

ADOPTED

NOV 08 2016

ORDINANCE NO. 31A-311

Board of Supervisors
James City County, VA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS; DIVISION 6, WIRELESS COMMUNICATIONS FACILITIES; SECTION 24-121, STATEMENT OF INTENT; SECTION 24-122, ANTENNA MOUNTING; SECTION 24-123, GENERAL REQUIREMENTS; SECTION 24-124, PERFORMANCE STANDARDS; SECTION 24-125, RADIO FREQUENCY STANDARDS; SECTION 24-126, PUBLIC SAFETY CONSIDERATIONS; AND SECTION 24-127, PERMIT LIMITATIONS; BY ADDING NEW SECTION 24-128, PROCESSING AND SUBMITTAL REQUIREMENTS FOR ELIGIBLE FACILITIES REQUESTS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-128 WITH NEW NUMBER AND NAME 24-128.1, PROCESSING AND SUBMITTAL REQUIREMENTS FOR ALL OTHER NEW CATS AND MODIFICATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations; Division 6, Wireless Communications Facilities; Section 24-121, Statement of intent; Section 24-122, Antenna mounting; Section 24-123, General requirements; Section 24-124, Performance standards; Section 24-125, Radio frequency standards; Section 24-126, Public safety considerations; and Section 24-127, Permit limitations; By adding new section 24-128, Processing and submittal requirements for eligible facilities requests; By amending, renumbering and renaming Section 24-128 with new number and name 24-128.1, Processing and submittal requirements for all other new CATS and modifications.

DIVISION 6. ~~WIRELESS COMMUNICATIONS FACILITIES~~

Sec. 24-121. Statement of intent.

The purpose of this article is to provide guidance for the deployment and usage of ~~wireless communications facilities (WCF)~~ *Communications facilities, antennas, towers and/or support structures (CATS)*.

(a) The goals for ~~WCF~~ *the placement of CATS* are to:

1. Protect viewsheds and the scenic beauty of James City County.
2. Deploy ~~WCFs~~ *CATS* in a manner that will not adversely impact property values.

(b) The objectives for the ~~WCF~~ *CATS* are to:

1. Ensure that the deployment of ~~WCFs~~ *CATS* will accommodate existing and future technologies by providing sufficient height and facility expansion capabilities to accommodate the needs of the current and future residential, commercial, and industrial marketplace.
2. Ensure all antenna deployments provide ~~significant~~ *substantial* coverage area.
3. Promote the use of camouflaged, alternatively mounted and low-rise ~~WCF~~ *CATS*.
4. ~~Ensure that all new technologies accommodate the needs of the current and future residential and commercial marketplace.~~

Sec. 24-122. Antenna mounting.

(a) Antenna mounting categories.

There are five categories of antenna mounting:

1. Tower. Requirements for this mounting category are found in section 24-122(b)(1).
2. Alternative Mounting *CATS*. Requirements for this mounting category are found in section 24-122(b)(2).
3. Camouflaged ~~WCF~~ *CATS*. Requirements for this mounting category are found in section 24-122(b)(3).
4. Multi-Antenna System. Requirements for this mounting category are found in section 24-122(b)(4).
5. Portable ~~Cellular~~ Transmission Facility (PCTF). Requirements for this mounting category are found in section 24-122(5).

(b) ~~Wireless Communications Facility~~ *Communications facilities, antennas, towers and/or support structures.*

1. *Tower-mounted WCFs communications facility.* Tower-mounted ~~WCFs~~ *communications facilities* shall be allowed as shown on Table 1.

Table 1: Tower mounted ~~wireless communications facilities~~ *communications facilities*

Zoning District	Maximum By Right Tower Height	SUP Required
General Agriculture al , A-1	≤35' <i>Not Permitted</i>	>35' <i>All Towers</i>
Rural Residential, R-8	≤35' <i>Not Permitted</i>	>35' <i>All Towers</i>
Residential, R-1, R-2, R-3, R-5, R-6	Not Permitted	Not Permitted
Limited Residential, R-1	Not Permitted	Not Permitted
General Residential, R-2	Not Permitted	Not Permitted
Residential Redevelopment, R-3	Not Permitted	Not Permitted
Residential Planned Community, R-4 with a designation other than residential on a Board adopted master plan	Not Permitted	All Towers
Residential Planned Community, R-4 with a residential designation on a Board adopted master plan	Not Permitted	Not Permitted
Multifamily Residential, R-5	Not Permitted	Not Permitted
Low-Density Residential, R-6	Not Permitted	Not Permitted

