

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 664
Committee Substitute Favorable 5/8/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H664-PCS30570-TDf-27

Short Title: Cell Tower Deployment Act.

(Public)

Sponsors:

Referred to:

April 10, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO FACILITATE THE DEPLOYMENT OF MOBILE BROADBAND AND
3 OTHER ENHANCED WIRELESS COMMUNICATIONS SERVICES BY
4 STREAMLINING THE PROCESSES USED BY STATE AGENCIES AND LOCAL
5 GOVERNMENTS TO APPROVE THE PLACEMENT OF WIRELESS FACILITIES IN
6 THEIR JURISDICTIONS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 19 of Chapter 160A of the General Statutes reads as
9 rewritten:

10 "Part 3E. Wireless Telecommunications Facilities.

11 "§ 160A-400.50. Purpose and compliance with federal law.

12 (a) The purpose of this section is to ensure the safe and efficient integration of facilities
13 necessary for the provision of advanced mobile broadband and wireless telecommunications
14 services throughout the community and to ensure the ready availability of reliable wireless
15 service to the public, government agencies, and first responders, with the intention of furthering
16 the public safety and general welfare.

17 (a1) The deployment of wireless infrastructure is critical to ensuring first responders can
18 provide for the health and safety of all residents of North Carolina and that, consistent with
19 section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §
20 1455(a), which creates a national wireless emergency communications network for use by first
21 responders that in large measure will be dependent on facilities placed on existing wireless
22 communications support structures, it is the policy of this State to facilitate the placement of
23 wireless communications support structures in all areas of North Carolina. The following
24 standards shall apply to a city's actions, as a regulatory body, in the regulation of the placement,
25 construction, or modification of a wireless communications facility.

26 (b) The placement, construction, or modification of wireless communications facilities
27 shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended,
28 section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §
29 1455(a), and in accordance with the rules promulgated by the Federal Communications
30 Commission.

31 "§ 160A-400.51. Definitions.

32 The following definitions apply in this Part.

- 33 (1) Antenna. – Communications equipment that transmits, receives, or transmits
34 and receives electromagnetic radio signals used in the provision of all types
35 of wireless communications services.



* H 6 6 4 - P C S 3 0 5 7 0 - T D F - 2 7 *

- 1 (2) Application. – A formal request submitted to the city to construct or modify
2 a wireless support structure or a wireless facility.
- 3 (2a) Base station. – A station at a specific site authorized to communicate with
4 mobile stations, generally consisting of radio receivers, antennas, coaxial
5 cables, power supplies, and other associated electronics.
- 6 (3) Building permit. – An official administrative authorization issued by the city
7 prior to beginning construction consistent with the provisions of
8 G.S. 160A-417.
- 9 (4) Collocation. – The placement or installation of wireless facilities on existing
10 structures, including electrical transmission towers, water towers, buildings,
11 and other structures capable of structurally supporting the attachment of
12 wireless facilities in compliance with applicable codes.~~The installation of~~
13 ~~new wireless facilities on previously approved structures, including towers,~~
14 ~~buildings, utility poles, and water tanks.~~
- 15 (4a) Eligible facilities request. – A request for modification of an existing
16 wireless tower or base station that involves collocation of new transmission
17 equipment or replacement of transmission equipment but does not include a
18 substantial modification.
- 19 (5) Equipment compound. – An area surrounding or near the base of a wireless
20 support structure within which a wireless facility is located.~~Equipment~~
21 ~~enclosure. – An enclosed structure, cabinet, or shelter used to contain radio~~
22 ~~or other equipment necessary for the transmission or reception of wireless~~
23 ~~communication signals.~~
- 24 (5a) Fall zone. – The area in which a wireless support structure may be expected
25 to fall in the event of a structural failure, as measured by engineering
26 standards.
- 27 (6) Land development regulation. – Any ordinance enacted pursuant to this Part.
- 28 (7) Search ring. – The area within which a wireless support facility or wireless
29 facility must be located in order to meet service objectives of the wireless
30 service provider using the wireless facility or wireless support structure.
- 31 (7a) Substantial modification. – The mounting of a proposed wireless facility on
32 a wireless support structure that substantially changes the physical
33 dimensions of the support structure. A mounting is presumed to be a
34 substantial modification if it meets any one or more of the criteria listed
35 below. The burden is on the local government to demonstrate that a
36 mounting that does not meet the listed criteria constitutes a substantial
37 change to the physical dimensions of the wireless support structure.
- 38 a. Increasing the existing vertical height of the structure by the greater
39 of (i) more than ten percent (10%) or (ii) the height of one additional
40 antenna array with separation from the nearest existing antenna not to
41 exceed 20 feet.
- 42 b. Except where necessary to shelter the antenna from inclement
43 weather or to connect the antenna to the tower via cable, adding an
44 appurtenance to the body of a wireless support structure that
45 protrudes horizontally from the edge of the wireless support structure
46 the greater of (i) more than 20 feet or (ii) more than the width of the
47 wireless support structure at the level of the appurtenance.
- 48 c. Increasing the square footage of the existing equipment compound
49 by more than 2,500 square feet.
- 50 (8) Utility pole. – A structure that is designed for and used to carry lines, cables,
51 or wires for telephone, cable television, or electricity, or to provide lighting.

