

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
WIRELESS TELECOMMUNICATIONS ORDINANCE SUBCOMMITTEE MEETING
October 19, 2010

A quorum of the Jefferson County Planning Commission met on Tuesday, October 19, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Frances Morgan, Morgan Etters, Daniel Hayes, and Gene Taylor. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; and Julie Quodala, Planning and Zoning Office Manager.

Mr. Maxey called the meeting to order. It was clarified that the intent of the meeting was to review and either approve, deny or amend all recommended changes to the Draft Wireless Telecommunication Facilities Ordinance. It was further clarified that after reviewing and voting on all recommended changes, staff will amend the Draft Wireless Telecommunication Facilities Ordinance accordingly. The amended version will be presented to the entire Planning Commission at their regularly scheduled meeting on October 26, 2010. At the October 26, 2010 Planning Commission meeting, the Planning Commission will vote to recommend the Draft Wireless Telecommunication Facilities Ordinance be considered for adoption by the County Commission at their next regularly scheduled meeting on October 28, 2010.

Mr. Barney presented each proposed change, stating the source, detailing the proposed change itself and then provided staff's recommendation. A total of 37 votes were called and passed. After all recommended changes had been reviewed, Mr. Barney requested that staff be able to adjust the numbering in the Draft Wireless Telecommunication Facilities Ordinance for consistency and clarity. Mr. Barney's request was approved by unanimous consent.

As a result of the efforts previously stated, a red line version of the Draft Wireless Telecommunication Facilities Ordinance is available in its entirety. In order to provide detail regarding the passing of each motion, each reviewed change has been numbered within the document. The numbers below correspond with the numbers within the red line version of the Draft Wireless Telecommunication Facilities Ordinance. Each reference provided below shows how each reviewed change was carried and each corresponding reference within the red line version of the Draft Wireless Telecommunication Facilities Ordinance provides the detail and context of each reviewed change.

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 Wireless Telecommunications Ordinance Subcommittee Meeting
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Action Number	Ordinance Section	Comment	Action
1	4B.1.A	Staff recommendation.	Mr. Taylor motioned. Mr. Maxey seconded the motion. The motion carried unanimously.
2	2.2	Staff recommendation.	The motion was carried by unanimous consent.
3	2.2	Staff recommendation.	The motion was carried by unanimous consent.
4	4B.2	Staff recommendation.	Mr. Maxey motioned. Mr. Trumble seconded the motion. The motion carried unanimously.
5	4B.4B	Members voted to retain the existing language.	Mr. Trumble motioned. Mr. Maxey seconded the motion. The motion carried 4 for and 2 against (Ms. Etters; Mr. Hayes).
6	4B.4.G	Staff recommendation.	The motion was carried by unanimous consent.
7	4B.5	Staff recommendation.	The motion was carried by unanimous consent.
8	4B.5.B.1.a	Staff recommendation.	The motion was carried by unanimous consent.
9	4B.5.B.1.c	Staff recommendation.	Mr. Hayes motioned. Mr. Trumble seconded the motion. The motion carried unanimously.
10	4B.5.B.2-3	Staff recommendation.	Mr. Hayes motioned. Ms. Morgan seconded the motion. The motion carried unanimously.
11	4B.6.B	Members voted to strike "the Director of the Planning and Zoning Department, Zoning Administrator, County Administrator, and" as well as to add, "with notification to the Director of the Planning and Zoning Department."	Ms. Morgan motioned. Mr. Maxey seconded the motion. The motion carried unanimously.
12	4B.6.B	Staff recommendation.	The motion was carried by unanimous consent.
13	4B.7	Staff recommendation.	The motion was carried by unanimous consent.
14	4B.7	Members voted to retain the existing language.	Mr. Hayes motioned. Mr. Maxey seconded the motion. The motion carried unanimously.
15	4B.7.A	Staff recommendation.	Mr. Maxey motioned. Mr. Taylor seconded the motion. The motion carried unanimously.
16	(through 3.b)	Staff recommendation.	The motion was carried by unanimous consent.
17	4B.7.B.3.c	Staff recommendation; in addition, Members voted to strike the words, "an analysis of"	Ms. Morgan motioned. Mr. Trumble seconded the motion. The motion carried unanimously.
18	4B.7.B.3.c	Staff recommendation.	Mr. Hayes motioned. Mr. Trumble seconded the motion. The motion carried unanimously.
19	4B.7.B.3.c	Staff recommendation.	Mr. Maxey motioned. Mr. Hayes seconded the motion. The motion carried unanimously.
20	4B.7.B.3.c	Staff recommendation.	Ms. Morgan motioned. Mr. Trumble seconded the motion. The motion carried 5 for and 1 against (Mr. Hayes).
21	4B.7.B.3.c	Staff recommendation.	Ms. Morgan motioned. Mr. Hayes seconded the motion. The motion carried unanimously.
22	4B.7.B.3.d	Staff recommendation.	The motion was carried by unanimous consent.
23	4B.7.C	Staff recommendation.	Ms. Morgan motioned. Mr. Hayes seconded the motion. The motion carried unanimously.
24	4B.7.C	Members voted to retain the existing language.	Mr. Maxey motioned. Ms. Morgan seconded the motion. The motion carried unanimously.
25	4B.7.D	Staff recommendation.	Mr. Hayes motioned. Ms. Morgan seconded the motion. The motion carried unanimously.
26	4B.7.E	Staff recommendation.	Ms. Morgan motioned. Mr. Hayes seconded the motion. The motion carried unanimously.
27	4B.7.F	Staff recommendation.	Mr. Maxey motioned. Mr. Taylor seconded the motion. The motion carried unanimously.
28	4B.7.G.2	Staff recommendation.	The motion was carried by unanimous consent.
29	4B.7.G.3	Staff recommendation.	Ms. Morgan motioned. Mr. Taylor seconded the motion. The motion carried unanimously.
30	4B.7.H.4	Staff recommendation.	Ms. Morgan motioned. Mr. Hayes seconded the motion. The motion carried unanimously.
31	4B.7.H.1.a	Staff recommendation.	The motion was carried by unanimous consent.
32	4B.7.H.2.a	Staff recommendation.	The motion was carried by unanimous consent.
33	4B.7.I.1.b	Staff recommendation.	Ms. Morgan motioned. Mr. Taylor seconded the motion. The motion carried unanimously.
34	4B.7.I.1.b	Staff recommendation.	The motion was carried by unanimous consent.
35	4B.7.J.1	Staff recommendation.	The motion was carried by unanimous consent.
36	4B.7.J.2	Staff recommendation.	Mr. Hayes motioned. Mr. Maxey seconded the motion. The motion carried unanimously.
37	4B.7.J.8	Staff recommendation.	The motion was carried by unanimous consent.