Limited Business, LB	Not Permitted	Not Permitted <i>All Towers</i>
General Business, B-1	≤60'40'	>60'40'
Industrial, M-1, M-2	≤60'	>60'
<i>Limited Business/Industrial, M-1</i>	≤40'	>40'
<i>General Industrial, M-2</i>	≤40'	>40'
Planned Unit Development, PUD	Not Permitted	All Towers
Mixed Use, MU	Not Permitted	All Towers
Economic Opportunity, EO	≤60' <i>Not Permitted</i>	>60' <i>All Towers</i>
Public Lands, PL	≤60'40'	>60'40'
Research and Technology District, RT	≤60'40'	>60'40'

- a. Tower-mounted communications facilities shall meet the requirements in Table 1 above and the requirements in sections 24-123 through 24-128.1.
 - ~~b. All towers shall be set back from any off site existing residential structure by no less than 400 feet.~~
2. ~~Alternative mounting structure - WCFs CATS.~~ *WCFs CATS* determined by the planning director to be utilizing alternative mounting structures as a concealment element as defined by this ordinance shall be permitted in all zoning districts and shall conform to the following criteria:
- a. The principal use of the structure to be used for the placement of the antenna shall be for a use not associated with the wireless communications facility as determined by the planning director.
 - b. ~~In addition to the height limitations of the underlying zoning district, the antennas mounted on~~ *The principal structure shall be permitted in accordance with the height limitations of the underlying zoning district. Height limitation waivers for CATS may be issued by the board of supervisors upon finding that the proposal is in accordance with the criteria identified in the height limitation section of the underlying zoning district. CATS utilizing alternative mounting structures shall conform to the following height requirements:*
 - (1) *On Alternative Mounting Structures without a Height Limitation Waiver. CATS utilizing alternative mounting structures may be erected to a total height of 60 feet from grade. CATS utilizing alternative mounting structures in excess of 60 feet, but not to exceed 100 feet, from grade may be permitted by issuance of a height limitation waiver from the board of supervisors.*
 - (2) *On Alternative Mounting Structures with Height Limitation Waiver. CATS utilizing alternative mounting structures may be erected to a total height of 60 feet from grade. Antennas may be erected in excess of 60 feet from grade on structures that have received a height limitation waiver from the board of supervisors. Such antennas shall*

be permitted by-right provided that the antenna does not exceed the maximum approved height of the structure to which it is mounted. An antenna may be permitted to exceed the maximum approved height of the structure upon issuance of a separate height limitation waiver from the board of supervisors, but shall not exceed a total height of 100 feet from grade.

c. The antennas mounted on alternative mounting structures shall also conform to the following requirements:

- (1) All panel antenna shall be no more than five feet measured to the outermost point of the panel antenna from any surface of the existing structure at the point of attachment.
- (2) All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the mounting surface of the existing structure at the point of attachment.
- (3) All parabolic or dish antenna shall be no more than five feet measured to the outermost point of the dish from any surface of the existing structure at the point of attachment.
- (4) Building-mounted antennas shall be mounted in a manner that is architecturally compatible with the structure on which they are located as determined by the planning director. Building-mounted antennas (excluding whip antennas under five feet in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.
- (5) Equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence.
- (6) *CATS* shall meet the requirements in sections 24-123 through 24-128.1.

3. *Camouflaged wireless communications facilities communications facility.* Camouflaged WCFs *CATS* as defined by this ordinance shall be permitted pursuant to Table 1.1 below.

Table 1.1 Camouflaged ~~Tower~~ *CATS* Determinations

Zoning District	Planning Director	SUP Required
General Agricultural, A-1	✓	
Rural Residential, R-8		✓
Residential, R-1, R-2, R-3, R-5, R-6		✓
<i>Limited Residential, R-1</i>		✓
<i>General Residential, R-2</i>		✓
<i>Residential Redevelopment, R-3</i>		✓
Residential Planned Community, R-4		✓
<i>Multifamily Residential, R-5</i>		✓