1 (8a) Water tower. – A water storage tank, a standpipe, or an elevated tank
2 situated on a support structure originally constructed for use as a reservoir or
3 facility to store or deliver water.

4 (9) Wireless facility. – The set of equipment and network components, exclusive
5 of the underlying wireless support structure or tower, including antennas,
6 transmitters, ~~receivers~~, ~~receivers~~-base stations, power supplies, cabling, and
7 associated equipment necessary to provide wireless data and wireless
8 telecommunications services to a discrete geographic area.

9 (10) Wireless support structure. – A new or existing structure, such as a
10 monopole, lattice tower, or guyed tower that is designed to support or
11 capable of supporting wireless facilities. A utility pole is not a wireless
12 support structure.

13 **"§ 160A-400.51A. Local authority.**

14 A city may plan for and regulate the siting or modification of wireless support structures
15 and wireless facilities in accordance with land development regulations and in conformity with
16 this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating
17 applications to construct, modify, or maintain wireless support structures, or construct, modify,
18 maintain, or collocate wireless facilities on a wireless support structure based on consideration
19 of land use, public safety, and zoning considerations, including aesthetics, landscaping,
20 structural design, setbacks, and fall zones, or State and local building code requirements,
21 consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of
22 this Part, public safety includes, without limitation, federal, State, and local safety regulations
23 but does not include requirements relating to radio frequency emissions of wireless facilities.

24 **"§ 160A-400.52. Construction of new wireless support structures or substantial**
25 **modifications of facilities and wireless support structures.**

26 ~~(a) A city may plan for and regulate the siting or modification of wireless support~~
27 ~~structures and wireless facilities in accordance with land development regulations and in~~
28 ~~conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from~~
29 ~~regulating applications to construct, modify, or maintain wireless support structures, or~~
30 ~~construct, modify, maintain, or collocate wireless facilities on a wireless support structure~~
31 ~~based on consideration of land use, public safety, and zoning considerations, including~~
32 ~~aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building~~
33 ~~code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50.~~
34 ~~For purposes of this Part, public safety shall not include requirements relating to radio~~
35 ~~frequency emissions of wireless facilities.~~

36 (b) Any person that proposes to construct a new wireless support structure or
37 substantially modify a wireless support structure ~~or wireless facility~~ within the planning and
38 land-use jurisdiction of a city must do both of the following:

39 (1) Submit a completed application with the necessary copies and attachments to
40 the appropriate planning authority.

41 (2) Comply with any local ordinances concerning land use and any applicable
42 permitting processes.

43 (c) A city's review of an application for the ~~placement, construction,~~ placement or
44 construction of a new wireless support structure or substantial modification of a wireless
45 ~~facility or~~ wireless support structure shall only address public safety, land development, or
46 zoning issues. In reviewing an application, the city may not require information on or evaluate
47 an applicant's business decisions about its designed service, customer demand for its service, or
48 quality of its service to or from a particular area or site. A city may not require information that
49 concerns the specific need for the wireless support structure, including if the service to be
50 provided from the wireless support structure is to add additional wireless coverage or additional
51 wireless capacity. A city may not require proprietary, confidential, or other business

1 information to justify the need for the new wireless support structure, including propagation
2 maps and telecommunication traffic studies. In reviewing an application, the city may review
3 the following:

4 (1) Applicable public safety, land use, or zoning issues addressed in its adopted
5 regulations, including aesthetics, landscaping, land-use based location
6 priorities, structural design, setbacks, and fall zones.

7 (2) Information or materials directly related to an identified public safety, land
8 development, or zoning issue including evidence that no existing or
9 previously approved wireless support structure can reasonably be used for
10 the ~~antenna~~-wireless facility placement instead of the construction of a new
11 ~~tower~~-wireless support structure, that residential, historic, and designated
12 scenic areas cannot be served from outside the area, or that the proposed
13 height of a new ~~tower~~-wireless support structure or initial ~~antenna~~-wireless
14 facility placement or a proposed height increase of a substantially modified
15 ~~tower~~-wireless support structure, or replacement ~~tower~~-wireless support
16 structure ~~or collocation~~ is necessary to provide the applicant's designed
17 service.