ARTICLE 4B. WIRELESS TELECOMMUNICATION FACILITIES

Section 4B.1 Purpose and Legislative Intent

The purpose of Article 4B, Wireless Telecommunication Facilities, is to balance the needs of residents of and visitors to Jefferson County for reliable access to wireless telecommunication networks and services with the community's desire to preserve the County's rural, historic and agricultural character and the quality of its residential neighborhoods.

To accomplish these objectives and to ensure that the placement, construction or modification of wireless telecommunication facilities complies with the provisions of the Telecommunications Act of 1996 and other Federal laws, and is consistent with Jefferson County's land use policies and Comprehensive Plan, this Article is intended to regulate the construction, placement and operation of wireless telecommunication facilities within Jefferson County. When any provision of this article is in conflict with any provision of the Jefferson County Zoning Ordinance or the Jefferson County Subdivision and Land Development Regulations, the stricter regulation shall apply.

This Article establishes parameters for the siting of Wireless Telecommunication Facilities. It is Jefferson County's intent to:

- A. Ensure access to reliable ~~and robust~~ wireless communications services throughout Jefferson County consistent with the aforementioned objectives;
- B. Encourage the use of existing structures such as buildings, water towers, silos, church steeples, monopoles, lattice towers, utility poles, electric distribution and transmission structures and other existing structures for the co-location of Wireless Telecommunication Facilities;
- C. Encourage the location of new Wireless Telecommunication towers in non-residential areas, with taller towers limited to the Industrial-Commercial zoning district;
- D. Minimize the number of new Wireless Telecommunication Towers that would otherwise need to be constructed by providing incentives for the use of existing structures;
- E. Encourage the location of new Wireless Telecommunication Towers, to the greatest extent possible, in areas where the adverse impact on the community will be minimal; and by encouraging the use of camouflage or concealment to create structures such as silos, faux trees and flagpoles that mimic elements that typically are found on Jefferson County's agricultural landscape and that appear in scale and context with their surroundings.

Comment [SB1]: Action #1

- F. Minimize or mitigate the potential adverse visual effects associated with the construction of Wireless Telecommunication Towers through the implementation of reasonable design, landscaping and construction practices;
- G. Ensure public health, safety, welfare, and convenience; and
- H. Conform to Federal and State laws that allow certain antennas to be exempt from local regulations.

2.2 Definitions

Accessory Equipment	Any equipment serving or being used in conjunction with a Wireless Telecommunications Facility. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.
Alternative Structure	For antenna-mounting purposes, a structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. The term Alternative Structure includes, but is not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples and electric distribution, electric transmission or other utility poles.
Antenna	Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, Personal Communications Services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.
Antenna Array	Two or more antennas that operate as components of a complete antenna suite for a single Wireless Telecommunication Facility.
Antenna, Concealed	An antenna that is designed and/or erected on or in a building or alternative structure in such a way that it blends in with the existing façade and/or is located in such a way that it is not readily visible or discernible to the average individual at the adjacent street level.
Appalachian Trail Overlay District	For purposes of the Wireless Telecommunication Facilities Ordinance, the area within one mile of the centerline of the Appalachian Trail.