<i>Low-Density Residential, R-6</i>		✓
Limited Business, LB	✓	
General Business, B-1	✓	
Industrial, M-1, M-2	✗	
<i>Limited Business/Industrial, M-1</i>	✓	
<i>General Industrial, M-2</i>	✓	
Planned Unit Development - Residential, PUD-R*		✓
Planned Unit Development - Commercial, PUD-C*	✓	
Mixed Use, MU	✓	
Economic Opportunity, EO	✓	
Public Lands, PL	✓	
Research and Technology District, RT	✓	
* or similar use designation on a Board adopted master plan zoned PUD		

Upon application for a special use permit for a camouflaged ~~WCF~~ *CATS* in a residential district, the board of supervisors shall make a determination pursuant to section 24-122(b)(3) ~~if~~ *whether* a proposed tower is camouflaged. *Upon application for a by-right camouflaged CATS, the planning director shall make a determination pursuant to section 24-122(b)(3) whether a proposed tower is camouflaged.* An appeal of a planning director determination shall be made to the development review committee which shall forward a recommendation to the planning commission. Written notice of the appeal must be received by the planning division within 30 days of the date of the planning director's determination.

Applicants may apply for any of the three categories of camouflaged ~~WCFs~~ *CATS* as defined below:

- a. *Architecturally compatible.* The ~~WCF~~ *CATS* has the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located. When an architecturally compatible ~~WCF~~ *CATS* is proposed the following requirements shall be met:
 - (1) The ~~WCF~~ *CATS* shall use materials best suited to camouflage as determined by the planning director to create the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located;
 - (2) The architecturally compatible ~~WCF~~ *CATS* shall be placed in the vicinity of another structure that the proposed ~~WCF~~ *CATS* intends to replicate and be unnoticeable to the casual observer that the primary use of the structure is for a ~~WCF~~ *CATS*;
 - (3) The architecturally compatible ~~WCF~~ *CATS* should be no taller than twice the permitted height of the replicated structure up to 70 feet;

(4) Professional design requirements:

- i. All ~~WCFs~~ **CATS** shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio to proportion of existing tree buffers or structures, and view of the proposed ~~WCF~~ **CATS** in profile;
- ii. The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia;

(5) Meet the requirements in sections 24-123 through 24-128.1;

~~(6) Shall be set back from any off site existing residential structure no less than 400 feet.~~

b. *Native vegetation.* The structure has the appearance of vegetation native to eastern Virginia. Where a native vegetation ~~WCF~~ **CATS** is proposed the following requirements shall be met:

- (1) Should the ~~WCF~~ **CATS** be taller than nearby trees, it shall be buffered with existing mature trees in a manner such that it will not appear out of scale with existing natural vegetation from an off-site view.
- (2) The ~~WCF~~ **CATS** shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion to existing tree buffers or structures, and artistic view of the proposed facility in profile.
- (3) The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia.
- (4) The ~~WCF~~ **CATS** shall use materials best suited to camouflage as determined by the planning director to appear as native vegetation and be unnoticeable to the casual observer that the function of structure is for a ~~WCF~~ **CATS**.
- (5) Access drives shall be designed and located in a manner that obscures views of the ~~WCF~~ **CATS**'s base or related facilities from the road point of ingress.
- (6) Meet the requirements in sections 24-123 through 24-128.1.

~~(7) Shall be set back from any off site existing residential structure no less than 400 feet.~~

~~(8)~~ (7) Shall not exceed 120 feet in height.

c. *Buffered.* The structure is well buffered by tall vegetation and/or other structures. Where a buffered ~~WCF~~ **CATS** is proposed, the following requirements shall be met:

- (1) A minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, buildings, or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure renders the ~~WCF~~ **CATS**

generally unnoticeable to the off-site casual observer as determined by the planning director.