18 (3) A city may require applicants for new wireless facilities to evaluate the
19 reasonable feasibility of collocating new antennas and equipment on an
20 existing wireless support structure or structures within the applicant's search
21 ring. Collocation on an existing wireless support structure is not reasonably
22 feasible if collocation is technically or commercially impractical or the
23 owner of the ~~tower~~-existing wireless support structure is unwilling to enter
24 into a contract for such use at fair market value. Cities may require
25 information necessary to determine whether collocation on existing wireless
26 support structures is reasonably feasible.

27 ~~(d) A collocation application entitled to streamlined processing under~~
28 ~~G.S. 160A-400.53 shall be deemed complete unless the city provides notice in writing to the~~
29 ~~applicant within 45 days of submission or within some other mutually agreed upon timeframe.~~
30 ~~The notice shall identify the deficiencies in the application which, if cured, would make the~~
31 ~~application complete. The application shall be deemed complete on resubmission if the~~
32 ~~additional materials cure the deficiencies identified.~~

33 ~~(e) The city shall issue a written decision approving or denying an application within 45~~
34 ~~days in the case of collocation applications entitled to streamlined processing under~~
35 ~~G.S. 160A-400.53 and under this section~~ within a reasonable period of time consistent with the
36 issuance of other land-use permits in the case of other applications, each as measured from the
37 time the application is deemed complete.

38 (f) A city may fix and charge an application fee, consulting fee, or other fee associated
39 with the submission, review, processing, and approval of an application to site new wireless
40 support structures or to substantially modify wireless support structures or wireless facilities
41 that is based on the costs of the services provided and does not exceed what is usual and
42 customary for such services. Any charges or fees assessed by a city on account of an outside
43 consultant shall be fixed in advance and incorporated into a permit or application fee and shall
44 be based on the reasonable costs to be incurred by the city in connection with the regulatory
45 review authorized under this section. The foregoing does not prohibit a city from imposing
46 additional reasonable and cost based fees for costs incurred should an applicant amend its
47 application. On request, the amount of the consultant charges incorporated into the permit or
48 application fee shall be separately identified and disclosed to the applicant. The fee imposed by
49 a city for review of the application may not be used for either of the following:

50 (1) Travel time or expenses, meals, or overnight accommodations incurred in
51 the review of an application by a consultant or other third party.

1 (2) Reimbursements for a consultant or other third party based on a contingent
2 fee basis or a results-based arrangement.

3 (g) The city may condition approval of an application for a new wireless support
4 structure on the provision of documentation prior to the issuance of a building permit
5 establishing the existence of one or more parties, including the owner of the wireless support
6 structure, who intend to locate wireless facilities on the wireless support structure. A city shall
7 not deny an initial land-use or zoning permit based on such documentation. A city may
8 condition a permit on a requirement to construct facilities within a reasonable period of time,
9 which shall be no less than 24 months.

10 (h) The city may not require the placement of wireless support structures or wireless
11 facilities on city owned or leased property, but may develop a process to encourage the
12 placement of wireless support structures or facilities on city owned or leased property,
13 including an expedited approval process.

14 (i) This section shall not be construed to limit the provisions or requirements of any
15 historic district or landmark regulation adopted pursuant to Part 3C of this Article.

16 **"§ 160A-400.53. Collocation and eligible facilities requests of wireless support structures.**
17 **facilities.**

18 (a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation
19 Act of 2012, 47 U.S.C. § 1455(a), a city may not deny and shall approve any eligible facilities
20 request as provided in this section. Nothing in this Part requires an application and approval for
21 routine maintenance or limits the performance of routine maintenance on wireless support
22 structures and facilities, including in-kind replacement of wireless facilities. Routine
23 maintenance includes activities associated with regular and general upkeep of transmission
24 equipment, including the replacement of existing wireless facilities with facilities of the same
25 size. A city may require an application for collocation or an eligible facilities
26 request. Applications for collocation entitled to streamlined processing under this section shall
27 be reviewed for conformance with applicable site plan and building permit requirements but
28 shall not otherwise be subject to zoning requirements, including design or placement
29 requirements, or public hearing review.

30 (a1) A collocation or eligible facilities request application is deemed complete unless the
31 city provides notice that the application is incomplete in writing to the applicant within 45 days
32 of submission or within some other mutually agreed upon time frame. The notice shall identify
33 the deficiencies in the application which, if cured, would make the application complete. A city
34 may deem an application incomplete if there is insufficient evidence provided to show that the
35 proposed collocation or eligible facilities request will comply with federal, State, and local
36 safety requirements. A city may not deem an application incomplete for any issue not directly
37 related to the actual content of the application and subject matter of the collocation or eligible
38 facilities request. An application is deemed complete on resubmission if the additional
39 materials cure the deficiencies indicated.