Broadcast Tower	A structure situated on a lot that is intended for transmitting television or AM/FM radio signals.
Cell on Wheels “COW”	A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.
Co-location	For purposes of regulating commercial wireless telecommunication facilities, co-location means the placement of additional antennas or antenna arrays on an existing or approved telecommunication tower or support structure (or alternative structure), the sharing of an antenna or antenna array, or otherwise sharing a common location by two or more FCC licensed providers of personal wireless services. Co-location includes antennas, combiners, transmitters, receivers and related electronic equipment, cabling, wiring, equipment enclosures and other components or improvements associated with a wireless telecommunication facility.
Commercial Wireless Service Provider	Persons or entities who operate radio systems requiring an FCC license and who employ those facilities to provide point-to-point microwave links for wireline communication services (or connectivity between adjacent antenna sites), fixed wireless (including microwave), or mobile wireless communication services to third parties for compensation. Commercial Wireless Service Providers include, but are not limited to Cellular, Personal Communication Services (PCS), Specialized Mobile Radio (SMR), Enhanced Specialized Mobile Radio (ESMR), paging, Competitive Local Exchange Carriers (CLEC) utilizing point-to-point microwave, and other point-to-point microwave links for wireline communication services.
Department	The Jefferson County Planning and Zoning Department.
Discernible	Capable of being distinguished with the eye or mind from its surroundings as a telecommunications tower.
Electric Distribution Poles	Metal, wooden or concrete towers and poles used to suspend wires transporting electricity between substations at the terminus of transmission lines and individual customer premises.
Electric Transmission Towers	Metal, wooden or concrete towers and poles used to suspend wires transmitting electricity between generating plants and substations supplying electricity to distribution and feeder lines.

Comment [SB2]: Action #2

Equipment Enclosure	For purposes of regulating Wireless Telecommunication Facilities, equipment enclosure means a building, cabinet or shelter used to house transmitters, receivers and other electronic equipment and accessories.
FAA	Federal Aviation Administration.
FCC	Federal Communications Commission.
Functionally Equivalent Services	FCC licensed providers of Commercial Mobile Radio Services (CMRS) classified as Cellular, Personal Communication Services (PCS), Paging, Specialized Mobile Radio (SMR) and Enhanced Specialized Mobile Radio (ESMR).
Governmental User	Federal, state or local governments, or agencies or instrumentalities thereof, volunteer fire departments or rescue squads which operate radio systems (including microwave) requiring an FCC license, and which employ those facilities exclusively for intra-governmental or inter-governmental public service, public safety or administrative purposes.
Harpers Ferry Overlay District	For purposes of regulating Wireless Telecommunication Facilities, an area bounded on the north by a line running west from the Potomac River shore to and along Engle Switch Road to its intersection with Route 230; thence south along Route 230 to its intersection with the CSX Railroad Valley Line; thence south along said railroad to Milepost 4 on the railroad at its intersection with Millville Road; thence east from that point to and across the Shenandoah River to a point 1000 feet distant on the eastern shore of the said Shenandoah River; then following a line 1000 feet inland from that opposite shore of the Shenandoah River to its confluence with the Potomac River; then along a line 1000 feet inland from the Potomac river shore running east to the Virginia state line; thence north to the Potomac River shore; thence west along the shore of the Potomac River to the point of origin. This district excludes the area within the jurisdictional boundaries of the town of Harpers Ferry and the town of Bolivar.
Historic Resource	A site, structure, area, or district possessing historic importance as defined by the U.S. Department of Interior, West Virginia State Historic Preservation Office, Jefferson County Historic Landmarks Commission, or other governmental agency.
Lattice Tower	A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

Monopole	A support structure constructed of a self-supporting hollow metal tube securely anchored to a foundation.
Neighborhood	An area generally confined to a one-mile radius from the perimeter of a proposed development.
PCS	Personal Communication Services.
Primary Public Safety Provider	An FCC licensed governmental user that uses wireless telecommunication facilities to provide primary communications for law enforcement, fire, ambulance or related emergency services. Primary Public Service Provider does not include Commercial Wireless Service Providers, or Competitive Local Exchange Carriers (CLEC), who provide telecommunication services on a commercial basis to Primary Public Service Providers, or who deliver emergency calls or messages from its customers to a Public Safety Answering Point (PSAP).
Private Business User	Persons or entities which operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services, or point-to-point microwave links for commercial wireline communication services, to third parties for compensation.
Support Structure	A structure designed to support Wireless Telecommunication Facilities including, but not limited to, monopoles, lattice towers, utility poles and other freestanding self-supporting structures.
Tower Base	The foundation, usually concrete, on which a telecommunication tower is situated. For measurement calculations, the tower base is the actual or geometric center of the tower. For structures lacking a foundation the tower base is the ground elevation of the structure.
Tower Height	The vertical distance measured from the tower base to the highest point on a telecommunication tower, including any antennas or other equipment affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.
Tower Site	The land area (including any associated easement areas) that contains, or will contain, any proposed telecommunication tower, related equipment enclosures and other improvements; together with any tower fall zone.
Utility Poles	Metal, wooden or concrete poles used to suspend wires or cables for electric, telephone or television cable services.
Visible	Capable of being seen by the unaided eye in the daylight.

