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ORDINANCE NO. 31A-259BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

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, BY AMENDING SECTION 24-121, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-122, WHERE PERMITTED, TYPES WITH NEW NAME, ANTENNA MOUNTING; BY AMENDING SECTION 24-123, GENERAL REQUIREMENTS; SECTION 24-124, PERFORMANCE STANDARDS; SECTION 24-125, RADIO FREQUENCY STANDARDS; SECTION 24-126, PUBLIC SAFETY CONSIDERATIONS; SECTION 24-127, PERMIT LIMITATIONS; SECTION 24-128, PROCESSING AND SUBMITTAL REQUIREMENTS; BY AMENDING ARTICLE V, DISTRICTS, DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-212, PERMITTED USES; SECTION 24-218, HEIGHT LIMITS; BY AMENDING DIVISION 7, LOW-DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-328, PERMITTED USES; SECTION 24-335, HEIGHT LIMITS; BY AMENDING DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-348, PERMITTED USES; SECTION 24-349, USES PERMITTED BY SPECIAL USE PERMIT ONLY; SECTION 24-354, HEIGHT LIMITS; AND BY AMENDING DIVISION 13, RESEARCH AND TECHNOLOGY DISTRICT, RT, SECTION 24-461, PERMITTED USES.

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; Section 24-127, Permit limitations; and Section 24-128, Processing and submittal requirements; Article V, Districts, Division 2, General Agricultural District, A-1, Section 24-212, Permitted uses; Section 24-218, Height limits; Division 7, Low- Density Residential District, R-6, Section 24-328, Permitted uses; Section 24-335, Height Limits; Division 8, Rural Residential District, R-8, Section 24-348, Permitted uses; Section 24-349, Uses permitted by special use permit only; Section 24-354, Height limits; and Division 13, Research and Technology District, RT, Section 24-461, Permitted uses.

Article II. Special Regulations

Division 6. Wireless Communications Facilities

Sec. 24-121. Statement of intent.

The purpose of this article is to ~~regulate~~ *provide guidance for* ~~personal~~ *the deployment and usage of* wireless communications facilities (WCF) ~~so as to protect the health, safety, and general welfare of the community; to preserve the aesthetic quality of the community and its landscape; to protect property values; to protect the historic, scenic, rural, and natural character of the community; to minimize the presence of structures that depart from existing and future patterns of development, especially in terms of use, scale, height, site design, character, and lighting; to provide for adequate public safety communications; and to allow the providers of wireless communications facilities to implement their facilities in a manner that will fulfill these purposes, encourage their co-location; and allow them to fulfill their Federal Communications Commission (FCC) licenses.~~

~~The above objectives will be realized through the implementation of regulatory procedures which seek to:~~

- ~~(a) Keep the number of wireless communication facility sites to a minimum;~~
- ~~(b) Minimize the impacts of newly approved wireless communication facilities;~~
- ~~(c) Expedite the approval process for new wireless communication facility applications which, due to their location or design, aid in the achievement of items (a) and (b) above.~~

(a) The goals for WCF placement are to:

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

(b) The objectives for the WCF are to:

- 1. Ensure that the deployment of WCFs 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 coverage area.*
- 3. Promote the use of camouflaged, alternatively mounted, and low-rise WCF structures.*
- 4. Ensure that all new technologies accommodate the needs of the current and future residential and commercial marketplace.*

Sec. 24-122. ~~Where permitted, types~~ 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 Structure. Requirements for this mounting category are found in section 24-122(b)(2).*
- 3. Camouflaged WCF. 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 Location Requirements.*

(a)-1. *Tower-mounted WCFs wireless communication facilities.* Tower-mounted WCFs shall be allowed as shown on Table 1.

Table 1: Tower Mounted Wireless Communications Facilities:

Zoning District	Maximum By Right Tower Height	S.U.P. Required
General Agriculture, A-1	≤35'	>35' feet
Rural Residential, R-8	≤35'	>35' feet
Residential R-1, R-2, R-3, R-5, R-6	Not Permitted	Not Permitted
Limited Business, LB	Not Permitted	Not Permitted
General Business, B-1	≤60'	>60' feet
Industrial (M-1, M-2, M-3)	≤60'	>60' feet
Planned Unit Development, PUD	Not Permitted	All Towers
Mixed Use, MU	Not Permitted	All Towers
Economic Opportunity (EO)	≤60'	>60'
Public Lands (PL)	≤60'	>60'
Research and Technology District (RT)	≤60'	>60'
Residential Planned Community, R-4 with a designation other than residential on a Board adopted master plan R-4	Not Permitted	All Towers
Residential Planned Community, R-4 with a residential designation on a Board adopted master plan	Not Permitted	Not Permitted

a. *Towers shall meet the requirements in Table 1 above and the requirements in sections 24-123 through 24-128.*

b. *All towers shall be set back from any off site existing residential structure by no less than 400 feet.*