40 (a2) The city shall issue a written decision approving an eligible facilities request
41 application within 45 days of such application being deemed complete. For a collocation
42 application that is not an eligible facilities request, the city shall issue its written decision to
43 approve or deny the application within 45 days of the application being deemed complete.

44 (a3) A city may impose a fee not to exceed one thousand dollars (\$1,000) for technical
45 consultation and the review of a collocation or eligible facilities request application. The fee
46 must be based on the actual, direct, and reasonable administrative costs incurred for the review,
47 processing, and approval of a collocation application. A city may engage a third-party
48 consultant for technical consultation and the review of a collocation application. The fee
49 imposed by a city for the review of the application may not be used for either of the following:

50 (1) Travel expenses incurred in a third-party's review of a collocation
51 application.

1 (2) ~~Reimbursement for a consultant or other third party based on a contingent~~
2 ~~fee basis or results-based arrangement.~~

3 ~~(b) Applications for collocation of wireless facilities are entitled to streamlined~~
4 ~~processing if the addition of the additional wireless facility does not exceed the number of~~
5 ~~wireless facilities previously approved for the wireless support structure on which the~~
6 ~~collocation is proposed and meets all the requirements and conditions of the original approval.~~
7 ~~This provision applies to wireless support structures which are approved on or after December~~
8 ~~1, 2007.~~

9 ~~(c) The streamlined process set forth in subsection (a) of this section shall apply to all~~
10 ~~collocations, in addition to collocations qualified for streamlined processing under subsection~~
11 ~~(b) of this section, that meet the following requirements:~~

12 ~~(1) The collocation does not increase the overall height and width of the tower~~
13 ~~or wireless support structure to which the wireless facilities are to be~~
14 ~~attached.~~

15 ~~(2) The collocation does not increase the ground space area approved in the site~~
16 ~~plan for equipment enclosures and ancillary facilities.~~

17 ~~(3) The wireless facilities in the proposed collocation comply with applicable~~
18 ~~regulations, restrictions, or conditions, if any, applied to the initial wireless~~
19 ~~facilities placed on the tower or other wireless support structure.~~

20 ~~(4) The additional wireless facilities comply with all federal, State and local~~
21 ~~safety requirements.~~

22 ~~(5) The collocation does not exceed the applicable weight limits for the wireless~~
23 ~~support structure."~~

24 **SECTION 2.** Article 18 of Chapter 153A of the General Statutes reads as
25 rewritten:

26 "Part 3B. Wireless Telecommunications Facilities.

27 "**§ 153A-349.50. Purpose and compliance with federal law.**

28 (a) Purpose. – The purpose of this section is to ensure the safe and efficient integration
29 of facilities necessary for the provision of advanced mobile broadband and wireless
30 telecommunications services throughout the community and to ensure the ready availability of
31 reliable wireless service to the public, government agencies, and first responders, with the
32 intention of furthering the public safety and general welfare.

33 (a1) The deployment of wireless infrastructure is critical to ensuring first responders can
34 provide for the health and safety of all residents of North Carolina and that, consistent with
35 section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §
36 1455(a), which creates a national wireless emergency communications network for use by first
37 responders that in large measure will be dependent on facilities placed on existing wireless
38 communications support structures, it is the policy of this State to facilitate the placement of
39 wireless communications support structures in all areas of North Carolina. The following
40 standards shall apply to a county's actions, as a regulatory body, in the regulation of the
41 placement, construction, or modification of a wireless communications facility.

42 (b) Compliance with the Federal Communications Act. – The placement, construction,
43 or modification of wireless communications facilities shall be in conformity with the Federal
44 Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class
45 Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules
46 promulgated by the Federal Communications Commission.

47 "**§ 153A-349.51. Definitions.**

48 The following definitions apply in this Part:

49 (1) Antenna. – Communications equipment that transmits, receives, or transmits
50 and receives electromagnetic radio signals used in the provision of all types
51 of wireless communications services.