Wireless Telecommunication Antenna	The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
Wireless Telecommunication Equipment Shelter	The structure in which the electronic receiving, transmitting and relay equipment for a wireless telecommunications facility is housed.
Wireless Telecommunication Facility	A facility consisting of the equipment and structures involved in transmitting or receiving telecommunications or radio signals to or from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
Wireless Telecommunication Facility, Co-Located	See Co-location.
Wireless Telecommunication Facility, Concealed	A wireless telecommunication facility with all antennas camouflaged to match or complement the color and architectural treatment of the surface of an existing structure upon which they are mounted; or which have all facility components concealed behind a façade or parapet wall, or inside a radome on a monopole that does not exceed the diameter of the monopole, or interlaced within or atop an electric distribution tower.
Wireless Telecommunication Facility, Temporary	A vehicle-mounted or portable wireless telecommunication facility including portable towers, antennas, equipment enclosures, generators and associated electronics, cabling, wiring and hardware. Such a facility may include, but is not limited to, "cell on wheels" mobile equipment.
Wireless Telecommunication Tower	A structure intended to support equipment and antennas used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.
Wireless Telecommunication Tower, Speculative	A Wireless Telecommunications Tower developed without binding commitments from one or more FCC licensees to utilize the tower within six (6) months of issuance of a certificate of occupancy for the Tower.

Comment [SB3]: Action #3

Section 4B.2 Classification of Wireless Telecommunication Facilities and Development Review Process

For purposes of administering this Article, Wireless Telecommunication Facilities (hereafter “Facilities” or “Facility”) shall be classified as follows:

1. Exempt Facilities as specified in Section 4B.3
2. Concealed Wireless Telecommunication Facilities
3. Co-located Wireless Telecommunication Facilities
4. Temporary Wireless Telecommunication Facilities
5. Wireless Telecommunication Towers

Exempt Facilities are allowed by right. Prior to the issuance of a Zoning Certificate, all other types of new Wireless Telecommunications Facilities listed above require approval of a Minor Site Plan as described in the Jefferson County Subdivision and Land Development Regulations and also meeting the submittal and design requirements of this Article. Additionally, Wireless Telecommunication Towers shall require [submittal of a Concept Plan](#) and a public hearing to allow for an analysis of demonstration of need, neighborhood compatibility, impact on cultural and historic resources, and visual mitigation.

Within ~~thirty ten~~ (30) days of receiving ~~an a~~ [Concept Plan](#) application for a Facility the Department shall notify the applicant in writing (1) that the application is ~~complete sufficient~~ or (2) the particular information needed [as required by the provisions of this Article and the Jefferson County Subdivision and Land Development Regulations, to constitute a sufficient application](#). Once the additional information is received and the application is found to be ~~complete~~[sufficient](#), the Department shall notify the applicant of that finding.

Comment [SB4]: Action #4

Section 4B.3 Exempt Facilities Allowed by Right

This section covers antennas other than those associated with commercial wireless telecommunication facilities, such as facilities associated with governmental users, television and radio broadcast facilities, and private business users requiring an antenna support structure of twelve feet or less. Antennas allowed by right subject to special requirements of this section include:

- A. Amateur radio facilities mounted on supporting structures less than 100 feet in height provided however, that commercial wireless providers and private business users may not co-locate antennas on an amateur radio tower irrespective of its height.
- B. Residential antennas for receiving television or AM or FM radio broadcast signals.
- C. Residential or business customer premise antennas for receiving microwave, satellite or broadcast television signals, provided such antennas are less than one meter (39.4 inches) in diameter and are mounted on a support structure less than twelve (12) feet in height.

Section 4B.4 Concealed Wireless Telecommunication Facilities

Concealed Facilities are permitted in all zoning districts. The Department may issue a Zoning Certificate for a Concealed Facility consistent with the following terms and conditions:

- A. Concealed Facilities are permitted on buildings and alternative structures (other than telecommunication towers).
- B. For purposes of this section antennas mounted on electric transmission towers shall qualify as Concealed Facilities provided that antennas associated with such facilities do not extend more than twenty (20) feet above the top of the supporting structure. Equipment enclosures associated with such facilities may be mounted on the structure, placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad, metal skid or platform, or other foundation and screened so as to make them unobtrusive.
- C. For purposes of this section antennas mounted on an electric distribution pole, utility or street lighting pole or traffic light pole shall qualify as a Concealed Facility provided antennas associated with such facilities shall not extend more than twenty (20) feet above the top of the existing support structure.
- D. Utility poles may be extended up to twenty (20) feet in height to accommodate antennas for a Concealed Facility.
- E. For any utility pole height increases in the Harpers Ferry Overlay District, the Department shall refer the application to the Jefferson County Historic Landmarks Commission for review and comment before issuing a Zoning Certificate.
- F. Applications for such utility pole height extensions in the Appalachian Trail Overlay District shall be referred by the Department to the Appalachian Trail Conservancy and the National Park Service for review and comment prior to issuance of a Zoning Certificate.
- G. Antennas associated with Concealed Facilities, if flush-mounted on the side of a building or alternative structure, shall be camouflaged to match or complement the color and architectural texture of the surface.
- H. Antennas associated with a Concealed Facility shall not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.
- I. Equipment enclosures associated with Concealed Facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or façade which is camouflaged to match or complement the color and architectural treatment of the building. If antennas are placed on a structure other than a building, equipment enclosures associated with the facility may be mounted on the structure or placed underground or at ground level on a concrete pad, metal skid or platform, or other foundation. If placed at ground level, such equipment enclosures shall be screened so as to make them unobtrusive.

