

HOUSE BILL 3845

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 13
and Title 65, relative to towers and antennas.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 21, is amended by adding Section 2 through Section 6 as a new, appropriately designated part.

SECTION 2. This part shall apply to any wireless telecommunications tower or antenna constructed on or after July 1, 2008. This part is supplemental and shall be in addition to any other applicable provision of federal, state, and local law.

SECTION 3. No local government authority shall approve the construction of a new cellular or other wireless telecommunications tower or antenna on privately owned property upon which no similar structure is already located unless an applicant for approval of such tower or antenna demonstrates to the reasonable satisfaction of the planning commission based on a survey and report submitted by the applicant that the location of the tower or antenna is the most suitable location for such tower or antenna based on the most current standards of the industry and that:

(1) No other location currently in use for such purpose or a compatible purpose within the jurisdiction of the local government authority is suitable for the purpose intended by the applicant and available to be used by the applicant;

(2) No industrial park within the jurisdiction of the local government authority is suitable for the purpose intended by the applicant and available to be used by the applicant;

(3) No location owned or leased by the local government authority, the state, or the federal government is suitable for the purpose intended by the applicant and available to be used by the applicant; and

(4) No existing tower, structure, or alternative technology that does not require the use of towers or antennas can accommodate the applicant's infrastructure needs.

SECTION 4.

(a) No local government authority shall approve the construction of a new cellular or other wireless telecommunications tower or antenna until after a public hearing conforming to this section has been held by the local government authority.

(b) Upon receipt of an application for approval of a new cellular or other wireless telecommunications tower or antenna, the local government authority shall issue notice no less than fifteen (15) days in advance of the public hearing. Such notice shall include the location and a brief description of the tower or antenna and any supporting buildings or other structures; contact information for more information; and the date, time, and location of the public hearing. The notice shall be mailed to every resident and every property owner within one (1) mile of the proposed tower or antenna. Such notice shall also be published in every newspaper of general circulation within the geographical jurisdiction of the local government authority and, if possible, on the web site of the local government authority.

SECTION 5.

(a) A cellular or other wireless telecommunications service provider or other person who proceeds to construct a new tower or antenna shall:

(1) Meet or exceed current standards and regulations of the Federal Aviation Authority (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are amended, then the owner of the tower or antenna shall bring such tower or antenna into compliance within the time mandated by the controlling federal agency. Failure to bring a tower or

antenna into compliance with such revised standards and regulations shall constitute grounds for removal of the tower or antenna at the owner's expense by the local government authority;

(2) Ensure that such tower or antenna is maintained in compliance with standards contained in applicable state or local building codes and the most current applicable standards for towers and antennas published by the Electronic Industries Alliance. If, upon inspection, the tower or antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being given, the owner shall have thirty (30) days to bring such tower or antenna into compliance. Failure to do so shall constitute grounds for the removal of the tower or antenna at the owner's expense by the local government authority;

(3)

(A) Subject to any applicable standards of the Federal Aviation Administration (FAA), paint the tower or antenna a natural earth tone color or combination of earth tone colors to reduce visual obtrusiveness;

(B) When designing buildings and related structures, use colors; landscaping; materials; screening; and textures that blend such buildings and structures into the natural setting and surrounding buildings;

(C) If an antenna is installed on a structure other than a tower, ensure that the antenna and supporting electrical and mechanical equipment is of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible; and

(D) Comply with any additional aesthetic standards established by the local government authority; and

(4) Ensure that access for maintenance vehicles is the right-of-way that would most minimize interference with public traffic. Proposed sites that lack frontage on a public or private road shall provide an easement of at least twenty-five feet (25') in width with at least twelve feet (12') graveled or paved travel way.

(b) If, upon inspection, the owner of the tower fails to comply with this section, then, upon notice being given, the owner shall have thirty (30) days to bring such tower, antenna, building, or related structure into compliance. Failure to do so shall constitute grounds for the removal of the tower, antenna, building, or related structure at the owner's expense by the local government authority.

SECTION 6. If any tower or antenna existing or awaiting approval upon the effective date of this act and not conforming to the provisions of this part sustains damage equaling fifty percent (50%) or more of the value of such tower or antenna, then such tower or antenna shall not be reconstructed or restored unless the reconstruction or reformation brings the tower or antenna into conformity with this part.

SECTION 7. This act shall take effect July 1, 2008, the public welfare requiring it. This act shall not apply to the siting of any tower for which application for zoning approval is made before July 1, 2008.