- 1 (2a) Base station. – A station at a specific site authorized to communicate with
2 mobile stations, generally consisting of radio receivers, antennas, coaxial
3 cables, power supplies, and other associated electronics.
- 4 (2) Application. – A formal request submitted to the county to construct or
5 modify a wireless support structure or a wireless facility.
- 6 (3) Building permit. – An official administrative authorization issued by the
7 county prior to beginning construction consistent with the provisions of
8 G.S. 153A-357.
- 9 (4) Collocation. – The placement or installation of wireless facilities on existing
10 structures, including electrical transmission towers, water towers, buildings,
11 and other structures capable of structurally supporting the attachment of
12 wireless facilities in compliance with applicable codes.~~The installation of~~
13 ~~new wireless facilities on previously approved structures, including towers,~~
14 ~~buildings, utility poles, and water tanks.~~
- 15 (4a) Eligible facilities request. – A request for modification of an existing
16 wireless tower or base station that involves collocation of new transmission
17 equipment or replacement of transmission equipment but does not include a
18 substantial modification.
- 19 (5) Equipment compound. – An area surrounding or near the base of a wireless
20 support structure within which a wireless facility is located.~~Equipment~~
21 ~~enclosure. – An enclosed structure, cabinet, or shelter used to contain radio~~
22 ~~or other equipment necessary for the transmission or reception of wireless~~
23 ~~communication signals.~~
- 24 (5a) Fall zone. – The area in which a wireless support structure may be expected
25 to fall in the event of a structural failure, as measured by engineering
26 standards.
- 27 (6) Land development regulation. – Any ordinance enacted pursuant to this Part.
- 28 (7) Search ring. – The area within which a wireless support facility or wireless
29 facility must be located in order to meet service objectives of the wireless
30 service provider using the wireless facility or wireless support structure.
- 31 (7a) Substantial modification. – The mounting of a proposed wireless facility on
32 a wireless support structure that substantially changes the physical
33 dimensions of the support structure. A mounting is presumed to be a
34 substantial modification if it meets any one or more of the criteria listed
35 below. The burden is on the local government to demonstrate that a
36 mounting that does not meet the listed criteria constitutes a substantial
37 change to the physical dimensions of the wireless support structure.
- 38 a. Increasing the existing vertical height of the structure by the greater
39 of (i) more than ten percent (10%) or (ii) the height of one additional
40 antenna array with separation from the nearest existing antenna not to
41 exceed 20 feet.
- 42 b. Except where necessary to shelter the antenna from inclement
43 weather or to connect the antenna to the tower via cable, adding an
44 appurtenance to the body of a wireless support structure that
45 protrudes horizontally from the edge of the wireless support structure
46 the greater of (i) more than 20 feet or (ii) more than the width of the
47 wireless support structure at the level of the appurtenance.
- 48 c. Increasing the square footage of the existing equipment compound
49 by more than 2,500 square feet.
- 50 (8) Utility pole. – A structure that is designed for and used to carry lines, cables,
51 or wires for telephone, cable television, or electricity, or to provide lighting.

1 (8a) Water tower. – A water storage tank, a standpipe, or an elevated tank
2 situated on a support structure originally constructed for use as a reservoir or
3 facility to store or deliver water.

4 (9) Wireless facility. – The set of equipment and network components, exclusive
5 of the underlying wireless support structure or tower, including antennas,
6 transmitters, ~~receivers~~, ~~receivers~~-base stations, power supplies, cabling, and
7 associated equipment necessary to provide wireless data and wireless
8 telecommunications services to a discrete geographic area.

9 (10) Wireless support structure. – A new or existing structure, such as a
10 monopole, lattice tower, or guyed tower that is designed to support or
11 capable of supporting wireless facilities. A utility pole is not a wireless
12 support structure.

13 **"§ 153A-349.51A. Local authority.**

14 A county may plan for and regulate the siting or modification of wireless support structures
15 and wireless facilities in accordance with land development regulations and in conformity with
16 this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating
17 applications to construct, modify, or maintain wireless support structures, or construct, modify,
18 maintain, or collocate wireless facilities on a wireless support structure based on consideration
19 of land use, public safety, and zoning considerations, including aesthetics, landscaping,
20 structural design, setbacks, and fall zones, or State and local building code requirements,
21 consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of
22 this Part, public safety includes, without limitation, federal, State, and local safety regulations
23 but does not include requirements relating to radio frequency emissions of wireless facilities.

24 **"§ 153A-349.52. Construction of new wireless support structures or substantial**
25 **modifications of facilities and wireless support structures.**

26 ~~(a) A county may plan for and regulate the siting or modification of wireless support~~
27 ~~structures and wireless facilities in accordance with land development regulations and in~~
28 ~~conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county~~
29 ~~from regulating applications to construct, modify, or maintain wireless support structures, or~~
30 ~~construct, modify, maintain, or collocate wireless facilities on a wireless support structure~~
31 ~~based on consideration of land use, public safety, and zoning considerations, including~~
32 ~~aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building~~
33 ~~code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50.~~
34 ~~For purposes of this Part, public safety shall not include requirements relating to radio~~
35 ~~frequency emissions of wireless facilities.~~

36 (b) Any person that proposes to construct a new wireless support structure or
37 substantially modify a wireless support structure ~~or wireless facility~~ within the planning and
38 land-use jurisdiction of a county must do both of the following:

39 (1) Submit a completed application with the necessary copies and attachments to
40 the appropriate planning authority.

41 (2) Comply with any local ordinances concerning land use and any applicable
42 permitting processes.