Comment [SB5]: Action #5

Comment [SB6]: Action #6

- J. All cabling and wiring connecting antennas, equipment enclosures, and other components of Concealed Facilities shall be colored or concealed in a manner that renders them unobtrusive.
- K. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between 8:00 a.m. and 7:00 p.m.
- L. Equipment associated with a Concealed Facility not located in a public right-of-way must meet the setback requirements for the zoning district in which it is located.

Section 4B.5 Co-located Wireless Telecommunication Facilities

Co-located Wireless Telecommunications Facilities are permitted within all zoning districts. Co-location includes the placement of additional antennas or antenna arrays on an existing or approved telecommunication tower or support structure (or alternative structure or Concealed Telecommunication Support Structure), ~~the sharing of an antenna or antenna array,~~ or otherwise sharing a common location by two or more FCC licensed providers of personal wireless services. The Department may issue a Zoning Certificate for a Co-located Facility consistent with the following terms and conditions:

- A. Antennas associated with a Co-located Facility shall not be co-located on a support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.
- B. Co-located Facilities shall meet the following design standards:
 1. Antennas associated with a Co-Located Facility located on a monopole shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
 - a. Antennas within a cylindrical radome matching the diameter of a monopole;
 - b. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
 - c. Antennas mounted as an array arranged around a platform extending from the monopole.
 2. ~~No co-located Wireless Telecommunication Facility located on a monopole shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting on a monopole shall be connected to the support structure at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.~~
 3. ~~2.~~ All equipment enclosures and other improvements accessory to a co-located Facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed twelve (12) feet in height.

Comment [SB7]: Action #7

Comment [SB8]: Action #8

Comment [SB9]: Action #9

Comment [SB10]: Action #10

4.3. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.

5.4. Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The Department may require as a condition of approval that the fencing be screened by a landscaped buffer of at least 10 feet in width planted along the entire exterior perimeter of the fence. Such a buffer must contain at least one row of native vegetation and form a continuous screen at least 6 feet in height. All buffer yards shall be maintained by the property owner. It will be the responsibility of the property owner to maintain the buffer yard and to replace any trees or shrubs that die. The landscaping requirements of this section do not apply to an application for co-location on a site with an approved site plan. The Department may waive or modify the fencing requirement upon a determination that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

6.5. Signage at any ground-based portion of a Co-located Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.

7.6. Before an application for a Co-located Facility can be processed, a copy of the applicant's FCC license must accompany its application. If FCC licenses for the applicant have been provided to the Jefferson County Department of Planning & Zoning in conjunction with previous wireless facility applications, the applicant may certify that such licenses remain in full force and effect.

Section 4B.6 Temporary Wireless Telecommunication Facilities

Temporary Facilities are permitted in all zoning districts. The Department may issue a Zoning Certificate for a Temporary Facility consistent with the following terms and conditions:

- A. Temporary Facilities, including but not limited to Cell on Wheels (COW), may be placed at or near the location of an existing, proposed or approved Facilities for periods up to seventy-two (72) hours for equipment or signal propagation testing purposes or, where an existing facility is temporarily unavailable due to scheduled or unscheduled maintenance, without any requirement for a permit. Where scheduled or unscheduled maintenance will extend beyond seventy-two (72) hours, the wireless provider must obtain a Zoning Certificate. The Department may issue such a certificate for up to thirty (30) days upon a showing of good cause by the applicant. Such certificate may be extended for an additional thirty (30) day period if the applicant can demonstrate that extenuating circumstances necessitate an extension.
- B. In the event of a natural disaster, catastrophic event or public emergency that either renders an existing Facility unusable, or creates an urgent need for supplemental capacity to manage the emergency, temporary facilities may be

placed in any area as necessary to provide coverage or capacity for longer periods upon the authority of the Director of the Planning and Zoning Department, Zoning Administrator, County Administrator, and the Director of the Office of Homeland Security and Emergency Management, with notification to the Director of the Planning and Zoning Department.

Comment [SB11]: Action #12

- C. Permits may be issued by the Department for up to one week for temporary facilities needed in conjunction with scheduled special events at specific locales that are likely to generate a need for additional capacity at the event which is expected to exceed existing installed capacity.
- D. Fees for permits for Temporary Facilities shall be in accordance with the Department of Planning and Zoning schedule of fees and charges.

