



Top 10 Things You Should Know About Broadband/Small Cell Deployment and Public Works

1

Public Works professionals are responsible for managing the **multiple users** of the **Public Right of Way (ROW)** and **without coordination, public works professionals are in the dark** regarding the installation of 5G and broadband technology threatening safety of the other users of the ROW.

2

Public works professionals **SUPPORT streamlining the permitting process** and **SUPPORT the installation and deployment of broadband technology** across the country, but current legislative and regulatory efforts remove requirements to coordinate with local municipalities and public works professionals.

3

**Co-locating projects** is an important asset management practice and is a way to insure the most **efficient use** of the ROW and of taxpayer dollars. By removing the requirement to coordinate with local public works departments, broadband companies lose the opportunity to co-locate projects and reduce cost, as well as run the risk of having to redo or relocate projects (introducing disruption of service) due to public works improvements that are planned or being implemented in the same area.

4

The ROW exists and was obtained for a specific purpose: to **benefit the greater good of the public and the community**. The ROW is used for essential services such as transportation (rail, vehicle, pedestrian, bicycle, etc.), power distribution, telecommunication, heating fuel distribution, water distribution and wastewater collection, emergency services equipment and other critical infrastructure. All these **uses must be balanced**. Use of the ROW for broadband and small cell deployment takes away space for these essential services if not properly coordinated.

5

**Safety is paramount**. Public Works is **responsible for managing the ROW**. The more equipment and infrastructure within the ROW, and less coordination in the installation of that equipment, the more likely it is there will be conflicts and accidents that will threaten the safe operations of a new service.

6

**Aesthetics do matter**. Many communities invest substantial public dollars to ensure that the ROW not only meets their needs but **improves the appearance of their community to encourage private investment** in residential and business activities. With the limiting of authority to review the installing equipment and facilities related to broadband and small cell technology, communities will have **less control** over the aesthetics of their ROW.

7

Without proper coordination, Public Works professionals will not be able to manage the property **properly, effectively, and efficiently** within the ROW adding additional **burden on taxpayers** within the community.

8

Putting artificial deadlines on permit approval places **unnecessary strain** on already thin permitting resources. Public Works departments and communities across the country do not support putting arbitrary “shot clock” timers on permit applications because they **limit necessary coordination**, and place additional pressure on public works professionals and **detract from public safety and wellbeing**.

9

Public agencies are the **specialists** in **installing and maintaining** similar infrastructure in the ROW and **need to be at the table** to ensure the durability of all systems present.

10

Small cell is not just a clever name, it describes the physical nature of the technology accurately. For this technology to work effectively and efficiently, requires equipment to be installed **every few hundred feet**. Due to this need, the **impacts and problems listed above increase exponentially**.



### Small Cell/ Wireless Broadband Deployment and Its Impact on Public Works

With the **increasing usage of wireless devices and data**, especially during the current COVID pandemic, municipalities are facing **increased demand for reliable wireless service resulting in increased deployment of 5G/4G small cell facilities**. This demand **prompted federal action by the Federal Communications Commission (FCC)** in the form of FCC Order 18-133, “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” and proposed legislation such as S.1699 (116th Congress), the STREAMLINE Small Cell Deployment Act”.



Municipalities (Counties/Cities/Towns) support implementation and advancements of small cell wireless technology for their **residents, businesses, and their use**. The intent of the FCC orders was to **eliminate perceived regulatory barriers** that inhibit the deployment of broadband infrastructure. However, efforts to limit municipal participation in this deployment process exist in the FCC order, and state and federal legislation. This **jeopardizes** the ability of municipalities to **properly manage their right-of-way (ROW)**. The fact that the FCC orders have been largely upheld further imperils the ability of municipalities to protect ROW and its intended uses.

#### The FCC order, federal legislation, and state laws are threatening municipal regulatory authority in the following ways:

- **Contradictions** exist between federal legislation, state legislation, FCC orders, municipal ordinances, and proposed legislation at all levels.
- The use of public right-of-way for small cell wireless facilities should be subject to **public health, safety, and welfare requirements**.
- Fee restrictions **do not allow for recovery of costs** (unfunded mandate) including both the review process and ongoing use and monitoring of the ROW.
- Creating **arbitrary “shot clock” deadlines** for municipal review based on the type of installation
- does not allow for adequate project review and creates deadlines that are unachievable.
- If permit response (approval or denial) is not returned within the allotted timeframe, the permit application is automatically considered to be approved **threatening the health and safety** of user and abutters of the ROW.
- **Prevents denial of permits due to valid reasons** such as aesthetics, preferred location, environmental impacts, and effects (such as radio frequency emissions or exposure).

The FCC order and proposed federal and state legislation have been crafted **without equal representation** from all stakeholders. Attempts to clarify provisions of the 1996 Telecommunications Act to regulate deployment of wireless infrastructure has caused **confusion** and placed **unfair burdens on municipalities**. The interpretation by the FCC of the 1996 Telecommunications Act is **preferential to telecommunication providers**. Based on this, Federal and State legislators are sponsoring industry driven legislation with **detrimental impacts to municipalities**.

*Policymaker Primers supplement APWA’s official Public Policy Priorities, providing additional information and context for issues that do not strictly fall into the categories of transportation, water resiliency, or emergency management.*

The American Public Works Association (APWA) represents over 30,000 public works professionals across North America, dedicated to providing essential, high-quality equitable and sustainable services to millions of people in rural and urban communities, both small and large.

APWA members serve in both the public and private sectors, providing expertise to the local, state, and federal government levels. Working in the public interest, our members plan, design, build, operate and maintain, and oversee America’s vast infrastructure networks essential to our nation’s economy, environment, safety, and way of life.

APWA collaborates with all levels of government and supports federal investment in our shared infrastructure. APWA is opposed to unfunded mandates and any effort to impede the appropriate use of public right-of-way, and strongly encourages industry to partner with public works, and all state and local government entities.

APWA supports federal investment and support for professional development training initiatives, including investment in apprenticeships, grants, career and technical education programs, to assist with the growth and utilization of innovative activities related to having a diverse, high-quality public works workforce.

It is important that federal regulations do not become onerous and burdensome to localities in their use of advancing technologies.