43 (c) A county's review of an application for the ~~placement, construction, placement or~~
44 construction of a new wireless support structure or substantial modification of a wireless
45 ~~facility or~~ wireless support structure shall only address public safety, land development, or
46 zoning issues. In reviewing an application, the county may not require information on or
47 evaluate an applicant's business decisions about its designed service, customer demand for its
48 service, or quality of its service to or from a particular area or site. A county may not require
49 information that concerns the specific need for the wireless support structure, including if the
50 service to be provided from the wireless support structure is to add additional wireless coverage
51 or additional wireless capacity. A county may not require proprietary, confidential, or other

1 business information to justify the need for the new wireless support structure, including
2 propagation maps and telecommunication traffic studies. In reviewing an application the county
3 may review the following:

- 4 (1) Applicable public safety, land use, or zoning issues addressed in its adopted
5 regulations, including aesthetics, landscaping, land-use based location
6 priorities, structural design, setbacks, and fall zones.
- 7 (2) Information or materials directly related to an identified public safety, land
8 development or zoning issue including evidence that no existing or
9 previously approved wireless support structure can reasonably be used for
10 the ~~antenna~~-wireless facility placement instead of the construction of a new
11 ~~tower~~-wireless support structure, that residential, historic, and designated
12 scenic areas cannot be served from outside the area, or that the proposed
13 height of a new ~~tower~~-wireless support structure or initial ~~antenna~~-wireless
14 facility placement or a proposed height increase of a substantially modified
15 ~~tower~~-wireless support structure, or replacement ~~tower~~-wireless support
16 structure or collocation is necessary to provide the applicant's designed
17 service.
- 18 (3) A county may require applicants for new wireless facilities to evaluate the
19 reasonable feasibility of collocating new antennas and equipment on an
20 existing wireless support structure or structures within the applicant's search
21 ring. Collocation on an existing wireless support structure is not reasonably
22 feasible if collocation is technically or commercially impractical or the
23 owner of the ~~tower~~-existing wireless support structure is unwilling to enter
24 into a contract for such use at fair market value. Counties may require
25 information necessary to determine whether collocation on existing wireless
26 support structures is reasonably feasible.

27 ~~(d) A collocation application entitled to streamlined processing under~~
28 ~~G.S. 153A-349.53 shall be deemed complete unless the city provides notice in writing to the~~
29 ~~applicant within 45 days of submission or within some other mutually agreed upon timeframe.~~
30 ~~The notice shall identify the deficiencies in the application which, if cured, would make the~~
31 ~~application complete. The application shall be deemed complete on resubmission if the~~
32 ~~additional materials cure the deficiencies identified.~~

33 (e) The county shall issue a written decision approving or denying an application ~~within~~
34 ~~45 days in the case of collocation applications entitled to streamlined processing under~~
35 ~~G.S. 153A-349.53 and under this section~~ within a reasonable period of time consistent with the
36 issuance of other land-use permits in the case of other applications, each as measured from the
37 time the application is deemed complete.

38 (f) A county may fix and charge an application fee, consulting fee, or other fee
39 associated with the submission, review, processing, and approval of an application to site new
40 wireless support structures or to substantially modify wireless support structures or wireless
41 facilities that is based on the costs of the services provided and does not exceed what is usual
42 and customary for such services. Any charges or fees assessed by a county on account of an
43 outside consultant shall be fixed in advance and incorporated into a permit or application fee
44 and shall be based on the reasonable costs to be incurred by the county in connection with the
45 regulatory review authorized under this section. The foregoing does not prohibit a county from
46 imposing additional reasonable and cost based fees for costs incurred should an applicant
47 amend its application. On request, the amount of the consultant charges incorporated into the
48 permit or application fee shall be separately identified and disclosed to the applicant. The fee
49 imposed by a county for review of the application may not be used for either of the following:

- 50 (1) Travel time or expenses, meals, or overnight accommodations incurred in
51 the review of an application by a consultant or other third party.

1 (2) Reimbursements for a consultant or other third party based on a contingent
2 fee basis or a results-based arrangement.

3 (g) The county may condition approval of an application for a new wireless support
4 structure on the provision of documentation prior to the issuance of a building permit
5 establishing the existence of one or more parties, including the owner of the wireless support
6 structure, who intend to locate wireless facilities on the wireless support structure. A county
7 shall not deny an initial land-use or zoning permit based on such documentation. A county may
8 condition a permit on a requirement to construct facilities within a reasonable period of time,
9 which shall be no less than 24 months.

10 (h) The county may not require the placement of wireless support structures or wireless
11 facilities on county owned or leased property, but may develop a process to encourage the
12 placement of wireless support structures or facilities on county owned or leased property,
13 including an expedited approval process.

14 (i) This section shall not be construed to limit the provisions or requirements of any
15 historic district or landmark regulation adopted pursuant to Part 3C of this Article.