Comment [SB12]: Action #11

Section 4B.7 Wireless Telecommunication Towers

Wireless Telecommunication Towers (hereafter “Tower” or “Towers”) are permitted in all zoning districts subject to the provisions of this section. The provisions of this section apply to an application for a new Tower, as well as for a major modification to an existing Facility or Support Structure that results in a substantial change to the facility or structure, including but not limited to a height extension of more than twenty (20) feet or ten percent (10%) of the current height of a facility or structure, whichever is greater, and/or replacement of the structure.

Comment [SB13]: Action #13

This section is not applicable to co-location of a new antenna array on an existing structure.

Comment [SB14]: Action #14

A. Site Plan Required

A minor site plan shall be required for all new Towers, as well as for Major Modifications to an existing Facility or Support Structure resulting in a substantial change to the Facility or Structure. In addition to the site plan review requirements of the Subdivision and Land Development Regulations, the site plan shall include all elements of a Concept Plan as established in Subsection B, and shall address conditions established by the Planning Commission in its review of the Concept Plan.

Comment [SB15]: Action #15

B. Concept Plan Submittal and Public Hearing Required

In addition to the requirements for a minor site plan, a proposed Tower shall require the submittal of a Concept Plan, subject to the following requirements:

1. Required elements for a Wireless Telecommunications Tower Concept Plan shall be the same as for a site plan as established in the Subdivision and Land Development Regulations, Appendix A, Sec. 1.3A, with the exception of Subsections 1.3A.20-22, 24-29, 31-35.
2. The following additional elements must be submitted:
 - a. Outside dimensions, use, and setbacks of all existing and proposed buildings, structures, towers, antennas, utility lines, driveways, and parking areas
 - b. Height of the proposed tower measured from ground level at the center of the proposed structure, and height comparison to any nearby

- buildings or trees, or other applicable structures and natural landforms part of the site's background and foreground landscape
- c. Elevations and Cross-Section: Display topography with all proposed facilities including tower, equipment shelter and existing buildings
 - d. Number, size and location of proposed and existing antennas; number of co-locations possible
 - e. Method of camouflage (if any)
 - f. Locations of known historic structures
 - g. A description of the anticipated construction and installation schedule
 - h. Documentation verifying compliance with applicable Federal Communications Commission (FCC) standards and requirements to provide the proposed services
 - i. Narrative addressing the design criteria of this section
 - j. Dates, address list, and notice for Balloon Test
 - k. Balloon Test exhibits as required in subsection G of this section
 - l. Propagation maps as required in subsection F of this section
 - m. Any other relevant information
 - n. Additional application requirements of subsection H of this section.
3. Submittal and review of a Concept Plan shall follow the review process and timeline established in Sections Sec. 24.119 – 24.122 of the Subdivision and Land Development Regulations, with the following exceptions:
- a. The application shall be exempt from 24.120A, Agency Reviews, and 24.120D, WVDOH, except as otherwise provided in this subsection.
 - b. Following the Department's determination of the sufficiency of a Concept Plan application,
 - i. the Department shall notify the Jefferson County Historic Landmarks Commission of an application filing.
 - ii. the Applicant shall provide a copy of the completed Concept Plan application to the Appalachian Trail Conservancy and the National Park Service, if required by the Cultural and Historic Resources Review standards of this section.
 - c. The Concept Plan shall be reviewed at a public hearing conducted at a scheduled Planning Commission meeting. The scope of this public hearing shall include to an analysis of a demonstration of need as required under this article, neighborhood compatibility, impact on cultural and historic resources, visual mitigation, the submittal and design criteria of this article, and the compatibility of the facility proposal with the Comprehensive Plan, as well as any relevant information presented by any person that addresses the purpose and intent of this Article. The Planning Commission shall review the proposed Tower for compliance with the standards in this article and, if applicable, provide conditions relevant to the scope of the public hearing and/or unique characteristics of the proposed development site, to be addressed in the Department's approval of the site plan. An application for such a facility shall be submitted to, and deemed to be complete by, the Department at least 30 days prior to the scheduled Planning Commission public hearing. Following a determination of

Comment [SB16]: Action #16

Comment [SB17]: Action #17

Comment [SB18]: Action #18

Comment [SB19]: Action #19

Comment [SB20]: Action #20

~~completeness, the Department shall notify the Jefferson County Historic Landmarks Commission of an application.~~
 a.d. - Before the Department may ~~issue a Zoning Certificate~~ approve a site plan for a Tower, the Planning Commission must find, by a majority vote, that the Concept Plan application complies with ~~all submittal and design criteria of~~ this article, and that the application is consistent with the Comprehensive Plan.

Comment [SB21]: Action #21

Comment [SB22]: Action #22

C. Retention of Consultants

The Department may elect to retain outside consultants or professional services to review a Concept Plan or site plan application for a Tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant's compliance with the provisions of this article, analysis of alternatives, conditions of approval, and compliance with State and Federal rules and regulations at the applicant's expense.