- (2) Shall be set back from any off-site existing residential structure no less than 400 feet.
- (3) The buffer shall remain undisturbed except for any access drives and utilities necessary for the ~~WCF~~ *CATS* and other improvements or timbering activities that do not alter the visual effect of the buffer as determined by the planning director. The buffer shall be located in an on-site or off-site area that:
 - i. the planning director determines is not likely to be altered such that the visual effect of the buffer would be diminished while the ~~WCF~~ *CATS* would be in existence, such as lands protected by the Chesapeake Bay Ordinance or other environmental regulations or conservation areas or community character corridors or property depicted as conservation area on the Comprehensive Plan; or
 - ii. such areas where the ~~WCF~~ *CATS* owner has guaranteed the buffer will remain undisturbed while the ~~WCF~~ *CATS* is in existence by way of lease agreement, recorded easement or other means acceptable to the planning director. Such leases and easements shall be in effect until such time as the ~~WCF~~ *CATS* is removed.
- (4) Professional design requirements:
 - i. ~~WCFs~~ *CATS* shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion of existing tree buffers or structures, and artistic view of the proposed facility in profile.
 - ii. ~~The~~ Landscape architect *preparing the landscape plan* shall be professionally licensed in the Commonwealth of Virginia.
 - iii. Access drives shall be designed and located in a manner that obscures view of the ~~WCFs~~ *CATS* base or related facilities from the point of ingress.
- (5) Meet the requirements in sections 24-123 through 24-128.1.
- (6) Shall not exceed 120 feet in height.

4. *Multi-antenna system.* A multi-antenna system such as Distributed Antenna System (DAS) or others as determined by the zoning administrator shall *utilize concealment elements and* be permitted as shown on Table 2.

Table 2: Multi-antenna system. Antennas shall be mounted no higher than stated below unless approved by the board of supervisors. Multi-antenna systems are permitted in the following zoning districts:

Zoning District	Maximum By-Right Antenna Mounting Height	SUP Required
General Agricultural, A-1	≤35'	>35'

Rural Residential, R-8	≤35'	>35'
Residential, R-1, R-2, R-3, R-4, R-5, R-6	Not Permitted	All Applications
Limited Residential, R-1	Not Permitted	All Applications
General Residential, R-2	Not Permitted	All Applications
Residential Redevelopment, R-3	Not Permitted	All Applications
Residential Planned Community, R-4	Not Permitted	All Applications
Multifamily Residential, R-5	Not Permitted	All Applications
Low-Density Residential, R-6	Not Permitted	All Applications
Limited Business, LB	Not Permitted	All Applications
General Business, B-1	≤60'	>60'
Industrial, M-1, M-2	≤60'	>60'
Limited Business/Industrial, M-1	≤60'	>60'
General Industrial, M-2	≤60'	>60'
Planned Unit Development, PUD	Not Permitted	All Applications
Mixed Use, MU	Not Permitted	All Applications
Public Lands, PL	≤60'	>60'
Economic Opportunity, EO	≤60'	>60'
Research and Technology District, RT	≤60'	>60'

~~Concealment~~ Requirements for antenna mounting of Multi-antenna systems:

- a. To the greatest extent possible, antennas should be mounted on structures not originally associated with the ~~wireless~~ communications facility as determined by the zoning administrator.
- b. Antennas shall be generally unnoticeable to the casual observer and/or screened from view as determined by the planning director.
- c. Equipment enclosures shall be camouflaged or screened from view by landscaping, walls or fencing.
- d. Antenna support structures for multi-antenna systems shall be designed to appear as native vegetation or other typical features of the zoning district (such as a light/telephone pole).
- e. Meet the requirements in sections 24-123 through 24-128.1.

5. *Portable ~~Cellular~~ Transmission Facility (PCTF).*

- a. A PCTF shall be permitted for a maximum of 90 days in any 365-day period, or longer during an emergency as determined by the county administrator or his designee.
 - (1) Any applicant who is aggrieved by the time limitations for a PCTF may petition the board of supervisors for an extension. If additional time is determined to be in the interest of the public, the board of supervisors may grant an extension.
- b. The PCTF shall be set back at least two times the height of the PCTF from any residential or public structure.
- c. The maximum height of the PCTF shall be 120 feet.
- d. The applicant shall submit a conceptual plan of the structure pursuant to section 24-144, *an RF R*report and a noninterference/intermodulation study no fewer than seven business days prior to deployment stating how long the PCTF will be in use and demonstrate a public health or safety need. Upon review of the application, the zoning administrator may request additional information, deny the application because of an ordinance violation, or approve the use of the PCTF at the location and time duration indicated on the conceptual plan.

Sec. 24-123. General requirements.