16 **"§ 153A-349.53. Collocation and eligible facilities requests of wireless support**
17 **structures, facilities.**

18 (a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation
19 Act of 2012, 47 U.S.C. § 1455(a), a county may not deny and shall approve any eligible
20 facilities request as provided in this section. Nothing in this Part requires an application and
21 approval for routine maintenance or limits the performance of routine maintenance on wireless
22 support structures and facilities, including in-kind replacement of wireless facilities. Routine
23 maintenance includes activities associated with regular and general upkeep of transmission
24 equipment, including the replacement of existing wireless facilities with facilities of the same
25 size. A county may require an application for collocation or an eligible facilities
26 request. Applications for collocation entitled to streamlined processing under this section shall
27 be reviewed for conformance with applicable site plan and building permit requirements but
28 shall not otherwise be subject to zoning requirements, including design or placement
29 requirements, or public hearing review.

30 (a1) A collocation or eligible facilities request application is deemed complete unless the
31 county provides notice that the application is incomplete in writing to the applicant within 45
32 days of submission or within some other mutually agreed upon time frame. The notice shall
33 identify the deficiencies in the application which, if cured, would make the application
34 complete. A county may deem an application incomplete if there is insufficient evidence
35 provided to show that the proposed collocation or eligible facilities request will comply with
36 federal, State, and local safety requirements. A county may not deem an application incomplete
37 for any issue not directly related to the actual content of the application and subject matter of
38 the collocation or eligible facilities request. An application is deemed complete on
39 resubmission if the additional materials cure the deficiencies indicated.

40 (a2) The county shall issue a written decision approving an eligible facilities request
41 application within 45 days of such application being deemed complete. For a collocation
42 application that is not an eligible facilities request, the county shall issue its written decision to
43 approve or deny the application within 45 days of the application being deemed complete.

44 (a3) A county may impose a fee not to exceed one thousand dollars (\$1,000) for
45 technical consultation and the review of a collocation application. The fee must be based on the
46 actual, direct, and reasonable administrative costs incurred for the review, processing, and
47 approval of a collocation application. A county may engage a third-party consultant for
48 technical consultation and the review of a collocation or eligible facilities request application.
49 The fee imposed by a county for the review of the application may not be used for either of the
50 following:

- 1 (1) Travel expenses incurred in a third party's review of a collocation
2 application.
- 3 (2) Reimbursement for a consultant or other third party based on a contingent
4 fee basis or results-based arrangement.
- 5 (b) ~~Applications for collocation of wireless facilities are entitled to streamlined~~
6 ~~processing if the addition of the additional wireless facility does not exceed the number of~~
7 ~~wireless facilities previously approved for the wireless support structure on which the~~
8 ~~collocation is proposed and meets all the requirements and conditions of the original approval.~~
9 ~~This provision applies to wireless support structures which are approved on or after December~~
10 ~~1, 2007.~~
- 11 (c) ~~The streamlined process set forth in subsection (a) of this section shall apply to all~~
12 ~~collocations, in addition to collocations qualified for streamlined processing under subsection~~
13 ~~(b) of this section, that meet the following requirements:~~
- 14 (1) ~~The collocation does not increase the overall height and width of the tower~~
15 ~~or wireless support structure to which the wireless facilities are to be~~
16 ~~attached.~~
- 17 (2) ~~The collocation does not increase the ground space area approved in the site~~
18 ~~plan for equipment enclosures and ancillary facilities.~~
- 19 (3) ~~The wireless facilities in the proposed collocation comply with applicable~~
20 ~~regulations, restrictions, or conditions, if any, applied to the initial wireless~~
21 ~~facilities placed on the tower or other wireless support structure.~~
- 22 (4) ~~The additional wireless facilities comply with all federal, State, and local~~
23 ~~safety requirements.~~
- 24 (5) ~~The collocation does not exceed the applicable weight limits for the wireless~~
25 ~~support structure."~~

26 **SECTION 3.** G.S. 146-29.2 reads as rewritten:

27 "**§ 146-29.2. Lease ~~provisions for communications towers~~ or interest in real property for**
28 **communication purposes.**

29 (a) The following definitions apply in this section:

- 30 (1) Antenna. – Communications equipment that transmits, receives, or transmits
31 and receives electromagnetic radio signals used in the provision of all types
32 of wireless communications services.
- 33 (2) Buildings. – Structures owned or leased by the State on which equipment
34 may be placed or attached.
- 35 (3) Collocation. – The placement or installation of wireless facilities on existing
36 structures, including electrical transmission towers, water towers, buildings,
37 and other structures capable of structurally supporting the attachment of
38 wireless facilities in compliance with applicable building and line safety
39 codes.
- 40 (4) Equipment. – Antennas, transmitters, receivers, cables, wires, transformers,
41 power supplies, electric and communication lines necessary for the provision
42 of television broadcast signals, radio wave signals, wireless data or wireless
43 telecommunication services to a discrete geographic area, and all other
44 apparatuses and appurtenances, including shelters, cabinets, buildings,
45 platforms, and ice bridges used to house or otherwise protect equipment.
- 46 (5) Ground area. – The area of real property surrounding the base of towers on
47 which the equipment and appurtenances necessary for the operation and
48 stability of the towers, including guy wires and security fencing, are
49 constructed or installed.
- 50 (6) Provider. – Any person that is engaged in the transmission, reception, or
51 dissemination of television broadcast signals, radio wave signals, or

1 electromagnetic radio signals used in the provision of wireless
2 communications service, or the provisioning of wireless infrastructure.

3 (7) Tower. – New or existing structures, such as a monopole, lattice tower,
4 guyed tower, fire observation tower or water tower that are designed to
5 support or are capable of supporting equipment used in the transmission or
6 receipt of television broadcast signals, radio wave signals, or
7 electromagnetic radio signals used in the provision of wireless
8 communication service.

9 (b) The State may lease real property, or may grant an easement or license with an
10 interest in real property for the following communication purposes:~~any interest in real property,~~
11 ~~for the purposes of~~

12 (1) ~~construction and placement of communications~~Constructing, installing, and
13 operating towers and equipment on State land.~~land or for placement of~~
14 ~~antennas upon State-owned structures.~~

15 (2) Installing and operating equipment on towers, buildings, or ground area
16 owned or leased by the State.

17 (c) If otherwise feasible and determined by the Department of Administration to be in
18 the best interest of the State:

19 (1) New towers constructed on State land shall be designed for collocation. This
20 requirement shall not apply to towers constructed on State land by the State
21 or any of its agencies or by a "public entity" as that term is defined in
22 G.S. 146-29.1(b).

23 (2) The State shall encourage the collocation of equipment on existing towers
24 and buildings owned by the State.

25 (3) The State shall sublease for collocation purposes space on any tower or
26 ground area leased by the State, if allowed under the terms of the lease.

27 (4) The State shall, to the extent practicable, adopt standard terms and
28 conditions for applications to lease, easements, or other conveyances of an
29 interest in real property for communication purposes.

30 (d) Pursuant to G.S. 143-341(4)f., the Governor, acting with the approval of the Council
31 of State, may adopt rules authorizing the Department of Administration to enter into or approve
32 classes of leases, easements, or licenses with an interest in real property for the purposes set
33 forth in this section. The rules may allow for execution of leases or other instruments by the
34 Department of Administration rather than execution of the instruments in the manner
35 prescribed in G.S. 146-74 through G.S. 146-78.

36 (e) Land in the State Parks System, as defined in G.S. 113-449.9, may only be leased or
37 conveyed for the purposes of this section upon the approval of the Secretary of the Department
38 of Environment and Natural Resources. Lease or conveyance of land in the State Parks System
39 for the purposes of this section shall comply with the requirements of Articles 2 and 2C of
40 Chapter 113 of the General Statutes. When selecting a location for a communications tower or
41 antenna in the State Parks System, the State shall choose a location that minimizes the visual
42 impact on the surrounding landscape. No land acquired or developed using funds from the
43 Federal Land and Water Conservation Fund shall be leased or conveyed for the purposes of this
44 section.

45 ~~The following additional requirements shall apply to such leases:~~

46 (1) ~~The lease shall require the lessee to permit other telecommunications carriers~~
47 ~~to co-locate on the communications tower on commercially reasonable terms~~
48 ~~between the lessee and the co-locating carrier until the communications~~
49 ~~tower reaches its capacity. Unless the State determines that co-location is not~~
50 ~~feasible at that location, the communications tower shall be designed and~~
51 ~~constructed to accommodate other carriers on the tower.~~

1 (2) ~~The State shall, in determining the location of lands to be leased for~~
2 ~~communications towers, encourage communications towers to be located~~
3 ~~near other communications towers to the extent technically desirable.~~

4 (3) ~~The State shall, when choosing a communications tower or antenna location,~~
5 ~~choose a location which minimizes the visual impact on surrounding~~
6 ~~landscape.~~

7 (4) ~~The State shall not lease lands of the State Parks System for such purposes.~~

8 ~~For purposes of this section, "co-locate and co-location" mean the sharing of a~~
9 ~~communications tower by two or more services.~~

10 (f) City and county ordinances apply to communications towers and antennas
11 authorized under this section."

12 **SECTION 4.** Sections 1 and 2 of this act become effective October 1, 2013, and
13 apply to applications received on or after that date. The remainder of this act is effective when
14 it becomes law.