Comment [SB23]: Action #23

Comment [SB24]: Action #24

D. Applicant's Burden of Proof

The applicant for a site plan for any Tower bears the burden of demonstrating by substantial evidence in a written record ~~that a bona fide~~ need exists for the proposed structure at its proposed height and location as required in subsection F, "Demonstration of Need", and that it has met all submittal and design criteria in this Article.

Comment [SB25]: Action #25

E. Proof of Eligibility

Speculative Towers are prohibited. Before an application for a Tower can be processed, a copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the tower within six (6) months of issuance of a certificate of occupancy for the Tower. Such demonstration shall include submittal of ~~a contract between the applicant and the FCC licensee(s) or~~ an affidavit by the FCC licensee(s), and a copy of each wireless provider's FCC license. If such FCC licenses have been provided to the Department in conjunction with previous tower applications, the applicant may certify that such licenses remain in full force and effect.

Comment [SB26]: Action #26

F. Demonstration of Need

As part of its application submission for a Concept Plan and for a site plan the applicant shall be required to submit propagation maps demonstrating a technical need for its proposed Tower and justifying the height of its antennas on the structure. One propagation map shall depict existing coverage without the proposed site and another depicting coverage with the proposed site. Such maps shall identify all adjacent sites whether existing, approved or proposed, and each map shall be accompanied by an engineer's affidavit attesting to the parameters or variables used to create the map.

Such propagation studies shall be submitted in both hard copy and in electronic format to facilitate information sharing, inclusion on the county's web site and to otherwise maximize public awareness.

Comment [SB27]: Action #27

October 20, 2010

G. **Balloon Test**

1. An applicant shall conduct a balloon or crane test to simulate the maximum height of the proposed Tower. Following the test, the applicant shall submit color photo simulations showing the proposed structure as it would appear viewed from the closest residential property or properties and from adjacent roadways. Photographs should be taken from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and from up to five significant structures or locations identified by the Department. A map shall be supplied identifying the location of each photo. Before and after photo exhibits will be presented.
2. Notice of the dates and times of such tests shall be mailed to all property owners within a one-quarter mile (1320 feet radius) from the proposed location, in addition to the Historic Landmarks Commission at least ten (10) days prior to such tests. The applicant shall utilize address and owner information on file at the Jefferson County Assessor's Office. Such notices shall designate a primary date and an alternate date in case of inclement weather. Notices shall state that there is an application to the Planning Commission for a Wireless Telecommunication Tower on the property and provide the Planning Commission casefile number. The Department shall review and approve the sufficiency of the notice and the list of addresses prior to mailing. An affidavit of mailing accompanied by a list of recipients and addresses shall be included in the application file.
3. Such notice shall also be published in the legal advertisements section of a newspaper of general circulation in Jefferson County at least ten (10) days prior to such tests. Such notices shall designate a primary date and an alternate date in case of inclement weather. The newspaper's affidavit of publication shall be submitted as part of the application file.
4. In the event the applicant seeks to increase the height of the proposed Tower, or move its location more than one hundred (100) feet laterally, from that stated in its original notices, additional notice shall be required to be given consistent with the above requirements.

Comment [SB28]: Action #28

Comment [SB29]: Action #29

H. **Preferred Structures and Locations Policy**

1. Co-location Encouraged. Prior to the approval of the construction of a new Tower, it is the policy of Jefferson County to encourage co-location of wireless facilities in the following locations:
 - a. Co-location of antennas on existing electric transmission towers.
 - b. Co-location and the use of existing or approved towers, buildings or alternative structures such as buildings, water towers, silos, church steeples, and utility poles more than fifty (50) feet in height within a one-quarter mile radius of a proposed Tower, where appropriate.
2. Preferred Support Structures. In light of Jefferson County's agricultural, and increasingly residential character, it is the policy of Jefferson County that for

Comment [SB30]: Action #31

Facilities located outside the Industrial-Commercial zoning district, support structures for antennas are desired in the following descending order of preference:

- a. Silos
- b. Other Alternative Structures
- c. Monopoles
- d. Lattice Towers

Comment [SB31]: Action #32

3. Preferred Locations. For new Towers, it is the policy of Jefferson County to encourage use of the following facilities or locations, in descending order of priority:

- a. The Industrial - Commercial District
- b. Non-residential areas screened by existing vegetation and located outside of the Industrial - Commercial District

4. Application Requirements. In furtherance of the Preferred Structures and Locations Policy in this Article, the following provisions shall apply to an application for a site plan for a Tower:

- a. The application must demonstrate that the proposed Tower is designed structurally, electrically, mechanically and in all other respects to accommodate additional wireless users unless the applicant demonstrates that structure height, topography, or other factors render this requirement unfeasible. An application must include: ~~an affidavit from the tower owner affirming that, subject to exceptions for structure height, topography, or other factors which make co-location unfeasible, the tower is available for co-location. A copy of an executed lease for the proposed tower site that allows co-location, or leasing or sub-leasing, to other providers of functionally equivalent services.~~
- b. A site plan for a Tower shall not be approved if an electric transmission tower with capacity of 230 kV or less is located above, or within twenty-five (25) feet below, the ground elevation of, and within a one quarter mile radius laterally, of a proposed Tower, unless the applicant can demonstrate that:
 - (1) Sufficient easements or other interests in real property cannot be obtained to accommodate the Facility on the electric transmission tower;
 - (2) The electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;
 - (3) Reasonable terms, rates, or conditions cannot be negotiated with the electric utility;
 - (4) The location of the tower will not allow the applicant to meet coverage or capacity requirements; or
 - ~~(2)(5)~~ Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers.

