

Temporary Rule - Technical Changes January 2019

01 NCAC 06F .0101 is adopted under temporary procedures as follows:

SUBCHAPTER 6F – TELECOMMUNICATIONS FACILITIES FOR BROADBAND PROVIDERS

01 NCAC 06F .0101 PROCEDURES

(a) For purposes of this Subchapter, an “Agency” is defined as that body to which State owned or leased property is allocated.

(b) Upon referral from the NC Department of Information Technology (DIT), an Agency requesting the construction and placement of broadband components on state property will shall submit to the State Property Office (SPO) a completed PO-2, Disposition of Real Property form, as set forth in Section .0300 of these Rules, and an applicant’s BB-2, WISP Application form, that shall include the following information :

(1) description of the state property;

(2) information pertaining to the lessee; and

(3) together with a list and description of the equipment to be used and scope of work.

(c) SPO will shall evaluate the proposal and determine fair market value of the lease pursuant to G.S. 146-29.1 and notify the Agency of relevant costs.

(b) (d) SPO will shall generate the necessary lease, license, or easement needed for approval and provide to the Agency for review and distribution to the broadband applicant.

(e) (c) The Applicant Prior to the construction or placement of broadband components, the broadband provider and SPO will shall execute duplicate original agreements.

(d) (f) The Agency will be responsible for ensuring shall ensure all equipment is installed properly and in accordance with the guidelines set out by DIT, SPO and other state agencies involved terms set out in the lease, license or easement.

*History Note: Authority G.S. 146-29.1; 146-29.2; 146-30; S.L. 2018-5, s. 37.1(a)-(i);
Temporary Rule Eff. January 28, 2019.*

01 NCAC 06F .0102 is adopted under temporary procedures as follows:

01 NCAC 06F .0102 TERMS AND CONDITIONS

The following terms and conditions ~~will shall~~ apply to the location and installation of equipment by a broadband provider on state owned or leased property:

- ~~(1) All leases and/or easements will be done on state forms.~~
- (2) All lease and license agreements ~~will include shall be a~~ an initial five year term with two optional five year renewal periods.
- (3) All lease and license agreements ~~will shall include~~ an access agreement and a non-exclusive right to install backhaul and fronthaul cabling or fiber, either overhead or buried, which will require a utility easement.
- (4) All lease/license agreements will include an annual rate adjustment provision. The fair market value of the state owned or leased property is subject to an annual rate adjustment as set forth in the lease.
- (5) Rent shall be paid annually.
- ~~(6) Appropriate insurance coverages will be kept in force at all times.~~
- ~~(7) The applicant will maintain all required Federal, State, and local licenses and permits.~~
- (8) An Agency ~~will shall~~ require an escrow fund as part of the broadband provider's lease or license agreement.
- (9) Site specific protocols as set out in the lease and license agreement for construction and maintenance procedures shall be strictly adhered to by the Applicant during installation and during ~~the~~ any continued maintenance.
- (10) Upgrades or changes to equipment, other than replacement of defective units, shall require prior approval from SPO, be reviewed by SPO for compliance with the existing lease prior to any changes to equipment.
- (11) The Agency ~~will shall~~ not be responsible for supplying supply space in any existing equipment buildings, nor responsible for supplying electricity.
- (12) Upon termination of the agreement, at the Agency's request, the applicant shall remove all equipment and cabling from the tower, ice-bridge, and fenced property. Upon removal, the escrow funds shall be returned by the Agency within 60 days of satisfactory inspection. The agency shall then inspect the property to ensure compliance with this Paragraph. Upon a finding that all equipment and cabling is removed and the property has been returned to preleased conditions, the escrow funds shall be returned to the Broadband provider within 60 days.

*History Note: Authority G.S. 146-29.1; 146-29.2; 146-30; S.L. 2018-5, s. 37.1(a)-(i);
Temporary Rule Eff. January 28, 2019.*