~~Except where otherwise noted in this section,~~ The following requirements shall apply to all WCF CATS, *except for eligible facilities requests, to the extent noted in section 24-128.1:*

- (a) *Setbacks.* In addition to meeting the requirements of the underlying zoning district, tower-mounted WCFs *communications facilities* (including camouflaged WCFs CATS) shall conform to the following setback requirements:
 - (1) All towers shall be set back from any off-site existing residential structure by no less than 400 feet. All towers shall be located no closer than 400 feet from an occupied school or building used primarily for daycare.
 - (2) All towers shall meet the structural requirements set forth in standard of the "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," or its successors as determined by the building official.
 - (3) All towers shall comply with the Virginia Uniform Statewide Building Code.
 - (4) All towers shall be set back from all property lines a minimum of 110 percent of the documented collapse radius.
 - (5) All setbacks from a public right-of-way shall ~~exclude~~ *take into account* any planned public right-of-way designated on the Six-Year Primary and Secondary Road Plans or the Comprehensive Plan.

(b) *Appearance.* Towers, all ~~WCFs~~ CATS equipment enclosures, and security fences shall conform to the following requirements:

- (1) Lighting installed at all ~~WCFs~~ CATS, other than low-intensity lighting installed for the purpose of site security, shall be only that required to meet the minimum requirements set forth in the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors. If lighting is required, the planning director shall review the available lighting alternatives and approve the lighting design. Such lighting shall minimize impacts on adjacent property and be located and designed to minimize visibility of the light source from the ground.
- (2) Towers shall be gray in color unless otherwise approved by the planning director and in compliance with the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors.
- (3) No signage of any kind shall be displayed at or on a tower that advertises a product, service or business activity or institution.
- (4) All equipment enclosures shall be screened from public view with fencing and landscaping unless the enclosure is of a similar design and material to that used for a single-family residence and approved by the planning director.

(c) *Security.* Except where otherwise noted, the following security requirements shall apply to all ~~WCFs~~ CATS:

- (1) All ~~towers, WCFs~~ CATS using alternative mounting structures, and camouflaged ~~WCFs~~ CATS shall be equipped with an anti-climbing device, or be designed in a manner that precludes climbing without the use of additional equipment.
- (2) Security fencing, if used, shall conform to the following:
 - a) Security fencing shall be screened from view with landscaping.
 - b) Chain-link fences shall be of a black or green color.
 - c) No fence shall exceed six feet in height and it shall contain no barb wire or similar barrier.

~~(d)~~ *Satellite Earth Station Antenna.* In addition to the requirements of this section, satellite earth station antennas and other types of incidental antenna shall be provided in accordance with Section 23-34, *Special requirements for antennas.*

~~(d)~~ *(e) Special requirements for certain antenna.* Installation or replacement of any antenna on a tower shall require a special use permit if all of the following conditions apply:

- (1) The tower on which it is to be placed was constructed after the effective date of this ordinance, May 26, 1998;
- (2) The tower on which it is to be placed is higher than the thresholds for towers requiring a special use permit identified on Table 1; and
- (3) A special use permit does not already exist which would permit the construction of that tower or the installation of additional antenna on that tower.

Sec. 24-124. Performance standards.

In considering an application for a special use permit for a ~~WCF~~ *CATS*, the planning director shall prepare a composite report identifying the extent to which the application is in compliance with the "Performance Standards for ~~Wireless Communication Facilities~~ *Communications Facilities, Antennas, Towers and Support Structures (CATS)* That Require a Special Use Permit," dated ~~January 10, 2012~~ ~~XXXX~~ ~~XX,XXXX~~, and endorsed by the board of supervisors. Such report shall be submitted to the planning commission and board of supervisors prior to the date of the public hearing on the special use permit application. In general, it is expected that all facilities shall substantially meet the provisions of the above performance standards.

Sec. 24-125. Radio frequency standards.

- (a) *Federal communications commission emissions standards.* The ~~WCF~~ *CATS* shall comply with Federal Communications Commission (FCC) standards for all electromagnetic emissions.
- (b) *Noninterference/intermodulation with local broadcasts.* The applicant shall ensure that the ~~WCF~~ *CATS* will not cause localized interference/intermodulation with the transmittance or reception of area television or radio authorized FCC broadcasts. Prior to preliminary site plan approval of the ~~WCF~~ *CATS*, a noninterference/intermodulation study shall be submitted to and approved by the planning director indicating that no interference with any communications equipment will take place. If such interference/intermodulation is detected at any time, and is not corrected within 60 days, the special use permit or any other permits may be modified or revoked.

Sec. 24-126. Public safety considerations.

