agricultural education programs conducted on a farming
20 operation as defined in section 165-2, for the



1 education and participation of the general public;
2 provided that the agricultural education programs are
3 accessory and secondary to the principal agricultural
4 use of the parcels or lots on which the agricultural
5 education programs are to occur and do not interfere
6 with surrounding farm operations. For the purposes of
7 this paragraph, "agricultural education programs"
8 means activities or events designed to promote
9 knowledge and understanding of agricultural activities
10 and practices conducted on a farming operation as
11 defined in section 165-2;

12 (20) Solar energy facilities that do not occupy more than
13 ten per cent of the acreage of the parcel, or twenty
14 acres of land, whichever is lesser or for which a
15 special use permit is granted pursuant to section 205-
16 6; provided that this use shall not be permitted on
17 lands with soil classified by the land study bureau's
18 detailed land classification as overall (master)
19 productivity rating class A unless the solar energy
20 facilities are:



1 (A) Located on a paved or unpaved road in existence
2 as of December 31, 2013, and the parcel of land
3 upon which the paved or unpaved road is located
4 has a valid county agriculture tax dedication
5 status or a valid agricultural conservation
6 easement;

7 (B) Placed in a manner that still allows vehicular
8 traffic to use the road; and

9 (C) Granted a special use permit by the commission
10 pursuant to section 205-6;

11 (21) Solar energy facilities on lands with soil classified
12 by the land study bureau's detailed land
13 classification as overall (master) productivity rating
14 B or C for which a special use permit is granted
15 pursuant to section 205-6; provided that:

16 (A) The area occupied by the solar energy facilities
17 is also made available for compatible
18 agricultural activities at a lease rate that is
19 at least fifty per cent below the fair market
20 rent for comparable properties;



1 (B) Proof of financial security to decommission the
2 facility is provided to the satisfaction of the
3 appropriate county planning commission prior to
4 date of commencement of commercial generation;
5 and

6 (C) Solar energy facilities shall be decommissioned
7 at the owner's expense according to the following
8 requirements:

9 (i) Removal of all equipment related to the
10 solar energy facility within twelve months
11 of the conclusion of operation or useful
12 life; and

13 (ii) Restoration of the disturbed earth to
14 substantially the same physical condition as
15 existed prior to the development of the
16 solar energy facility.

17 For the purposes of this paragraph, "agricultural
18 activities" means the activities described in
19 paragraphs (1) to (3);



1 (22) Geothermal resources exploration and geothermal
2 resources development, as defined under section 182-1;
3 or

4 (23) Hydroelectric facilities, including the appurtenances
5 associated with the production and transmission of
6 hydroelectric energy, subject to section 205-2;
7 provided that the hydroelectric facilities and their
8 appurtenances:

9 (A) Shall consist of a small hydropower facility as
10 defined by the United States Department of
11 Energy, including:

12 (i) Impoundment facilities using a dam to store
13 water in a reservoir;

14 (ii) A diversion or run-of-river facility that
15 channels a portion of a river through a
16 canal or channel; and

17 (iii) Pumped storage facilities that store energy
18 by pumping water uphill to a reservoir at
19 higher elevation from a reservoir at a lower



1 elevation to be released to turn a turbine
2 to generate electricity;

3 (B) Comply with the state water code, chapter 174C;

4 (C) Shall, if over five hundred kilowatts in
5 hydroelectric generating capacity, have the
6 approval of the commission on water resource
7 management, including a new instream flow
8 standard established for any new hydroelectric
9 facility; and

10 (D) Do not impact or impede the use of agricultural
11 land or the availability of surface or ground
12 water for all uses on all parcels that are served
13 by the ground water sources or streams for which
14 hydroelectric facilities are considered."

15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on May 22, 2050;
18 provided that this Act shall apply to permit applications filed
19 with the State or county after January 1, 2018.

20



Report Title:

Broadband; Small Wireless Facilities; Siting Process; State- and County-owned Structures; Permits

Description:

Establishes a collocation permitting, application, review and approval process for telecommunications companies proposing to install broadband infrastructure on state- or county-owned structures, utility poles, light standards, or buildings. Establishes the siting process. Takes effect on 5/22/2050.
(SD1)

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