(b) 2. *Wireless communications facilities using alternative mounting structure Alternative Mounting Structure - WCFs.* WCFs determined by the planning director to be utilizing alternative mounting structures as defined by this ordinance shall be permitted in all zoning districts and shall conform to the following requirements criteria except where such WCFs are located in M-2 districts:

(+) 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.

- (2) b. In addition to the height limitations of the underlying zoning district, the antennas mounted on alternative mounting structures shall conform to the following requirements:
 - a) (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.
 - b) (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.
 - e) (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) *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. All antennas (excluding whip antennas under five feet in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.*
- (3) (5) Equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence.
 - (6) *WCFs shall meet the requirements in sections 24-123 through 24-128.*

~~(c) *Building mounted wireless communications facilities.* WCFs mounted on the exterior of buildings shall be permitted in all zoning districts and, with the exception of such WCFs located in M-2 districts, shall meet the following requirements:~~

- ~~(1) The principal use of the building 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.~~
 - ~~(2) In addition to the height limitations of the underlying zoning district, building mounted antennas shall conform to the following height restrictions:
 - ~~(a) All panel antenna shall be no more than five feet measured to the top of the panel antenna above the roof proper of the existing building at the point of attachment.~~
 - ~~(b) All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the roof proper of the existing building at the point of attachment.~~
 - ~~(c) All parabolic or dish antenna shall be no more than five feet measured to the top of the dish above the roof proper of the existing building at the point of attachment.~~~~
 - ~~(3) Whip antennas shall be designed and located to minimize views from residences and public rights of way.~~
 - ~~(4) Panel and parabolic dish antennas shall be completely screened or camouflaged from views from residentially zoned areas and public rights of way in a manner that is architecturally compatible with the building in which they are located.~~
 - ~~(5) Equipment enclosures shall be located within the building on which the WCF is placed or located underground if site conditions permit and if technically feasible. Otherwise, equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence matching the color, material, and design of the building.~~
- ~~(d) 3. *Camouflaged wireless communications facilities.* Camouflaged WCFs determined by the planning director to be camouflaged as defined by this ordinance shall be permitted in all the districts pursuant to Table 1.1 below.~~

Table 1.1 Camouflaged Tower Determinations

District	Planning Director	SUP required
General Agriculture, A-1	✓	
Rural Residential, R-8		✓
Residential (R-1, R-2,R-3,R-5, R-6)		✓
Limited Business, LB	✓	
General Business, B-1	✓	
Industrial (M-1, M-2)	✓	
Planned Unit Development Commercial (PUD-C)*	✓	
Planned Unit Development Residential (PUD-R)*		✓
Mixed Use, MU	✓	
Economic Opportunity (EO)	✓	
Public Lands (PL)	✓	
Research and Technology District (RT)	✓	
Residential Planned Community, R-4		✓

* or similar use designation on a Board adopted master plan zoned PUD

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

- (1) Where a buffer is provided to camouflage the WCFs, the following requirements shall be met:
 - a) The buffer shall remain undisturbed until the WCF is removed except for any access drives and utilities necessary for the WCF and other improvements or timbering activities that do not alter the visual effect of the buffer as determined by the planning director; and
 - b) The buffer shall be located in an on-site or off-site area that: 1) the planning director determines is not likely to be altered such that the visual effect of the buffer would be diminished while the WCF 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 areas depicted on the Comprehensive Plan; or, 2) such areas where the WCF owner has guaranteed the buffer will remain undisturbed while the WCF is in existence by way of ownership, 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 is removed; and
 - e) Access drives shall be designed and located in a manner that provides no view of the WCF's base or related facilities from the road.