- (a) *Noninterference with public safety communications.* The applicant shall ensure that the ~~WCF~~ *CATS* will not interfere with public safety communications. ~~Should~~ ~~If~~ such interference ~~be~~ ~~is~~ detected, and is not corrected or ceased within 24 hours, operation of the ~~WCF~~ *CATS* shall be terminated and the special use permit or any other permits may be modified or revoked.
- (b) *Antenna mountings for public safety communications.* Applicants shall be required to negotiate in good faith, ~~and provide evidence of these negotiations acceptable to the planning director prior to preliminary site plan approval,~~ with public safety agencies regarding vacant antenna locations on ~~WCFs~~ *CATS* prior to making these locations available to other providers. ~~The applicant shall provide evidence of these negotiations acceptable to the planning director prior to preliminary site plan approval.~~ In instances where a potential need for the antenna location is identified by a public safety agency, said agency shall have the right of first refusal for said antenna location for a period of 90 days after the date of final site plan approval.
- (c) All ~~WCFs~~ *CATS* providing voice service shall be reported to the county dispatch center to ensure that all wireless E-911 calls placed within the boundaries of the county are routed to the county dispatch center.

Sec. 24-127. Permit limitations.

- (a) *Guarantee of removal.* Prior to final site plan approval, the owner of the property on which a ~~WCF~~ *CATS* is located shall post a performance bond, cash surety, or letter of credit in an amount sufficient

to fund removal of an abandoned or unused ~~WCF~~ **CATS** or any disused portion thereof, and site restoration. This bond or other financial mechanism shall remain in effect throughout the life of the ~~WCF~~ **CATS**. A ~~wireless communication facility~~ **CATS** shall be considered abandoned or unused if it is not being utilized for the purpose of providing ~~wireless~~ communications services for a period of six months. At such time the ~~WCF~~ **CATS** shall be removed, except where the ~~WCF~~ **CATS** is used by the county or deemed necessary by the county for placement of its communications equipment.

- (b) *Right of access.* The county shall be granted access to the ~~WCF~~ **CATS for the life of the facility** for the purposes of inspection and, in the event a ~~WCF~~ **CATS** is abandoned or unused, removal. ~~for the life of the facility.~~
- (c) *Site restoration.* The site of a removed ~~WCF~~ **CATS** shall be restored to its original state, except that any installed landscaping shall remain in place.

Sec. 24-128. Processing and submittal requirements for eligible facilities requests.

The Following shall apply to eligible facilities requests, as that term is defined in section 24-2:

- (a) *Conceptual plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of additional towers on the site, fences, access, and ownership and use of adjacent properties. This plan should also include elevation or profile views.
- (b) *Evidence of eligible support structure.* The applicant shall provide evidence of prior approval letters or actions from the county authorizing the initial construction of the support structure. If no approvals were granted by the county for the structure, the applicant shall provide copies of site plan and building permit approvals as evidence that the structure was constructed lawfully.
- (c) *Evidence of eligible request.* The applicant shall provide certification by a Virginia-registered professional engineer specifying the following information in order to verify that the proposal will not result in a substantial change to the existing eligible support structure:
 - a. *Location and dimensions of all existing and proposed improvements to the structure, including appurtenances, ground equipment and enclosures, landscaped/vegetative buffer areas, fences and access ways. This plan should include elevation or profile views.*
 - b. *Identification of the color of the existing structure and any new appurtenances or fencing.*
 - c. *Depiction of the facility illustrating the maximum height above ground and maximum width of the structure permitted without triggering a substantial change to the facility.*
- (d) *Public safety.* The applicant shall provide certification by a Virginia-registered professional engineer specifying the following information in order to verify that the proposal will not adversely impact public safety:
 - a. *Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards*

adopted by the Electronics Industry Association, and all amendments thereto, and the National Electrical Code.

