

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 15.2-2316.3 of the Code of Virginia and to amend the Code of Virginia by*
 3 *adding a section numbered 15.2-2316.4:4, relating to zoning; wireless facilities; temporary support*
 4 *structure.*

5 [H 876]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That § 15.2-2316.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is**
 9 **amended by adding a section numbered 15.2-2316.4:4 as follows:**

10 **§ 15.2-2316.3. Definitions.**

11 As used in this article, unless the context requires a different meaning:

12 "Administrative review-eligible project" means a project that provides for:

13 1. The installation or construction of a new structure that is not more than 50 feet above ground level,
 14 provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest
 15 existing utility pole located within 500 feet of the new structure within the same public right-of-way or within
 16 the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic
 17 district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount
 18 equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent
 19 comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support
 20 small cell facilities; or

21 2. The co-location on any existing structure of a wireless facility that is not a small cell facility.

22 "Antenna" means communications equipment that transmits or receives electromagnetic radio signals
 23 used in the provision of any type of wireless communications services.

24 "Base station" means a station that includes a structure that currently supports or houses an antenna,
 25 transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to
 26 communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power
 27 supplies, and other associated electronics.

28 "Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under,
 29 within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure.

30 "Co-location" has a corresponding meaning.

31 "Department" means the Department of Transportation.

32 "Existing structure" means any structure that is installed or approved for installation at the time a wireless
 33 services provider or wireless infrastructure provider provides notice to a locality or the Department of an
 34 agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure"
 35 includes any structure that is currently supporting, designed to support, or capable of supporting the
 36 attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and
 37 water towers.

38 "Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in
 39 length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11
 40 inches.

41 "New structure" means a wireless support structure that has not been installed or constructed, or approved
 42 for installation or construction, at the time a wireless services provider or wireless infrastructure provider
 43 applies to a locality for any required zoning approval.

44 "Project" means (i) the installation or construction by a wireless services provider or wireless
 45 infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility
 46 that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless
 47 services provider or wireless infrastructure provider on an existing structure to which the provisions of
 48 § 15.2-2316.4 apply.

49 "Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each
 50 antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna
 51 that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary
 52 enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a
 53 cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal
 54 Communications Commission. The following types of associated equipment are not included in the
 55 calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-
 56 up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs

57 for the connection of power and other services.

58 "Standard process project" means any project other than an administrative review-eligible project.

59 "*Temporary support structure*" means a monopole or portable wireless communications facility used to
60 provide wireless voice, data, or image transmission within a designated area. A temporary support structure
61 does not have a permanent location on the ground, including the pouring of a concrete footing or the laying
62 of a permanent foundation.

63 "Utility pole" means a structure owned, operated, or owned and operated by a public utility, local
64 government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires
65 for communications, cable television, or electricity.

66 "Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support
67 structure, originally constructed for use as a reservoir or facility to store or deliver water.

68 "Wireless facility" means equipment at a fixed location that enables wireless communications between
69 user equipment and a communications network, including (i) equipment associated with wireless services,
70 such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed
71 wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic
72 cable, regular and backup power supplies, and comparable equipment, regardless of technological
73 configuration.

74 "Wireless infrastructure provider" means any person that builds or installs transmission equipment,
75 wireless facilities, or wireless support structures, but that is not a wireless services provider.

76 "Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii)
77 "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile
78 services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through
79 wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum,
80 provided using wireless facilities.

81 "Wireless services provider" means a provider of wireless services.

82 "Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or
83 self-supporting, or suitable existing structure or alternative structure designed to support or capable of
84 supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility
85 pole or any tower used for the distribution or transmission of electrical service.

86 **§ 15.2-2316.4:4. Temporary support structures.**

87 A. A locality shall include in its zoning ordinance provisions that allow for the use of temporary support
88 structures that meet the requirements of this section. A temporary support structure that is 80 feet or less in
89 height, on wheels, and erected for less than 30 days shall not be required to obtain a building permit. A
90 building permit shall be required for a temporary support structure over 80 feet in height or that is erected
91 for 30 days or more.

92 B. An application for a temporary support structure shall demonstrate that it is necessary for one of the
93 following reasons:

94 1. Administering limited frequency and modulation testing to evaluate system performance and the need
95 for additional wireless facility sites;

96 2. Supplementing communications coverage when a previously permitted wireless facility has become
97 involuntarily non-operational through an accident or natural disaster;

98 3. A substantial increase in the communications needs of the locality due to an emergency declared by the
99 locality, Commonwealth, or federal government;

100 4. A substantial increase in the communications needs of the businesses, residents, or visitors of the
101 locality for a limited period of time due to a special event held within the locality; or

102 5. Any other reason deemed necessary and appropriate by the locality.

103 C. An application for a temporary support structure may request approval for up to 180 days. A locality
104 may approve extensions beyond the initial approval period if (i) the requests are made in writing prior to the
105 expiration of the initial approval period or current extended approval period, (ii) the extensions are
106 reasonably necessary to resolve or accommodate the reasons for the initial approval, and (iii) the total time
107 approved for extensions, including the initial 180 day period, does not exceed two years.

108 D. A temporary support structure shall be removed at the cost of the owner and the site restored to its
109 previous condition within 48 hours of the end of the approval period.

110 E. If a locality fails to adopt provisions in its zoning ordinances to implement this section, applications for
111 temporary support structures shall be deemed granted and no building permit or other permits shall be
112 required.