~~(2) Where the camouflaged WCF is intended to have the appearance of vegetation native to eastern Virginia, the following requirements shall be met:~~

- ~~a) The WCF shall be located and designed so as to appear to be a naturally occurring tree which is not noticeably dissimilar to nearby vegetation in terms of height, scale, texture, or color; and~~
- ~~b) Should the WCF 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 to an off-site viewer. Such buffer shall meet the buffer requirements stated above.~~

4. Applicants may apply for any of the three categories of camouflaged WCFs as defined below:

a. **Architecturally Compatible.** *The WCF 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 is proposed the following requirements shall be met:

- (1) The WCF 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 shall be placed in the vicinity of another structure that the proposed WCF intends to replicate and be unnoticeable to the casual observer that the primary use of the structure is for a WCF;*
- (3) The architecturally compatible WCF should be no taller than twice the permitted height of the replicated structure up to 70 feet;*
- (4) Professional Design Requirements:*
 - I. All WCFs 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 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;*
- (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 is proposed the following requirements shall be met:

- (1) Should the WCF 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 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 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.*
- (5) Access drives shall be designed and located in a manner that obscures views of the WCF's base or related facilities from the road point of ingress.*
- (6) Meet the requirements in sections 24-123 through 24-128.*
- (7) Shall be set back from any off site existing residential structure no less than 400 feet.*
- (8) 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 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 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 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 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 owner has guaranteed the buffer will remain undisturbed while the WCF 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 is removed.*
 - (4) **Professional Design Requirements:**
 - i. *WCFs 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. *Landscape architect 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 base or related facilities from the point of ingress.*
 - (5) *Meet the requirements in sections 24-123 through 24-128.*
 - (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 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:

<i>Zoning District</i>	<i>Maximum By Right Antenna Mounting Height</i>	<i>S.U.P. Required</i>
<i>General Agriculture, A-1</i>	<i>≤35'</i>	<i>>35'</i>
<i>Rural Residential, R-8</i>	<i>≤35'</i>	<i>>35'</i>
<i>Residential R-1, R-2, R-3, R-4, R-5, R-6</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>Limited Business, LB</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>General Business, B-1</i>	<i>≤60'</i>	<i>>60'</i>
<i>Industrial (M-1, M-2)</i>	<i>≤60'</i>	<i>>60'</i>
<i>Planned Unit Development, PUD</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>Mixed Use, MU</i>	<i>Not Permitted</i>	<i>All Applications</i>
<i>Public Lands (PL)</i>	<i>≤60'</i>	<i>>60'</i>
<i>Economic Opportunity (EO)</i>	<i>≤60'</i>	<i>>60'</i>
<i>Research and Technology District (RT)</i>	<i>≤60'</i>	<i>>60'</i>

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.*

(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, RF Report and a noninterference/intermodulation study no fewer than 7 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 wireless communications facilities:

(a) *Setbacks.* In addition to meeting the requirements of the underlying zoning district, tower mounted WCFs (*including camouflaged WCFs*) 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 WCFs not meeting the structural requirements set forth in EIA-222 F, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," or its successors, shall be set back from all property lines and public rights of way a minimum of 110 percent of the tower height. When the above structural standards are met, the setback from any property line or public rights of way shall be no less than 110 percent of the documented collapse radius. All setbacks from a public right of way shall exclude any planned public right of way designated on the Six Year Primary and Secondary Road Plans or the Comprehensive Plan.*~~
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 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 equipment enclosures, and security fences shall conform to the following requirements:

1. Lighting installed at all WCFs, 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* ~~unless otherwise required by~~ *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:

1. All towers, WCFs using alternative mounting structures, and camouflaged WCFs 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) *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; ~~and~~
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, the planning director shall prepare a *composite* report identifying the extent to which the application ~~takes into account~~ *is in compliance with* the Performance Standards for Wireless Communication Facilities ~~dated May 26, 1998~~ *January 10, 2012*, 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 shall comply with Federal Communications Commission (FCC) standards for ~~non-ionizing~~ *ionizing* all electromagnetic emissions.

(b) *Noninterference/intermodulation with local broadcasts.* The applicant shall ensure that the wireless communication facility 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, an *noninterference/intermodulation* study shall be submitted to and approved by the planning director indicating that no interference with ~~county~~ 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 will not interfere with public safety communications. Should such interference be detected, and is not corrected or ceased within 24 hours, operation of the WCF 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 prior to making these locations available to other providers. 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 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 is located shall post a performance bond, cash surety, or letter of credit in an amount sufficient to fund removal of an ~~disused~~ *abandoned or unused* WCF or any disused portion thereof, and site restoration. This bond or other financial mechanism shall remain in effect throughout the life of the WCF. A wireless communication facility shall be considered ~~disused~~ *abandoned or unused* if it is not being utilized for the purpose of providing ~~personal~~ wireless communications services for a period of six months. At such time the WCF shall be removed, except where the WCF 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 for the purposes of inspection and, in the event a WCF is ~~disused~~ *abandoned or unused*, removal for the life of the facility.

