

Act 250 Jurisdiction over Wireless Telecommunications Facilities and
Summary of 30 VSA §248a Processes
Prepared by Charles Storrow, Leonine Public Affairs, LLP
On Behalf of AT&T

- Act 250 has jurisdiction over wireless telecom facilities if the support structure (i.e., tower) is 50 feet or higher from the ground or, if the facility is being mounted on an existing structure, 20 feet or higher than that existing structure.
- Many towns have zoning bylaws or a stand-alone telecom ordinance that would require a local permit for a wireless telecom facility.
- The developer of a telecommunications facility has the *option* of using section 248a in lieu of Act 250 and local zoning. If a developer elects to use section 248a it does not have to get an Act 250 permit or a local permit.
- In 248a there are three categories:
 - **De minimis.** This category relates mainly to equipment upgrades at an existing facility. The developer of a de minimis project gives notice to the Department and the town. If no one objects within 21 days a CPG is to be issued.¹

To qualify:

- Height of existing structure not increased.
- No more than 300 square feet of new impervious surface.
- New antennas do not extend up or out more than ten feet from the support structure.
- New antennas do not increase surface area of antennas on the facility by more than 75 square feet.

¹ Under S.52 the objection period is extended to 30 days.

- **Limited size and scope.** To qualify the tower cannot be more than 140' tall and there can be no more than 10,000 square feet of earth disturbance. The developer must give *at least* 60 days advance notice of its intent to file an application to various state agencies, the town, and adjoining landowners. Once the application is filed those parties have 21 days to raise any objections.² If there are no objections (vast majority of cases) the CPG is to be issued within 45 days of the filing of the application.³ If there are objections, and the Board agrees they are worthy of further inquiry (i.e., written briefing and/or a hearing), then the CPG has to be issued within 90 days of the filing of the application.
- **All other projects.** Anything not within the definitions of de minimis or limited size and scope. In essence towers taller than 140 feet. The developer must give *at least* 60 days advance notice of its intent to file an application to various state agencies, the town, and adjoining landowners. If no issues, CPG to be issued within 60 days; if issues are raised and agreed as being worthy of further inquiry, CPG must be issued within 180 days.

² Under S.52 the comment period is extended to 30 days.

³ Under S.52 the deadline for the PSB to issue a decision is extended to 60 days.