- b. *A radio frequency (RF) report indicating compliance with FCC standards for electromagnetic emissions.*
 - c. *A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.*
- (e) *Timing. The county will act on eligible facilities requests within 60 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.*
- a. *The timeframe for review of an eligible facilities request shall begin to run when the application is submitted, but shall be tolled if the county finds the application is incomplete and requests that the applicant submit additional information to complete the application. Such requests shall be made within 30 days of submission of the application. After submission of additional information, the county will notify the applicant within 10 days of this submission if the additional information failed to complete the application.*
 - b. *If the county determines that an application for modification of an existing eligible support structure does not qualify as an eligible facilities, the county will notify the applicant of that determination in writing and will process the application in accordance with section 24-128.1.*
 - c. *To the extent federal law and regulations provide a "deemed granted" remedy for eligible facilities requests not acted on within 60 days, no such application shall be deemed granted until the applicant provides notice to the county, in writing.*
 - d. *Any request that is deemed granted by operation of federal law shall be subject to the requirements of sections 24-122, 24-125, and 24-127.*

Sec. 24-128.1. Processing and submittal requirements for all other new CATS and modifications.

- (a) *The following shall apply to all ~~WCF~~ applications for new CATS and/or for modifications to eligible support structures that are not eligible facilities requests:*
- (1) *Conceptual plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of additional towers on the site, fences, access, and ownership and use of adjacent properties. This plan should also include elevation or profile views.
 - (2) *Preapplication meeting.* Prior to formal application for a camouflaged ~~WCF~~ CATS, multi antenna system, or a tower submittal, the prospective permittee or its representative shall attend a pre-application meeting with the planning director or his representative. The purpose of this meeting will be to discuss future service plans of the provider, the proposed ~~WCF~~ CATS location, the configuration of the proposed ~~WCF~~ CATS, the feasibility of co-location, the feasibility of alternative tower locations, and the feasibility of a building-mounted ~~WCF~~ CATS, utilizing an alternative mounting structure or a camouflaged ~~WCF~~ CATS. The planning director may request a tower simulation (balloon test) for a camouflaged determination.

(3) *Professional certification.* The applicant shall provide certification by a Virginia-registered engineer specifying the following information prior to preliminary site plan approval:

- a. Antenna height, design, structure and capacity, including the number, type, and mounting elevations of antenna that could be accommodated. *Applications for new CATS shall include a scaled depiction of the maximum permitted increase in the physical dimensions of the proposed project that would be permitted according to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and FCC implementing regulations, using the proposed project as a baseline.*
- b. Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards adopted by the Electronics Industry Association, and all amendments thereto *and the National Electrical Code.*
- c. ~~A RF report.~~ *A RF report indicating compliance with FCC standards for electromagnetic emissions.*
- d. A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.

(b) In addition to meeting all other processing and submittal requirements for site plans, ~~special use permits for tower mounted WCFs shall also comply with the following~~ *any application for a special use permit for the installation of CATS shall comply with the following, and the application shall not be deemed complete until accompanied by these materials, which shall be submitted six weeks prior to the planning commission meeting:*

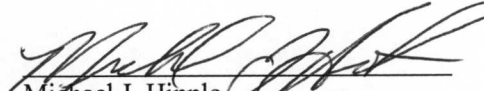
~~(1) Co location efforts.~~ The applicant shall allow other users to locate on the tower and site and shall provide the county, upon request, verifiable evidence of having made good faith efforts to allow such locations. To this end, the applicant shall execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site, and copies of said letters shall be sent to all wireless communications facilities service providers licensed to serve the county and a copy of their response, if any, shall be provided to the planning director. The planning director may waive this requirement for camouflaged WCFs where co location would preclude the WCF from meeting ordinance requirements for such facilities, and for wireless communications facilities that utilize alternative mounting structures, or are building mounted.

~~(2) Any application for a special use permit for the installation of a WCF CATS shall not be deemed complete until accompanied by the following materials, which shall be submitted six weeks prior to the planning commission meeting.~~

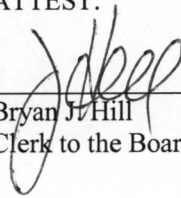
(7) ~~(1)~~ *Search and service area mapping.* The applicant shall provide mapping, deemed suitable by the planning director, depicting the following:

- a. The search area for the proposed ~~WCF~~ CATS along with underlying property lines and divisions. The map shall be of a clearly indicated scale and municipal boundaries and all primary and secondary highways within the search area shall be delineated.
 - b. The intended service area of the proposed ~~WCF~~ CATS with a radio signal propagation map to include information such as building, car, and ambient coverage or other suitable graphic, depicting the level of signal coverage with and without the proposed ~~WCF~~ CATS. At least one other graphic shall also be provided that shows the relationship of this coverage to that of existing and proposed ~~WCFs~~ CATS operated by the same provider and future service plans, within the county and within five miles of the border thereof.
- (4) (2) Evidence of attempts at co-location and using alternative locations, designs, and operating procedures. The applicant shall allow other users to locate on the tower and site and shall provide the county, upon request, verifiable evidence of having made good faith efforts to allow such locations. To this end, the applicant shall execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site, and copies of said letters shall be sent to all communications facilities service providers licensed to serve the county and a copy of their response, if any, shall be provided to the planning director. The planning director may waive this requirement for camouflaged CATS where co-location would preclude the CATS from meeting ordinance requirements for such facilities, and for communications facilities that utilize alternative mounting structures, or are building-mounted. ~~As~~ The applicant shall provide a copy of its co-location policy and the following evidence of attempts to co-locate and attempts to utilize alternative locations, designs, and operating procedures in a manner acceptable to the planning director:
- a. The applicant shall indicate on a map provided by the planning department all existing tower and building mounted ~~WCFs~~ CATS, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed new location. The planning director may reduce the radius of this study area where the intended coverage of the proposed ~~WCF~~ CATS is less than three miles.
 - b. Applicants shall provide evidence acceptable to the planning director, including radio signal propagation plottings, that all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the site of a proposed ~~WCF~~ CATS have been evaluated with respect to their ability to provide adequate service coverage and antenna-mounting opportunity, and evidence acceptable to the planning director that adequate service coverage cannot be provided through an increase in transmission power, or through the use of camouflaged ~~wireless communication facilities~~ CATS, alternative mounting structures, building-mounted ~~WCFs~~ CATS, or a system that uses lower antenna heights than proposed. The planning director may waive these requirements where documented evidence, satisfactory to the planning director is available that indicates alternative locations and designs are not feasible, and where the intended coverage of the proposed ~~WCF~~ CATS is less than three miles.
 - c. The applicant shall provide evidence deemed suitable by the planning director that good faith negotiations have taken place to use existing ~~WCFs~~ CATS, and existing alternative mounting structures and buildings, including copies of letters sent to other service providers and their response, if any, on a request to co-locate on their facility.

- d. The applicant shall provide verifiable written evidence, deemed suitable by the planning director, of the feasibility of replacing all existing ~~WCFs~~ CATS within a three mile radius of the site of the proposed ~~WCF~~ CATS in order to accommodate the proposed ~~WCF~~ CATS.
- (5) (3) *Public safety communications antenna requirements.* The applicant shall provide written evidence, deemed suitable by the planning director, of consultation with the relevant public safety agencies regarding their need for antenna space at any newly proposed ~~WCF~~ communications facility support structure.
- (6) (4) *Balloon test.* At least three weeks prior to the planning commission meeting, the applicant shall conduct a balloon test that simulates *both* the height of the proposed ~~WCF~~ CATS, and the maximum increase in the physical dimensions of the proposed project permitted according to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and FCC implementing regulations. The balloon test shall be scheduled within the first week following application submittal. The planning director may also require the balloon to be flown at other altitudes to determine impacts. The planning director shall give notice of the balloon test at least seven days prior to the day of the test in a newspaper having a general circulation in the county. The results of the balloon test providing representative photographic evidence of the views of a proposed ~~WCF~~ CATS from residential areas, public rights-of-way, and other sensitive areas identified by the planning director or his representative shall be provided to the planning director at least two weeks prior to the planning commission meeting. Other scaled graphical simulations of potential views encompassing a proposed ~~WCF~~ CATS may be substituted for the balloon test results or required in addition to the balloon test results at the discretion of the planning director.
- (c) *Timing.* The county will act on proposed modifications to CATS that are not eligible facilities requests within 90 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time. The county will act on new CATS within 150 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.
- (1) *The timeframe for review shall begin to run when the application is submitted, but shall be tolled if the county finds the application is incomplete and requests that the applicant submit additional information to complete the application. Such requests shall be made within 30 days of submission of the application. After submission of additional information, the county will notify the applicant within 10 days of this submission if the additional information failed to complete the application.*
- (2) *If the county denies an application submitted pursuant to this section, the county will notify the applicant of the denial in writing of the reasons for the denial.*


Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:


Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	✓	—	—
LARSON	✓	—	—
ONIZUK	✓	—	—
SADLER	✓	—	—
HIPPLE	✓	—	—

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of November, 2016.

Div6-CommFacilities-ord