(c) *Site restoration.* The site of a removed WCF shall be restored to its original state, except that any installed landscaping shall remain in place.

Sec. 24-128. Processing and submittal requirements.

~~(+)~~(a) *The following shall apply to all WCF applications:*

1. Conceptual ~~site~~ 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, 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

location, the configuration of the proposed WCF, the feasibility of col-location, the feasibility of alternative tower locations, and the feasibility of a building mounted WCF, utilizing an alternative mounting structure or a camouflaged WCF. *The planning director may request a tower simulation (balloon test) for a camouflaged determination.*

- ~~(2)~~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.
 - 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.
 - c. ~~A statement RF report from a registered engineer that the nonionizing electromagnetic radiation emitted from the WCF, including all facilities that may already be attached, does not result in an exposure level on or outside the WCF that exceeds relevant FCC standards.~~
 - d. *A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.*

~~(a)~~(b) In addition to meeting all other processing and submittal requirements for site plans, and special use permits for tower mounted WCFs, applicants shall also comply with the following:

~~(3)~~(1) *Col-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 communication 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 col-location would preclude the wireless communications facility from meeting ordinance requirements for such facilities, and for wireless communications facilities that utilize alternative mounting structures, or are building mounted.

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

~~(2)~~(3) *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 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 with a radio signal propagation ~~plot 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. At least one other graphic shall also be provided that shows the relationship of this coverage to that of existing and proposed WCFs operated by the same provider and future service plans, within the county and within five miles of the border thereof.
- (3)(4) *Evidence of attempts at co-location and using alternative locations, designs, and operating procedures.* An 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, 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 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 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, alternative mounting structures, building mounted WCFs, 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 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, 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 within a three mile radius of the site of the proposed WCF in order to accommodate the proposed WCF.
- (4)(5) *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 support structure.
- (5) ~~*Intermodulation study.* An intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.~~

(e)(6) *Balloon test.* At least three weeks prior to the planning commission meeting, the applicant shall conduct a balloon test that simulates the height of the proposed WCF. *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 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 may be substituted for the balloon test results or required in addition to the balloon test results at the discretion of the planning director.

Article V. Districts

Division 2. General Agricultural District, A-1

Sec. 24-212. Permitted uses.

In the General Agricultural District, A-1, structures to be erected or land to be used shall be for the following uses:

Wireless communication facilities that utilize alternative mounting structures, ~~or are building mounted,~~ or are camouflaged, and comply with division 6, Wireless Communications Facilities.

Sec. 24-218. Height limits.

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory or nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

- c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.
- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall not be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed 45 feet in height.
- (4) Communication towers permitted by a special use permit by the board of supervisors may be in excess of 35 feet in height.

Article V. Districts

Division 7. Low-Density Residential District, R-6

Sec. 24-328. Permitted uses.

In the Low-Density Residential, R-6, structures to be erected or land to be used shall be for the following uses:

Wireless communications facilities that utilize alternative mounting structures, ~~or are building mounted, or are camouflaged,~~ and comply with division 6, Wireless Communication Facilities.

Sec. 24-329. Uses permitted by special use permit only.

In the Low-Density Residential, R-6, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities.

Sec. 24-335. Height limits.

Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that the two side yards for the dwelling are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the

board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
 - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.
- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height, except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed the height of the main structure and may exceed 35 feet in height.

Article V. Districts

Division 8. Rural Residential District, R-8

Sec. 24-348. Permitted uses.

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Wireless communications facilities that utilize alternative mounting structures, ~~or are building mounted, or are camouflaged~~, and comply with division 6, Wireless Communications Facilities.

Sec. 24-349. Uses permitted by special use permit only.

In the Rural Residential District, R-8, structures to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and such other guides and standards as may be contained in this chapter:

Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities.

Sec. 24-354. Height limits.

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, rear and side yards shall be increased one foot for each foot in height above 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:
 - a. Such structure will not obstruct light to adjacent property;
 - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.


Article V. Districts

Division 13. Research and Technology District, RT

Sec. 24-461. Permitted uses.

In the Research and Technology District, RT, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Wireless communications facilities that utilize alternative mounting structures, ~~or are building mounted,~~ or are camouflaged, and comply with division 6, Wireless Communications Facilities.



Mary K. Jones
Chair, Board of Supervisors

ATTEST:



Robert C. Middaugh
Clerk to the Board

SUPERVISOR	VOTE
MCLENNON	AYE
ICENHOUR	AYE
KENNEDY	NAY
JONES	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of January, 2012.