c. Where suitable electric transmission towers are not available for co-location of antennas, a site plan for a Tower located outside the Industrial-Commercial zoning district shall not be approved unless the applicant demonstrates that the equipment planned for the proposed Tower cannot be accommodated on existing or approved towers, buildings, silos or other alternative structures more than fifty (50) feet in height within a one-quarter mile radius of the proposed Tower due to one or more of the following reasons:

- (1) The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced modified or replaced to accommodate planned or functionally equivalent equipment at a reasonable cost;
- (2) Existing and approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a qualified and licensed professional engineer;
- (3) Reasonable terms, rates, or conditions cannot be negotiated with the owner of the structure and/or property;
- ~~(2)~~(4) The location of the structure will not allow the applicant to meet coverage or capacity requirements; or
- ~~(3)~~(5) Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers, buildings or alternative structures.

Comment [SB32]: Action #30

d. Antennas associated with an application for a Facility may not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.

I. Cultural and Historic Resources Review

1. In addition to the notification requirements of this Section, an application for a Tower shall comply with the following:
 - a. An application for a proposed tower within the Harpers Ferry Overlay District shall be provided, by the applicant, to the National Park Service for review and comment, and the applicant will provide the Department an affidavit certifying delivery.
 - b. An application for a proposed tower located within one mile of the Appalachian Trail shall be provided, by the applicant, to the Appalachian Trail Conservancy and the National Park Service for review and comment, and the applicant will provide the Department an affidavit certifying delivery.

Comment [SB33]: Action #33

Comment [SB34]: Action #34

J. Design Criteria

Wireless Telecommunication Towers shall comply with the following design criteria:

1. Antenna Mounting Preferences

Antennas associated with a Tower shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

- a. Antennas within a cylindrical radome matching the diameter of a monopole.
- b. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
- c. Antennas mounted as an array arranged around a platform extending from the monopole.

Comment [SB35]: Action #35

1.2. Height Restrictions

- a. Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. Towers in all other zoning districts shall not exceed 100 feet. If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.
- b. Antennas may extend up to twenty (20) feet above the height of existing electric transmission towers if such height extensions are preferable to placement of a new Tower.

Comment [SB36]: Action #36

2.3. Fall Zone

- a. With the exception of silos, Towers shall be set back from all property lines a distance equal to 110% of tower height measured from the base of the structure to its highest point. Additional easements may be acquired on adjacent properties to meet the fall zone requirement.
- b. No residential dwellings may be located in the fall zone on either the primary parcel or in any easement area on adjacent parcels.

3.4. Signage

Signage at any ground-based portion of a Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.

4.5. Lighting & Marking

Towers shall not be lighted or marked unless required by the FCC or by the FAA.

5.6. Electrical Supply

Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.

6.7. Fencing

Towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The Planning Commission may require as a condition of approval that the fencing be screened by a landscaped buffer of at least 10 feet in width planted along the entire exterior perimeter of the fence. Such a buffer must contain at least one row of native vegetation and form a continuous screen at least 6 feet in height at planting. All buffer yards shall be maintained by the property owner. It will be the responsibility of the property owner to maintain the buffer yard and to replace any trees or shrubs that die.

The Planning Commission may waive or modify the fencing requirement upon a determination that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

7.8. Tower Color

Towers shall have a flat gray or galvanized finish unless the Planning Commission determines that another color scheme would be a preferable alternative to address visual mitigation **and such scheme is consistent with FCC and FAA standards for antenna structure marking.**

Comment [SB37]: Action #37

Section 4B.11 Maintenance & Removal Bonds

Prior to issuance of a Zoning Certificate, each applicant for a Facility shall be required to execute a standard Maintenance / Removal agreement binding the applicant and its successors and assigns to properly maintain the exterior appearance of, and to ultimately remove such facilities, upon abandonment or cessation of operations. The applicant shall be required to post a bond for this purpose in accordance with the Department of Planning & Zoning schedule of fees and charges. The applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the Maintenance/Removal agreement have been satisfied. Private business users operating a single Facility at their principal place of business and Governmental Users are exempt from this bond requirement.

Section 4B.12 Abandonment & Removal

- A. Any Facility or Support Structure that is not operated for a period of twelve (12) consecutive months may be referred to the Property Safety Enforcement Agency Board for a determination of the structural soundness of the Facility or Structure.
- B. If a structure is determined to be unsound, it will be considered abandoned.
- C. The owner or operator of any Facility or Support Structure shall remove the Facility pursuant to the requirements of the Jefferson County Property Safety Ordinance.

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